

## DOL Issues Missing Participant Guidance

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January 19, 2021

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The DOL issued three pieces of guidance relating to missing participants in tax-qualified retirement plans. In response to the new guidance, described in more detail below, employers should again review their plan documents and any plan policies and procedures, to ensure they align with the DOL's requirements and best practices for avoiding and handling missing participants. In Field Assistance Bulletin No. 2021-01, the DOL issued a temporary enforcement policy on the use of the Pension Benefit Guaranty Corporation (**PBGC**) Defined Contribution Missing Participants Program for terminating defined contribution plans. Under the temporary enforcement policy, the DOL will not pursue violations under ERISA's fiduciary rules if the plan fiduciary of a terminating defined contribution plan transfers the benefits of missing participants to the PBGC under the program and otherwise follows the requirements of the DOL fiduciary safe harbor regulation at 29 CFR 2550.404a-3. In Compliance Assistance Release No. 2021-01, the DOL issued guidance to its regional offices on investigating defined benefit pension plans in conjunction with Terminated Vested Participants Project (**TVPP**) audits. Although the guidance was issued to the DOL's regional offices, it provides a good roadmap for employers to know what the DOL will be looking for in a TVPP audit, what information it will be requesting, and what steps an employer can take to avoid a negative outcome. Finally, the DOL issued practical guidance for employers in the form of a memorandum outlining best practices for pension plans to avoid and resolve missing participant issues. Field Assistance Bulletin No. 2021-01 is available [here](#). Compliance Assistance Release No. 2021-01 is available [here](#). Missing Participants Best Practices for Pension Plans is available [here](#).