



## Securities Industry Association

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Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Room N-5669  
U.S. Department of Labor  
200 Constitution Ave., NE  
Washington, DC 20210

RECEIVED  
OFFICE OF REGULATIONS  
AND INTERPRETATIONS  
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### Re: Proposed Regulations for Abandoned Plans

Dear Sir or Madam:

On behalf of the Securities Industry Association (SIA) and the SIA Retirement & Savings Committee, I am writing to comment on the proposed guidance for terminating abandoned individual account plans and the proposed class exemption associated with the abandoned plans guidance. In most respects, SIA is in agreement with the guidance and commends the Department of Labor (“Department”) for issuing the proposal.

#### **Qualified Termination Administrator (“QTA”) Notice**

SIA recommends that the proposed regulations be amended to clarify that a QTA may withdraw the notice to the Department at any time prior to the expiration of the 90-day period. There may be situations where a plan sponsor is able to take responsibility for the plan after the process of winding down the plan begins. It would be helpful for the Department to clarify that a QTA may withdraw its notice under these circumstances.

The Department invited comments on whether the QTA notice requirement should mandate electronic filing, or whether the use of electronic filing should be encouraged. SIA believes that electronic filing should be strongly encouraged although the cost savings would be minimal.

#### **Review of Alternative Service Providers**

Under the proposed guidance, to the extent the trustee is the QTA and there is a pre-existing service provider, we do not believe the trustee should have to perform additional due diligence on alternative service providers. The existing recordkeeper will have access to records which will speed the process of identifying participants and

distribution benefits. Requiring a review process will add very little value but will increase the costs to the plan.

### **Guidance for Missing Contributions/Other Potential Violations**

It is possible that a QTA may find some problems with the plan as they wind up the affairs of the plan. For example, missing contributions or other reportable events may be uncovered. The Department should include some discussion of the responsibility of the QTA to report violations to the Department. At that point, the Department may direct the QTA to proceed with the termination of the plan or may direct that the QTA not proceed with the termination until the violations and any appropriate remedies are resolved. For example, if the assets held have been properly allocated, but there are late or missing contributions, participants should still be able to receive funds which were properly allocated.

### **Application of Rollover Safe Harbor**

In the proposed guidance, the Department recognized that accounts may need to be rolled over where the participant fails to elect a form of benefit distribution. We would like to see the Department specifically reference the rollover safe harbor issued September 28, 2004 regarding automatic rollover accounts. This will make clear the appropriate standards for handling a rollover account when the participant is non-responsive regarding the action to be taken with their benefits.

Similarly, it would be helpful for the Department to specifically reference the guidance in Field Assistance Bulletin 2004-02 relating to missing participants in terminating defined contribution plans. That guidance applies the rollover safe harbor to account balances over \$5,000 and permits escheatment in limited circumstances, both of which should also be available in the case of abandoned plans.

SIA appreciates the opportunity to comment on this important guidance. Please do not hesitate to contact the undersigned or Liz Varley at (202) 216-2000 if you have questions.

Sincerely,



Gregory J. Reynders

Chair

SIA Retirement & Savings Committee