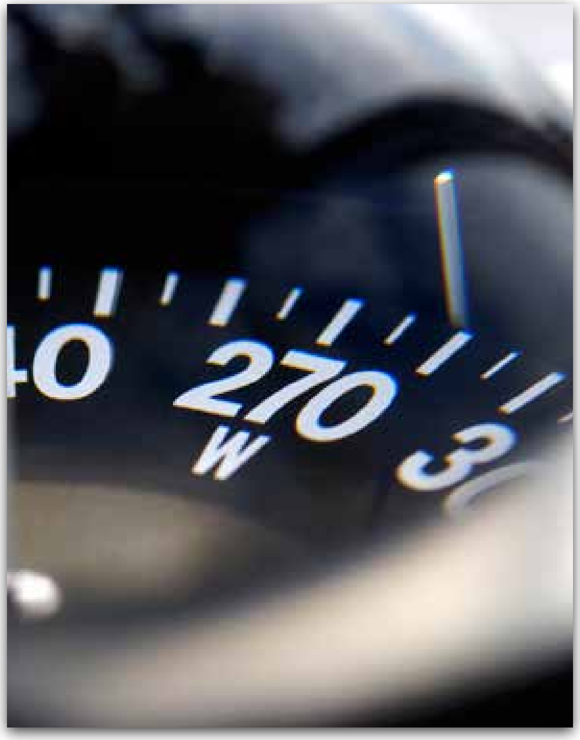
ADMINISTRATION

NAVIGATING THE RISKS OF PLAN CHANGES

BY MARK SWEATMAN



Advisors should have their clients put procedures in place for dealing with missing participants, uncashed checks, and plan terminations.

As plan advisors and consultants, you want to focus your time and attention on the important role of managing your client's retirement plans and maximizing participant benefits. Yet more and more, you may find you're dealing with missing participants, uncashed checks, and plan terminations. Left unchecked and unmanaged, each of these issues can create risks and a host of problems that can distract you from your primary role and lead to regulatory headaches and increased operating costs for your clients.

In today's business climate, the lifetime employee is a thing of the past. The role of plan advisors and consultants may be complicated by mergers, acquisitions, and divestitures. This changing business model has allowed for the emergence of outside experts who can help you establish procedures to manage these issues, minimize your risks, and focus your attention on maximizing benefits for your plan participants.

TERMINATED PARTICIPANTS

U.S. Department of Labor (DOL) statistics indicate that the number of participants who have left assets behind is growing at an alarming rate. The number grew from about 2.5 million accounts in 1989 to 15 million in 2011, and the number is growing by about 1 million accounts each year.

Experts expect this trend to continue, indicating that plan advisors and their clients will face growing regulatory and financial impacts in the future.

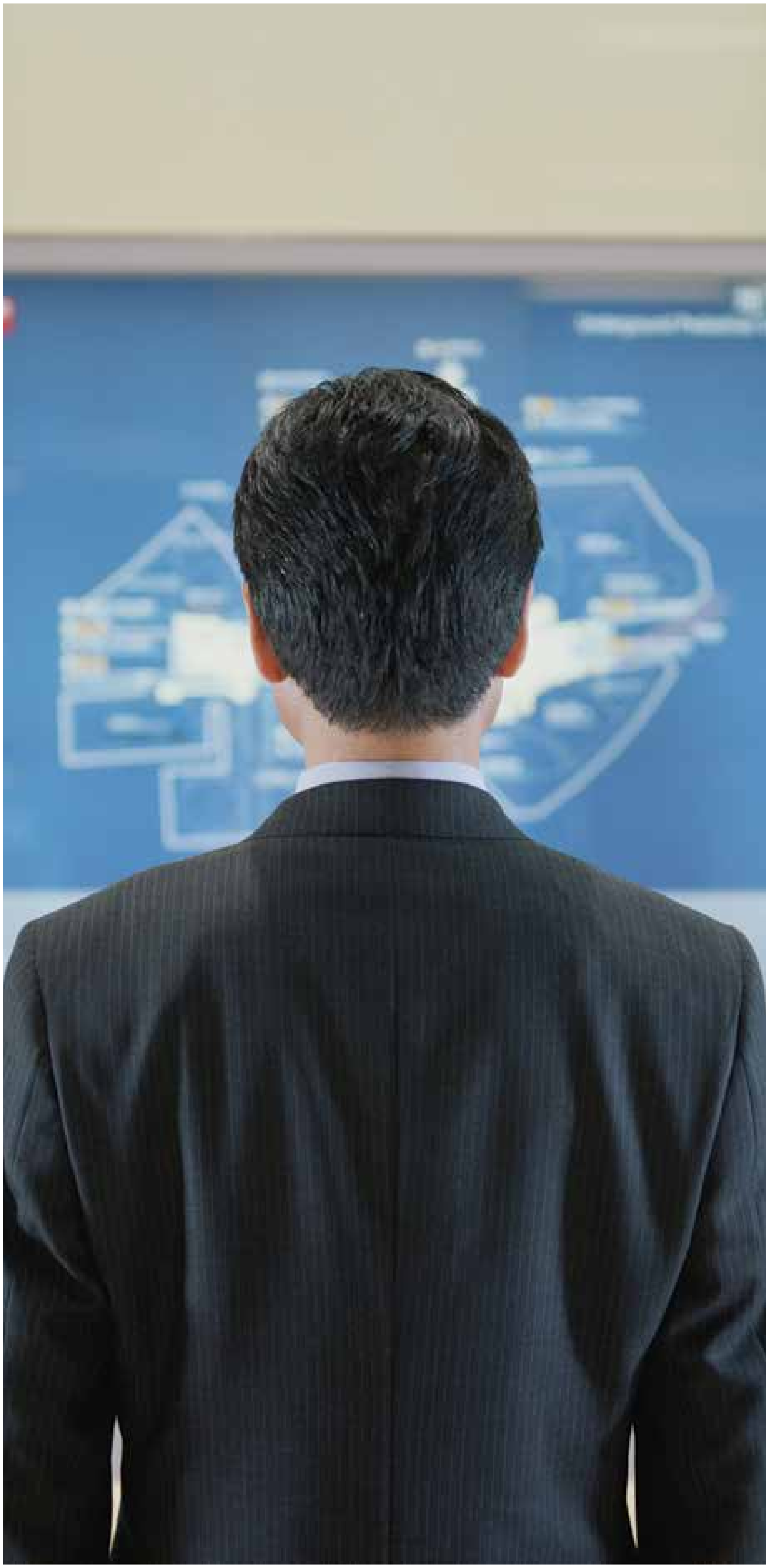
MISSING PARTICIPANTS

Typically, when a participant leaves a company and is no longer eligible to participate in the company's retirement plan, the plan sponsor takes one of three steps. If the participant's assets are under $1,000, the company will disperse funds to the former participant. When the assets total between $1,000 and $5,000, you have the option to roll over the funds if the plan is written as such. When the accrued assets are more than $5,000, the assets are left in the plan.

Often your records can become outdated or inaccurate when former employees remain in the plan and you lose contact with these "terminated participants" due to life changes such as relocation, marriage, or death.

According to DOL and ERISA guidelines, fiduciary responsibilities require that you maintain accurate records and have regular communications with all participants. When you have inaccurate contact information you not only hinder your ability to communicate, you incur unnecessary expenses if required mailings are returned. You also run a myriad of risks, including identity theft and asset distribution to the wrong individuals when mailings reach an unintended recipient.

You may assume that your client's plan providers are managing missing participants. Yet, if your client doesn't know his provider's procedure for locating missing participants, he may be at risk for failing to meet his fiduciary responsibilities. Regulators will expect plan sponsors to know what procedures are in place and to provide documentation. Plan sponsors should also consider whether the provider's procedure is in line with their company's



philosophies and best practices, and will meet the requirements of internal audits and ERISA counsel.

The provider may be issuing regular reports with updated information on missing participants. If so, it's essential that the plan sponsors monitor these reports and know the status of missing participant accounts. Over time, the number of missing participant accounts can grow to an unmanageable number. At RCP, we recently worked with one of the nation's largest financial services organizations. With records for more than 15,000 retirement plan participants, the plan sponsor was overwhelmed with trying to locate almost 6,000 missing participants.

If a missing participant's account is still a part of the plan, plan sponsors have the added complication of communicating plan changes or other required mailings. For example, if they're changing investment options, fee disclosures, or summary annual reports, sponsors must inform plan participants and must provide documentation to prove that they took appropriate steps to contact them. In the case of missing participants, plan sponsors have the additional burden of showing that they conducted a reasonable search and effort to communicate.

A transition from one provider to another is a major change and offers an excellent opportunity for you to consult an outside expert to help your clients establish a process to clean up bad information before the move. Plan sponsors don't want to bring this problem over to their new provider. The process is often complex, and their staffs may not have the technical expertise to launch an effective clean up, establish appropriate procedures to communicate with missing participants, and ultimately elicit a response so that they can resolve the accounts before the transition.

An outside expert can manage the process, help establish procedures that fit best practices, and provide documentation and a clear audit trail.

UNCASHED CHECKS – A HIDDEN RISK

Missing participants can be a cause of uncashed checks, yet this issue creates very different risks for plan sponsors and advisors. Uncashed checks can result when a participant leaves a job and fails to complete appropriate paperwork, forgets to update contact information, or when the participant is deceased and the entitled parties aren't aware of the account.

The problem of uncashed checks can occur when the company disperses a check to a former participant. If the company has an incorrect address, or the participant fails to cash the check, the assets are typically deposited into a holding account.

Your client's recordkeeper or provider may monitor the plan and submit regular reports. If plan sponsors fail to regularly review these reports, the holding accounts can rapidly become unmanageable. An ongoing dialog with the provider or recordkeeper is an essential first step in any efforts to mitigate this risk.

The costs associated with addressing uncashed checks can be a financial drain over time. If the holding account is large and has checks dating back several years, the process of tracking down employees, verifying contact information, and getting them to act is more complicated and time consuming.

At RCP, we worked with a mid-sized recordkeeper that reported 16,000 uncashed checks per year because they were returned as undeliverable. In addition, more than 7,000 checks each year were delivered but remained uncashed. The administrative costs for labor, client service, phone calls, and processing were almost $250,000 annually.

Currently, there are no laws or regulations concerning uncashed checks, yet that could change as the size and scope of the problem continues to grow and raises red flags with regulatory agencies. If your clients haven't adopted a formal procedure to mitigate uncashed checks and have no documentation showing their efforts, they place themselves at risk for future regulatory scrutiny.

You can help minimize your clients' risks by having them adopt a formal procedure, following a fair, consistent process with all participants, and documenting the process.

Ultimately, your clients bear responsibility for any missteps that may occur. An outside risk management company can provide an unbiased review of their plan and recommend an effective procedure that's in line with best practices. With no vested interest in the resolution, they'll focus on mitigating risks in a manner that protects the best interests of the company and participants.

PLAN TERMINATIONS

Plan termination can be a complicated, rigorous, costly, and drawn-out process. You and your clients may not have the specific expertise necessary to navigate the required DOL process and provide the necessary audit trail to prove it's been followed.

Plan terminations and abandoned plans can occur for a variety of reasons, including bankruptcy or company closure, a merger or acquisition, or when a company wants to do away with the benefit.

As plan consultants and advisors, you may face the monumental challenge of helping your clients locate missing and non-responsive participants, and identify heirs of deceased participants. Plans can't be terminated until this process has been completed.

A third-party administrator (TPA) consulted RCP after working for more than six years to find missing participants to terminate a defined contribution plan. The TPA had been administering the retirement plan for more than 30 years and was unable to locate more than 200 participants. The process was complicated by the fact that many of the records were handwritten ledgers—a daunting task without electronic records.

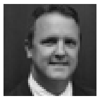
In addition to conducting a search for missing and non-responsive participants, plan sponsors must also document their efforts to locate and communicate with them, and follow DOL and ERISA guidelines for final distribution options for those participants who have failed to act. By consulting with an outside expert, you can help your clients streamline the process and avoid the pitfalls.

CONCLUSION

You can add value for your clients by helping them minimize the risks associated with missing participants, uncashed checks, and plan termination by taking proactive steps to identify the extent of the problem and adopting effective procedures. Most important, you should:

- Understand their responsibilities.
- Ensure that any services offered by their plan provider are in line with your clients' philosophies and best practices.
- Consult a third-party expert who can offer an objective assessment, provide an effective plan, and guide them through complex regulatory guidelines.

When you help your clients establish procedures to manage these issues, you can minimize the distractions and focus on the best interests of your clients and their plan participants. PC



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