



# 2021 COMPLIANCE CALENDAR FOR CALENDAR-YEAR RETIREMENT, HEALTH AND WELFARE BENEFIT PLANS

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# January

## By January 4

- Deadline for making minimum required contributions to single-employer defined benefit pension plans for Q1, Q2 and Q3 2020 that otherwise would have been made in 2020, but were delayed under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

## By January 15

- Post Schedule MB attachment from the 2019 Form 5500 (defined benefit pension plan actuarial information) on company intranet, assuming Form 5500 was filed by October 15, 2020
- Fund Q4 2020 contributions to defined benefit pension plans

## By January 31

- Report value of health coverage on Form W-2
- Deadline for Massachusetts employers to distribute Form 1099-HC to satisfy requirements regarding state individual mandate
- Deadline for California employers to distribute ACA information returns (e.g., Form 1095-C) to individuals to satisfy requirements of the California state individual mandate

## Special Projects

- Schedule quarterly meetings of Benefits Committee through December 31
- Review first payroll file to confirm new deductions have been accurately loaded into internal systems (e.g., 401(k) deferrals and health and welfare plan premiums and deductions), and review payroll configuration to confirm it conforms to retirement plan definition of pay
- Confirm contracts for all benefit providers have been signed, including insurance policies, administrative service agreements, and HIPAA business associate agreements
- Update company intranet with new benefit plan documents, Summary Plan Descriptions, Summaries of Material Modifications, policies, and forms
- Provide information in response to annual compliance questionnaires or other requests for information from retirement plan recordkeepers
- Continue tracking data to satisfy ACA reporting obligations for 2021 (which will be due in 2022) regarding offers of affordable, minimum essential coverage to FTEs
- Work with retirement plan recordkeepers to perform nondiscrimination testing, including 410(b) minimum coverage testing, 402(g) limit testing, 401(k) and 401(m) ADP/ACP testing, 415 limit testing, 414(s) compensation testing, and top-heavy testing for 2020 plan year
- Begin tracking part-time employees, as those who complete at least 500 hours over the next three years must be eligible to make elective deferrals into a 401(k) plan under the SECURE Act

## By February 1

- Confirm 401(k)/403(b) plan recordkeepers have provided Q4 2020 quarterly statements to participants, including fee disclosure information (deadline is February 14)
- Confirm retirement plan recordkeepers have provided Forms 1099-R to participants who received retirement plan distributions in 2020
- File Form 945 to report income tax withheld from retirement plan distributions in 2020
- If contributions to a defined benefit pension plan were delayed in 2020 under the CARES Act, file amended 2020 premium filing with the PBGC

## By February 10

- Complete comparative analysis to document compliance with nonquantitative treatment limitations under the Mental Health Parity and Addiction Equity Act, as required under the Consolidated Appropriations Act, 2021 (“CAA-21”)

## By February 28

- Confirm retirement plan recordkeepers have filed Forms 1099-R (due March 31 if filing electronically)
- File PBGC Form 1-ES estimated premium payment (flat-rate premium for defined benefit pension plans with over 500 participants)
- File 2020 ACA information returns (Forms 1094-C and 1095-C) with IRS if not filing electronically

## Special Projects

- Work with FSA/125 plan recordkeepers or brokers to perform applicable nondiscrimination testing, including 105(h) testing, 125 testing, and 129 testing for 2020 and projected testing for 2021
- Hold quarterly meeting of Benefits Committee to review 2020 year-end investment performance, fees, plan administration data, and plan operational issues

## By March 1

- File DOL Form M-1 for MEWAs
- Complete online disclosure to CMS regarding “creditable coverage” status for prescription drug coverage to Medicare Part D individuals

## By March 2

- Deadline to provide 2020 ACA information returns to individuals (extended from January 31) to satisfy IRS requirements
- Deadline for New Jersey employers to distribute ACA information returns to individuals to satisfy requirements regarding state individual mandate
- Deadline for DC employers to distribute ACA information returns to individuals to satisfy requirements regarding DC individual mandate
- Deadline for Rhode Island employers to distribute ACA information returns to individuals to satisfy requirements regarding state individual mandate

## By March 15

- Deadline to apply to the IRS for a waiver of the minimum funding standard for defined benefit and money purchase pension plans
- Process corrective distributions to “cure” failed 2020 ADP/ACP tests for 401(k) plans to avoid paying 10% excise tax (a later June 30 deadline applies to 401(k) plans with eligible automatic contribution arrangements)
- Fund all 2020 company contributions to retirement plans by due date for corporate tax return in order to deduct contributions for 2020 tax year (unless Form 7004 has been filed to extend due date for corporate tax return, permitting funding by September 15)
- Deadline to adopt defined benefit pension plan amendments for the prior year for funding purposes
- File Form 8928 to report excise taxes for noncompliance with certain group health plan requirements (unless Form 7004 has been filed to extend due date for corporate tax return, permitting filing by September 15)

## By March 31

- Receive elections from eligible ESOP participants to diversify a portion of their ESOP accounts
- Confirm retirement plan recordkeepers have filed Forms 1099-R, if filing electronically
- File ACA information reporting returns for 2020 with the IRS, if filing electronically
- File Form 5330 to report and pay excise taxes for excess 2019 plan year ADP/ACP contributions that were not timely corrected in 2020 (or file Form 5558 to request extension of up to six months to file)
- File Retiree Drug Subsidy (RDS) reconciliation with CMS for 2019
- Deadline for California employers to submit ACA information returns to the California Franchise Tax Board to satisfy California individual mandate requirements
- Deadline for New Jersey employers to submit ACA information returns to the New Jersey Division of Revenue and Enterprise Services to satisfy state individual mandate requirements
- Deadline for Rhode Island employers to submit ACA information returns to the Rhode Island Department of Revenue, Division of Taxation to satisfy state individual mandate requirements
- Deadline for Massachusetts employers to submit HIRD and Form 1099-HC electronically through the MassTaxConnect web portal to satisfy state individual mandate requirements

## By April 1

- Reminder: Required minimum distributions (RMDs) for participants who turned age 70 ½ in 2020 are delayed until April 1 of the year after they reach age 72
- Complete actuary's certification of 2021 AFTAP for defined benefit pension plans to avoid presumption that 2021 AFTAP is 10% less than 2020 AFTAP

## By April 15

- Fund Q1 2021 contributions to defined benefit pension plans
- File Form 8928 to report excise taxes for noncompliance with obligation to make comparable HSA contributions (unless Form 7004 has been filed to extend due date)
- Complete electronic filing with PBGC under ERISA 4010 (notice of underfunding) if AFTAP is less than 80% for 2020, if not previously filed
- Process distributions of excess 402(g) deferrals under 401(k)/403(b) plans for 2020

## By April 30

- Distribute Annual Funding Notice for defined benefit pension plans with more than 100 participants
- Pay final 2020 comprehensive PBGC premium for defined benefit pension plans that filed an earlier estimated variable rate premium in the October 15, 2020 comprehensive filing with the PBGC
- Deadline for DC employers to file electronically to satisfy requirements of the DC individual mandate

## Special Projects

- Schedule open enrollment planning meetings with brokers and consultants to discuss potential design changes to health and welfare plans for 2022
- Confirm with plan vendors that quarterly Medicare Secondary Payer (MSP) reports are being filed with CMS
- Begin 2020 plan year audits for retirement plans and funded welfare trusts
- Confirm ESOP trustees are working with valuation firms to begin annual independent appraisal process

## By May 1

- Provide notice of benefit restrictions under IRC Section 436 to participants if AFTAP for a defined benefit pension plan (certified by actuary as of April 1) is less than 80% and notice has not previously been provided

## By May 15

- Confirm 401(k)/403(b) plan recordkeepers have provided first quarter benefit statements to participants, including fee disclosure information
- File Form 990 returns for tax-exempt trusts or voluntary employee beneficiary associations (VEBAs) (or file Form 8868 to automatically extend due date to August 15)

## By May 31

- Deadline for California employers to file electronically in order to satisfy requirements of the California state individual mandate

## Special Projects

- Hold quarterly meeting of Benefits Committee to review investment performance, fees, plan administration data, and plan operational issues for quarter ending March 31

## By June 30

- Process participant ESOP diversification elections that were made by March 31
- Process corrective distributions to “cure” failed ADP/ACP tests for 401(k) plans with an eligible automatic contribution arrangement for 2020, to avoid the 10% excise tax

## Special Projects

- Obtain insurance renewals from all vendors
- Work with retirement plan recordkeepers to provide modeling or projections of the cost impact and the nondiscrimination testing impact of any design changes under discussion or of any unusual plan features (e.g., level of company contributions; safe harbor; auto enrollment or auto escalation features; varying employee groups; etc.)

## By July 15

- Fund Q2 2021 contributions to defined benefit pension plans

## By July 29

- Distribute revised Summary Plan Descriptions or Summaries of Material Modifications reflecting material changes made to plans that were adopted and became effective in 2020

## By July 31

- File Form 720 and pay PCORI fee of \$2.54 per covered life for plan years ending between January 1 and September 30, 2020 (for self-insured medical plans)
- File Forms 5500 and 8955-SSA for retirement plans, and Forms 5500 for health and welfare plans with more than 100 participants (or file Form 5558 to extend due date to October 15)
- Distribute annual benefit statements to participants in non-participant-directed account retirement plans (e.g., ESOPs) unless Form 5558 has been filed to extend due date for Form 5500 until October 15; issue distribution forms to terminated participants
- Distribute Annual Funding Notice for defined benefit pension plans with less than 100 participants (unless Form 5558 has been filed to extend due date for Form 5500 until October 15)
- Provide notice to terminated vested employees reported on Form 8955-SSA describing the amount of their vested benefits (unless Form 5558 has been filed to extend due date for Form 5500 until October 15)
- File Form 5330 to report excise taxes related to employee benefit plans for 2020 (e.g., late remittance of participant contributions, excess 401(k) plan contributions, etc.)

## Special Projects

- Finalize health and welfare plan design for 2022, including permissive changes to FSAs for 2022, and other changes required under CAA-21
- Prepare annual report of Benefits Committee to Compensation Committee or Board of Directors, if required by the Benefits Committee charter
- Work with retirement plan recordkeepers and auditors on Forms 5500 for 2020
- Work with health and welfare plan vendors on Forms 5500 for 2020



## By August 14

- Confirm 401(k)/403(b) plan recordkeepers have provided second quarter benefit statements to participants, including fee disclosure information
- File Form 990 returns for tax-exempt trusts or VEBAs, assuming Form 8868 was filed to extend due date (or file a second Form 8868 to request an extension of the due date to November 15)

## Special Projects

- Hold quarterly meeting of Benefits Committee to review investment performance, fees, plan administration data, and plan operational issues for quarter ending June 30
- Review ERISA fidelity bond coverage and fiduciary liability insurance coverage levels with risk management, and renew or change as appropriate
- Schedule 401(k)/403(b) education seminars for employees to be held in the Fall

## By September 15

- If Form 7004 was filed by March 15<sup>th</sup>, fund all 2020 company contributions to retirement plans by extended due date for corporate tax return in order to deduct contributions for 2020 and to avoid funding deficiency for defined benefit pension plans
- File Form 8928 to report excise taxes for noncompliance with certain group health plan requirements (e.g., COBRA; HIPAA special enrollment, portability and nondiscrimination rules; newborn and mothers' health; mental health parity; and failure to meet certain ACA requirements), assuming Form 7004 was filed to extend due date
- Form 5500 due for plans eligible for an automatic extension linked to a corporate tax extension
- Minimum funding deadline for defined benefit pension plans that do not have a funding shortfall for the prior plan year

## By September 30

- Distribute Summary Annual Reports for retirement plans, and for health and welfare plans with more than 100 participants, for which Forms 5500 were filed by July 31<sup>st</sup> (unless Form 5558 has been filed to extend due date for Form 5500, permitting distribution by December 15)
- Confirm actuary for defined benefit pension plan certifies AFTAP for 2021

## Special Projects

- Finalize budget for 2022 and obtain approvals, as appropriate, from Benefits Committee, Compensation Committee or Board of Directors for benefit plan design changes
- Finalize retirement plan changes for 2022, so changes can be incorporated into annual notices that will be distributed between October 1 and December 1, 2021
- Conduct 401(k)/403(b) educational seminars for employees
- Confirm the annual 404(a)(5) fee disclosure notice for each defined contribution plan has been updated and provided to participants within the last 14 months
- Confirm with defined contribution plan recordkeeper that new lifetime illustrations will be included in participant benefit statements provided after 9/18/2021

# October

## By October 14

- Distribute Notice of Medicare Part D creditable prescription drug coverage to health plan participants (unless notice has been provided in open enrollment materials)

## By October 15

- Fund Q3 2021 contributions to defined benefit pension plans
- Adopt retroactive amendment to correct 410(b) minimum coverage or 401(a)(4) nondiscrimination testing failures for 2020
- File Form 8928 to report excise taxes for noncompliance with obligation to make comparable HSA contributions (assuming Form 7004 was filed to extend due date)
- File Form 5500 and 8955-SSA for retirement plans, and Form 5500s for health and welfare plans with more than 100 participants (assuming Form 5558 was filed to extend due date for Form 5500); if plan is using QSLOB testing, file Form 5310-A as notice of QSLOB election
- Complete and make payment for annual premium payment, single employer plan variable rate portion of premium, and flat-rate premiums due to PBGC
- Distribute annual benefit statements to participants in non-participant-directed account retirement plans, (e.g., ESOPs) (assuming Form 5558 was filed to extend due date for Form 5500); issue distribution forms to terminated participants
- Distribute Annual Funding Notice for defined benefit pension plans with less than 100 participants (assuming Form 5558 was filed to extend due date for Form 5550)
- Provide notice to terminated vested employees reported on Form 8955-SSA, describing the amount of their vested benefits (assuming Form 5558 was filed to extend due date for Form 5500)
- Deadline to utilize contributions correcting 2020 ADP/ACP test failures to count as 2020 annual additions

## By October 31

- Provide notice of benefit restrictions under IRC Section 436 to participants if AFTAP for a defined benefit pension plan (certified by actuary no later than October 1) is less than 60% and notice has not previously been provided

## Special Projects

- Work with 401(k)/403(b) plan recordkeeper to prepare notices, including QDIA notice, safe harbor notice, and auto enrollment notice, as required (to be distributed by December 1)
- Have ESOP trustees meet to review and accept annual valuation report for 2020
- Finalize and distribute open enrollment communications and Summaries of Benefits and Coverage (“SBC”)

## By November 15

- Confirm 401(k)/403(b) plan recordkeepers have provided third quarter benefit statements to participants, including fee disclosure information
- File Form 990 returns for tax-exempt trusts or VEBAs if Form 8868 was filed to extend due date
- Distribute Summary Annual Reports to participants if Form 5500 deadline was extended due to a corporate tax filing extension
- Distribute SBCs to participants for each group health plan option that is offered. In addition, unless previously provided during open enrollment or at some other time this Fall, the following documents should be provided to employees and other required recipients: (i) an updated CHIP notice; (ii) the annual notice required under the Women's Health and Cancer Rights Act; (iii) a Medicare Part D notice; (iv) a notice of "grandfathered plan status" under the ACA (if applicable); (v) a HIPAA Notice of Privacy Practices for any self-funded plans, or a statement describing the availability of the HIPAA Notice of Privacy Practices and where the notice can be accessed; (vi) the ADA wellness plan notice (if applicable); (vii) the notice required under ACA Section 1557 (if applicable); (viii) Michelle's Law notice (if student status is used to determine eligibility for any purpose); (ix) an ACA notice regarding choice of providers; (x) the COBRA general notice; and (xi) the Early Retiree Reinsurance Program notice (if applicable)

## Special Projects

- Conduct annual open enrollment
- Hold quarterly meeting of Benefits Committee to review investment performance, fees, plan administration data, and plan operational issues for quarter ending September 30

## By December 2

- Distribute 401(k)/403(b) plan notices, including the QDIA notice, safe harbor notice, and auto enrollment notice

## By December 15

- Distribute Summary Annual Reports for retirement plans, and for health and welfare plans with more than 100 participants (assuming Form 5558 was filed to extend due date for Form 5500)

## By December 27

- Deadline for first report on group health prescription drug cost and benefits required under CAA-21

## By December 31

- Adopt plan amendments for discretionary plan changes that took effect during 2021, and interim amendments required by statute or regulations to be adopted by year-end
- Confirm retirement plan recordkeepers have paid annual required minimum distributions (RMDs)
- Process corrective distributions to “cure” failed ADP/ACP tests for 2020 with payment of 10% excess tax
- Provide defined benefit pension plan participants with an annual notice about the availability of pension benefit statements, or provide participants with an annual notice about the availability of (and the means to obtain) the pension benefit statement for 2021 if the alternative notification approach is being used in 2021
- Correct FSA and DCAP discrimination testing failures that occurred in 2021
- Deadline for correcting top-heavy testing failures that occurred in 2020
- Provide eligible ESOP participants with notice about their rights to diversify a portion of their ESOP accounts
- Deadline for safe harbor plan to remove its safe harbor status for the following year; for an existing defined contribution plan to convert to a safe harbor plan (other than a non-elective safe harbor plan); or to elect safe harbor status for the prior plan year with a nonelective contribution of 4% or more of compensation
- Deadline for actuary’s certification of 2021 AFTAP to prevent presumed AFTAP of less than 60% from applying January 1, 2022 (or retroactively to October 1, 2021, if range certification issued prior to October 1, 2021)

## Special Projects

- Remind employees and participants to review and elect aged-50-and-over catch-up contributions in 401(k)/403(b) plans, to be effective January 1, 2022
- Notify employees of cost of living increases in regular and catch-up contribution limits in 401(k)/403(b) plans, to be effective January 1, 2022
- Work with finance and payroll departments to set up internal systems to reflect retirement plan contribution and compensation limits for 2022

# Disclosure

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