

**Background:** A major concern for 401(k) plan fiduciaries in fulfilling their obligations arises when plan participants leave and cannot be found. Some questions that arise are: “what steps do I take to find a missing participant,” and “when is far enough in the search?” Plan fiduciaries have a duty to attempt to locate missing participants in order to properly distribute participant money.

This situation may arise, for example, when the missing plan participant turns 70½ years old (when it is time to make required minimum distributions) or when the defined contribution plan itself is being terminated.

The Department of Labor’s (“DOL”) current issued guidance, the 2014 Field Assistance Bulletin (“FAB”),<sup>1</sup> calls for “reasonable efforts” when seeking missing participants. While this guidance does not clearly define when retirement plan fiduciaries have taken enough action to fulfill their fiduciary duty in finding missing participants, it does include recommended best practice search steps. The FAB also includes potential additional steps to tracking down missing participants given a retirement plan fiduciary’s best judgment as to what action a given situation requires.

**Search Steps:** When a participant is missing, at a minimum, the FAB lays out taking the following required steps:

1. Use certified mail,
2. Check related plan and employer records,
3. Check with the designated plan beneficiary,
4. Use free electronic search tools.

**Additional Search Steps:** Taking additional steps depends on the facts and circumstances.

1. Consider the size of a participant’s account balance and the cost of further search efforts in deciding if any additional search steps are appropriate.
2. Examples of further search steps to use when appropriate: use internet search tools; commercial locator services; credit reporting agencies; information brokers; investigation databases; and analogous services which may involve charges.

**The preceding is for discussion purposes only and is not meant to be construed as investment or legal advice. Please consult with your attorney before taking any action. Rothschild obtained this information from sources believed to be reliable but Rothschild cannot guarantee the accuracy of the information or our interpretation of prevailing regulations, laws, industry best practices, etc.**

Questions—please contact Luke Novak with Rothschild Investment Corporation at: (312) 983-8975

---

<sup>1</sup> Department Of Labor Field Assistance Bulletin 2014-01, *Fiduciary Duties and Missing Participants in Terminated Defined Contribution Plans*.