

## Employee Benefits Plan Newsletter

# Expanded PBGC Program to Locate Lost Defined Contribution Plan Participants

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On December 22, 2017, the Pension Benefit Guaranty Corporation (PBGC) issued final regulations permitting the expansion of its existing Missing Participants Program (the “Program”) to include defined contribution (DC) plans. The PBGC has operated this program for the past 20 years for its insured single-employer defined benefit (DB) plans. Expansion of the Program is a result of the Pension Protection Act of 2006 which authorized it.

### Background

Previously, both the Internal Revenue Service (IRS) and the Social Security Administration (SSA) had programs to assist plan administrators with their fiduciary responsibilities pertaining to the locating of lost participants for purposes of providing benefits (and to satisfy various communication and disclosure requirements). Over time and due to budgetary restrictions, these programs no longer exist. The Department of Labor (DOL) had issued significant guidance in [Field Assistance Bulletin \(FAB\) 2014-01](#) dealing with the issue of a fiduciary’s duties regarding missing participants in a terminated defined contribution plan, but there was no locator service provided by the DOL.

### PBGC Expanded Program

The program will further expand to include PBGC-insured multiemployer DB plans. The PBGC’s mission in this expansion is to locate missing participants and connect them to retirement plan benefits they may have left behind in a terminating plan. Missing participants include those for whom:

1. The plan has lost contact with and cannot locate;
2. A distribution election was failed to be executed following a notice of plan termination; and
3. A check was not cashed following its issue from the plan.

It should be emphasized that the expanded program is applicable only to those plans that are terminating on or after January 1, 2018. Further, the program is voluntary, not mandatory.

Plan sponsors of terminating DC plans may elect to transfer plan assets (“transferring plan”) to the PBGC for distribution to plan participants. Alternatively, the plan may choose to simply provide the PBGC with information regarding the distribution of benefits, which will then share that information with affected participants once found. This is known as a “notifying plan.” This represents an alternative for plan sponsors as many times after a diligent review process a financial institution is selected to be an IRA custodian for these types of participant accounts.

Transferring plans must turn over the assets attributable to all participants. They will not be permitted to turn over just a portion of plan assets while maintaining control over the remainder. Sponsors must also show that they exercised due diligence in locating any lost participants. Such search must be conducted within nine months prior to applying to the PBGC.

## How to Use the Expanded Program

Plan sponsors seeking to utilize the expanded program must file a Form MP-200, as well as a Schedule A (for notifying plans) or a Schedule B (for transferring plans). These forms may be found on the PBGC website [www.pbgc.gov](http://www.pbgc.gov). However, the instructions for the new program remain in draft form awaiting approval.

There is no fee imposed for small participant accounts (\$250 or less) or for information provided to the PBGC by a notifying plan. A one-time \$35 charge will be imposed for transferring a missing participant's account. As previously stated, the instructions for the expanded program are still in draft form, and it is not clear at this time if this fee may be deducted from the participant's account.

## Contact Us

The Employee Benefit Services Practice at PKF O'Connor Davies has assisted clients who have terminated their defined contribution type of plans with the many "winding-down" tasks of a terminating plan. Some of these tasks include: finding lost participants, identifying a financial institution to open IRA accounts for unresponsive participants, consulting on amendments that may be needed upon the plan termination. Additionally, our Group has been selected on numerous occasions to assist the Department of Labor by acting as a plan fiduciary for "orphaned," "abandoned," or "problematic" plans.

We provide a full spectrum of compliance services for qualified, non-qualified, and welfare benefit plans. For more information, please email Tim Desmond at [tdesmond@pkfod.com](mailto:tdesmond@pkfod.com) or Louis F. LiBrandi at [lilibrandi@pkfod.com](mailto:lilibrandi@pkfod.com) or telephone 646.449.6327.

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