

MERRILL SMALL BUSINESS 401(k)

# A safe harbor plan may provide benefits for your business



The 401(k) Safe Harbor Plan design provides business owners a way to offer their highly compensated employees a 401(k) account while reducing contribution restrictions.

The Merrill Small Business 401(k) Safe Harbor Plan has all the features of a traditional 401(k) plan, but it automatically satisfies certain compliance testing in exchange for mandatory employer contributions to employees. You as the business owner and your highly compensated employees (HCEs) can therefore maximize your contributions without limits tied to the participation of other eligible employees.

The Safe Harbor Plan may give you the opportunity to reduce your business taxes, and may help your employees build larger retirement nest eggs. The Safe Harbor Plan can be a win-win for both you and your employees.

### Automatic satisfaction of certain compliance testing

A Merrill Small Business 401(k) Safe Harbor Plan:

- Automatically satisfies certain nondiscrimination testing, including the actual deferral percentage (ADP) test and the actual contribution percentage (ACP) test, if safe harbor guidelines are met. The ADP and ACP tests compare the deferral and contributions of HCEs to those of other employees.
- Satisfies the top-heavy test,<sup>1</sup> which determines whether the account balances of HCEs make up more than 60% of the plan assets.

### How it benefits you

You and your HCEs are able to make the maximum pre-tax and/or Roth 401(k) contributions, if applicable, to the 401(k) plan (\$23,500 in 2025).

---

### Why safe harbor?

Safe harbor plans are so named because they are designed to automatically satisfy certain IRS nondiscrimination testing. These plans ensure that plans are being administered in a way that is fair, not just for owners and other highly compensated employees, but for all company employees. Without such a “safe harbor,” there may be restrictions on the amount that top-tier employees and owners can contribute to their 401(k) plans.

---

### For employer use only.

Merrill Lynch, Pierce, Fenner & Smith Incorporated (also referred to as “MLPF&S” or “Merrill”) makes available certain investment products sponsored, managed, distributed or provided by companies that are affiliates of Bank of America Corporation (“BoFA Corp.”). MLPF&S is a registered broker-dealer, registered investment adviser, Member SIPC and a wholly owned subsidiary of BofA Corp.

Investment products:

<b>Are Not FDIC Insured</b>	<b>Are Not Bank Guaranteed</b>	<b>May Lose Value</b>
-----------------------------	--------------------------------	-----------------------

A safe harbor plan helps you:

- Avoid the time, trouble and expense of satisfying certain plan testing.
- Benefit from your own “matching” contributions since you are also considered an HCE. Those matching contributions help build your retirement funds and are generally tax deductible to your business along with matching contributions to other employees (restrictions may apply).

#### Maximum salary deferral for all employees<sup>2</sup>

- Individual pre-tax salary-deferral contributions of up to \$23,500 without further restrictions for HCEs.
- Individual additional pre-tax catch-up contributions of up to \$7,500<sup>3</sup> if age 50 or older.
- Combined total contributions of up to 100% of compensation, not to exceed \$70,000 or \$77,500 with catch-up contributions if age 50 or older.

The illustration below is an example of how a safe harbor plan may allow you to maximize your deferrals. Without a safe harbor plan, these contributions could be restricted. By making a safe harbor contribution, you as the owner and your HCEs are able to maximize your own deferrals even if no other employees (non-HCEs) make deferrals into the plan.

	Traditional 401(k)		Traditional 401(k) (No employee participation)		Safe harbor 401(k)		Safe harbor 401(k) (No employee participation)	
	Owner	Employee total	Owner	Employee total	Owner	Employee total	Owner	Employee total
<b>Compensation</b>	\$100,000	\$95,000	\$100,000	\$95,000	\$100,000	\$95,000	\$100,000	\$95,000
<b>Deferrals</b>	\$7,000	\$4,750	\$0	\$0	\$23,500	\$4,750	\$23,500	\$0
<b>Average percent (%) of salary</b>	7%	5%	0%	0%	23%	5%	23%	0%

#### Choice of employer contribution<sup>4</sup>

- Required matching contribution on the equivalent of 100% on the first 3% and 50% on deferrals on the next 2%, or 100% on 4%, 5% or 6% of employee’s deferrals.
- Non-elective contribution of at least 3% of compensation to all eligible employees.
- 100% of employer contributions are immediately vested.

#### Administrative requirements<sup>5</sup>

- 401(k) plan document must be amended to add safe harbor provisions.
- Generally must be established for full plan year (before the plan year starts).<sup>6</sup>
- Annual safe harbor notices to employees 30 to 90 days before plan year begins (the 30-day advance notice does not apply to new plans) and signature ready Form 5500 and Form 8955-SSA support from Ascensus.

---

#### Who it’s for

A safe harbor plan may be appropriate for your business if you:

- Have one or more employees.
- Need help with ADP and ACP compliance testing.
- Face contribution restrictions for HCEs because of low plan participation/deferral rates.

#### What it does

- Automatically satisfies certain plan testing.
  - Provides HCEs with an opportunity to maximize contributions.
- 

**For employer use only.**

## Safe harbor and more

With the Merrill Small Business 401(k), getting started with your safe harbor plan is easier than you think. The Safe Harbor 401(k) Plan is affordable and has features that are fit for busy business owners — like a secure and easy-to-use platform, and a streamlined set-up process that can get you started in 30 minutes or less.

Other advantages include:

- 24/7 access to your plan from one platform and educational resources.
- Step-by-step guide to assist year-end plan document and report processing.
- Automatic satisfaction of certain plan testing.

- Means of attracting and rewarding employees.
- Fully disclosed fees that allow you to plan ahead.
- Affordable plan expenses and potential tax savings that may offset these expenses.
- Tax-deductible employer contributions (subject to limitations contained in the Internal Revenue Code).
- Ability to take loans from the plan (restrictions may apply).
- Simplified menu of investments and portfolios selected by Morningstar Investment Management LLC, that require minimal administration, allowing you to focus on running your business.

## Start investing for your future today

Get started online at [merrilledge.com/401k](https://merrilledge.com/401k) or call an Ascensus 401(k) Consultant at **866.890.4177**.  
8 a.m.–5 p.m. Central Time.

<sup>1</sup> Top-heavy rules are met under the matching contribution option if no additional employer contributions are provided. Top-heavy rules are met under the non-elective contribution option if no other employer contributions are given or if any additional non-safe harbor matching contributions meet certain requirements.

<sup>2</sup> Contribution limits apply for 2025. Amounts for subsequent years may vary.

<sup>3</sup> \$11,250 for individuals who attain age 60, 61, 62, or 63 in 2025. In the year in which an individual attains age 64 or greater, the regular catch-up contribution limit applies.

<sup>4</sup> Automatic safe harbor elections are pursuant to the Pension Protection Act.

<sup>5</sup> Other requirements and restrictions apply. Contact your lawyer, accountant or other tax advisor. Talk to a Merrill Financial Solutions Advisor for more information.

<sup>6</sup> New plans may be established as safe harbor plans for an initial plan year as short as three months. New employers may establish a new safe harbor plan for an initial plan year of any length.

### **Investing involves risk, including the possible loss of the principal value invested.**

Merrill, its affiliates and financial advisors do not provide legal, tax or accounting advice. You should consult your legal and/or tax advisors before making any financial decisions.

Plan administrative and record-keeping services for Merrill Small Business 401(k) are provided by Ascensus. Morningstar Investment Management LLC is a registered investment adviser and subsidiary of Morningstar, Inc. Morningstar Investment Management LLC acts as a fiduciary under ERISA section 3(38) with respect to the fund lineup and model portfolios provided to a plan through the Merrill Small Business 401(k) Program. The Morningstar name and logo are registered marks of Morningstar, Inc. Educational call center support will be provided by Ascensus. BofA Corp., Ascensus and Morningstar Investment Management LLC are not affiliated.

### **For employer use only.**

© 2024 Bank of America Corporation. All rights reserved. | MAP7432615 | SHEET-12-24-0201 | 00-66-0390B | ADA | 12/2024