

Participant Notices Cheat Sheet

<i>Notice Type</i>	<i>Timing Requirement</i>	<i>Content Requirement</i>
401(k) Safe Harbor Notice	<p>Provided to participants a reasonable period before the beginning of the plan year or before the employee becomes eligible to participate. Following IRS guidance, any notice provided between 30 and 90 days before the new plan year is deemed to satisfy the timing requirement.</p> <p><i>Recent changes:</i> With the changes adopted in the SECURE Act, plan sponsors no longer need to give notice for safe harbor plans that have only nonelective contributions.</p>	Treas. Reg. §1.401(k)-3 SECURE Act §103
404(c) Notice	A one-time notice is required. Timing is not specified.	Labor Reg. §2520.102-3(d) Labor Ref. §2550.404c-1 (<i>explanation is provided in the SPD</i>)
Annual Funding Notice (for defined benefit plans covered by the PBGC)	<p>Not later than 120 days after the end of the plan year to which the notice relates.</p> <p><i>For plans with fewer than 100 participants:</i> Must be provided not later than the <i>earlier</i> of: (1) the date on which the Form 5500 is filed; or (2) the latest date the Form 5500 must be filed, including extensions.</p>	Labor Reg. §2520.101-5
Automatic Contribution Arrangement Notice	A reasonable period before each plan year in which an automatic contribution arrangement (also known as automatic enrollment or negative enrollment) will apply.	ERISA §514(e)(3) IRS Sample Notice
Eligible Automatic Contribution Arrangement (EACA) Notice	Within a reasonable period before the beginning of each plan year or before an employee becomes a covered employee. The requirement is deemed satisfied if notice is between 30 and 90 days before the beginning of each plan year.	See Safe Harbor Notice Requirements and additional guidance in Treas. Reg. §1.414(w)-1(b)(3)
Fee Disclosure Notice (404a-5 / 404(a)(5) Notice) (DC plans with participant investment direction)	Annually, but at least once in any 14-month period.	Labor Reg. §2550.404a-5
Domestic Relations Order (DRO) and Qualified Domestic	(1) Must provide a copy of the plan's procedures for determining qualified status of a DRO to the participant and	(1) The plan's procedures; and

Relations Order (QDRO) Notices	alternate payee “promptly” upon receiving the order (ideally, within one business day). (2) Must provide notice of determination of whether a DRO is qualified and notification to the participant and each alternate payee within a reasonable period, but not more than 18 months, after receipt of the DRO.	(2) notice of whether the DRO is qualified and, if not, basis of decision as to why not.
Notice of Blackout Period for Individual Account Plans (Blackout Notice)	At least 30, but not more than 60, days before commencement of the blackout period.	Labor Reg. §2520.101-3(b)(1) (See Labor Reg. §2520.101-3(e) for sample language)
Notice of Failure to Meet Minimum Funding Standards (pension plans only)	In a reasonable amount of time after the employer fails to make payment subject to the minimum funding standard, but not later than 60 days following the due date for the payment.	Not specified in law or regulations.
Notice of Funding-Based Limitation (DB plans only)	Within 30 days after the plan: (1) becomes subject to a funding-based limitation on shutdown benefits and other unpredictable contingent benefits or limitations on accelerated benefit distributions of ERISA §206(g); (2) in the case of a plan to which ERISA §206(g)(4) applies, after the valuation date for the plan year for which the plan’s adjusted funding target attainment percentage is less than 60%; or (3) at such other time as may be determined by the IRS.	ERISA §101(j) IRS Notice 2012-46 (contains model notice)
Notice of Funding Waiver Application (pension plans only)	Hand delivered or mailed to the last known address of each employee organization, participant, beneficiary, and alternate payee within 14 days prior to the date of the application.	Rev. Proc. 2004-15 section 2.02 (contains model notice)
Notice of Intent to Terminate (for single employer defined benefit plans subject to the PBGC in a standard termination)	Not less than 60 days before the proposed termination date.	Labor Reg. §4041.23
Notice of Plan Termination (for defined contribution plans)	No requirement (notice is only recommended).	Labor Reg. §2550.404a-3 (contains model notice)
Notice of Significant Reduction in Future Benefit Accruals (204(h) Notice) (pension plans only)	At least 45 days before the effective date of any section 204(h) amendment (which provides for a significant reduction or elimination in the rate of future benefit accrual).	Treas. Reg. §54.4980F-1

	<p><i>For Small Plans and Multiemployer Plans:</i> At least 15 days before the effective date of any section 204(h) amendment.</p> <p><i>For Business Transactions:</i> At least 15 days before the effective date of the section 204(h) amendment if it is adopted in connection with an acquisition or disposition. However, notice must be provided no later than 30 days <i>after</i> the effective date of the 204(h) amendment if liabilities are transferred to another plan in connection with a transfer, merger, etc., and the amendment significantly reduces an early retirement benefit or retirement-type subsidy, but <i>not</i> the rate of future benefit accrual.</p>	
Notice of Transfer of Excess Pension Assets to Retiree Health Benefit Account	No later than 60 days before the date of transfer.	ERISA §101(e) Labor Reg. §2520.104b-1
Periodic Pension Benefit Statement	<p><i>For Individual Account Plans:</i> At least quarterly if participants are permitted to direct their investments. At least annually if participants are not permitted to direct their investments. On request to a beneficiary, limited to one request during any 12-month period.</p> <p><i>For Defined Benefit Plans:</i> At least once every 3 years. Alternatively, the requirement may be satisfied if at least once each year the administrator provides notice of the availability of the statement and ways to obtain it. On request to a participant or beneficiary, limited to one request during any 12-month period.</p>	ERISA §105
Qualified Automatic Contribution Arrangement (QACA) Notice	<p>Must be provided sufficiently early so that the employee has a reasonable period of time after receipt to make elections. Default election cannot be effective any later than the <i>earlier</i> of:</p> <ol style="list-style-type: none"> (1) the pay date for the second payroll period that begins after the notice is provided; and (2) the first pay date that occurs at least 30 days after the notice is provided. 	See 401(k) Safe Harbor Notice Requirements and additional guidance in Treas. Reg. §1.401(k)-3(k)(4)(ii)
Qualified Default Investment Alternative (QDIA) Notice	<i>Initial Notice:</i> Given to a participant at least 30 days in advance of the participant's date of eligibility or, if the QDIA is a new	Labor Reg. §2550.404c-5

	<p>feature, at least 30 days in advance of the first investment into the QDIA.</p> <p><i>Subsequent Disclosure:</i> At least 30 days before each subsequent plan year.</p>	
Summary Annual Report (SAR) (DC plans only)	<p>Within 9 months after the close of the plan year, unless an extension for filing the Form 5500 has been granted, in which case the SAR must be provided within 2 months after the close of the period for which the extension was granted.</p> <p>For a group insurance arrangement exempt from annual reporting, SAR must be provided within 9 months after the close of the fiscal year of the trust or entity which files the annual report.</p>	Labor Reg. §2520.104b-10
Summary Plan Description (SPD)	<p><i>New Participant:</i> Within 90 days after the employee becomes a participant or, for beneficiaries, after he/she first received benefits.</p> <p><i>Following Changes:</i> An updated SPD must be provided every 5 years if changes are made and every 10 years if no changes are made. (In practice, a new SPD will need to be provided each time the plan is restated.)</p>	ERISA §102(a) Labor Reg. §2520.102-2 Labor Reg. §2520.102-3
Summary of Material Modifications (SMM)	No later than 210 days after the end of the plan year in which the change is adopted. However, if the change is a material reduction in covered services or benefits provided under a group health plan, notice must be provided not later than 60 days after the adoption of such change.	ERISA §102(a) Labor Reg. §2520.102-3 Labor Reg. §2520.104b-3(c) (<i>for group health plans</i>)
Suspension of Benefits Notice	During the first calendar month or payroll period in which the participant's benefits are suspended.	Labor Reg. §2530.203-3