

California Code of Regulations

Title 10: Investment

Chapter 15: CalSavers Retirement Savings Board

Section 10000. Definitions.

The following definitions shall apply wherever the terms are used throughout this Chapter:

- (a) "Account" means a Participant's Individual Retirement Account ("IRA") held within the Program.
- (b) "Administrator" means the third-party administrator that operates the Program.
- (c) "Automatic Escalation" means an automatic annual increase in a Participating Employee's Contributions as set forth in Section 10005.
- (d) "Beneficiary" means the individual(s) or entity(ies) entitled to receive the proceeds of a Participating Employee's or Participating Individual's Account upon their death.
- (e) "Board" means the CalSavers Retirement Savings Board.
- (f) "Client Employer" means an Employer that is involved in a Multi-Party Employment Relationship due to obtaining the services of a third-party entity.
- (g) "Compensation" has the same meaning as defined in Title 26 Code of Federal Regulations Section 1.415(c)-2(d)(4) (April 5, 2007), which is incorporated herein by reference. In the case of a sole proprietor, a partner in a partnership, a member of a limited liability company treated as a sole proprietor or partner, or another self employed individual, Compensation means such individual's Earned Income.
- (h) "Contribution" means any monies contributed to an Account.
- (i) "Contribution Rate" means the percentage of a Participating Employee's Compensation to be withheld and contributed to their Account via payroll deduction under the Program.
- (j) "Earned Income" means an individual's net earnings from self-employment from the Participating Employer as determined under Section 401(c)(2)(A) of Title 26 of the United States Code.

- (k) "Electronic Fund Transfer" has the same meaning as the term established under Section 1693a(7) of Title 15 of the United States Code.
- (l) "Eligible Employee" means any Employee of an Eligible Employer who is at least eighteen years of age.
- (m) "Eligible Employer" means an Employer that (i) has ~~five~~one or more Employees, as determined under the methodology described in Section 10001(a), at least one of whom is an Eligible Employee; (ii) does not maintain or contribute to a Tax-Qualified Retirement Plan; and (iii) is not the federal government, the state, any county, any municipal corporation, or any of the state's units or instrumentalities.
- (n) "Employee" means any individual who has the status of an employee under Unemployment Insurance Code Sections 621, 621.5, 622, or 623 and who receives a W-2 with California wages. In the case of an Eligible Employer that is a sole proprietorship, partnership, or a limited liability company treated as a sole proprietorship or partnership for federal income tax reporting purposes, Employee shall also mean a sole proprietor, partner, or member of a limited liability company treated as a sole proprietor or partner for federal tax purposes.
- (o) "Employee Information Packet" means the packet of information provided by the Program that includes the Opt-Out Form, instructions on how to opt out of the Program, and other information required under Government Code Section 100014.
- (p) "Employer" means a sole proprietor, partnership, limited liability company, Subchapter C or Subchapter S corporation, trust, or other entity, whether for profit or not for profit, that is an employer under California Unemployment Insurance Code Division 1, Part 1.
- (q) "Exempt Employer" means an Employer that (i) has ~~fewer than five~~ zero Employees, as determined under the methodology described in Section 10001(a) ~~or, has five~~ one or more Employees, but does not employ any Eligible Employees, or who do not employ any individuals other than the owners of the business; (ii) maintains or contributes to a Tax-Qualified Retirement Plan; or (iii) is the federal government, the state, any county, any municipal corporation, or any of the state's units or instrumentalities.
- (r) "IRA" means an individual retirement account or individual retirement annuity under Section 408(a), 408(b), or 408A of Title 26 of the United States Code.
- (s) "Multi-Party Employment Relationship" means a relationship in which an Employer enters into a service contract with a third-party entity(ies) for services including, but

not limited to, payroll, staffing (both temporary and non-temporary), human resources, and Employer compliance with laws and regulations.

- (t) “Opt-Out Form” means the form through which Eligible Employees may note their decision to opt out of participation in the Program.
- (u) “Participant” means any person who is or was a Participating Employee, Participating Individual, or Beneficiary.
- (v) “Participating Employee” means any person who is an Eligible Employee, is enrolled in the Program, maintains a Program IRA, and is not a Participating Individual.
- (w) “Participating Employer” means an Eligible Employer that registered with the Program to provide its Eligible Employees access to the Program.
- (x) “Participating Individual” means any person who enrolled in the Program independent of an employment relationship with an Eligible Employer, as further defined in Section 10006; maintains an Account; and is not a Participating Employee.
- (y) “Program” means the CalSavers Retirement Savings Program offered by the CalSavers Retirement Savings Trust.
- (z) “Tax-Qualified Retirement Plan” means a retirement plan that qualifies for favorable federal income tax treatment under Sections 401(a), 401(k), 403(a), 403(b), 408(k), or 408(p) of Title 26 of the United States Code. An employer-provided payroll deduction IRA program that does not provide for automatic enrollment is not a Tax-Qualified Retirement Plan.

Note – Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100000, 100012, 100014 and 100032, Government Code.

Section 10001. Eligible Employers.

- (a) To determine whether an Employer is an Eligible Employer for a calendar year, an Employer’s number of employees shall be the average number of employees during the previous calendar year, as reported to the Employment Development Department on Form DE 9C, “Quarterly Contribution Return and Report of Wages (Continuation),” for the quarter ending December 31 and the preceding three quarters.
 - (1) Employers that have not submitted Form DE 9C, “Quarterly Contribution Return and Report of Wages (Continuation),” for a full calendar year are Eligible Employers if they have submitted at least one Form DE 9C, “Quarterly Contribution Return and Report of Wages (Continuation),” for

the preceding quarter and otherwise meet the definition of an Eligible Employer.

- (2) Employers that have not submitted Form DE 9C, "Quarterly Contribution Return and Report of Wages (Continuation)," for a full calendar year shall be subject to the registration deadline established in Section 10002(b) only after it has submitted a Form DE 9C, "Quarterly Contribution Return and Report of Wages (Continuation)," for the Quarter ending December 31 and the preceding three quarters.
- (b) An Employer shall cease to be an Eligible Employer either upon the effective date of its adoption of, or participation in, a Tax-Qualified Retirement Plan or if it ceases to employ any Employees ~~its average number of employees drops below five for a calendar year, as determined under the methodology prescribed in subsection (a).~~
- (c) Each Participating Employer that ceases to be an Eligible Employer shall notify the Administrator within 30 days of the Employer's change in status through one of the methods established in Section 10002(e).
- (d) Exempt Employers may, but need not, inform the Administrator of their exemption from the Program using one of the methods established under Section 10002(e).
- (e) Multi-Party Employment Relationships.
 - (1) For a temporary services Employer or leasing Employer defined in California Unemployment Insurance Code Section 606.5(b), the Eligible Employer shall be the temporary services Employer or leasing Employer.
 - (2) For a professional employer organization defined in Section 7705 of Title 26 of the United States Code that enters into a contract with a Client Employer, the Eligible Employer shall be the Client Employer regardless of whether the professional employer organization is certified pursuant to Section 7705.
 - (3) For a motion picture payroll services company defined in California Unemployment Insurance Code Section 679(f)(4), the Eligible Employer shall be the motion picture production company defined in California Unemployment Insurance Code Section 679(f)(5).

Note – Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100000, 100012, 100032 and 100043, Government Code.

Section 10002. Employer Registration.

(a) Registration Deadlines.

- (1) Eligible Employers employing more than 100 eEmployees shall register with the Program no later than September 30, 2020.
- (2) Eligible Employers employing more than 50 eEmployees shall register with the Program no later than June 30, 2021.
- (3) Eligible Employers that have employed five or more eEmployees for more than one continuous calendar year, based on the criteria established in Section 10001(a), shall register with the Program no later than June 30, 2022.

(4) Eligible Employers with four or fewer Employees shall register with the Program no later than December 31, 2025.

- (b) An Employer that becomes an Eligible Employer due to having an average of five or more employees for a calendar year, as established in Section 10001(a), shall register with the Program no later than December 31 of the year in which the Employer is notified by the Program about their eligibility.
- (c) An Employer's number of employees shall be determined under the methodology prescribed in Section 10001(a).
- (d) Exempt Employers are prohibited from participating in the Program.
- (e) An Eligible Employer shall register with the Program using the Program's website (employer.calsavers.com), by phone (855-650-6916), by overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459), or by regular mail (CalSavers, P.O. Box 55759, Boston, MA 02205-5759).
- (f) In order to register, an Eligible Employer shall provide the following information to the Administrator through one of the methods listed in subsection (e):
 - (1) Employer name, legal name, and "doing business as" name, if applicable;
 - (2) Federal Employer Identification Number or, if unavailable, the California Employer Payroll Tax Account Number;
 - (3) Employer mailing address;
 - (4) Employer physical address; and
 - (5) Name, title, phone number, and email address of an individual designated by the Employer as the primary contact for the Program.

Note – Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100032 and 100043, Government Code.

Section 10005. Default Program Options and Alternative Elections for Contributions, Automatic Escalation, and Investment Options for Participants.

- (a) Upon enrollment, a Participating Employee who has not made an alternative election as specified in this Section shall make Contributions to the Program according to the following default elections:
 - (1) At a Contribution Rate of 5%.
 - (2) Have Contributions subject to Automatic Escalation whereby the Contribution Rate shall increase by an additional 1% of Compensation on each January 1 following the Participating Employee's enrollment, up to a maximum Contribution Rate of 8%.
 - (A) Participating Employees who choose an alternative Contribution Rate shall have Contributions subject to Automatic Escalation unless they choose to opt out of Automatic Escalation by notifying the Administrator using one of the methods identified in Section 10004(d).

(B) A Participating Employee who has not participated in the Program for at least six consecutive calendar months during a calendar year shall not have Contributions subject to Automatic Escalation until the January 1 that follows the next calendar year in which the Participating Employee has at least six calendar months of participation.

1. The Administrator shall notify the Participating Employee of the Automatic Escalation increase at least 60 days before January 1 to provide the Participating Employee an opportunity to opt out of Automatic Escalation.

(3) Have Contributions made to a Roth IRA. The Program will establish the IRA on behalf of Participating Employees that have not established an IRA for themselves utilizing the information required by Section 10003(a).

(4) Have Contributions invested in the default investment option.

~~(A) Until April 8, 2021 the first \$1,000 in Contributions shall be invested in a capital preservation investment. All subsequent Contributions shall be invested in a Target Date Fund based on the Participating Employee's age as reported on the Program's records and an assumed retirement at age 65.~~

~~(B) Notwithstanding subparagraph (A) and beginning April 8, 2021, a Participating Employee who has not made an alternative election shall have all Contributions invested in a capital preservation investment for 30 days. After those 30 days have elapsed, unless the Participating Employee makes an alternative election, the Participating Employee's Contributions shall be invested in a Target Date based on the Participating Employee's age as reported on the Program's records and an assumed retirement at age 65 described above in subparagraph (A). The default investment option described in this subparagraph shall apply to all Participating Employees who enrolled prior to, on, or after April 8, 2021.~~

(C) The applicable Target Date Fund described in subparagraphs (A) and (B) shall be determined as described in the following table:

| Date of Birth | Target Retirement Years | CalSavers Fund Name |
|-----------------------------|--------------------------------|---------------------------------------|
| 12/31/1947 or Earlier | 2012 or earlier | CalSavers Target Retirement Fund |
| 1/1/1948 - 12/31/1952 | 2013 - 2017 | CalSavers Target Retirement 2015 Fund |
| 1/1/1953 - 12/31/1957 | 2018 - 2022 | CalSavers Target Retirement 2020 Fund |
| 1/1/1958 - 12/31/1962 | 2023 - 2027 | CalSavers Target Retirement 2025 Fund |

| | | | | |
|--------------------------|-------------|---|---------------------|---|
| 1/1/1963 - 12/31/1967 | 2028 | - | 2032 | CalSavers Target Retirement 2030 Fund |
| 1/1/1968 - 12/31/1972 | 2033 | - | 2037 | CalSavers Target Retirement 2035 Fund |
| 1/1/1973 - 12/31/1977 | 2038 | - | 2042 | CalSavers Target Retirement 2040 Fund |
| 1/1/1978 - 12/31/1982 | 2043 | - | 2047 | CalSavers Target Retirement 2045 Fund |
| 1/1/1983 - 12/31/1987 | 2048 | - | 2052 | CalSavers Target Retirement 2050 Fund |
| 1/1/1988 - 12/31/1992 | 2053 | - | 2057 | CalSavers Target Retirement 2055 Fund |
| 1/1/1993 - 12/31/1997 | 2058 | - | 2062 | CalSavers Target Retirement 2060 Fund |
| 1/1/1998 - 12/31/2002 | 2063 | - | 2067 | CalSavers Target Retirement 2065 Fund |
| 1/1/2003 - 12/31/2007 | 2068 | - | 2072 | CalSavers Target Retirement 2070 Fund |
| 1/1/2008 or later | 2073 | - | or later | [Funds to be added later – not a valid Participant age] |

- (b) Participants may make an alternative election at any time through one of the methods established under Section 10004(d).
- (1) A Participating Employee may elect a Contribution Rate other than the default Contribution Rate at any integer between 0% and 100% of Compensation.
 - (2) A Participating Employee may opt out of Automatic Escalation or elect an alternative Automatic Escalation percentage at any time by notifying the Administrator using one of the methods established in Section 10004(d).
 - (3) A Participating Employee may elect to make recurring non-payroll Contributions of at least \$10 each to their Account. Such recurring non-payroll Contributions may be made at least as frequently as weekly, once every two weeks, twice monthly, or monthly and must be made through Electronic Fund Transfer.
 - (4) ~~(A) Until April 8, 2021,~~ a Participating Employee may also elect to make non-recurring non-payroll Contributions. Such Contributions ~~may~~must be made

through Electronic Fund Transfer or by personal check and must be a minimum of ~~\$50 each.~~

~~(B) Beginning April 8, 2021, non-recurring non-payroll Contributions must be at least \$10 and must be made through Electronic Fund Transfer or by personal check.~~

- (5) A Participant may elect one or more investment options for any portion of their existing balance or future contributions. Participants may make this alternative election by notifying the Administrator using one of the methods established in Section 10004(d).
- (6) Alternative contribution elections (including Contribution Rates, Automatic Escalation and opt out elections) shall be implemented as soon as administratively practicable but no later than the first payroll period following 30 days after notification to the Administrator of the alternative election.

(c) Other Contribution and Investment Election Rules

- (1) Participating Employers are prohibited from contributing to a Participating Employee's Account.
- (2) An individual who is both a Participating Employer and a Participating Employee may make Contributions to their own Account under the same terms and conditions as other Participating Employees.
- (3) Amounts withheld by the Participating Employer shall not exceed the amount of the Participating Employee's Compensation remaining after any payroll deductions required by law to have higher precedence, including a court order.
- (4) A Participant may elect to recharacterize all or some of their Contributions to a Traditional IRA by phone (855-650-6918).

Note – Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100002, 100004, 100008, 100012, 100032 and 100043, Government Code.

Section 10006. Individual Participation.

- (a) An individual who is at least eighteen years of age, and who is not an Eligible Employee may elect to participate in the Program as a Participating Individual outside of an employment relationship with an Eligible Employer. An Individual may enroll in the Program through any of the methods established in Section 10004(d) by providing the information required in Section 10003(a).
- (b) Any recurring Contribution by a Participating Individual must be made at least as frequently as weekly, once every two weeks, twice monthly, or once monthly and must be made through Electronic Fund Transfer, and must be at least \$10.
- (c) ~~(1) Until April 8, 2021, Participating Individuals may make non-recurring Contributions through Electronic Fund Transfer or by personal check, in an amount of at least \$50.~~

~~(2) Beginning April 8, 2021, non-recurring~~ Non-recurring Contributions must be in an amount of at least \$10 and must be made through Electronic Fund Transfer or by personal check.

- (d) Businesses that use the services of Participating Individuals have not elected to participate in the Program merely because they, at the request of Participating Individuals, choose to facilitate remittance to the Administrator for deposit into a Participating Individual's Account all or a portion of the money owed to such Participating Individuals. Exempt Employers that choose to facilitate deposits to a Participating Individual's Account shall take all steps necessary to ensure their payroll deduction IRA program is not an employee benefit plan regulated under Title 1 of the Employee Retirement Income Security Act (ERISA).

Note – Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100002 and 100012, Government Code.