

JUST THE FACTS

A Newsletter Prepared By First Actuarial Consulting, Inc.

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PBGC (Pension Benefit Guaranty Corporation) to begin considering applications for Special Financial Assistance for terminated multiemployer pension funds

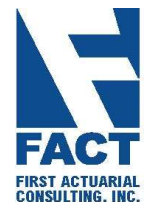
A few years back, a multiemployer pension fund, Bakery Drivers Local 550 and Industry Pension Fund, domiciled in the New York metro area (“the Local 550 Pension Fund”), that had previously terminated due to a mass withdrawal of employers, applied for Special Financial Assistance (“SFA”) and was rejected by the PBGC. In legal proceedings that followed, an interesting reading of the American Rescue Plan Act of 2021 (“ARPA”, under which the SFA program was developed) arose indicating that some previously terminated multiemployer funds could, in fact, be eligible for SFA.

The Local 550 Pension Fund pursued its interests through legal venues and the United States Court of Appeals for the Second Circuit (“2nd Circuit”) sided with the Local 550 Pension Fund in 2025. At that time, we at FACT worked with several affected client pension funds and filed “lock-in” applications before the end of 2025 on their behalf.* The PBGC attempted to challenge that ruling at the Supreme Court, asking to have the 2nd Circuit's ruling nullified, but the Supreme Court refused to take the case allowing the 2nd Circuit's ruling in favor of the Local 550 Pension Fund to stand. This last action occurred on May 18 and we have been wondering what the next steps might be for terminated multiemployer pension plans already identified.

Yesterday, FACT actuaries were contacted by staff at PBGC and we engaged in a teleconference in which we were told that we may proceed in completing applications on behalf of these terminated multiemployer plans to pursue SFA and that PBGC would agree to pay expenses incurred by professionals on behalf of affected, insolvent funds applying for this SFA. Accordingly, we are now proceeding to complete applications on behalf of our affected clients as we understand that PBGC staff will work with us toward that goal. Despite ARPA’s time limits*, PBGC conceded in our teleconference yesterday that they will accept, into 2027, additional data that they may request to incorporate into a successful application. While PBGC staff mentioned that additional relevant guidance might be forthcoming, we were instructed for the moment to abide by existing guidance already issued.

Another proviso is that PBGC would only proceed on applications for those affected pension funds it deems to be domiciled within the confines of the Second Circuit of the Court of Appeals, and that affected pension funds might have to prove such geographic roots. (The PBGC stated that they will not consider applications from outside the 2nd Circuit at this time.) While we are not

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attorneys, using standard research tools it appears as if the 2nd Circuit's jurisdiction includes the District of Connecticut; Eastern, Northern, Southern, and Western Districts of New York; and the District of Vermont. Its physical location is the Thurgood Marshall U.S. Courthouse at 40 Foley Square in New York City.

*ARPA mandates that SFA applications (including lock-in applications) must have been filed by the end of 2025 and that any revised applications will need to be filed before the end of 2026.

Please do not hesitate to contact any member of your FACT team with any questions.

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