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Office of Regulations and Interpretations
Employee Benefits Security Administration
Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

Attn: PFEA '04 Project

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Subject: Proposed Rule for Annual Funding Notice for Multiemployer Defined Benefit Pension Plans.

UPS supports the Employee Benefits Security Administration's (EBSA) proposed rule to implement section 101(f) of the Employee Retirement Income Security Act (ERISA) of 1974, as amended by section 103 of the Pension Funding Equity Act of 2004 (PFEA '04), and offers the following comments.

In paragraph (a)(2) of § 2520.101-4 the proposal states: "A plan administrator shall not be required to furnish a funding notice for any plan year for which the plan is receiving financial assistance from the Pension Benefit Guaranty Corporation pursuant to section 4261 of ERISA." UPS recommends that the plan administrator be responsible for providing the funding notice even when it is receiving financial assistance from the PBGC. It is important that all parties involved with the plan are informed of the funding status from a consistent, reliable source.

In paragraph (b)(6) of § 2520.101-4 the proposal states that a funding notice shall include "[a] statement of the market value of the plan's assets (and valuation date), the amount of the benefit payments, and the ratio of the assets to the payments for the plan year to which the notice relates." UPS recommends that there should also be a comment on the contribution stream in this paragraph. This is important because the contribution stream measures the amount of new money that is flowing into the plan and is essential information for calculating the financial strength of the plan.

In paragraph (b)(7) of § 2520.101-4 the proposal states that a funding notice shall include "[a] summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspension . . ." UPS recommends that this paragraph should also have a summary of the reorganization

rules. In the sequence of trigger events in a Multiemployer Plan, the plan will be in reorganization prior to insolvency and it is important to describe this process to the relevant parties.

In paragraph (b)(9) of § 2520.101-4 the proposal states that a funding notice may include “any additional information that the plan administrator elects to include, provided that such information is necessary or helpful to understanding the mandatory information in the notice.” UPS recommends that any additional information that is added by the administrator be written on a page separate from, and included after – not before -- the annual funding notice. This would protect against the risk that the primary message of the notice could lose its clarity and distinction. UPS also recommends that if the Secretary determines that the notice is inadequate, due to extraneous material, the nature and manner of the notice, or otherwise, the Secretary may direct the administrator to circulate another notice in such form and containing such information as the Secretary, in the Secretary’s discretion, deems appropriate..

In the appendix to 2520.101-4 – Annual Funding Notice, in the paragraph that is entitled “Benefit Payments Guaranteed by the PBGC”, UPS recommends that there be guidance to the effect that a vested retiree can only include up to thirty years of credited service to calculate the retirement benefit that the PBGC will guarantee in the case of insolvency. If an employee with over thirty years of credited service were to follow the formula that is provided in this paragraph without this guidance then they would incorrectly calculate their benefit.

UPS appreciates the opportunity to participate in this rulemaking. Any questions regarding this submission may be directed to me.

Sincerely,

Marcel Dubois

Marcel Dubois
Vice President – Public Affairs