

# Voya Alert!

December 3, 2020

## 2020 Annual Plan Deadlines by Event

**Action Required:** *This Voya Alert is for information only; no action is required at this time.*

- The attached chart provides an explanation of key plan events for Section 401(a) and 401(k) defined contribution plans and the deadline for each.
- The chart is intended as a tool to assist employers with monitoring the key annual plan requirements.

There are many important requirements for section 401(a) and 401(k) defined contribution plans that occur either during the calendar year or during the plan year. Some examples of these requirements include participant statements, compliance testing and remittance of plan contributions.

The attached chart (although not intended to be exhaustive) includes the key annual events which must occur within a specific deadline. The chart is intended to serve as a tool that can be used by employers to monitor compliance over the plan and calendar year.

***Editions of Qualified Plan News referenced in the attached chart are available on the Voya 401(k) InfoCenter site at <http://voya401kinfocenter.com>.***

### IRS Circular 230 Disclosure

Any tax discussion contained in this communication was not intended or written to be used, and cannot be used by the recipient or any other person, for the purpose of avoiding any Internal Revenue Code penalties that may be imposed on such person. Any tax discussion contained in this communication was written to support the promotion or marketing of the transactions or matter discussed herein. Any taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

Neither Voya Financial® or its affiliated companies or representatives offer legal or tax advice. Please seek the advice of a tax attorney or tax advisor prior to making a tax-related insurance/investment decision.

## 2020 ANNUAL PLAN DEADLINES by EVENT

Required Event	Deadline
<b>Contribution Remittance</b>	
Remit Employee Contributions and loan repayments in accordance with the ERISA <sup>1</sup> “earliest date standard.”	As soon as administratively possible for the employer to segregate from corporate assets but in <b>no event later</b> than 15 business days following the month in which the contribution was deducted (the “earliest date standard”). 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. See Qualified Plan News (QPN) 2010-1 for more details.
Employer Match*	<u>Annual</u> - By the employer’s tax return filing date (plus extensions).  <u>Payroll Periods</u> - As directed by the plan document, but not later than the employer’s tax return filing date (plus extensions) for the plan year the match applies to. <i>Note: ADP/ACP testing cannot be completed until the match is remitted.</i>
True-Up of Employer Matching or Profit Sharing Contribution when made based on annual compensation but contributed periodically during the Plan Year.*	By the employer’s tax return filing date (plus extensions). <i>Note: ADP/ACP testing cannot be completed until the match is remitted.</i>
Safe Harbor Employer Match *	<u>Annual</u> - By the employer’s tax return filing date (plus extensions).  <u>Payroll Periods</u> –The match on any elective deferral made during a plan year quarter must be contributed to the plan by the last day of the immediately following plan year quarter.
Safe Harbor 3% Non-Elective Contribution*	By the employer’s tax return filing date (plus extensions).
Employer Annual Profit Sharing*	By the employer’s tax return filing date (plus extensions).

\* Partnerships should contact their plan attorney or tax advisor to determine the deadline for remittance of employer contributions.

<sup>1</sup> Employee Retirement Income Security Act of 1974, as amended

Required Event	Deadline
<b>Annual Compensation Limit</b>	
The annual compensation limit for the 2020 plan year is \$285,000	Employee contributions based on amounts in excess of the limit must be returned and any employer contributions must be forfeited before testing for the plan year is done.
<b>Forfeiture Account Use</b>	
Forfeitures for each plan year should be used and not held indefinitely.	By the end of the plan year in which they were forfeited or by the end of the following plan year based on plan document language.
<b>Participant Notices</b>	
Safe Harbor ADP/ACP Notice	<p><u>Initial Notice</u> – For newly eligible employees no later than the eligibility date and no earlier than 90 days prior to the eligibility date. Or, as soon as practicable after that date and the employee is permitted to elect to defer from all types of compensation that may be deferred under the plan beginning on the date the employee becomes eligible.</p> <p><u>Annual Notice</u> – No earlier than 90 days and no later than 30 days before the start of each plan year to which the safe harbor rules will apply.</p> <p>Certain exceptions apply to the initial and annual notice requirements.</p>
Eligible Automatic Contribution Arrangement (EACA) (See QPN 2009-4 for more details.)	<p><u>Initial Notice</u> - 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>Annual Notice</u> - No earlier than 90 days or later than 30 days before the start of the plan year.</p>

Required Event	Deadline
Participant Notices (con't)	
<p>Qualified Automatic Contribution Arrangement (QACA) (See QPN 2009-4 for more details.)</p>	<p><u>Initial Notice</u> – For newly eligible employees no later than the eligibility date and no earlier than 90 days prior to the eligibility date. If it is not practicable for the notice to be provided by the eligibility date then provide the notice as soon as practicable after the date the employee is eligible to defer but, prior to the pay date for the payroll period that includes the date the employee becomes eligible. The notice must be furnished sufficiently early so the employee has a reasonable period of time after receipt of the notice to make an alternate election under the plan.</p> <p><u>Annual Notice</u> – Same as ADP/ACP Safe Harbor above.</p>
<p>Automatic Contribution Arrangement (ACA)</p>	<p><u>Initial Notice</u> – The employee must receive notice of the availability of the election to receive the amount in cash or have it contributed by the employer to the plan, within a reasonable period, before the date on which the cash is currently available. The time period must allow the participant an effective opportunity to make an election.</p> <p><u>Annual Notice</u> – A reasonable time period of at least 30 days before the start of the plan year.</p>
<p>Qualified Default Investment Alternative (QDIA) (See QPN 2007-16 for more details.)</p>	<p><u>Initial Notice</u> - A reasonable time period of at least 30 days before plan eligibility or at least 30 days before the first default investment.<sup>2</sup></p> <p><u>Annual Notice</u> – A reasonable period of time at least 30 days before the start of the plan year.</p>
<p>Stock Diversification Requirement (See QPN 2007-12 and QPN 2010-5)</p>	<p>At least 30 days before a participant is eligible to diversify. No ongoing annual notice is required.</p>

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

Required Event	Deadline
<p><b>Participant Fee Disclosure</b></p>	
<p>For participant-directed plans subject to ERISA, 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.</p> <p>Any change (not just a material change) to the plan-related disclosure must be furnished directly to participants.</p> <p>Changes to investment-related disclosures are not required to be furnished directly to participants, but must be reflected on the required Internet Web site where detailed investment-related information is made available.</p> <p>Provide to each participant 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.</p> <p>(For a more detailed overview see QPN 2011-2, QPN 2012-7 and QPN 2012-3.)</p>	<p><u>Initial Notice</u> – On or before the date the participant is eligible to direct investments for the first time and on an annual basis thereafter.</p> <p><u>Annually</u> – Originally at least once in each 12-month period. This deadline was extended to once in each 14-month period effective June 17, 2015. Where Voya is mailing the fee disclosures to participants, the disclosures are mailed annually.</p> <p><u>Notice of Changes to Plan-Related Disclosures</u> - Not less than 30 days and not more than 90 days before the effective date of the change.</p> <p><u>Notice of Changes to Investment-Related Disclosures</u> - The Web site must be updated as soon as reasonably possible, but at least quarterly.</p> <p><u>Quarterly</u> – Participants must receive a quarterly statement reporting any amounts actually charged to his/her account in the prior quarter.</p>

Required Event	Deadline
<b>Sponsor Fee Disclosure</b>	.
<p>Receive from certain service providers a disclosure of the service provider’s fees and compensation.</p> <p>Changes to the required disclosure information must be reported to the plan fiduciary.</p> <p>If the service provider fails to furnish the required disclosures the plan fiduciary must notify the DOL of the failure in writing.</p> <p>(For a more detailed overview see QPN 2012-1 and QPN 2012-6.)</p>	<p>Service provider must furnish this disclosure to the plan’s fiduciaries reasonably in advance of the date the contract or arrangement is entered into.</p> <p><u>Changes to Investment-Related Disclosures</u> – Not later than annually.</p> <p><u>Changes to All Other Disclosures</u> – As soon as practicable, but not later than 60 days from the date the service provider knows of the change.</p> <p>Upon discovering the failure the plan fiduciary must send a written request for the information to the service provider. If the disclosures are not furnished within 90 days the fiduciary must notify the DOL in writing not later than the thirty (30) days following the earlier of: 1) the service provider’s refusal to furnish the information requested in writing; or 2) the end of the ninety (90) day period after the written request is made of the service provider.</p>

Required Event	Deadline
<b>Compliance Testing</b>	
ADP/ACP Annual Nondiscrimination Testing - The amount of contributions made to a plan cannot discriminate in favor of highly compensated employees.	Test must be completed and corrected (if failed) within 12 months after the end of the plan year. If the plan fails testing, excess amounts must be distributed within <u>2 ½ months</u> after plan year end to avoid the 10% excise tax.
ADP/ACP testing under a plan with an <i>EACA provision that covers all eligible employees.</i>	Test must be completed and corrected (if failed) within 12 months after the end of the plan year. If failed, excess amounts must be distributed within <u>6 months</u> after plan year end to avoid the 10% excise tax.
415 Annual Additions Testing - Total contributions cannot exceed the lesser of 100% of compensation or \$57,000 for the 2020 limitation year.	Must be monitored ongoing. If the test fails 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.
Top Heavy Testing - Key employees' assets must not exceed 60% of total plan assets. Top Heavy testing is deemed to be satisfied if the plan consists solely of a 401(k) traditional safe harbor arrangement or a QACA.	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.
Elective Deferral Limit is raised to \$19,500 for 2020.	Return excess deferrals plus income allocable thereto by April 15 <sup>th</sup> following the close of the taxable year of the deferral.
Coverage Testing - Requires that the classification of employees covered by a plan does not discriminate in favor of highly compensated employees.	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). A failed test must be corrected within <u>9 ½ months</u> after the end of the plan year.

Required Event	Deadline
<b>Required Minimum Distributions (RMDs) at Age 70 1/2</b>	
Initial Payment	April 1 <sup>st</sup> of the calendar year following the later of: (a) the calendar year in which the employee attains age 70 ½, or (b) the calendar year in which the employee retires from the employer <sup>3</sup> (unless otherwise directed by the plan document).
Ongoing Payments	By December 31 <sup>st</sup> of each subsequent calendar year.
<b>Involuntary Distributions/Mandatory Rollover</b>	
Applies to plans that provide for the involuntary distribution of the accounts of terminated participants with a vested account balance of \$5,000 or less (plan may choose a lower threshold).	As soon as practicable but at least once each plan year unless the plan document or procedures provide for more frequent distributions. Requires mandatory rollover of certain account balances when specific direction is not provided by the participant. Check the plan document for details.
<b>Form 5500 &amp; Schedules</b>	
Form 5500 Annual Information Return	Due 7 months after plan year end. The employer may file for a 2 ½ month extension by submitting a Form 5558 on or before the original 5500 filing deadline (e.g., 5500 due 7-31-20 for a plan year ending 12-31-19, but may file a Form 5558 on or before 7-31-20 for an extension to 10-15-20).
Summary Annual Report (SAR)	Distribute to participants within 9 months after the end of the plan year to which it applies. Plans that file for an extension of the Form 5500 deadline must distribute the SAR within 2 months after the extended deadline.

<sup>3</sup> 5% owners initial payment is due by April 1<sup>st</sup> of the calendar year following the calendar year in which the employee attains age 70 ½ (even if still employed).



Required Event	Deadline
<b>Plan Amendments and Disclosures</b>	
<p>Legislatively required amendments</p> <p>Employer discretionary amendments</p> <p>Amendment for changes to hardship withdrawals under IRS Final Regulation published in the Federal Register on September 23, 2019.</p> <p>Correction for failure to timely amend</p> <p>Summary of Material Modifications (SMM)</p>	<p>Adopt by the employer’s tax filing date (plus extensions) unless otherwise directed.</p> <p>Adopt by the end of the plan year in which the amendment is effective. Some exceptions apply requiring amendments to be adopted before the start of the plan year to which they apply (e.g., amendment to add or change an ADP/ACP Safe Harbor or Qualified Automatic Contribution Arrangement (QACA)).</p> <p><u>Individually designed, non-governmental plans</u>, the applicable deadline will be the end of the 2nd calendar year that begins after the issuance of the annual IRS Required Amendments List that contains the hardship rule changes.</p> <p><u>Pre-approved plans</u> - must amend by the due date (plus extensions) of the employer’s return for the tax year which includes January 1, 2020, regardless of the effective date of the amendment.</p> <p>Correct under the Voluntary Correction Program (VCP) of the Internal Revenue Services’ Employee Plans Compliance Resolution System described under Revenue Procedure 2019-19. The Plan’s attorney should also be consulted. See the IRS website under Correcting Plan Errors: <a href="http://www.irs.gov/Retirement-Plans/Correcting-Plan-Errors">http://www.irs.gov/Retirement-Plans/Correcting-Plan-Errors</a>.</p> <p>Furnish to participants within 210 days after the end of the plan year in which the change is effective.</p>

Required Event	Deadline
<b>Plan Amendments and Disclosures</b>	
Summary Plan Description (SPD)	Furnish 90 days after participant becomes eligible; every 5 years if plan is amended; every 10 years if plan is not amended (unless otherwise directed by the IRS).

***Note: Editions of Qualified Plan News and Voya Alerts referenced here are available on the Voya 401(k) InfoCenter site at <http://voya401kinfocenter.com>.***

**IRS Circular 230 Disclosure**

Any tax discussion contained in this communication was not intended or written to be used, and cannot be used by the recipient or any other person, for the purpose of avoiding any Internal Revenue Code penalties that may be imposed on such person. Any tax discussion contained in this communication was written to support the promotion or marketing of the transactions or matter discussed herein. Any taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

Neither Voya Financial® or its affiliated companies or representatives offer legal or tax advice. Please seek the advice of a tax attorney or tax advisor prior to making a tax-related insurance/investment decision.