

# **SIFMA SAVINGS AND RETIREMENT SYMPOSIUM**

## **PREPARING FOR AUTOMATIC SAVINGS ARRANGEMENTS**

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# Automatic and Easy Enrollment

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Does your plan contain:	Automatic Enrollment		Easy Enrollment	
	2005	2004	2005	2004
Yes	23%	14%	11%	10%
No, but considering it	29%	14%	16%	9%
No, discontinued it	1%	1%	1%	1%
No	46%	70%	66%	71%
No, unaware of this feature	1%	1%	6%	9%



# Automatic and Easy Enrollment

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Default Contribution Election	Automatic Enrollment	Easy Enrollment
2% or less	26%	34%
3%	53%	43%
4%	11%	9%
5%	4%	2%
6% or more	6%	12%



# Automatic and Easy Enrollment

Default Investment Election	Automatic Enrollment		Easy Enrollment	
	2005	2004	2005	2004
Short-term (stable value, money market, etc.)	41%	58%	39%	64%
Balanced fund	15%	17%	27%	4%
Lifestyle/target retirement fund	38%	17%	27%	32%
Other	6%	8%	7%	N/A



# Automatic and Easy Enrollment

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Motivation for adding feature	Automatic Enrollment	Easy Enrollment
Encourage retirement savings	45%	40%
Increase overall participation	34%	36%
Improve nondiscrimination test results	21%	24%



# Automatic Enrollment

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Reasons for not adding feature	Automatic Enrollment
Not interested	48%
Need DOL guidance on default investment elections	36%
State laws not allowing deductions from employee pay	33%
Need an ACP/ADP Safe-harbor	30%
Participants who decline: elimination of plan account	19%



# DEFAULT INVESTMENTS

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- New ERISA 404(c)(5) provides that, for purposes of 404(c)(1), a participant in an individual account plan meeting certain notice requirements shall be treated as exercising control over the assets with respect to contributions and earnings that, absent investment direction from the participant, are invested in accordance with regulations prescribed by the Secretary of Labor. Such regulations shall provide guidance on the appropriateness of designating default investments that include a mix of asset classes consistent with capital preservation, long-term capital appreciation, or a blend of both.
- Effective for plan years beginning after 12/31/06.
- DOL has issued proposed regulations identifying balanced funds, target date funds and managed accounts as qualified default investment arrangements (QDIA). QDIA must be managed by section 3(38) investment managers or a mutual fund – plan sponsors and some insurance and bank products are excluded. Notice must be provided 30 days in advance, creating problem for immediate enrollment.



# ERISA PREEMPTION FOR AUTOMATIC ENROLLMENT ARRANGEMENTS

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- ERISA section 514 is amended to add new subsection (e) that specifies that ERISA preempts “any law of a State which would directly or indirectly prohibit or restrict the inclusion in any plan of an automatic contribution arrangement.”
- Such contribution must be invested pursuant to investment and notice regulations issued by the Secretary under section 404(c)(5).
- Effective upon enactment.
- Did this help or hurt us?



# AUTOMATIC CONTRIBUTION ARRANGEMENTS PERMISSIBLE WITHDRAWALS

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- A new section 414(w) provides that elective deferrals (and earnings thereon) made to an automatic contribution arrangement) may be distributed if requested by the employee and permitted by the plan.
- The distribution is includable in income in the year it is distributed, but not subject to the section 72(t) 10% additional tax.
- A permissible withdrawal applies only to elections made no later than 90 days after the first elective contribution under the arrangement.
- An eligible automatic enrollment arrangement is a cash or deferred arrangement under which a participant is treated as having elected to have the employer make contributions in an amount provided in the plan until the participant elects otherwise; investments are made in accordance with regulations prescribed by the Secretary of Labor under 404(c)(5).
- Applies to section 401(a) plans, 403(b) plans, and governmental 457 plans.
- According to the Joint Committee on Taxation, it is intended to treat a permissible withdrawal as paying compensation rather than a contribution and distribution.
- Effective for plan years beginning after 12/31/07.



# AUTOMATIC CONTRIBUTION ARRANGEMENTS NONDISCRIMINATION AND TOP HEAVY SAFE HARBOR DESIGN

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- Treated as meeting the ADP and ACP tests and to be exempt from the definition of a top heavy plan.
- Automatically enroll new hires and existing eligible employees who have not elected to participate or not participate in the plan at at least 3 % of compensation.
- The deferral rate must be at least 4% in the 2<sup>nd</sup> year, at least 5% in the 3<sup>rd</sup> year, and at least 6% during any subsequent year; but not more than 10%.
- A matching contribution of 100% of the first 1% of compensation and 50% of the next 5% of compensation for nonhighly compensated employees; or a 3% nonelective contribution, is required.
- The existing safe harbor rules regarding matches and permitted disparity apply.
- Employer contributions are fully vested after two years of service.
- Effective for plan years beginning after 12/31/07.



# Bibliography

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