

## **Justification for No Material or Nonsubstantive Change to Currently-Approved Collection**

**AGENCY:** Pension Benefit Guaranty Corporation (PBGC)

**TITLE:** Missing Participants

**STATUS:** OMB control number 1212-0069; expires January 31, 2024

**CONTACT:** Stephanie Cibinic (202-229-6352)

The Pension Benefit Guaranty Corporation (PBGC) is making a change to the currently-approved instructions for one of its forms in this information collection (ICR). The Missing Participants ICR consists of forms and instructions used by the four types of plans that are eligible to participate in PBGC's Missing Participants Program. Title IV of the Employee Retirement Income Security Act (ERISA) includes a provision (section 4050 of ERISA) under which PBGC holds retirement benefits for missing participants and beneficiaries in terminated pension plans and seeks to reunite those participants and beneficiaries with the benefits being held for them.

PBGC's regulations at 29 CFR part 4050 provide that plans must file with PBGC the information specified in the forms and instructions. PBGC needs this information to identify the plans and the missing participants and beneficiaries, to search for missing participants and beneficiaries, and to determine the persons entitled to benefits that the plans transfer to PBGC and the form and amount of benefits payable to them.

PBGC is modifying the instructions to the Form MP-200, Missing Participants Program Filing Instructions for Defined Contribution Plans for clarity. On pages 2 and 11, we are including clarifying language similar to that in the preamble of the December 2017 final rule (82 FR 60800) regarding the amount to transfer in the case of an uncashed distribution check. On page 11, we are clarifying that the portion of the missing participant's benefit attributable to "pre-tax contributions" includes employer and employee contributions, and that the portion attributable to "post-tax contributions" that are Roth contributions include investment earnings on those contributions.

### **1) Change to Instruction to Form MP-200 (page 2):**

#### **Unaccepted lump sum payments**

If a check issued to a distributee by the plan remains uncashed by the "cash-by" date on the check or in an accompanying notice, e.g., a date prescribed by the bank or the plan, the lump sum payment is considered unaccepted if the check is not cashed by that date. This "cash-by" date must be at least 45 days after the check is issued. If there is no prescribed "cash-by" date, then the lump sum is considered unaccepted if it is not cashed by the check's stale date.<sup>2</sup> **In these situations, the transfer amount must reflect the total value of the benefit without any reduction for tax withholding.**<sup>3</sup>

<sup>3</sup> **In some situations, such as where there is a qualified termination administrator (QTA) of an abandoned DC plan (as defined under Department of Labor regulations at 29 CFR 2578.1), it may not be practical to reflect the total value of the benefit in the amount transferred, and if so, it would be permissible for a QTA to transfer to PBGC the net amount of the uncashed check. QTAs in this situation should contact PBGC before submitting the filing.**

The following is the relevant preamble language for the change on page 2 (and first clarification on page 11 shown below) of the instructions (see 82 FR 60800, 60805):

The benefit transfer amount for a missing distributee who does not cash a distribution check is to be determined in the same way as for any other missing distributee. The distributee's benefit transfer amount must reflect the total value of the benefit without any reduction for tax withholding. PBGC will withhold taxes as appropriate when a missing distributee is found and paid. However, PBGC believes that there is room for flexibility in how the benefit is paid to PBGC in circumstances where it may not be practical to reflect the total value of the benefit in the amount transferred. For example, it would be permissible for the qualified termination administrator (QTA) of an abandoned DC plan (as defined under Department of Labor regulations at 29 CFR 2578.1) to transfer to PBGC the net amount of the uncashed check. PBGC believes that the final rule's provision allowing discretion to promote the purposes of the missing participants program provides PBGC with the necessary flexibility to accommodate such situations.

## **2) Change to Instruction to Form MP-200 (page 11):**

### **Part III — Transfer Amount (enter amounts in dollars and cents)**

With respect to the individual reported in item 2a, enter account balance information as of the Benefit Transfer Date. If a PBGC administrative fee is owed on behalf of this individual (i.e., if the amount being transferred exceeds \$250), and the plan chooses to deduct the fee from the individual's account, enter amounts net of the fee. **If the individual did not cash a distribution check, enter the total account balance without any reduction for tax withholding.**

- 3 Portion attributable to pre-tax contributions (**employer or employee**). Report **only** the total balance. *If any portion of the account balance is attributable to post-tax contributions, complete item 4. Otherwise, skip to item 5.*
- 4 Portion attributable to post-tax contributions. **Contributions Amounts** in this category usually relate to Roth contributions **and investment earnings on those contributions**, but may relate to other employee contributions that were contributed on a post-tax basis. Post-tax contributions other than Roth contributions are entered on line 4c.

For withholding purposes, a breakdown between contributions and investment earnings is needed unless the balance constitutes a Qualified Roth Transfer.

If any portion of the account balance is attributable to post-tax contributions that constitute a NonQualified Roth Transfer, be sure to complete item 7.

The revised MP-200 instructions have been submitted with this request.