

Information



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Missing Members - Principles and Practices

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unable to locate or communicate with the member and reasonably believes that the address on record for that member is no longer valid.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.

1.4 Pension plans must be administered and their assets invested, with the care, diligence and skill required of a person of ordinary prudence dealing with the property of another person in accordance with the standard of care prescribed by the PBA,² and by case law. In addition, administrators are fiduciaries, and, as such, should take appropriate steps to facilitate members staying connected with their pension plan, especially after terminating

employment or membership. 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 and record keeping 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.

1.6. FSRA recognizes that pension plan members also bear responsibility for ensuring their pension plan administrator has their contact information and that this information is kept up to date.

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.

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 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.

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 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 and contractual obligations with third party service providers or delegates, 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
- 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, beneficiary or marital status changes.

Administrators should communicate the importance of keeping their address current to members of their plan.

3.3. Administrative Practices

3.3.1. The standard of care required of plan administrators includes an obligation to maintain 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; Consideration should be given to managing records as personnel change⁹;
- exercising care and diligence in preserving accurate member data as the plan evolves due to redesign, restructuring and transfers – this includes corporate restructuring including the sale of a business;
- 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;¹⁰
- 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 do not 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 with the plan member
 - 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 get advice as to whether it would be useful and valid 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 searches 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.
- The size of the pension plan and resources available.

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

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 should document the processes and procedures that guide their plan-specific approach to searching.

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). Subject to applicable privacy and other legislative requirements, we expect participating employers and unions (and their agents) to demonstrate reasonable efforts in exercising 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 should obtain and provide accurate and complete member information and should 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.

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

3.7.1. Some plan administrators rely on service providers, 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.

3.9 Considerations for Multi-Jurisdictional Pension Plans

3.9.1. While this Guidance only applies in relation to missing members with benefit entitlements that are subject to the Ontario PBA, the principles and practices described in this Guidance are generally consistent with the requirements of the law applicable in other Canadian jurisdictions. Administrators of multi-jurisdictional pension plans registered with FSRA should note that under section 6(1)(a) and paragraph 4 of section 1 of Schedule B of the 2020 Agreement Respecting Multi-jurisdictional Pension Plans (2020 Agreement), the administrator's fiduciary duties under section 22 of the Ontario PBA apply to the administrator with respect to its administration of the plan in every applicable jurisdiction that is subject to the agreement.

3.9.2. Administrators of multi-jurisdictional plans should also be aware of the specific requirements that each jurisdiction may have in relation to missing members from those jurisdictions (such as the ability to send plan assets related to missing members from a particular jurisdiction to an unclaimed property office established in that jurisdiction). The 2020 Agreement does not affect the application of any jurisdiction's specific requirements related to missing members from those jurisdictions.

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 December 10, 2020. FSRA will review this guidance within five 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 Framework](#). As Information guidance, it describes FSRA's views on certain topics without creating new compliance obligations for regulated persons.

7. Appendices and Reference

References

- [CAPSA Guideline 4 Pension Plan Governance](#)
- [CAPSA Guideline 9 Searching for Missing Members of a Pension Plan](#)
- [FSCO Policy A300-200 Management and Retention of Pension Plan Records by the Administrator](#)
- [FSRA Approach on Waiver of Biennial Statements for Missing Former and Retired](#)

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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.

² Section 22 *Pension Benefits Act*.

³ Section 50 *Pension Benefits Act*.

⁴ Section 3(3) Financial Services Regulatory Authority Act.

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.

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.

¹⁰ See section 30.1 of the PBA for requirements associated with electronic communications.

¹¹ Sections 39 and 39.1 *Pension Benefits Act*.

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