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Regulatory Affairs Group
Office of the General Counsel
Pension Benefit Guaranty Corporation
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Submitted online at <http://www.regulations.gov>

**RE: Comments on Interim Final Rule; Partitions of Eligible Multiemployer Plans
RIN 1212-AB29**

Dear Ladies and Gentlemen:

The National Coordinating Committee for Multiemployer Plans (NCCMP) appreciates the opportunity to provide comments in response to above-referenced Interim Final Rule as published in the Federal Register on June 19, 2015 (the “Rule”).

The NCCMP is the only national organization devoted exclusively to protecting the interests of the over 20 million active and retired American workers and their families who rely on multiemployer plans for retirement, health and other benefits. The NCCMP’s purpose is to assure an environment in which multiemployer plans can continue their vital role in providing benefits to working men and women.

The NCCMP is a nonprofit, non-partisan organization, with members, plans and contributing employers in every major segment of the multiemployer plan universe, including in the airline, agriculture, building and construction, bakery and confectionery, entertainment, health care, hospitality, longshore, manufacturing, mining, retail food, service, steel and trucking industries.

Generally, we thought that the Rule did a creditable job of implementing the statutory provisions concerning partitions and addressing the complex process of integrating the partition process with the benefit suspension process administered primarily by Treasury/IRS. The Rule also addressed and incorporated many of the comments submitted by NCCMP and by and on behalf of plans in response to the RFI.

In our review of the Rule and the related Treasury Suspension Rule (both Temporary and Proposed) our focus was always on the fundamental purpose of the Multiemployer Pension Reform Act of 2014 (MPRA), to wherever possible save multiemployer plans so that those plans may continue to provide benefits in excess of the PBGC guarantee. This fundamental purpose, if successful, will have the incidental benefit of decreasing the number of plans that become insolvent

and that must fully rely on PBGC. NCCMP believes that creating a process (for partitions or suspensions or for an integrated partition/suspension application) that is unduly expensive or lengthy for failing plans will not fulfill the fundamental purpose of MPRA and will likely contribute to the failure of plans that might have been saved. Therefore, wherever possible the statute should be implemented with the least possible burden, expense, complexity and delay.

As we noted above, we believe the Rule generally accomplished this goal. We will provide our suggestions for improving the process further in these comments.

Although the Preamble to the Rule states that PBGC strongly encourages a plan to file concurrent partition and suspension applications, the Rule itself includes useful provisions to coordinate the applications.

NCCMP is very concerned with the provision that a partition application will not be deemed complete until PBGC makes an initial determination under the Rule. Upon making that initial determination PBGC will issue a written notice to the plan sponsor. PBGC's determination that the application is complete marks the beginning of the 270 day statutory review period and the 30 day notice period. See §4233.10 Initial Review. The Rule provides no time frame for this initial determination which could go on indefinitely. The reason for the explicit 270 day statutory review period was to move these determinations along. An initial determination period of indefinite duration is contrary to the statute. It does nothing to further the process that could not be accomplished by a short, specified review period. The IRS Suspension Rule has a very short review period.

The encouragement in the Preamble and the Rule for plans to work with PBGC in advance of filing a partition application is helpful but should then eliminate the need for a review period of indefinite duration.

As noted above NCCMP found that the Rule generally coordinates the partition application process with the Treasury suspension process in a manner that is mindful of the burden for plans submitting such applications and the potential for confusion of participants receiving information. The Rule permits plans to use material developed in connection with a suspension application to satisfy similar requirements.

NCCMP believes that coordination of the partition and suspension application in a manner that is not unduly burdensome and that does not delay relief is the most critical aspect of both the PBGC and the Treasury Rules because NCCMP understands that the majority of critical and declining plans will require both suspension and partition to survive. In this connection the differing statutory timeframes of the two applications present a challenge which both the PBGC and the Treasury Rules have apparently tried to address. Clarification is required, however.

The Treasury Rules provide that if the PBGC partition order is not received by the end of the 225 day statutory suspension application period, the suspension may not take effect. See Internal Revenue Service Temporary Regulations §1.432(e)(9)-1T(d)(7), 80 Fed. Reg. 35217 (June 19, 2015). The PBGC Rule provides that PBGC may at the request of a plan sponsor issue a preliminary approval of a partition application conditioned on Treasury's final authorization to suspend

benefits. It is not clear, however, if this conditional approval is sufficient for purposes of the Treasury Regulation cited above. The PBGC Rule seems to indicate that the purpose of this preliminary approval is to satisfy the deadline in the suspension process but both Rules need to clarify this point. See §4233.12.(c)

Finally, NCCMP encourages PBGC together with Treasury with regard to coordinated partition/suspension applications, and when consulting with Treasury and Labor with regard to suspension to keep in mind the statutory purpose of MPRA. Consistent with the statutory purpose, NCCMP encourages the agencies to continue to seek ways to expedite the partition and/or suspension process, minimize burden and expense for plans and promote clarity for participants and beneficiaries over quantity of disclosure. We are more than happy to discuss any questions you may have regarding these comments and related issues.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Randy G. DeFrehn".

Randy G. DeFrehn
Executive Director