

FREQUENTLY ASKED QUESTIONS

Plan Restatements

You may already be aware that the Internal Revenue Service requires all defined contribution plan documents be restated on a fixed, six-year cycle. While we'll ensure your plan is restated as required, you may have some questions about the process and why it's necessary.

What's the timeline for the restatement cycle?

Each restatement cycle lasts 24 months. This current restatement cycle, known as Cycle 3, runs from August 1, 2020 until it closes on July 31, 2022.

Plan Sponsors must adopt and sign the restated plan document by July 31, 2022.

Our Document Team will email you a month before your plan restatement review begins. Keep in mind that if your plan doesn't have any required or requested changes for the 2021 plan year, it may be a year or more before your plan document is scheduled for review.

What do I need to do to get started?

Watch for an email from our Document Team notifying you that we're ready to restate your plan and asking how you'd like to proceed. You can choose one of these options:

Option 1: Request a Plan Review with your Retirement Plan Consultant (RPC).

Use this restatement as an opportunity to improve your plan. Your RPC will review your plan with you to consider how changes in your business or new legislation may provide opportunities that benefit you and your participants.

Option 2: Restate the Plan with your current provisions.

If you don't need to make any other changes to your plan, we'll review and rewrite your plan document to include any previously adopted plan amendments along with the new provisions as required by the IRS or the Department of Labor (DOL).

Be sure to tell your RPC if there are changes to your plan that should be effective for the 2021 Plan Year so we can prioritize your plan restatement. For instance, you may want to add or remove safe harbor contributions for the 2021 plan year.

If you have already requested changes to be considered for this restatement, know that your RPC has shared those changes with the Document Team and they'll be incorporated into this restatement.

Why do we restate plan documents?

Plan documents are drafted based on laws and regulations set forth by Congress, the Treasury Department, and the DOL. As new laws and regulations are passed and finalized, documents must be updated to reflect those changes.

Since the last defined contribution restatement cycle, which ended on April 30, 2016, there have been a number of regulatory and legislative changes impacting retirement plans, including the following:

- Expansion of the definition of “spouse” to include those of the same gender;
- Availability of plan forfeitures to offset safe harbor contributions;
- Ability to amend a safe harbor 401(k) plan mid-year; and
- Ability to make in-plan Roth transfers.

Which types of plans must be restated?

This upcoming mandatory restatement period is for defined contribution plans. All qualified retirement plans that use an IRS preapproved plan document must be restated approximately every six years.

We just restated our plan. Do we have to do it again?

Yes. If your document was drafted prior to August 1, 2020, it could not have satisfied the new requirements as the IRS had not yet issued their approval letters for Cycle 3 documents.

We are terminating our plan. Do we have to restate?

When a plan is terminated, it must be updated with all required law changes. If a plan is terminated after August 1, 2020, a Plan Sponsor should carefully consider restatement as a part of the termination process.

Our plan is new this year. Do we have to restate?

Yes. Newly created plans, prior to August 1, 2020, could not have satisfied the Cycle 3 restatement requirement as the IRS had not yet issued approval letters.

Why weren't the Hardship Distribution Regulations included in the Cycle 3 restatement?

The IRS approval letters for Cycle 3 plan documents do not consider legislative and regulatory changes enacted prior to February 1, 2017. That means the following changes still have to be addressed in separate, good-faith amendments rather than in the plan documents:

- Hardship distribution regulations (effective January 2019);
- SECURE Act (passed in December 2019); and
- CARES Act (passed in March 2020)

What is the deadline to restate for the Cycle 3 changes?

Plans that do not adopt a timely-signed Cycle 3 restatement plan document by July 31, 2022 will be subject to IRS-imposed penalties. This may also affect the qualified status of your plan and contributions made to the plan.

Is there a fee for the restatement?

Yes. There is a fee for this service. However, if you are on our Document Maintenance program, this restatement is included in the program. If you would like information regarding our Document Maintenance program, please request details from your RPC.

Can I pay for the restatement fee from plan assets?

Yes. Since the restatement is mandatory, the expense is eligible to be paid from plan assets. To do so, please contact your RPC for guidance.

What is included in the restated documents package?

Plan Sponsors will receive the restatement plan documents via DocuSign. The documents to be included will be:

1. Adoption Agreement
2. Basic Plan Document
3. Good Faith Amendments
4. Board Resolution
5. Trust Agreement, if applicable
6. Participating Employer Agreements, if applicable
7. Plan Summary
8. Summary Plan Description

What do I need to do when I receive the restatement documents?

Plan Sponsors and all Trustees must sign the Cycle 3 restatement plan documents by July 31, 2022. However, based on the effective date of the restatement, you may be required to sign the document sooner.

Plan Sponsors and all Trustees will receive an email via DocuSign with instructions as to how to sign the documents electronically. If you are unable to use DocuSign, please let your RPC know and we can send the documents through other means. Note, you will have the ability to print the documents from DocuSign, sign them on paper and email or mail the signed pages to us. Finally, once all documents are signed, print or save the signed document for your permanent records.