

Dated: February 9, 2023.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

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## PENSION BENEFIT GUARANTY CORPORATION

### Proposed Submission of Information Collection for OMB Review; Comment Request; Special Financial Assistance Information

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intent to request extension of OMB approval of information collection.

**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval under the Paperwork Reduction Act of a collection of information contained in PBGC's regulation on special financial assistance. The purpose of the information collection is to gather information necessary for PBGC to operate this special financial assistance programs. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments must be submitted on or before April 17, 2023.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* [paperwork.comments@pbgc.gov](mailto:paperwork.comments@pbgc.gov). Refer to OMB control number 1212-0074 in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101.

Commenters are strongly encouraged to submit public comments electronically. PBGC expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to OMB control number 1212-0074. All comments received will be posted without change to PBGC's website, <http://www.pbgc.gov>, including

any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

Copies of the collection of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101, or calling 202-229-4040 during normal business hours. If you are deaf or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

**FOR FURTHER INFORMATION CONTACT:** Melissa Rifkin ([rifkin.melissa@pbgc.gov](mailto:rifkin.melissa@pbgc.gov)), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101; 202-229-6563. If you are deaf or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

**SUPPLEMENTARY INFORMATION:** Section 4262 of the Employee Retirement Income Security Act of 1974 (ERISA) requires PBGC to provide special financial assistance (SFA) to certain financially troubled multiemployer plans upon application for assistance. Part 4262 of PBGC's regulations, "Special Financial Assistance by PBGC," provides guidance to multiemployer pension plan sponsors on eligibility, determining the amount of SFA, content of an application for SFA, the process of applying, PBGC's review of applications, restrictions and conditions, and reporting and notice requirements.

To apply for SFA, a plan sponsor must file an application with PBGC and include information about the plan, plan documentation, and actuarial information, as specified in sections 4262.6 through 4262.9. Also, if the plan is changing certain assumptions for purposes of demonstrating its eligibility for SFA or its requested amount of SFA, then the plan sponsor may use PBGC's SFA assumptions guidance. PBGC needs the application information to review a plan's eligibility for SFA and amount of requested SFA. PBGC estimates that over the next 3 years an annual average of 59 plan sponsors will file applications for SFA with an average annual hour burden of 590 hours and an average annual cost burden of \$1,770,000.

Under section 4262.10(g), a plan sponsor may, but is not required to, file a lock-in application as a plan's initial application. The lock-in application contains basic information about the plan and a statement of intent to lock-

in base data. PBGC needs the information in the lock-in application to ensure that a plan sponsor intends to lock-in the plan's data. PBGC estimates that over the next 3 years an annual average of 23 plan sponsors will file lock-in applications for SFA with an average annual hour burden of 23 hours and an average annual cost burden of \$18,400.

Under section 4262.16(i), a plan sponsor of a plan that has received SFA must file an Annual Statement of Compliance with the restrictions and conditions under section 4262 of ERISA and part 4262 once every year through 2051. PBGC needs the information in the Annual Statement of Compliance to ensure that a plan is compliant with the imposed restrictions and conditions. PBGC estimates that over the next 3 years an annual average of 120 plan sponsors will file Annual Statements of Compliance with an average annual hour burden of 240 hours and an average annual cost burden of \$288,000.

Under section 4262.15(c), a plan sponsor of a plan with benefits that were suspended under sections 305(e)(9) or 4245(a) of ERISA must issue notices of reinstatement to participants and beneficiaries whose benefits were suspended and are being reinstated. Participants and beneficiaries need the notice of reinstatement to better understand the calculation and timing of their reinstated benefits and, if applicable, make-up payments. PBGC estimates that over the next 3 years an average of 5 plans per year will be required to send notices to participants with suspended benefits. PBGC estimates that these notices will impose an average annual hour burden of 10 hours and average annual cost burden of \$10,000.

Finally, under section 4262.16(d), (f), (g), and (h), a plan sponsor must file a request for a determination from PBGC for approval for an exception under certain circumstances for SFA conditions under section 4262.16 relating to reductions in contributions, transfers or mergers, and withdrawal liability. PBGC needs the information required for a request for determination to determine whether to approve an exception from the specified condition of receiving SFA. PBGC estimates that over the next 3 years, PBGC will receive an average of 3.2 requests per year for determinations. PBGC estimates an average annual hour burden of 15.6 hours and average annual cost burden of \$44,000.

The estimated aggregate average annual hour burden for the next 3 years for the information collection in part 4262 is 878.6 hours for employer and

fund office administrative, clerical, and supervisory time. The estimated aggregate average annual cost burden for the next 3 years for the information collection request in part 4262 is \$2,130,400, for approximately 5,326 contract hours assuming an average hourly rate of \$400 for work done by outside actuaries and attorneys. The actual hour burden and cost burden per plan will vary depending on plan size and other factors.

The collection of information under the regulation has been approved by OMB under control number 1212-0074 (expires July 31, 2023). PBGC intends to request that OMB extend its approval for 3 years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC is soliciting public comments to—

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodologies and assumptions used;

Enhance the quality, utility, and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued in Washington, DC.

**Hilary Duke,**

*Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96871; File No. SR-NYSEARCA-2023-10]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Expiration Date of the Temporary Amendments to Rules 10.9261 and 10.9830

February 9, 2023.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on January 30, 2023, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes extending the expiration date of the temporary amendments to Rules 10.9261 and 10.9830 as set forth in SR-NYSEArca-2020-85 from January 31, 2023 to April 30, 2023, in conformity with recent changes by the Financial Industry Regulatory Authority, Inc. (“FINRA”). The proposed rule change would not make any changes to the text of NYSE Arca Rules 10.9261 and 10.9830. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes extending the expiration date of the temporary amendments as set forth in SR-NYSEArca-2020-85<sup>4</sup> to Rules 10.9261 (Evidence and Procedure in Hearing) and 10.9830 (Hearing) from January 31, 2023 to April 30, 2023, to harmonize with recent changes by FINRA to extend the expiration date of the temporary amendments to its Rules 9261 and 9830. SR-NYSEArca-2020-85 temporarily granted to the Chief or Deputy Chief Hearing Officer the authority to order that hearings be conducted by video conference if warranted by the current COVID-19 public health risks posed by in-person hearings. The proposed rule change would not make any changes to the text of Exchange Rules 10.9261 and 10.9830.<sup>5</sup>

##### Background

In 2019, NYSE Arca adopted disciplinary rules based on the text of the Rule 8000 and Rule 9000 Series of its affiliate NYSE American LLC (“NYSE American”), with certain changes. The NYSE American disciplinary rules are, in turn, substantially the same as the Rule 8000 Series and Rule 9000 Series of FINRA and the New York Stock Exchange LLC.<sup>6</sup> The NYSE Arca disciplinary rules were implemented on May 27, 2019.<sup>7</sup>

In adopting disciplinary rules modeled on FINRA's rules, NYSE Arca adopted the hearing and evidentiary processes set forth in Rule 10.9261 and in Rule 10.9830 for hearings in matters involving temporary and permanent cease and desist orders under the Rule 10.9800 Series. As adopted, the text of Rule 10.9261 and Rule 10.9830 are substantially the same as the FINRA rules with certain modifications.<sup>8</sup>

In response to the COVID-19 global health crisis and the corresponding

<sup>4</sup> See Securities Exchange Act Release No. 90088 (October 5, 2020), 85 FR 64186 (October 9, 2020) (SR-NYSEArca-2020-85) (“SR-NYSEArca-2020-85”).

<sup>5</sup> The Exchange may submit a separate rule filing to extend the expiration date of the proposed extension beyond April 30, 2023 if the Exchange requires additional temporary relief from the rule requirements identified in SR-NYSEArca-2020-85. The amended NYSE Arca rules will revert back to their original state at the conclusion of the temporary relief period and any extension thereof.

<sup>6</sup> See Securities Exchange Act Release No. 85639 (April 12, 2019), 84 FR 16346 (April 18, 2019) (SR-NYSEArca-2019-15) (“2019 Notice”).

<sup>7</sup> See NYSE Arca Equities RB-19-060 & NYSE Arca Options RB-19-02 (April 26, 2019).

<sup>8</sup> See 2019 Notice, 84 FR at 16365 & 16373-4.