



Bipartisan bills address missing participant issues

By Geoff Manville and Margaret Berger
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Bipartisan, bicameral legislation ([S 4192](#), [HR 7439](#)) to address missing participants in retirement plans would establish a national online registry to help individuals find and consolidate their plan accounts, increase the current cash-out limit and expand the types of investments available for automatic IRA rollovers. The Retirement Savings Lost and Found Act of 2020 would also direct regulators to issue guidance on how sponsors can meet their fiduciary responsibility to locate missing participants.

Lost-and-found website for plan accounts. A new web-based lost-and-found registry established by the Social Security Administration and Treasury Department would allow individuals to locate retirement accounts left with former employers. The registry would provide individuals with the plan administrator's contact information but no specific information about benefits.

Plans subject to ERISA's vesting requirements would have to provide information about terminated participants on an expanded [IRS Form 8955-SSA](#). The new form would include additional information on previously reported participants whose benefits were fully paid out, distributed to an IRA under the automatic rollover rules or used to purchase an insurance annuity contract on the participant's behalf.

The registry's director would have to coordinate with the Pension Benefit Guaranty Corp. (PBGC) and other agencies "to integrate information and databases on lost, missing, and inactive participants."

Cash-outs of lesser amounts. For terminating participants with vested benefits worth \$1,000 or less, the bills would require that plan sponsors notify the participants about their eligibility for those benefits or attempt to pay the benefits directly. If not claimed within six months, the benefits would have to be transferred tax-free to the registry for investment in Treasury securities or to an IRA set up by the Treasury Department.

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Automatic IRA rollover changes. The bills would increase the maximum amount that employers may automatically roll over on behalf of nonresponsive participants from \$5,000 to \$6,000. Allowed investments for these rollovers would expand to include target-date funds. Plan administrators would have to notify trustees or receiving plans that a distribution is an automatic IRA rollover; tax penalties would apply for failure to provide the notice.

Missing participant definition. The legislation, introduced by Sens. Elizabeth Warren, D-MA, and Steve Daines, R-MT, is nearly identical to a version introduced in the prior Congress but omits language that would have created an explicit safe harbor definition of a missing participant. The new measure directs the PBGC, Treasury and Labor Department to issue joint guidance defining “missing participant” within one year of the legislation’s enactment.

Support from plan sponsor and participant groups. [Plan sponsor groups](#), including the ERISA Industry Committee and the American Benefits Council, are backing the legislation and welcome the prospect of clearer standards and guidance on what steps employers must take in attempting to locate missing participants. The legislation also has support from the Pension Rights Center and AARP. The bills will likely be reintroduced in the next Congress if they don't advance this year.

Related resources

- [Retirement Savings Lost and Found Act of 2020](#) (Congress, July 1, 2020)
- [Press release](#) (Sen. Elizabeth Warren, July 1, 2020)

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