United of Omaha Life Insurance Company
Companion Life Insurance Company
Mutual of Omaha Retirement Services

Your Guide to Safe Harbor 401(k) Plans

401(k) PLAN FEATURES THAT SIMPLIFY COMPLIANCE

329896

Your Guide to Safe Harbor 401(k) Plans

What is an ADP/ACP safe harbor 401(k) plan?

An ADP/ACP safe harbor 401(k) plan allows adopting employers to automatically pass certain compliance tests if they meet specific contribution, vesting and notification rules.

What are some of the advantages of a safe harbor plan?

Generally, the IRS treats such a plan as passing:

- The actual deferral percentage (ADP) test
- The actual contribution percentage (ACP) test
- The top-heavy test

What types of employers benefit from adopting a safe harbor plan?

Employers experiencing the following situations may benefit from safe harbor:

- Owners and highly paid employees' contributions are limited because of low participation rates or low contribution rates by lower paid employees
- Plans are consistently top heavy, and additional employer contributions must be made to satisfy the top heavy requirements
- Generous (more than 3%) profit sharing or matching contributions are made consistently

What employer contributions will satisfy the safe harbor requirements?

Employers must amend their plan document to reflect one of these fixed, safe harbor contribution formulas.

BASIC MATCH

- A dollar-for-dollar (100%) match on an eligible employee's deferral up to 3% of compensation for the year and,
- A 50% match on the next 2% of the employee's deferrals

ENHANCED MATCH

- A matching contribution that is at least as generous as the basic match at any level of employee deferral
- The most common formula gives eligible employees a 100% match on deferrals up to 4% of the employee's compensation

NON-ELECTIVE CONTRIBUTION

- A contribution given to all eligible employees – even those who do not make contributions – that equals 3% of the employee's compensation for the year
- With a non-elective contribution, the plan sponsor has the option to wait until the end of the plan year to decide whether or not to adopt the safe harbor plan

Required safe harbor contributions must be 100% vested.

What costs are associated with implementing a safe harbor contribution formula?

The cost of the safe harbor contribution for the employer each year depends on the level of participation. If few eligible employees make deferrals, a matching formula may be more cost-effective than the non-elective contribution. If the employer wants to bolster deferral rates, even at a higher cost, he may choose the 4% enhanced match formula.

What administrative requirements must the employer satisfy?

Aside from the typical operational compliance rules (following plan provisions, filing Form 5500 annually, etc.), the employer must:

- Operate as a safe harbor plan for the entire plan year
- Amend the 401(k) document (or adopt a 401(k) for the first time) to add the safe harbor provisions
- Notify participants about the safe harbor provisions 30 to 90 days before the start of each new plan year

Mutual of Omaha assists employers by providing a template notice.

What if an employer fails to provide the proper notice to their employees?

The plan is not considered safe harbor and is subject to ADP, ACP and top-heavy testing.

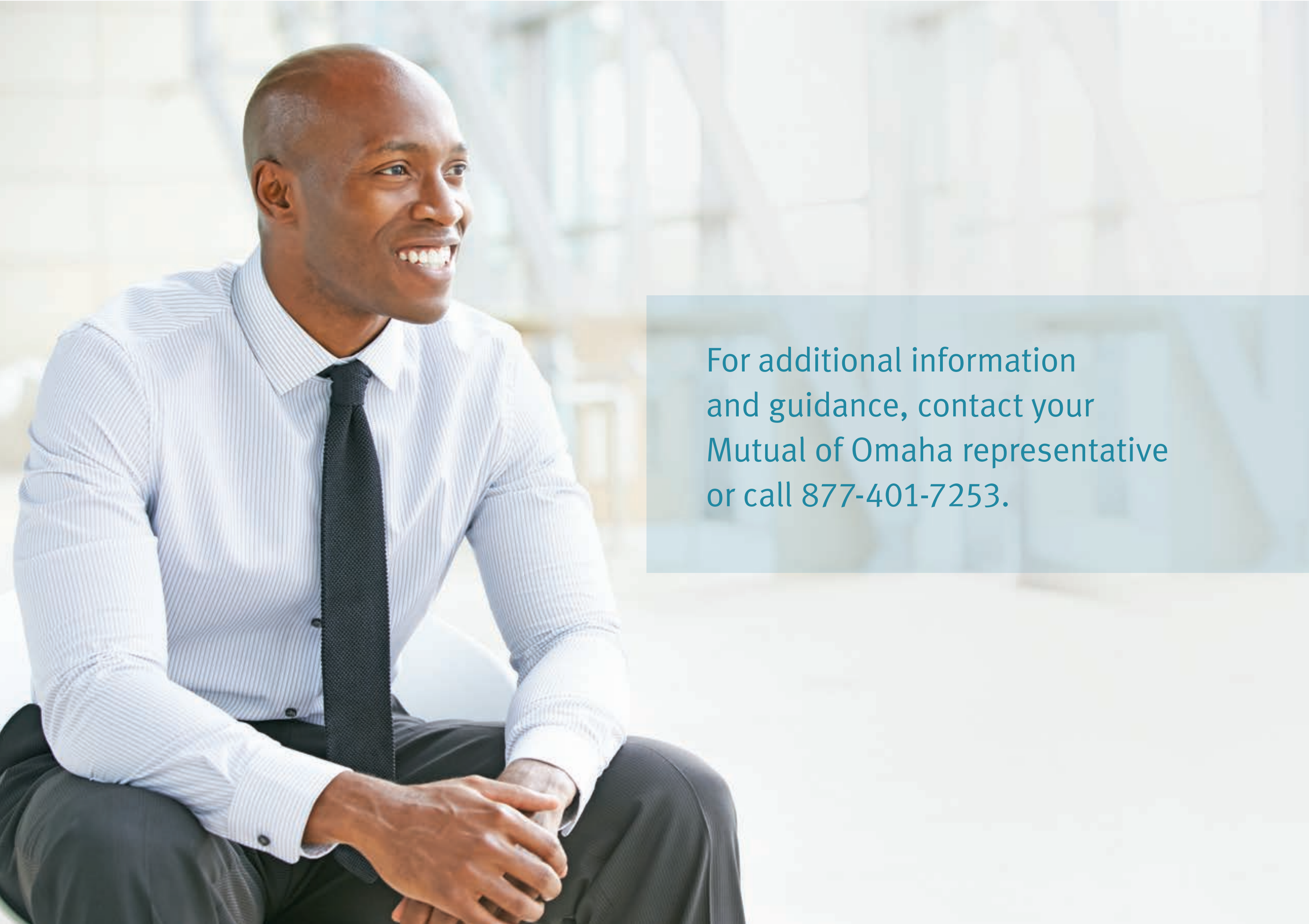
What if an employer wants to contribute more than the required match?

Many employers limit their contributions to the amounts required under their chosen safe harbor formula. Others choose options with greater flexibility. For instance, an employer may want to make matching contributions in addition to the basic match. This is permissible, provided that the additional contributions do not exceed certain limitations. These limitations are in place to prevent HCEs from getting a disproportionate amount of employer contributions.

To illustrate: an employer generally cannot provide a matching contribution on deferrals that exceed 6% of an employee's compensation because non-HCEs typically tend not to defer higher percentages of their compensation. If an employer exceeds this limitation (and others), the safe harbor relief no longer applies and the employer is subject to the various non-discrimination tests, thus losing the benefit of making the contributions. So contribution flexibility is permitted, but within limits.

Because of the vast number of contribution possibilities, employers should consult their tax advisors before making contributions beyond what the safe harbor rules require.

We make 401(k) administration easy.



For additional information and guidance, contact your Mutual of Omaha representative or call 877-401-7253.

Product underwritten by:
Mutual *of* Omaha Retirement Services

United of Omaha Life Insurance Company
3300 Mutual of Omaha Plaza
Omaha, NE 68175
(877) 401-SALE (7253)

Companion Life Insurance Company
Hauppauge, NY 11788
(877) 401-SALE (7253)

Getretirementright.com **mutualofomaha.com**

Mutual *of* Omaha's
WILD KINGDOM

Group variable annuities are long-term investment vehicles designed to accumulate money on a tax-deferred basis for retirement purposes. Distributions may be subject to ordinary income tax and, if taken prior to age 59 ½, a 10 percent federal tax penalty may apply. Investing in a group variable annuity involves risk, including possible loss of principal.

For informational purposes only. Should not be construed as legal or investment advice, a promise of benefit or guarantee of investment performance.

Prior to selecting investment options for the plan, plan sponsors should consider the investment objectives, risks, fees and expenses of each option carefully. For this and other important information, plan sponsors should review the fee disclosure document or the plan sponsor website. Read this information carefully.

Investment options are offered through a group variable annuity contract (Forms 902-GAQC-09, 903-GAQC-14, 903-GAQC-14 FL, 903-GAQC-14 MN, 903-GAQC-14 OR, 903-GAQC-14 TX, or state equivalent) underwritten by United of Omaha Life Insurance Company for contracts issued in all states except New York. United of Omaha Life Insurance Company, 3300 Mutual of Omaha Plaza, Omaha, NE 68175 is licensed nationwide except in New York. Companion Life Insurance Company, Hauppauge, NY 11788 is licensed in New York and underwrites the group variable annuity (Form 900-GAQC-07(NY)).

Each company accepts full responsibility for each of their respective contractual obligations under the contract but does not guarantee any contributions or investment returns except as to the Guaranteed Account and the Lifetime Guaranteed Income Account as provided under the contract. All guarantees are based on the claims paying ability of the issuing company. Specific features of the Lifetime Guaranteed Income Account vary by state. Restrictions apply. The Lifetime Guaranteed Income Account is not available in Nevada or New York. Neither United of Omaha Life Insurance Company, Companion Life Insurance Company, nor their representatives or affiliates offers investment advice in connection with the contract.

Mutual of Omaha Retirement Services is a marketing name for the Retirement Plans Division of Mutual of Omaha Insurance Company.

For producer and plan sponsor use only. Not to be used with any participant.