

## **Supporting Statement for Paperwork Reduction Act Submission**

**AGENCY:** Pension Benefit Guaranty Corporation

**TITLE:** Missing Participants; 29 CFR Part 4050; PBGC Forms MP-100, MP-200, MP-300, MP-400, and schedules

**STATUS:** Request for extension with modification of a currently approved information collection (OMB Control No. 1212-0069; expires January 31, 2024)

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1. Need for collection. The process of closing out a terminated retirement plan involves the disposition of plan assets to satisfy the benefits of plan participants and beneficiaries. One difficulty faced by plan administrators in closing out terminated plans is how to provide for the benefits of persons who cannot be located. Under section 4050 of the Employee Retirement Income Security Act of 1974 (ERISA) and 29 CFR part 4050, the Pension Benefit Guaranty Corporation (PBGC) operates the missing participants program, meaning that it holds retirement benefits for missing participants and beneficiaries in terminated pension and other retirement plans and seeks to reunite those participants and beneficiaries with the benefits being held for them. PBGC administers the missing participants program for:

- single-employer defined benefit (DB) plans covered by the insurance program under title IV of ERISA,
- defined contribution (DC) plans (not covered by title IV<sup>1</sup>),
- small professional service DB plans (not covered by title IV), and

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<sup>1</sup> Eligibility for the missing participants program under section 4050 of ERISA is not by itself considered coverage by title IV or ERISA.

- multiemployer DB plans (covered by title IV).

The program for all types of eligible terminating plans follows the same basic design. The most prominent difference among them lies in the mandatory or voluntary nature of the programs. For plans covered by the title IV insurance program, participation in the program is mandatory. For plans not covered by title IV, PBGC's regulation permits, but does not require, such plans to participate in PBGC's missing participants program. Also, the four different types of plans file different forms: single-employer DB plans covered under title IV file Form MP-100, DC plans file Form MP-200, small professional service DB plans file Form MP-300, and multiemployer DB plans file Form MP-400.

PBGC needs information from plans that participate in the missing participants program, to identify the plans and their missing participants and beneficiaries, to search for missing participants and beneficiaries, to determine the persons entitled to benefits that the plans transfer to PBGC and the form and amount of benefits payable, and to refer claimants of benefits being held elsewhere to the institutions holding the benefits.

In this renewal, PBGC is modifying the instruments of this information collection (Forms MP-100, MP-200, MP-300, and MP-400 and their corresponding instructions) as follows.

- PBGC is adding a requirement for plans that are filing information about more than five missing individuals (participants or beneficiaries) to provide that information in a spreadsheet file. PBGC provides a user-friendly template that may be used for this purpose.
- PBGC is adding a question to the DB plan forms (MP-100, 300, and 400) asking if the plan has a default beneficiary provision, and, if yes, requiring an attachment of it.

(This question is already on the DC plan form (MP-200)).

- PBGC is updating references on the DB plan forms and instructions that relate to de minimis benefit amounts of \$5,000 or less to reflect the change under section 304 of the SECURE 2.0 Act increasing that amount to \$7,000 as of January 1, 2024.<sup>2</sup>
- PBGC is adding a box to the DC plan form MP-200 for the person certifying the form to check whether they are the plan's plan administrator or the plan's qualified termination administrator.
- PBGC is making other conforming, clarifying, and editorial changes to the instructions. One clarifying change is adding an appendix listing common errors and how filers can avoid them.

2. Use of information. PBGC uses the information collected under the program to identify reporting plans, search for missing participants and beneficiaries, identify persons entitled to benefits and the amount and form of benefits payable, and refer claimants to institutions other than PBGC that hold benefits for missing participants and beneficiaries.

3. Information technology. The program allows filers to make some of the calculations needed to value benefits to be transferred to PBGC by use of a spreadsheet accessible on PBGC's website. The forms are fillable PDF documents filed electronically by email. Payments to PBGC for missing participants may be made by wire transfers or online through pay.gov.

4. Identifying duplication. The information required in the missing participant filings

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<sup>2</sup> SECURE 2.0 Act of 2022, Division T of the Consolidated Appropriations Act, 2023, P.L. 117-328 (Dec. 29, 2022).

is not routinely filed with, and available from, any other Federal Government agency, and there is no similar information that is available instead of the information reported in these filings.

5. Reducing the burden on small entities. The program reduces burden on all terminating plans, including small plans, by providing a solution to the problem of distributing the benefits of missing participants and beneficiaries upon close-out.

6. Consequences of less frequent reporting. This collection of information occurs only once in the life of a pension or other retirement plan covered by section 4050 of ERISA — upon close-out in connection with plan termination. Therefore, the collection could be conducted less frequently only if it were not conducted at all. If this information were not collected at all, PBGC would not be able to fulfill its duties under the missing participants program provided for in section 4050 of ERISA.

7. Special circumstances. This collection of information does not involve any requirement listed in 5 CFR 1320.5(d)(2).

8. Outside input. On July 3, 2023, at 88 FR 42758, PBGC published a notice of its intention to request OMB approval of this collection of information and solicited public comment. No comments were received.

9. Payments and gifts. There are no payments or gifts made to respondents in connection with this collection of information.

10. Confidentiality. Confidentiality of information is that afforded by the Freedom of Information Act and the Privacy Act. PBGC's rules that provide and restrict access to its records are set forth in 29 CFR parts 4901 and 4902.

11. Personal questions. This collection of information does not call for submission of information of a sensitive or private nature.

12. Hour burden on the public. PBGC's time burden projections are based on filing experience over the previous 3 years for the 4 types of plans eligible to use the missing participants program. PBGC estimates a total annual average of 345 filings (275 Form MP-100s + 64 Form MP-200s + 6 Form MP-300s + 0 Form MP-400s) over the next 3 years.

Based on filer experience, the average per-plan in-house time burden is estimated to be 0.2 hours. Thus, the aggregated annual hour burden is estimated at about 70 hours.

13. Cost burden on the public. PBGC estimates based on filer experience that the average per-plan cost burden is about \$1,443. Thus, the aggregated average annual cost burden is estimated at \$498,000.

14. Cost to federal government. There is zero annual cost to the government.

15. Change in burden. PBGC uses "experience-based" burden where possible. The changes in hourly and cost burden estimates in this renewal are based on filer and PBGC's experience. The number of estimated annual filings has increased, the estimated hourly burden of each filing has decreased, and the estimated cost burden of each filing has increased.

16. Publication plans. There are no plans for tabulation or publication of the results of this information collection.

17. Display of expiration date. PBGC is not seeking approval to not display the expiration date for OMB approval of the information collection.

18. Exception to certification statement. There are no exceptions to the certifications described in 5 CFR 1320.9.