ERIC The ERISA Industry Committee

Driven By and For Large Employers

1400 L Street, NW, Suite 350, Washington, DC 20005 • (202) 789-1400 • www.eric.org

Will Hansen, Senior Vice President

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Office of the General Counsel
Pension Benefit Guaranty Corporation
1200 K Street NW
Washington, DC 20005-4026

Dear Sir or Madam,

On behalf of The ERISA Industry Committee (ERIC), we are writing in response to the Pension Benefit Guaranty Corporation's (PBGC) proposed rule regarding missing participants under ERISA Section 4050. The proposed rule was published in the Federal Register on September 20, 2016.

ERIC is the only national association that advocates exclusively for large employers on health, retirement, and compensation public policies at the federal, state, and local levels. ERIC's members provide comprehensive retirement benefits to tens of millions of active and retired workers and their families. ERIC has a strong interest in proposals, such as the proposed rule, that would affect its members' ability to provide secure pension benefits in a cost-effective manner.

The following is a high-level summary of ERIC's comments:

- Support expansion of the program to all defined contribution plans and not limited to only terminated defined contribution plans;
- Increase the fee waiver threshold from $250 to $1000, or lower the $35 fee for balances between $251-$1000 to encourage utilization of the program;
- Maintain the voluntariness of the program; and
- Encourage exploration of electronic roll overs to qualified individual participant accounts.

<u>Expand Program</u>

While we realize the legislative authority to create this program was limited to terminated defined contribution plans, we believe it would be beneficial to work towards extending this program to all defined contribution plans. The idea of a missing participant program for all retirement plans has been discussed for quite some time, but one singular authority has not been pinpointed as the party responsible for creating this program.

A system of multiple missing participant programs at multiple agencies would be inefficient and lead to confusion for plans sponsors and participants. If the PBGC missing participant program for terminated defined contribution plans is successful, it would be more efficient to extend it to all defined contribution plans, rather than wait for another federal agency to create a separate missing participant program for all other retirement plans.

We encourage the PBGC to review the new missing participant program, at a time suitable to the PBGC, to determine if expansion should be warranted to all other retirement plans, and we look forward to working with the Agency and Congress to secure an appropriate expansion of the program to all retirement plans.

Fee Threshold

As stated in our 2013 comment letter to the PBGC in response to the Request for Information on a missing participant program, plan sponsors are frequently unable to find IRA providers willing to accept smaller account balances, particularly those with less than $1,000 in assets. The prior comment letter recommended that a missing participant program could be very useful for the retirement plan system, particularly if it managed smaller account and had competitive fees.

We believe the program will be more successful if the fee waiver account balance threshold was increased from $250 and less to $1,000 and less. Currently, the proposed rule would impose a fee of $35 for any account balance above $250. If an account balance is $251, a $35 fee represents 14% of the total account balance, which does not appear competitive. As you know, the now defunct letter forwarding service from the Social Security Administration (SSA) costs $35 per participant, which many industry experts deemed cost prohibitive based on a November 2013 Report to the Department of Labor from the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans. While the SSA program was used to locate plan participants rather than manage accounts, the cost associated with the program may be a signal that $35 is excessive for the management of small account balances.

If the PBGC chooses not to raise the threshold, in the alternative, we recommend a tiered fee for account balances $1,000 or less. As an example, for account balances between $251-$500 the fee could be $15 and for account balances between $501-$1000 the fee could be $25 (all amounts above $1,000 the $35 fee would apply). Either an increase in the threshold or a tiered fee structure would increase the likelihood of terminated defined contribution plans utilizing the PBGC missing participant program.

Voluntary Program

As stated in our comment letter in 2013, plan fiduciaries will need to evaluate the services and fees for those services that would be provided by the PBGC (and likely paid by the participant's account) compared with those available in the private sector. We are encouraged that the proposed rule would not mandate usage of the program for terminated defined contribution plans. We believe that the plan sponsor should maintain its ability to decide how to handle assets of a missing participant based on the individual circumstances of the termination of that defined contribution plans.

We are concerned with the following language in the proposed rule: "after PBGC has gained experience with a voluntary reporting requirement and the clearinghouse of lost retirement benefits that the requirement supports, PBGC will be in a better position to weigh the additional costs of mandatory reporting against the additional benefits of a more fully supported lost-benefits registry." We request the PBGC to always maintain the voluntary nature of the program, so long as the current guidance from the Department of Labor on missing participants is in effect. Mandates on plan sponsors does not yield additional retirement savings or overall support for the employer-based system.

Electronic Rollovers

We encourage the PBGC to incorporate a system into this new missing participant program for terminated defined contribution plans that will allow the PBGC to electronically roll over a claimed account balance from the individual participant to a qualified retirement plan of the participant. An electronic roll over instead of a paper check may provide a greater likelihood that the funds distributed will be maintained for the purpose of retirement.

If you have any questions concerning our comments, or if we can be of further assistance, please contact Will Hansen at whansen@eric.org or 202-789-1400.

Sincerely,

Will Hansen

Will Hansen
Senior Vice President, Retirement Policy
The ERISA Industry Committee