Western States Office and Professional Employees Pension Fund

Additional Pension Legislation Questions and Answers

July 22, 2022

To: All Plan Participants, Beneficiaries and Employers

From: Board of Trustees ("Board"), Western States Office and Professional Employees Pension Fund ("Plan")

Subject: Updated Q&As on the American Rescue Plan Act of 2021 ("ARPA")

This document provides additional Questions and Answers concerning the Plan's filing for Special Financial Assistance ("SFA") under ARPA. As explained in prior notices, the Board has reviewed the legislation and is proceeding to assess all options that may be available under the new law. The Board is providing these additional Q&As to let Plan Participants know how the Board continues to address ARPA issues, which may impact your Plan benefits.

The Board wants to thank all Plan Participants who have contacted the Fund Office, left messages and/or have written letters regarding the Plan's SFA application. The Board wants you to know that all views on the SFA application process are valued and considered. Further, the Board understands how important restoring benefits suspended under MPRA is to retirees of limited means, especially with current inflation rates.[1]

You can view all notices and Q&As issued by the Board, as well as any future updates, on the Plan's website: www.wspensionbenefits.org. Here are the APRA documents currently on the website:

Date Posted	Document Description
2021.0426	First ARPA Q&As (Q1 through Q8)
2021.0819	First ARPA Participant Notice
2022.0103	Second ARPA Participant Notice
2022.0317	Third ARPA Participant Notice
2022.0722	Second ARPA Q&As (Q9 through Q24)

Note: Prior Notices, Q&As and Plan documents on APRA, and a variety of subjects, are available at the Plan's webpage. You do not have to login to access the documents. Click on the Documents tab and then the drop-down Pension tab.

[1] "MPRA" refers to the Multiemployer Pension Reform Act of 2014. In general, 30% of pension benefits accrued prior to October 1, 2018 were suspended under MPRA. Information about MPRA benefit suspensions is available at the Plan webpage.

You can access the Plan's website at the following address: www.wspensionbenefits.org

Plan updates, including documents like these Q&As, are sent by mail to all Participants, as well as beneficiaries and employers, and posted to the Plan's website. This means that you receive Plan updates even if you do not have internet access. You can request a list of documents available on the website by contacting the Fund Office.

You can elect to receive Plan updates by email. You can receive email notification that a new document has been posted to the Plan's website. You should contact the Fund Office to let them know your email address if you want to receive email notification.

The following Q&As start with Q9. Q&As 1 through 8 were sent to all Participants, beneficiaries and employers in April 2021. These earlier Q&As are available at the Plan's website, as noted above.

The following is a breakdown of topics covered by these Q&As:

Part 1: Q9 through Q12 address common questions about the status of the SFA application, why the Board decided to wait on filing the application, and when the application will be filed.

Part 2: Q13 through Q18 address how benefits will be restored if the application is approved, including how lump sum payments will be made.

Part 3: Q19 through Q22 address miscellaneous SFA questions.

UPDATE FOR PUBLICATION OF FINAL PBGC REGULATIONS

The PBGC published final SFA regulations on July 9, 2022. The final regulations become effective August 8, 2022. The regulations are available at: federalregister.gov/d/2022-14349.

The final regulations make numerous changes to the interim regulations. Those changes will have to be reviewed and considered as part of the SFA application process. To the extent possible, the following Q&As have been modified to reflect changes made to the SFA program as currently understood. The Board expects to issue additional Q&As once the final regulations are reviewed.

PART 1: SFA APPLICATION QUESTIONS

Q9: What is the current status of the Plan's SFA application?

A9: Approved by the Board, but not filed with the Pension Benefit Guarantee Corporation ("PBGC").[2]

The Board approved the preparation of an SFA application on February 9, 2022. The Board will determine the best time to file the application after consulting with Plan professionals. Timing the submission of the SFA application is important for maximizing the amount of SFA funding the Plan receives. See Q11 below.

[2] The PBGC is the federal government entity responsible for approving SFA applications.

Q10: Has the Board decided to delay filing the SFA application until 2025?

A10: No.

The Plan has <u>until</u> December 31, 2025 to file the SFA application. No decision has been made to delay the SFA application until 2025.

Q11: Why is the Board waiting to file the SFA application when other pension plans have applied?

A11: A plan considering an SFA filing must assess whether, and when, to make the filing based on factors applicable to that specific plan. For example, many of the plans that filed for SFA funding earlier this year are insolvent, or close to being insolvent. Many of these plans have no assets, or are expected to run out of assets in the near future. These plans had no choice but to file immediately in order to receive SFA funding so they can continue to pay benefits.

This Plan, on the other hand, is not insolvent and is not close to being insolvent. The Plan had $365 million in assets as of December 31, 2021 (based on unaudited financial statements). The Plan's funding status gives the Plan the option of timing the SFA application to try and maximize the funding the Plan receives.

The additional funding received under SFA will benefit all Participant categories, including Actives, Terminated Vested, Retirees and Beneficiaries. This means that the interests of all Participant categories will be taken into account in determining when to make the SFA filing. Additional information on timing issues of submitting the SFA application is provided in the following questions and answers.

In addition, the decision of other plans to file for SFA funding early has no impact on this Plan's determination of when to file. In particular:

- The SFA program is fully funded for all plans eligible to file – the Plan does not risk losing funding by delaying the application.
- SFA funding is available for applications made through 2025 – again, there is no risk of losing funding.
- The Board has a fiduciary obligation to consider the impact of the SFA filing on all Participant categories. Maximizing SFA funding potentially helps all Participant categories.

<u>Note</u>: Timing issues are also discussed in the Third ARPA Participant Notice available on the Plan's website.

Q12: What are the factors the Board will consider in determining when to submit the SFA application filing?

A12: The factors are determined by the ARPA rules.

SFA funding is determined, in large part, by the value of the Plan's assets as of the last day of the third month preceding the filing date.[3] This is called the "SFA measurement date." For example, a SFA application filing made during July of 2022 is based on the value of Plan assets as of April 30, 2022. Based on the statute there are three general rules:

1. If the value of Plan assets on the SFA measurement date is higher than the value on the filing date, the Plan receives less SFA funding.
2. If the value of Plan assets on the SFA measurement date is lower than the value on the filing date, the Plan receives more SFA funding.
3. Maximizing the SFA funding the Plan receives is important to protecting the benefits of all Participant categories.

As you know, the value of the Plan's investments has declined during the first two quarters of 2022, due to stock market and bond value fluctuations. This means that currently rule #1 applies and does not support filing an SFA application at this time.

This also means that when rule #2 applies, an SFA application should be considered.

The following examples illustrate these general rules. All dates and facts used in these examples are hypothetical and do not reflect the timing of the Plan's SFA application.

Scenario A: Assume Plan A submits a SFA application during March of 2022:

- Plan A's application will be assessed based on the SFA measurement date of December 31, 2021. Assume those assets are valued at $365 million.
- During the first quarter of 2022 there is a market downturn and the value of Plan A's assets drop by 15%. Assume Plan A's assets are now valued at $310 million.
- The PBGC uses the value of assets as of 12/31/2021, and ignores the 15% reduction in the value of Plan A's assets.
- Under this scenario Plan A may not receive sufficient SFA funding to fund all benefits, including restored benefits, in the future.
- As a result, Plan A is now projected to become insolvent and run out of money in 2040.

Scenario B: Assume Plan B is preparing to submit a SFA application. However, Plan B decides to monitor the Plan's investment performance to help decide when to submit the SFA application.

- Plan B realizes that due to market fluctuations the value of Plan B's assets as of the SFA measurement date is $310 million. Plan B decides not to submit the SFA application right away.
- Plan B continues to monitor investment returns and decides to file the SFA application when the value of Plan B's assets increases back to $365 million.
- This means that when considering Plan B's SFA application, the PBGC will assume that the value of Plan B's assets is $310 million (the value on SFA measurement date), even though the value of Plan B's assets is now $365 million.

[3] Under the final interim regulations, the SFA measurement date was the last day of the plan year quarter preceding the filing date.

- Plan B receives a larger amount of SFA funding from the PBGC. In fact, the additional funding makes up for the investment loss Plan B experienced during the market downturn. Due to the timing of the SFA filing, the additional SFA funding Plan B receives should help Plan B stay solvent in the future and continue to pay benefits for all Participants.

PART 2: RESTORATION OF BENEFITS SUSPENDED UNDER MPRA

Q13: If the SFA application is filed and approved, when will I receive my restored benefits?

A13: This depends upon your status at the time the Plan receives the SFA funding.

Participants in pay status: If you are receiving retirement benefits when the Plan receives SFA funding, your benefits will be restored in two stages.

Monthly Pension. First, the amount of your monthly pension previously suspended will be reinstated. This means that your monthly pension benefit will be restored to the amount prior to the MPRA suspension. The MPRA suspension applies to benefits accrued before October 1, 2018.

Note: The Fund Office will automatically make this adjustment. You do not have to take any action for your monthly pension benefit to be restored.

Make-Up Payment. Second, you will receive a make-up payment for amounts that were previously suspended (for example, from October 1, 2018 through the date your benefits are restored under ARPA.)

Participants not in pay status: If you are entitled to pension benefits but are not in pay status when the Plan receives SFA funding, your monthly pension benefit will be restored when you start receiving Plan benefits.

Note: The Fund Office will automatically make this adjustment. You do not have to take any action for your monthly pension benefit to be restored when you enter pay status.

Participants who die before SFA funding is received: If you die before the Plan receives SFA funding your benefits are not restored and there is no make-payment. Unfortunately, ARPA does not provide funding for the restoration of benefits in this situation. This ARPA rule is discussed in Q17 below.

Q14: How will the make-up payment be made?

A14: As a lump sum payment.

The Board has decided to make lump sum payments rather than installment payments. The Board made the decision after considering all factors, including potential earnings the Plan may receive on investments, the cost of administering installment payments, and the impact on Retirees.

Q15: When will the lump sum payment be made?

A15: APRA generally requires the payment of lump sum payments **within three months** after the Plan receives the SFA funding. ARPA lump sum payments do not include interest.

Q16: Will my lump sum payment be made automatically?

A16: No. You must timely complete distribution forms.

Lump sum payments are treated differently than monthly pension payments under pension distribution rules. You will receive distribution paperwork from the Fund Office that you must complete to receive your lump sum distribution. Required paperwork will be mailed to you at the time the SFA lump sum payments are available. Distribution forms will also be available on the Plan's website. Completed distribution forms may be mailed to the Fund Office or emailed to wsope@BeneSys.com. You will have the option to have your lump sum payment rolled over, tax free, to an IRA or another retirement plan.

Note: The increase to your monthly pension benefit going forward will be automatically added to your regular monthly pension payment. You do not have to complete any paperwork. See Q13 above.

Q17: What happens to my lump sum payment if I die?

A17: Under the ARPA rules it depends upon when you die.

You must be alive on the date the Plan receives SFA funding in order to be eligible for the restoration of your benefits, including the lump sum make-up payment.

Your beneficiary will receive the lump sum payment if you are alive on the date the Plan receives SFA funding, but die before the lump sum distribution is made.

Unfortunately, no lump sum payment can be made if you die before the plan receives SFA funding.

The following examples help explain these rules.

For purposes of these examples, assume the following facts:

- A Participant was retired as of October 1, 2018.
- The Participant's monthly benefit was $1,500 before the MPRA suspension. The benefit was payable in the form of a 50% joint and survivor benefit. As of October 1, 2018, the Participant's monthly benefit was reduced to $1,050 due to the MPRA suspension.
- The Plan submits an SFA application during the third quarter of 2022. Under the SFA processing rules, the PBGC will likely approve the Plan's SFA application in December 2022. In this example, the Plan will likely receive the SFA funds in February 2023.

<u>Scenario 1</u>: Assume both the Participant and the spouse are alive when the Plan receives SFA funding in February 2023. Under this scenario:

- The Participant's monthly benefit is restored to $1,500 starting February 2023.
- The Participant will receive a make-up lump sum payment equal to the total amount of monthly benefits that were not paid due to the suspension. The make-up payment must be paid within 3 months after the Plan receives SFA funding.
- The suspended benefit is $450 a month, starting in October 2018 and ending with the January 2023 payment. This means that Participant would receive a lump sum payment of $18,000 ($450 x 40 months).

<u>Scenario 2</u>: Assume the Participant passed away in December 2020 and the Participant's surviving spouse began receiving their survivor benefit of $525/mo. starting January 2021. The surviving spouse is alive when the Plan receives SFA funding in February 2023. Under this scenario:

- The surviving spouse's monthly benefit is restored to $750/mo. starting February 2023.
- The surviving spouse will receive a make-up lump sum payment equal to the total amount of monthly benefits that were not paid due to the suspension. The make-up payment must be paid within 3 months after the Plan receives SFA funding.
- The suspended benefit is $225 a month, starting in January 2021 and ending with the January 2023 payment. This means that the surviving spouse would receive a lump sum of $2,925 ($225 x 13 months).

<u>Scenario 3</u>: Assume the Participant passed away in December 2020 and the Participant's surviving spouse began receiving their survivor benefit of $525/mo. starting January 2021. Unfortunately, the surviving spouse passed away in July 2022. Under this scenario:

- ARPA rules provide that there is no current suspended benefit for the Plan to restore.
- ARPA rules provide that the Plan has no lump sum make-up payment to make.

Q18: I am a surviving spouse. My benefits were subject to the benefit suspension. Will my benefits be restored to the full amount prior to the suspension?

A18: A surviving spouse receiving a benefit when the Plan receives SFA funding will have their benefits restored. The reinstatement applies to your survivor benefit, but not the deceased Participant's benefit. You are also eligible for the make-up lump sum payment. The make-up payment is based on the difference between the reinstated benefit and what you actually received. See Scenario 2 under Q17 above.

PART 3: MISCELLANEOUS QUESTIONS

Q19: Assume the Plan receives SFA funding. Due to adverse economic conditions sometime in the future, the value of the Plan's assets drops and the Plan becomes insolvent. Can the Plan use MPRA to suspend or reduce benefits again?

A19: No.

A plan that receives SFA funding gives up the right to suspend benefits under MPRA in the future.

The practical application of this rule is that if the Plan becomes insolvent after receiving SFA funding, Plan benefits may be reduced to an amount lower than they were under the MPRA suspensions.

Example:

- A limit applied to the amount of benefits suspended under MPRA. MPRA benefit suspensions were limited to 110% of the PBGC guaranteed benefit.
- If the Plan becomes insolvent in the future, after receiving SFA funding, the 110% rule does not apply. Benefits will be reduced to 100% of the PBGC guaranteed benefit.

Note: The maximum PBGC guaranteed benefit is $35.75/month for each year of service.

Q20: If the Plan receives SFA funding, are employers required to continue making supplemental employer contributions under the Plan's rehabilitation plan?

A20: Yes.

Under the ARPA rules, a plan that receives SFA funding is deemed to be in critical status (sometimes called "red zone" status) until the last day of the plan year ending in 2051. Supplemental employer contributions are required as long as a plan is in critical status.

Q21: Does SFA funding cover the cost of applying for PBGC approval?

A21: Yes.

All of the costs of applying for SFA funding can be included in the funding request submitted to the PBGC. Those costs include the cost of preparing the application and communicating with Participants, like these Q&As.

Q22: What happens if the Plan does not file for SFA funding?

Q22: As noted above, the Board has already decided to file for SFA funding. As part of that decision the Board considered the Plan's potential future with and without SFA funding under multiple market scenarios.

Assume the Plan does not file for SFA funding. In that case:

- the MPRA benefit suspensions would continue into the future.
- Depending upon investment returns and future economic conditions:
  - under some scenarios there is a possibility that the Plan could emerge from critical status and restore the MPRA benefit suspensions in the future; and
  - under some scenarios, the Plan could become insolvent.

Future economic conditions are difficult to predict. After considering the scenarios noted above, and balancing the interest of all Participants, the Board will determine the best time to file the application for SFA funding after consulting with Plan professionals.