



LOST PARTICIPANT AND UNCASHED CHECK PROGRAM

EMPLOYER



GUIDE

**M2 Rollover Services'
Team Helps You With
What You Need To Know**



TABLE OF CONTENTS

PAGE

OVERVIEW

Automatic Rollovers 3
Uncashed Checks 3
Forced Distributions..... 3
Safe Harbor Provisions 4
 Distribution Amount..... 4
 IRA Requirement..... 4
 Investment Parameters..... 4
 Participant Disclosure..... 4
 Prohibited Transaction..... 5
Other Services 5
 Fiduciary Vault 5
 Notification and Mail Processing Services 5
 Participant Locator Services 5

THE AUTOMATIC ROLLOVER SOLUTION

Highlights of M2’s Automatic Rollover IRA Program..... 6
Default Investment Option - Cash Management Account 6
.....
Interest Rate Determination for Default Investment 7
Efforts to Locate Participants..... 7
Found Participants..... 7
Our Fees..... 7
De Minimis Account Program 8
Uncashed Checks 8
Employer Automatic Rollover & Uncashed Check Kit 8

HOW TO SIGN-UP FOR M2’s AUTOMATIC ROLLOVER IRA PROGRAM

Employer Action Steps - Implementing a Cash-Out Solution 8
Expense Reimbursement 9
Other Issues for Employer Consideration 9
Delivery of Agreements 9
Questions 9

Exhibit A – Sample SMM 10 - 12

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 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 with a breakdown of the amount due each participant. M2 will establish a Personal Custody Account ("PCA") for each participant. Once funds have been deposited with M2 the participant is no longer considered to be an active participant under the Plan. M2 will accept uncashed checks of any size. M2 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's initial notice is returned as undeliverable, M2 will utilize the services of a third-party commercial search firm in an effort to locate the participant. Once the participant is located M2 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:	<u>Current Vested Benefit</u>	<u>Rollover Funds from 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 overgrowth. 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. **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 provides employers with a sample SMM (see Exhibit A).

5. **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 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 annual 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

M2 provides a “Locator Service,” utilizing a commercial search firm, such as LexisNexis, who performs address, phone number, and death record searches, 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 report containing the participant’s information.

THE AUTOMATIC ROLLOVER AND UNCASHED CHECK SOLUTION

M2 Rollover Services, LLC (“M2”) 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’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
- Participant’s funds are deposited in an interest-bearing federally insured bank or savings association account, paying a reasonable rate of return.
- M2 services the participant once we make contact
- Participant can elect to take a distribution, transfer to another IRA, or have funds deposited into their new employer’s plan
- De Minimis Account Program
- M2’s fees are compliant with regulations

Default Investment Option - Cash Management Account

Upon receipt of participant funds, they are immediately deposited into an interest-bearing federally insured bank or savings association account, paying a reasonable rate of return, at Custodian or a third-party banking institution selected by M2. Deposits are insured by the FDIC, an independent agency of the U.S. government, up to a maximum amount of \$250,000 (including principal). The interest rate paid on participant balances is tied to the national average rate for a bank savings accounts, as reported on the FDIC’s website. The excess of the interest earned from the bank over the amount paid on participant accounts will be retained by M2.

The overriding consideration in establishing the deposit account is 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 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.

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>>

- **Stable Value Funds** – Stable Value Funds are susceptible to various risks, including default risk, interest rate risk, and liquidity risk. These risks 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%.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 decided against selecting an investment that might subject employers to potential claims that the selected option did not preserve principal.

Efforts to Locate Participants

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



- **Account Establishment** – After an account is opened, M2 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 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 will send notice to the participant at the new address. If the participant fails to respond or no forwarding address is provided, M2 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 firm, i.e., LexisNexis. M2 provides LexisNexis with the participant's information utilizing the vendor's secure portal. LexisNexis enters the data into their database and provides M2 with the results. If a new address is provided, M2 will send a notice to the participant.
- **Additional Search Attempts** - Each year M2 submits its automatic rollover IRA database to LexisNexis in an attempt to reconnect participants with their IRA accounts. M2 will continue attempting to reunite participants with their funds indefinitely or until either the account balance is less than M2's Account Closing Fee 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 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 Account Establishment Fee, Annual Account Fee, and Account Closing Fees. Additional fees, as disclosed on M2's Fee Schedule, may also apply. For more information regarding applicable fees, please refer to M2's 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>>.

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 fees for a period of four-months. During this time period M2 will attempt to locate the missing participant by sending certified letters and using the services of a nationwide search firm. If M2 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's normal fees shall apply.

Uncashed Checks - M2 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 with a breakdown of the amount due each participant. M2 will establish a Personal Custody Account ("PCA") for each participant. Once funds have been deposited with M2 the participant is no longer considered to be an active participant under the Plan. M2 will accept uncashed checks of any size. M2 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's initial notice is returned as undeliverable, M2 will utilize the services of a third-party commercial search firm in an effort to locate the participant.

Once the participant is located M2 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 will inform them of their ability to roll the funds into another retirement plan utilizing procedures outlined under IRS Rev. Proc 2016-47. M2 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 M2rolloverservices.com:

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

HOW TO SIGN-UP FOR M2's PLATFORM OF SERVICES

Employer Action Steps – Implementing a Cash-Out Solution

Employers wishing to implement an automatic rollover IRA or uncashed check will need to follow the following steps:

Step One

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

Step Two

Plan Disclosure – The Plan document must be amended, and Plan Participants provided with a notice of the appointment of M2 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 provides a SMM template that may be used for this purpose.

Step Three

Participant Information – M2 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 will import the data and establish accounts for participants once funds are received.

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

Step Four

Funding Instructions –To distribute funds from the Plan, simply follow the funding instructions provided by M2. Funds may be delivered to M2 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 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's fees. Currently the reimbursement amount is \$25 for each participant account with a balance of \$200 or more.

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 using one of the methods noted below:

Mail

M2 Rollover Services, LLC
2000 S Colorado Blvd.
Tower One, Suite 2000-1092
Denver, CO 80222

Email

Clientservices@M2rolloverservices.com

Facsimile

Fax: 303-648-6598

Questions

If you have any questions regarding M2's Automatic Rollover IRA program, please contact us at (914) 676-6270.

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). If your balance is \$5,000 or less, not including any rollover balances maintained by the Plan on your behalf, and you fail to communicate to the Plan your choice of a direct payment or a rollover your vested benefit will be rolled over into an “Automatic Rollover IRA” with a financial institution selected by the Plan under the Plan’s force-out provision.

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 deposit the funds with a financial institution selected by the Plan. The funds will be placed into a Personal Custody Account bearing your name. Once you contact the financial institution holding your funds you can authorize them to issue you a distribution by check, wire, or ACH. 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).

The Plan has chosen M2 Rollover Services, LLC (“M2”) as the named Administrator and Solera National Bank, as the named custodian for these “Automatic Rollover IRAs” and Personal Custody Accounts. M2 may change the custodian to another qualified custodian without notice or consent at its discretion. You can obtain information on that account from M2 at the address and telephone number provided below.

In compliance with ERISA regulations, M2 will deposit participant funds into an interest-bearing federally insured bank or savings association account, paying a reasonable rate of return, at Custodian or a third-party banking institution selected by M2. Deposits are insured by the FDIC, an independent agency of the U.S. government, up to a maximum amount of \$250,000 (including principal).

Administrator: M2 Rollover Services, LLC

Contact Information: Phone Number: (914) 676-6270
Hours: 8:00 a.m. – 5:00 p.m. Mountain Standard Time
Email: Clientservices@M2rolloverservices.com
Fax: 303-648-6598

Address: M2 Rollover Services, LLC

2000 S Colorado Blvd.
Tower One, Suite 2000-1092
Denver, CO 80222

Investment Option: Interest-bearing federally insured bank or savings association account

Account Fees: See attached Fee Schedule(s)

Note: M2 will make efforts to contact you once your account is opened. If the address the Plan has on file is no longer valid M2 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]