Compare a traditional safe harbor plan design versus qualified automatic contribution arrangement

Is your organization considering transitioning to a safe harbor plan design? There are two 401(k) safe harbor options — safe harbor and qualified automatic contribution arrangement (QACA).

Let's compare them so we can begin to determine which is best for your organization.

FEATURES	SAFE HARBOR PLAN DESIGN	QACA
Maximum eligibility	• Age 21 • 1 year/1,000 hours of service[1]	Same
Excludable employees	• Classes of employees if minimum coverage requirements met • Employees who collectively bargain for benefits • Non-resident aliens	Same
Salary deferral	• Subject to IRS annual contribution limits: › Maximum employee elective deferral limit (402(g) limit) › Overall contribution limit — including all employer contributions, elective deferral contributions and forfeiture allocations (415 limit) • Restrictions to limits — can't have a minimum salary deferral percentage, but can allow for whole percentages of compensation • Allows optional automatic enrollment feature (no minimum or maximum and can permit one-time and annual re-enrollments) • Allows optional automatic increase	• Subject to IRS annual contribution limits: › Maximum employee elective deferral limit (402(g) limit) › Overall contribution limit — including all employer contributions, elective deferral contributions and forfeiture allocations (415 limit) • Restrictions to limits — can't have a minimum salary deferral percentage, but can allow for whole percentages of compensation • Requires automatic enrollment feature › Between 3% and10% for initial period and uniform for all affected participants; the maximum default automatic salary deferral rate has been increased from 10% to 15% following a participant's first year of plan participation[2] › If less than 6%, the following minimums apply: › Initial period[3] = 3% › First year following initial period = 4% › Second year following initial period = 5% › Third year following initial period = 6% • Plan can provide for a new initial period (i.e., start over on minimum default percentage after the employee is rehired) if the employee didn't have defaulted contributions for an entire plan year • Automatic enrollment may disregard current employees who have a salary deferral agreement on file • Once a participant makes an affirmative election, the auto increases, if any, wouldn't apply • The automatic enrollment feature can only apply to existing eligible employees as of the date the QACA was added (i.e., no "sweeps" are allowed after the QACA establishment date)

[1] Effective plan years starting Jan. 1, 2021 adding additional hours requirement of 500 hours for three consecutive years.

[2] Effective for plan years beginning after Dec. 31, 2019.

[3] The initial period begins when the participant first has default salary deferral contributions under the QACA and ends on the last day of the following plan year.

FEATURES	SAFE HARBOR PLAN DESIGN	QACA
Automatic enrollment permissible withdrawals	Not allowed	Plans may allow employees who didn't make a salary deferral election to receive a permissible withdrawal of the salary deferrals—plus earnings—if requested within 90 days after the date of the first defaulted salary deferral contribution under the QACA • The withdrawal is taxed in the year of distribution and isn't subject to the 10% early withdrawal penalty • Salary deferral contributions withdrawn are not included in the overall 402(g) deferral limit • Any employer match must be forfeited and isn't included in the actual contribution percentage (ACP) nondiscrimination test, if applicable • This is an optional feature
Required employer contribution	• Match 100% of first 3% of pay deferred plus 50% of the next 2% of pay deferred [4], or • Match a percentage that is at least as good at each rate of deferrals as above[4], or • Contribute qualified non-elective contribution of at least 3% of pay [4] • Employer maximum cost of 3% to 4% of pay • Can't be integrated with Social Security	• Match 100% of first 1% of pay deferred plus 50% on the next 5% [4], or • Non-elective contribution of at least 3% of pay for all eligible employees • Match a percentage that is at least as good as each rate of match as above[4]; or • Employer maximum cost of 3% to 3.5% of compensation • Can't be integrated with Social Security
Matching limitations	• No stated match over 6% of salary deferrals (to avoid ACP test) • No discretionary match over 4% of compensation (to avoid ACP test). • Rate of match doesn't increase as salary deferrals increase • Rate of match for highly compensated employees (HCEs) doesn't exceed rate of match for NHCEs at any rate of salary deferrals	Same
Additional employer contributions	Allowed	Same
Additional qualified plans	Allowed	Same
Nondiscrimination testing	• Actual deferral percentage (ADP) not required • ACP not required if certain requirements are met	Same
Top-heavy determination	Deemed to not be top heavy if certain requirements are met	Same
Vesting	• Required contributions must always be 100% vested • Other contributions can be subject to a vesting schedule	• Required contributions must be 100% vested after 2 years of service • Other employer contributions may be subject to a vesting schedule
Loans	Allowed	Same
In-service withdrawals	• Required employer contributions are subject to certain restrictions[5] (e.g., age 59½, termination of employment, death, retirement, etc.) • Standard withdrawal options apply to other contributions	Same
Maximum number of employees	Any number	Same

[4] Contributions may be provided to non-highly compensated (NHCEs) only.

[5] Safe Harbor contributions are subject to some restrictions–for example, generally you can't access these contributions for in-service withdrawals prior to age 59½ . However, the Bipartisan Budget Act of 2018 now permits the option to withdraw safe harbor contributions for hardship withdrawals starting with 2019 plan years, and if allowed by the plan.

FEATURES	SAFE HARBOR PLAN DESIGN	QACA
Restatement allowed from existing qualified plan	• Yes, first year must be 12 months in length or at least 3 months in length for a new plan (other than a successor plan); • Cash or deferred arrangement (CODA) and 401(k) safe harbor provisions can be added to an existing profit sharing plan at least 3 months prior to the end of the plan year	Same
Employee annual notice requirements	• Must be given a reasonable period (at least 30 days and no more than 90 days before the beginning of each plan year) or a reasonable period before the employee becomes eligible, if later • The SECURE Act eliminated notices for certain non-elective contribution safe harbor plans [1] • Notice must contain specific information regarding the safe harbor plan design and other provisions	• Same reasonable period rules as standard safe harbor plan design • Plus, the participant must have a reasonable period of time between the time the notice is received and the first salary deferral contribution in order to make salary deferral and investment elections • In addition to including the same information as standard safe harbor plan design, the notice must explain: › The amount of salary deferral contributions that will be made on the employee's behalf unless he/she elects otherwise; › The employee's right under the automatic enrollment arrangement to elect not to defer or to elect a different salary deferral percentage; and › How contributions made under the automatic enrollment arrangement will be directed in the absence of an investment election › Same elimination of notices for certain non-elective QACA safe harbor plans[2]
Plan year	• Can be any plan year, (e.g., most choose calendar) • Must be 12 months in length • If this is the first year plan is a 401(k), plan y ear must be at least 3 months	Same
Pay	• Must use a nondiscriminatory definition of pay • Plan may use pay for the plan year or the payroll period (true-up contribution required for plan-year pay)	Same
Plan signing deadline	• Safe harbor provisions must generally be adopted prior to the beginning of the plan year in which they will take effect • The SECURE Act allows 401(k) plan (that is not using a match provision to satisfy ACP safe harbor) to amend by: › at least 30 days prior to end of plan year if provide a 3% non-elective safe-harbor contribution or › by the end of the following plan year if provide a 4% non-elective contribution [2]	Same
Opting out	May opt-out of 401 (k) safe harbor plan design on a prospective basis before end of the plan year if certain requirements are met	Same
Mid-year changes	• Certain mid-year changes are allowed while others remain prohibited • See IRS 2016-16 for additional guidance	Same