

Information



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Principles and Practices Regarding Missing Members

1. Purpose and Scope

- 1.1. This Guidance outlines principles and practices to aid pension plan administrators in searching for missing members;¹ and applies to all types of benefit entitlements that are subject to the *Pension Benefits Act* (the “PBA”).
- 1.2. For the purposes of this Guidance, a member is considered “missing” if the plan administrator is unable to locate or communicate with the member and reasonably believes that the address on record for that member is no longer valid.
- 1.3. This Guidance does not address situations where a member is not missing, but is not responding to correspondence.

¹ As used in this document, “member” refers to any individual with an entitlement under a pension plan, including members, former member and retired members as defined in the *Pension Benefits Act*, and any other individual with a vested interest, such as an eligible surviving spouse of a deceased member who has elected a survivor pension. The term member does not include individuals with a contingent interest (i.e., persons whose right to a benefit has not crystallized), such as a designated beneficiary of a still living former member.

- 1.4.** Pension plans must be administered and their assets invested, with the care, diligence and skill required of a fiduciary in accordance with the standard of care prescribed by the PBA,² the common law and equity. Administrators are fiduciaries, and, as such, should take appropriate steps to facilitate members staying connected with their pension plan after terminating employment. This Guidance aims to help administrators fulfil their fiduciary duties.
- 1.5.** In support of paying out benefits in a timely and accurate manner, the administrator's obligations include:
 - managing records consistently with good governance processes;
 - communicating regularly with members, before and after employment terminates; and
 - following an appropriate process when the administrator becomes aware that member contact information may no longer be current.

2. Rationale and Principles

- 2.1.** A plan's inability to continually ensure members remain connected to their pensions may arise from one or more factors, including:
 1. An historical lack of communication to deferred vested members;
 2. plan type / design features / governance model; and
 3. members' lack of understanding of the importance of keeping plan administrators informed of changes to contact information following termination of employment.
- 2.2.** For many plans, when considering causes and solutions, missing members can generally be categorized into two distinct groups:
 1. Those who became missing prior to 2017 (when the PBA first required biennial communications to former and retired members); and
 2. Those who became missing after 2017.

² Section 22 *Pension Benefits Act*.

It is expected that the second group will be significantly fewer both in numbers, and as a percentage of membership, due to various factors that have developed over past decades:

- the biennial statement requirement;
- an increase in transactions that necessitate contact with members e.g., annuity purchases, asset transfers and wind ups;
- an increase in small benefit unlocking;³
- a general increase in plan size leading to increased administrator resources and administrative sophistication;
- increased awareness by plan administrators of their fiduciary obligations; and
- the development of electronic searches and communications technology.

2.3. FSRA promotes the good administration of pension plans and the protection and safeguarding of Members' benefits.⁴ FSRA is a principles-based and outcomes-focused financial services regulator. Our [Pension Sector Guiding Principles](#) for oversight of the pension sector are contained in an Approach guidance.

2.4. FSRA recognizes there is a practical limit to any search process and that plan administrators, in accordance with the standard of care, have to balance the obligation to provide members' entitlements, with the costs of locating missing members. They must manage the plan in a way that considers the interests of all members.

2.5. Administrators, with advice from experts where appropriate, must make decisions in accordance with their fiduciary responsibility. Section 3 of this Information guidance sets out what FSRA sees as ways to promote good administration practices, recognizing that what is best in one situation will not be best for all and will change over time.

³ Section 50 *Pension Benefits Act*.

⁴ Section 3(3) *Financial Services Regulatory Authority Act*,

- 2.6.** We expect plan administrators to consider best practices relevant to the governance of their plan, for example the Canadian Association of Pension Supervisory Authorities (“CAPSA”) Guideline No. 4 on Pension Plan Governance⁵ and CAPSA Guideline 9 on searching for missing members.⁶ Even though an administrator may rely on sending communications to a member’s address of record,⁷ the administrator should not send a document with sensitive personal information to that address if it has reason to believe the address is no longer current.⁸
- 2.7.** With respect to how to address the issue of missing members, administrators may wish to consider, among other things, their fiduciary responsibilities, their oversight of third party service providers, and the inclusion of components in their governance documents that address keeping members connected to their pensions and missing members search processes.
- 2.8.** In the development of this Information guidance, FSRA considered practices of Canadian and international regulators with similar responsibilities for pension plans. Once issued, this guidance replaces FSCO Policy A300-900 -*Searching for Plan Beneficiaries* as well as FAQs #12 and #20 associated with that policy, noted under Biennial Statements Required for Former and Retired Members.

3. Responsibilities & Administrative Practices

- 3.1.** This section provides information about:
- Pension Plan Member Responsibilities
 - Administrative practices
 - Communication Practices
 - Things to Consider when Searching for Missing Members

⁵ See CAPSA Guideline 4 Pension Plan Governance at <https://www.capsa-acor.org/Documents/View/52>.

⁶ See CAPSA Guideline 9 Searching for Un-locatable Members of a Pension Plan at <https://www.capsa-acor.org/Documents/View/1681>.

⁷ Subsection 112(1) *Pension Benefits Act*.

⁸ FSRA has a separate Approach Guidance document describing the process for obtaining a waiver of the requirement to provide biennial statements to missing members <https://www.fsrao.ca/industry/pension-sector/guidance/waiver-biennial-statements-missing-former-and-retired-members>.

- Additional Considerations for MEPPs
- The Role of Third-party Providers
- Dealing with Missing Members on Plan Wind up

3.2. Pension Plan Member Responsibilities

3.2.1. Pension plan members have responsibilities, including a primary role to ensure that administrators have accurate and relevant personal information (including contact information). Members should notify their pension plan administrator whenever their mailing address, email address, name, or marital status changes. However, administrators must fulfil their fiduciary obligations with respect to communicating with members, maintaining records, managing the pension fund and paying benefits.

3.3. Administrative Practices

3.3.1. The standard of care required of plan administrators includes maintaining accurate and current member records.

3.3.2. Administrators need accurate contact information for members, especially on and after termination. Administrators are best positioned to determine effective strategies for their plan membership. Strategies to consider include:

- employing a records management system and retention schedules that support long-term administration of the pension plan;⁹
- exercising care and diligence in preserving accurate member data as the plan evolves due to redesign, restructuring and transfers;

⁹ See FSCO Policy A300-200 Management and Retention of Pension Plan Records by the Administrator <https://www.fSCO.gov.on.ca/en/pensions/policies/active/Documents/A300-200.pdf>. FSRA is continuing to rely on inherited guidance from FSCO until FSRA can review it under its guidance framework. This FSCO policy may be revised or withdrawn because of that review.

- considering whether there are plan specific design or administration factors leading to members becoming disconnected from their pensions, and if so, what steps might address them; and
- keeping a list of historical participating employer names.

3.4. Communications Practices

3.4.1. In addition to the administrative practices outlined in section 3.3 above, administrators should consider appropriate communications or engagement strategies. Depending on the plan, strategies could include but are not limited to:

- using a range of communications methods and delivery styles, including electronic communications;
- promoting member activity / connectivity (e.g., maintaining and promoting a member area on a company or pension plan website or online employee portals, etc.);
- regularly reminding members to provide the plan administrator with any changes to their contact information and informing them that governments will not automatically provide such updated personal information to the plan administrator;
- putting additional emphasis on termination activities, such as:
 - placing special focus on termination of employment processes, including human resources exit interviews (where applicable)
 - where a plan allows small benefit unlocking, making this clear in the option statement and explaining it in any exit interview
 - developing standard processes to follow up with terminated members who have not completed an election form within the prescribed time
- communicating with members as they approach retirement eligibility;
- determining appropriate contact intervals;
- engaging employers, sponsors, custodians and unions as applicable in communications; and
- monitoring trends and emerging risks that may impact the plan's ability to stay connected with its members, and considering ways to address those trends/risks.

- 3.4.2.** Administrators may want to consider whether it would be useful to obtain Member consent on enrollment, **or upon departure from active plan membership**, to permit the administrator to publish specified information and authorizing government offices to release information to the plan administrator, in order to help locate the member, should he or she be “missing” in the future.

3.5. Things to Consider when Searching for Missing Members

- 3.5.1. Look for them right away:** experience shows that carrying out searches as soon as reasonably possible after becoming aware that a member’s contact information is not current, is more likely to be successful.

- 3.5.2. When to search:** Administrators are best positioned to determine when to start, discontinue or re-start searching for members, taking into account relevant considerations such as:

- The likelihood of success, determined by factors that include:
 - Prior number and type of searches¹⁰ undertaken;
 - The length of time a member has been missing; and / or
 - Age of the member (i.e. whether in the deferral period or at an age when eligible to commence a pension and later, when at an advanced age compared to standard mortality tables).
- Whether the member is eligible to commence a pension.
- The estimated total cost of searches already incurred and the anticipated benefit and cost of further searches, while taking into account the marginal cost of adding a member to a group search.
- The value of the pension or the amount of the monthly payment.

- 3.5.3. Use expertise:** obtain professional advice if the necessary expertise is not available in-house.

¹⁰ Appendix 1 of this Guidance contains examples of search tools. Administrators should use the tool(s) most appropriate to their plan / situation, based on the factors in section 3.5.

- 3.5.4. A balanced approach:** The administrator should consider the impact of search efforts on the plan and membership as a whole, balanced with consideration of the interests of an individual missing member or small groups of missing members.
- 3.5.5. Reflect experience:** the approach to locating missing members should be adjusted over time based on the experience of the administrator and its advisors with respect to the types of search that are most effective in various circumstances.
- 3.5.6. Publicize the search:** As part of a broad-based communication initiative, administrators may consider publicizing their search efforts – on their website or otherwise.
- 3.5.7. Document it:** For consistency, transparency and administrative efficiency and to demonstrate the fulfillment of fiduciary duties, plans that routinely have missing members may find it valuable to document the processes and procedures that guide their plan-specific approach to searching. Appendix 2 contains information to consider as part of such documentation.
- 3.5.8. Take advantage of scale and resources:** Where a sponsor has multiple plans or a service provider provides services to multiple plans, plan administrators and service providers may find aggregating searches for missing members across plans is more efficient.

3.6. Additional Considerations for MEPPs

- 3.6.1.** For multi-employer pension plans (MEPPs), responsibility for initial collection of member data often rests with participating employers or unions (or their respective agents). We expect participating employers and unions (and their agents) to demonstrate the same standard of care, skill and diligence as pension plan administrators in gathering accurate and necessary employee data and providing that data to the administrator.

- 3.6.2.** Employers and unions that participate in MEPPs have an obligation to obtain and provide accurate and complete member information and to update the MEPP administrator when that information changes.
- 3.6.3.** MEPP administrators should consider how and whether they can administer pension benefits for members enrolled without basic information such as, full name, date of birth and SIN number (or other applicable identifier).
- 3.6.4.** MEPP administrators, working with employers and unions, as applicable, should develop strong governance and information-sharing processes in order to maintain current member information.
- 3.6.5.** MEPP administrators should communicate to members the importance of notifying their plan administrator of changes in address and other contact information.

3.7. The Role of Third-Party Providers and the Administrator's Duty

- 3.7.1.** Some plan administrators rely on advisors or consultants to carry out many, if not all, aspects of plan administration. Responsibilities and obligations of each party should be clear, understood, subject to oversight, and enforceable. Plan administrators are expected to review and monitor the performance of service providers, ensuring performance is consistent with the administrator's standard of care under the PBA. Plan administrators remain ultimately responsible for their obligations under the PBA, regardless of any delegation that may occur.

3.8. Dealing with Missing Members on Plan Wind Up

- 3.8.1.** An administrator's duties on wind up of a plan are not discharged until all entitlements are settled. As a result, plan administrators may defer the wind up of a plan or delay settlement while expending considerable resources searching for missing members.
- 3.8.2.** FSRA may accept certain approaches to facilitate the wind up of plans with missing members who have locked-in pension benefits. Such approaches must be consistent with plan terms and could include:

- **Bulk annuity purchases** – annuities can be purchased for missing members.¹¹ This may be more feasible / cost effective where such annuity purchases are combined with purchases for members for whom the administrator does have a current address and who have elected a monthly pension benefit.
- **Transferring** – it may be possible to transfer missing members in a winding up plan to another ongoing pension plan.¹²

3.8.3. Administrators may contact FSRA to discuss additional approaches for addressing missing members on a plan wind up. FSRA may consider such approaches, especially where the missing members' benefits are either small benefits, surplus entitlements or other cash entitlements, and where the pension plan supports or could be amended to support the proposed treatment. The potential availability of alternative approaches should not be regarded as a reason not to carry out appropriate searches for missing members. Administrators should also consider the *Income Tax Act* implications of any proposed approach.

3.8.4. Plan administrators should include the following information when proposing options to address missing members in a wind up situation:

- a description of the proposed approach and the relative benefit security of that approach;
- the average amount of pension benefit and /or value of benefit per missing member and the range of such amounts, as well as the approximate total of all such amounts;
- details about the steps that have been undertaken to date to find the missing members and when those steps were last taken; and
- the conclusions of any cost-benefit analysis undertaken.

¹¹ Sections 39 and 39.1 *Pension Benefits Act*.

¹² Sections 79.1 to 81 inclusive, *Pension Benefits Act*.

4. Background

- 4.1. In the development of this Information guidance, FSRA considered practices of Canadian and international regulators with similar responsibilities for pension plans. Once issued, this guidance replaces FSCO Policy A300-900 -*Searching for Plan Beneficiaries* as well as FAQs #12 and #20 associated with that policy, noted under Biennial Statements Required for Former and Retired Members.

5. Effective Date and Future Review

This Information guidance is effective [TBD]. FSRA will review this guidance within 5 years of its effective date.

FSRA intends to monitor numbers of missing members and the value of their pensions over time. This data, along with complaints or questions from members and administrators, will inform FSRA's review.

6. About this Guidance

This document is consistent with [FSRA's Guidance Approach](#). As Information guidance, it describes FSRA's views on certain topics without creating new compliance obligations for regulated persons.

7. Appendices and Reference

Appendices

- Appendix 1 – Example Search Tools.
- Appendix 2 – Example of Considerations for an Administrator Process
- Appendix 3 – Examples of Approaches an Administrator might take in Missing Member Searches

References

- CAPSA Guideline 4 Pension Plan Governance <https://www.capsa-acor.org/Documents/View/52>
- CAPSA Guideline 9 Searching for Missing Members of a Pension Plan <https://www.capsa-acor.org/Documents/View/1681>
- FSCO Policy A300-200 Management and Retention of Pension Plan Records by the Administrator <https://www.fSCO.gov.on.ca/en/pensions/policies/active/Documents/A300-200.pdf>
- FSRA Approach on Waiver of Biennial Statements for Missing Former and Retired <https://www.fsrAO.ca/industry/pension-sector/guidance/waiver-biennial-statements-missing-former-and-retired-members>

Appendix 1. Example Search Tools

Administrators have the flexibility to choose search tools and processes appropriate for their circumstances and taking into account privacy concerns.

Administrators may wish to review their tools and processes from time to time and may find that one type of search or search provider produces better outcomes over time due to changes in technology, new providers or additional privacy considerations.

Having considered the factors outlined in this guidance, administrators may wish to use the following types of individual-directed searches alone or in combination:

- search, or request a search of, HR records held by the member's employer or administrator's service portals
- an email notification to one or more last-known email addresses
- telephone calls to one or more last-known numbers
- a registered letter (not containing sensitive personal information) to one or more last-known address, except to any address the administrator knows with certainty is not current
- online telephone directories
- the administrator's files for family or emergency contacts
- the last known employer (relevant for MEPPs)
- internet searches
- LinkedIn, retiree or former member social media groups and other social media sites
- union, professional or similar association, if applicable
- local newspaper obituaries and / or local funeral home announcements
- search services of a government agency (e.g. Ontario Death Registry)
- credit agencies, professional search firms and similar service providers

Administrators may also find it useful to supplement individual-directed searches with broad-based communications such as:

- administrator's / employer's / union's / plan's website and/or intranet
- administrator's / employer's / union's / plan's newsletters
- administrator's / employer's / union's / plan's social media channels
- advertisements in local media

Appendix 2. Example Considerations for an Internal Administrator Process

Administrators with missing members may consider the content below useful in developing their own internal practices, procedures or guides on maintaining records and locating members.

This content could form part of the pension plan's governance documents or exist on a stand-alone basis and include one or more of the following:

- Process taken on termination to better ensure members make an election.
- Normal course address maintenance (e.g. ongoing confirmations/updates from members / employers).
- Methods to identify incorrect address information (e.g. returned mail, follow up if benefit cheque not cashed, returned or inactive email address where electronic communication is relied upon).
- Criteria to determine when a member should be considered “missing”.
- What types of searches are / may be used by the administrator, costs, and when they would be performed and repeated.
- Special steps to be taken for older cases – i.e., deferred members who terminated long ago, where contact information is very limited.
- What criteria are/may be used to determine when no further search efforts will be made.
- Special steps to be taken where a missing member may be outside of Canada, if this tends to be an issue for the particular plan.
- Determination as to whether the waiver process under the PBA will be utilized in respect of the particular plan.
- Any distinctions in approach for DB and DC components of a plan.
- Varying provincial / jurisdictional distinctions and requirements, i.e., any unique steps recommended or required based on a member's province of employment / residence. This would include when funds can / should be remitted to an external / government entity, and any steps required for coordination with the trustee.
- Frequency with which the process is reviewed.

Appendix 3. Missing Members - Example Search Approaches

The examples shown below are purely illustrative in nature. They set out assumed facts and the administrator's approach described will not be appropriate in all cases.

Note:

- In the examples below the missing member's entitlement is not extinguished and the member, estate or beneficiary may ultimately come forward to claim it.
- Although the examples below refer to a DB or DC entitlement, similar approaches are applicable for both types of benefit.

Example 1

Current Age of missing member:	40
Commuted value (CV) of DB benefit:	\$8,000
Number of years since termination:	5 (terminated at age 35)
Searches conducted to date:	Social Media, Internet Search, Union search, credit agency
Administrator's proposed actions:	Will cease further searches until member is found or member is six months from the plan's earliest retirement age (55)

Example 2

Current Age of missing member:	65 (Normal Retirement Age)
DC account balance:	\$175,000
Number of years since termination:	11 (terminated at age 54)
Searches conducted to date:	Internet, Social media, online phone directory, credit agency, search firm, searched for spouse and named beneficiary
Administrator's proposed actions:	Cease further searches for 2 years and try again in 2-year intervals until age 71. After that, will search in approximately 10-year intervals until member reaches age 100

Example 3

Current Age of missing member:	100
CV DB benefit:	\$75,000 (reflecting DB pension unpaid since age 65)
Number of years since termination:	58 (terminated at age 42)

Searches conducted to date:	Internet, Social media, online phone directory, credit agency, search firm, searched for spouse and named beneficiary
Administrator's proposed actions:	Cease further searches on basis that member has passed away.

Example 4

Current Age of missing member:	32
CV DB benefit:	\$500
Number of years since termination:	3 (terminated at age 29)
Searches conducted to date:	Internet, Social media, online phone directory, credit agency
Administrator's proposed actions:	The plan has a small benefit mandatory cash out provision and specifically permits that small benefit lump sum entitlements may be reduced by the cost of reasonable search efforts. As a result, the administrator will cease further searches given that the search costs exceed the CV.