



DOL OFFERS NEW GUIDANCE ON FINDING FORMER PLAN PARTICIPANTS

Following up on our previous October article, [“Finding Former Plan Participants Who Leave 401\(k\) Funds Behind”](#) the Department of Labor (DOL) issued additional guidance last month about the location and distribution of retirement plan benefits. The guidance is in response to an increase in DOL enforcement activities and various Internal Revenue and ERISA Compliance issues that have been brought to light when there is a missing or nonresponsive participant, along with the duties of the plan sponsor. Locating these former employees presents an ongoing challenge for plan sponsors but there is more clarity moving forward.

Components of New Guidance

The Employee Benefits Security Administration (EBSA) issued guidance has three components: best practices to reduce missing participant issues and ensure participants and beneficiaries receive promised benefits; Compliance Assistance giving guidance to standardize the approach for missing participants discovered during DOL investigations or audits; and Field Assistance use of the Pension Benefit Guaranty Corporation (PBGC) Missing Participants Program for terminating defined contribution plans. This most recent guidance emphasizes the need to have sufficient processes in place with respect to keeping track of former employees for distribution purposes.

Best Practices to Ensure Participants/Beneficiaries Receive Benefits:

As part of the January guidance, the DOL’s Employee Benefits Security Administration (EBSA) offered best practices for plan sponsors to follow to mitigate the problem of locating missing or unresponsive participants. **Those best practices are as follows:**

1. Maintain accurate census information

- **Including contact information** change request in plan communications along with a reminder to advise the plan of any changes in contact information.



2. Implementing effective communication strategies

- **Encouraging contact** through plan/sponsor websites and toll free numbers.

3. Missing participant searches

- **Checking all plan and employer records**, including other employer benefit plans for participant, beneficiary and next of kin/emergency contact information. For privacy concerns, this might include asking one of them to forward a letter.
- **Using free online search engines**, public record databases, obituaries or death searches and social media to locate the participant.

4. Documenting procedures and actions

- Fiduciary obligations to maintain plan assets solely for the benefit of plan participants extends to both defined benefit and defined contribution plans and includes maintaining accurate records by reducing or even eliminating the number of missing or nonresponsive former employees through these best practices. Once in place, it is important to establish a written policy and document key decisions and steps and/or actions taken to implement the policies.

It was important for the EBSA to identify effective and efficient best practices to encourage fiduciaries to implement these practices as a part of their ongoing culture of fiduciary compliance rather than a one-time fix.

Other Allowances by the DOL

The recent guidance also gives plan sponsors a little leeway to put processes in place they think will yield the best results in a cost-effective way for their plan's participants. The other consideration is having plan sponsors weigh the size of a participant's accrued benefit and account balance against the cost of search efforts.

Next Steps

If your recordkeeper or third party administrator is sending out any communications on your behalf including quarterly statements, participant disclosures and other annual required notices, work with them to understand what they're doing and what's expected of you. Always feel free to reach out to you Retirement Plan Solutions team members at Mariner Wealth Advisors to help you establish best practices for your plan.

Sources

["Missing Participants - Best Practices for Pension plans,"](#) DOL. [Compliance Assistance Release No. 2021-01](#)
[Field Assistance Bulletin No. 2021-01](#)

["Missing In Action?"](#) National Association of Plan Advisors.

["DOL Offers Guidance for Locating Missing Participants,"](#) plansponsor.com

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