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FYI® In-Depth

For Your Information®

Volume 45

Issue 13

March 8, 2022

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2022 compliance considerations for ERISA single employer defined contribution plan operations

This *FYI In-Depth* provides an overview of key issues for plan sponsors to consider in 2022 and a calendar outlining important deadlines for qualified plans. The discussion is divided into two parts — issues that are new for 2022 and those that should be addressed annually. Supplementing this *FYI*, Buck's *Reporting and Disclosure Guide* rounds out our resources to help plan sponsors comply with event-based and participant-specific compliance requirements.

In this issue: SECURE Act and other COVID-related changes | Lifetime income illustrations for DC plans | Missing participants | Cybersecurity | Adoption of preapproved DC plans | IRS updates the EPCRS | ESG investments, proxy voting, and other fiduciary investing issues | "Special Tax Notice" for eligible rollover distributions | 401(k) deposits | Plan limits | Automatic cash outs of small balances | Name beneficiaries | Foreign asset reporting obligations | Forfeitures and investment credits | IRS audit issues | Payroll processes | Insurance coverage | Identify missing participants | Plan documentation | Make sure SPD matches plan document | Assemble and maintain documentation | Plan amendments | Fee disclosures | Plan features to boost retirement savings | In closing | Calendar of significant DC plan compliance tasks

New issues

SECURE Act and other COVID-related changes

Several changes affecting qualified plans were made under the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) and pursuant to COVID-19 related guidance. (See our December 23, 2019 *FYI Alert*). Importantly, some of the changes may require plan amendments in 2022 (see the Compliance Calendar at the end of this *FYI In-Depth*). These changes include, for example, adjusting the required beginning date from age 70½ to 72, permitting certain part-time employees to make 401(k) plan contributions, modifying the timing of distributions after death, allowing distributions for birth or adoption, and permitting COVID-related distributions and loans.

Lifetime income illustrations for defined contribution plans

The SECURE Act also amended the Employee Retirement Income Security Act of 1974 (ERISA) to add a requirement to furnish two lifetime income illustrations (LIIs). These illustrations must be provided at least annually with benefit statements for individual account plans (e.g., 401(k) and 403(b) plans). On September 18, 2020, the Department of Labor (DOL) published an Interim Final Rule (IFR) that requires plans to provide two illustrations — one that demonstrates an account balance as a single life annuity and another that illustrates a 100% joint and survivor annuity. (See our September 2, 2020 *FYI*). The IFR also explains how plan administrators should calculate and explain the LIIs. On July 26, 2021, the DOL issued Frequently Asked Questions (FAQs) that answer important questions related to the timing of initial LIIs.

- Timing for participant-directed plans. The FAQs explain that individual account plans with participant-directed investments must first provide the LIIs on a benefit statement for a quarter ending within 12 months after the September 18, 2021 effective date of the IFR. This means that the plan's first LII must be provided as part of a benefit statement for a quarter that ends by September 18, 2022. As a result, plans can incorporate their first LII on a quarterly statement up to the second calendar quarter of 2022 (ending June 30, 2022).
- Timing for nonparticipant-directed plans. For individual account plans under which a participant or beneficiary does not have the right to direct his or her investments, the LIIs must be on the benefit statement for the first plan year ending on or after September 19, 2021. For calendar year plans this will be the benefit statement for calendar year 2021, furnished no later than the due date for filing the annual Form 5500 for the year; in other words, the deadline for a calendar year plan is October 15, 2022 (assuming the Form 5500 due date is extended) as described in the FAQ.
- Additional illustrations. The FAQs also clarify that plan administrators can provide more LIIs than just the required illustrations.
- Adoption of final rule. The FAQs further explain that the DOL intends to issue a final rule to replace the IFR based on the comments it receives. The DOL acknowledged that additional transition time may be appropriate to address any changes from the Interim Final Rule.

This guidance provides plan administrators and their service providers with clarifications needed to finalize their LII procedures, prepare LIIs, and distribute the illustrations to participants and beneficiaries.

Missing participants guidance

In early 2021, the DOL issued three pieces of guidance concerning appropriate steps for addressing missing participants in retirement plans. These documents clarify existing DOL requirements and provide important insight into what the DOL would consider to be acceptable practices with respect to missing participants. As a result, plan fiduciaries should evaluate their administrative processes related to missing participants and take appropriate action to ensure that they are addressing the new guidance.

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Missing participants — best practices

The DOL issued what it considers to be best practices related to missing participants for defined contribution and defined benefit plans. These best practices focus on the following general areas:

- Maintaining accurate census information for the participant population (e.g., reach out to current and retired participants and beneficiaries on a periodic basis to confirm or update their contact information)
- Implementing effective communication strategies (e.g., confirm and update personal information during employee onboarding, benefits enrollment, and exit processes at termination or retirement)
- Conducting missing participant searches (e.g., attempt to contact participants and beneficiaries through other available means such as email addresses, home and cell phone numbers, and social media)
- Documenting procedures and actions (e.g., develop clear, well-written missing participant procedures)

The guidance provides examples of best practices in each of these areas and are intended to give plan fiduciaries a range of options from which to choose. The DOL clearly states that not all practices will be appropriate for every plan and that responsible plan fiduciaries “should consider what practices will yield the best results in a cost-effective manner” for plan participants.

The guidance also includes several “red flags,” one or more of which may indicate that a plan has a missing participant problem.

- More than a small number of missing or nonresponsive participants
- More than a small number of terminated vested participants who have reached normal retirement age but have not started receiving their pension benefits
- Returned mail due to missing, inaccurate or incomplete contact information
- Absence of written procedures for handling returned or undeliverable mail or uncashed checks

The best practices guidance makes it clear that the topic of missing participants is a fiduciary issue. As a result, plan fiduciaries should consider the list of potential red flags and review the best practices against their current processes, determine what changes are needed, and develop or revise their missing participant procedures. Fiduciaries also should monitor the procedures used by their third-party administrators and coordinate those procedures with their internal administration and practices.

Terminated vested participants project (TVPP)

The DOL’s missing participant guidance includes Compliance Assistance Release No. 2021-01 which is intended to establish a framework for consistent investigations and practices among the DOL’s Employee Benefits Security Administration (EBSA) offices. EBSA conducts TVPP audits of defined benefit pension plans, and these audits focus on what EBSA considers to be systemic issues with administration — including whether plans properly track participants and timely pay benefits.

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Among other things, the release addresses procedures concerning missing participants in the context of defined benefit plan terminations. This guidance can also be helpful in a defined contribution setting as it can show what the EBSA may look for (e.g., missing participant procedures) during a plan audit.

Temporary enforcement policy on terminating defined contribution plans and the PBGC missing participant program

Established in 2017, the PBGC Missing Participants Program was designed to hold the account balances of missing participants and beneficiaries of terminating defined contribution plans and help those individuals find and receive their benefits. Separately, the DOL previously established a fiduciary safe harbor for terminated individual account plans, generally requiring that accounts be rolled over to an IRA or, in certain instances, to a bank account or a state unclaimed property fund. The PBGC Missing Participants Program, however, is not part of the established DOL fiduciary safe harbor.

In Field Assistance Bulletin 2021-01, the DOL announced that, pending further guidance, it will not pursue violations under section 404(a) of ERISA against fiduciaries of terminating defined contribution plans who transfer the account balances of missing or nonresponsive participants or beneficiaries to the PBGC Missing Participants Program rather than to an IRA, bank account, or state unclaimed property fund pursuant to the DOL safe harbor. The DOL makes it clear, however, that this temporary enforcement policy does not mean that fiduciaries do not have to diligently search for participants and beneficiaries prior to the transfer of their accounts to the PBGC.

The Bulletin should provide welcome relief to fiduciaries of terminating defined contribution plans who are considering whether it is appropriate to use the PBGC Missing Participants Program for the account balances of missing or nonresponsive participants and beneficiaries.

Cybersecurity guidance

In April 2021, the DOL issued guidance on cybersecurity for retirement plans, providing plan administrators with information on how to address the security of plan assets and participant information. The DOL makes clear in its guidance that plan fiduciaries have certain responsibilities related to cybersecurity (e.g., plan fiduciaries must consider cybersecurity when selecting and monitoring service providers).

- The DOL issued Cybersecurity Program Best Practices, which describes 12 practices for use both by plan service providers and plan fiduciaries who select and monitor those service providers. The best practices include such items as having a formal cybersecurity program, conducting annual risk assessments and third-party audits of security controls, limiting user access to data based on need, and conducting cybersecurity awareness training at least annually.
- The DOL also issued Tips for Hiring a Service Provider with Strong Cybersecurity Practices, which assists plan fiduciaries in engaging recordkeepers and other third parties who maintain

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plan records and participant data. The contracting tips in this document, like the best practices described above, are detailed, comprehensive, and provide useful information for plan fiduciaries.

- Finally, the DOL provided Online Security Tips for participants to help reduce the risk of fraud and loss. Plan administrators are encouraged to communicate these tips to participants and beneficiaries.

Although this guidance is informal, and therefore not binding, it provides valuable insight into how the DOL believes plans should be administered from a cybersecurity perspective. Importantly, the DOL already has acted on this guidance, having initiated audit activity related to plan cybersecurity practices. The comprehensiveness and specificity of these best practices and tips create a real possibility they may be used by the DOL as a baseline for determining fiduciary breaches and by plaintiffs seeking to sue plan fiduciaries for alleged breaches. As such, plan fiduciaries would be well-served to assess this guidance with their advisors and take the appropriate steps to protect the security of their plan assets and information. (See our May 25, 2021 *FYI* for more details and links to the guidance.)

Adoption of preapproved defined contribution plans

Employers who maintain a preapproved defined contribution plan must adopt a newly restated plan for the third “six-year remedial amendment cycle” by July 31, 2022. If eligible, an adopting employer of a preapproved defined contribution plan also can apply for a determination letter from the IRS by the same date.

The IRS previously established six-year remedial amendment cycles for preapproved defined contribution plans (and separate cycles for preapproved defined benefit plans). During these cycles, providers of preapproved plans restate their plans to comply with recent law changes and submit those plans to the IRS for a new opinion letter; upon approval, the IRS issues an opinion letter for the plan. During the six-year cycle, the IRS announces a uniform date by which all adopting employers of preapproved plans must adopt their plan. Employers generally have approximately two years to adopt the newly approved plan. And, while adopting employers generally can rely on an opinion letter issued by the IRS for the plan, in certain cases an adopting employer can also request an individual determination letter from the IRS. The IRS also announces a uniform date by which adopting employers of preapproved plans must submit a request for a determination letter (if one is desired).

- In Announcement 2020-7, the IRS provided that an adopting employer of a preapproved defined contribution plan must adopt its plan for the current six-year remedial amendment cycle (the third such cycle) by July 31, 2022. This generally is done through the execution of an adoption agreement with the provider.
- The IRS also announced that, if otherwise eligible, an adopting employer of a preapproved defined contribution plan can submit a determination letter application with respect to the third six-year remedial amendment cycle by July 31, 2022.

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Employers who previously adopted preapproved defined contribution plans should consider the above and work with their plan provider and advisors to adopt the restated plan by the required date.

IRS updates the employee plans compliance resolution system

In July 2021, the IRS issued Revenue Procedure 2021-30, updating the Employee Plans Compliance Resolution System (EPCRS). EPCRS sets forth correction procedures for employee retirement plans, providing plan sponsors the opportunity to correct errors that could jeopardize a plan's qualified status. Plan sponsors should welcome these newest changes to EPCRS, which generally were effective July 16, 2021 (certain other effective dates also apply).

Among other things, Revenue Procedure 2021-30 updates EPCRS in the following ways:

- Expands the self-correction period for significant operational and plan documentation failures from two to three years after the year for which the failure took place. This also means that the period during which a plan sponsor can take advantage of a less costly correction approach for 401(k) elective deferral failures has been extended to three years.
- Expands the ability to self-correct operational failures through plan amendments. As previously required under EPCRS, a corrective amendment must increase a benefit, right, or feature under the plan. That increase, however, no longer needs to apply to all eligible participants; instead, the amendment can apply only to a limited group of participants. This change should enhance the ability of plan sponsors to correct operational failures through plan amendments.
- Adds more approaches for correcting overpayments from a plan. For example, defined benefit plans can now take advantage of a new funding exception correction method (if plan funding meets certain levels) and a contribution credit correction method (if plan contributions increased to certain levels due to the overpayment). The existing methods of corrections otherwise are still generally available.
- Increases the limit on small overpayments and excess amounts that do not require correction from $100 to $250.
- Extends by three years (from December 31, 2020 to December 31, 2023) the sunset of the safe harbor correction method available for missed 401(k) elective deferrals for employees subject to an automatic contribution arrangement.
- Replaces the formal anonymous Voluntary Correction Program (VCP) submission process with an anonymous pre-submission conference. Effective January 1, 2022, a plan sponsor or its representative can request a conference with the IRS to discuss a potential VCP submission at no cost. Following the pre-submission conference, if the plan sponsor submits the VCP application, it can no longer be anonymous. Note that the conference is not binding on the IRS.

In light of the new rules, plan sponsors should consider whether they should take advantage of the enhanced correction procedures under EPCRS to address any plan failures they may have experienced.

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ESG investments, proxy voting, and other fiduciary investing issues

Over the past several years, the DOL has issued several pieces of guidance on Environmental, Social and Governance (ESG) investing, proxy voting, and other shareholder rights, including final rules issued in November and December 2020. However, more recent guidance provides for eased restrictions on such investments. More specifically, on October 14, 2021, the DOL published proposed regulations that would amend the existing regulations on fiduciary duties associated with the consideration of ESG investment factors in making investment decisions and proxy voting / shareholder rights. Similarly, the DOL issued a prohibited transaction exemption related to fiduciaries providing investment advice, along with certain transition relief outlined in Field Assistance Bulletin No. 2021-02 that was extended and will expire June 30, 2022. Plan sponsors and fiduciaries should familiarize themselves with these rules.

Annual reviews of plan administration

In addition to verifying that routine tasks are monitored in accordance with plan terms and administrative policies — such as making required minimum distributions, sending safe harbor notices, and attending to annual reporting and disclosure requirements — administrators must be mindful of some important tasks. The following are a few key areas to watch.

Update the “Special Tax Notice” for eligible rollover distributions

In 2020, the IRS issued Notice 2020-62 to update its Safe Harbor Explanations for eligible rollover. If you haven’t done so already, make sure these notice updates are addressed in a timely manner and incorporated into distribution materials issued to recipients by the plan and its service providers.

Make timely 401(k) deposits

Failure to deposit employee contributions and loan repayments timely is a prohibited transaction that will subject the plan sponsor to excise taxes, interest charges and additional reporting. Deposits are timely if they are submitted as soon as contributions can reasonably be segregated from the employer’s assets. Once a plan sponsor demonstrates that contributions can be deposited within a certain number of days after payroll — say three or four business days — the DOL may view that as the standard for that plan. If deposited in a future cycle after six or eight days, for example, the deposit may be deemed late. As this continues to be an area of focus for DOL audits, consistency and attention to timeliness is critical.

The DOL’s Prohibited Transaction Exemption generally limits the exemption for Voluntary Fiduciary Correction Program filers to deposits that are no more than 180 days late, so the timeliness of deposits should be reviewed more frequently than annually. Plan sponsors with late deposits that don’t qualify for this exemption must file Form 5330 and pay a 15% excise tax on the prohibited transaction, which is due by the last day of the seventh month after the end of the tax year of the employer — July 31 for calendar year filers.

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Update plan limits

IRS announced changes to qualified plan limits effective January 1, 2022. (See our November 5, 2021 *FYI Alert* for retirement plan limits.) Check with your payroll department and your administrative service provider to make sure the new limits are properly taken into account when determining contributions.

Process automatic cash outs of small balances

Many plans provide for the automatic cash out of small balances to terminated participants. For such plans, distributions should be processed and terminated participants must be notified. At the very least, an annual “sweep” of small balances should be conducted in keeping with plan terms. This process can be effective in keeping small balances out of the plan to avoid continued costly administration and tracking down missing participants in the future. Participants with larger balances are more likely to keep the recordkeeper informed of their addresses.

Remind participants of any opportunity to name beneficiaries

Many plan administrators have had to sort out competing claims for death benefits because of unclear or missing beneficiary designations. These disputes can sometimes result in costly litigation. Most plans must make a participant’s spouse the default beneficiary. If the plan offers a choice, and a participant wants survivor benefits paid to someone else, such as children, parents or a favorite charity, a properly executed beneficiary designation is needed. Make a point to remind plan participants to update their beneficiary designations and let them know if they are required to use plan-specific forms for making their designation.

Address foreign asset reporting obligations

To address tax evasion, money laundering and terrorist financing concerns, there are multiple requirements mandating the reporting of assets held by foreign financial institutions (including retirement plans) and benefit distributions to certain individuals. Plan fiduciaries will want to assess compliance with these requirements, particularly the Foreign Account Tax Compliance Act (FATCA), the Report of Foreign Bank and Financial Accounts (FBAR), and regulations issued by Treasury’s Office of Foreign Assets Control (OFAC).

Review forfeitures and investment credits

On an annual basis, plans with a vesting schedule may accumulate funds in a forfeiture account. Many plans provide that nonvested balances may be forfeited when the participant takes an actual distribution or after five one-year breaks in service. In addition, plans may accumulate credits from revenue sharing that are deposited into “ERISA accounts.” The plan must provide for how the forfeitures and revenue sharing will be used — to pay expenses, reduce contributions, or be reallocated at the end of the plan year, these accounts should be reviewed to confirm that no unused balances are unallocated.

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Watch out for IRS audit issues

The IRS often shares information about the types of mistakes they encounter in plan audits. Common errors found in defined contribution plans are compensation used for plan allocations or nondiscrimination tests not matching plan document definitions, automatic enrollment not being properly implemented, and employee deferrals not matching participant elections. A self-audit is a good tool for finding and correcting these issues — and the IRS website contains excellent resources to assist plan sponsors.

Confirm all payroll processes are clean and updated

If highly compensated employees' deferrals must be capped for testing purposes, early identification will prevent participants from exceeding plan limits. Additionally, if any employer contributions are computed on an annual basis, or if the plan provides for the "true-up" of matching contributions, confirm that these calculations are addressed.

Review and analyze insurance coverage

Two basic types of insurance are available to protect the plan:

Fidelity bond. A fidelity bond is required for every fiduciary of an employee benefit plan and every person who handles funds or other property of such a plan, with a few exceptions. On an annual basis, plans that require a fidelity bond should review existing bonds to ensure they have at least the required minimum coverage and that the elected level is appropriate for the plan. (In most circumstances, the amount of the required bond is capped at $500,000 for a plan without an employer securities fund and $1,000,000 for plans that hold employer securities.)

Fiduciary liability insurance. Insurance can be purchased to protect fiduciaries and the plan against liability or losses occurring due to a plan fiduciary's act or omission. Fiduciaries are personally liable for losses incurred by a plan due to their breach; insurance can cover some or all of these losses. Therefore, obtaining fiduciary liability insurance in the appropriate amount has become imperative. The DOL has stepped up reviews and is keeping score of ever-increasing monetary recoveries resulting from their investigations – 1,122 investigations were closed in the fiscal year ending September 30, 2020, with 67% resulting in corrective action. This is in addition to dramatic settlements arising from ERISA class action litigation. It is important to analyze the insurance policy's defined terms to understand exactly what risks the policy covers. Furthermore, understanding when these policies are triggered is crucial to knowing whether the plan and its fiduciaries are adequately protected. An annual review of these policies may illuminate the requirement to report certain events to the insurer within a specific timeframe to collect on a claim.

> **Buck comment.** Many policies cover compliance fees and penalties such as those imposed by the IRS under their VCP but require timely notification to the insurer.

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Identify missing participants with account balances

Plans should make it a practice to search for missing participants annually, especially in light of the recent DOL emphasis on best practices in this area as discussed above. Funds covering any check that remains outstanding for longer than the plan's stale check period should be redeployed to the participant's investment accounts or, depending on the amount and the payment's eligibility for rollover, rolled into an IRA. Adjustments may be needed to address any income tax that had been withheld.

Plan documentation

Plan fiduciaries should review plan documents annually to confirm that plan provisions are drafted as intended and summary plan descriptions (SPDs) and administrative procedures are in sync with official plan documents.

Make sure your SPD matches your plan document

An SPD is not just a disclosure that is required under ERISA. A well-drafted SPD plays an important role in minimizing disputes with claimants that can result in successful challenges of fiduciary decisions. Make sure it, or a timely summary of material modification (SMMs), reflects any plan amendments made during the plan year. Don't forget that an SPD generally should be restated and redistributed every five years.

> **Buck comment.** A factor in many plan challenges is the statute of limitations for taking an official complaint to the federal courts for review. Sponsors should confirm that plan documents state a statute of limitations period and announce that period in SPDs as well as benefit claim denial communications.

Assemble and maintain documentation

Keeping plans up to date is crucial — but don't toss the old documents. Plan participants and beneficiaries may request prior plan materials, and plan administrators need to address requests within a 30-day window. Failure to comply can lead to legal challenges; a court may hold a plan administrator who fails to comply personally liable for up to $110 per day per affected person from the date of failure. Along with plan documents, SPDs and SMMs, be sure to create and maintain records of participant data, such as proof of benefit distributions, benefit elections, and beneficiary designations. Arrange for continued access even after termination of the plan.

Plan amendments

Evaluate the need for plan amendments — and deadlines. It is never too early to start thinking about plan amendments that must be adopted before the end of the year.

Many of the SECURE Act changes described above will require adoption of amendments before the end of 2022. In addition, IRS procedures call for executing discretionary amendments by the end of the year in which the amendment is operationally put into effect. Extended amendment periods are also provided for necessary updates to address changes in legal requirements.

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If you implemented discretionary changes during the year, make sure plan documentation is updated and signed before the plan year is over. If you missed a deadline for making required amendments, consider whether you can self-correct pursuant to the expanded EPCRS rules described above, or whether you should do a filing with the IRS through its VCP.

Fee disclosures

ERISA section 408(b)(2) fee disclosures previously issued to plan sponsors by covered service providers are not required to be sent annually. As a general rule, however, they must be provided before entering into a new contract or arrangement or when a new investment alternative is designated by the responsible plan fiduciary. In addition, it's important that plan sponsors periodically review current arrangements to validate that fees are still reasonable. Depending on when plan services were last put out to bid, it may be time to revisit the existing contract. Whether or not electing to rebid plan services, it is just as important to document why the decision was made to stay with a current provider as it is to document there was a need for a change. Courts have held that plan fiduciaries that follow a prudent process designed to ensure that the actions taken were for the exclusive benefit of plan participants have not breached fiduciary duties even if the outcome could have been better. In addition, plan sponsors may wish to consider fiduciary training for the individuals responsible for making decisions about plan assets.

Plan features to boost retirement savings

If you are concerned that your employees may not have sufficient funds to last through retirement, you may want to consider adding or revising provisions related to autoenrollment or auto-escalation to boost participant savings rates. Plans generally need to furnish notices to participants describing the automatic contribution arrangement that will be in effect 30 to 90 days before the start of the plan year.

In closing

Planning with trusted advisors to identify tasks and set compliance goals is an important first step for assuring smooth operations in 2022. In addition to the items described above, you may want to perform an annual "checkup" (i.e., a review of operational practices and fiduciary responsibilities). The checkup should address plan expenses, design considerations, participant fees and investments, and confirm compliance with the terms of the plan document and investment policy statement. The review should include compliance test results with an eye toward making necessary plan design changes to improve testing results or eliminate testing altogether. You may elect to conduct your own review or contract with an independent party. Regardless of who performs the review, identifying problems and initiating corrections in advance of any audit by a government agency is the preferred course of action.

See our companion to this planner: 2022 planning for health and welfare benefit plan operations.

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Calendar of significant defined contribution plan compliance tasks[1]

Action item	Due date
January	
Form 945 to IRS (to report income withheld on distributions)	January 31, 2022
Form 1099-R, 1099-DIV to participants (or write letter for 30-day extension)	January 31, 2022
February	
Form 945 (alternative date if withholding deposits timely made)	February 10, 2022
Fourth quarter benefit statements	February 14, 2022
Form 1099-R to IRS (if paper; or file Form 8809 for 30-day extension)	February 28, 2022
March	
Notice of intent to request prior year funding waiver (money purchase pension plans)	March 1, 2022
ADP/ACP test corrective distributions to avoid excise taxes, unless EACA for full year 2021	March 15, 2022
Request for prior year minimum funding waiver (money purchase pension plans)	March 15, 2022
Report U.S. source income of foreign persons: Form 1042-S to participants and IRS (or file Form 8809 for 30-day extension for 1042-S filing with IRS; write letter to request 30-day extension for providing 1042-S to participants); Form 1042 to IRS (or file Form 7004 for six-month extension)	March 15, 2022
Employer contribution for prior year if tax return extension not filed	March 15, 2022
Form 1099-R to IRS (if electronic; or file Form 8809 for 30-day extension)	March 31, 2022
Form 5330 excise tax on prior year (2020 testing year) excess contributions and excess aggregate contributions	March 31, 2022
April	
Required minimum distributions for first time qualifying participants including five-percent owners and terminated participants	April 1, 2022
Distribution of all excess 2021 deferrals (over $19,500 plus $6,500 catch-up)	April 15, 2022
File IRS Form 990-T to report and pay any unrelated business income tax owed by the Trust (or file for six-month filing extension on Form 8868); this	April 15, 2022

[1] Assumes calendar plan and sponsor tax year. Does not account for short plan years or new plans. Weekend rule generally applies to filing deadlines and certain other acts under tax rules, but not contributions, distributions and other Title I ERISA obligations. If a deadline is not extended to the next business day, be sure to take appropriate action in advance of the deadline.

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Action item	Due date
tax is sometimes triggered if the plan's trust earns income from certain plan investments (e.g., limited partnership interests)	
May	
First quarter benefit statements	May 15, 2022
June	
EACA corrective distributions (to avoid 10% excise tax on ADP/ACP refunds)	June 30, 2022
July	
Summary of material modifications if amendments adopted in 2021	July 29, 2022
Annual participant statement (if no right to direct investments and not on extension for Form 5500)	July 31, 2022
Adoption of new preapproved plan	July 31, 2022
August	
2021 Form 5500 and 8955-SSA (or file Form 5558 to request an extension if not relying on corporate tax return extension)	August 1, 2022
Form 5330 excise tax on funding deficiency for money purchase pension plans, non-deductible contribution, prohibited transaction, etc. (or file Form 5558 to request six-month extension)	August 1, 2022
Statement of deferred vested benefits (SSA information) to terminated participants (unless on Form 8955-SSA extension)	August 1, 2022
Second quarter benefit statements	August 14, 2022
Participant fee disclosures in plans with participant directed investments	August 30, 2022 (up to 14 months from last mailing, if later)
September	
Minimum funding contribution due (money purchase pension plans)	September 15, 2022
Employer contribution for prior year if tax return extension was filed	September 15, 2022
Summary annual report, if no 5500 extension	September 30, 2022
October	
Earliest day to send safe harbor notices for 401(k)/401(m) nondiscrimination safe harbor plans (including notice of qualified automatic contribution arrangement) and plans with eligible automatic contribution arrangements	October 3, 2022
Retroactive amendment to correct prior year coverage/nondiscrimination failures	October 15, 2022

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Action item	Due date
Annual participant statement (if no right to direct investments and either using Form 5558 extension for Form 5500 or corporate return extension for Form 5500)	October 15, 2022
2021 Form 5500, 8955-SSA, and SSA information to participants, if on Form 5558 extension or corporate return extension for 5500	October 17, 2022
QSLOB Form 5310-A modification or revocation election (if changing QSLOB for the 2021 plan year)	October 17, 2022
November	
Third quarter benefit statements	November 14, 2022
December	
Deadline for participant notices including autoenrollment, QDIA, safe harbor	December 2, 2022
Summary annual report if Form 5500 extension using either Form 5558 or corporate return extension	December 15, 2022
Required minimum distributions	December 31, 2022
Corrective distributions for 2021 plan year	December 31, 2022
SECURE Act and other required amendments	December 31, 2022

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