PBGC
Protecting America's Pensions
Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

March 28, 2016

VIA: Electronic Mail

Federal Accounting Standards Advisory Board
441 G Street, NW, Suite 6814
Washington, DC 20548

RE: Exposure Draft of a Proposed Statement of Federal Financial Accounting Standards for Insurance Programs – Request for Comments Response

Dear FASAB Board,

The Pension Benefit Guaranty Corporation (PBGC) appreciates the opportunity to comment on the Insurance Program Exposure Draft issued by the Federal Accounting Standards Advisory Board (FASAB) on December 30, 2015. We noted that the Exposure Draft (ED) lists 8 questions in which the FASAB board would like responses from all who use, prepare and audit federal financial information. With respect to these 8 questions, PBGC is providing responses as requested (see attached), but would like to note from the outset that we believe PBGC would be excluded from this standard, given that PBGC does not have insurance contracts.

The Employee Retirement Income Security Act (ERISA) fully establishes the PBGC and PBGC's obligation to certain defined benefit single employer (SE) nonforfeitable benefits and certain defined benefit multiemployer (ME) insolvent plan financial assistance. Accordingly, PBGC programs do not issue insurance contracts; rather, program benefits are automatically obligated pursuant to ERISA. The ED uses an insurance accounting model that does not fit PBGC programs since PBGC benefits are legally mandated and not contractual in nature, i.e., benefits are not negotiated and have no insurance model basis. As a result, PBGC does not have the necessary elements of an insurance-based accounting model, e.g., insurance risks defined and predictability through insurance type experience-based models. PBGC uses a contingent liability accounting model to report program liabilities, and any attempt to fit PBGC's guarantee programs into an experience-based insurance forecasting model is not feasible as it would not generate reliable information because PBGC's loss events are episodic and unrelated in nature. (In contrast, PBGC's Pension Insurance Modeling System (PIMS) is used to create the projections that go into PBGC's annual Projections Report outlining the direction of PBGC's single-employer and multiemployer programs. To make these projections, PBGC uses two stochastic modeling systems; each relies on running many simulations to derive a range of possible future outcomes. The actual results that ultimately occur in future years can, and likely will, vary materially from the projections in the Projections Report.)

In addition, PBGC programs should be viewed akin to "entitlements" pursuant to ED paragraph 10.d *Entitlement Programs*.

PBGC's SE program provides the following "entitlement" at ERISA 29 U.S. Code section 1322:

> ***(a) Nonforfeitable benefits***
> *Subject to the limitations contained in subsection (b) of this section, the corporation shall guarantee, in accordance with this section, the payment of all nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under a single-employer plan which terminates at a time when this subchapter applies to it.*

PBGC's ME program provides the following "entitlement" at ERISA 29 U.S. Code section 1431:

> ***(a) Authority; procedure applicable; amount***
> *If, upon receipt of an application for financial assistance under section 1426(f) of this title or section 1441(d) of this title, the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.*

The ED *Appendix C: Glossary*, provides the following definition for entitlements:

> *Entitlement Program – is a program in which the federal government becomes automatically obligated to provide benefits to members of a specific group who meet the requirements established by law.*

Since PBGC is a wholly owned federal government corporation, the federal government, as the sole owner of PBGC, is obligated under ERISA to provide certain benefits and financial assistance in accordance with the ERISA "entitlements" listed above. PBGC's benefit payments are treated as mandatory spending in the federal budget, as are the other federal entitlement programs. The structure of PBGC's obligations illustrate the entitlement nature of PBGC's SE and ME programs for FASAB accounting purposes:

- **Unilateral Change of Terms**: PBGC's obligations to pay benefits or provide financial assistance utilize externally set premium rates and guarantee limit terms (U.S. Congress has in the past and will likely in the future make unilateral changes to premium rates and guarantee limit terms), and plan participation (plans may unilaterally terminate).

- **Benefits Covered Regardless of Plan Payment of Premiums**: PBGC's obligations to pay benefits or provide financial assistance are not affected by covered plans payment of premiums (in other words, the "entitlement" benefit is provided to the plan whether premiums are paid or not).

- **U.S. Congressional Action**: Under the multiemployer program, when PBGC resources are insufficient to meet the benefit "entitlements" it is required by law to satisfy, PBGC must file amended premium schedules and guarantee schedules with Congress. If the Congress does not enact higher premiums within a specified time, the guarantee falls to the amount supportable by the premiums. With regard to the single-employer program, Congress repeatedly over the past several years has raised premiums to levels that support PBGC's solvency.

Accordingly, PBGC's SE and ME programs should be viewed akin to "entitlement" programs for FASAB accounting purposes and would be excluded pursuant to the ED paragraph 10.d, *Entitlement programs*, under the definition of *Insurance Program* defined in the ED paragraph 9.

Given that PBGC has a unique hybrid business model as a guarantor that is neither an insurance program nor a pension program, PBGC is best served by, and will continue to use the contingent liability accounting model to report program liabilities, including the continued full disclosure of probables and reasonably possible contingent liability.

If you have questions, please contact Theodore J. Winter, Jr., Director, Financial Operations Department, or Martin O. Boehm, Director, Corporate Controls and Reviews Department. Thank you for the opportunity to respond to this Exposure Draft.

Sincerely,

Patricia Kelly

Patricia Kelly
Chief Financial Officer
Pension Benefit Guaranty Corporation

Attachment

cc: Theodore J. Winter, Jr.
Martin O. Boehm
Gowon Thorpe

3

Exposure Draft (ED): Questions for Respondents due March 29, 2016
Insurance Programs

Respondent: Pension Benefit Guaranty Corporation (PBGC)

Q1. The definition for an insurance program (par. 9) identifies the fundamental nature of these programs. The substance and not the name of a program will determine if it is an insurance program and therefore subject to these standards.

Do you agree or disagree with the definition of an insurance program? Please provide the rationale for your answer.

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree with the definition and suggest FASAB provide context and explanation in the ED paragraph 10 for listed exclusions, such as information useful for entities similar to PBGC that act and perform like entitlement programs, e.g., benefits payable are legislatively mandated, budgets and funding are provided without the use of contracts. This type of enhanced guidance would be helpful for entities similar to PBGC and their stakeholders to fully understand the rationale for exclusion.

Q2. Additional new terms were introduced (par. 10–25) in order to provide definitions needed to consistently report on insurance programs.

a. **Do you agree or disagree with the proposed definition of each term? Please provide the rationale for your answer.**

We agree, see our suggestion in Q1 regarding additional context and explanation for the ED paragraph 10 which defines appropriate exclusions from the ED's definition of insurance programs.

b. **Do you agree or disagree that the additional terms will assist insurance programs in producing consistent reporting? Please provide the rationale for your answer.**

We agree, the terms will facilitate accuracy and completeness.

Q3. Insurance Programs are to be classified in one of the three categories defined in par.15, 22, and 23: Exchange Transaction Insurance Programs other Than Life Insurance, Life Insurance Programs, and Nonexchange Transaction Insurance Programs.

Do you agree or disagree with these categories? Please provide the rationale for your answer.

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree, the three categories appear to be comprehensive and complete.

Q4. New standards were introduced (par. 26-43) for exchange transaction insurance programs other than life insurance. These programs will be required to recognize a liability for losses on remaining coverage. The liability for losses on remaining coverage has been separated from the liability for unpaid claims to address the uncertain nature of losses on contracts open beyond the end of the reporting period. Insurance programs must first use the expected cash flow model to estimate these future losses. However, there are various methods to estimate cash flows and probabilities. To the extent that a method explicitly or implicitly incorporates the characteristics of expected cash flow, then its use is consistent with this Statement. One member expressed concern in that expected cash flow may be too limiting to allow other methods currently in use to continue to be used for estimating future cash flow in. (See Basis for Conclusion par. A17)

a. **Do you agree or disagree that the recognition guidance for exchange transaction insurance programs other than life insurance (par. 27-39) is clear and appropriate? Please provide the rationale for your answer.**

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree with the guidance and find it clear and appropriate.

b. **Would the expected cash flow approach (par. 35-37) prevent use of any methods you believe should be used? Please provide the rationale for your answer.**

Since PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we have no opinion related to this expected cash flow approach; however, we caution any one approach that may be too limiting.

c. **Would the measurement standard (par. 35-37) allow the method currently used by your entity to estimate future losses continue to be used? Please provide the rationale for your answer.**

Same response as provided above for Q4.b.

d. **Do you agree or disagree with the disclosures for the exchange transaction insurance programs other than life insurance (par. 40-43)? Please provide the rationale for your answer.**

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree, the disclosures are appropriate for the exchange transaction insurance programs.

Q5. New standards were introduced (par. 44–53) for nonexchange transaction insurance programs.

a. **Do you agree or disagree that the recognition guidance (par. 45-49) for nonexchange transaction insurance programs is clear and appropriate? Please provide the rationale for your answer.**

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree with the guidance and find it clear and appropriate.

b. **Do you agree or disagree with the disclosures for the nonexchange transaction insurance programs (par. 50-53)? Please provide the rationale for your answer.**

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree, the disclosures are appropriate for the nonexchange transaction insurance programs.

Q6. New standards were introduced (par. 54–68) for life insurance programs.

a. **Do you agree or disagree that the recognition guidance (par. 55-64) for life insurance programs is clear and appropriate? Please provide the rationale for your answer.**

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree with the guidance and find it clear and appropriate.

b. **Do you agree or disagree with the disclosures for the life insurance programs (par. 65-68)? Please provide the rationale for your answer.**

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree, the disclosures are appropriate for the life insurance programs.

Q7. New disclosures were introduced (par. 69) for the consolidated financial report of the U.S. Government.

Do you agree or disagree with the disclosures applicable to the consolidated financial report of the U.S. Government (par.69)? Please provide the rationale for your answer.

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, we agree, the disclosures are appropriate for the consolidated financial report of the U.S. Government. PBGC will continue to report its exposure for the consolidated financial report (FR) of the U.S. Government, as shown in the fiscal year 2015 FR *Note 15. Insurance and Guarantee Program Liabilities.*

Q8. The Board proposes that the requirements of this Statement are effective for reporting periods beginning after September 30, 2017.

Do you agree or disagree? Please provide the rationale for your answer.

While PBGC would be excluded from this standard given that PBGC does not have insurance contracts, given the magnitude and complexity of this standard we believe the reporting effective date should be for periods beginning after September 30, 2018.