



LOST PARTICIPANT AND UNCASHED CHECK PROGRAM

EMPLOYER



GUIDE

**M2 Trust's Team Helps
You With What You Need
To Know**



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OVERVIEW

Automatic Rollovers

Today most employers offer retirement plans to their employees, but what happens to those funds when a terminated employee leaves the company?



Many employees elect to have the funds rolled over to their new employer's retirement plan; however, a large number of employees often fail to make any election. These so called missing or non-responsive participants are a common source of distress for employers. *As long as these participants leave funds in their previous employer's plan the employer is faced with a number of issues, such as being subject to ongoing fiduciary responsibility, liability, as well as increased administrative costs each year.*

Historically federal pension law provided that an employer could include an "involuntary cash-out" provision in their plan that allowed them to automatically distribute amounts of \$5,000 or less. In such cases the employer would simply issue a lump-sum check payable to the participant. The purpose of the involuntary cash-out rule was to allow employers to eliminate small accounts and thereby reduce their overall fiduciary liability and plan administration expenses.

However, in an effort to promote retirement savings and to protect participants from taxable distributions derived from involuntary cash-outs, the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") amended the regulations to provide that cash-outs of more than \$1,000, but less than \$5,000, must be rolled over to an individual retirement plan (*i.e.*, individual retirement account ("IRA") or an individual retirement annuity) if the affected participant does not elect to receive his or her benefit in another manner. Employers may also elect to automatically roll over vested balances of \$1,000 or less, pursuant to Treas. Reg. 2550.404a-2. These IRAs are known as Automatic Rollover IRAs.

These new requirements created concerns among employers regarding their fiduciary responsibilities under ERISA when choosing the default rollover IRA provider, as well as the initial IRA investment. On September 28, 2004, the Department of Labor (DOL) issued final rules describing a *safe harbor* for employers making such decisions. The new rules became effective for distributions made on or after March 28, 2005. **Employers that follow the safe harbor provisions will be deemed to have met their fiduciary duties and their liability ends when the assets are placed into an Automatic Rollover IRA.**

Uncashed Checks

According to clarification from the DOL, when an ex-employee requests a distribution from the Plan they remain a Plan Participant until such time as they cash the check. M2 Trust will accept uncashed checks on behalf of Plan Participants. The Plan Sponsor, or its designated agent, will stop pay outstanding checks and deposit the funds with M2 Trust with a breakdown of the amount due each participant. M2 Trust will establish a Personal Custody Account ("PCA") for each participant. Once funds have been deposited with M2 Trust the participant is no longer considered to be an active participant under the Plan. M2 Trust will accept uncashed checks of any size. M2 Trust will attempt to locate the missing participant by sending notice to the last known address. In the event that the Plan Sponsor, or its designated agent, does not have a current address for the participant or M2 Trust's initial notice is returned as undeliverable, M2 Trust will utilize the services of a third party commercial search firm in an effort to locate the participant. Once the participant is located M2 Trust will distribute the funds to the participant and provide information on their distribution options, including rolling the funds into another IRA.

Forced Distributions

Should an Employer issue distributions for terminated employees? There are a number of reasons why an employer would want to distribute small account balances of former employees from the Plan including:

1. Reduced administrative costs for plans paying fees based on the number of Participants.

2. It may eliminate the need to file as a large plan, avoiding expense of Plan audits.
3. It reduces the Plan Sponsor’s fiduciary responsibilities.
4. It eliminates disclosure/communication requirements with former employees.

Safe Harbor Provision

To receive protection under the safe harbor provision the employer will need to satisfy the following six conditions:

1. **Distribution Amount** - Automatic rollovers are limited to participants whose vested benefits (accumulated during their time working for the employer) do not exceed \$5,000. Also, if the participant rolled over retirement funds from a previous employer’s plan, the current employer can add these funds to the distribution amount.

Example:		Rollover Funds from	
	<u>Current Vested Benefit</u>	<u>Previous Employer</u>	<u>Eligible Distribution</u>
John Doe	\$5,000	\$30,000	\$35,000

2. **IRA Requirement** - Once the employer establishes an Automatic Rollover IRA on behalf of a former employee, that person is no longer a participant in the employer’s plan. The cash-out distribution must be rolled over to either an IRA or an individual retirement annuity administered by a qualified IRA provider, i.e., a regulated financial institution (a trust company, bank, credit union, insurance company, or mutual fund company registered under the Investment Company Act of 1940). The employer (Plan Sponsor) and the designated IRA provider must enter into a written agreement that specifically addresses the investment of rollover funds and the fees and expenses under the IRA. Finally, a participant on whose behalf an automatic rollover is made to an IRA must have a right to enforce the terms of the written agreement.

Note: Employers may rely on the IRA provider’s promises in the written agreement once it is signed, and are not required to monitor compliance with the agreement going forward, once funds are placed in the Automatic Rollover IRA.

“Safe harbor provisions do not require the employer to place the distribution into investments similar to those held in the participant’s account under the plan prior to the automatic rollover.”

3. **Investment Parameters** - The agreement with the IRA provider must state that it will utilize investments for the rolled-over funds that are designed to preserve principal, provide a reasonable rate of return (whether or not the return is guaranteed), and maintain liquidity. The safe harbor rules were designed to favor retention of income and principal over growth. The final regulation specifically identifies the following investments as being permissible:

- Interest-bearing savings accounts and certificates of deposit of banks or similar financial institutions
- Money market funds maintained by registered investment companies
- Stable value products issued by regulated financial institutions

4. **Fees and Expenses** – Charges to an Automatic Rollover IRA, e.g., establishment fees, maintenance fees, termination costs, etc., cannot exceed the fees and expenses the IRA provider charges for comparable IRAs that are established for reasons other than the receipt of the involuntary cash out amounts.

5. **Participant Disclosure** - Plan Participants must be provided with information in a Summary Plan Description (“SPD”) or summary of material modification (“SMM”) describing the operation of the automatic rollover rule, explaining how the rollover amounts will be invested in the IRA, stating how fees and expenses will be allocated to the IRA, and identifying the Plan contact (if not already named in the SPD or SMM) who can answer questions about the automatic rollover provisions, the IRA provider, the fees and expenses charged to the IRA, etc. M2 Trust provides employers with a sample SMM (see Exhibit A).

- 6. Prohibited Transaction** - The employer or Named Fiduciary may not engage in a prohibited transaction in connection with the selection of the IRA provider or the investments. For example, an employer or Named Fiduciary that receives consideration from a financial institution in exchange for selecting that institution and/or its products would ordinarily constitute a prohibited transaction under ERISA. This does not apply to non-fiduciary agents of the employer, such as a third party administrator (“TPA”) or record keepers. Employers or Named Fiduciaries may elect to have waive such compensation or authorize the funds to be used to reduce Plan expenses or participant IRA fees.

Other Services

- 1. Fiduciary Vault Services** - We help employer Plan Sponsors fulfill their fiduciary duty to monitor M2 Trust, once we have been selected as the named custodian and a Plan service provider. We maintain a secure site where the Plan Sponsors or their administrative agent, such as their designated TPA, can download participant information and we provide a sub-folder named “Fiduciary Vault.” The Fiduciary Vault houses important documents and information you need to provide ongoing oversight. This includes copies of the signed services agreement, data file receipt confirmations, deposit receipt confirmations, and quarterly reports regarding the status of each plan participant.
- 2. Notification and Mail Processing Services** - In an effort to assist with required plan participant notifications, when we are named as the designated custodian, we offer a Summary of Material Modification template containing the required information. In addition, we can mail the notifications out to plan participants under your name, starting the 30 day notification requirement. Returned mail will be handled by us and a report will be provided to your firm identifying participants with incorrect addresses. Cost per participant is only \$1.00. Also, since we provide a locator service we can conduct address searches for returned mail helping the plan remain compliant with regulations.
- 3. Participant Locator Services** - Plan sponsors and administrators sometimes need to locate missing participants or beneficiaries. Previously, the IRS provided letter-forwarding services to help locate missing plan participants, but with the August 31, 2012, release of [Revenue Procedure 2012-35](#), the IRS stopped this letter forwarding program. In the absence of IRS letter forwarding services, plan sponsors and administrators may use a variety of other methods to locate missing participants and beneficiaries, including:
 - commercial locator services
 - credit reporting agencies
 - internet search tools

We now provides a “Locator Service,” utilizing RCP Solutions (a third party commercial search firm), helping plan sponsors fulfill their fiduciary duty. We verify if the address of record is valid. If not, we provide the new address and phone number (if available) and check the participant’s life status (to determine if they are deceased). We then provide you with a detailed report containing the participant’s information.

THE AUTOMATIC ROLLOVER AND UNCASHED CHECK SOLUTION

M2 Trust Services, LLC (“M2 Trust”) provides employers with a simple, no cost, *worry free*, solution for Automatic Rollover IRAs. Our program satisfies the DOL safe harbor requirements, thereby allowing employers to reduce their administrative burden, fiduciary liability, and plan administrative expenses.

Highlights of M2 Trust’s Program

- No cost to the employer
- Easy set-up process
- DOL safe harbor compliant
- Eliminates employer expenses
- Limits employer exposure to fiduciary risk
- Eliminates employer’s need to find former employees by shifting responsibility to M2 Trust
- Participant’s funds are deposited in our Cash Management Account
- M2 Trust services the participant once they make contact
- Participant can elect to keep IRA with M2 Trust, take distribution, transfer to another IRA, or have funds deposited into their new employer’s plan
- De Minimis Account Program
- M2 Trust’s fees are compliant with regulations

Default Investment Option - Cash Management Account

Upon receipt of participant funds they are immediately deposited into M2 Trust’s Cash Management Account (“CMA”), which is an interest bearing demand deposit account. Individual participant balances are subject to FDIC insurance coverage, up to a maximum amount of \$250,000 (including principal and accrued interest).

The overriding consideration in establishing the CMA Program was the safe harbor requirement contained in 29 CFR 2550.404A-2(3)(i) of the regulations. This requirement states “The rolled-over funds shall be invested in an investment product designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity.” Before selecting the default investment option for participant fund we considered various alternatives including money market funds, stable value products, and target date funds; however, these options were rejected due to their potential exposure to risk. The following outlines some of the issues and risks that we considered before establishing our own CMA Program as the default investment option.

- Money Market Funds - While attempts are made to keep the net asset value (“NAV”) at a constant \$1.00 per share, the NAV may fall below \$1.00 if the fund’s investments perform poorly.

A study by the Boston Federal Reserve Bank, dated 8/13/2012, found that during the review period (from 2007 to 2011) fund company support of poor performing money market accounts was “frequent and significant.” “Direct support alone totaled at least \$4.4 billion, provided to at least 78 of the 341 funds reviewed. Support for these 78 funds occurred in 123 instances with 32 funds receiving support in multiple reporting periods.¹” Also, M2 Trust noted that in 2008 the \$65 billion Reserve Primary Fund broke the buck (selling for less than the \$1 net asset value of a fund share) due to investment losses. Note: July 2014 the SEC votes to end a longtime staple of the investment industry – the fixed \$1 share price for some money-market funds.

- Stable Value Funds – Stable Value Funds are susceptible to various risks, including default risk, interest rate risk, and liquidity risk. These risk are mitigated by the purchase of insurance guarantees; however, such guarantees are only as good as the entity doing the guarantee. While these funds are stable in nature, they are not truly guaranteed;

¹ Federal Reserve Bank of Boston, Working Paper RPA 12-3, August 13, 2012. “The Stability of Prime Money Market Mutual Funds Sponsor Support from 2007 to 2011.” <<http://bostonfed.org/bankinfo/qau/wp/2012/qau1203.pdf>>

therefore, they should not be categorized with FDIC insured certificates of deposit or savings accounts that come with an absolute guarantee of principal (up to FDIC coverage limits of \$250,000).

- Target Date Funds – Target Date Funds have exposure to both market risk and interest rate risk since their portfolios are invested in both equities and bonds. For example in 2008 investment losses for funds with a target date of 2010 had an average loss of nearly 24%, with individual fund losses ranging from 9% to 41%.²

Wanting to preserve the liability protection feature (for the employer) under the safe harbor provisions, as well as provide employers with a *worry free* investment option, M2 Trust decided against selecting an investment that might subject employers to potential claims that the selected option did not preserve principal.

Interest Rate Determination for Default Investment

M2 Trust determines the interest rate of the Cash Management Account. The current interest rate, as of November 2018, is 13 bps. Please contact M2 Trust to obtain current rate information.

Efforts to Locate Participants

M2 Trust makes an ongoing effort to reconnect missing or non-responsive participants with their funds.



- **Account Establishment** – After an account is opened, M2 Trust will send a notice to the last known address of the participant, as provided by the employer. The notice acknowledges receipt of the account and contains instructions on how to begin the process to claim their IRA. M2 Trust will monitor returned mail to determine if the address of record is correct or whether a new forwarding address has been provided. If a new address is provided, M2 Trust will send notice to the participant at the new address. If the participant fails to respond or no forwarding address is provided, M2 Trust utilizes a third party vendor in an effort to obtain updated address information.

- **Initial Search Process** - The initial attempt to locate an updated address is conducted by an independent third party commercial search firm, i.e., Risk Compliance Performance Solutions (“RCP”). M2 Trust provides RCP with the participant’s information utilizing the vendor’s secure portal. RCP enters the data into their database and provides M2 Trust with the results. If a new address is provided, M2 Trust will send a notice to the participant.
- **Additional Search Attempts** - Each year M2 Trust submits its automatic rollover IRA database to RCP 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 M2 Trust’s administrative fees or it is ultimately required to distribute the account pursuant to applicable unclaimed property statutes.

Found Participants

Once a participant has been located and confirms their identity, M2 Trust sends a Welcome Kit containing: 1) the applicable IRA Custodial Agreement & Disclosure Statement; 2) an IRA Adoption Agreement (including a new beneficiary designation); 3) IRA Fee Schedule; and 4) FAQs (frequently asked questions).

Our Fees

There are no fees charged to the Employer, Plan Sponsor, Named Fiduciary, TPA or Record Keeper. Fees associated with administering the IRA are deducted from the balance of the rollover account. Fees charged to the participant account include Establishment, Annual, Statement, and Termination Fees. Additional fees, as disclosed on M2 Trust’s IRA Fee Schedule,

² Boslego, Robert. "Why target date funds fail in the one area they're supposed to succeed -- downside protection." *RIABiz: News, Vision and Voice for the Advisory Community*. RIABiz LLC, 13 July 1921. Web. 14 Mar. 2014. <<http://www.riabiz.com/a/22831965/why-target-date-funds-fail-in-the-one-area-theyre-supposed-to-succeed>>.

may also apply. M2 Trust certifies that all fees and expenses with respect to each account shall not exceed the fees and expenses M2 Trust charges for comparable accounts established for reasons other than the receipt of an automatic rollover distribution or uncashed check. For more information regarding applicable fees, please refer to M2 Trust's Fee Schedule.

De Minimis Account Program - Upon opening an account 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 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.

Uncashed Checks - M2 Trust will accept uncashed checks on behalf of Plan Participants. The Plan Sponsor, or its designated agent, will stop pay outstanding checks and deposit the funds with M2 Trust with a breakdown of the amount due each participant. M2 Trust will establish a Personal Custody Account ("PCA") for each participant. Once funds have been deposited with M2 Trust the participant is no longer considered to be an active participant under the Plan. M2 Trust will accept uncashed checks of any size. M2 Trust will attempt to locate the missing participant by sending notice to the last known address. In the event that the Plan Sponsor, or its designated agent, does not have a current address for the participant or M2 Trust's initial notice is returned as undeliverable, M2 Trust will utilize the services of a third party commercial search firm in an effort to locate the participant.

Once the participant is located M2 Trust will distribute the funds to the participant and provide information on their distribution options, including rolling the funds into another IRA. For participants with uncashed check proceeds, M2 Trust will inform them of their ability to roll the funds into another retirement plan utilizing procedures outlined under IRS Rev. Proc 2016-47. M2 Trust will provide the participant with a copy of the IRS revenue procedure and sample "Certification for Late Rollover Contribution" letter which can be used by the participant to deposit their funds into a retirement plan.

Employer Automatic Rollover & Uncashed Check Kit

The following items are included in the kit which is available upon request or from our website at www.M2Trustservices.com:

- Employer FAQs
- Plan Services Agreement
- Master Adoption Agreement
- Custodial Agreement & Disclosure Statement
- M2 Trust Fee Schedule
- Funding Instructions
- Data file format for participant information

HOW TO SIGN-UP FOR M2 TRUST'S PLATFORM OF SERVICES

Employer Action Steps – Implementing a Cash-Out Solution

Employers wishing to implement an automatic rollover IRA or uncashed check solution must first go through the process of selecting a qualified custodian. M2 Trust provides employers with a sample checklist which can be used to document this process (see Exhibit B). Once the custodian has been selected the employer will need to follow the following steps:

Step One

Employer Plan Services Agreement – This agreement is between the Employer and M2 Trust and must be completed and returned to M2 Trust.

Step Two

Plan Disclosure – The Plan document must be amended and Plan Participants provided with a notice of the appointment of M2 Trust as the named custodian for participant IRAs and uncashed checks, at least thirty days before the effective date. Such notice is typically provided by issuance of a new Summary Plan Description (“SPD”) or Summary of Material Modification (“SMM”) prepared by the Plan’s named TPA. The notice describes the changes to the Plan’s force out provision related to uncashed checks or missing/non-responsive participants. M2 Trust provides a SMM template that may be used for this purpose.

Step Three

Participant Information – M2 Trust provides a data file layout for participant information it needs to open participant accounts. Either the Employer, Named Fiduciary, or their designated agent, typically the Plan’s TPA, will create a spreadsheet containing the necessary information. This information is then uploaded to our secure web server. Upon receipt, M2 Trust will import the data and establish accounts for participants once funds are received.

Note: Files may be forwarded to M2 Trust at any time.

Step Four

Funding Instructions –To distribute funds from the Plan, simply follow the funding instructions provided by M2 Trust. Funds may be delivered to M2 Trust by wire, ACH, or check.

Expense Reimbursement

For employer’s who utilize the services of a third party to administer their Plan, such as a TPA, M2 Trust may offer to partially reimburse them for their time and expense in preparing and delivering the participant information to us, as well as processing the distribution of funds from the Plan. This reimbursement is paid from M2 Trust’s fees and is not charged to your retirement plan.

Other Issues for Employer Consideration

- *Plan Document* - Ensure existing retirement plan document contains provision allowing for automatic rollover of cash-out distributions.
- *402(f) Notice* - As with all distributions that are eligible for tax-free rollover, the Plan must also provide the participant with written tax information required under the Code (the “402(f) Notice”), including an explanation of the tax consequences of having amounts “rolled over” into an IRA or another qualified plan. The use of electronic media to notify participants, under the existing regulations under section 402(f), is permitted as a method of providing the automatic rollover notification.

Delivery of Agreements

Return executed Agreements and forms to M2 Trust using one of the methods noted below:

Mail

M2 Trust Services, LLC
700 17th Street, Suite 1100
Denver, CO 80202

Email

ARIRA@M2Trustservices.com

Facsimile

Fax: 720-420-8387

Attention: Paul E. Maxwell

Questions

If you have any questions regarding M2 Trust’s Automatic Rollover IRA program, please contact us at (888) 265-1225.

EXHIBIT A

SAMPLE LANGUAGE FOR PREPARATION OF
SUMMARY OF MATERIAL
MODIFICATIONS
RELATING TO AUTOMATIC ROLLOVER IRA RULES
(See next page)

[PLAN NAME]
**SUMMARY OF MATERIAL MODIFICATION TO
THE SUMMARY PLAN DESCRIPTION**

[Effective Date]

This summary of material modification (“SMM”) describes changes to the [Plan Name] (“Plan”) and supplements the Summary Plan Description (“SPD”) for the Plan. The effective date of each of these changes is indicated below. You should read this SMM very carefully and retain this document with your copy of the SPD for future reference.

IF THIS SUMMARY HAS BEEN DELIVERED TO YOU BY ELECTRONIC MEANS, YOU HAVE THE RIGHT TO RECEIVE A WRITTEN SUMMARY AND MAY REQUEST A COPY OF THIS SUMMARY ON A WRITTEN PAPER DOCUMENT AT NO CHARGE BY CONTACTING THE PLAN ADMINISTRATOR.

Summary of Changes effective [effective date]:

Upon termination of employment the plan must provide you with detailed information on your distribution rights, including your right to have the account balance paid to you directly or to elect a “direct rollover” of the amount into another qualified plan or an IRA.

The Plan contains a provision commonly referred to as a “force-out” or “cash-out” option. This allows the Plan to make certain choices on your behalf if you fail to provide instructions related to your balances maintained in the Plan. This only affects Plan participants whose balances are \$5,000 or less (not including any funds which you may have rolled over from a previous employer’s plan).

Modifications

1. Change Information - If your balance is \$5,000 or less and you fail to communicate to the Plan your choice of a direct payment or a rollover, your vested benefit will be rolled over automatically by the Plan into an “Automatic Rollover IRA,” under the Plan’s force-out provision.
2. Change Information - If you request or receive a distribution from the Plan, but do not cash the check, you remain an active participant in the Plan until such time as the check is cashed or the funds are distributed under Plan’s force-out provision. If your check is not cashed with 90 days of issuance the Plan may enact the Plan’s force-out provision and forward your funds to M2 Trust. These funds will be deposited into a personal custody account in your name. Once you make contact with M2 Trust you can authorize them to issue you a check. Upon receipt you may be able to roll the funds back into another retirement plan, if completed with 30 days. Please refer Revenue Procedure 2016-47 which can be found on the IRS website (www.IRS.gov).
3. The Plan has chosen M2 Trust Services, LLC (“M2 Trust”) as the named custodian for these “Automatic Rollover IRAs” and Personal Custody Accounts (“PCA”). If an account is established for you under the force-out provision of the Plan, you can obtain information on that account from M2 Trust at the address and telephone number provided below. In compliance with ERISA regulations, M2 Trust will invest all such funds in a Cash Management Account where deposits are FDIC insured. M2 Trust will charge fees for the expenses of maintaining the account.

Custodian: M2 Trust Services, LLC
Contact Information: Phone Number: 1 (888) 265-1225
Hours: 8:00 a.m. – 5:00 p.m. Mountain Standard Time
Address: M2 Trust Services, LLC
700 17th Street, Suite 1100
Denver, CO 80202
Investment Option: Cash Management Account, participant deposits FDIC insured
Rate of Return: Current rate: 13bps, as of the date of this notice.
Rates are subject to change. For current rate please contact M2 Trust.
Account Fees: See attached Fee Schedule(s)
Note: M2 Trust will make efforts to contact you once your account is opened. If the address the Plan has on file is no longer valid M2 Trust will use a commercial search firm to try and obtain a current address and phone number.

Additional Information:

If you have any questions, you should refer to your SPD. You may also contact the Plan Administrator at:

Employer/Plan Sponsor
c/o [Contact person or title]
[Address]
[Telephone number]

* * *

General Plan Information

Plan Name: [plan name]
Plan Number: [ERISA plan number; example: 501]
Plan Year: (ERISA plan year; example January 1 – December 31)
Plan Sponsor/Plan Administrator: Employer/Plan Sponsor
Plan Sponsor/Plan Administrator Federal Tax EIN: [EIN]
Plan Trustee: [trustee, if applicable]
Legal Service: [Plan Administrator or Trustee]

EXHIBIT B

REVIEW DOCUMENTATION FOR DESIGNATED IRA PROVIDER

FOR

AUTOMATIC ROLLOVER IRA PROGRAM

(See next page)

**AUTOMATIC ROLLOVER IRA AND UNCASHED CHECK PROVIDER
REVIEW DOCUMENTATION**

Employer Name: _____ **Plan Name:** _____

IRA Custodian: M2 Trust Services, LLC

OVERVIEW

The following information was prepared for purposes of evaluating the following financial institution as custodian for the company's Automatic Rollover IRA and uncashed check program.

CUSTODIAN PROVIDER UNDER CONSIDERATION

<u>Financial Institution</u>	<u>Address</u>	<u>Contact Person</u>
M2 Trust Services, LLC	700 17 th Street, Suite 1100 Denver, CO 80202	Paul E. Maxwell President Email: Pmaxwell@M2Trustservices.com Phone: (303) 962-7363 Toll Free: (888) 265-1225

BACKGROUND INFORMATION

Type of Entity: Trust Company

Regulator: Colorado Division of Banking

Qualifications: M2 Trust is an IRA custodian and currently handles automatic rollover IRAs and uncashed checks for lost participants on a national basis.

Investment Option: Cash Management Account

How Was Investment Option Selected: M2 Trust's overriding consideration in selecting the default investment option was the *safe harbor* requirement for automatic rollovers to individual retirement plans contained in [29 CFR 2550.404A-2\(3\)\(i\)](#) of the regulations. This requirement states "The rolled-over funds shall be invested in an investment product designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity." M2 Trust considered various alternatives before selecting an interest bearing demand deposit account, including money market funds, stable value products, and target date funds. Participant funds, on deposit in the Cash Management Account, are insured by the FDIC, an independent agency of the U.S. government, up to a maximum amount of \$250,000 (including principal and accrued interest).

The following outlines some of the issues and risks that M2 Trust considered before selecting its designated default investment option.

- Money Market Funds - A study by the Boston Federal Reserve Bank, dated 8/13/2012, found that during the review period (from 2007 to 2011) fund company support of poor performing money market accounts was “frequent and significant.” “Direct support alone totaled at least \$4.4 billion, provided to at least 78 of the 341 funds reviewed. Support for these 78 funds occurred in 123 instances with 32 funds receiving support in multiple reporting periods.” Also, M2 Trust noted that in 2008 the \$65 billion Reserve Primary Fund broke the buck (selling for less than the \$1 net asset value of a fund share) due to investment losses. In July 2014 the SEC announced an end to a longtime staple of the investment industry – the fixed \$1 share price for some money-market funds.

Reference: Federal Reserve Bank of Boston, Working Paper RPA 12-3, August 13, 2012. “The Stability of Prime Money Market Mutual Funds Sponsor Support from 2007 to 2011.” <http://bostonfed.org/bankinfo/qau/wp/2012/qau1203.pdf>

- Stable Value Funds – Stable Value Funds are susceptible to various risks, including default risk, interest rate risk, and liquidity risk. These risk are mitigated by the purchase of insurance guarantees; however, such guarantees are only as good as the entity doing the guarantee. While these funds are stable in nature, they are not truly guaranteed; therefore, they should not be categorized with FDIC insured certificates of deposit or savings accounts that come with an absolute guarantee of principal (up to FDIC coverage limits of \$250,000).
- Target Date Funds – Target Date Funds have exposure to both market risk and interest rate risk since their portfolios are invested in both equities and bonds. For example in 2008 investment losses for funds with a target date of 2010 had an average loss of nearly 24%, with individual fund losses ranging from 9% to 41%.

Reference: Boslego, Robert. "Why target date funds fail in the one area they're supposed to succeed - downside protection." *RIABiz: News, Vision and Voice for the Advisory Community*. RIABiz LLC, 13 July 1921. Web. 14 Mar. 2014. <<http://www.riabiz.com/a/22831965/why-target-date-funds-failin-the-one-area-theyre-supposed-to-succeed>>.

Interest Rate: Current interest rate is 13 bps.

Insurance Coverage: E&O and Fiduciary coverage: \$2,000,000.00 per policy year

Fees: Employer / Plan Sponsor, TPA or Administrative Agent: None

Participant: IRA fees associated with administering participant IRAs are deducted from the balance of the rollover accounts. Fees include an Establishment Fee, Annual Fee, Statement Fee, and a Termination Fee. 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.

SAFE HARBOR REVIEW CHECKLIST

Proposed IRA Custodian: M2 Trust

Safe Harbor Provisions	Issue	Answer	Meets Requirement
<p>1. <i>Present Value.</i> The present value of the benefit does not exceed the plan's cash-out threshold (up to a maximum of \$5,000).</p> <p><i>Note: EGTRRA allows plans to disregard rollover contributions in determining if the threshold has been met. If a plan disregards rollover contributions for these purposes, it is possible for a participant who has a significant amount of rollovers but otherwise has a small new accrued benefit, to find that his entire benefit is subject to automatic cash-out and rollover.</i></p>	<p>Q. Does the employer's plan document provided for cash-out distributions of \$5,000 or less, plus rollover contributions received from other plans on behalf of participant?</p>	<p>Yes.</p>	<p>Yes</p>
<p>2. <i>IRA Provider.</i> The distribution is rolled to an IRA established by a trust company, bank, insurance company, or other authorized provider (e.g., mutual fund companies).</p>	<p>Q. Is the IRA provider an approved entity type?</p>	<p>Yes. M2 Trust is a regulated trust company.</p>	<p>Yes</p>
<p>3. <i>Written Agreement.</i> The plan fiduciary enters into a written agreement with an IRA provider that specifically addresses, among other things, the investment product holding the rolled-over dollars and the fees and expenses associated with the account. As long as the terms and conditions of the agreement meet the conditions of the safe harbor rules, the plan sponsor's fiduciary responsibility regarding the automatic rollover ends when the funds are placed with the IRA provider. The terms of the agreement must then be enforceable by the participant.</p>	<p>Q. Is the written agreement terms and conditions consistent with the safe harbor rules?</p>	<p>Yes. Agreement meets safe harbor requirements, addresses investment product and fees, and provides for enforceability by participant.</p>	<p>Yes</p>
<p>4. <i>Investment Option.</i> The distribution is invested in a product designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity. This investment product must be offered by a State or federally regulated financial institution, (i.e., a bank or savings association, credit union, insurance company, or registered investment company.) Safe harbor investment products include: money market funds maintained by registered investment companies, interest-</p>	<p>Q. Is the default investment option designed to preserve principal, provide a reasonable rate of return, and is consistent with liquidity?</p>	<p>Yes. Default investment option is a Cash Management Account offered by M2 Trust where funds are subject to FDIC coverage.</p>	<p>Yes</p>

