

Addressing Lost Participants with SECURE 2.0

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In 2019 the Department of Labor (DOL) increased their focus to better understand the processes and procedures Plan Sponsors adopted to identify and locate lost or missing participants. Despite the increased focus on finding lost or missing participants, the last real guidance from the DOL came in 2014 through Field Assistance Bulletin (FAB) 2014-01, leaving sponsors at a loss for direction.

What constitutes a lost or missing participant?

Participants are considered lost or missing when they have severed service from the organization, have a vested balance in the plan and do not have a current address or phone number on file with the organization or recordkeeper. These participants are usually identified by returned mail from the U.S. Postal Service. While tracking any former employee can present a challenge, it is especially difficult to track employees that may be more transient in nature with small account balances.

Why should Plan Sponsors care?

The Employee Retirement and Securities Act of 1974 (ERISA) requires Plan Sponsors to provide certain notices to all plan participants. Lost or missing participants are not receiving required disclosures which may lead to penalties from the DOL for failure to comply with reporting and disclosure requirements. In extreme circumstances, the failure to deliver required notices or distribute assets in a timely manner can jeopardize the qualified status of your plan.

A renewed focus – SECURE 2.0¹

SECURE 2.0 addresses the lost/missing participant issue in two direct ways. First, the Act directs the DOL to establish a national database, the Retirement Savings Lost and Found. This new initiative is envisioned to gather participant data from Plan Sponsors to allow participants to search prior employers to determine if they have assets that may have been left behind. This database is being developed from scratch and the law states it

¹ SECURE 2.0 Act of 2022:

https://www.finance.senate.gov/imo/media/doc/Secure%202.0_Section%20by%20Section%20Summary%2012-19-22%20FINAL.pdf

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should be established no later than December 29, 2024. Plan Sponsors will be required to provide the necessary information beginning in 2025. However, the format and timing of this is still unclear and will be addressed in future guidance.

Second, SECURE 2.0 provides exemptions for certain automatic portability transactions which have previously been murky given prohibited transaction regulations. The concept of auto-portability is designed to target a specific demographic within the lost or missing participant population, those with smaller balances that may be eligible for force outs. The Act will provide exemptions and allow for fees to be collected in connection with the automatic rollover of assets.

What is the industry doing to help?

Plan Sponsors have always had the ability to force out small balances either by distribution, if less than \$1,000, or by rolling the assets into an IRA (new threshold for low balance rollovers is increased from \$5,000 to \$7,000 in 2024). By moving these participants out of the plan before their contact information gets stale can greatly reduce the number of lost participant experiences. In addition, the retirement industry has been working to bring auto-portability to fruition for those small balance participants. In 2021, Vanguard partnered with Retirement Clearinghouse to provide an auto-portability service for 401(k) sponsors and their participants. In 2022, Fidelity and Alight joined with Vanguard to start a consortium of recordkeepers, The Portability Services Network, LLC², in the effort to allow retirement plan balances to seamlessly follow participants to different jobs. What this means for participants is if they leave one employer that is a member of the PSN and start a job with an employer who's recordkeeper is a member of the PSN, any balance under \$7,000 can automatically move to the new Plan Sponsor.

As of the publication of this article, the members of the consortium include Alight, Empower, Fidelity, Principal, TIAA and Vanguard. The consortium now allows for the inclusion of 401(k), 401(a), 403(b) or 457 balances to be eligible. Plan Sponsors should work with their recordkeeper to ensure their plan documents are updated to include any necessary changes to allow for participation in the PSN program.

Document, document, document

Unfortunately, the lost or missing participant problem isn't going away. Plan Sponsors should work to develop a process that can be easily followed and administered. FAB 2014-01 states Plan Sponsors should, at minimum:

- 1. Use Certified Mail.** Certified mail is an easy way to find out, at little cost, whether the participant can be located in order to distribute benefits.
- 2. Check Related Plan and Employer Records.** While the records of the terminated plan may not contain current address information, it is possible that the employer or another of the

²Portability Services Network: <https://psn1.com/learning-center/about-psn>

employer's plans, such as a group health plan, may have more up-to-date information. If there are privacy concerns, the plan fiduciary engaged in the search can request that the employer or other plan fiduciary contact or forward a letter for the terminated plan to the missing participant or beneficiary. The letter would request that the missing participant or beneficiary contact the searching plan fiduciary.

- 3. Check with Designated Plan Beneficiary.** In searching the terminated plan's records or the records of related plans, plan fiduciaries must try to identify and contact any individual that the missing participant has designated as a beneficiary (e.g., spouse, children, etc.) to find updated contact information for the missing participant. Again, if there are privacy concerns, the plan fiduciary can request that the designated beneficiary contact or forward a letter for the terminated plan to the missing participant or beneficiary.
- 4. Use Free Electronic Search Tools.** Plan fiduciaries must make reasonable use of Internet search tools that do not charge a fee to search for a missing participant or beneficiary. Such online services include Internet search engines, public record databases (such as those for licenses, mortgages and real estate taxes), obituaries and social media.

In cases where the above-mentioned steps fail to locate lost participants, Plan Sponsors should determine if paying for an enhanced search service is necessary. Many recordkeepers are currently offering enhanced search services. Sponsors with large groups of lost participants should consider the benefits of a paid service as part of their process.

Please reach out to any of the professionals at Fiducient Advisors to discuss strategies to ensure your plan is set up to succeed.

About the Author



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Brian services institutional clients by providing advice and guidance on the manager search process, fund selection for portfolios and overall investment management. Brian is a member of the firm's Defined Contribution Business Council and co-chair of the Recordkeeper Oversight Committee. Brian joined the firm in 2007 as a Performance Analyst and held many positions within Fiducient Advisors on his path to Senior Consultant.

Previously, he was a Client Service Specialist for Chase Investment Services and Scudder Investments. He graduated with a BA from the University of Northern Iowa. Brian is actively involved in The Greater Chicago Food Depository and enjoys biking, golf and traveling.