TO: Board of Pilot Commissioners February 27, 2020

FROM: Dennis Eagan, Board Counsel

RE: PMSA Letter on CPI Adjustments Under Section 1167

This responds to the February 26, 2020 letter from Mike Jacob, Vice President and General Counsel of PMSA.

1. The Committee recommendation for a CPI-based increase in pension benefits proceeds from the specific language of section 1167; no implementing regulation is required.

Section 1167, subdivision (b) is quite specific. It permits the Board, every three years, to increase the benefits of individual pension beneficiaries by up to 50 percent of the cumulative increase in the CPI over the preceding three years. This CPI provision is a conservative one. It does not permit adjustments on an annual basis, as is common with CPI-based adjustments generally (e.g., Social Security benefits, CalPERS retirement benefits). Instead, it permits adjustments only every three years. Further, any adjustments have an internal "brake": adjustments may not exceed 50 percent of the cumulative change in the CPI. Finally, any increase is permissive, not required; if there are countervailing considerations that suggest that the increase permitted by statute is not warranted, the Board may authorize a lesser increase or decline to authorize any increase at all.

In light of section 1167's specificity, one cannot characterize the code section as having no effect unless and until some "regulatory guidance" is supplied by Board regulation. The section itself provides all the guidance that is necessary.

2. Although the Board may consider additional evidence, such evidence is not a precondition to Board action based on change in the CPI.

Absent evidence suggesting that a reduced or no adjustment in benefits is appropriate, the Board may authorize the increase in pension benefits that is permitted by section 1167. If individual commissioners or others have reservations about the need for, or the amount of, a benefit increase, those reservations can and should be raised at or prior to the meeting at which the Board considers an adjustment in benefits.

3. Aggregate increases over time in "total pension obligations" should not be conflated with cost-of-living increases affecting individual pension beneficiaries.

Year-to-year changes in the total payout for all pension obligations have no relation to changes in the cost of living. Such changes in the aggregate of the Pension Plan's obligations are the product many variables, including the number of new retirees, their varying years of service at retirement, and the audited annual average net income per pilot that preceded their various retirement dates. All of these variables cause variations, over time, in the aggregate payout in pension benefits. But the consequent impact of these variables on total payout for pension benefits does not in any way correlate with changes in the CPI and the impact of those changes on individual beneficiaries. Accordingly, changes in aggregate pension payout are irrelevant to the Board's consideration of CPI-based benefit increases under language of section 1167. Section 1167's focus is solely on the impact of CPI changes on the benefits of individual pension beneficiaries.