

**MEMO# 35775**

July 26, 2024

# **ICI Submits Comment letter to DOL on Abandoned Plans Regulations IFR; DOL Announces New Online Filing System**

[35775]

July 22, 2024

TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pensions RE: ICI Submits Comment letter to DOL on Abandoned Plans Regulations IFR; DOL Announces New Online Filing System

ICI on July 16, 2024, submitted the attached comment letter (Comment Letter) to the Department of Labor (DOL) responding to certain requests for comment in DOL's Interim Final Rules (IFR) amending the Abandoned Plan Program.[\[1\]](#) ICI earlier submitted comments to DOL on abandoned plan rules in 2005, 2007, and 2013.[\[2\]](#)

As a reminder, DOL created the Abandoned Plan Program in 2006 to facilitate the termination of individual account plans that have been abandoned by the plan sponsor, including the distribution of benefits from those plans. In general, the regulations provide a mechanism for service providers to voluntarily take over and terminate plans believed to have been abandoned by the plan sponsor. The Abandoned Plan Program contains three parts: (1) a procedure for financial institutions holding the assets of an abandoned plan to act as a qualified termination administrator (QTA) and terminate the plan and distribute benefits to the plan's participants and beneficiaries, with limited liability; (2) a fiduciary safe harbor for making distributions from the terminated plan with respect to participants and beneficiaries who fail to make an election regarding a form of benefit distribution; and (3) a method for filing a terminal report for abandoned individual account plans. In addition, PTE 2006-06 provides prohibited transaction relief for a financial institution acting as a QTA to select and pay itself (or an affiliate) for rendering termination services to the abandoned plan. DOL in 2012 proposed amendments to the Abandoned Plan Program.[\[3\]](#)

The IFR expands the Abandoned Plan Program to permit a chapter 7 bankruptcy trustee to act as a QTA. The IFR also makes numerous technical changes to the abandoned plan regulations not related to plans overseen by a chapter 7 bankruptcy trustee, some of which address issues previously raised by ICI. The IFR also requests comment on numerous areas where DOL either declined to implement requested changes (including certain changes requested by ICI) or where DOL is otherwise seeking additional information.

## Summary of Comments

The Comment Letter supplements ICI's earlier comment letters with recommendations in three areas, none of which were directly raised in the earlier letters.

- The Pension Benefit Guaranty Corporation's Missing Participants Program for Defined Contribution Plans pursuant to 29 CFR § 4050.201–207 should be formally incorporated into the Abandoned Plan Program but should not be a required distribution method. While this program was not in place at the time of our earlier comment letters, we had recommended such a program be implemented as a useful alternative for QTAs.
- For terminating 403(b) plans, DOL should permit the in-kind distribution of Code section 403(b)(7) individual custodial accounts to participants and beneficiaries who do not affirmatively elect a distribution or a direct rollover to an eligible retirement plan.
- The Abandoned Plan Program should not impose an ongoing recordkeeping requirement on QTAs. Rather, it should require (as suggested in the IFR) that a QTA include with its Special Terminal Report for Abandoned Plans (STRAP) information regarding the location of distributions of the accounts of missing participants.

## New Online Filing System

Separately, on July 19, 2024, DOL announced that it launched an online filing system for QTAs to submit information on abandoned plans.<sup>[4]</sup> According to DOL, the new system offers QTAs an online option for submitting required information in addition to the existing email and paper-based methods. The system accepts submission of the following documents:

- Notice of Plan Abandonment and Intent to Serve as Qualified Termination Administrator (Notice of Intent);
- Final Notice and STRAP;
- Bankruptcy Trustee Supplement.

We continue to monitor further developments in this area.

David Cohen  
Associate General Counsel, Retirement Policy

### Notes

<sup>[1]</sup> For a discussion of the IFR and an associated amendment to PTE 2006-06, see ICI Memorandum No. 35722, dated May 29, 2024, available at <https://www.ici.org/memo35722>.

<sup>[2]</sup> See ICI Memorandum No. 27050, dated February 26, 2013, available at <https://www.ici.org/memo27050>. The 2007 letter (attached to the 2013 letter) was sent to DOL as a follow up to an October 2006 telephone conference with DOL staff. During that call, ICI members raised various concerns that had presented obstacles to their participation in the program. For the 2005 letter, see Letter from Thomas T. Kim, Associate

Counsel, ICI, to EBSA, dated May 9, 2005, available at

<https://www.ici.org/comment-letter/icicomment-letter-proposed-regulations-orphan-plans-may-2005>.

[3] For a discussion of the 2012 proposed amendments to the Abandoned Plan Program, see ICI Memorandum No. 26799 dated December 20, 2012, available at

<https://www.ici.org/memo26799>.

[4] The announcement is available at

<https://www.dol.gov/newsroom/releases/ebsa/ebsa20240719>. The online filing system is available at

[https://www.askebsa.dol.gov/abandonedplanefile/?\\_ga=2.49940718.970619278.1721663732-1713612715.1688668377](https://www.askebsa.dol.gov/abandonedplanefile/?_ga=2.49940718.970619278.1721663732-1713612715.1688668377).

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