AARP Real Possibilities

November 21, 2016

Filed Electronically:
Via reg.comments@pbgc.gov

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

Re: Missing Participants
RIN 1212-AB13

Dear Sir and Madam:

AARP appreciates the opportunity to comment on the Pension Benefit Guaranty Corporation's (PBGC) proposed rule on missing participants. As the largest nonprofit, nonpartisan organization representing the interests of Americans age 50 and older and their families, with a membership of nearly 38 million nationwide, a major priority for AARP is to assist Americans in accumulating and effectively managing adequate retirement assets to supplement Social Security. Many of our members currently participate, or have participated, in employer-sponsored retirement plans. It is crucial that plan participants actually receive the benefits which they earned so that they may achieve and maintain an adequate income in retirement.

The problem of lost pensions and missing participants are mirror images of the same problem — a failure to easily track and distribute retirement benefits to the participants who earned them. Given the growing problem of retirement readiness, for some individuals even a small pension can make a big difference in their future financial security in retirement. Approximately ten million workers change jobs each year, potentially creating millions of abandoned retirement accounts. Employers and financial institutions, as well as participants, face the dilemma of how best to keep track of all of these accounts. Accordingly, the absence of a unified effective system is a growing problem for millions of workers, retirees and their families.

AARP commends the PBGC for expanding its Missing Participant program to include multiemployer plans. However, AARP is disappointed that the program was not expanded further by requiring the mandatory participation of terminated defined contribution plans. The proposal merely required information to be provided to the PBGC. Although voluntary participation of terminated defined contribution plans is a step forward, the PBGC missed a significant opportunity to make the database one-stop shopping for participants in terminated plans. AARP believes that active plans could have used the database as well, albeit with appropriate adjustments.

AARP supports the expansion of the definition of a "missing participant" to include not only those persons who cannot be located, but also persons who fail to take the necessary action to receive their benefit.

AARP endorses the requirement that all plans should be required to perform and certify the steps that they employed to conduct a diligent search to find missing participants. We believe that the steps outlined in the proposed rule are consistent with the Department of Labor's Field Assistance Bulletin 2004-02: *Fiduciary Duties and Missing Participants in Terminated Defined Contribution Plans* (Sept. 30, 2004), as well as the recommendations of the ERISA Advisory Council in its 2013 report on *Locating Missing and Lost Participants,* https://www.dol.gov/sites/default/files/ebsa/about-ebsa/about-us/erisa-advisory-council/2013ACreport3.pdf. These requirements for searches for participants are also in line with the findings from the Department of Labor's on-going investigations of large defined benefit plans that have failed to locate participants and pay out benefits.

AARP appreciates the PBGC's attempt to detail the distribution rules from terminated defined benefit plans. Generally, following the rules of the plan at issue means that benefits distribution among participants will be uniform. This clarification will bring the PBGC distribution rules closer to a plan's distribution rules, and prevent participants from being surprised by a different distribution than they were expecting.

AARP strongly supports the ability of a plan to transfer the benefits to the PBGC instead of establishing an individual retirement account (IRA) at a financial institution for each missing participant account. Ongoing maintenance fees or distribution charges easily diminish these accounts, draining the account of its assets and leaving the participant with little or no retirement monies from that account.

AARP also favors the provision of the rule requiring plans to go "all-in." The plans must send all missing participant accounts to the PBGC or they cannot send any accounts. This provision prevents the plans from "cherry-picking" the small accounts, sending only the smaller accounts which financial institutions find less lucrative. This provision will make the program more efficient and cost-effective. It also is consistent with AARP's position of increasing the number of participants in the program so that there is movement towards a centralized database for retirement plan participant accounts.

AARP submits that the PBGC should require terminating defined contribution plans to provide certain information to the PBGC such as the name of the participant, last known address, plan name and employer identification number, and the name and contact information of the financial institution where the account was placed. We disagree with the assessment that providing this information to the PBGC would be burdensome for plans. The plan already has the information that the PBGC would require, as this information would have to be provided to the financial institution. Further, the information would be relayed electronically. In essence, the plan would merely be moving electronic information from one place to another. Consequently, we request that the PBGC revisit its decision to walk back from its original proposal of directing all terminating defined contribution plans to participate in the database, as necessary. Without this information in the database, the database becomes significantly less useful.

Inasmuch as it is generally the plan sponsor's decision to terminate the plan, AARP submits that it should be the plan sponsor's obligation — if the plan cannot find a participant — to pay the $35 fee that the PBGC has decided to assess to hold the account of the missing participant. The fee is reasonable, especially when compared to the substantial account maintenance fees that financial institutions charge which eats away at the individual's account balance. We note that there is no fee if a plan merely provides the PBGC with information about the placement of an account.

AARP still believes that having one centralized database where participants can check to determine whether they have a lost account as well as a lost pension will make it easier for participants (and their beneficiaries) to track down their lost retirement monies, regardless of whether the plan is active or terminated. The database should be established in the same manner as the expanded Missing Participant database — the participant's name, the name of the plan, the last known address of the participant, and the termination date are all relevant and essential data. AARP also suggests the database be searchable by name of the participant and name of the employer (and typical variations). The expansion of the PBGC's Missing Participant Database is another step towards this centralized database.

AARP would support using this database so that participants can locate their accounts, even if the plan is active, given the numerous reasons participants could lose track of their accounts. For active plans with lost participants, the PBGC could just collect information with a minimal fee charged to the plan for use of the database. Alternatively, the PBGC could hold accounts of lost participants in active plans making the PBGC's efforts more cost-effective.

AARP applauds the PBGC's continuing efforts to locate missing participants so that they may receive their pension benefits. AARP calls on the Departments of Labor, Treasury, and other agencies to share data and information with the PBGC and to take actions within their jurisdiction to enable a unified Government effort to connect missing participants with their accounts. *E.g.*, 2013 ERISA Advisory Council, Issue Statements, *Locating Missing and Lost Participants,* http://www.dol.gov/ebsa/pdf/2012ACIssueStatement3.pdf.

AARP further pledges our continued cooperation with the PBGC to locate missing participants. Indeed, the July/August 2013 edition of the AARP BULLETIN — our publication that reaches every AARP member household — includes a suggestion to "find your pension" using the PBGC's online database.

If you have any questions, please feel free to contact me or Michele Varnhagen of our Government Affairs office at 202-434-3829.

Sincerely,

David Certner
Legislative Counsel and
Legislative Policy Director
Government Affairs