



May 6, 2005

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

RECEIVED
OFFICE OF REGULATIONS
AND INTERPRETATIONS
2005 MAY -9 AM 9:04

Re: Proposed Regulations:
Termination of Individual Account Plans

Dear Sir or Madame,

On behalf of Massachusetts Mutual Life Insurance Company (“MassMutual”) I am writing in response to the request for comments with respect to the proposed regulations and the proposed prohibited transaction class exemption published in the Federal Register on March 10, 2005 by the Employee Benefits Security Administration (EBSA), which together are intended to address the problems associated with the termination and winding up the affairs of abandoned individual account plans and distributing benefits to participants and beneficiaries under such plans. MassMutual appreciates the opportunity to comment on these regulations, which we believe will solve a practical dilemma impacting (i) thousands of workers who have not been able to access their retirement benefits and (ii) financial institutions who have lacked the authorization to effectively deal with the myriad issues involved with abandoned plans.

MassMutual is a mutual life insurance company that was organized in 1851. It is a member of the MassMutual Financial Group, which is a global, growth-oriented, diversified financial services organization with total assets under management in excess of \$350 billion as of March 31, 2005. Its family of companies serves the needs of over ten million clients by providing a broad-based portfolio of financial products and services including: life insurance, annuities, disability income insurance, retirement planning products, mutual funds, money management, and other financial products and services. MassMutual’s Retirement Services division provides services to thousands of qualified individual account plans, of which approximately two percent would meet the EBSA proposed regulation criteria and be considered abandoned plans.

MassMutual commends the EBSA for its efforts to provide service providers with streamlined procedures to voluntarily identify abandoned plans, efficiently wind up the affairs of such plans and facilitate the distribution of benefits to participants and beneficiaries, while effectively shielding the service providers from fiduciary liability in connection with the performance of their duties pursuant to the regulations. The problems caused by abandoned plans are time-

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consuming and costly. An internal cost analysis performed recently by the MassMutual's Retirement Services division reveals that MassMutual's associates spend approximately thirty two hours at a cost of approximately \$1,400 per abandoned plan per year. MassMutual believes that the streamlined termination process proposed by EBSA will significantly reduce plan termination expenses and prevent undue erosion of participant account balances.

The proposed regulations provide that the Qualified Termination Administrator must furnish participants and beneficiaries with a notice (delivered to the last known address) that includes inter alia: a statement that the plan has been terminated; a statement of the participant's or beneficiary's account balance; a description of the distribution options available under the plan; a request that the participant or beneficiary make an election as to form of distribution; and a statement that the balance will be rolled over to an individual retirement plan in the event the participant or beneficiary fails to make a distribution election. In the event the notice is returned undelivered, the Qualified Termination Administrator is required to take steps to locate and notify the missing participant before distributing benefits.

In many cases the account balances for missing participants are small amounts, often less than \$1,000. We propose that the EBSA consider establishing a minimum threshold amount of \$1,000 with respect to the rollover requirement. In many cases, we would find it burdensome if not impossible to locate financial institutions which are willing to establish an individual retirement plan or other account for amounts less than \$1,000. We also propose that Qualified Termination Administrators be afforded the option to consider escheating amounts less than \$1,000 to the state of the missing participant's last known address after performing a diligent search to locate the participant. We note that the EBSA in Field Assistance Bulletin 2004-2 affords such an option to plan fiduciaries of terminated plans. While we acknowledge that a rollover to an individual retirement account or establishment of a federally insured bank account are preferred by EBSA, these options are economically infeasible and practically speaking unlikely for account balances less than \$1,000.

The proposed effective date for the regulations is sixty (60) days after the date final regulations are published in the Federal Register. MassMutual believes the regulations could be implemented immediately by service providers holding abandoned plan assets. We believe that EBSA should allow service providers to immediately rely on the proposed regulations and perform the Qualified Termination Administrator function in good faith until such time as they are finalized.

Very truly yours,



Christopher J. Ahearn
Counsel