

# Voya Alert!

December 3, 2019

## Annual Plan Deadlines for the Plan Year Ending December 31, 2020

**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 and the deadline for each for Section 401(a) and 401(k) defined contribution plans with a plan year ending December 31, 2020. Off-calendar year plans should adjust the deadlines accordingly based on the time frames described in the chart.
- 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 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 for a calendar year plan. The chart is intended to serve as a tool that can be used by employers to monitor compliance over the plan and calendar year.

For off-calendar year plans the deadlines should be determined accordingly based on the time frames described in the chart.

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

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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.

## Deadlines for the Plan Year Ending 12/31/20 Defined Contribution Plans

Deadline/Event	Description of Event
<b>Ongoing</b>	
Remit employee contributions and loan repayments in accordance with the ERISA <sup>1</sup> “earliest date standard.”	The ERISA 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 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. See Qualified Plan News (QPN) 2010-1 for more details.
Monitor the annual compensation limit for the 2020 plan year. The 2020 compensation limit 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.
Monitor annual additions for each participant for the limitation year under Internal Revenue Code (IRC) section 415. For 2020 the annual additions limit is the lesser of 100% of compensation or \$57,000.	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.
<b>Annually</b>	
Participant fee disclosure for participant-directed plans subject to ERISA must be furnished at least once in each 14 month period. <sup>2</sup>	<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 Web site 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</p>

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

<sup>2</sup> Where Voya is mailing fee disclosures to participants, the disclosures are mailed annually

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Deadline/Event	Description of Event
	<p>reflected on the required Internet Web site where detailed investment-related information is made available.</p> <p><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.</p>
Involuntary Distributions/Mandatory Rollover - As soon as practicable but at least once each plan year unless the plan document or procedures provide for more frequent distributions.	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). Requires mandatory rollover of certain account balances when specific direction is not provided by the participant. Check the plan document for details.
<b>Quarterly</b>	
Participant Benefit Statements no later than 45 days after the end of each quarter.	The statement reports the activity and return within the participant’s account (e.g., contributions, distribution, loans, gain, loss, etc.).
<b>January</b>	
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 the plan consists solely of a 401(k) traditional safe harbor arrangement or a QACA.</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>
<b>March 15<sup>th</sup></b>	
ADP/ACP Annual Nondiscrimination Testing – Test must be completed and corrected (if failed) 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 must be distributed within <u>2 ½ months</u> after plan year end.	The amount of contributions made to a plan cannot discriminate in favor of highly compensated employees.
For a plan with an <u>EACA provision that covers all eligible employees</u> the ADP/ACP test must be	

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completed and corrected (if failed) 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 must be distributed within <u>6 months</u> after plan year end. By June 30 <sup>th</sup> for a calendar year plan.	
<b>April 1<sup>st</sup></b>	
First required minimum distribution 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).
<b>April 15<sup>th</sup></b>	
Return of excess elective deferrals (plus related income) for the 2019 plan year.	The elective deferral limit for 2019 is \$19,000 and increases to \$19,500 for 2020.
<b>July 29<sup>th</sup></b>	
Furnish participants with the Summary of Material Modifications (SMM) within 210 days after the end of the 2019 plan year.	For amendments that became effective during the 2019 plan year.
<b>July 31<sup>st</sup></b>	
File the Form 5500 Annual Information Return and Form 8955-SSA for the 2019 plan year, due 7 months after plan year end.	The employer may file Form 5558 for a 2 ½ month extension for both forms (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).
<b>September 30<sup>th</sup></b>	
Furnish participants with the Summary Annual Report (SAR) for the 2019 plan year within 9 months after the plan year end to which it applies.	Plans that file for an extension of the Form 5500 deadline to 10/15/20 as noted above must furnish the SAR within 2 months after the extended deadline by 12-15-20 for a calendar year plan.
<b>October 15<sup>th</sup></b>	
Extended deadline for filing 2019 Form 5500 Annual Report and/or Form 8955-SSA.	Requires prior filing of the Form 5558 by 7-31-20 to get the 2 ½ month extension.
<b>December 1<sup>st</sup></b>	
Furnish annual notices to participants as required based on plan provisions no later than December 1 <sup>st</sup> and no earlier than October 1 <sup>st</sup> .	Furnish these annual notices as needed for the 2021 plan year: <ul style="list-style-type: none"> <li>• ADP/ACP Safe Harbor</li> <li>• Eligible Automatic Contribution Arrangement</li> </ul>

<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).

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	<p>(EACA)</p> <ul style="list-style-type: none"> <li>• Qualified Automatic Contribution Arrangement (QACA)</li> <li>• Automatic Contribution Arrangement (ACA)</li> <li>• Qualified Default Investment Alternative (QDIA)</li> </ul> <p><u>Supplemental notice</u> for Safe Harbor plans that issued a “contingent” notice for the 2020 plan year to communicate that the safe harbor 3% non-elective contribution will be made for 2020.</p> <p><u>Initial Safe Harbor ADP/ACP notice</u> to participants 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>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. See QPN 2009-4 for more details.</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.<sup>4</sup> (See QPN 2007-16 for more details.)</p>
<b>December 31<sup>st</sup></b>	
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 by the end of the following plan year based on the plan document language.
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

<sup>4</sup> Alternatively, on or before eligibility date if participant may make a permissible withdrawal under an EACA.

## Deadlines for the Plan Year Ending 12/31/20 Defined Contribution Plans

Deadline/Event	Description of Event
	quarterly testing options). Failed tests must be corrected within 9 ½ months after plan year end.
Pay ongoing required minimum distributions.	Ongoing payments must be distributed by 12/31 of each calendar year.
Adopt employer discretionary plan amendments that became effective during the 2020 plan year.	Some exceptions apply requiring amendments to be adopted before the start of the plan year to which they apply (e.g., to add an ADP/ACP Safe Harbor or QACA provision for the 2021 plan year the amendment must be adopted by 12-31-20).
Complete/correct 2019 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 eligibles).
Amendment for changes to hardship withdrawals under IRS Final Regulation published in the Federal Register on September 23, 2019.	<p><u>For 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>
Tax Filing Date Plus Extensions	
<p>Generally, to be deducted on the company tax return for the year to which it applies, these employer contributions must be remitted by the tax filing date plus extensions.</p> <ul style="list-style-type: none"> <li>• Employer match</li> <li>• Safe Harbor plan employer match</li> <li>• Safe Harbor plan annual 3% non-elective</li> <li>• Annual profit sharing allocation</li> </ul> <p>Partnerships should contact their plan attorney or tax advisor to determine the deadline for remittance of employer contributions.</p>	<p>The plan document may call for more frequent employer contributions (e.g., each payroll period or each quarter). <i>Note: ADP/ACP testing cannot be completed until the match is remitted.</i></p> <p><u>For safe harbor plans</u> –The match on any elective deferrals made during a plan year quarter must be contributed to the plan by the last day of the immediately following plan year quarter.</p>
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. Or, if the plan document provisions include a true-up of employer contributions based on shorter compensation periods (e.g., payroll periods, quarterly, monthly). <i>Note: ADP/ACP testing cannot be completed until the match is remitted.</i>

## Deadlines for the Plan Year Ending 12/31/20 Defined Contribution Plans

Deadline/Event	Description of Event
Upon Occurrence of the Event	
Sponsor fee disclosure – Service provider must furnish this disclosure to the plan’s fiduciaries reasonably in advance of the date the contract or arrangement is entered into.	Plan sponsor receives from certain service providers a disclosure of the service provider’s fees and compensation. <u>Changes to investment-related disclosures</u> –furnish to the plan fiduciary not later than annually. <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.
Legislatively required amendments.	Adopted by the employer’s tax filing date (plus extension) unless otherwise directed (i.e., if a special remedial amendment period applies).
Summary Plan Description (SPD) – furnish to participants 90 days after the participant becomes eligible; every 5 years if the plan is amended; every 10 years if the plan is not amended (unless otherwise directed by the IRS).	Furnish participants with a Summary Plan Description of the key provisions of the plan.
Stock Diversification Notice –Furnish to each participant at least 30 days before participant is eligible to diversity.	This is a one-time event; no ongoing annual notice is required. (See QPN 2007-12 and QPN 2010-5.)
Blackout notice – furnish 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 3 consecutive business days.

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