

Summary Plan Description and Summary of Material Modifications guidelines

Background

The Employee Retirement Income Security Act (ERISA) requires most employers who sponsor a qualified retirement plan to provide employees and participants information that describes their retirement plan's rules, as well as the operation and administration of the plan. An employer sponsoring a retirement plan subject to ERISA must provide a Summary Plan Description (SPD) when the plan is established and upon each full plan restatement. If the plan is amended (changed), affected employees and participants must be informed of the changes by receiving either a revised SPD or a Summary of Material Modifications (SMM).

Content

Modifying the Summary Plan Description (SPD) and/or Summary of Material Modifications (SMM)

Any change or deletion should be carefully reviewed to ensure it matches the provisions of your current plan document. An incorrect SPD and/or SMM could provide participants additional rights that could be adverse to the plan sponsor.

If you decide to modify the wording in the SPD and/or SMM, please be sure to keep record of all changes. These changes may be needed for future updates. Subsequent SPDs and/or SMMs prepared by Lincoln will not contain such modifications.

Required information that may not be removed

Certain information must be included in the SPD and/or SMM and may not be deleted. Examples of items that may not be deleted include eligibility requirements, contribution requirements, vesting provisions, distribution rules, claim procedures, intention (if applicable) of plan to be an ERISA 404(c) plan, Qualified Domestic Relations Order (QDRO) procedures, and effect on participants' rights if plan is terminated.

Delivery

SPD and/or SMM recipient requirements

After reviewing the SPD and/or SMM, it should be provided to all active participants, retirees, beneficiaries of deceased participants receiving benefits and terminated participants with vested benefit rights (i.e., all participants and any beneficiary who has an account balance).

Please note: The SPD and/or SMM do not have to be provided to retired participants, beneficiaries of deceased participants receiving benefits, or terminated participants with vested benefit rights, if the modification or change in no way affects such person's rights under the plan.

Required deadlines

For a new plan, the SPD and SMM (if applicable) must be provided within 120 days after the plan becomes subject to the reporting and disclosure requirements of ERISA.

For an updated, modified, or restated plan, the SPD and/or SMM must be provided within 210 days after the close of the plan year in which the change, modification, or restatement was adopted.

For newly-covered participants, the SPD and/or SMM must be provided within 90 days after the participant first becomes covered under the plan.

Delivery methods

The Department of Labor (DOL) disclosure requirements state that you must use a delivery method that is reasonably calculated to ensure delivery.

- Acceptable delivery methods:
 - In-hand delivery at the workplace.
 - As an insert in periodicals provided to employees such as a company publication or union newsletter.
 - First-class postal mail delivery. Second or third-class delivery is also acceptable if return and forwarding postage is guaranteed and address correction is requested.
 - Electronic media delivery with certain restrictions (see Appendix A – Electronic delivery guidelines).
- Unacceptable delivery methods:
 - Posting on a bulletin board at the work site.
 - Furnishing via a computer kiosk at the work site.



Have questions?

If you have questions about this information, please contact your Lincoln representative.

For plan sponsor use only. Not for use with plan participants.

This material is designed to provide information regarding the subject matter covered. It is provided with the understanding that Lincoln affiliates, their distributors, and their respective employees, representative, and/or insurance agents are not engaged in rendering legal or tax advice.

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Appendix A – Electronic delivery guidelines

Acceptable types of electronic media

- Company website
- Third party website
- Documents delivered as an email attachment

Paper copy must be provided, if requested

All recipients who are required to receive the Summary Plan Description (SPD) and/or Summary of Material Modifications (SMM) must have the right to request the document in a paper form. The document must be provided free of charge.

Confirmation of actual receipt of electronic SPD and/or SMM

It is the plan administrator's responsibility to take the necessary steps and appropriate measures to ensure the electronic method selected results in the actual receipt by the participants. There are two ways to satisfy this requirement:

- Use the return receipt electronic mail feature.
- Conduct periodic reviews or surveys to confirm the integrity of the electronic delivery system.

Notice to those receiving the SPD and/or SMM electronically

At the time the document is transmitted electronically, all individuals need to be informed of the significance of the document, unless otherwise reasonably evident as transmitted. For example, if an individual receives the SPD and/or SMM as an attachment to an electronically transmitted message, or in the form of a message and hyperlink to the plan's website or a third party website, the individual must be notified in the message that the communication contains important plan information. As stated above, this notice must inform the individual of the right to request a paper copy, free of charge.

Consent from those receiving the SPD and/or SMM electronically

- Delivery to active participants:
 - This group includes active participants whose duties require the accessing of an electronic information system including participants who work at home (provided accessing the employer's (plan sponsor's) electronic information system is an integral part of the participant's duties).
 - Participant consent is not needed for those in this group.
- Delivery to other participants and beneficiaries:
 - This group covers a participant, a beneficiary of a deceased participant, or other person entitled to documents such as an alternate payee under a Qualified Domestic Relations Order (QDRO).
 - Participant consent is needed for this group. If the hardware or software requirements are changed, the person must receive notice giving him/her the opportunity to withdraw consent.

For additional information on electronic delivery, visit the DOL website at www.dol.gov/agencies/ebsa/laws-and-regulations/laws/erisa/new-electronic-disclosure-rule.

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