

§ 4050.303

designations, and waivers consistent with such provisions) to receive the benefit; or

(3) If no such person is so entitled, a survivor of the participant or beneficiary who is the participant's or beneficiary's living—

- (i) Spouse, or if none,
- (ii) Child, or if none,
- (iii) Parent, or if none,
- (iv) Sibling.

Subpart C plan or plan means a plan to which this subpart C applies, as described in § 4050.301.

Transferring plan means a subpart C plan for which the plan administrator elects transferring plan status in accordance with § 4050.303.

[82 FR 60818, Dec. 22, 2017, as amended at 89 FR 48309, June 6, 2024]

§ 4050.303 Options and duties of plan administrator.

(a) *Options.* The plan administrator of a subpart C plan that is closing out upon plan termination may (but need not), by filing under § 4050.305, elect that the subpart C plan—

(1) Will be a “transferring plan,” that is, will pay a benefit transfer amount to PBGC for each distributee who is missing upon close-out of the subpart C plan and will be bound by the provisions of this subpart C to the extent that they apply to transferring plans, or

(2) Will be a “notifying plan,” that is, will notify PBGC of the disposition of the benefits of each distributee identified in the filing who is missing upon close-out of the plan and will, with respect to those distributees, be bound by the provisions of this subpart C to the extent that they apply to notifying plans.

(b) *Diligent search*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, for each distributee whose location the plan administrator does not know with reasonable certainty upon close-out of a subpart C plan, the plan administrator must have conducted a diligent search as described in § 4050.304.

(2) *Notifying plans.* For a notifying plan, the requirement of paragraph (b)(1) of this section applies only to distributees identified in the filing with PBGC.

(c) *Filing with PBGC*—(1) *In general.* Except as provided in paragraph (c)(2) of this section, for each distributee who is missing upon close-out of a subpart C plan, the plan administrator must file with PBGC as described in § 4050.305.

(2) *Notifying plans.* For a notifying plan, the requirement of paragraph (c)(1) of this section applies only to distributees identified in the filing with PBGC.

(d) *Benefit transfer amount.* The benefit transfer amount for a missing distributee is the amount determined by the plan administrator as of the benefit determination date using whichever one of the following three methods applies:

(1) *De minimis.* If the single sum actuarial equivalent of the distributee's benefits (including any payments missed in the past) determined using plan lump sum assumptions is de minimis, then the missing distributee's benefit transfer amount is equal to that single sum.

(2) *Non-de minimis; single sum payment cannot be elected.* If the single sum actuarial equivalent of the distributee's benefits (including any payments missed in the past) determined using plan lump sum assumptions is not de minimis, and a single sum payment cannot be elected, then the missing distributee's benefit transfer amount is the present value of the distributee's accrued benefit determined using PBGC missing participants assumptions, plus

(i) For a missing distributee not in pay status whose normal retirement date (or accrual cessation date if later) precedes the benefit determination date, the aggregate value of payments of the straight life annuity that would have been payable beginning on the normal retirement date (or accrual cessation date if later), accumulated at the missing participants interest rate from the date each payment would have been made to the benefit determination date, assuming that the distributee survived to the benefit determination date, as determined by the plan administrator; or

(ii) For a missing distributee in pay status, the aggregate value of payments of the pay status annuity due

but not made, accumulated at the missing participants interest rate from each payment due date to the benefit determination date, assuming that the distributee survived to the benefit determination date.

(3) *Non-de minimis; single sum payment can be elected.* If the single sum actuarial equivalent of the distributee's benefits (including any payments missed in the past) determined using plan lump sum assumptions is not de minimis, and a single sum payment can be elected, then the missing distributee's benefit transfer amount is the greater of the amounts determined using the methodology in paragraph (d)(1) or (d)(2) of this section.

§ 4050.304 Diligent search.

(a) *Search requirement.* For each distributee of a subpart C plan who is described in § 4050.303(b), the plan administrator must, within the time frame described in paragraph (d) of this section, have diligently searched for each distributee of the plan whose location the plan administrator does not know with reasonable certainty upon close out, using one of the following two methods:

(1) For any distributee, regardless of the size of the distributee's benefit, the commercial locator service method described in paragraph (b) of this section; or

(2) For a distributee whose normal retirement benefit is not more than \$50 per month, the records search method described in paragraph (c) of this section.

(b) *Commercial locator service method—*

(1) *In general.* Using the commercial locator service method means paying a commercial locator service to search for information to locate a distributee.

(2) *Meaning of "commercial locator service."* For purposes of this section, a commercial locator service is a business that holds itself out as a finder of lost persons for compensation using information from a database maintained by a consumer reporting agency (as defined in 15 U.S.C. 1681a(f)).

(c) *Records search method—*(1) *In general.* Using the records search method means searching for information to locate a distributee by doing all of the

following to the extent reasonably feasible and affordable:

(i) Searching the records of the plan for information to locate the distributee.

(ii) Searching the records of the plan's contributing sponsor that is the most recent employer of the distributee for information to locate the distributee.

(iii) Searching the records of each retirement or welfare plan of the plan's contributing sponsor in which the distributee was a participant for information to locate the distributee.

(iv) Contacting each beneficiary of the distributee identified from the records referred to in paragraphs (c)(1)(i), (ii), and (iii) of this section for information to locate the distributee.

(v) Using an internet search method for which no fee is charged, such as a search engine, a network database, a public record database (such as those for licenses, mortgages, and real estate taxes) or a "social media" website.

(2) *Limits on method.* For purposes of this section—

(i) Searching is not feasible to the extent that, as a practical matter, it is thwarted by legal or practical lack of access to records, and

(ii) Searching is not affordable to the extent that the cost of searching (including the value of labor) is more than a reasonable fraction of the benefit of the distributee being searched for. In no event would searching need to be pursued beyond the point where the cost equals the value of the benefit.

(d) *Time frame.* A search for a distributee under this section must have been made within nine months before a filing is made under § 4050.305 identifying the distributee as a missing distributee.

§ 4050.305 Filing with PBGC.

(a) *What to file.* The plan administrator of a subpart C plan must file with PBGC the information specified in the missing participants forms and instructions, and if the plan is a transferring plan, payment of—

(1) The benefit transfer amount for the missing distributee;

(2) If the benefit transfer amount is paid more than 90 days after the benefit determination date, interest on the