

Voya Alert!

January 2022

Annual Plan Deadlines for the Plan Year Ending December 31, 2022

There are many important requirements for Internal Revenue Code Section 401(a) and 401(k) defined contribution plans that occur either during the calendar year or during the plan year. Examples include, but are not limited to, providing participant statements, performing compliance testing, remittance of plan contributions, submission of required filings, and distribution of regulatory notices.

- The attached chart provides an explanation of key plan events and deadlines for Section 401(a) and 401(k) defined contribution plans with a plan year ending December 31, 2022. Off-calendar year plans should adjust the deadlines accordingly based on the time frames described in the chart.
- The chart is intended to serve as a tool that can be used by employers to monitor these compliance events and deadlines.
- **The information provided is not intended to be an exhaustive list of all events or deadlines and is for informational purposes only.**

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Deadlines for the Plan Year Ending 12/31/22 Defined Contribution Plans

Deadline/Event	Description of Event
Ongoing	
Remit employee contributions and loan repayments in accordance with the ERISA ¹ “earliest date standard.”	The ERISA earliest date standard: As soon as administratively possible for the employer to segregate from corporate assets but in no event later than 15 business days following the month in which the contribution or loan repayment was deducted. There is a Department of Labor (DOL) safe harbor of 7 business days for plans with less than 100 participants at the beginning of the plan year.
Monitor the annual compensation limit for the 2022 plan year. The 2022 compensation limit is \$305,000.	Employee contributions based on amounts in excess of the limit may need to be returned. Employer contributions must be forfeited before testing for the plan year is done.
Monitor annual additions for each participant for the limitation year under Internal Revenue Code Section 415. For 2022 the annual additions limit is the lesser of 100% of compensation or \$61,000.	If the limit is exceeded excess deferrals or after tax contributions are returned and excess employer contributions are forfeited or held in a suspense account, as directed by the plan document.
Annually	
Distribute participant fee disclosure for participant-directed plans subject to ERISA at least once in each 14 month period. ²	<p>Furnish the report of plan-related and investment-related expenses to all eligible employees, beneficiaries of deceased participants and alternate payees pursuant to a Qualified Domestic Relations Order, that have an account balance under the plan. Referred to collectively as “participants”.</p> <p><u>Initial Notice</u> – On or before the date the participant is eligible to direct investments for the first time.</p> <p><u>Notice of Changes to Plan-Related Disclosures</u> – Not less than 30 days or more than 90 days before the effective date of any change (not just a material change) to the plan-related disclosure, a notice must be furnished directly to participants.</p> <p><u>Notice of Changes to Investment-Related Disclosures</u> – The plan’s website must be updated as soon as reasonably possible, but at least quarterly. Changes to investment-related disclosures are not required to be furnished directly to participants, but must be reflected on the plan’s website where detailed investment-related information is made available.</p>

¹ Employee Retirement Income Security Act of 1974, as amended

² Alternatively, on or before eligibility date if participant may make a permissible withdrawal under an EACA.

Deadlines for the Plan Year Ending 12/31/22 Defined Contribution Plans

Deadline/Event	Description of Event
	<u>Quarterly</u> – Participants must receive a statement that includes the dollar amount and description of any plan or individual expenses actually charged to his/her account during the preceding quarter.
Process involuntary distributions/mandatory rollovers at least once each plan year unless the plan document or procedures provide for more frequent distributions.	Generally applies to plans that provide for the involuntary distribution of accounts of terminated participants with small balances when specific direction is not provided by the participant. Small balances are defined as vested account balances of \$5,000 or less, unless the plan selects a lower threshold. Regulations require the mandatory rollover of involuntary distributions greater than \$1,000.
Quarterly	
Distribute participant benefit statements no later than 45 days after the end of each quarter.	The statement reports the activity and returns within the participant's account (e.g., contributions, distributions, loans, gains, losses, etc.).
January	
Top Heavy testing should be completed at the beginning of each plan year.	<p>Key employees' assets must not exceed 60% of total plan assets. Top Heavy testing is deemed to be satisfied if plan contributions consist solely of employee elective deferrals or safe harbor contributions.</p> <p>The test is performed at the start of the plan year using account balances on the last day of the prior plan year. If failed, the plan is top heavy for the current plan year and an additional employer contribution may be required. Generally, the additional contributions should be made no later than the employer's tax filing date (plus extensions) for the top heavy plan year.</p>
March 15th	
ADP/ACP Annual Nondiscrimination Testing – Test must be completed and any excess amounts distributed within 12 months after the end of the plan year. However, to avoid the 10% excise tax, testing must be completed and any excess amounts distributed within <u>2 ½ months</u> after plan year end.	<p>The amount of contributions made to a plan cannot discriminate in favor of highly compensated employees.</p> <p>For a plan with an <u>EACA provision that covers all eligible employees</u>, the plan may avoid the 10% excise tax if testing is completed and any excess is distributed within 6 months after plan year end, or June 30th for a calendar year plan.</p>

Deadlines for the Plan Year Ending 12/31/22 Defined Contribution Plans

Deadline/Event	Description of Event
April 1st	
Distribute initial Required Minimum Distribution (RMD).	Generally, a Participant born prior to 7/1/1949 must take their first RMD from their account by April 1 of the year following the year they reach age 70½ or retire, whichever is later. For Participants born on or after 7/1/1949, the deadline for their first RMD is April 1 of the year following the year they reach age 72 or retire, whichever is later. Special rules apply to 5% owners.
April 15th	
Distribute return of excess elective deferrals (plus associated earnings) for the 2021 plan year.	The elective deferral limit for 2021 was \$19,500. If the plan permits catch-up contributions, participants age 50 or older by the end of 2021 were permitted to contribute an additional \$6,500. The elective deferral limit has been increased for 2022 to \$20,500 and catch-up contributions remain at \$6,500.
July 29th	
Furnish participants with the Summary of Material Modifications (SMM) within 210 days after the end of the 2021 plan year.	For amendments that became effective during the 2021 plan year.
July 31st	
Complete Cycle 3 restatement for preapproved plans.	Sign plan document and any other documents associated with the Cycle 3 restatement.
August 1st	
File Form 5500 Annual Information Return and/or Form 8955-SSA 2021 plan year. If requesting an extension of time for these forms, file Form 5558.	Generally the Form 5500 and Form 8955-SSA are due 7 months after plan year end (or 9 ½ months after plan year end if Form 5558 extension filed). Note: DOL filing deadlines that fall on a weekend or holiday may be delayed until the following business day.
September 30th	
Furnish participants with the Summary Annual Report (SAR) for the 2021 plan year within 9 months after the plan year end to which it applies.	Plans that file Form 5558 for an extension of time to file the Form 5500, as noted above, must furnish the SAR within 2 months after the extended deadline (i.e. 12/15/2022 for a calendar year plan).
October 17th	
If extended via Form 5558, file 2021 Form 5500 Annual Report and/or Form 8955-SSA.	Generally, the extended filing deadline is October 15th; however, DOL filing deadlines falling on a weekend or holiday may be delayed until the following business day.

Deadlines for the Plan Year Ending 12/31/22 Defined Contribution Plans

Deadline/Event	Description of Event
December 1st	
<p>Furnish annual notices to participants as required based on plan provisions no later than December 1st and no earlier than October 1st.</p>	<p>The following annual notices may be required for the 2023 plan year, based on plan provisions:</p> <ul style="list-style-type: none"> • ADP/ACP Safe Harbor • Eligible Automatic Contribution Arrangement (EACA) • Qualified Automatic Contribution Arrangement (QACA) • Automatic Contribution Arrangement (ACA) • Qualified Default Investment Alternative (QDIA) <p><u>Supplemental notice</u> for Safe Harbor plans that issued a “contingent” notice for the 2022 plan year to communicate that the safe harbor 3% non-elective contribution will be made for 2022.</p> <p><u>Initial Safe Harbor ADP/ACP notice</u> – Generally, for newly eligible employees, no later than the eligibility date and no earlier than 90 days prior to the eligibility date.</p> <p><u>Initial EACA, QACA, ACA notice</u> – Generally, for newly eligible employees, no earlier than 90 days before the employee’s eligibility date, and no later than the employee’s eligibility date or, as soon as practicable, but prior to the pay date of the pay period in which the employee is first eligible. The employee must have reasonable time after receiving the notice to opt out or elect a different deferral percentage.</p> <p><u>Initial QDIA notice</u> – A reasonable time period of at least 30 days before plan eligibility or at least 30 days before the first default investment. Alternatively, on or before eligibility date if participant may make a permissible withdrawal under an EACA.</p>

Deadlines for the Plan Year Ending 12/31/22 Defined Contribution Plans

Deadline/Event	Description of Event
December 31st	
Use forfeiture account balance as elected in the plan document.	Forfeitures for each plan year should be used by the end of the plan year in which they were forfeited or, if permitted by the plan document, no later than the end of the following plan year.
Perform coverage testing.	Coverage requirements must be satisfied at least annually as of the last day of the plan year using the annual testing option (as opposed to the daily or quarterly testing options). Failed tests must be corrected within 9 ½ months after plan year end.
Distribute ongoing Required Minimum Distributions (RMDs).	Ongoing payments must be distributed by 12/31 of each calendar year.
Adopt employer discretionary plan amendments that became effective during the 2022 plan year.	Some amendments must be signed prior to the effective date of the provision or prior to the first day of the plan year in which they are effective (e.g., to add an ADP/ACP Safe Harbor or QACA provision for the 2023 plan year the amendment must be adopted by 12/31/2022).
Complete/correct 2021 ADP/ACP test by last day of the following plan year.	Failed tests corrected after 3/15 incur a 10% excise tax (after 6/30 for EACA plans covering all eligible employees).
Amendment deadline for provisions required or adopted due to SECURE Act, CARES Act, and Consolidated Appropriations Act.	The amendment deadline is the last day of the plan year beginning on or after January 1, 2022 (i.e. December 31, 2022 for calendar year plans).
Tax Filing Date Plus Extensions	
<p>Remit employer contributions, including the following:</p> <ul style="list-style-type: none"> • Employer match • Safe Harbor plan employer match • Safe Harbor plan annual 3% non-elective • Annual profit sharing allocation <p>Partnerships and sole proprietors should contact their plan attorney or tax advisor to determine the deadline for remittance of employer contributions.</p>	<p>Generally, to be deducted on the company tax return for the year to which it applies, employer contributions must be remitted to the trust by the tax filing date, plus extensions. The plan document may call for more frequent employer contributions (e.g., each payroll period or each quarter). Note: ADP/ACP testing cannot be completed until the employer match is remitted.</p> <p>Safe harbor match contributions allocated more frequently than the plan year must be contributed to the plan by the last day of the plan year quarter immediately following the quarter in which the safe harbor match accrued.</p>

Deadlines for the Plan Year Ending 12/31/22 Defined Contribution Plans

Deadline/Event	Description of Event
Employer true-up of match or profit sharing contributions.	A true-up contribution may be needed when the contribution is made based on <i>annual compensation</i> but contributed periodically during the plan year. Note: ADP/ACP testing cannot be completed until the match is remitted.
Upon Occurrence of the Event	
Review 408(b)(2) Sponsor fee disclosure in advance of the date the contract or arrangement is entered into.	Plan fiduciaries should receive from certain service providers a disclosure of the service provider's fees and compensation. <u>Changes to investment-related disclosures</u> – Receive annually. <u>Changes to all other disclosures</u> – Receive as soon as practicable, but not later than 60 days from the date the service provider knows of the change.
Legislatively required amendments.	In accordance with Rev. Proc. 2021-38, amendment must be signed by the last day of the second calendar year following the calendar year in which the change is effective under the plan.
Distribute Summary Plan Description (SPD) to participants 90 days after the participant becomes eligible; at least once every 5 years if the plan is amended or every 10 years if the plan is not amended (unless otherwise directed by the IRS).	The SPD summarizes key provisions of the plan document in understandable terms and must be given to all active and terminated participants and beneficiaries of the plan.
Distribute Stock Diversification Notice to each participant at least 30 days before participant is eligible to diversify.	This is a one-time event required for plans with employer Stock. There is not an ongoing annual notice requirement.
Distribute Blackout notice to participants 30 to 60 days before the blackout begins.	A blackout notice is needed if participants are restricted from requesting distributions, loans or investment changes for more than three (3) consecutive business days.

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