

# Get ready for the DOL because the DOL is ready for you!

November 2018

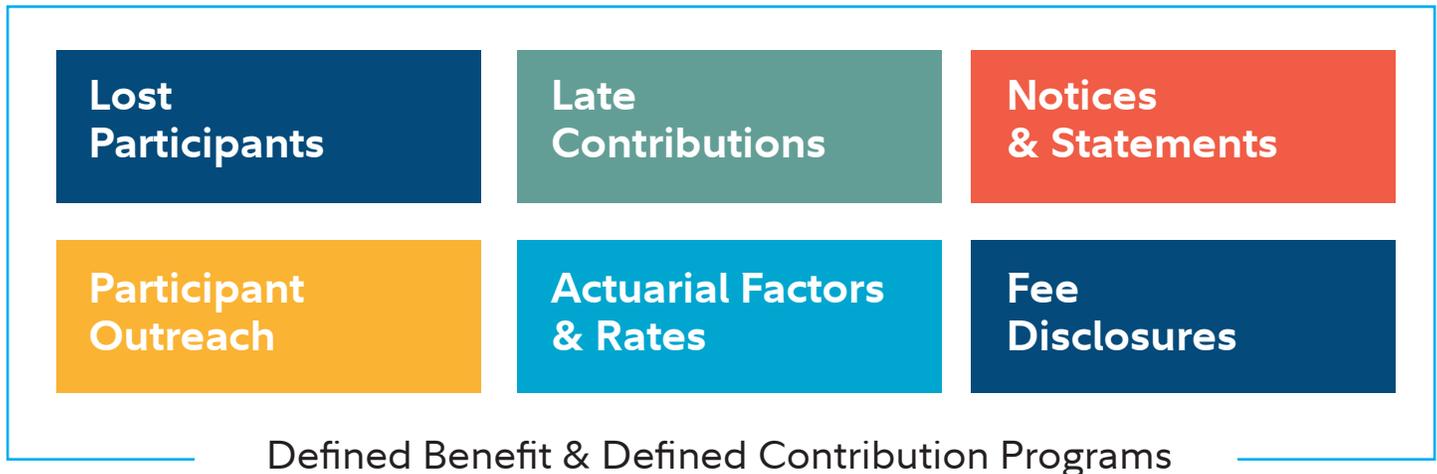
Going through a DOL audit is not something we eagerly await, but you need to be prepared for it nonetheless. Just knowing that they are one employee complaint or one random selection away from being audited can keep Plan Sponsors up at night.

Below are some recent themes Defined Benefit and Defined Contribution Plan Sponsors should focus on to ensure they are "audit-ready", particularly as the frequency and scope of these audits continue to increase.

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## Have these been reviewed lately?



Let's take a look at each one.

### Lost Participants



A very hot topic. A "Lost Participant" is simply someone who has lost contact with their retirement plan, and Plan Sponsors have a fiduciary responsibility to take reasonable efforts to locate them.

Some indicators of a lost participant are someone who

- has returned/undeliverable mail,
- did not commence mandatory payments timely or
- has uncashed checks

The DOL has been taking steps to ensure Plan Sponsors are pursuing all reasonable actions to fulfill their fiduciary responsibility to contact these participants

### Late Contributions



The DOL is continuing their long-standing focus on the timing of Participant contributions and loan repayments. If Participant contributions and/or loan repayments are not placed into the Trust "as soon as they can be reasonably segregated from the Employers' assets," the DOL views this as an improper "use" of money by the Employer and potentially as a prohibited transaction.

Plan Sponsors should have a process in place to ensure that contributions are remitted timely to the Plan, otherwise, they could risk penalties, corrective earnings and possible IRS excise taxes. Late contributions also require disclosure on the Form 5500 and in the Plan's financial statement audit report.

## Notices & Statements



Plan Sponsors should review and ensure that their retirement plans are compliant with notice and statement requirements.

- Defined Benefit plans are required to provide individualized benefit statements to active plan participants every three years, unless they notify employees once a year that the statements are available. This annual alert is called the "Notice of Statement Availability" (or NOSA).
- Defined Contribution plans are required to provide a quarterly statement if investments are directed by a participant, otherwise it needs to be sent annually.

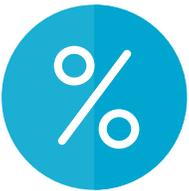
## Participant Outreach



For participants who are approaching their Normal Retirement or Minimum Required Distribution dates - are notices sent timely? Is there a viable process in place to ensure these participants are being connected to their pension benefit?

Note that under 401(a)(14), participants are required to "affirmatively elect" if they want to postpone their distribution at retirement age, so it's important to not only ensure compliance, but also to identify the lost participants.

## Actuarial Factors & Rates



GAM83 and GAR94 and UP84....oh my!

Probably not a bad idea to ensure that the factors being used to calculate benefits are consistent with the tables in the Plan Document or any amendments. Also, Plan Sponsors should make sure they are using the right interest rates, particularly when it comes to payments after Normal Retirement Date.

## Fee Disclosures



The ERISA regulations under 408(b)(2) require that service providers provide fiduciaries with both a description of the services and the compensation they expect to receive for those services. They require this to ensure there is a certain level of "reasonableness" of the service/work arrangement. Although the majority of audits are on Defined Contribution plans, we have seen them come up for Defined Benefit Plans as well.

It's a good idea for Plan Sponsors and Plan Fiduciaries to be familiar with these regulations, know who is covered under this arrangement, and have an internal policy on how you determine "reasonableness."

## How Fidelity can help

Beyond these specific key considerations, Plan Sponsors should ensure that they are compliant and ready, from confirming plan documents/amendments are up to date, to timely ADP/ACP testing, to simply accurate filing of the Form 5500s. We know that Plan Sponsors have many responsibilities, pressing deadlines, and other work demands that compete for their time. Fidelity Benefits Consulting can help ensure DOL readiness — when the auditor knocks!

For more information on this topic, please contact your Fidelity relationship manager or email the Fidelity Benefits Consulting group at [FidelityBenefitsConsulting@fmr.com](mailto:FidelityBenefitsConsulting@fmr.com).