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RIN 1212-AB36
Regulatory Affairs Group
Office of the General Counsel
Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington D.C. 20005-4026

Submitted via e-mail at reg.comments@pbgc.gov (RIN 1212-AB36)

Re: Methods for Computing Withdrawal Liability under the Multiemployer Pension Reform Act of 2014 (“MPRA”)

To Whom It May Concern:

We are writing on behalf of The Association of Food and Dairy Retailers, Wholesalers and Distributors (the “Association”) to provide comments on the proposed regulations issued on February 6, 2019 by the Pension Benefit Guaranty Corp. (“PBGC”) under sections 4001, 4204, 4206, 4207, 4211 and 4219 of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and section 305(g) of ERISA, as added by MPRA (the “Proposed Regulations”).¹

The Association is comprised of fifteen employers in the food and dairy industry. These companies consist of retailers, wholesalers and manufacturers, food service companies and companies providing logistic and/or transport services to the food and dairy industry. Each member of the Association is a contributing employer to one or more multiemployer plans. Collectively, the members of the Association contribute to over 100 multiemployer pension plans and employ over 1 million associates in the United States.

Summary of the Association’s Position

The Association strongly disagrees with the position taken in the Proposed Regulations relating to the treatment of certain contribution increases, as applied to plans that base accruals

¹ All references to “sections” refer to ERISA (unless otherwise specified).

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on a percentage of contributions and that are in endangered, seriously endangered or critical (including critical and declining) status (collectively, “Non-Green Zone Plans”). The Association believes that the PBGC’s position in the Proposed Regulations – namely, that benefit increases which are an integral part of a benefit formula (“benefit bearing” contribution increases) are taken into account in determining the allocation of unfunded vested benefits and withdrawal liability by Non-Green Zone Plans are (i) are contrary to the ERISA rules governing the funding requirements applicable to multiemployer plans, (ii) will increase the risk of plan insolvency, and (iii) will increase the risk to the PBGC for guaranteed benefits.

The Proposed Regulations should be modified to be consistent with the applicable provisions of ERISA. Specifically, the Proposed Regulations should be modified to provide that contribution increases that are required by a funding improvement plan or a rehabilitation plan *are not* included in allocating unfunded vested benefits or in determining an employer’s highest contribution rate (for plan years beginning after December 31, 2014) *unless the plan actuary has certified that the benefit bearing increase can be funded out of a contribution increase that is not needed to enable the plan to meet the requirements of the funding improvement plan or rehabilitation plan and to emerge from endangered, seriously endangered or critical status within the statutory funding improvement or rehabilitation plan period.*

Relevant ERISA statutory rules

Section 305 provides funding rules for Non-Green Zone Plans.² Of particular relevance is section 305(g), which describes the adjustments that are disregarded in determining withdrawal liability.

With respect to contribution increases, Section 305(g)(3)(A) provides that any increase in the contribution rate that is required or made in order to enable the plan to meet the requirement of a funding improvement plan or rehabilitation plan shall be disregarded in determining the

² Even though ERISA Section 305 (and its companion provision in section 432 of the Internal Revenue Code of 1986) was enacted thirteen years ago as part of the Pension Protection Act of 2006, neither the Department of Labor nor Internal Revenue Service have issued any regulations applying this provision. The Internal Revenue Service did issue proposed regulations under section 432 on March 18, 2008. However, these proposed regulations have not been adopted and did not address the parameters or requirements of a funding improvement or rehabilitation plan. Instead, the preamble to the proposed regulations indicated such guidance would be forthcoming “in a second set of regulations that are expected to be issued [later in 2008].” However, no such guidance was issued.

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allocation of unfunded vested benefits to an employer and in determining the highest contribution rate.³

Section 305(g)(3)(B) provides that “any increase in the contribution rate (or other increase in contribution requirements) shall be deemed to be required or made in order to enable the plan to meet the requirements of the funding improvement plan or rehabilitation plan except for increases in contribution requirements due to increased levels of work, employment, or periods for which compensation is provided or additional contributions are used to provide increased benefits, including an increase in future benefit accruals, permitted by subsection (d)(1)(B) or (f)(1)(B).” (the “Deeming Rule”)

Section 305(d) provides the rules for the operation of endangered status plans during the adoption of, and the period of, a funding improvement plan. In particular, Section 305(d)(1)(B) states that a plan in endangered status “may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to increase benefits, *including future benefit accruals*, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the funding improvement plan, *and*, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to meet the applicable benchmark on the schedule contemplated in the funding improvement plan.” (Emphasis added)

Section 305(f) provides similar rules for the operation of critical status plans during the adoption of, and the period of, a rehabilitation plan.⁴ In particular, Section 305(f)(1)(B) provides that a plan in critical status “may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, *including future benefit accruals*, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, *and*, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.” (Emphasis added)

³ Section 305(g)(3)(A) provides exceptions for plans determining withdrawal liability using direct attribution or an alternative withdrawal liability rule.

⁴ Section 305(e)(6) provides that “any reduction in the rate of future benefit accruals under the default schedule ...shall not reduce the rate of future accruals below ... a monthly benefit...equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants *under the collective bargaining agreement in effect as of the first day of the initial critical year*,” or “*if lower, the accrual rate in effect under the plan on such first date*.” (Emphasis added)

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The Proposed Regulations

The Proposed Regulations contradict sections 305(d)(1)(B) and (f)(1)(B) in the case of a plan that bases accruals on a percentage of contributions. The Proposed Regulations acknowledge the limitations imposed by the Deeming Rule, but ignore the additional restrictions applicable to Non-Green Zone Plans imposed under subsections 305(d)(1)(B) and (f)(1)(B).

To justify its position in the Proposed Regulations, the PBGC would have to either (1) unilaterally adopt an impermissible non-statutory exception to the restrictions imposed by section 305(g) or (2) conclude that the benefit increases supported by the increased contributions are not benefit increases that require a certification by the plan actuary for purposes of sections 305(d)(1)(B) and (f)(1)(B) but are benefit increases for purposes of section 305(g)(3). Neither position is supportable.

Non-statutory exception to ERISA Section 305(g)(3)

The PBGC does not have the authority to create a non-statutory exception for benefit bearing contribution increases, and section 305(g)(3) and sections 305(d)(1)(B) and (f)(1)(B) must be applied consistently. Section 305(g)(3) must be read in conjunction with, and must be applied consistent with sections 305(e), (d)(1)(B) and (f)(1)(B), which were added by the Pension Protection Act of 2006 (“PPA”) to improve funding of multiemployer plans that are in endangered or critical status. These sections prohibit a plan in endangered or critical status from increasing benefits, unless the plan actuary certifies that the increase is paid for out of contributions not needed to enable the plan to meet the requirements of the funding improvement plan or rehabilitation plan. The Deeming Rule deems any contribution increase as required or made in order to enable the plan to meet the requirements of the applicable funding improvement/rehabilitation plan unless the contribution increase is used to provide a benefit increase permitted by section 305(d)(1)(B) or (f)(1)(B) – both of which require an actuarial certification that the increase is not needed to enable the plan to meet its improvement/rehabilitation plan requirements.⁵ There is no special statutory rule for benefit bearing contribution increases, and the PBGC cannot create its own non-statutory “exception” to these requirements.

⁵ While increases due to increased work levels, employment or periods for which compensation is provided are also taken into account, none of these exceptions apply to a benefit accrual formula based on a percentage of contributions.

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Inconsistent interpretation of a benefit increase

The Proposed Regulations do not cite any authority for the proposition that a benefit bearing contribution increase is not considered a benefit increase under sections 305(d)(1)(B) and (f)(1)(B) but nevertheless is considered a benefit increase under section 305(g)(3).

By virtue of its reference to subsections (d)(1)(B) (in the case of endangered status plans) and (f)(1)(B) (in the case of critical status plans), Section 305(g)(3) effectively excludes from the determination of withdrawal liability any post-2014 plan year contribution increase that is needed to improve plan funding (unless the plan actuary certifies that the contribution increase is not needed to enable the plan to meet the improvement/rehabilitation plan funding requirements).

Application to Endangered, Seriously Endangered, Critical or Critical and Declining Plans

Multiemployer plans typically determine benefit accruals based on a formula consisting of a flat dollar amount (e.g., a monthly benefit of \$X for each year of credited service), a percentage of contributions (e.g., a monthly benefit equal to X% of contributions for each year of credited service) or a percentage of compensation (e.g., a monthly benefit equal to X% of compensation for each year of credited service).

Regardless of the accrual method, Non-Green Zone Plans are required to adopt a funding improvement plan or a rehabilitation plan (depending on the severity of the plan's funded status) that allows the plan to emerge from the applicable status by the end of the relevant plan measurement period. In the case of a critical status plan, if the plan cannot emerge within the statutory rehabilitation period, the plan is required to take all reasonable measures to emerge at a later date. Critical status plans (including critical and declining plans) that are projected to become insolvent are required to take all reasonable measures to postpone the date of insolvency.

A funding improvement or rehabilitation plan can require an employer, as a condition of continued participation, to adopt one of the schedules of contributions/benefits made available to the bargaining parties (which would include the default schedule). To the extent that these schedules *require* contribution increases, the bargaining parties have no choice but to adopt one of the schedules with the required contribution increases. The parties cannot bargain a lower rate.

In order for a contribution increase to be taken into account in determining withdrawal liability, section 305(g)(3) provides that any additional contributions that are used to provide increased benefits, including an increase in future benefit accruals, must be permitted by section

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305(d)(1)(B) or (f)(1)(B). *These subsections permit increases only if the plan actuary certifies that they are funded out of additional contributions not needed for the plan to emerge from endangered or critical status by the end of the funding improvement or rehabilitation period on the schedule contemplated in the funding improvement or rehabilitation plan.* In the case of a critical and declining plan or a critical plan using all reasonable measures, such a certification is not possible, as all of the contribution increases are needed to either postpone insolvency or for the plan to emerge from critical status as soon as possible.

The fact that a benefit accrual is based on a percentage of contributions does not alter the application of Section 305(g)(3). Contribution increases cannot serve to increase benefit accruals unless such increases *are not needed* to allow the plan to comply with section 305(c)(3)(A) (in the case of an endangered plan), section 305(c)(3)(B) (in the case of a seriously endangered plan), or section 305(e)(3)(A)(i) (in the case of a critical or critical and declining plan).

The position reflected in the Proposed Regulations is inconsistent with Congressional intent. In the case of a Non-Green Zone Plan, Congress intended that all available contribution dollars be used to address plan underfunding and did not intend to allow increased benefit accruals for plans that cannot emerge from their Non-Green Zone status within the funding improvement/rehabilitation period. Thus, for example, if a critical status plan had a flat benefit accrual of \$104 per month and wanted to increase it to \$108 per month, the plan actuary would have to certify that the \$4 increase is paid for out of contributions not needed for the plan to emerge from critical status by the end of the rehabilitation period. Such a certification would not be possible in a plan using the all reasonable measures provision.

The impact of the contribution increase on benefit accruals can be shown by the example attached as Exhibit A. This example looks at the value of a benefit accrual under a calendar year plan that bases accruals on 1% of contributions and whose rehabilitation plan requires 4% annual contribution increases. If an employer was contributing \$200 per week on December 31, 2014, a participant who earned a year of credited service accrued a monthly benefit of \$104 (52 weeks x \$200 per week x 1%). If this same participant continued to work in covered employment and the employer increased its contribution by 4% per year *as required under the terms of the rehabilitation plan*, the employee would accrue a benefit of \$126.53 during 2019, an increase of 21.7% over the 2014 accrual. If the plan becomes insolvent in 2025, the employee's accrual at the time of insolvency would be \$160.10, an increase of 53.9% over the 2014 accrual. If we assume the plan is not projected to be insolvent, but cannot emerge from critical status for thirty years (i.e., until 2044), the accrual for the plan year prior to emergence would be \$220.34, an

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increase of 211.9%. There is no question that if the plan's monthly benefit accrual was a flat \$104 per year of credited service on December 31, 2014, it could not increase the amount of the benefit accrual unless the increase was paid for out of additional contributions not needed for the plan to emerge from critical status by the end of its 10-year rehabilitation period. To the extent that the plan could not emerge within this period and was using an all reasonable measures approach, no benefit increase would be permitted.⁶

The benefit increases for critical and declining plans are illusory

By permitting the actuarial cost of the benefit increase in the accrual formula to be taken into account in allocating unfunded vested benefits and determining the highest contribution rate for critical and declining plans, the Proposed Regulations create the illusion that these increased benefits are real. They are not; the benefit increases are illusory and will never be realized by plan participants.

Consider the following example: John is a participant in a plan that is critical and declining and which is projected to become insolvent in 2025. The plan operates on a calendar year basis and has an accrual formula that provides a monthly benefit equal to 1% of weekly contributions for each year of credited service. The rehabilitation plan requires annual contribution increases of 4%. John had 23 years of credited service under the plan as of 12/31/2018, and expects to retire in 2025 with 30 years of service. As of December 31, 2014,

⁶ In the case of a plan using an all reasonable measures approach, any increase in contributions that is used to provide increased accruals (expressed as a dollar amount) significantly erodes the amount allocated to improve plan funding, which, in turn, prolongs the period required to fund the unfunded actual accrued liability and only further delays the date on which the plan can emerge from critical status. This result is inconsistent with the mandate in section 305(e)(3)(A) that any increase in accruals be funded out of contribution increases not needed to the plan to emerge from critical status. Under Section 305(f)(1)(B), contribution increases required by the rehabilitation plan must, by definition, be used to allow the plan to emerge sooner (which would not be the case to the extent that a portion of the contribution increase is used to provide additional accruals). Arguably, section 305(f)(1)(B) should be read as effectively requiring a critical status plan to "freeze" the accrual rate at the equivalent dollar rate in effect when the plan enters critical status, unless the plan is scheduled to emerge within the statutory period with the additional accrual imbedded in the contribution rate increase. While the interpretation of section 305(f)(1)(B) is not within the purview of the PBGC, the position taken in the Proposed Regulations essentially sanctions such increases for purposes of section 305(f)(1)(B). At a minimum, the Proposed Regulation must be coordinated with the DOL and IRS, which have primary jurisdiction over the application of this section (and its companion section under the Internal Revenue Code).

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John's employer contributed \$200 per week to the plan. John's employer's contribution rate has increased 4% each year it has contributed to the plan since 1996.

Based on the 1% of contribution benefit formula and assuming a weekly contribution rate of \$200 as of 12/31/2014 and 4% annual contribution increases during the period of John's employment, John has earned a benefit of \$22,346.49 a year from the plan as of 12/31/2018 and expects to have a benefit of about \$34,339.13 when he retires.

If the plan becomes insolvent in 2025, John will not receive an annual benefit of \$34,339.13, but will receive the PBGC guaranteed benefit of \$12,870 (based on his 30 years of service). John's accrued benefit as of 12/31/2018, based on 23 years of service (\$22,346.49), is more than the PBGC guarantee with 30 years of service (\$12,870). As such, when the plan becomes insolvent in 2025, John's benefit will be *less* than his current accrued benefit. In effect, John will not realize any additional benefits for his last 7 years of service.⁷

For the plan that is projected to become insolvent to claim that contribution increases are being used to fund additional (increased) benefits that will be paid to participants is illusory and misleading.⁸

Once a plan is critical and declining, plan accruals (and plan liabilities) lose all meaning. Instead, at that point, the solvency of the plan (and payment benefits under the plan) are entirely dependent on the plan's cash flow and the period over which the level of plan assets will support benefit payments and plan administration expenses. Accruing additional benefits on contribution increases required under the rehabilitation plan may give participants the illusion that they will receive additional benefits, but they will not.

The impact of reduced return assumptions used by critical and declining plans approaching insolvency

⁷ See Exhibit B. Technically, John is accruing the PBGC guaranteed benefit for each year of service.

⁸ Plans that are projected to become insolvent and that have not frozen accruals (so that future contribution increases are non-benefit bearing) have taken the position that the increased accruals are necessary in order for participants to continue to support the plan. However, such an argument relies on the naivety of the participants, who believe they will actually realize these increased benefit accruals when they will not. In effect, the plan is saying that it can continue to mislead participants into believing that they are actually accruing benefits beyond the PBGC guarantee. Such an approach is inconsistent with the Supreme Court's decision in *Varity Corp. v. Howe*, 516 US 489 (1996).

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The fallacy of the Proposed Regulations also is demonstrated by the provision allowing the actuarial cost of the benefit increase imbedded in the accrual formula to be taken into account in allocating unfunded vested benefits and determining the highest contribution rate. As a plan in critical and declining status approaches insolvency, it makes sense for the plan to change its asset allocation to reduce the risk of volatility (essentially going to an “all cash” portfolio as the plan approaches insolvency). As the plan lowers its return assumption, it also lowers the rate used to determine plan liabilities. This has the effect of increasing the amount of contributions required to fund current benefit accruals (i.e., the normal cost excluding plan administration expenses). In this scenario, as the plan approaches insolvency, an increasingly larger proportion of any contribution increase is needed to fund the “cost” of the benefit accrual on the increased contribution in a plan that bases benefit accruals on a percentage of contributions. This makes no sense.⁹ In essence, the PBGC is saying that the more dire the financial condition of the plan, the greater the proportion of the contribution increase can be allocated to increased benefit accruals and, consequently, the lower the proportion of the contribution increase that actually would improve the plan’s funding position or postpone insolvency. This ignores that the whole the purpose of the contribution increase in the first place is to improve plan funding or postpone insolvency.

Conclusion

Section 305(g)(3) must be interpreted and applied consistent with section 305(d)(1)(B) and (f)(1)(B). Section 305(g)(3)(A) specifically prohibits the inclusion of contribution increases that are required or made in order to meet the requirements of a rehabilitation plan, except for increases made due to increased levels of work, employment, or periods for which compensation is provided.

Section 305(g)(3)(B) provides that contribution rate increases are deemed to be required or made in order to enable the plan to meet the requirements of a rehabilitation plan. There are exceptions to the “deemed” provision. *Only increases permitted by subsection (d)(1)(b) or (f)(1)(B) can be taken into account.* Sections 305(d)(1)(B) and (f)(1)(B) require that the plan actuary certify that any contribution increase used to provide benefits is *not needed* to meet the terms of the funding improvement or rehabilitation plan. Absent such an actuarial certification,

⁹ See the “normal cost” shown on the example attached as Exhibit A, which was taken from the actuarial valuation reports for a plan in critical and declining status that is projected to be insolvent in 2025.

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the contribution increase must be deemed as needed to enable the plan to meet the requirements of the funding improvement plan or rehabilitation plan for purposes of section 305(g)(3).

The Association appreciates the opportunity to comment on the Proposed Regulations. If you have any questions concerning these comments or the views of the Association regarding the Proposed Regulations, please contact the undersigned.

Sincerely,



Kenneth R. Hoffman



Samuel Olchyk

Exhibit A to Comment Letter filed by The Association of Food and Dairy Retailers, Wholesalers and Distributors
 Submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> (RIN 1212-AB36)

Impact of Taking Contribution Rate Increase Into Account in Amount of Benefit Accrual Under Critical and Declining Plan

Plan Year Ending 12/31	CBU Measuring Period (Weeks) and Number of Periods in Full Year (52)	Accrual Rate	Contribution Rate as of 12/31/2014	Monthly Accrual for Participant Credited With Service During Each Contribution Period in Plan Year Based on 12/31/2014 Contribution Rate	% Contribution Rate Increase Required by Rehabilitation Plan	Contribution Rate After Required Rehabilitation Plan Increase	Dollar Amount of Contribution Rate Increase	% of Contribution for Plan Year Needed to Cover Normal Cost (per AVR)*	Amount of Increase Counted in Computing Highest Contribution Rate	Highest Contribution Rate per Proposed PBGC Reg.	Monthly Accrual for Participant Credited With Service During Each Contribution Period in Plan Year After Taking Into Account Increase in Contribution Rate	Increased Accrual (Year Over Year)	Dollar Increase in Benefit Accrual (Compared to 12/31/2014 Base Year)	Percentage Increase in Benefit Accrual (Compared to 12/31/2014 Base Year)
2014	52	1%	\$ 200.00	\$ 104.00	4%						\$ 104.00			
2015	52	1%	\$ 200.00	\$ 104.00	4%	\$ 208.00	\$ 8.00	48.30%	\$ 3.86	\$ 203.86	\$ 108.16	\$ 4.16	\$ 4.16	4.0%
2016	52	1%	\$ 200.00	\$ 104.00	4%	\$ 216.32	\$ 8.32	50.45%	\$ 4.20	\$ 208.06	\$ 112.49	\$ 4.33	\$ 8.49	8.2%
2017	52	1%	\$ 200.00	\$ 104.00	4%	\$ 224.97	\$ 8.65	57.36%	\$ 4.96	\$ 213.02	\$ 116.99	\$ 4.50	\$ 12.99	12.5%
2018	52	1%	\$ 200.00	\$ 104.00	4%	\$ 233.97	\$ 9.00	84.84%	\$ 7.64	\$ 220.66	\$ 121.67	\$ 4.68	\$ 17.67	17.0%
2019	52	1%	\$ 200.00	\$ 104.00	4%	\$ 243.33	\$ 9.36	84.84%	\$ 7.94	\$ 228.60	\$ 126.53	\$ 4.87	\$ 22.53	21.7%
2020	52	1%	\$ 200.00	\$ 104.00	4%	\$ 253.06	\$ 9.73	84.84%	\$ 8.26	\$ 236.86	\$ 131.59	\$ 5.06	\$ 27.59	26.5%
2021	52	1%	\$ 200.00	\$ 104.00	4%	\$ 263.19	\$ 10.12	84.84%	\$ 8.59	\$ 245.45	\$ 136.86	\$ 5.26	\$ 32.86	31.6%
2022	52	1%	\$ 200.00	\$ 104.00	4%	\$ 273.71	\$ 10.53	84.84%	\$ 8.93	\$ 254.38	\$ 142.33	\$ 5.47	\$ 38.33	36.9%
2023	52	1%	\$ 200.00	\$ 104.00	4%	\$ 284.66	\$ 10.95	84.84%	\$ 9.29	\$ 263.67	\$ 148.02	\$ 5.69	\$ 44.02	42.3%
2024	52	1%	\$ 200.00	\$ 104.00	4%	\$ 296.05	\$ 11.39	84.84%	\$ 9.66	\$ 273.33	\$ 153.95	\$ 5.92	\$ 49.95	48.0%
2025	52	1%	\$ 200.00	\$ 104.00	4%	\$ 307.89	\$ 11.84	84.84%	\$ 10.05	\$ 283.38	\$ 160.10	\$ 6.16	\$ 56.10	53.9%
2026	52	1%	\$ 200.00	\$ 104.00	4%	\$ 320.21	\$ 12.32	84.84%	\$ 10.45	\$ 293.83	\$ 166.51	\$ 6.40	\$ 62.51	60.1%
2027	52	1%	\$ 200.00	\$ 104.00	4%	\$ 333.01	\$ 12.81	84.84%	\$ 10.87	\$ 304.69	\$ 173.17	\$ 6.66	\$ 69.17	66.5%
2028	52	1%	\$ 200.00	\$ 104.00	4%	\$ 346.34	\$ 13.32	84.84%	\$ 11.30	\$ 315.99	\$ 180.09	\$ 6.93	\$ 76.09	73.2%
2029	52	1%	\$ 200.00	\$ 104.00	4%	\$ 360.19	\$ 13.85	84.84%	\$ 11.75	\$ 327.75	\$ 187.30	\$ 7.20	\$ 83.30	80.1%
2030	52	1%	\$ 200.00	\$ 104.00	4%	\$ 374.60	\$ 14.41	84.84%	\$ 12.22	\$ 339.97	\$ 194.79	\$ 7.49	\$ 90.79	87.3%
2031	52	1%	\$ 200.00	\$ 104.00	4%	\$ 389.58	\$ 14.98	84.84%	\$ 12.71	\$ 352.69	\$ 202.58	\$ 7.79	\$ 98.58	94.8%
2032	52	1%	\$ 200.00	\$ 104.00	4%	\$ 405.16	\$ 15.58	84.84%	\$ 13.22	\$ 365.91	\$ 210.68	\$ 8.10	\$ 106.68	102.6%
2033	52	1%	\$ 200.00	\$ 104.00	4%	\$ 421.37	\$ 16.21	84.84%	\$ 13.75	\$ 379.66	\$ 219.11	\$ 8.43	\$ 115.11	110.7%
2034	52	1%	\$ 200.00	\$ 104.00	4%	\$ 438.22	\$ 16.85	84.84%	\$ 14.30	\$ 393.96	\$ 227.88	\$ 8.76	\$ 123.88	119.1%
2035	52	1%	\$ 200.00	\$ 104.00	4%	\$ 455.75	\$ 17.53	84.84%	\$ 14.87	\$ 408.83	\$ 236.99	\$ 9.12	\$ 132.99	127.9%
2036	52	1%	\$ 200.00	\$ 104.00	4%	\$ 473.98	\$ 18.23	84.84%	\$ 15.47	\$ 424.30	\$ 246.47	\$ 9.48	\$ 142.47	137.0%
2037	52	1%	\$ 200.00	\$ 104.00	4%	\$ 492.94	\$ 18.96	84.84%	\$ 16.09	\$ 440.38	\$ 256.33	\$ 9.86	\$ 152.33	146.5%
2038	52	1%	\$ 200.00	\$ 104.00	4%	\$ 512.66	\$ 19.72	84.84%	\$ 16.73	\$ 457.11	\$ 266.58	\$ 10.25	\$ 162.58	156.3%
2039	52	1%	\$ 200.00	\$ 104.00	4%	\$ 533.17	\$ 20.51	84.84%	\$ 17.40	\$ 474.51	\$ 277.25	\$ 10.66	\$ 173.25	166.6%
2040	52	1%	\$ 200.00	\$ 104.00	4%	\$ 554.49	\$ 21.33	84.84%	\$ 18.09	\$ 492.61	\$ 288.34	\$ 11.09	\$ 184.34	177.2%
2041	52	1%	\$ 200.00	\$ 104.00	4%	\$ 576.67	\$ 22.18	84.84%	\$ 18.82	\$ 511.42	\$ 299.87	\$ 11.53	\$ 195.87	188.3%
2042	52	1%	\$ 200.00	\$ 104.00	4%	\$ 599.74	\$ 23.07	84.84%	\$ 19.57	\$ 531.00	\$ 311.87	\$ 11.99	\$ 207.87	199.9%
2043	52	1%	\$ 200.00	\$ 104.00	4%	\$ 623.73	\$ 23.99	84.84%	\$ 20.35	\$ 551.35	\$ 324.34	\$ 12.47	\$ 220.34	211.9%

* Amount of contribution increase required to cover the normal cost for 2019-2043 is assumed to be the same as 2018

Exhibit B to Comment Letter filed by The Association of Food and Dairy Retailers, Wholesalers and Distributors
 Submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> (RIN 1212-AB36)

John's Accrual vs. PBGC Guarantee as of 2019 and At Point of Plan Insolvency Under Critical and Declining Plan

Plan Year Ending 12/31	Years of Credited Service	CBU Measuring Period (Weeks) and Number of Periods in Full Year (52)	Accrual Rate	% Contribution Rate Increase	Contribution Rate as of 12/31/2014	Monthly Accrual for Participant Credited With Service During Each Contribution Period in Plan Year	Total Monthly Accrual	Total Annual Accrual	Maximum Monthly PBGC Guarantee	Maximum Annual PBGC Guarantee
1996	1	52	1%	4%	\$ 95.92	\$ 49.88	\$ 49.88	\$ 598.54	\$ 35.75	\$ 429.00
1997	2	52	1%	4%	\$ 99.92	\$ 51.96	\$ 101.84	\$ 1,222.03	\$ 71.50	\$ 858.00
1998	3	52	1%	4%	\$ 104.08	\$ 54.12	\$ 155.96	\$ 1,871.49	\$ 107.25	\$ 1,287.00
1999	4	52	1%	4%	\$ 108.42	\$ 56.38	\$ 212.33	\$ 2,548.02	\$ 143.00	\$ 1,716.00
2000	5	52	1%	4%	\$ 112.93	\$ 58.73	\$ 271.06	\$ 3,252.73	\$ 178.75	\$ 2,145.00
2001	6	52	1%	4%	\$ 117.64	\$ 61.17	\$ 332.23	\$ 3,986.80	\$ 214.50	\$ 2,574.00
2002	7	52	1%	4%	\$ 122.54	\$ 63.72	\$ 395.96	\$ 4,751.47	\$ 250.25	\$ 3,003.00
2003	8	52	1%	4%	\$ 127.65	\$ 66.38	\$ 462.33	\$ 5,547.99	\$ 286.00	\$ 3,432.00
2004	9	52	1%	4%	\$ 132.97	\$ 69.14	\$ 531.47	\$ 6,377.70	\$ 321.75	\$ 3,861.00
2005	10	52	1%	4%	\$ 138.51	\$ 72.02	\$ 603.50	\$ 7,241.98	\$ 357.50	\$ 4,290.00
2006	11	52	1%	4%	\$ 144.28	\$ 75.02	\$ 678.52	\$ 8,142.28	\$ 393.25	\$ 4,719.00
2007	12	52	1%	4%	\$ 150.29	\$ 78.15	\$ 756.67	\$ 9,080.08	\$ 429.00	\$ 5,148.00
2008	13	52	1%	4%	\$ 156.55	\$ 81.41	\$ 838.08	\$ 10,056.96	\$ 464.75	\$ 5,577.00
2009	14	52	1%	4%	\$ 163.07	\$ 84.80	\$ 922.88	\$ 11,074.55	\$ 500.50	\$ 6,006.00
2010	15	52	1%	4%	\$ 169.87	\$ 88.33	\$ 1,011.21	\$ 12,134.53	\$ 536.25	\$ 6,435.00
2011	16	52	1%	4%	\$ 176.95	\$ 92.01	\$ 1,103.22	\$ 13,238.68	\$ 572.00	\$ 6,864.00
2012	17	52	1%	4%	\$ 184.32	\$ 95.85	\$ 1,199.07	\$ 14,388.84	\$ 607.75	\$ 7,293.00
2013	18	52	1%	4%	\$ 192.00	\$ 99.84	\$ 1,298.91	\$ 15,586.92	\$ 643.50	\$ 7,722.00
2014	19	52	1%	4%	\$ 200.00	\$ 104.00	\$ 1,402.91	\$ 16,834.92	\$ 679.25	\$ 8,151.00
2015	20	52	1%	4%	\$ 208.00	\$ 108.16	\$ 1,511.07	\$ 18,132.84	\$ 715.00	\$ 8,580.00
2016	21	52	1%	4%	\$ 216.32	\$ 112.49	\$ 1,623.56	\$ 19,482.68	\$ 750.75	\$ 9,009.00
2017	22	52	1%	4%	\$ 224.97	\$ 116.99	\$ 1,740.54	\$ 20,886.51	\$ 786.50	\$ 9,438.00
2018	23	52	1%	4%	\$ 233.97	\$ 121.67	\$ 1,862.21	\$ 22,346.49	\$ 822.25	\$ 9,867.00
2019	24	52	1%	4%	\$ 243.33	\$ 126.53	\$ 1,988.74	\$ 23,864.87	\$ 858.00	\$ 10,296.00
2020	25	52	1%	4%	\$ 253.06	\$ 131.59	\$ 2,120.33	\$ 25,443.99	\$ 893.75	\$ 10,725.00
2021	26	52	1%	4%	\$ 263.19	\$ 136.86	\$ 2,257.19	\$ 27,086.28	\$ 929.50	\$ 11,154.00
2022	27	52	1%	4%	\$ 273.71	\$ 142.33	\$ 2,399.52	\$ 28,794.25	\$ 965.25	\$ 11,583.00
2023	28	52	1%	4%	\$ 284.66	\$ 148.02	\$ 2,547.55	\$ 30,570.54	\$ 1,001.00	\$ 12,012.00
2024	29	52	1%	4%	\$ 296.05	\$ 153.95	\$ 2,701.49	\$ 32,417.89	\$ 1,036.75	\$ 12,441.00
2025	30	52	1%	4%	\$ 307.89	\$ 160.10	\$ 2,861.59	\$ 34,339.13	\$ 1,072.50	\$ 12,870.00