

# MOONEY, GREEN, SAINDON, MURPHY & WELCH, P.C.

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BY ELECTRONIC MAIL  
reg.comments@pbgc.gov.

Regulatory Affairs Group  
Office of the General Counsel  
Pension Benefit Guaranty Corporation  
1200 K Street NW.  
Washington, DC 20005-4026.

**Re: REQUEST FOR INFORMATION: Multiemployer Pension Reform Act of 2014;  
Partitions of Eligible Multiemployer Plans and Facilitated Mergers AGENCY:  
Pension Benefit Guaranty Corporation  
ID: PBGC-2015-0001-0001**

Dear Pension Benefit Guaranty Corporation:

Please accept the following Comment on behalf of the Graphic Communications Conference of the International Brotherhood of Teamsters National Pension Fund (“NPF” or “Fund”) in response to the Request for Information concerning partitions of eligible multiemployer plans and facilitated mergers under the Multiemployer Pension Reform Act of 2014 (“MPRA”).

The participants in the NPF consist of 1,824 active participants, 16,018 retired participants, 3,737 beneficiaries receiving benefits, and 14,971 vested term participants who currently or formerly work in the graphic communications industry. The NPF is in critical and declining status under MPRA.

The Board of Trustees for the Fund has not yet determined whether to seek relief under MPRA. Yet, in reviewing the statute, an unanswered question as to the process for obtaining a partition rose. The NPF submits that this issue should be addressed through the regulatory process.

Under Section 122 of MPRA, a multiemployer plan may apply for a partition of its plan to the PBGC. One of the eligibility criteria for a partition under MPRA, among others, is establishing that a partition of the plan is necessary for the plan to remain solvent. MPRA Section 122 (b)(3)(B). Thus, a multiemployer plan will have to establish that after suspending benefits to the full extent permitted under Section 201 of MPRA, it will still need partitioning under Section 122 of MPRA to achieve solvency.

In order for a multiemployer plan the size of the Fund to suspend benefits to the full extent permitted under Section 201 of MPRA, the suspension of the benefits must be ratified by the participants in the Fund through a secret ballot vote. Thus, in order to have a partitioning under Section 122 of MPRA, a multiemployer plan the size of the Fund will have to have an application for partition approved by the PBGC and a vote by the Fund's participants approving the maximum benefit suspension allowable under Section 201 of MPRA.

What is not stated in MPRA, and therefore must be addressed through the regulatory process, is the process for obtaining a partition. Through regulation, it should be made clear that the application for a partition should be submitted and approved by the PBGC prior to a multiemployer plan being required to conduct a vote on the approval of the maximum benefit suspension allowable under Section 201 of MPRA.

Under MPRA, if the suspension of benefits in and of itself will not allow the multiemployer plan to become solvent, then the suspension of benefits is not permitted. Thus, if a multiemployer plan that needs a partition and a suspension of benefits in order to become solvent has the application for its partition denied, then the multiemployer plan cannot proceed with the suspension of benefits as it will not lead the plan to solvency. A suspension of benefits vote will be a time-consuming, expensive and volatile issue for a multiemployer plan. A multiemployer plan that needs a partition in order to become solvent, should not have to go through a suspension of benefits vote by participants only to have its application for partition denied by the PBGC, and consequently have to inform its participants that although they voted for the suspension of benefits, the plan cannot proceed with the suspension of benefits because the PBGC denied the plan's application for partition.

In order for an orderly and equitable partition, regulations should clarify that in order for a multiemployer plan to seek a partition, the application for partition must be submitted to the PBGC first and then, within 180 days after the application for partition has been approved by the PBGC, the multiemployer plan can proceed with the vote among its participants for approval of the maximum benefit suspension allowable under Section 201 of MPRA. Under this process, not only will it avoid an unnecessary, disruptive vote among participants with respect to suspending their benefits until the PBGC determines that a partition is feasible, it will ensure that the multiemployer plan will have assurance that the partition process will be approved and that the plan will become solvent if the participants vote to approve the benefit suspensions under Section 201 of MPRA.

Although the multiemployer plan will be required to show in its application to the PBGC that the partition is necessary for solvency, meaning that the multiemployer plan will have to establish that maximum benefit suspensions under Section 201 of MPRA are insufficient to establish solvency, this is not dependent on an actual vote on the benefit suspensions and can be established through actuarial data. Accordingly, there is no downside to requiring the application for partition to be submitted to and approved by the PBGC prior to the scheduling of the participant vote on the suspension of benefits occurring. Regulations developed on the process for obtaining a partition, therefore, should address this issue by clarifying that the

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process for obtaining a partition is for a multiemployer plan to first apply for the partition to be approved by the PBGC and then, once the application for partition has been approved by the PBGC, proceed with the participant suspension of benefit vote within a reasonable amount of time thereafter.

Thank you for your consideration.

Very truly yours,

MOONEY, GREEN, SAINDON,  
MURPHY & WELCH P.C.

By:

  
Peter J. Leff

cc: Board of Trustees  
Georges Smetana, Plan Administrator