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# LiFT RETiREMENT

News and Information for **Employers**

Staying the Course through Volatile Markets

Tracking Down Your Missing Participants

Why It's Important to Review, Refresh and Revise Retirement Plan Documents

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# Staying the Course through **Volatile Markets**

*Uncertain times can bring turbulent stock markets, but it's important to stay calm and stay the course. Here's how you can encourage your investors to maintain a long-term investment strategy to weather the ups and downs of the stock market.*

#volatility #stockmarket
#retirement #401k

**Turbulent times can bring turbulent markets.** **Many factors cause chaotic swings in the investing world including housing bubbles, political elections, international instability, and as we have seen recently, a global health pandemic.**

**Despite the financial queasiness this can have, experts consistently have one piece of advice for investors: stay calm *and* stay the course. Maintaining a long-term investment strategy can help weather the storm of a volatile stock market, whereas reacting irrationally or panicking is the last thing investors should do.**

## History Tends to Repeat

There are a few ways to keep nerves at bay amidst a sea of daunting headlines.

First, a historical review shows that market fluctuations are normal. This should serve as a comforting reminder during unstable conditions. According to Fidelity, "...while market downturns may be unsettling, history shows stocks have recovered and delivered long-term gains."[1]

From 1995 to 2019 (a period that includes major drops due to the tech bubble burst, the 2008 market crash and the Great Recession), the average growth rate of the S&P 500 (which tracks the stock performance of 500 large companies on U.S. stock exchanges) was 11.9 percent (including dividends).[2]

While no one can predict the stock market with absolute certainty, the significant crashes of the last century all saw periods of recovery. For example, after the 2008 market crash, the recovery began almost immediately and achieved an eventual increase of 178% in 5-year returns.[3]

1 Fidelity Viewpoints. "6 Tips to Navigate Volatile Markets." Fidelity. July 2020.

2 Moneychimp. "Compound Annual Growth Rate (Annualized Return)." July 2020.

3 Fidelity Viewpoints. "6 Tips to Navigate Volatile Markets." Fidelity. July 2020.

These past events reinforce the importance of focusing on long-term financial strategies and goals, not short-term fluctuations. The markets will have bull and bear runs which need time to play out without trying to anticipate short-term trends.

Past performance is no guarantee of future results.

## Don't Try to Catch a Falling Knife

Another potential mistake made by investors is to stop saving during a market downturn. On the heels of the 2008 crash, one study found that more than a quarter of respondents either stopped saving for retirement or stopped adding to their 401(k).[4]

However, had they stayed put, their returns would have likely had substantial gains.

Fidelity Investments reports that the average 401(k) retirement plan balance rose by 466% to $297,700 between 2009 and 2019. Furthermore, the average retirement savings of millennials, many of whom would have been at the early stages of their work career, would have experienced an upward portfolio shift of 1,762% from $7,000 in Q1 of 2009 to just under $130,000 in 2019.[5] While past results are no guarantee of future results, it's important to point out in this example that when participants stay the course, it can really pay off.

A popular way to continue savings momentum when nerves are being tested is dollar-cost averaging (DCA), or, in other words, investing a fixed amount on a regular schedule (e.g. per pay period) that generally results in buying more shares when prices are low and less shares when they are high.

Dollar-cost averaging is a stabilizing approach. It can take away some of the fear of timing risk and become less of a system shock than lump sum investing. Dollar-cost averaging does not ensure a profit and does not protect against loss in declining markets.

## You Need Lemons to Make Lemonade

Downturns are a perfect time for Participants to rebalance their portfolios.  This can help to manage risk exposure and could be an opportunity to reposition the portfolio for a potential recovery.

Market downturns are a part of any market cycle so it's best for Participants to keep a steady hand and consider all options to weather through this market cycle as well as the next one.  We at FNL remain ready to help guide your Participants asset allocation decisions.

*Information provided herein is not, and should not be regarded as, investment advice or as a recommendation. Investing involves risk, including potential loss of principal.*

4 Betterment. "Betterment's Consumer Financial Perspectives Report:10 Years After the Crash." Sept 2018.

5 Fidelity. "Q1 2019 Retirement Analysis." May 2019.

# Tracking Down Your Missing Participants

*Do you have missing participants? Missing participants are former employees with an active account balance – and if left unchecked, they can increase plan fees and increase a Sponsor's Fiduciary Liability.*

#401kplans #missingparticipants #ERISA #DOL #IRS #retirementplans #fiduciary

## If you have terminated participants with balances in your 401(k) plan, some of whom you can't locate, you're not alone; missing participants are an industry-wide problem.

What is a missing participant? A missing participant is a former employee who has left funds in a qualified retirement plan (ex. 401(k) plan) at their former employer but has failed to keep their contact information current and is no longer actively managing their plan account.

A 2018 survey by Boston Research Technologies and the Retirement Clearinghouse estimates that 11% of terminated employees have stale addresses in their plans and 1 of 5 relocations result in a missing plan participant; their research also suggested an excess of 3 million missing participants.[1]

1 Boston Research Technologies and Retirement Clearinghouse. "The Mobile Workforce's Missing Participant Problem." March 13, 2018.

### The Problem of Missing Participants

There are two main reasons why participants disappear. The first is frequent job-hopping, and the second is not keeping plan contact information up-to-date. Boston Research Technologies found another reason—one-third of their respondents didn't know they had an account with a previous employer.[2]

Missing participants have become a big enough problem that it has caught the attention of the Internal Revenue Service (IRS) and Department of Labor (DOL), who are stepping up plan audits to see if you're making the requisite effort to find your plan's missing participants.

2 Boston Research Technologies and Retirement Clearinghouse. "The Mobile Workforce's Missing Participant Problem." March 13, 2018.

It's important to find your missing participants; they cost you money and increase your fiduciary liability. Plus, it's much easier to administer a plan with clean data.

- TPAs and recordkeepers typically charge by the number of participants in the plan so terminated participants present an increased administrative cost.
- 401(k) plans are required to be audited when the number of participants, including the terminated ones, exceeds 100.
- Terminated employees with vested account balances who leave their accounts in the plan for more than a year must be reported to the IRS on Form 8955-SSA.
- Terminated participants with balances must be mailed benefit statements and other required plan notices, which increases administrative costs.
- Uncashed distribution checks increase your fiduciary liability, as does the failure to locate the missing participants to whom the money belongs.
- The DOL is stepping up its enforcement efforts, such as plan audits, to hold plan sponsors responsible for finding their missing participants.
- Your plan could be disqualified if you haven't made a genuine effort to find your missing participants.
- The SECURE Act of 2019 charges a penalty of $10 per day — maximum of $10,000 — for failing to file or mail a required notice of a plan change.

## Plan Sponsor Responsibilities

As a plan fiduciary, you are required under the Employee Retirement Income and Security Act of 1974 (ERISA) to make every reasonable effort to find your plan's missing participants. However, you have a couple of challenges facing you, says David Kaleda of the Groom Law Group:[3]

- First, identifying who is missing, discovered chiefly through returned mail or emails, unanswered phone calls or uncashed checks.
- Secondly, if there are uncashed benefit checks, you and your financial institution/ trustee should work together to find the missing participants. Uncashed checks are still plan assets and if unclaimed, represent a serious fiduciary liability.

But it's not easy and there's a lot of uncertainty around how to go about it. The most recent guidance is from the DOL, Field Assistance Bulletin (FAB 2014-01), but it only addresses the missing participants of terminated plans. The guidance can be useful to ongoing plans; however, some plan sponsors are using it as a roadmap to find their missing participants.

FAB 2014-01 recommends taking the following steps:[4]

- Send a notice via certified mail to the participant's last known address
- Check related plan and employer records
- Contact the designated plan beneficiary
- Use free electronic search tools
- Use additional methods if the above don't produce a correct address:
  - Proprietary electronic search tools
  - Commercial locator services
  - Credit reporting agencies

Finally, document everything! It's important to have a written policy in place detailing the steps to be taken to identify missing participants. Conduct an annual review to identify these participants. Document the methods used and the results of each search. The DOL will want to know this information if they ever audit your plan.

3 David Kaleda. "Lost Participants: It is sponsors' duty to locate their terminated 'missing persons.'" PLANSPONSOR. January/February 2019.

4 U. S. Department of Labor. "Field Assistance Bulletin No. 2014-01." EBSA. August 14, 2014.

# Why It's Important to **Review, Refresh** and **Revise** Retirement Plan Documents

*Reviewing retirement plan documents at least once a year helps to keep your plan performing at its peak. Here's why it's important to review and update plan documents and how we can help you avoid common mistakes and pitfalls.*

#annualplanreview #401kcompliance #fiduciary #ERISA

## Always a Fiduciary: An Ongoing Responsibility

As a retirement plan fiduciary, adhering to plan documents is one of your most important roles. As a plan sponsor, you are a fiduciary to the plan. This means meaning you have an ongoing and continuous responsibility to monitor the plan, service providers, investment offerings and operations. It's your job to ensure they are being managed in the sole interest of your participants and their beneficiaries, and for the exclusive purpose of providing benefits and paying plan expenses.[1] Not following these standards of conduct can subject plan fiduciaries to personal liabilities. In addition, courts could take action against plan fiduciaries who breach their responsibilities. There has already been a plethora of lawsuits against plan fiduciaries in recent years.

Associate Supreme Court Justice, Stephen J. Breyer, famously submitted his verdict of the landmark Tibble v. Edison case, which set a precedent for fiduciary breach cases regarding the monitoring and selection of retirement plan investments. He stated that "... a trustee has a continuing duty — separate and apart from the duty to exercise prudence in selecting investments at the outset — to monitor, and remove imprudent, trust investments." In short, monitoring and managing your retirement plan, its investments and operations are not responsibilities to be taken lightly.

## Compliance Never Sleeps

Moreover, government and regulatory agencies such as the Department of Labor are continually monitoring plan fiduciaries to make sure they are following plan documents and procedures in accordance with the Employee Retirement Income Security Act (ERISA), the law that governs employer-sponsored retirement plans. Ultimately, this puts the onus of compliance and proper plan management on you. That said, this

1 U.S. Department of Labor. "Fiduciary Responsibilities."

is why we allocated the time and resources to develop our investment monitoring report in 2019 and why we perform regular reviews (including benchmarking) of our Clients' Plans.  Our process is designed to avoid simple mistakes and follows fiduciary best practices.

Addressing six common mistakes:

1. **Poor investment oversight.** Create an investment committee, led by a qualified financial professional and continue to hold regular investment reviews designed to ensure the plan's investment options and fees are appropriate for all participants.
2. **Failure to conduct periodic plan reviews.** Regulations are constantly evolving and changing. Conducting a periodic plan review or benchmarking process can help ensure that plan fees are reasonable and the plan is promoting positive outcomes for participants.
3. **Failure to take timely action.** Having knowledge of potential compliance, investment, plan fees or other significant issues, but failing to remedy them in a timely manner, can result in serious penalties or personal liability for plan fiduciaries.
4. **Lack of an up-to-date Investment Policy Statement (IPS).** The IPS guidelines address how the plan's investment options are selected, monitored and managed. The IPS should be periodically reviewed and updated to reflect the plan's current goals. Many employers create an IPS but fail to follow or update it, putting them at risk for a breach of fiduciary duty. This is part of what drives the ongoing updates of our proprietary IPS that is used to help manage your Plan.
5. **Lack of a proactive participant education and communication plan.** Three markers of retirement plan success are widespread participation, high savings rates and adequate investment diversification. An effective participant education and communication program can help increase deferrals and promote proper asset allocation for participants. It can also make a significant difference in your plan's success.
6. **Not following the terms of the plan document.** It's important to make sure employees are being enrolled as they become eligible, participants are receiving the correct employer matching contributions, and loans and distributions are being handled according to the policies and procedures in the plan documents.

If you identify operational or compliance errors during your annual review — don't panic. The Internal Revenue Service (IRS) and Department of Labor (DOL) have programs to assist you in fixing mistakes. FNL, your Recordkeeper and/or your Plan's TPA can help with operational and compliance errors, too.

Keep in mind that once you've identified and corrected any plan errors, you should put processes in place to avoid future mistakes. In addition to conducting annual reviews, you should also perform regular maintenance to ensure your plan remains in good health — just like sticking to a healthy diet and exercise regimen prevent illness and performing routine tune-ups on your car keep it performing at its best.

## About Financial Network Limited

Financial Network Limited (FNL) was founded to provide personalized investment strategies for individuals and families, and distinctive employee benefit programs for employers. Nearly 30 years later, we remain an independent, family-owned and operated firm with the same mission and commitment: to provide comprehensive and innovative client solutions with the highest levels of professionalism and integrity.

We deliver extraordinary value through clear analysis and Fiduciary-focused oversight so our Clients can focus on their careers and families, not the administration of their retirement plan. We continue to refine our processes to improve Plan Sponsor practices and to promote superior Participant outcomes. No “consultant-speak”, no “complicated explanations”. Just simple, accountable results.

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