

# Time to Issue Annual Retirement Plan Notices

By: Alex Mattingly on November 12, 2019 on [graydon.law](http://graydon.law)

Now that the cost of living adjustments have been issued for 2020, it is time for plan sponsors to finalize and issue their annual notices to participants. The 401(k) safe harbor, qualified default investment alternative (“QDIA”), and automatic enrollment notices must all be sent to plan participants between 30-90 days before the beginning of the plan year (i.e., no later than December 2<sup>nd</sup> for calendar year end plans). Fortunately, these notices may be combined into a single document. Make sure that the appropriate notices are issued on time if your plan contains any of the following features:

## **401(k) Safe Harbor**

Plans that include a 401(k) safe harbor feature are designed to avoid annual ADP and sometimes ACP compliance testing by providing for specific employer contributions. The plan sponsor of a 401(k) safe harbor plan is required to issue an annual written notice of the employee’s rights and obligation under the plan to each eligible employee (not just current plan participants).

## **QDIA**

A QDIA is a default investment option that is selected by the plan sponsor for participants that have contributions in their retirement accounts but have not directed where those contributions should be invested. If the default fund satisfies certain requirements, the fund will qualify as a QDIA and the plan sponsor will have fiduciary protection over the selection of that default fund. If your plan contains a QDIA, you must provide an annual notice to all participants who were defaulted or may be defaulted into the QDIA in order to retain this fiduciary protection (although most plan sponsors choose to send the notice to all plan participants to ensure that they don’t miss anyone).

## **Automatic Enrollment**

Plans that include an automatic enrollment arrangement feature are designed to automatically enroll an eligible employee in the employer’s plan at a specified elective deferral contribution percentage unless the employee affirmatively elects otherwise. If your

plan has an automatic enrollment feature, you must send an annual notice describing the automatic enrollment feature to all participants who have been or will be automatically enrolled into the plan and haven't made an affirmative election to change their deferral percentage. This notice requirement applies to traditional automatic enrollment plans that want ERISA preemption from state wage withholding laws as well as plans that are designed as eligible automatic contribution arrangements ("EACAs") or qualified automatic contribution arrangements ("QACAs").

If you have questions about any of these plan features or need help drafting your annual notice, please reach out to any Graydon attorney in our Employee Benefits Group.