

401(k) Retirement Plans

Notifying participants and beneficiaries about your 401(k) plan is an important part of compliance and getting the most out of your benefits by ensuring employees know what their options are. We have outlined in the advisory below what disclosures and notices are required, who needs to receive them, and when to send them out. It does not include documents that are filed with governmental entities, such as Form 5500 or documents and notices that are rarely distributed (such as the plan document) or have very complicated requirements (such as domestic relations orders). Many of these disclosures and notices are prepared or sent out (or both) by your service providers. If you have a cash-balance, ESOP, or defined benefit plan, contact Varnum for assistance with those requirements.

Summary Plan Description (SPD)

When to Give it

- Within 30 days of receiving a written request
- Within 90 days of an employee becoming a participant
- Within 90 days of a beneficiary receiving a benefit, if the beneficiary has not yet received an SPD
- Within 120 days after the adoption of a new plan
- The earlier of every five years for an amended plan and ten years for a plan that has not been amended

Who to Give it to

- Participants (including former employees with account balances)
- Beneficiaries receiving benefits
- Alternate payees receiving benefits

What it is

An accurate and readily understandable summary of the key terms, rights, features, and benefits of the plan.

Summary of Material Modifications (SMM)

When to Give it

- Within 210 days after the end of the plan year in which the plan is materially amended

Who to Give it to

- Participants (including former employees with account balances, if the change affects them)
- Beneficiaries receiving benefits
- Alternate payees receiving benefits

What it is

A summary of the changes made to an existing plan.

Summary Annual Report (SAR)

When to Give it

- The later of nine months after the end of the plan year or two months after the Form 5500 is due (including extensions)

Who to Give it to

- Participants (including former employees with account balances)
- Beneficiaries receiving benefits
- Alternate payees receiving benefits

What it is

A narrative summary of the key information included in the Form 5500.

Benefit Statement

When to Give it

- Quarterly, if the plan permits participants to direct investments
- Annually, if the plan does not permit participants to direct investments

Who to Give it to

- Anyone with an account balance.

What it is

A statement or report of the value of the benefit, the amount that is nonforfeitable, the underlying investments (and their value), and examples of benefit payments; and for plans permitting participants to direct investments, the election process, the importance of diversification, and where to get additional information.

Section 404(c) Notice

When to Give it

- Before the participant, beneficiary, or alternate payee makes investment decisions or elections
- Upon request

Who to Give it to

- Participants
- Beneficiaries
- Alternate payees

What it is

Investment-related information such as fees, performance, and black-out periods.

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Black-Out Period Notice

When to Give it

- 30-60 days before a black-out period

Who to Give it to

- Those impacted by the black-out period

What it is

A summary of the features that will be unavailable for three or more business days, such as the ability to make investment elections, choose diversification, obtain a distribution, or request a loan.

Qualified Default Investment Alternative (QDIA) Notice

When to Give it

- At least 30 days before plan eligibility (or the date of eligibility if contributions can be withdrawn within 90 days of plan entry)
- At least 30 days before an investment into a QDIA is made
- At least 30 days before each plan year

Who to Give it to

- Participants and beneficiaries who may have an investment in a QDIA made on their behalf

What it is

A summary of what a QDIA is, what its objectives are, and the right to move assets from a QDIA into another permissible investment option.

Automatic Contribution Arrangement (ACA) Notice

When to Give it

- A reasonable amount of time before each plan year starts (generally 30 days)

Who to Give it to

- Any participant subject to automatic contributions

What it is

A summary of the participant's rights, obligations, and options regarding automatic contributions.

Notice of the Right to Divest

When to Give it

- Within the 30 days before a participant is eligible to divest

Who to Give it to

- Participants
- Alternate payees
- Beneficiaries of deceased participants or alternate payees

What it is

Information about when company stock can be sold and diversified, including information about the importance of diversification.

Notice of Automatic Rollover of Amounts over \$1,000

When to Give it

- Before the rollover occurs

Who to Give it to

- Participants subject to mandatory distribution after termination of employment

What it is

A summary of the mandatory distribution rules, explaining that if the participant fails to make a distribution election within 30 days, the participant's account balance will be transferred to an IRA of the employer's choice.

Plan Termination Notice

When to Give it

- During the plan termination process

Who to Give it to

- Participants
- Beneficiaries
- Alternate payees with account balances

What it is

Information about the plan termination process, distribution options, account balance, fees, and where to obtain more information.

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When to Give it

- Annually by January 31st

Who to Give it to

- All employees

What it is

In addition to reporting income, contributions to the plan should be reported on this form.