



# Sending Required Participant Annual Notices

# Just the Facts

NOTICE TITLE	WHAT'S IN IT?	WHEN/WHERE IS IT GOING?	IF NOTICE IS NOT DISTRIBUTED IN A TIMELY MANNER?
<p style="text-align: center;">Summary Plan Description (SPD) and Summary of Material Modification (SMM)</p>	<ul style="list-style-type: none"> <li>▪ Eligibility requirements</li> <li>▪ Types of contributions available</li> <li>▪ Vesting guidelines</li> <li>▪ Distribution guidelines</li> <li>▪ Plan contact information</li> </ul>	<p><u>Upon participant eligibility:</u> within 90 days</p> <p><u>Beneficiaries:</u> must receive a copy within 90 days after first receiving benefits</p> <p><u>New plan becoming subject to ERISA:</u> within 120 days</p> <p><u>Written requests:</u> within 30 days of receipt</p>	<p>The Department of Labor (DOL) can assess a sponsor penalty of up to \$110 per day if an SPD/SMM is late to a single participant. Failure to provide an SPD/SMM within 30 days of a participant's written request may entitle the participant to up to \$110 per day.</p>
	<p>Sponsors must generally update their SPDs at least once every five years. For amendments between updates, participants must receive an SMM describing the change. Although the deadline for the SMM is the 210<sup>th</sup> day of the year following the year the amendment is adopted, it is a best practice to notify participants of the change as soon as possible</p>		
<p style="text-align: center;">Summary Annual Report (SAR)</p>	<ul style="list-style-type: none"> <li>▪ A summary of financial schedules attached to the most recent Form 5500</li> <li>▪ A statement informing participants of their rights to additional related information (such as a statement of plan assets and liabilities and/or a statement of plan income and expenses</li> <li>▪ How to contact the DOL if they have further questions or want to obtain a copy of the annual report</li> </ul>	<p>SARs must be distributed to plan participants by the last day of the ninth month following the end of the plan year. Plans that have an extension of time to file the Form 5500 must provide the notice within two months after the extension ends.</p>	<p>A participant requesting a SAR, who does not receive it within 30 days of the request, can be awarded up to \$110 per day for each subsequent day until it is provided. A participant, beneficiary, fiduciary or the Secretary of Labor may bring suit to require the distribution of SARs or, presumably, to obtain equitable relief for any damage suffered as a consequence of the failure to distribute the notice.</p>



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<p style="text-align: center;"><b>Participant Benefit Statement</b></p>	<p>Summarizes activity in a participant's account for a given time period. Generally, each statement must include the following information:</p> <ul style="list-style-type: none"> <li>▪ Beginning account balance</li> <li>▪ Contributions and/or distributions</li> <li>▪ Investment gain or loss</li> <li>▪ Ending account balance</li> <li>▪ Amount Vested</li> <li>▪ Statement regarding importance of diversification;</li> <li>▪ Description of each asset in which funds are invested</li> <li>▪ DOL website for more information.</li> </ul>	<p>As a good faith compliance, as indicated by the DOL, this notice is due no later than 45 days following the end of the applicable period (i.e. calendar quarter or calendar year).</p>	<p>A plan's investment arrangement dictates the frequency with which statements must be provided. The penalty for late statements is \$100 per day per participant.</p>
<p style="text-align: center;"><b>Safe Harbor 401(k) Notice</b></p>	<ul style="list-style-type: none"> <li>• Description of safe harbor contribution formula and eligibility requirements</li> <li>• Other available employer contributions</li> <li>• Type and amount of compensation that can be deferred</li> <li>• How and when to make a deferral election (including administrative requirements)</li> <li>• Withdrawal and vesting provisions</li> <li>• How to obtain additional information such as an Summary Plan Description</li> </ul>	<p>Disclosure is required to all eligible employees. The notice is deemed to have been given timely if it is provided 30 to 90 days before the start of each plan year (exceptions for new plan and newly eligible employees).</p>	<p>Possible loss of safe harbor status (requiring discrimination testing, and possibly refunding contributions for highly compensated employees) could be a qualification defect. Failure to timely provide the safe harbor notice is an operational failure that can subject the plan to disqualification.</p>



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<p style="text-align: center;"><b>Automatic Enrollment Notice</b></p>	<ul style="list-style-type: none"> <li>▪ The default deferral rate</li> <li>▪ Participant's right to opt out or defer a different amount</li> <li>▪ The default investment to be used if a participant does not make an investment election</li> <li>▪ For INTAC clients: If you are on a Safe Harbor plan, this notice is combined with your Safe Harbor 401(k) notice.</li> </ul>	<p>Notice is due 30 to 90 days prior to employee's automatic enrollment date, and 30 to 90 days before the start of each following plan year. Plans that provide eligibility on date of hire or very shortly thereafter can provide the notice on an employee's hire date.</p>	<p>A failure to provide notice could in a \$1,100 per day penalty until the notice is distributed.</p>
<p style="text-align: center;"><b>Qualified Automatic Contribution Arrangements (QACA) – Safe Harbor 401(k) Notice</b></p>	<ul style="list-style-type: none"> <li>• The same items described in the Traditional Safe Harbor 401(k) notice above</li> <li>• The level of elective contributions that will be made if the employee does not make an affirmative election</li> <li>• The employee's right to not have elective contributions made, or to change the amounts</li> <li>• How contributions will be invested, including how contributions will be invested in the absence of an investment election by the employee</li> </ul>	<p>Disclosure is required to all eligible employees. The notice is deemed to have been given timely if it is provided 30 to 90 days before the beginning of the plan year (exceptions for new plan and newly eligible employees).</p>	<p>Possible loss of safe harbor status (requiring discrimination testing).</p> <p>If the QACA arrangement uses a QDIA, under DOL Regulation 2560.502c-4, a civil penalty of \$1,100 per day, per violation may be assessed if the notice is not provided.</p>
<p style="text-align: center;"><b>Qualified Default Investment Including Alternative "QDIA Notice"</b> <i>(Provided by financial custodian)</i></p>	<ul style="list-style-type: none"> <li>• A description of the conditions under which assets will be invested in a QDIA</li> <li>• An explanation of a participant's right to direct the investment of assets in their individual accounts and to select a different option</li> <li>• A description of the QDIA, including a description of the fees, investment objectives and risk and return characteristics</li> <li>• A specification of the investment option to be used</li> </ul>	<p>Annual notice must be provided to each individual who has not made an affirmative deferral election under the plan at least 30 days before the initial default investment and 30 days prior to the start of each subsequent plan year.</p>	<p>Possible loss of 404(c) fiduciary protection for default investments until corrected.</p>



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(QDIA Notices <i>continued</i> )	as the default when a participant does not make an election and a notification of their right to select a different option.		
<b>Annual Participant Fee Disclosures</b>  <i>(Provided by financial custodian)</i>	In order to remain in compliance with ERISA 404(c) safe harbor, plan fiduciaries must provide additional participant disclosures: <ul style="list-style-type: none"> <li>▪ List of investment options including general description of risk/return characteristics</li> <li>▪ List of investment managers</li> <li>▪ Description of fees</li> <li>▪ Limitations on the exercise of voting rights</li> <li>▪ Contact information for a responsible plan fiduciary</li> <li>• Past and current performance information</li> <li>• Summary of investment fees</li> <li>• Information on how to change investments</li> </ul>	Annual notice must be provided to each participant or beneficiary who can direct investment of an account by August 29, 2013.  <i>*The above information applies to calendar year plans. Non-calendar year plans have similar requirements, though their deadlines may be different.</i>	While there is no formal requirement at this time, it is anticipated that in the near future, plans will be required to distribute notices describing the fees allocated to each participant's account on a quarterly basis. If fees are deemed unreasonable, this may cause a potential prohibited transaction.

*The participant notices listed on this fact sheet are required to be distributed to participants by the plan sponsor.*



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The information contained in this chart is intended to provide general information on matters of interest in the area of qualified retirement plan annual participant notifications and is distributed with the understanding that the publisher and distributor are not rendering legal, tax or other professional advice.  
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