

to which the order applies. As part of this review, the PBGC, through its Executive Director, shall issue a certification in the form described in paragraph (c) of this section. As a result of its funding review, PBGC may amend the restoration payment schedule, consistent with the requirements of paragraph (c)(2) of 26 CFR 1.412(c)(1)–3.

§ 4047.4 Payment of premiums.

(a) *General.* Upon restoration of a plan pursuant to ERISA section 4047, the obligation to pay PBGC premiums pursuant to ERISA section 4007 is reinstated as of the date on which the plan was trustee under section 4042 of ERISA. Except as otherwise specifically provided in paragraphs (b) and (c) of this section, the amount of the outstanding premiums owed shall be computed and paid by the plan administrator in accordance with part 4006 of this chapter (Premium Rates) and the forms and instructions issued pursuant thereto, as in effect for the plan years for which premiums are owed.

(b) *Notification of premiums owed.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the plan year(s) for which premiums are owed. PBGC will include with the notice the necessary premium payment forms and instructions. The notice shall prescribe the payment due dates for the outstanding premiums.

(c) *Methods for determining variable rate portion of the premium.* In general, the variable rate portion of the outstanding premiums shall be determined in accordance with the premium regulation and forms, as provided in paragraph (a) of this section, except that for any plan year following a plan year for which Form 5500, Schedule B was not filed because the plan was terminated, the alternative calculation method may not be used.

[61 FR 34073, July 1, 1996, as amended at 79 FR 13562, Mar. 11, 2014]

§ 4047.5 Repayment of PBGC payments of guaranteed benefits.

(a) *General.* Upon restoration of a plan pursuant to ERISA section 4047, amounts paid by the PBGC from its

single-employer insurance fund (the fund established pursuant to ERISA section 4005(a)) to pay guaranteed benefits and related expenses under the plan while it was terminated are a debt of the restored plan. The terms and conditions for payment of this debt shall be determined by the PBGC.

(b) *Repayment terms.* The PBGC shall prescribe reasonable terms and conditions for payment of the debt described in paragraph (a) of this section, including the number, amount and commencement date of the payments. In establishing the terms, PBGC will consider the cash needs of the plan, the timing and amount of contributions owed to the plan, the liquidity of plan assets, the interests of the single-employer insurance program, and any other factors PBGC deems relevant. PBGC may, in its discretion, revise any of the payment terms and conditions, upon written notice to the plan administrator in accordance with paragraph (c) of this section.

(c) *Notification to plan administrator.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the amount owed the PBGC pursuant to paragraph (a) of this section. The notice shall also include the terms and conditions for payment of this debt, as established under paragraph (b) of this section.

PART 4050—MISSING PARTICIPANTS

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Subpart A—Single-Employer Plans Covered by Title IV

§ 4050.101 Purpose and scope.

(a) *In general.* This subpart describes PBGC's missing participants program for single-employer defined benefit retirement plans covered by title IV of ERISA. The missing participants program is a program to hold retirement benefits for missing participants and beneficiaries in terminated retirement plans and to help them find and receive the benefits being held for them. For a plan to which this subpart applies, this subpart describes what the plan must do upon plan termination if it has missing participants or beneficiaries who are entitled to distributions. This subpart applies to a plan only if it is a single-employer defined benefit plan that—

(1) Is described in section 4021(a) of ERISA and not in any paragraph of section 4021(b) of ERISA and

(2) Terminates in a standard termination or in a distress termination described in section 4041(c)(3)(B)(i) or (ii) of ERISA (“sufficient distress termination”).

(b) *Plans that terminate but do not close out.* This subpart does not apply

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to a plan that terminates but does not close out, such as a plan that terminates in a distress termination described in section 4041(c)(3)(B)(iii) of ERISA (“insufficient distress termination”).

(c) *Individual account plans.* This subpart does not apply to an individual account plan under section 3(34) of ERISA, even if it is described in the same plan document as a plan to which this subpart applies. This subpart also does not apply to a plan to the extent that it is treated as an individual account plan under section 3(35)(B) of ERISA. For example, this subpart does not apply to employee contributions (or interest or earnings thereon) held as an individual account. (Subpart B deals with individual account plans.)

§ 4050.102 Definitions.

The following terms are defined in § 4001.2 of this chapter: Annuity, Code, ERISA, insurer, irrevocable commitment, PBGC, person, and plan administrator. In addition, for purposes of this subpart:

Accrual cessation date for a participant under a subpart A plan means the date the participant stopped accruing benefits under the terms of the plan.

Accumulated single sum means, with respect to a missing distributee, the distributee's benefit transfer amount accumulated at the missing participants interest rate from the benefit determination date to the date when PBGC makes or commences payment to or with respect to the distributee.

Benefit determination date with respect to a subpart A plan means the single date selected by the plan administrator for valuing benefits under § 4050.103(d); this date must be during the period beginning on the first day a distribution is made pursuant to close-out of the plan to a distributee who is not a missing distributee and ending on the last day such a distribution is made.

Benefit transfer amount for a missing distributee of a subpart A plan means the amount determined by the plan administrator under § 4050.103(d) in the close-out of the plan.

Close-out or close out with respect to a subpart A plan means the process of

the final distribution or transfer of assets pursuant to the termination of the plan.

De minimis means, with respect to the value of a benefit (or other amount), that the value does not exceed the amount specified under section 203(e)(1) of ERISA and section 411(a)(11)(A) of the Code (without regard to plan provisions).

Distributee means, with respect to a subpart A plan, a participant or beneficiary entitled to a distribution under the plan pursuant to the close-out of the plan.

Missing, with respect to a distributee under a subpart A plan, means that any one or more of the following three conditions exists upon close-out of the plan.

(1) The plan administrator does not know with reasonable certainty the location of the distributee.

(2) Under the terms of the plan, the distributee's benefit is to be paid in a lump sum without the distributee's consent, and the distributee has not responded to a notice about the distribution of the lump sum.

(3) Under the terms of the plan and any election made by the distributee, the distributee's benefit is to be paid in a lump sum, but the distributee does not accept the lump sum. For this purpose, a lump sum paid by check is not accepted if the check remains uncashed after—

(i) A “cash-by” date prescribed (on the check or in an accompanying notice) that is at least 45 days after the issuance of the check, or

(ii) If no such “cash-by” date is so prescribed, the check's stale date.

Missing participants forms and instructions means the forms and instructions provided by PBGC for use in connection with the missing participants program.

Missing participants interest rate means, for each month, the applicable federal mid-term rate (as determined by the Secretary of the Treasury pursuant to section 1274(d)(1)(C)(ii) of the Code) for that month, compounded monthly.

Normal retirement date for a participant under a subpart A plan means the normal retirement date of the participant under the terms of the plan.

Pay-status or *pay status* means one of the following (according to context):

(1) With respect to a benefit, that payment of the benefit has actually started before the benefit determination date; or

(2) With respect to a distributee, that payment of the distributee's benefit has actually started before the benefit determination date.

PBGC missing participants assumptions means the actuarial assumptions prescribed in §§ 4044.51 through 4044.58 of this chapter with the following modifications:

(1) The present value is determined as of the benefit determination date instead of the plan termination date.

(2) The mortality assumption is the mortality table in § 4044.53(h) of this chapter.

(3) No adjustment is made for loading expenses under § 4044.52(d) of this chapter.

(4) The interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on December 31 of the calendar year preceding the calendar year in which the benefit determination date occurs. However, for benefit determination dates July 31 through December 31 of 2024, the interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on July 31, 2024.

(5) The assumed payment form of a benefit not in pay status is a straight life annuity.

(6) Pre-retirement death benefits are disregarded.

(7) Notwithstanding the expected retirement age (XRA) assumptions in §§ 4044.55 through 4044.58 of this chapter—

(i) In the case of a participant who is not in pay status and whose normal retirement date is on or after the benefit determination date, benefits are assumed to commence at the XRA, determined using the high retirement rate category under table II-C (Expected Retirement Ages for Individuals in the High Category) in § 4044.58 of this chapter;

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(ii) In the case of a participant who is not in pay status and whose normal retirement date is before the benefit determination date, benefits are assumed to commence on the participant's normal retirement date (or accrual cessation date if later);

(iii) In the case of a participant who is in pay status, benefits are assumed to commence on the date on which benefits actually commenced; and

(iv) In the case of a beneficiary, benefits are assumed to commence on the benefit determination date or, if later, the earliest date the beneficiary can begin to receive benefits.

Plan lump sum assumptions means, with respect to a subpart A plan, the following:

(1) If the plan specifies actuarial assumptions and methods to be used to calculate a lump sum distribution, such actuarial assumptions and methods, or

(2) Otherwise, the actuarial assumptions specified under section 205(g)(3) of ERISA and section 417(e)(3) of the Code, determined as of the benefit determination date, including use of the missing participants interest rate to calculate the present value as of the benefit determination date of a payment or payments missed in the past.

QDRO means a qualified domestic relations order as defined in section 206(d)(3) of ERISA and section 414(p) of the Code.

Qualified survivor of a participant or beneficiary under a subpart A plan means, for any benefit with respect to the participant or beneficiary,—

(1) A person who survives the participant or beneficiary and is entitled under applicable provisions of a QDRO to receive the benefit;

(2) A person that is identified by the plan in a submission to PBGC by the plan as being entitled under applicable plan provisions (including elections, 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 A plan or *plan* means a plan to which this subpart A applies, as described in § 4050.101.

[82 FR 60818, Dec. 22, 2017, as amended at 89 FR 48308, June 6, 2024]

§ 4050.103 Duties of plan administrator.

(a) *Providing for benefits.* For each distributee who is missing upon close-out of a subpart A plan, the plan administrator must provide for the distributee's plan benefits either—

(1) By purchasing an irrevocable commitment from an insurer, or

(2) By—

(i) Determining the distributee's benefit transfer amount under paragraph (d) of this section, and

(ii) Transferring to PBGC as described in this subpart A an amount equal to the distributee's benefit transfer amount.

(b) *Diligent search.* For each distributee whose location the plan administrator does not know with reasonable certainty upon close-out of a subpart A plan, the plan administrator must have conducted a diligent search as described in § 4050.104.

(c) *Filing with PBGC.* For each distributee who is missing upon close-out of a subpart A plan, the plan administrator must file with PBGC as described in § 4050.105.

(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.

§ 4050.104 Diligent search.

(a) *Search requirement.* The plan administrator of a subpart A plan 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 § 4050.105 identifying the distributee as a missing distributee.

§ 4050.105 Filing with PBGC.

(a) *What to file.* The plan administrator of a subpart A plan must file with PBGC the information specified in the missing participants forms and instructions and, for a missing distributee referred to in § 4050.103(a)(2), 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 benefit transfer amount computed at the missing participants interest rate for the period beginning on the 90th day after the benefit determination date and ending on the date the benefit transfer amount is paid to PBGC; and

(3) Any fee provided for in the missing participants forms and instructions.

(b) *When to file.* The plan administrator must file the information and payments referred to in paragraph (a) of this section in accordance with the missing participants forms and instructions. Payment of a benefit transfer amount will, if considered timely made for purposes of this paragraph (b), be considered timely made for purposes of part 4041 of this chapter.

(c) *Place, method and date of filing; time periods.* (1) For rules about where to file, see § 4000.4 of this chapter.

(2) For rules about permissible methods of filing with PBGC under this subpart, see subpart A of part 4000 of this chapter.

(3) For rules about the date that a submission under this subpart was filed with PBGC, see subpart C of part 4000 of this chapter.

(4) For rules about any time period for filing under this subpart, see subpart D of part 4000 of this chapter.

(d) *Supplemental information.* Within 30 days after a written request by PBGC (or such other time as may be

specified in the request), the plan administrator of a subpart A plan required to file under paragraph (a) of this section must file with PBGC supplemental information for any proper purpose under the missing participants program.

(e) *Reliance.* As administrator of the missing participants program, PBGC will rely on determinations made and information reported by plan administrators in connection with the program. This reliance does not affect PBGC's authority as administrator of the title IV insurance program to audit or make inquiries of subpart A plans, including about the amount to which a missing distributee may be entitled.

§ 4050.106 Missing participant benefits.

(a) *In general—*(1) *Benefit transfer amount not paid.* If a subpart A plan files with PBGC information about an irrevocable commitment provided by the subpart A plan for a missing distributee, PBGC will provide information about the irrevocable commitment to the distributee or another claimant that may be entitled to payment pursuant to the irrevocable commitment.

(2) *Benefit transfer amount paid.* If a subpart A plan pays PBGC a benefit transfer amount for a missing distributee, PBGC will pay benefits with respect to the missing distributee in accordance with this section, subject to the provisions of a QDRO.

(b) *Benefits for missing distributees who are participants.* Paragraphs (c), (d), (e), and (k) of this section describe the benefits that PBGC will pay to a non-pay status missing participant of a subpart A plan who claims a benefit under the missing participants program.

(c) *De minimis benefit.* If the benefit transfer amount of a participant described in paragraph (b) of this section is de minimis, PBGC will pay the participant a lump sum equal to the accumulated single sum.

(d) *Non-de minimis benefit of unmarried participant.* If the benefit transfer amount of an unmarried participant described in paragraph (b) of this section is not de minimis, PBGC will pay the participant either the annuity described in paragraph (d)(1) of this section, beginning not before age 55, and

(if applicable) the make-up amount described in paragraph (d)(2) of this section; or, if the participant could have elected a lump sum under the subpart A plan, and the participant so elects under the missing participants program, the lump sum described in paragraph (d)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (d)(1) is either—

(i) *Straight life annuity.* A straight life annuity in the amount that the subpart A plan would have paid the participant, starting at the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), as reported to PBGC by the subpart A plan (including any early retirement subsidies), or through linear interpolation for participants who start payments between integral ages; or

(ii) *Other form of annuity.* At the participant's election, any form of annuity available to the participant under § 4022.8 of this chapter, in an amount that is actuarially equivalent to the straight life annuity in paragraph (d)(1)(i) of this section as of the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter.

(2) *Make-up amount.* If PBGC begins to pay the annuity under paragraph (d)(1) of this section after the normal retirement date (or accrual cessation date if later), the make-up amount described in this paragraph (d)(2) is a lump sum equal to the aggregate value of payments of the annuity that would have been payable to the participant (in the elected form) 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 date when PBGC begins to pay the annuity.

(3) *Lump sum.* The lump sum described in this paragraph (d)(3) is equal to the participant's accumulated single sum.

(e) *Non-de minimis benefit of married participant.* If the benefit transfer amount of a married participant described in paragraph (b) of this section

is not de minimis, PBGC will pay the participant either the annuity described in paragraph (e)(1) of this section, beginning not before age 55, and (if applicable) the make-up amount described in paragraph (e)(2) of this section; or, if the participant could have elected a lump sum under the subpart A plan, and the participant so elects under the missing participants program with the consent of the participant's spouse, the lump sum described in paragraph (e)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (e)(1) is either—

(i) *Joint and survivor annuity.* A joint and 50 percent survivor annuity in an amount that is actuarially equivalent to the straight life annuity under paragraph (d)(1)(i) of this section as of the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter; or

(ii) *Other form of annuity.* At the participant's election, with the consent of the participant's spouse, any form of annuity available to the participant under § 4022.8 of this chapter, in an amount that is actuarially equivalent to the joint and 50 percent survivor annuity under paragraph (e)(1)(i) of this section as of the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter.

(2) *Make-up amount.* If PBGC begins to pay the annuity under paragraph (e)(1) of this section after the normal retirement date (or accrual cessation date if later), the make-up amount described in this paragraph (e)(2) is a lump sum equal to the aggregate value of payments of the annuity that would have been payable to the participant 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 date when PBGC begins to pay the annuity.

(3) *Lump sum.* The lump sum described in this paragraph (e)(3) is equal

to the participant's accumulated single sum.

(f) *Benefits with respect to deceased missing distributees who were participants.* Paragraphs (g), (h), (i), (j), and (k) of this section describe the benefits that PBGC will pay with respect to a non-pay status missing participant of a subpart A plan who dies without receiving a benefit under the missing participants program.

(g) *De minimis benefit.* If the benefit transfer amount of a participant described in paragraph (f) of this section is de minimis, PBGC will pay to the qualified survivor(s) of the participant a lump sum equal to the participant's accumulated single sum.

(h) *Non-de minimis benefit; unmarried participant.* In the case of an unmarried participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis,—

(1) *Death before normal retirement date.* If the participant dies before the normal retirement date (or accrual cessation date if later), PBGC will pay no benefits with respect to the participant; and

(2) *Death after normal retirement date.* If the participant dies on or after the normal retirement date (or accrual cessation date if later), PBGC will pay to the participant's qualified survivor(s) an amount equal to the aggregate value of payments of the straight life annuity described in paragraph (d)(1)(i) of this section that would have been payable to the participant from the normal retirement date (or accrual cessation date if later) to the participant's date of death, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the qualified survivor(s).

(i) *Non-de minimis benefit; married participant with living spouse.* In the case of a married participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis and whose spouse survives the participant and claims a benefit under the missing participants program, PBGC will pay the spouse, beginning not before the participant would have reached age 55, the annuity (if any) described in paragraph (i)(1) of this section and the make-up amounts (if ap-

plicable) described in paragraph (i)(2) of this section, except that PBGC will pay the spouse, as a lump sum, the small benefit described in paragraph (i)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (i)(1) is the survivor portion of a joint and 50 percent survivor annuity that is actuarially equivalent as of the assumed starting date (determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter) to the straight life annuity in the amount that the subpart A plan would have paid the participant with an assumed starting date of—

(i) The date when the participant would have reached age 55, if the participant died before that date, or

(ii) The participant's date of death, if the participant died between age 55 and the normal retirement date (or accrual cessation date if later), or

(iii) The normal retirement date (or accrual cessation date if later), if the participant died after that date.

(2) *Make-up amounts.* The make-up amounts described in this paragraph (i)(2) are the amounts described in paragraphs (i)(2)(i) and (ii) of this section.

(i) *Payments from participant's death or 55th birthday to commencement of survivor annuity.* The make-up amount described in this paragraph (i)(2)(i) is a lump sum equal to the aggregate value of payments of the survivor portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the spouse beginning on the later of the participant's date of death or the date when the participant would have reached age 55, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse.

(ii) *Payments from normal retirement date to participant's death.* The make-up amount described in this paragraph (i)(2)(ii) is a lump sum equal to the aggregate value of payments (if any) of the joint portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the participant from the normal retirement date (or accrual cessation date if later) to

the participant's date of death thereafter, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse.

(3) *Small benefit.* If the sum of the actuarial present value of the annuity described in paragraph (i)(1) of this section plus the make-up amounts described in paragraph (i)(2) of this section is de minimis, then the lump sum that PBGC will pay the spouse under this paragraph (i)(3) is an amount equal to that sum. For this purpose, the actuarial present value of the annuity is determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter as of the date when PBGC pays the spouse.

(j) *Non-de minimis benefit; married participant with deceased spouse.* In the case of a married participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis and whose spouse survives the participant but dies without receiving a benefit under the missing participants program, PBGC will pay to the qualified survivor(s) of the participant's spouse the make-up amount described in paragraph (j)(1) of this section and to the qualified survivor(s) of the participant the make-up amount described in paragraph (j)(2) of this section.

(1) *Payments from participant's death or 55th birthday to spouse's death.* The make-up amount described in this paragraph (j)(1) is a lump sum equal to the aggregate value of payments of the survivor portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the spouse from the later of the participant's date of death or the date when the participant would have reached age 55 to the spouse's date of death, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse's qualified survivor(s).

(2) *Payments from normal retirement date to participant's death.* The make-up amount described in this paragraph (j)(2) is a lump sum equal to the aggregate value of payments of the joint portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have

been payable to the participant from the normal retirement date (or accrual cessation date if later) to the participant's date of death thereafter, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the participant's qualified survivor(s).

(k) *Benefits under contributory plans.* If a subpart A plan reports to PBGC that a portion of a missing participant's benefit transfer amount represents accumulated contributions as described in section 204(c)(2)(C) of ERISA and section 411(c)(2)(C) of the Code, PBGC will pay with respect to the missing participant at least the amount of accumulated contributions as reported by the subpart A plan, accumulated at the missing participants interest rate from the benefit determination date to the date when PBGC makes payment.

(l) *Date for determining marital status.* For purposes of this section, whether a participant is married, and if so the identity of the spouse, is determined as of the earlier of—

- (1) The date the participant receives or begins to receive a benefit, or
- (2) The date the participant dies.

§ 4050.107 PBGC discretion.

PBGC may in appropriate circumstances extend deadlines, excuse noncompliance, and grant waivers with regard to any provision of this subpart to promote the purposes of the missing participants program and title IV of ERISA. Like circumstances will be treated in like manner under this section.

Subpart B—Defined Contribution Plans

§ 4050.201 Purpose and scope.

(a) *In general.* This subpart describes PBGC's missing participants program for single-employer and multiemployer defined contribution retirement plans. The missing participants program is a program to hold retirement benefits for missing participants and beneficiaries in terminated retirement plans and to help them find and receive the benefits being held for them. For a plan to which this subpart applies, this subpart

describes what the plan must do upon plan termination if it elects to use the missing participants program for missing participants and beneficiaries who are entitled to distributions. This subpart applies to a plan only if it is a plan—

(1) That—

(i) Is a defined contribution (individual account) plan described in section 3(34) of ERISA; or

(ii) Is treated as a defined contribution (individual account) plan under section (3)(35) of ERISA (to the extent so treated);

(2) That is described in section 4021(a) of ERISA and not in any paragraph of section 4021(b) of ERISA other than paragraph (1), (5), (12), or (13), including a plan described in section 403(b) of the Code under which benefits are provided through custodial accounts described in section 403(b)(7) of the Code;

(3) That, if it is a transferring plan, pays all benefit transfer amounts to PBGC in money, consistent with plan provisions and applicable law; and

(4) That terminates and closes out.

(b) *Defined contribution plans that are part of defined benefit plans.* This subpart does not fail to apply to a plan merely because the plan is described in the same plan document as a defined benefit plan (to which this subpart does not apply). For example, this subpart may apply to employee contributions (or interest or earnings thereon) held as an individual account under a defined benefit plan.

(c) *Defined contribution plans that are abandoned plans.* This subpart does not fail to apply to a plan merely because the plan is an abandoned plan, as defined in 29 CFR 2578.1.

§ 4050.202 Definitions.

The following terms are defined in § 4001.2 of this chapter: Annuity, Code, ERISA, PBGC, and person. In addition, for purposes of this subpart:

Accumulated single sum means, with respect to a missing distributee, the distributee's benefit transfer amount accumulated at the missing participants interest rate from the date when the subpart B plan pays PBGC the benefit transfer amount for the missing distributee to the date when PBGC

makes or commences payment to or with respect to the distributee.

Benefit conversion assumptions means, with respect to an annuity, the applicable mortality table and applicable interest rate under section 205(g)(3) of ERISA and section 417(e)(3) of the Code for January of the calendar year in which PBGC begins paying the annuity.

Benefit transfer amount for a missing distributee in a transferring plan means the amount available for distribution to the distributee in connection with the close-out of the subpart B plan.

Close-out or *close out* with respect to a subpart B plan means the process of the final distribution or transfer of assets pursuant to the termination of the subpart B plan.

De minimis means, with respect to the value of a benefit (or other amount), that the value does not exceed the amount specified under section 203(e)(1) of ERISA and section 411(a)(11)(A) of the Code (without regard to plan provisions).

Distributee means, with respect to a subpart B plan, a participant or beneficiary entitled to a distribution under the plan pursuant to the close-out of the plan, except that a person is not a distributee if the subpart B plan transfers assets to another pension plan (within the meaning of section 3(2) of ERISA) to pay the person's benefits.

Missing, with respect to a distributee under a subpart B plan, means that any one or more of the following three conditions exists upon close-out of the plan.

(1) The plan does not know with reasonable certainty the location of the distributee.

(2) The distributee has not elected a form of distribution in response to a notice about the distribution.

(3) Under the terms of the plan and any election made by the distributee, the distributee's benefit is to be paid in a lump sum, but the distributee does not accept the lump sum. For this purpose, a lump sum paid by check is not accepted if the check remains uncashed after—

(i) A “cash-by” date prescribed (on the check or in an accompanying notice) that is at least 45 days after the issuance of the check, or

(ii) If no such “cash-by” date is so prescribed, the check’s stale date.

Missing participants forms and instructions means the forms and instructions provided by PBGC for use in connection with the missing participants program.

Missing participants interest rate means, for each month, the applicable federal mid-term rate (as determined by the Secretary of the Treasury pursuant to section 1274(d)(1)(C)(ii) of the Code) for that month, compounded monthly.

Notifying plan means a subpart B plan that elects notifying plan status in accordance with § 4050.203.

QDRO means a qualified domestic relations order as defined in section 206(d)(3) of ERISA and section 414(p) of the Code.

Qualified survivor of a participant or beneficiary under a subpart B plan means, for any benefit with respect to the participant or beneficiary,—

(1) A person who survives the participant or beneficiary and is entitled under applicable provisions of a QDRO to receive the benefit;

(2) A person that is identified by the plan in a submission to PBGC by the plan as being entitled under applicable plan provisions (including elections, 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 B plan or *plan* means a plan to which this subpart B applies, as described in § 4050.201.

Transferring plan means a subpart B plan that elects transferring plan status in accordance with § 4050.203.

§ 4050.203 Options and duties of plan.

(a) *Options.* A subpart B plan that is closing out upon plan termination may

(but need not) elect, by filing under § 4050.205, that the subpart B 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 plan and will be bound by the provisions of this subpart B 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 B 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 does not know with reasonable certainty upon close-out of a subpart B plan, the plan must have conducted a diligent search as described in § 4050.204.

(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 B plan, the plan must file with PBGC as described in § 4050.205.

(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.

§ 4050.204 Diligent search.

(a) *Search requirement*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, a subpart B plan must, within the time frame described in paragraph (b) of this section, have diligently searched for each distributee of the plan whose location the plan does not know with reasonable certainty upon close-out in accordance with regulations and other applicable guidance issued by the Secretary of Labor under section 404 of ERISA.

(2) *Notifying plans.* For a notifying plan, the requirement of paragraph (a)(1) of this section applies only to

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distributees identified in the filing with PBGC.

(b) *Time frame.* A search for a missing distributee must be made within nine months before a filing is made under § 4050.205 identifying the distributee as a missing distributee.

§ 4050.205 Filing with PBGC.

(a) *What to file.* A subpart B 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; and

(2) Any fee provided for in the missing participants forms and instructions.

(b) *When to file.* The plan must file the information and payments referred to in paragraph (a) of this section in accordance with the missing participants forms and instructions.

(c) *Place, method and date of filing; time periods.* (1) For rules about where to file, see § 4000.4 of this chapter.

(2) For rules about permissible methods of filing with PBGC under this subpart, see subpart A of part 4000 of this chapter.

(3) For rules about the date that a submission under this subpart was filed with PBGC, see subpart C of part 4000 of this chapter.

(4) For rules about any time period for filing under this subpart, see subpart D of part 4000 of this chapter.

(d) *Supplemental information.* Within 30 days after a written request by PBGC (or such other time as may be specified in the request), the plan administrator of a subpart B plan required to file under paragraph (a) of this section must file with PBGC supplemental information for any proper purpose under the missing participants program.

(e) *Reliance.* As administrator of the missing participants program, PBGC will rely on determinations made and information reported by plans in connection with the program.

§ 4050.206 Missing participant benefits.

(a) *In general.*—(1) *Notifying plan.* If a notifying plan files with PBGC information about a disposition of benefits made by the subpart B plan for a miss-

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ing distributee, PBGC will provide information about the disposition of benefits to the distributee or another claimant that may be entitled to the benefits.

(2) *Transferring plan.* If a transferring plan pays PBGC a benefit transfer amount for a missing distributee, PBGC will pay benefits with respect to the missing distributee in accordance with this section, subject to the provisions of a QDRO.

(b) *Benefits for missing distributees who are participants.* Paragraphs (c), (d), and (e) of this section describe the benefits that PBGC will pay to a missing participant of a subpart B plan who claims a benefit under the missing participants program.

(c) *De minimis benefit.* If the benefit transfer amount of a participant described in paragraph (b) of this section is de minimis, PBGC will pay the participant a lump sum equal to the accumulated single sum.

(d) *Non-de minimis benefit of unmarried participant.* If the benefit transfer amount of an unmarried participant described in paragraph (b) of this section is not de minimis, PBGC will pay the participant either the annuity described in paragraph (d)(1) of this section, beginning not before age 55; or, if the participant so elects, the lump sum described in paragraph (d)(2) of this section.

(1) *Annuity.* The annuity described in this paragraph (d)(1) is, at the participant's election, any form of annuity available to the participant under § 4022.8 of this chapter, in an amount that is actuarially equivalent, under the benefit conversion assumptions, to the participant's accumulated single sum.

(2) *Lump sum.* The lump sum described in this paragraph (d)(2) is the participant's accumulated single sum.

(e) *Non-de minimis benefit of married participant.* If the benefit transfer amount of a married participant described in paragraph (b) of this section is not de minimis, PBGC will pay the participant either the annuity described in paragraph (e)(1) of this section, beginning not before age 55; or, if the participant so elects with the consent of the participant's spouse, the

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lump sum described in paragraph (e)(2) of this section.

(1) *Annuity.* The annuity described in this paragraph (e)(1) is either—

(i) *Joint and survivor annuity.* A joint and 50 percent survivor annuity in an amount that is actuarially equivalent, under the benefit conversion assumptions, to the participant's accumulated single sum; or

(ii) *Other form of annuity.* At the participant's election, with the consent of the participant's spouse, any form of annuity available to the participant under § 4022.8 of this chapter, in an amount that is actuarially equivalent, under the benefit conversion assumptions, to the participant's accumulated single sum.

(2) *Lump sum.* The lump sum described in this paragraph (e)(2) is the participant's accumulated single sum.

(f) *Benefits with respect to deceased missing distributees who were participants.* Paragraphs (g), (h), and (i) of this section describe the benefits that PBGC will pay with respect to a missing participant of a subpart B plan who dies without receiving a benefit under the missing participants program.

(g) *De minimis benefit.* If the benefit transfer amount of a participant described in paragraph (f) of this section is de minimis, and the participant's qualified survivor claims a benefit under the missing participants program, PBGC will pay the claimant a lump sum equal to the participant's accumulated single sum.

(h) *Non-de minimis benefit; non-spousal qualified survivor.* If the benefit transfer amount of a married or unmarried participant described in paragraph (f) of this section is not de minimis, and the participant's qualified survivor is not the participant's surviving spouse and claims a benefit under the missing participants program, PBGC will pay the claimant a lump sum equal to the participant's accumulated single sum.

(i) *Non-de minimis benefit; surviving spouse is qualified survivor.* If the benefit transfer amount of a married participant described in paragraph (f) of this section is not de minimis, and the participant's qualified survivor is the participant's surviving spouse and claims a benefit under the missing participants program, PBGC will, at the

spouse's election, either pay the spouse, beginning not before the participant would have reached age 55, the annuity described in paragraph (i)(1) of this section; or pay the spouse the lump sum described in paragraph (i)(2) of this section.

(1) *Annuity.* The annuity described in this paragraph (i)(1) is a straight life annuity for the life of the spouse in an amount that is actuarially equivalent, under the benefit conversion assumptions, to the participant's accumulated single sum.

(2) *Lump sum.* The lump sum described in this paragraph (i)(2) is a lump sum equal to the participant's accumulated single sum.

(j) *Date for determining marital status.* For purposes of this section, whether a participant is married, and if so the identity of the spouse, is determined as of the earlier of—

(1) The date the participant receives or begins to receive a benefit, or

(2) The date the participant dies.

§ 4050.207 PBGC discretion.

PBGC may in appropriate circumstances extend deadlines, excuse noncompliance, and grant waivers with regard to any provision of this subpart to promote the purposes of the missing participants program and title IV of ERISA. Like circumstances will be treated in like manner under this section.

Subpart C—Certain Defined Benefit Plans Not Covered by Title IV

§ 4050.301 Purpose and scope.

(a) *In general.* This subpart describes PBGC's missing participants program for small professional service defined benefit retirement plans not covered by title IV of ERISA. The missing participants program is a program to hold retirement benefits for missing participants and beneficiaries in terminated retirement plans and to help them find and receive the benefits being held for them. For a plan to which this subpart applies, this subpart describes what the plan must do upon plan termination if it elects to use the missing participants program for missing participants and beneficiaries who are entitled to

distributions. This subpart applies to a plan only if it is a single-employer defined benefit plan that—

(1) Is described in section 4021(a) of ERISA and not in any paragraph of section 4021(b) of ERISA other than paragraph (13), and

(2) Terminates and closes out with sufficient assets to satisfy all liabilities with respect to employees and their beneficiaries.

(b) *Individual account plans.* This subpart does not apply to an individual account plan under section 3(34) of ERISA, even if it is described in the same plan document as a plan to which this subpart applies. This subpart also does not apply to a plan to the extent that it is treated as an individual account plan under section 3(35)(B) of ERISA. For example, this subpart does not apply to employee contributions (or interest or earnings thereon) held as an individual account. (Subpart B deals with individual account plans.)

§ 4050.302 Definitions.

The following terms are defined in § 4001.2 of this chapter: Annuity, Code, ERISA, PBGC, person, and plan administrator. In addition, for purposes of this subpart:

Accrual cessation date for a participant under a subpart C plan means the date the participant stopped accruing benefits under the terms of the plan.

Accumulated single sum means, with respect to a missing distributee, the distributee's benefit transfer amount accumulated at the missing participants interest rate from the benefit determination date to the date when PBGC makes or commences payment to or with respect to the distributee.

Benefit determination date with respect to a subpart C plan means the single date selected by the plan administrator for valuing benefits under § 4050.303(d); this date must be during the period beginning on the first day a distribution is made pursuant to close-out of the plan to a distributee who is not a missing distributee and ending on the last day such a distribution is made.

Benefit transfer amount for a missing distributee in a transferring plan means the amount determined by the

plan administrator under § 4050.303(d) in the close-out of the subpart C plan.

Close-out or *close out* with respect to a subpart C plan means the process of the final distribution or transfer of assets pursuant to the termination of the subpart C plan.

De minimis means, with respect to the value of a benefit (or other amount), that the value does not exceed the amount specified under section 203(e)(1) of ERISA and section 411(a)(11)(A) of the Code (without regard to plan provisions).

Distributee means, with respect to a subpart C plan, a participant or beneficiary entitled to a distribution under the subpart C plan pursuant to the close-out of the subpart C plan, except that a person is not a distributee if the subpart C plan transfers assets to another pension plan (within the meaning of section 3(2) of ERISA) to pay the person's benefits.

Missing, with respect to a distributee under a subpart C plan, means that any one or more of the following three conditions exists upon close-out of the plan.

(1) The plan administrator does not know with reasonable certainty the location of the distributee.

(2) Under the terms of the plan, the distributee's benefit is to be paid in a lump sum without the distributee's consent, and the distributee has not responded to a notice about the distribution of the lump sum.

(3) Under the terms of the plan and any election made by the distributee, the distributee's benefit is to be paid in a lump sum, but the distributee does not accept the lump sum. For this purpose, a lump sum paid by check is not accepted if the check remains uncashed after—

(i) A “cash-by” date prescribed (on the check or in an accompanying notice) that is at least 45 days after the issuance of the check, or

(ii) If no such “cash-by” date is so prescribed, the check's stale date.

Missing participants forms and instructions means the forms and instructions provided by PBGC for use in connection with the missing participants program.

Missing participants interest rate means, for each month, the applicable

federal mid-term rate (as determined by the Secretary of the Treasury pursuant to section 1274(d)(1)(C)(ii) of the Code) for that month, compounded monthly.

Normal retirement date for a participant under a subpart C plan means the normal retirement date of the participant under the terms of the plan.

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

Pay-status or pay status means one of the following (according to context):

(1) With respect to a benefit, that payment of the benefit has actually started before the benefit determination date; or

(2) With respect to a distributee, that payment of the distributee's benefit has actually started before the benefit determination date.

PBGC missing participants assumptions means the actuarial assumptions prescribed in §§ 4044.51 through 4044.58 of this chapter with the following modifications:

(1) The present value is determined as of the benefit determination date instead of the plan termination date.

(2) The mortality assumption is the mortality table in § 4044.53(h) of this chapter.

(3) No adjustment is made for loading expenses under § 4044.52(d) of this chapter.

(4) The interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on December 31 of the calendar year preceding the calendar year in which the benefit determination date occurs. However, for benefit determination dates July 31 through December 31 of 2024, the interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on July 31, 2024.

(5) The assumed payment form of a benefit not in pay status is a straight life annuity.

(6) Pre-retirement death benefits are disregarded.

(7) Notwithstanding the expected retirement age (XRA) assumptions in §§ 4044.55 through 4044.58 of this chapter—

(i) In the case of a participant who is not in pay status and whose normal retirement date is on or after the benefit determination date, benefits are assumed to commence at the XRA, determined using the high retirement rate category under table II-C (Expected Retirement Ages for Individuals in the High Category) in § 4044.58 of this chapter;

(ii) In the case of a participant who is not in pay status and whose normal retirement date is before the benefit determination date, benefits are assumed to commence on the participant's normal retirement date (or accrual cessation date if later);

(iii) In the case of a participant who is in pay status, benefits are assumed to commence on the date on which benefits actually commenced; and

(iv) In the case of a beneficiary, benefits are assumed to commence on the benefit determination date or, if later, the earliest date the beneficiary can begin to receive benefits.

Plan lump sum assumptions means, with respect to a subpart C plan, the following:

(1) If the plan specifies actuarial assumptions and methods to be used to calculate a lump sum distribution, such actuarial assumptions and methods, or

(2) Otherwise, the actuarial assumptions specified under section 205(g)(3) of ERISA and section 417(e)(3) of the Code, determined as of the benefit determination date, including use of the missing participants interest rate to calculate the present value as of the benefit determination date of a payment or payments missed in the past.

QDRO means a qualified domestic relations order as defined in section 206(d)(3) of ERISA and section 414(p) of the Code.

Qualified survivor of a participant or beneficiary under a subpart C plan means, for any benefit with respect to the participant or beneficiary—

(1) A person who survives the participant or beneficiary and is entitled under applicable provisions of a QDRO to receive the benefit;

(2) A person that is identified by the plan in a submission to PBGC by the plan as being entitled under applicable plan provisions (including elections,

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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

benefit transfer amount computed at the missing participants interest rate for the period beginning on the 90th day after the benefit determination date and ending on the date the benefit transfer amount is paid to PBGC; and

(3) Any fee provided for in the missing participants forms and instructions.

(b) *When to file.* The plan administrator must file the information and payments referred to in paragraph (a) of this section in accordance with the missing participants forms and instructions.

(c) *Place, method and date of filing; time periods.* (1) For rules about where to file, see § 4000.4 of this chapter.

(2) For rules about permissible methods of filing with PBGC under this subpart, see subpart A of part 4000 of this chapter.

(3) For rules about the date that a submission under this subpart was filed with PBGC, see subpart C of part 4000 of this chapter.

(4) For rules about any time period for filing under this subpart, see subpart D of part 4000 of this chapter.

(d) *Supplemental information.* Within 30 days after a written request by PBGC (or such other time as may be specified in the request), the plan administrator of a subpart C plan required to file under paragraph (a) of this section must file with PBGC supplemental information for any proper purpose under the missing participants program.

(e) *Reliance.* As administrator of the missing participants program, PBGC will rely on determinations made and information reported by plan administrators in connection with the program.

§ 4050.306 Missing participant benefits.

(a) *In general*—(1) *Notifying plan.* If a notifying plan files with PBGC information about a disposition of benefits made by the subpart C plan for a missing distributee, PBGC will provide information about the disposition of benefits to the distributee or another claimant that may be entitled to the benefits.

(2) *Transferring plan.* If a transferring plan pays PBGC a benefit transfer amount for a missing distributee,

PBGC will pay benefits with respect to the missing distributee in accordance with this section, subject to the provisions of a QDRO.

(b) *Benefits for missing distributees who are participants.* Paragraphs (c), (d), (e), and (k) of this section describe the benefits that PBGC will pay to a non-pay status missing participant of a subpart C plan who claims a benefit under the missing participants program.

(c) *De minimis benefit.* If the benefit transfer amount of a participant described in paragraph (b) of this section is de minimis, PBGC will pay the participant a lump sum equal to the accumulated single sum.

(d) *Non-de minimis benefit of unmarried participant.* If the benefit transfer amount of an unmarried participant described in paragraph (b) of this section is not de minimis, PBGC will pay the participant either the annuity described in paragraph (d)(1) of this section, beginning not before age 55, and (if applicable) the make-up amount described in paragraph (d)(2) of this section; or, if the participant could have elected a lump sum under the subpart C plan, and the participant so elects under the missing participants program, the lump sum described in paragraph (d)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (d)(1) is either—

(i) *Straight life annuity.* A straight life annuity in the amount that the subpart C plan would have paid the participant, starting at the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), as reported to PBGC by the subpart C plan (including any early retirement subsidies), or through linear interpolation for participants who start payments between integral ages; or

(ii) *Other form of annuity.* At the participant's election, any form of annuity available to the participant under § 4022.8 of this chapter, in an amount that is actuarially equivalent to the straight life annuity in paragraph (d)(1)(i) of this section as of the date

that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter.

(2) *Make-up amount.* If PBGC begins to pay the annuity under paragraph (d)(1) of this section after the normal retirement date (or accrual cessation date if later), the make-up amount described in this paragraph (d)(2) is a lump sum equal to the aggregate value of payments of the annuity that would have been payable to the participant (in the elected form) 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 date when PBGC begins to pay the annuity.

(3) *Lump sum.* The lump sum described in this paragraph (d)(3) is equal to the participant's accumulated single sum.

(e) *Non-de minimis benefit of married participant.* If the benefit transfer amount of a married participant described in paragraph (b) of this section is not de minimis, PBGC will pay the participant either the annuity described in paragraph (e)(1) of this section, beginning not before age 55, and (if applicable) the make-up amount described in paragraph (e)(2) of this section; or, if the participant could have elected a lump sum under the subpart C plan, and the participant so elects under the missing participants program with the consent of the participant's spouse, the lump sum described in paragraph (e)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (e)(1) is either—

(i) *Joint and survivor annuity.* A joint and 50 percent survivor annuity in an amount that is actuarially equivalent to the straight life annuity under paragraph (d)(1)(i) of this section as of the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter; or

(ii) *Other form of annuity.* At the participant's election, with the consent of the participant's spouse, any form of

annuity available to the participant under § 4022.8 of this chapter, in an amount that is actuarially equivalent to the joint and 50 percent survivor annuity under paragraph (e)(1)(i) of this section as of the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter.

(2) *Make-up amount.* If PBGC begins to pay the annuity under paragraph (e)(1) of this section after the normal retirement date (or accrual cessation date if later), the make-up amount described in this paragraph (e)(2) is a lump sum equal to the aggregate value of payments of the annuity that would have been payable to the participant 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 date when PBGC begins to pay the annuity.

(3) *Lump sum.* The lump sum described in this paragraph (e)(3) is equal to the participant's accumulated single sum.

(f) *Benefits with respect to deceased missing distributees who were participants.* Paragraphs (g), (h), (i), (j), and (k) of this section describe the benefits that PBGC will pay with respect to a non-pay status missing participant of a subpart C plan who dies without receiving a benefit under the missing participants program.

(g) *De minimis benefit.* If the benefit transfer amount of a participant described in paragraph (f) of this section is de minimis, PBGC will pay to the qualified survivor(s) of the participant a lump sum equal to the participant's accumulated single sum.

(h) *Non-de minimis benefit; unmarried participant.* In the case of an unmarried participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis,—

(1) *Death before normal retirement date.* If the participant dies before the normal retirement date (or accrual cessation date if later), PBGC will pay no benefits with respect to the participant; and

(2) *Death after normal retirement date.* If the participant dies on or after the normal retirement date (or accrual cessation date if later), PBGC will pay to the participant's qualified survivor(s) an amount equal to the aggregate value of payments of the straight life annuity described in paragraph (d)(1)(i) of this section that would have been payable to the participant from the normal retirement date (or accrual cessation date if later) to the participant's date of death, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the qualified survivor(s).

(i) *Non-de minimis benefit; married participant with living spouse.* In the case of a married participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis and whose spouse survives the participant and claims a benefit under the missing participants program, PBGC will pay the spouse, beginning not before the participant would have reached age 55, the annuity (if any) described in paragraph (i)(1) of this section and the make-up amounts (if applicable) described in paragraph (i)(2) of this section, except that PBGC will pay the spouse, as a lump sum, the small benefit described in paragraph (i)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (i)(1) is the survivor portion of a joint and 50 percent survivor annuity that is actuarially equivalent as of the assumed starting date (determined using the actuarial assumptions in §4022.8(c)(7) of this chapter) to the straight life annuity in the amount that the subpart C plan would have paid the participant with an assumed starting date of—

(i) The date when the participant would have reached age 55, if the participant died before that date, or

(ii) The participant's date of death, if the participant died between age 55 and the normal retirement date (or accrual cessation date if later), or

(iii) The normal retirement date (or accrual cessation date if later), if the participant died after that date.

(2) *Make-up amounts.* The make-up amounts described in this paragraph (i)(2) are the amounts described in

paragraphs (i)(2)(i) and (ii) of this section.

(i) *Payments from participant's death or 55th birthday to commencement of survivor annuity.* The make-up amount described in this paragraph (i)(2)(i) is a lump sum equal to the aggregate value of payments of the survivor portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the spouse beginning on the later of the participant's date of death or the date when the participant would have reached age 55, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse.

(ii) *Payments from normal retirement date to participant's death.* The make-up amount described in this paragraph (i)(2)(ii) is a lump sum equal to the aggregate value of payments (if any) of the joint portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the participant from the normal retirement date (or accrual cessation date if later) to the participant's date of death thereafter, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse.

(3) *Small benefit.* If the sum of the actuarial present value of the annuity described in paragraph (i)(1) of this section plus the make-up amounts described in paragraph (i)(2) of this section is de minimis, then the lump sum that PBGC will pay the spouse under this paragraph (i)(3) is an amount equal to that sum. For this purpose, the actuarial present value of the annuity is determined using the actuarial assumptions in §4022.8(c)(7) of this chapter as of the date when PBGC pays the spouse.

(j) *Non-de minimis benefit; married participant with deceased spouse.* In the case of a married participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis and whose spouse survives the participant but dies without receiving a benefit under the missing participants program, PBGC will pay to the qualified survivor(s) of the participant's

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spouse the make-up amount described in paragraph (j)(1) of this section and to the qualified survivor(s) of the participant the make-up amount described in paragraph (j)(2) of this section.

(1) *Payments from participant's death or 55th birthday to spouse's death.* The make-up amount described in this paragraph (j)(1) is a lump sum equal to the aggregate value of payments of the survivor portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the spouse from the later of the participant's date of death or the date when the participant would have reached age 55 to the spouse's date of death, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse's qualified survivor(s).

(2) *Payments from normal retirement date to participant's death.* The make-up amount described in this paragraph (j)(2) is a lump sum equal to the aggregate value of payments of the joint portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the participant from the normal retirement date (or accrual cessation date if later) to the participant's date of death thereafter, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the participant's qualified survivor(s).

(k) *Benefits under contributory plans.* If a subpart C plan reports to PBGC that a portion of a missing participant's benefit transfer amount represents accumulated contributions as described in section 204(c)(2)(C) of ERISA and section 411(c)(2)(C) of the Code, PBGC will pay with respect to the missing participant, at least the amount of accumulated contributions as reported by the subpart C plan, accumulated at the missing participants interest rate from the benefit determination date to the date when PBGC makes payment.

(l) *Date for determining marital status.* For purposes of this section, whether a participant is married, and if so the identity of the spouse, is determined as of the earlier of—

(1) The date the participant receives or begins to receive a benefit, or

(2) The date the participant dies.

§ 4050.307 PBGC discretion.

PBGC may in appropriate circumstances extend deadlines, excuse noncompliance, and grant waivers with regard to any provision of this subpart to promote the purposes of the missing participants program and title IV of ERISA. Like circumstances will be treated in like manner under this section.

Subpart D—Multiemployer Plans Covered by Title IV

§ 4050.401 Purpose and scope.

(a) *In general.* This subpart describes PBGC's missing participants program for multiemployer defined benefit retirement plans covered by title IV of ERISA. The missing participants program is a program to hold retirement benefits for missing participants and beneficiaries in retirement plans that are closing out and to help them find and receive the benefits being held for them. For a plan to which this subpart applies, this subpart describes what the plan must do upon plan termination if it has missing participants or beneficiaries who are entitled to distributions. This subpart applies to a plan only if it is a multiemployer defined benefit plan that—

(1) Is described in section 4021(a) of ERISA and not in any paragraph of section 4021(b) of ERISA, and

(2) Completes the process of closing out under subpart D of PBGC's regulation on Termination of Multiemployer Plans (29 CFR part 4041A).

(b) *Plans that terminate but do not close out.* This subpart does not apply to plans that terminate but do not close out.

(c) *Individual account plans.* This subpart does not apply to an individual account plan under section 3(34) of ERISA, even if it is described in the same plan document as a plan to which this subpart applies. This subpart also does not apply to a plan to the extent that it is treated as an individual account plan under section 3(35)(B) of ERISA. For example, this subpart does not apply to employee contributions

(or interest or earnings thereon) held as an individual account. (Subpart B deals with individual account plans.)

§ 4050.402 Definitions.

The following terms are defined in § 4001.2 of this chapter: Annuity, Code, ERISA, insurer, PBGC, person, and plan sponsor. In addition, for purposes of this subpart:

Accrual cessation date for a participant under a subpart D plan means the date the participant stopped accruing benefits under the terms of the plan.

Accumulated single sum means, with respect to a missing distributee, the distributee's benefit transfer amount accumulated at the missing participants interest rate from the benefit determination date to the date when PBGC makes or commences payment to or with respect to the distributee.

Benefit determination date with respect to a subpart D plan means the single date selected by the plan sponsor for valuing benefits under § 4050.103(d); this date must be during the period beginning on the first day a distribution is made pursuant to close-out of the plan to a distributee who is not a missing distributee and ending on the last day such a distribution is made.

Benefit transfer amount for a missing distributee of a subpart D plan means the amount determined by the plan sponsor under § 4050.403(d) in the close-out of the plan.

Close-out or *close out* with respect to a subpart D plan means the process of the final distribution or transfer of assets in satisfaction of plan benefits.

De minimis means, with respect to the value of a benefit (or other amount), that the value does not exceed the amount specified under section 203(e)(1) of ERISA and section 411(a)(11)(A) of the Code (without regard to plan provisions).

Distributee means, with respect to a subpart D plan, a participant or beneficiary entitled to a distribution under the subpart D plan pursuant to the close-out of the subpart D plan.

Missing, with respect to a distributee under a subpart D plan, means that any one or more of the following three conditions exists upon close-out of the plan.

(1) The plan sponsor does not know with reasonable certainty the location of the distributee.

(2) Under the terms of the plan, the distributee's benefit is to be paid in a lump sum without the distributee's consent, and the distributee has not responded to a notice about the distribution of the lump sum.

(3) Under the terms of the plan and any election made by the distributee, the distributee's benefit is to be paid in a lump sum, but the distributee does not accept the lump sum. For this purpose, a lump sum paid by check is not accepted if the check remains uncashed after—

(i) A “cash-by” date prescribed (on the check or in an accompanying notice) that is at least 45 days after the issuance of the check, or

(ii) If no such “cash-by” date is so prescribed, the check's stale date.

Missing participants forms and instructions means the forms and instructions provided by PBGC for use in connection with the missing participants program.

Missing participants interest rate means, for each month, the applicable federal mid-term rate (as determined by the Secretary of the Treasury pursuant to section 1274(d)(1)(C)(ii) of the Code) for that month, compounded monthly.

Normal retirement date for a participant under a subpart D plan means the normal retirement date of the participant under the terms of the plan.

Pay-status or *pay status* means one of the following (according to context):

(1) With respect to a benefit, that payment of the benefit has actually started before the benefit determination date; or

(2) With respect to a distributee, that payment of the distributee's benefit has actually started before the benefit determination date.

PBGC missing participants assumptions means the actuarial assumptions prescribed in §§ 4044.51 through 4044.58 of this chapter with the following modifications:

(1) The present value is determined as of the benefit determination date instead of the plan termination date.

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(2) The mortality assumption is the mortality table in § 4044.53(h) of this chapter.

(3) No adjustment is made for loading expenses under § 4044.52(d) of this chapter.

(4) The interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on December 31 of the calendar year preceding the calendar year in which the benefit determination date occurs. However, for benefit determination dates July 31 through December 31 of 2024, the interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on July 31, 2024.

(5) The assumed payment form of a benefit not in pay status is a straight life annuity.

(6) Pre-retirement death benefits are disregarded.

(7) Notwithstanding the expected retirement age (XRA) assumptions in §§ 4044.55 through 4044.58 of this chapter—

(i) In the case of a participant who is not in pay status and whose normal retirement date is on or after the benefit determination date, benefits are assumed to commence at the XRA, determined using the high retirement rate category under table II-C (Expected Retirement Ages for Individuals in the High Category) in § 4044.58 of this chapter;

(ii) In the case of a participant who is not in pay status and whose normal retirement date is before the benefit determination date, benefits are assumed to commence on the participant's normal retirement date (or accrual cessation date if later);

(iii) In the case of a participant who is in pay status, benefits are assumed to commence on the date on which benefits actually commenced; and

(iv) In the case of a beneficiary, benefits are assumed to commence on the benefit determination date or, if later, the earliest date the beneficiary can begin to receive benefits.

Plan lump sum assumptions means, with respect to a subpart D plan, the following:

(1) If the plan specifies actuarial assumptions and methods to be used to

calculate a lump sum distribution, such actuarial assumptions and methods, or

(2) Otherwise, the actuarial assumptions specified under section 205(g)(3) of ERISA and section 417(e)(3) of the Code, determined as of the benefit determination date, including use of the missing participants interest rate to calculate the present value as of the benefit determination date of a payment or payments missed in the past.

QDRO means a qualified domestic relations order as defined in section 206(d)(3) of ERISA and section 414(p) of the Code.

Qualified survivor of a participant or beneficiary under a subpart D plan means, for any benefit with respect to the participant or beneficiary,—

(1) A person who survives the participant or beneficiary and is entitled under applicable provisions of a QDRO to receive the benefit;

(2) A person that is identified by the plan in a submission to PBGC by the plan as being entitled under applicable plan provisions (including elections, 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 D plan or *plan* means a plan to which this subpart D applies, as described in § 4050.401.

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

§ 4050.403 Duties of plan sponsor.

(a) *Providing for benefits.* For each distributee who is missing upon close-out of a subpart D plan, the plan sponsor must provide for the distributee's plan benefits either—

(1) By purchase of an annuity contract from an insurer; or

(2) By—

(i) Determining the distributee's benefit transfer amount under paragraph (e) of this section, and

(ii) Transferring to PBGC as described in this subpart D an amount

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equal to the distributee's benefit transfer amount.

(b) *Diligent search.* For each distributee whose location the plan sponsor does not know with reasonable certainty upon close-out of a subpart D plan, the plan sponsor must have conducted a diligent search as described in § 4050.404.

(c) *Filing with PBGC.* For each distributee who is missing upon close-out of a subpart D plan, the plan sponsor must file with PBGC as described in § 4050.405.

(d) *Benefit transfer amount.* The benefit transfer amount for a missing distributee is the amount determined by the plan sponsor 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 sponsor; or

(ii) For a missing distributee in pay status, the aggregate value of pay-

ments 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.

§ 4050.404 Diligent search.

(a) *Search requirement.* The plan sponsor of a subpart D plan 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 sponsor 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:

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

(ii) Searching the records of the 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 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 § 4050.405 identifying the distributee as a missing distributee.

§ 4050.405 Filing with PBGC.

(a) *What to file.* The plan sponsor of a subpart D plan must file with PBGC the information specified in the missing participants forms and instructions and, for a missing distributee referred to in § 4050.403(a)(2), 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 benefit transfer amount computed at the missing participants interest rate for the period beginning on the 90th

day after the benefit determination date and ending on the date the benefit transfer amount is paid to PBGC; and

(3) Any fee provided for in the missing participants forms and instructions.

(b) *When to file.* The plan sponsor must file the information and payments referred to in paragraph (a) of this section in accordance with the missing participants forms and instructions. Payment of a benefit transfer amount will, if considered timely made for purposes of this paragraph (b), be considered timely made for purposes of part 4041A of this chapter.

(c) *Place, method and date of filing; time periods.* (1) For rules about where to file, see § 4000.4 of this chapter.

(2) For rules about permissible methods of filing with PBGC under this subpart, see subpart A of part 4000 of this chapter.

(3) For rules about the date that a submission under this subpart was filed with PBGC, see subpart C of part 4000 of this chapter.

(4) For rules about any time period for filing under this subpart, see subpart D of part 4000 of this chapter.

(d) *Supplemental information.* Within 30 days after a written request by PBGC (or such other time as may be specified in the request), the plan sponsor of a subpart D plan required to file under paragraph (a) of this section must file with PBGC supplemental information for any proper purpose under the missing participants program.

(e) *Reliance.* As administrator of the missing participants program, PBGC will rely on determinations made and information reported by plan sponsors in connection with the program. This reliance does not affect PBGC’s authority as administrator of the title IV insurance program to audit or make inquiries of subpart D plans, including about the amount to which a missing distributee may be entitled.

§ 4050.406 Missing participant benefits.

(a) *In general—*(1) *Benefit transfer amount not paid.* If a subpart D plan files with PBGC information about an annuity contract purchased by the subpart D plan from an insurer for a missing distributee, PBGC will provide information about the annuity contract

to the distributee or another claimant that may be entitled to payment pursuant to the contract.

(2) *Benefit transfer amount paid.* If a subpart D plan pays PBGC a benefit transfer amount for a missing distributee, PBGC will pay benefits with respect to the missing distributee in accordance with this section, subject to the provisions of a QDRO.

(b) *Benefits for missing distributees who are participants.* Paragraphs (c), (d), (e), and (k) of this section describe the benefits that PBGC will pay to a non-pay status missing participant of a subpart D plan who claims a benefit under the missing participants program.

(c) *De minimis benefit.* If the benefit transfer amount of a participant described in paragraph (b) of this section is de minimis, PBGC will pay the participant a lump sum equal to the accumulated single sum.

(d) *Non-de minimis benefit of unmarried participant.* If the benefit transfer amount of an unmarried participant described in paragraph (b) of this section is not de minimis, PBGC will pay the participant either the annuity described in paragraph (d)(1) of this section, beginning not before age 55, and (if applicable) the make-up amount described in paragraph (d)(2) of this section; or, if the participant could have elected a lump sum under the subpart D plan, and the participant so elects under the missing participants program, the lump sum described in paragraph (d)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (d)(1) is either—

(i) *Straight life annuity.* A straight life annuity in the amount that the subpart D plan would have paid the participant, starting at the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), as reported to PBGC by the subpart D plan (including any early retirement subsidies), or through linear interpolation for participants who start payments between integral ages; or

(ii) *Other form of annuity.* At the participant's election, any form of annuity available to the participant under § 4022.8 of this chapter, in an amount that is actuarially equivalent to the straight life annuity in paragraph

(d)(1)(i) of this section as of the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter.

(2) *Make-up amount.* If PBGC begins to pay the annuity under paragraph (d)(1) of this section after the normal retirement date (or accrual cessation date if later), the make-up amount described in this paragraph (d)(2) is a lump sum equal to the aggregate value of payments of the annuity that would have been payable to the participant (in the elected form) 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 date when PBGC begins to pay the annuity.

(3) *Lump sum.* The lump sum described in this paragraph (d)(3) is equal to the participant's accumulated single sum.

(e) *Non-de minimis benefit of married participant.* If the benefit transfer amount of a married participant described in paragraph (b) of this section is not de minimis, PBGC will pay the participant either the annuity described in paragraph (e)(1) of this section, beginning not before age 55, and (if applicable) the make-up amount described in paragraph (e)(2) of this section; or, if the participant could have elected a lump sum under the subpart D plan, and the participant so elects under the missing participants program with the consent of the participant's spouse, the lump sum described in paragraph (e)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (e)(1) is either—

(i) *Joint and survivor annuity.* A joint and 50 percent survivor annuity in an amount that is actuarially equivalent to the straight life annuity under paragraph (d)(1)(i) of this section as of the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter; or

(ii) *Other form of annuity.* At the participant's election, with the consent of

the participant's spouse, any form of annuity available to the participant under § 4022.8 of this chapter, in an amount that is actuarially equivalent to the joint and 50 percent survivor annuity under paragraph (e)(1)(i) of this section as of the date that PBGC payments start (or, if earlier, the later of the participant's normal retirement date or accrual cessation date), determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter.

(2) *Make-up amount.* If PBGC begins to pay the annuity under paragraph (e)(1) of this section after the normal retirement date (or accrual cessation date if later), the make-up amount described in this paragraph (e)(2) is a lump sum equal to the aggregate value of payments of the annuity that would have been payable to the participant 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 date when PBGC begins to pay the annuity.

(3) *Lump sum.* The lump sum described in this paragraph (e)(3) is equal to the participant's accumulated single sum.

(f) *Benefits with respect to deceased missing distributees who were participants.* Paragraphs (g), (h), (i), (j), and (k) of this section describe the benefits that PBGC will pay with respect to a non-pay status missing participant of a subpart D plan who dies without receiving a benefit under the missing participants program.

(g) *De minimis benefit.* If the benefit transfer amount of a participant described in paragraph (f) of this section is de minimis, PBGC will pay to the qualified survivor(s) of the participant a lump sum equal to the participant's accumulated single sum.

(h) *Non-de minimis benefit; unmarried participant.* In the case of an unmarried participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis—

(1) *Death before normal retirement date.* If the participant dies before the normal retirement date (or accrual cessation date if later), PBGC will pay no benefits with respect to the participant; and

(2) *Death after normal retirement date.* If the participant dies on or after the normal retirement date (or accrual cessation date if later), PBGC will pay to the participant's qualified survivor(s) an amount equal to the aggregate value of payments of the straight life annuity described in paragraph (d)(1)(i) of this section that would have been payable to the participant from the normal retirement date (or accrual cessation date if later) to the participant's date of death, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the qualified survivor(s).

(i) *Non-de minimis benefit; married participant with living spouse.* In the case of a married participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis and whose spouse survives the participant and claims a benefit under the missing participants program, PBGC will pay the spouse, beginning not before the participant would have reached age 55, the annuity (if any) described in paragraph (i)(1) of this section and the make-up amounts (if applicable) described in paragraph (i)(2) of this section, except that PBGC will pay the spouse, as a lump sum, the small benefit described in paragraph (i)(3) of this section.

(1) *Annuity.* The annuity described in this paragraph (i)(1) is the survivor portion of a joint and 50 percent survivor annuity that is actuarially equivalent as of the assumed starting date (determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter) to the straight life annuity in the amount that the subpart D plan would have paid the participant with an assumed starting date of—

(i) The date when the participant would have reached age 55, if the participant died before that date, or

(ii) The participant's date of death, if the participant died between age 55 and the normal retirement date (or accrual cessation date if later), or

(iii) The normal retirement date (or accrual cessation date if later), if the participant died after that date.

(2) *Make-up amounts.* The make-up amounts described in this paragraph (i)(2) are the amounts described in

paragraphs (i)(2)(i) and (ii) of this section.

(i) *Payments from participant's death or 55th birthday to commencement of survivor annuity.* The make-up amount described in this paragraph (i)(2)(i) is a lump sum equal to the aggregate value of payments of the survivor portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the spouse beginning on the later of the participant's date of death or the date when the participant would have reached age 55, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse.

(ii) *Payments from normal retirement date to participant's death.* The make-up amount described in this paragraph (i)(2)(ii) is a lump sum equal to the aggregate value of payments (if any) of the joint portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the participant from the normal retirement date (or accrual cessation date if later) to the participant's date of death thereafter, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse.

(3) *Small benefit.* If the sum of the actuarial present value of the annuity described in paragraph (i)(1) of this section plus the make-up amounts described in paragraph (i)(2) of this section is de minimis, then the lump sum that PBGC will pay the spouse under this paragraph (i)(3) is an amount equal to that sum. For this purpose, the actuarial present value of the annuity is determined using the actuarial assumptions in § 4022.8(c)(7) of this chapter as of the date when PBGC pays the spouse.

(j) *Non-de minimis benefit; married participant with deceased spouse.* In the case of a married participant described in paragraph (f) of this section whose benefit transfer amount is not de minimis and whose spouse survives the participant but dies without receiving a benefit under the missing participants program, PBGC will pay to the qualified survivor(s) of the participant's

spouse the make-up amount described in paragraph (j)(1) of this section and to the qualified survivor(s) of the participant the make-up amount described in paragraph (j)(2) of this section.

(1) *Payments from participant's death or 55th birthday to spouse's death.* The make-up amount described in this paragraph (j)(1) is a lump sum equal to the aggregate value of payments of the survivor portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the spouse from the later of the participant's date of death or the date when the participant would have reached age 55 to the spouse's date of death, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the spouse's qualified survivor(s).

(2) *Payments from normal retirement date to participant's death.* The make-up amount described in this paragraph (j)(2) is a lump sum equal to the aggregate value of payments of the joint portion of the joint and 50 percent survivor annuity described in paragraph (i)(1) of this section that would have been payable to the participant from the normal retirement date (or accrual cessation date if later) to the participant's date of death thereafter, accumulated at the missing participants interest rate from the date each payment would have been made to the date when PBGC pays the participant's qualified survivor(s).

(k) *Benefits under contributory plans.* If a subpart D plan reports to PBGC that a portion of a missing participant's benefit transfer amount represents accumulated contributions as described in section 204(c)(2)(C) of ERISA and section 411(c)(2)(C) of the Code, PBGC will pay with respect to the missing participant, at least the amount of accumulated contributions as reported by the subpart D plan, accumulated at the missing participants interest rate from the benefit determination date to the date when PBGC makes payment.

(l) *Date for determining marital status.* For purposes of this section, whether a participant is married, and if so the identity of the spouse, is determined as of the earlier of—

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- (1) The date the participant receives or begins to receive a benefit, or
- (2) The date the participant dies.

§ 4050.407 PBGC discretion.

PBGC may in appropriate circumstances extend deadlines, excuse

noncompliance, and grant waivers with regard to any provision of this subpart to promote the purposes of the missing participants program and title IV of ERISA. Like circumstances will be treated in like manner under this section.