




Office of Inspector General  
Pension Benefit Guaranty Corporation

August 28, 2017

**MEMORANDUM**

TO: Karen Morris  
Chief of Negotiations and Restructuring

FROM: Robert Westbrooks  
Inspector General 

SUBJECT: Termination of Audit of Standard Termination Filing (PA-16-112)

Please be advised that the OIG is terminating the above project at this time.

This project was originally identified during our 2016 survey of the Standard Termination Compliance Division (STCD). On November 1, 2016, upon completing our survey phase, we refined our initial objective into two audits. We completed the audit of premium coverage determinations (PA-17-116) and issued a final audit report entitled *Premiums: Ways to Improve Exemption Determinations* (AUD-2017-12/PA-17-116) on August 1, 2017. Upon completion of the premiums audit, we intended to audit standard termination filings. The Audit of Standard Termination Filing's objective was to determine if STCD effectively and efficiently processes standard termination filings. The scope of this audit focused on the post-distribution filing of the Form 501 and the diligent search for missing participants.

Related to the diligent search for missing participants, PBGC has proposed rule changes to implement amendments to section 4050 of ERISA, which will redesign the existing missing participant program for terminated plans. The proposed rules provide more specificity in the diligent search rules for defined benefit plans. While the three elements of a diligent search—timeliness, seeking information from beneficiaries of a missing participant, and use of a commercial locator service will not change—the proposal provides more detailed requirements related to each of the search elements.

Given the possible evolving criteria, as well as the relative risk of this program, we are electing to terminate this project and redeploy audit staff to higher risk areas.

## Observations

Notwithstanding our termination, our auditors made observations during our survey phase that we believe warrant your attention.

### *Form 501 Filings*

During the survey phase, we reviewed 13 plans' Form 501 submissions from fiscal year 2015 to determine compliance with Code of Federal Regulations (CFR) 4041.29. Under this section, within 30 days after the last distribution date for any affected party, the plan administrator must file with the PBGC a post distribution certificate of the PBGC Form 501. Further this section states: "The PBGC will assess a penalty for late filing of a post-distribution certification only to the extent the certification is filed more than 90 days after the distribution deadline (including extensions) under § 4041.28(a)."

We reviewed the Form 501 filings of 13 plans and found:

- 10 out of the 13 plans submitted their post distribution certificates over 30 days from the last distribution date, and
- 4 of the 13 were submitted more than 90 days after the last distribution date. We found no evidence of extensions during our survey phase. Based on the limitations of our survey, we did not independently determine the distribution deadline and do not opine on whether a penalty should have been assessed in these cases.

### *Missing Participants*

For the diligent search of missing participants, we examined internal procedures to determine the process for reviewing submissions relating to the identification and search for missing participants when a plan files a standard termination. PBGC's manual required the reviewer to complete a missing participant worksheet by sampling the plan's identified missing participants and performing an internet search for them. The worksheet should document if the reviewer was able or unable to find plan identified missing participants. We found PBGC was no longer completing the missing participant worksheets. Rather the reviewer performed the missing participant search and if the reviewer found a missing participant, they entered this information in the Case Management System. We reviewed five plans processed by PBGC in fiscal year 2015 and did not find any notes within the Case Management System related to found missing participants. We were later advised by management that completion of the

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worksheet is no longer a requirement and that the manual will be updated to reflect this change.

We appreciate the cooperation you and your staff extended to OIG during this project. If you have any questions, please contact Brooke Holmes on extension 3790 or me on extension 3437.

cc: Tom Reeder, Director

Bela Palli, Manager, Standard Termination Compliance Division

Marty Boehm, Director, Corporate Controls & Review Department

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