End of 2019 Plan Year

Pension Analyst

Compliance Bulletin

Many defined contribution plan sponsors must annually "notice" their participants

Sponsors of defined contribution plans with certain features are required to provide annual notices to participants. Generally, these annual notices are in addition to any initial notices the plan sponsor may be required to provide on or before an employee's eligibility date for the plan feature (e.g., ADP/ACP Safe Harbor, QACA, EACA and QDIA). Previously, Prudential Retirement published several *Pension Analysts* that describe the *initial* notice requirements applicable to newly eligible participants for Traditional ADP/ACP Safe Harbors, QACAs and EACAs and QDIAs. It may also be necessary to provide an updated Safe Harbor Notice due to a mid-year change.

As the 2019 plan year is nearing its end, it is important to look ahead at the notices that are required to be provided before the start of the 2020 plan year.

The chart on the following pages summarizes the *annual* notice requirements for each of these notices, including timing, recipients, contents, and methods of delivery. Notices may be provided in writing or electronically, in accordance with applicable DOL and/or IRS electronic media rules. However, written notices posted on a bulletin board or left in a central work location do not satisfy the requirement. Some plan designs require multiple notices and some of the notices may be combined or packaged together in one mailing.

For additional participant notice and disclosure requirements that may apply to your plan, please see our 2019 Compliance Checklists. Two versions of the checklist are available, including one for plans that are subject to ERISA and another for plans that are not subject to ERISA.

In this issue

Type of Notice	Requirements	Timing	Recipients	Contents	Delivery Methods
Traditional ADP/ACP Safe Harbor Notice	Required for 401(k) and 403(b) plans that are designed to satisfy the ADP/ACP safe harbor plan design rules, providing either a 3% employer nonelective contribution or a specific schedule of employer matching contributions, which are subject to 100% immediate vesting and specific withdrawal restrictions.	Within a "reasonable period" before the first day of the plan year. Safe harbor is at least 30 and no more than 90 days before the first day of the plan year.	Eligible employees.	Contents for the Traditional ADP/ACP Safe Harbor Notice must be sufficiently accurate and comprehensive and written in a manner calculated to be understood by the average eligible employee. For QACA Notice, required contents include those items required under the Traditional ADP/ACP Safe Harbor design plus additional items. To preserve the ability to reduce/suspend safe harbor contributions mid-year, the notice should include a statement to that effect. (If such a reduction/ suspension occurs mid-year, a supplemental notice must be provided in advance.) The SPD may be cross-referenced for some, but not all, required items. May be combined with: • EACA Notice • ACA Notice • QDIA Notice.	In writing or electronically, in accordance with IRS electronic media rules.
QACA **(Qualified Automatic Contribution Arrangement) Notice**	Required for 401(k) and 403(b) plans that are designed to satisfy the Pension Protection Act of 2006 (PPA) automatic enrollment and escalation safe harbor plan design features, providing either a 3% employer nonelective contribution or a specific schedule of employer matching contributions, which are subject to 100% vesting upon completion of two years of service and specific withdrawal restrictions.				

Type of Notice	Requirements	Timing	Recipients	Contents	Delivery methods
Traditional ADP/ACP Safe Harbor Contingent Notice	Required when a plan sponsor wants to preserve the ability to adopt the 3% employer nonelective contribution safe harbor design before the end of the plan year.	Within a "reasonable period" before the first day of the plan year. Safe harbor is at least 30 and no more than 90 days before the first day of the plan year.	Eligible employees.	Contents for the Traditional ADP/ACP Safe Harbor Notice must be sufficiently accurate and comprehensive and written in a manner calculated to be understood by the average eligible employee. For QACA Notice, required contents include those items required under the Traditional ADP/ACP Safe Harbor design plus additional items. The SPD may be cross-referenced for some, but not all, required items. May be combined with: • EACA Notice • ACA Notice • QDIA Notice.	In writing or electronically, in accordance with IRS electronic media rules.
QACA Contingent Notice	Required when a plan sponsor wants to preserve the ability to adopt the 3% employer nonelective contribution safe harbor design before the end of the plan year.				
Traditional ADP/ACP Safe Harbor Follow-Up Notice	Required when a plan sponsor has provided the Contingent Notice and decides to adopt that safe harbor design for the plan year.	At least 30 days before the last day of the plan year in which the safe harbor is effective.	Eligible employees.	Must state that safe harbor nonelective contributions will be made for the plan year. May be combined with the Standard or Contingent Notice for the next plan year. May also be combined with: • QDIA Notice.	In writing or electronically, in accordance with IRS electronic media rules.
QACA Follow-Up Notice	Required when a plan sponsor has provided the QACA Contingent Notice and decides to adopt the QACA safe harbor design for the plan year.				

Type of Notice	Requirements	Timing	Recipients	Contents	Delivery methods
EACA **(Eligible Automatic Contribution Arrangement) Notice**	Required for 401(k) and 403(b) plans that are designed to permit penalty-free distributions of “accidental” automatic deferrals and/or to provide a six-month period to distribute excess contributions and excess aggregate contributions without imposition of the 10% excise tax.	Within a “reasonable period” before the first day of the plan year. Safe harbor is at least 30 and no more than 90 days before the first day of the plan year.	Eligible employees, unless the plan provides otherwise.	Must be sufficiently accurate and comprehensive and written in a manner calculated to be understood by the average eligible employee. Content requirements cannot be satisfied by cross-referencing SPDs. May be combined with: • QACA Notice • ACA Notice • QDIA Notice.	In writing or electronically, in accordance with IRS electronic media rules.
ACA **(Automatic Contribution Arrangement) Notice**	Required for 401(k) and 403(b) plans that want to guarantee ERISA preemption of state wage withholding laws that prohibit involuntary wage withholding.	Within a “reasonable period” of at least 30 days before the first day of the plan year.	Any participant who did not make an affirmative election at the plan’s current default deferral rate.	Required contents vary, depending on whether automatic contributions are invested in a QDIA, or not. In either situation, the notice must be written in a manner calculated to be understood by the average plan participant. May be combined with: • QACA Notice • EACA Notice • QDIA Notice.	In writing or electronically, in accordance with either DOL electronic media rules or IRS electronic media rules. DOL permits certain notices to be provided under IRS electronic media rules. It may be possible (depending on the nature of an employer’s workforce) to provide notices electronically without advance affirmative consent of affected participants and beneficiaries. Any plan sponsor who is interested in such approach should discuss it with its own legal counsel.

Type of Notice	Requirements	Timing	Recipients	Contents	Delivery methods
QDIA **(Qualified Default Investment Alternative) Notice**	Required for participant-directed defined contribution plans, including 403(b) plans, that intend to comply with the DOL safe harbor rules for default investments.	At least 30 days before the first day of the plan year.	All participants and beneficiaries who may have assets defaulted in a QDIA.	Required contents must be written in a manner calculated to be understood by the average plan participant. Fee and expense information may be provided in a separate document furnished simultaneously with the QDIA Notice. May be combined with: • Traditional ADP/ ACP Safe Harbor Notice • Traditional ADP/ ACP Safe Harbor Contingent Notice • QACA Notice • QACA Contingent Notice • EACA Notice • ACA Notice.	In writing or electronically, in accordance with either DOL electronic media rules or IRS electronic media rules. DOL permits certain notices to be provided under IRS electronic media rules. It may be possible (depending on the nature of an employer's workforce) to provide notices electronically without advance affirmative consent of affected participants and beneficiaries. Any plan sponsor who is interested in such approach should discuss it with its own legal counsel. May be distributed with other materials being furnished to participants and beneficiaries, but as a separate stand-alone notice. May not be included in an SPD or an SMM.