

ASPPA Participant Disclosure Chart - Defined Contribution Plans

Disclosure Item	Content	Due Date	Required For	Approximate Length	Penalty for Failure to Provide	Citation	Method of Delivery	Jurisdiction
Automatic Enrollment Notice	Explanation of right not to defer or to defer an amount other than auto enrollment amount. May also incorporate QDIA notice (described below).	Reasonable period before first contribution and annually, thereafter	Plans that include an automatic enrollment feature	Unknown pending model notice from DOL	\$1,100 per day	PPA §902, ERISA §514(e)(3)	Hard copy or electronic	DOL
Beneficiary Designation	Identifying information of participant and primary (and maybe contingent) beneficiary. Must include spousal consent if someone other than spouse is named.	On or before commencement of plan participation	All plans	1 to 2 pages	N/A	Plan document. Designations preempt state laws, wills, etc. [Egelhoff v. Egelhoff, 532 U.S. 141 (2001)]	Hard copy or electronic	IRS/DOL
Benefit Statements	Account activity by investment option, information to determine vesting (at least annually) and statement re: prudence of well-diversified portfolio with link to DOL Website. Based on most recent information available.	At least quarterly for participant directed plans and annually for non participant directed plans, within 45 days following the close of the reporting period.	All defined contribution plans	1 to 2 pages	Participant may sue for up to \$100 per day or other relief	PPA §508, ERISA §105, DOL FAB 2006-03	Hard copy or electronic	DOL
Black Out Notice	Beginning and ending week of blackout period. List of rights to be restricted during the blackout period.	30 to 60 days prior to suspension of participant trading or withdrawal rights lasting three or more business days	All defined contribution plans	1 page	\$100 per day per participant	PPA §§ 509 & 621, ERISA § 101(i), DOL Reg §2520.101-3	Hard copy or electronic	DOL
Bonus Deferral Form	Participant information, election to defer bonus into the plan, spousal consent	Prior to payment of bonus wages	If a plan allows a participant to defer a different amount into a 401(k) plan on wages paid from a bonus	1 page	No penalty	N/A	Hard copy or electronic	N/A
Claims Procedures	Description of claims procedures and applicable time frames, including appeal of denied claims.	See Summary Plan Description	All plans	1.5 to 3 pages	Participant not limited to administrative remedies.	DOL Reg §2560.503-1	Hard copy or electronic	DOL
Distribution: Application for Benefits on Termination	Description of Optional Forms of Benefit, Explanation of right and waiver options for QJSA, if app., Explanation of Right to postpone distribution, Spousal Consent to Benefit Pmt, if app., Waiver of Minimum Notice Period. Can be part of, or separate from the §402(f) Notice (see below).	30 to 90 days prior to distribution, provided that the participant may waive the 30-day minimum	All plans	3 to 4 pages	N/A	Treas. Reg §§1.411(a)-11(c), 1.417(e), IRC §417(a)(3)	Hard copy or electronic: other than QJSA waiver info may be included in summary form.	IRS
Distribution: Application for Hardship Distribution	Notice that election is irrevocable, Notice of any associated fees, Waiver of Minimum Notice Period, Explanation of right and waiver options for QJSA, if applicable. Can be part of or a separate document given with the §402(f) Notice (See Special Tax Notice, below).	30 to 90 days prior to distribution, provided that the participant may waive the 30-day minimum	All plans	2 pages	N/A	Treas. Reg §§1.411(a)-11(c), 1.417(e), IRC §417(a)(3)	Hardcopy or Electronic: other than QJSA waiver info may be included in summary form.	IRS
Distribution: Election to defer Required Minimum Distribution (RMD) until retirement	Participant information, election to defer, spousal consent	Prior to required minimum distribution date	Non-key employees, who are still employed, who wish to defer their RMD at age 70 1/2	1 page	Excise tax of 50% of missed RMD	IRC §401(a)(9)	Hard copy or electronic	IRS
Distributions: Form 1099-R	Reporting of plan distributions subject to withholding rules (incl. direct rollovers)	January 31st of year following year of distribution	All plans	< 1 page	Up to \$50 per failure/max \$250,000	IRC §6047(d); Treas. Reg §31.3405(c)-1	Hard copy	IRS

ASPPA Participant Disclosure Chart - Defined Contribution Plans

Disclosure Item	Content	Due Date	Required For	Approximate Length	Penalty for Failure to Provide	Citation	Method of Delivery	Jurisdiction
Distributions: Mandatory distribution/auto rollover	Inform participant that distribution will be paid to an IRA absent an affirmative election	30 to 180 days prior to distribution	All qualified plans	Unknown	Qualification Failure; ERISA fiduciary liability	IRC §401(a)(31)(B)	Hard copy, electronic or other appropriate form notice to participant.	IRS/DOL plus potential private ERISA claims
Distributions: Mandatory Distribution/Auto Rollover	Notice, in the form of Summary of Material Modifications or update to SPD, must explain investment product used, allocation of fees and expenses of IRA, and name plan contact for further information	Prior to commencement of automatic rollovers	All qualified plans	Unknown	Qualification Failure; ERISA fiduciary liability	DOL Reg. §2550.404a-2	None specified	IRS/DOL plus potential private ERISA claims
Distributions: Special Tax Notice [402(f) Notice]	Inform participant of distributions that may be rolled over, and procedure for rollover of distributions	30 to 180 days prior to distribution	All qualified plans	IRS model form is approx. 9 pages	Qualification Failure; ERISA fiduciary liability	IRC §402(f)	Hard copy, electronic, or other appropriate form reasonably accessible to the participant	IRS/DOL plus potential private ERISA claims
DRO Notice	Inform participant and each alternate payee of receipt of order and plan QDRO procedures	Promptly upon receipt of DRO	All qualified plans	Notice: 1 page; QDRO Procedures: Approx. 2 to 3 pages	Qualification Failure; ERISA fiduciary liability	IRC §414(p)(6)	None specified (hardcopy or electronic)	IRS/DOL plus potential private ERISA claims
DRO Notice	Notify participant and each alternate payee of determination whether DRO is accepted as QDRO	A reasonable period of time after receipt of DRO	All qualified plans	Varies case-by-case	Qualification Failure; ERISA fiduciary liability	IRC §414(p)(6)	None specified (hardcopy or electronic)	IRS/DOL plus potential private ERISA claims
Employer Stock Diversification Notice	Description of the right to diversify and of "the importance of diversifying the investment of retirement account assets."	No later than 30 days before individual is first eligible to divest	Defined contribution plan that hold publicly-traded employer securities other than "free-standing" ESOP with no 401(k) or 401(m) contributions	DOL to publish model notice	Up to \$100/day per failure	PPA §§ 507 & 901, ERISA §§ 101(m) & 204(j)	Hardcopy, electronic, or other appropriate form reasonably accessible to the participant	DOL
Investments: 404(c) Disclosures	Description of employer's intent to comply with 404(c); 404(c) contact, how to get additional information, description of employee's investment responsibility. List and description of the plan's investment options. To the extent that this content is not in the SPD, it may be a separate notice that is given in conjunction with an investment summary, funds' prospectuses if applicable.	With the SPD, if it is not a part of the SPD. Included with enrollment material.	When a participant is eligible for the plan	2 to 10 pages	Plan Sponsor does not have relief under §404(c). Fiduciary can be liable for market losses in employee accounts.	ERISA §404(c)	Hard copy or electronic	DOL

ASPPA Participant Disclosure Chart - Defined Contribution Plans

Disclosure Item	Content	Due Date	Required For	Approximate Length	Penalty for Failure to Provide	Citation	Method of Delivery	Jurisdiction
Investments: QDIA Notice	Explanation of a participant's right to designate how contributions and earnings will be invested and a description of the investment option where participant's deferral contributions will be invested if no affirmative investment decision is made.	At least 30 days before beginning of plan year	Plan sponsors of participant directed plans (especially 404(c) plans) must provide to participants, alternate payees and beneficiaries of deceased participants who are eligible to make investment elections under the plan.	1 to 2 pages	Fiduciary liability (no relief granted) to the plan sponsor on choice of investment that is not a QDIA	PPA §624, ERISA §404(c)(5)	Hard copy or electronic	DOL
Investments: Investment Advice Disclosures	Disclosure of material affiliations and contractual relationships among service providers who provide investment options to the plan. Investment past performance and historical rates of return, fees and other compensation paid to fiduciary investment advisor or any affiliate related to the investment advice provided. Privacy rights. The types of services provided in connection with the investment advice, acknowledgement of fiduciary status by advice provider, the participant's right to seek independent advice any other relevant disclosures required via securities law (e.g. prospectus).	Before providing investment advice for the first time to the participant and annually thereafter. Also must be available upon request. Must resend to all recipients of advice if there is a material change to the disclosure document.	When investment advice provided by asset managers who otherwise receive revenue from the investment of the plan's assets-- e.g... : A Fiduciary Advisor (PPA)	Unknown pending model notice from DOL	Employer liable as Fiduciary for advice, no exemption from PT for advisor if receive compensation other than independent level billed fee	PPA §601, ERISA §408(g)(6)	Hard copy or electronic	DOL
Investments: Investment Election Form	Participant information, election to defer, list of investments and percentage or \$ contribution amount to be directed (allocated) to each	Sufficiently prior to payroll period for which the investment election is to be effective. (Typically administrative policy driven). This can also be a worksheet to facilitate on-line enrollment and investment selection.	Employer (plan sponsor) provides to the participant in order to receive back written record/instruction for participant's investment allocation decisions	1 to 2 pages	None, if employer does not receive employee direction, choice of investments is fiduciary responsibility & liability to the plan sponsor/employer. Fiduciary liability relief if form given as part of election to satisfy 404©.	ERISA §404(c) (29 CFR 2550.404c-1)	Hard copy or electronic	IRS and DOL
Investments: Mapping Notice	List of current and future investment options with risk/return characteristics and description of mapping to be made absent participant election	30 to 60 days before the effective date of the change	Plan Conversions (change in service provider) Investment option changes	Unknown pending model notice from DOL	Plan sponsor takes on fiduciary liability for choice of investments involved in transfer of plan assets; in other words, no fiduciary relief when participants' assets transferred via mapping schedule	PPA §621, ERISA §404(c)(4)	Hard copy or electronic	DOL
Investments: Prospectuses	Description of a security's objective, expenses, fees, management, financials, risk, holdings	Be made available to participants at education meetings or effectively available at a transaction involving that security	Securities purchases	20 to 75 pages each	Risk of lawsuit; broker-dealer fine or action	Sect.10 Securities Act 1933; §24 Investment Company Act 1940	Hard copy or electronic	SEC; NASD

ASPPA Participant Disclosure Chart - Defined Contribution Plans

Disclosure Item	Content	Due Date	Required For	Approximate Length	Penalty for Failure to Provide	Citation	Method of Delivery	Jurisdiction
Loans: Amortization Schedule	Amount and date of loan as well as loan repayment schedule. Must provide for substantially level amortization over the term of the loan. Payments must be made at least quarterly.	Upon receipt of loan proceeds	Participants who request a loan and for which a loan is processed	Approximately 1 to 5 pages	Taxes and penalties for deemed distribution and 15% prohibited transaction excise tax	IRC §72(p)	Hard copy or electronic	DOL
Loans: Loan Application	Participant name and Social Security number, amount requested, terms of the loan. Loan administration fee, acknowledgement and signature, Spousal Consent. Promissory Note and payroll deduction agreement. May also include Truth in Lending Disclosure. **Plan sponsor and legal counsel should consult and draft plan's Loan Application.**	Upon request	Participants who request a loan	Approximately 1 to 5 pages	Taxes and penalties for deemed distribution and 15% prohibited transaction excise tax	IRC §72(p)	Hard copy or electronic	DOL
Loans: Promissory Note	Amount and date of the loan, the term of the loan, and the repayment schedule	Within a reasonable period of loan application	Plans allowing participant loans	1 page	Taxes and penalties for deemed distribution and 15% prohibited transaction excise tax	Treas. Reg. §1.72(p)-1, Q&A 3(b)	Hard copy or electronic	IRS/DOL
Loans: Separate Written Policy	Loan terms including authority to grant loans and actions taken on default	Summary Plan Description due date initially or Summary of Material Modifications due date when loan provision is added or modified	Plans allowing participant loans	5 pages	\$110 per day with a maximum of \$1,100 per incident	DOL Reg. §2550.408b-1(d)(2)	Hard copy or electronic	IRS/DOL
Loans: Truth-in-Lending Disclosure	Amount financed, the finance charge, the annual percentage rate, the repayment procedure and the security interest taken	Within a reasonable period of time from request	All plans that make 25 or more loans (or five or more loans secured by a dwelling) during any calendar year	1 page	Taxes and penalties for deemed distribution and 15% prohibited transaction excise tax	Federal Truth-in-Lending Act [15 U.S.C. §1601 et seq.] and Reg. Z, 12 C.F.R. §§226.2(a)(12), (17), 226.3(b)	Hard copy or electronic	IRS/DOL
New-Hire Education	Information about the plan, investment choices and other miscellaneous related information	Summary Plan Description due date initially or Summary of Material Modifications due date when loan provision is added to plan	Employer best practices; coordinates with ERISA disclosure requirements	10 to 100+ pages depending plan sponsor	N/A; unless plan sponsor relies on this material as SPD &/or other required notices	See SPD or other applicable sections	Hard copy or electronic	DOL
Notice to Interested Parties	Plan name, address and contact information; Date of Filing; Rights of Interested Parties; Information to comment to the DOL and to the IRS (date sensitive relating to the date of filing)	10 to 24 days before Form 5300, 5307 or 6406 is sent to IRS	Determination as to whether the Plan meets the qualification requirements of §401 or 403(a) of the Internal Revenue Code with respect to the Plan's initial qualification, amendment and restatement, or termination (Form 5300, 5307, 6406 filings)	Two pages	Cannot locate any penalty for failure to provide notice to Interested Parties.	Effective date of revised interested party regulations 1/1/2003. Treas. Reg. §1.7476-2(e)(1); Timing of notice §601.201(o)(3)(xiv)-(xx); Interested Party Defined §1.7476-1(b)	Hard copy or electronic: Any method that reasonably ensures that all interested parties will receive the notice §1.7476-2(c)(1)	IRS

ASPPA Participant Disclosure Chart - Defined Contribution Plans

Disclosure Item	Content	Due Date	Required For	Approximate Length	Penalty for Failure to Provide	Citation	Method of Delivery	Jurisdiction
QDRO Procedures	Notification procedures upon receipt of a domestic relations order; Procedure to determine the qualified status of domestic relations orders; Procedure for the distribution of plan benefits; Requests for review of the Plan Administrator's determination	Upon the Plan's receipt of an order, the plan should send an acknowledgement letter and QDRO procedures to the participant and each alternate payee. Upon final determination the plan should mail a determination if the order is or is not qualified. If not qualified, the reason(s) it is not qualified.	All qualified retirement plans subject to Title I of ERISA.	Initial acknowledgement letter 1 page. Plan QDRO procedures approx. 4 pages. Follow-up letter - order is or is not qualified, 1 or 2 pages.	If the plan pays benefits under an order which is not qualified, potential disqualification and fiduciary liability under Title I of ERISA. I cannot find any penalty for failure to provide QDRO procedures to a participant or an alternate payee.	IRS Notice 97-11 provides model language for QDROs; IRC §414(p)(6)/ERISA §206(d)(3)(G) requires plan to establish procedures in writing.	Hard copy or electronic; printed copies, mailed or delivered	IRS/DOL
QJSA Notice Including Relative Value of Optional Forms	Explanation of the QJSA; general description of alternate forms of benefit payment; election form actually waive or do not waive	Age 32 to 25. W/in 1 year of term if prior to age 35. W/in 1 year of becoming a participant. W/in 1 year of becoming subject to QJSA rules.	All qualified plans unless the plan is exempt from the requirement	Approx. 8 pages	Failure to provide could result in plan disqualification, not following terms of the plan	IRC §401(a)(11) and 417 / ERISA §205	Hard copy or electronic; printed copies, mailed or delivered	IRS, Treasury
Rollover form	Certification from the employee that a rollover coming into the plan is allowable	When rollover assets are transferred into the plan	Participants who roll money into their new qualified plan	1 page	Could subject the plan sponsor to penalties if the plan accepts nonrollable money into the plan	IRC §402(c)	Hard copy or electronic	IRS
Safe Harbor Notice Including Contingent Notice for QNEC	Safe Harbor formula, any other matching contribution, including allocation requirements, type and amount of compensation that can be deferred into the plan, how to make elections, including any administrative rules that apply to the elections, periods available to make deferral election, withdrawal and vesting provisions that apply to contributions under the plan, information to easily obtain additional information about the plan (additional copies of SPD, phone numbers, addresses).	30 to 90 days prior to start of plan year using Safe Harbor design	Each plan year in which Safe Harbor is elected	3 to 20 pages	Operational failure	Treas. Reg. §1.401(k)-3(d)	Hard copy or electronic	IRS
SIMPLE Notice	Name and address of employer and trustee, eligibility requirements, SIMPLE contribution formula, how to make elections, withdrawal and if DFI how to obtain a penalty free transfer	60 days prior to beginning of plan year	Each plan year in which SIMPLE IRA	1 to 2 pages	\$50 per day	IRC §408(l)(2)	Hard copy or electronic	IRS
Statement of Deferred Benefits	Information being reported on Schedule SSA	No later than filing of Form 5500 (Schedule SSA)	Terminated Participants that must be reported on Schedule SSA	1 page	Court enforcement or criminal penalties if willful	ERISA §105	Hard copy or electronic	DOL
Statement of Deferred Benefits	Fair Market value of account as of most recent valuation date, vesting percent and earliest date may be 100% vested	180 days after close of plan year in which terminates or break-in-service	Participants who terminate or incur a 1-year break-in-service	1 page	Penalty of \$11 per employee	ERISA §209(a)(1)(B)	Hard copy or electronic	DOL

ASPPA Participant Disclosure Chart - Defined Contribution Plans

Disclosure Item	Content	Due Date	Required For	Approximate Length	Penalty for Failure to Provide	Citation	Method of Delivery	Jurisdiction
Summary Annual Report	Financial status of the plan, including: total value of assets, contributions, distributions, expenses, dividends/interest. Plans subject to Minimum Funding must include funding status. Must include statement of right to receive copy of 5500 form. For plans waiving additional audit requirements must include list of assets and holders of such assets, Surety Bond information if more than 5% of held in non-qualifying assets. Notice of right to obtain copy of Surety Bond and copies of investment statements, and disclosure to contact DOL if unable to obtain this information.	Last day of 9th month beginning after end of plan year (or as extended)	Plans required to file Form 5500 (excluding 5500-EZ filers)	1 to 2 pages	Court enforcement or criminal penalties if willful	ERISA §104(b)(3)	Hard copy or electronic	DOL
Summary of Material Modifications	Plan name, plan number, plan sponsor name and tax ID. Effective date of the change or modification and the wording of the applicable SPD sections both before and after the plan amendment or other change.	210th day after end of plan year when modification was adopted	Mandatory for all plans	Approximately 1 to 2 pages	\$110 per day with a maximum of \$1,100 per incident	ERISA §104(b)(1)	Hard copy or electronic	DOL
Summary Plan Description	Primary method of disclosing to participants their rights under the plan, how the plan works, what benefits are provided, when those benefits will be paid and how to request benefit payments	Within 90 days of becoming a participant. 120 days after plan is subject to Title 1. Updated every 5 years if plan is amended or every 10 years if no amendments.	Mandatory for all plans	Approximately 15 to 30 pages	\$110 per day with a maximum of \$1,100 per incident	ERISA §102	Hard copy or electronic	DOL
Supplemental Safe Harbor Notice	Decision on Safe Harbor election for the current year	At least 30 days before end of plan year	Plan that issued Contingent Notice at beginning of year as to whether 3% safe harbor will be made for the current year	1 page	Operational failure	Treas. Reg. §1.401(k)-3(f)	Hard copy or electronic	IRS