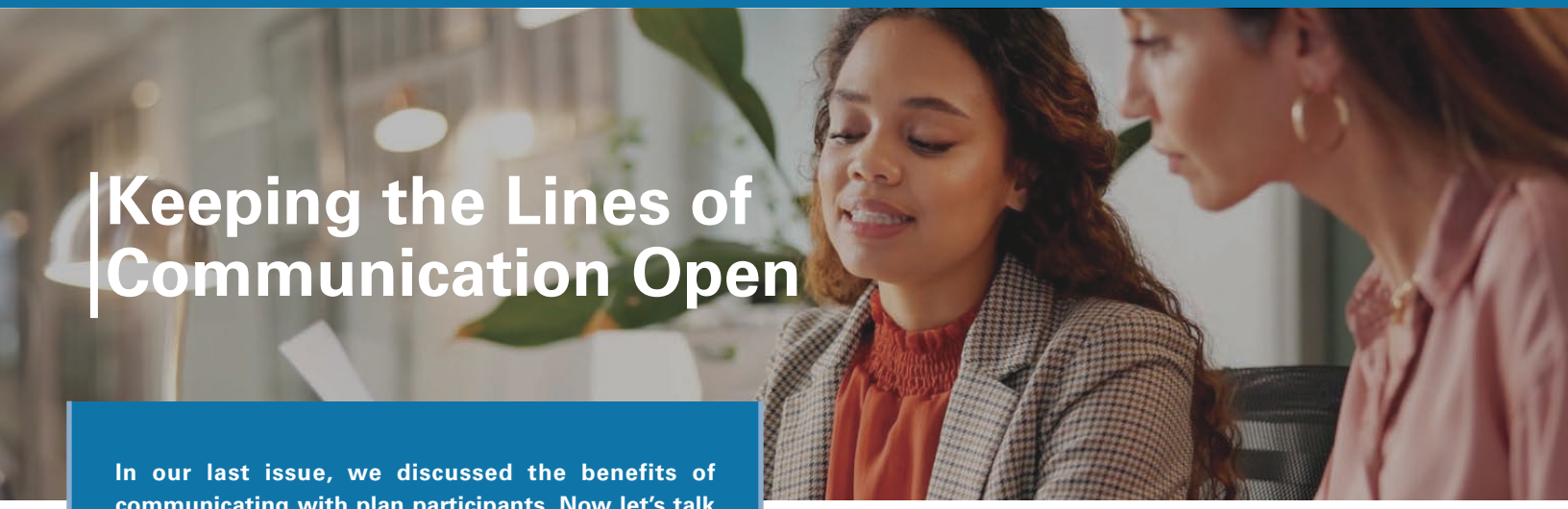

Keeping the Lines of Communication Open

In our last issue, we discussed the benefits of communicating with plan participants. Now let's talk about keeping in touch with us.

Spring 2025

Whether the concerns are small or large, a discussion with us can save you from making corrections later.

Retirement plans have many deadlines, and Congress often enacts laws that impact how your plan can be operated. For us to be able to keep you dutifully informed and keep your plan in compliance, we need to be notified of any updates to your company address, phone number, or email address. In addition, if you have a change regarding your staff, investment advisor, or accountant, we should be made aware so we can ensure we are speaking about your plan with the appropriate individuals. We take care to keep your confidential data safe and can only discuss private matters with authorized personnel. As such, whenever there is a change in how we can reach you or who we can talk to, it is important to inform us.

There are other reasons to reach out to us, too. Much of the compliance testing we perform compares benefits for highly compensated employees (HCE) to non-highly compensated employees (NHCE). HCEs include owners and family members of the owners, such as a spouse, parents, grandparents and children. Therefore, whenever there is a change in ownership or a family member of an owner joins or leaves the company, notify us as soon as possible. Being aware of these changes will allow us to determine if there are any potential impacts so adjustments can be made to your plan before they become costly.

In addition, when there is an ownership change or a merger or acquisition, the impact to the plan should be considered in advance. Depending on the situation, a plan may need to be terminated before the date of transfer to avoid the compliance risks associated with sponsoring multiple plans. While it's possible to take advantage of a transition period during this time, it's better to review all of your options before the transaction so that you can do what's best for you and your plan participants.

In the event that an owner of your company also owns part or all of another business, a determination will need to be made whether a controlled group exists. In addition, when two or more organizations have a service relationship, they may constitute an affiliated service group. In either of these cases, your retirement plan may need to include the employees of the other business in the discrimination testing. If the plan is found to be discriminatory, contributions may need to be made to the employees of the other business. If it's possible that a controlled group or affiliated service group could exist, such a determination will need to be made every time there is a change in ownership. Before your current owner purchases shares of another business or a new owner joins your company, let's see how that will impact the plan.

As businesses change and grow, the plan may need to adapt with the plan sponsor. However, much of the plan's operations are determined by the plan document. Before any adjustments are made to the administration, processes, or procedures of the plan, we need to be involved. We'll confirm that the changes won't impact the plan's qualified status. We'll also advise when the changes can be implemented, as some amendments can only be made effective at the beginning of the next plan year. Any changes to the plan document require an amendment to keep the plan in compliance.

Mistakes happen, and—in most cases—the sooner the correction is made, the lower the cost to correct it. Such mistakes can include late deposits, incorrect deposits, or missed deferrals. If you find an error, let us know as soon as possible.

In our role as your consultant, we're here to help you stay in compliance. In return, we ask that you keep us informed of any changes in your situation so we can help to keep your plan qualified and best suited to your goals as plan sponsor.

Could Immediate Vesting be a Win-Win for Your Plan?

As a plan sponsor, you may be using vesting schedules to encourage employee retention, but new research from Vanguard reveals that this strategy may not be as effective as you think. In reality, vesting schedules do little to keep employees from leaving – and they might actually be creating unnecessary administrative costs for your company.

What is a vesting schedule? While the funds that an employee contributes to the plan as an employee deferral are always fully vested, you are permitted to establish length-of-service requirements that employees must meet to be fully vested in the employer contribution portion of their account balance. The schedule may be a cliff schedule, such as 100% vested after 3 years, or a graded schedule, such as 20% per year until fully vested after 5 years. If a participant terminates employment before reaching normal retirement age and takes a distribution prior to becoming fully vested, the non-vested portion remains in the plan as a forfeiture. Provisions in the plan document define how forfeitures can be used, with options including using the funds towards certain plan expenses, reducing employer contributions, or adding to employer contributions.

Vanguard's analysis of 4.7 million job separations from 2010-2022 found that vesting schedules do not significantly impact employee retention. In fact:

- 30% of job separations involved forfeited, unvested contributions.
- Employees who hit a key vesting milestone were no less likely to leave than those who hadn't yet reached a milestone.
- Only 33% of participants know whether their plan has a vesting schedule, making it unlikely to influence their decisions.

While forfeitures from unvested contributions can reduce costs, the financial gain is modest, recouping roughly 2.5% of employer contributions. If vesting schedules do not significantly boost retention or cut costs, why keep them?

Switching to immediate vesting could offer stronger benefits for both your employees and your organization.

- **For participants:** Immediate vesting strengthens retirement security by allowing employees to keep the full value of their employer contributions, which is often a substantial portion of their savings. This can improve financial well-being and promote greater engagement with the plan.
- **For plan sponsors:** Immediate vesting simplifies plan administration and reduces compliance risks presented by possible distribution overpayments. It could also help you qualify for safe harbor status, potentially exempting your plan from annual nondiscrimination testing if you opt for a fully vested contribution.

Data from a 2023 Vanguard study indicates that 1 in 4 participants were deferring less than 4%. This not only affects their employee contribution balance but also limits the amount of employer matching contribution they are eligible to receive. For participants with low deferral rates, a discussion with them may help determine the reason behind the election. Maybe the plan has a matching contribution but they forgot or maybe they have questions about how the vesting schedule works for the account balances. Understanding the participants' perceptions of the plan is helpful in knowing where changes would be beneficial.

Vesting schedules are not without merit, but may not be the retention tool they were once thought to be and might come with additional downsides. Immediate vesting, on the other hand, could provide a win-win scenario for both plan sponsors and plan participants. We are always happy to discuss the impact that each can have on your plan.

Vanguard studies: https://corporate.vanguard.com/content/dam/corp/research/pdf/does_401k_vesting_help_retain_workers.pdf

https://institutional.vanguard.com/content/dam/inst/iig-transformation/insights/pdf/2023/how-americans-can-save-more-for-retirement.pdf

Planning Ahead for 2026 Catch-Up Contributions

Effective for plan years beginning on or after January 1, 2026, catch-up contributions for certain participants in a 401(k), 403(b), or governmental 457(b) plan could be affected by proposed regulations by the Department of Treasury and Internal Revenue Service. The proposed regulations would require that high-income earners who are aged 50 or older make catch-up contributions as Roth contributions rather than pre-tax contributions. In this case, a high-income earner is defined by prior-year FICA wages exceeding $145,000. This requirement, introduced in the SECURE 2.0 Act in December 2022, was delayed to allow for an administrative transition period. With the rules expected to be finalized in 2025, some review steps now can help minimize any last-minute uncertainty.

Catch-up contributions allow participants who are age 50 or older to contribute above the standard IRS deferral limit, which is $23,500 for 2025. The standard catch-up contribution limit for 2025 is $7,500, with a higher catch-up contribution limit of $11,250 for those aged 60-63. If permitted by the plan document, catch-up contributions can currently be withheld as either pre-tax or Roth deferrals.

Since the regulations are not yet finalized, the important action now is to simply be aware of the possible requirement and consider if the plan and participants will be affected so you can be prepared. Here are a few items to consider:

- Identify which employees will be age 50 or older in 2026. Likewise, determine if they are eligible during the 2026 plan year.
- Review estimated annual 2025 FICA wages for these employees. Income from other employers is not considered in this case; only the income paid by the employer who sponsors the plan is applicable to the $145,000 threshold.
- Does the plan permit Roth deferrals? If not, based on the proposed regulations, the higher-income earners won't be able to make catch-up contributions unless the plan is amended to allow for Roth deferrals.

Understanding which participants may be affected will ensure timely communication as soon as the regulations become final. When 2025 comes to a close, it will be important to gather year-end census data promptly so these participants can make the proper deferral elections for 2026. We can look at these details with you and help plan ahead together.

How Government Staffing Cuts Could Impact the Plan

Many different Federal agencies affect the operation of retirement plans. First, Congress enacts the laws that govern plans; then, various entities such as the Internal Revenue Service (IRS), Department of Labor (DOL), Pension Benefit Guaranty Corporation (PBGC), and the Employee Benefits Security Administration (EBSA) interpret and carry out those laws.

The most important thing to note is that any recent reduction in workforce experienced by these government agencies will not impact the daily operation of your plan. Instead, because these agencies provide guidance on how to apply retirement plan laws, any future changes to laws that are passed by Congress could take longer to implement.

Additionally, if you need to contact these agencies with a question or to submit information for approval, you will most likely see an increase in wait times. On the other hand, much of the actual processing of forms—such as the Form 5500—is handled electronically and should be unaffected by these events.

If you need anything related to the plan, or if you have any questions, please feel free to reach out to us. We will work with you to resolve any issues.

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Upcoming Compliance Deadlines for Calendar-Year Plans

May 15

Quarterly Benefit Statement - Deadline for participant-directed plans to supply participants with the quarterly benefit/disclosure statement, including a statement of plan fees and expenses charged to individual plan accounts during the first quarter of 2025.

June 30

EACA ADP/ACP Corrections - Deadline for processing corrective distributions for failed ADP/ACP tests to avoid a 10% excise tax on the employer for plans that have elected to participate in an Eligible Automatic Enrollment Arrangement (EACA).

July 28

Summary of Material Modifications (SMM) – An SMM is due to participants no later than 210 days after the end of the plan year in which a plan amendment was adopted.

July 31

Due date for calendar year-end plans to file **Form 5500** and **Form 8955-SSA** (without extension).

Due date for calendar year-end plans to file **Form 5558** to request an automatic extension of time to file **Form 5500** or **Form 9855-SSA**.