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PENSION BENEFIT GUARANTY CORPORATION

Notice of the American Arbitration Association's Response to Public Comments Related to the Pending Request for Approval of an Alternative Arbitration Procedure

AGENCY: Pension Benefit Guaranty Corporation

ACTION: Notice of the American Arbitration Association's Response to Public Comments

SUMMARY: The Pension Benefit Guaranty Corporation invited the American Arbitration Association to respond to the public comments submitted in response to its request for approval of an Alternative Arbitration Procedure under section 4221 of the Employee Retirement Income Security Act of 1974 and PBGC's default arbitration procedures. On March 23, 2016, PBGC published notice of the American Arbitration Association's request in the Federal Register to advise interested persons of the request and solicit their views on it. This notice provides the public with the American Arbitration Association's letter response and solicits public comment on the response.

DATES: Comments must be received on or before [insert date 45 days after publication in the Federal Register].

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

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the Web site instructions for submitting comments.
- E-mail: reg.comments@pbgc.gov.
- Mail or Hand Delivery: Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026.

Comments received, including personal information provided, will be posted to www.pbgc.gov. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005-4026 or calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.)

FOR FURTHER INFORMATION CONTACT: Bruce Perlin, Assistant Chief Counsel (*Perlin.Bruce@PBCG.gov*), 202-326-4020, ext. 6818, or Jon Chatalian, Deputy Assistant Chief Counsel (*Chatalian.Jon@PBCG.gov*), ext. 6757, Office of the Chief Counsel, Suite 340, 1200 K Street N.W., Washington, DC 20005-4026; (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4020.)

SUPPLEMENTARY INFORMATION:

Background

The Pension Benefit Guaranty Corporation (PBGC) administers title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Section 4221(a)(1) of ERISA requires “any dispute” between an employer and a multiemployer pension plan concerning a withdrawal liability determination to be “resolved through arbitration.”

In lieu of PBGC’s default arbitration procedures, under 29 CFR 4221.14, a withdrawal liability arbitration may be conducted in accordance with an alternative arbitration procedure approved by the PBGC in accordance with § 4221.14(c). Under § 4221.14(c), the sponsor of an arbitration procedure may request PBGC approval of its procedures by submitting an application to the PBGC. The application must include: (1) A copy of the procedures for which approval is sought; (2) a description of the history, structure and membership of the organization that

sponsors the procedures; and (3) a discussion of the reasons why, in the sponsoring organization's opinion, the procedures satisfy the criteria for approval set forth in this section. Under § 4221.14(d), PBGC shall approve an application if it determines that the proposed procedures will be substantially fair to all parties involved in the arbitration of a withdrawal liability dispute and that the sponsoring organization is neutral and able to carry out its role under the procedures.

On November 20, 2015, the American Arbitration Association (AAA) requested approval of an Alternative Arbitration Procedure under section 4221 of the Employee Retirement Income Security Act of 1974 and 29 CFR § 4221.14. On March 23, 2016, PBGC published notice of AAA's Request for Approval of Alternative Arbitration Procedure to advise interested persons of the request and solicit their views on it (81 FR 15578). The comments that PBGC received in response to AAA's request are available for viewing at:

<http://www.pbgc.gov/prac/pg/other/guidance/multiemployer-notices.html>

or

<https://www.regulations.gov/document?D=PBCG-2016-0001-0001>

PBGC provided AAA with an opportunity to respond to the comments submitted in response to AAA's request, as it deemed appropriate. On March 30, 2017, AAA responded to the comments; the response can be viewed at:

<http://www.pbgc.gov/prac/pg/other/guidance/multiemployer-notices.html>

All interested persons are invited to submit written comments to AAA's March 30, 2017 letter.

All comments will be made part of the administrative record.

Issued in Washington DC by

W. Thomas Reeder
Director
Pension Benefit Guaranty Corporation

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