

Missing Participants Program, Original

Issue Date

July 22, 2024

A. Background

PBGC's Missing Participants Program was created by the Retirement Protection Act of 1994 to provide a way for distributing plan benefits to participants and beneficiaries who cannot be located by plans terminating in a standard termination.

An employer choosing to terminate a fully funded pension plan must distribute all plan benefits to participants and beneficiaries before completing the plan's termination. Under section 4050(a)(1) of ERISA, when there are benefits owed to plan participants (or their beneficiaries) who could not be located after a diligent search, the plan administrator must either purchase irrevocable commitments from an insurer (i.e., annuity contracts) for the missing participants or transfer the value of the participants' benefits to PBGC.

In order to comply with the Missing Participants Program, the plan administrator must submit Form 501 - Post-Distribution Certification for Standard Termination, Schedule MP - Missing Participant Information, with Attachment A - Missing Participant Annuity Purchase Information, and Attachment B - Missing Participant Individual Information to the PBGC. These forms (hereafter referred to collectively as "Schedule MP") identify the missing participants for whom irrevocable commitments have been purchased, and the missing participants (and designated benefit dollar amounts) for whom payments have been made to PBGC.

B. Scope and Effective Date

This internal guidance applies to benefits payable to missing participants under terminating single-employer plans with a deemed distribution date in a plan year beginning on or after January 1, 1996. It is effective upon issuance. This guidance does not apply to the benefits of missing participants and beneficiaries in plans with termination dates on or after January 1, 2018. For these participants and beneficiaries, see Internal Guidance Missing Participants Program, Expanded in 2018.

C. Definitions

- 1 **Deemed Distribution Date:** The date that is either: (a) the last day of the period in which distribution may be made under a standard termination (see part 4041 of PBGC Regulations); or (b) the date selected by the plan administrator that is no earlier than the date when all benefit distributions have been made under the plan (including annuities purchased for missing participants) except for distributions to missing participants whose designated benefits are paid to PBGC. A plan may have only one deemed distribution date.
- 2 **Designated Benefit:** The amount payable by the plan administrator to PBGC for a missing

participant under section 4050.5 of PBGC Regulations (Revised as of July 1, 1996).

- 3 **Designated Benefit Interest Rate:** The rate of interest applicable to underpayments of guaranteed benefits by PBGC under section 4022.81(c) of PBGC Regulations.
- 4 **Diligent Search:** A search that (a) is initiated by the plan administrator not more than six months prior to the date that notices of intent to terminate are issued; (b) includes inquiry of any plan beneficiaries (including alternate payees) of the missing participant whose names and addresses are known to the plan administrator; and (c) includes use of a commercial locator service to search for the missing participant. A diligent search must be made by the prior plan administrator before information about and payment for a missing participant is submitted to PBGC.
- 5 **Missing Participant:** A participant or beneficiary entitled to a distribution under a terminating plan whom the plan administrator has not located as of the date when the plan administrator pays the individual's designated benefit to PBGC or distributes the individual's benefit by purchasing an irrevocable commitment from an insurer (i.e., an annuity contract). Missing participants are presumed to be alive until there is proof of death.

D. General Internal Guidance

The missing participants program applies to single-employer defined benefit plans distributing benefits in accordance with the standard termination procedures of Title IV. This includes both plans terminating in standard terminations and plans terminating in distress terminations where plan assets are sufficient to provide all guaranteed benefits.

Under the missing participants program, PBGC serves as the repository both of funds payable to missing participants and of information pertaining to annuity contracts purchased by terminated plans for missing participants.

When a missing participant, beneficiary, or estate is located, PBGC will either—

- pay the missing participant's benefit if held by PBGC or,
- provide the missing participant with information about the identity of the insurer, the relevant insurance policy number, and, if known, the amount or value of the benefit if an annuity contract was purchased by the plan.

E. Designated Benefit Payable to PBGC

The amount payable to PBGC by the plan administrator depends on the categorization of the designated benefit, and is calculated in accordance with sections 4050.2 and 4050.5 of PBGC Regulations (Revised as of July 1, 1996).

1. Mandatory lump sum

The plan requires an automatic cashout of the missing participant's benefit. The amount must be

no greater than the plan's cashout limit, which, by law, cannot exceed \$5,000.

2. De minimis lump sum

The plan (1) does not require an automatic cashout; and (2) the actuarial present value of the benefit is \$5,000 or less.

3. No lump sum

For other than *de minimis* lump sums, the plan requires that an annuity be paid to the participant.

4. Elective lump sum

The plan would pay either an annuity or a lump sum, based upon the election of the participant.

F. Benefits Payable by PBGC

PBGC will pay a missing participant his or her designated benefit as provided by the plan administrator on the Schedule MP filed with the PBGC. The benefit form payable to the missing participant is related to the category in section E above that was used to determine the designated benefit.

If the benefit is paid as a lump sum, it will include interest (at the designated benefit interest rate) accrued from the deemed distribution date to the date as of which PBGC pays the benefit.

1. Mandatory and de minimis lump sums.

The missing participant's benefit is generally payable by PBGC as a lump sum.

If the benefit is designated as a mandatory lump sum by the plan administrator, PBGC will pay the benefit only in a lump sum. However, if the lump sum is *de minimis* but not a mandatory lump sum, PBGC will permit the participant to elect an annuity.

2. No lump sum

The benefit is payable by PBGC to the missing participant as an annuity

3. Elective lump sum

PBGC will offer a lump sum election when the designated benefit was determined by the plan administrator as an elective lump sum. The election of a lump sum under this section requires spousal consent (see section G.3 below). If a lump sum is not elected, the benefit is payable as an annuity (minus the \$300 in loading expenses).

4. Benefit form payable to missing participant whose benefit was in pay status as of the deemed distribution date

The benefit is payable in the form that was in pay status and begins as soon as the missing

participant is located. The missing participant is also due a single payment equal to the underpayment from the deemed distribution date until the date PBGC pays the lump sum. The single payment includes interest (at the plan rate before the deemed distribution date and thereafter at the designated benefit interest rate).

5. Benefit form payable to the spouse of a deceased missing participant

PBGC will pay a survivor benefit to the surviving spouse of a missing participant if the benefit is payable as an annuity. The amount is equal to the survivor benefit (as in a joint-and-50% survivor annuity) of the designated benefit (minus the \$300 in loading expenses), and is payable at the time elected by the surviving spouse. See section 4050.10 of PBGC Regulations (Revised as of July 1, 1996).

If the deceased missing participant was in pay status as of the deemed distribution date, the benefit is payable as a survivor benefit in the form of payment in effect.

PBGC will offer a lump sum election to the surviving spouse when the designated benefit was determined as an elective lump sum. If the surviving spouse elects payment of a lump sum, the amount is equal to the actuarial present value of the survivor benefit plus interest (at the designated benefit interest rate) accrued from the deemed distribution date to the date as of which PBGC pays the benefit.

G. Special Rules and Applicability of Other PBGC Policies

1. Employee Contributions

If a missing participant made mandatory contributions to the plan, the designated benefit cannot be less than the sum of such contributions plus interest.

If a missing participant made voluntary contributions to the plan, the plan administrator must pay and identify such contributions on the Schedule MP separately from the designated benefit. PBGC will pay any amount paid to it relating to voluntary contributions as a lump sum, including interest (at the designated benefit interest rate) accrued from the date received by PBGC to the date as of which PBGC makes payment.

2. Annuity Benefit Forms

If a missing participant's benefit is not in pay status as of the deemed distribution date and is payable as an annuity, Internal Guidance Annuity Benefit Forms is applicable.

3. Spousal Consent

If the present value of a missing participant's lump sum exceeds \$5,000, spousal consent must be obtained before a lump sum will be paid. See Internal Guidance Spousal Consent (Qualified Joint-and-Survivor Annuities). If spousal consent is not obtained, the benefit will be paid according to 2 above.

4. Payments Owed to Deceased Payees

To the extent not already provided for in this guidance, benefits owed to a deceased missing participant will be payable in accordance with Internal Guidance Beneficiaries.

5. Qualified Domestic Relations Orders

The provisions of Internal Guidance Qualified Domestic Relations Orders, QDROS are applicable to benefits payable to missing participants.

6. Small Benefit Payments

The provisions of Internal Guidance Document Small Benefit Payments (including the rules for making small benefit payments without submission of a benefit application) also apply to payments made under the Missing Participants Program.

If unsure whether the Small Benefit Payments Internal Guidance applies to a missing participant's benefit, request guidance by emailing PSDGuidance@pbgc.gov.

H. Benefit Determinations Issued to Missing Participants

Upon locating a missing participant or beneficiary, PBGC will issue a benefit determination with appeal rights generally limited to how PBGC has determined the amount of the monthly annuity.