

# Missing Participants

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## *A Segment in Our Retirement Rescue Series*

On August 14, 2014, the DOL released [Field Assistance Bulletin \(FAB\) No. 2014-01](#) as a replacement to the previous FAB regarding missing Participants, FAB 2004-02. FAB 2014-01 reflects the changes that have occurred in the past 10 years regarding a Fiduciary's duty to locate missing Participants of terminated defined contribution plans, including the discontinuation of the letter forwarding services by the Internal Revenue Service and Social Security Administration.

Locating missing Participants is an ERISA fiduciary responsibility. This responsibility becomes more urgent during the time of a Plan termination at which point all Participants must be contacted regarding the termination and all accounts must be properly distributed. A daunting task was made even more difficult with the cessation of the letter forwarding programs previously provided by the IRS and Social Security Administration.

Special steps must be taken to locate missing Participants to ensure that a breach of fiduciary duty does not occur. The Department of Labor lists the following low-cost measures that must be taken, at a minimum, in order to locate missing Participants. All search efforts should be fully documented.

- Provide notice of benefit by certified mail
- Verify possible addresses with Plan and Employer Records
- Attempt to contact the missing Participants' Beneficiaries for updated Participant contact information.
- Utilize internet and social media searches, as well as public record databases to locate the Participant.

If the previous measures are exhausted and the Participant is still not found, the Fiduciary must determine if additional search options are appropriate by considering the size of the Participant's account balance as well as the cost and potential success of additional methods.

Once all necessary steps have been taken to locate a Participant and have proven unsuccessful, the Fiduciary must then select an appropriate distribution method for the account. Possible alternatives include placing funds in an Individual Retirement Account (IRA), an interest-bearing, federally insured bank account in the Participant's name, or in a state unclaimed property fund. Note that 100% income tax withholding is never an acceptable way to handle a missing Participant's benefit.

For assistance in correcting a plan error, please contact Ekon Benefits at (314)367.6555 or [info@ekonbenefits.com](mailto:info@ekonbenefits.com)

Field Assistance Bulletin No. 2014-01. U.S. Department of Labor. Employee Benefits Security Administration. 14 August 2014. <http://www.dol.gov/ebsa/pdf/fab2014-1.pdf>