

Q. Who is M2 TRUST?

M2 TRUST is a state chartered trust company, located in Denver, regulated by the Colorado State Banking Commission. Our goal is to be recognized as a premier financial services company in the markets we serve. Led by some of the most experienced business and industry leaders, we are dedicated to providing trust and retirement plan services which meet the needs of our customers on a timely, competitive priced basis. Our central location (Denver, Colorado) provides us with the unique ability to service customers coast to coast and everywhere in between.

Q. What is an automatic rollover?

Automatic rollovers involve the transition of funds from an employer's retirement plan to an IRA on behalf of former employees, without their involvement or consent. The automatic rollover rules apply only to terminated employees who are plan participants with a vested balance of \$5,000 or less. These so called "mandatory distributions" or "cash-out provisions" apply to terminated participants who have not authorized a distribution or rollover option for their plan balances. Generally, mandatory distributions must be automatically rolled over if the participant's vested balance is greater than \$1,000 but not greater than \$5,000. However, vested balances of \$1,000 or less may also be automatically rolled over pursuant to *Treas. Reg. 2550.404a-2*.

Q. Can a Plan Sponsor legally force a distribution to an IRA rollover account?

Yes. Generally speaking a Plan Sponsor cannot distribute (without consent) retirement benefits prior to the participant's normal retirement age. However, Internal Revenue Code ("Code") § 411(a)(11) allows an employer to incorporate a provision in their retirement plan document that requires an immediate distribution to a separating participant if their vested benefit has a present value equal to or less than \$5,000. This rule was modified after the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") amended the Code to provide, absent an election by the participant, certain mandatory distributions be transferred directly to an Automatic Rollover IRA. The modification became effective for distributions made on or after March 28, 2005, after the Department of Labor drafted safe harbor provisions that protect plan fiduciaries from liability.

Q. Should a Plan Sponsor force distribution on terminated plan participants?

There are a number of reasons why a Plan Sponsor would want to distribute small account balances of former employees from the plan, including:

1. It will reduce administrative costs for plans paying fees based on the number of Participants in the Plan.
2. It may eliminate the need to file as a large plan, avoiding expense of Plan audits.
3. It will reduce the Plan Sponsor's fiduciary responsibilities.
4. It will eliminate disclosure/communication requirements with former employees.
5. It will accelerate access to forfeiture dollars, i.e., there is no need to wait for the occurrence of 5 breaks in service before forfeiting.

Q. Can a Plan Sponsor choose not to adopt the automatic rollover provision?

Yes. A Plan Sponsor can amend their plan to remove mandatory distributions (cash-out) provisions. This will enable their plan to comply with the new regulations without processing automatic rollover IRAs. If the plan does not currently have a mandatory cash-out provision no amendment is necessary.

Q. What if the vested account balance is \$5,000 or more?

Vested account balances larger than \$5,000 must remain in the plan until the participant makes a distribution election. However, if an employer's retirement plan document provides that *rollovers* from non-related plans are excluded, the amount of the mandatory cash-out could exceed \$5,000 (see question below).

Q. Do rollover amounts count in determining the \$5,000 threshold?

The plan document and the EGTRRA amendment determine whether or not a rollover account in the plan should be included in determining whether or not the size of the vested account exceeds \$5,000. If the rollover account is not included in calculating the size of the vested account for purposes of the automatic rollover of forced distribution requirements, the actual automatic rollover may include the rollover account and may exceed \$5,000.

Q. What happens if the vested account balance is less than \$1,000?

For vested account balances of less than \$1,000, the plan may force out the distribution by issuing a check and mailing it to the participant's last known address. As an alternative, a Plan Sponsor may modify their plan document to extend the

automatic rollover IRA feature to balances of less than \$1,000, in which case the employer would set up an Automatic Rollover IRA for these accounts.

Note: For Plan Sponsors who elect to continue to distribute checks (for balances under \$1,000) to missing or non-responsive participants, such individuals will continue to be participants in the plan until such time as they cash their checks.

Q. What is the fiduciary liability with regard to the Automatic Rollover IRAs?

As long as the Department of Labor's (DOL) Fiduciary Safe Harbor is satisfied, the fiduciary's obligations with respect to the participant's benefit end immediately upon the transfer of the benefit to the IRA.

Note: The plan fiduciary does have an ongoing responsibility to provide oversight of the named IRA custodian. M2 TRUST maintains a secure data vault, accessible by the plan fiduciary and/or their named Third Party Administrator ("TPA"), containing confirmations and reports related to receipt of the participant data file, receipt of funds, and a quarterly report that provides the status for each participant. This information can be accessed by the plan fiduciary or their administrative agent for purposes of providing oversight of M2 TRUST.

Q. What is the DOL Fiduciary Safe Harbor?

The Fiduciary Safe Harbor provides guidelines under which a Plan Sponsor can implement the automatic rollover provisions with the knowledge that his or her fiduciary responsibilities are being satisfied. The Safe Harbor has five conditions. These conditions are:

- 1.) The amount of the rollover does not exceed \$5,000.
- 2.) The IRA must be either a trust or custodial individual retirement account or an individual retirement annuity. If the IRA is a custodial account, the custodian must be a bank, an insured credit union, or other corporation subject to supervision by the Commissioner of Banking.
- 3.) There must be a written agreement between the fiduciary and the IRA Provider.
- 4.) In advance of an automatic rollover, participants must be provided with a Summary Plan Description (SPD) or a Summary of Material Modifications (SMM) that includes information concerning procedures for automatic rollovers, an explanation of the nature of the investment product, an explanation of the fees and expenses attendant to the safe harbor IRA, how the fees and expenses will be allocated (e.g. paid by the IRA holder, distributing plan or employer), and the names, addresses and phone numbers of the contacts for the plan and the IRA provider.
- 5.) The Plan Sponsors may not engage in prohibited transactions (e.g. self-dealing) when selecting an IRA provider or choosing the initial investment funds for the IRA.

Q. Does M2 TRUST comply with the Department of Labor Safe Harbor requirements?

Yes. Our Automatic Rollover IRA Program fully complies with the Safe Harbor regulations of the Economic Growth and Tax Relief Reconciliation Act of 2001.

Q. What are the Plan Sponsor's responsibilities once the participant's account is rolled into a Safe Harbor IRA?

Once the IRA custodian establishes the participant's account and the account is funded, under the DOL's safe harbor rules, the Plan Sponsor will no longer be responsible for the account.

Q. Will the Plan Sponsor have problems under the USA PATRIOT Act of 2001 in establishing an IRA since the participant won't be available to verify his or her identity?

No. The customer identification and verification requirements of the USA PATRIOT Act are not required at the time the automatic rollover IRA is established, nor when the assets are transferred. However, as soon as the former employee first contacts M2 TRUST to assert ownership or exercise control over the account, identification and verification must be implemented. Notice 2005-5, Q&A -10.

Q. If the former employee is not involved with establishing the automatic rollover IRA, who executes the IRA documents?

The Plan Sponsor may execute the necessary IRA documents to establish an IRA on behalf of the participant. We provide a Master IRA Adoption Agreement that only requires the Plan Sponsor to sign once, per plan, rather than executing individual IRA adoption agreements for each missing or non-responsive participant.

Q. What does a Plan Sponsor need to do to establish M2 TRUST as its Automatic Rollover IRA provider?

There are four simple steps:

- a. Sign and return M2 TRUST's Employer Plan Services Agreement Signature Page.

- b. Provide M2 TRUST with participant information, i.e., employer name, name of the plan, name of TPA or Record Keeper, Participant name, last known address, social security number, date of birth, and dollar amount (including a breakdown of pre and after tax funds, if applicable). We provide an Excel template for your convenience.
- c. Transfer participant funds to M2 TRUST. Funds may be sent by wire, ACH, or by check.

Q. Can a financial organization charge fees for accepting automatic rollover IRAs?

Yes. Financial organizations are permitted to charge fees for accepting and administering automatic rollover IRAs as long as the fees charged are comparable to the fees charged for rollover IRAs that are not established for automatic rollovers. *Treas. Reg. 2550.404a-2(c)(3)(iv)*.

Q. How much does M2 TRUST's Automatic Rollover IRA Program cost?

There are no fees charged to the Plan Sponsor, TPA or Record Keeper. Fees associated with administering the IRA are deducted from the balance of the rollover account. M2 TRUST certifies that all fees and expenses with respect to each IRA (e.g., establishment fee, annual account fee, and account closing fee, as noted in M2 TRUST's IRA Fee Schedule) shall not exceed the fees and expenses M2 TRUST charges for comparable IRAs established for reasons other than the receipt of an automatic rollover distribution. For more information regarding applicable fees, please refer to M2 TRUST's IRA Fee Schedule.

Q. Does M2 TRUST charge fees to participants with small account balances?

Newly established accounts for plan participants with a balance of \$200 or less will be deemed de minimis and will not be subject to any M2 TRUST fees for a minimum period of four months. During this time period M2 TRUST will attempt to locate the missing participant by sending certified letters and using the services of a nationwide search firm. If M2 TRUST is able to make contact within the initial four month period the participant will be allowed to withdraw their funds without any fees being assessed. If contact is not made at the end of the four month period M2 TRUST's normal fees shall apply.

Q. What is the default investment?

The initial automatic rollover investment is an interest bearing Cash Management Account. The interest rate paid by M2 TRUST for its Cash Management Account will vary over time. For current rate information, please go to our web site www.M2Trustservices.com. M2 TRUST will credit interest to participant accounts monthly, except for the month in which the account is closed or transferred. In such circumstances, interest, if any, will be taken as part of the final closing fees charged by the custodian. Deposits maintained in the Cash Management Account are insured by the FDIC, up to \$250,000. Additional information on FDIC insurance coverage is available at www.fdic.gov.

Q. Does M2 TRUST handle Roth balances held in missing or non-responsive participant accounts?

Yes. Automatic rollovers are available for Roth 401(k) rollovers. For participants with both pre-tax and Roth 401(k) balances, a traditional IRA and a Roth IRA will be required to hold each type of money.

Q. What documents are provided to the IRA accountholder when the account is opened?

We send each participant a welcome letter, adoption agreement, IRA custodial agreement, disclosure statement, and fee schedule when the IRA is established.

Q. Do you attempt to locate a missing or non-responsive participant once the IRA has been established?

Yes. Once the IRA has been established we send a certified letter to the last known mailing address of the participant. In the event the mail is returned to us as undeliverable or no response is received, we will search for the participant through a commercial search firm.

Q. What happens if the rollover remains unclaimed?

Each year we submit our automatic rollover IRA database to a commercial search firm, in an attempt to reconnect participants with their IRA accounts. M2 TRUST will continue attempting to reunite participants with their funds indefinitely or until either the account balance is less than our administrative fees or we are ultimately required to distribute the account pursuant to applicable unclaimed property statutes.

Q. If I have any questions concerning M2 TRUST's Automatic Rollover IRA Program, who do I contact?

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