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***Via email: reg.comments@pbgc.gov***

December 12, 2022

The Honorable Gordon Hartogensis
Director
Pension Benefit Guaranty Corporation
c/o Regulatory Affairs Division
Office of the General Counsel
445 12th Street SW
Washington, DC 20024–2101

**Re: Comments on the 4213 Proposed Rule**

Dear Director Hartogensis,

On behalf of Milliman, Inc, I respectfully submit the following comments on the proposed rule issued by the Pension Benefit Guarantee Corporations (PBGC) on Actuarial Assumptions for Determining an Employer's Withdrawal Liability.

Milliman is one of the largest providers of actuarial consulting services to multiemployer pension plans in the country, serving over 120 plans with more than $90 billion in assets and covering more than 1.8 million participants. Our consultants frequently serve as subject matter experts on withdrawal liability, both in arbitration hearings and at industry conferences like the International Foundation of Employee Benefits Plans' annual conference.

We appreciate that the PBGC has issued long-awaited guidance on this subject that provides multiemployer plans and their actuaries the flexibility to utilize assumptions that are appropriate for each individual plan's situation. The purpose of this letter to specifically respond to items where the PBGC requested comments.

1. **Should the final rule restrict the allowable options to a narrower range of interest rates or only specific methodologies for determining interest rates? In particular, should the top of the range of permitted interest rates under 4213(a)(2) be lower than the typical funding interest rate assumption?**

   In our opinion, the final rule should not restrict the options to a narrower range of interest rates or methodologies than are included in the proposed regulations. It is not uncommon for an actuary to select an interest rate for withdrawal liability purposes that matches the interest rate assumption used for funding purposes for some plans. While this approach would still be allowed under 4213(a)(1), we are concerned that language under 4213(a)(2) that precludes the funding rate could unnecessarily lead to uncertainty and/or disputes about whether use of the funding rate is appropriate.

   This question also seems to imply that the PBGC settlement rates will always be lower than the actuary's interest rate assumption for funding purposes. But this relationship

has been reversed in the past, and that could happen again in the future. It's unclear to us what logic there would be in this situation for limiting the top end of the range to something lower than the typical funding interest rate assumption.

We also do not believe limiting the methodology that may be used for determining an interest rate between the two reference rates (the funding rate and the PBGC settlement rates) is necessary or desirable. There are multiple methodologies that can reasonably be used for this purpose. We see no reason to limit the flexibility of a plan and their actuary to select a methodology that they deem appropriate for an individual plan.

2. **What should the relationship, if any, be between (a) the estimated date of plan insolvency, expected investment mix, and/or funded ratio, and (b) permitted withdrawal liability assumptions?**

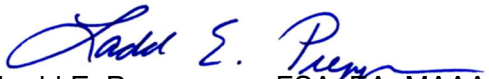
   Actuaries currently consider these factors, and others, for an individual plan when selecting an interest rate for withdrawal liability purposes, and the language in the proposed rules allows plans and their actuaries the flexibility to continue to do so. We do not think it is necessary for the PBGC to develop requirements or restrictions based on these factors.

3. **Should the final rule specify assumptions or methods other than interest assumption?**

   In our opinion, the PBGC should not specify assumptions or methods other than the interest rate assumption for two reasons. First, the Plan actuary sets each plan's demographic assumptions based on the expected future experience of the plan, in consideration of the plan's specific trade, industry, geographic location, and historical experience. We do not believe it is necessary or desirable to specify alternative assumptions, and doing so could have the unintended consequence of pushing plans and actuaries not to utilize section 4213(a)(2). Second, the other assumptions and methods used in the determination of withdrawal liability are simply nowhere near as material to the final result as the interest rate assumption. We feel there is very little to be accomplished by adding restrictions or requirements to these items.

We appreciate the opportunity to provide these comments on the 4213 proposed rule. Please do not hesitate to reach out if you wish to discuss any aspects of this letter.

Sincerely,



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