

Chapter 208-710 WAC
WASHINGTON SMALL BUSINESS RETIREMENT MARKETPLACE

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WAC

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WAC 208-710-010 Application of rules. The rules in this chapter implement the provisions of the Washington small business retirement marketplace, RCW 43.330.730 through 43.330.750, and 43.320.180, as they relate to the department of financial institutions.

The legislature created the Washington small business retirement marketplace in order to address the retirement savings access gap in Washington. The purpose of the Washington small business retirement marketplace is to educate small employers on retirement plan availability and promote qualified, low-cost, low-burden retirement savings vehicles and myRa accounts without mandating participation by either employers or employees.

The Washington department of commerce is responsible for the operation of the Washington small business retirement marketplace. The department of commerce will approve retirement plans for inclusion on the Washington small business retirement marketplace provided that the Washington department of financial institutions has verified that the retirement plan and the financial services firm offering it meet the requirements set forth in RCW 43.330.732(7) and 43.330.735.

Financial services firms seeking verification for their retirement plans from the department of financial institutions for the purpose of inclusion on the Washington small business retirement marketplace must follow the application procedures set forth in this chapter.

[Statutory Authority: RCW 43.330.732, 43.330.735, 43.330.750, and 43.320.180. WSR 17-21-082, § 208-710-010, filed 10/16/17, effective 11/16/17; WSR 16-13-016, § 208-710-010, filed 6/3/16, effective 7/4/16.]

WAC 208-710-020 Eligibility to apply for verification with the department of financial institutions. Financial services firms that are regulated by the department of financial institutions or by a federal agency with authority over banking, securities, or broker-dealer firms, and that meet all federal laws and regulations to offer retirement plans, are eligible to apply to the department of financial institutions for verification that their retirement plans meet the requirements set forth in RCW 43.330.732(7) and 43.330.735 for inclusion on the Washington small business retirement marketplace.

[Statutory Authority: RCW 43.330.732 [43.330.732], 43.330.735, 43.330.750, and 43.320.180. WSR 16-13-016, § 208-710-020, filed 6/3/16, effective 7/4/16.]

WAC 208-710-030 Verification process. (1) Financial services firms that are eligible under WAC 208-710-020 to apply for verification from the department of financial institutions may do so by submitting an application for verification as described in WAC 208-710-040, 208-710-060, or 208-710-070.

(2) The department of financial institutions will review and process initial, renewal, and amendment applications for verification. The department of financial institutions will issue a verification letter for retirement plans that meet the requirements set forth in RCW 43.330.732(7) and 43.330.735. The verification letter will be effective for one year for initial and renewal applications. For amendment applications, the verification letter will be effective for the remainder of the current one-year verification period.

(3) Pursuant to RCW 43.330.735(11), a financial services firm may charge retirement plan enrollees a de minimis fee for new and/or low balance accounts in excess of one hundred basis points in total annual fees only if the department of commerce and the financial services firm negotiate and agree upon the amount of the de minimis fee prior to the issuance of the verification letter.

(4) A financial services firm may withdraw its application for verification at any time by submitting a written request to withdraw to the department of financial institutions.

[Statutory Authority: RCW 43.330.732, 43.330.735, 43.330.750, and 43.320.180. WSR 17-21-082, § 208-710-030, filed 10/16/17, effective 11/16/17; WSR 16-13-016, § 208-710-030, filed 6/3/16, effective 7/4/16.]

WAC 208-710-040 Initial application requirements. Financial service firms that seek verification of retirement plans from the department of financial institutions for inclusion on the Washington small business retirement marketplace must submit a separate application for each retirement plan for which verification is sought. The following initial application materials must be submitted to the department of financial institutions:

(1) A completed application for verification form marked "initial";

(2) A copy of the retirement plan agreement;

(3) A copy of the materials routinely used to market the retirement plan to eligible employers;

(4) Any additional documents necessary to identify the funds and other investment products to be offered under the plan, specify the plan's fees and roll-over options, and disclose historical investment performance for the investment products in the plan;

(5) The prospectus for each balanced fund and target date fund or other similar fund offered under the retirement plan; and

(6) A summary of the retirement plan's investment options, fees, and other features. The summary should include, but not necessarily be limited to, the following:

(a) The type of retirement plan (e.g., SIMPLE IRA);

(b) The investment options available in the retirement plan;

(c) The fee structure applicable to the different investment options in the retirement plan (including fees payable to the financial services firm offering the retirement plan and any other service providers);

(d) The identity of the custodian of enrollee accounts;

- (e) The rollover options for enrollees in the retirement plan;
- (f) Whether the financial services firm offering the retirement plan will recommend investments to enrollees, and if so, how the firm will communicate to enrollees the option to select investments other than the recommended investments;
- (g) A list of documents an employer must complete to establish the retirement plan and its business relationship with the financial services firm offering the plan;
- (h) A list of the documents enrollees must complete to establish their retirement account and their relationship with the financial services firm offering the plan; and
- (i) Disclosure of any other fees associated with the retirement plan.

[Statutory Authority: RCW 43.330.732, 43.330.735, 43.330.750, and 43.320.180. WSR 17-21-082, § 208-710-040, filed 10/16/17, effective 11/16/17; WSR 16-13-016, § 208-710-040, filed 6/3/16, effective 7/4/16.]

WAC 208-710-050 Application review criteria. The department of financial institutions will review applications for verification to ensure that retirement plans meet the following criteria established by RCW 43.330.732(7) and 43.330.735:

- (1) The financial services firm offering the retirement plan must be licensed or hold a certificate of authority and be in good standing with the department of financial institutions, or be regulated by a federal agency with authority over banking, securities, or broker-dealer firms, and meet all federal laws and regulations to offer retirement plans;
- (2) The retirement plan must offer a minimum of two product options:
 - (a) A target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement; and
 - (b) A balanced fund.
- (3) The retirement plan must include the option for enrollees to roll pretax contributions into a different individual retirement account or another eligible retirement plan after the enrollees cease participation in the retirement plan offered on the Washington small business retirement marketplace;
- (4) The financial services firm offering the retirement plan may not charge the participating employer an administrative fee and may not charge enrollees more than one hundred basis points in total annual fees, except that financial services firms may charge retirement plan enrollees a de minimis fee for new and/or low balance accounts in amounts negotiated and agreed upon by the department of commerce and the financial services firm;
- (5) The financial services firm offering the retirement plan must provide information about the product's historical investment performance; and
- (6) Participation in a retirement plan offered on the Washington small business retirement marketplace must be voluntary for both eligible employers and qualified employees.

[Statutory Authority: RCW 43.330.732, 43.330.735, 43.330.750, and 43.320.180. WSR 17-21-082, § 208-710-050, filed 10/16/17, effective

WAC 208-710-060 Annual renewal application procedure. (1) To apply to renew the verification of a retirement plan for inclusion on the Washington small business retirement marketplace for a subsequent one-year period, the financial services firm offering the plan must submit the following to the department of financial institutions at least thirty days prior to the expiration of the current verification letter:

(a) A completed application for verification form marked "renewal";

(b) The most recently updated versions of the retirement plan, marketing materials, prospectuses, and other plan documents required by WAC 208-710-040 (2) through (6); and

(c) A report indicating the number of eligible employers in Washington who established retirement plans under the financial service provider's approved plan in the last year. The report must include the total number of new retirement accounts opened in Washington by qualified employees as a result of the adoption of the approved plan by eligible employers in Washington.

(2) If the financial services firm previously negotiated a de minimis fee with respect to new and/or low balance accounts pursuant to RCW 43.330.735(11), the department of commerce and the financial services firm must negotiate and agree upon any changes to such fee prior to the submission of a renewal application.

(3) If the retirement plan meets the requirements set forth in RCW 43.330.732(7), 43.330.735, and WAC 208-710-050 for inclusion on the Washington small business retirement marketplace, the department of financial institutions will issue a renewal of the verification letter for the retirement plan. An application for verification will not be considered renewed until the department of financial institutions issues a new verification letter.

(4) If the retirement plan no longer meets the requirements for inclusion on the Washington small business retirement marketplace, or the application is otherwise deficient, the department of financial institutions will issue a deficiency letter rather than renew the verification letter.

[Statutory Authority: RCW 43.330.732, 43.330.735, 43.330.750, and 43.320.180. WSR 17-21-082, § 208-710-060, filed 10/16/17, effective 11/16/17; WSR 16-13-016, § 208-710-060, filed 6/3/16, effective 7/4/16.]

WAC 208-710-070 Amendment review procedure. (1) During the time period in which a retirement plan's verification letter is effective, the financial services firm offering the plan must amend its application for verification if material amendments to the retirement plan or its underlying investment options are proposed.

(2) To amend an application for verification, the financial services firm must submit the following to the department of financial institutions at least thirty days prior to the proposed amendment of the plan:

(a) A completed application for verification marked "amendment"; and

(b) The most recent versions of the retirement plan, marketing materials, prospectuses, and other plan documents required by WAC 208-710-040 (2) through (6).

(3) If the financial services firm previously negotiated a de minimis fee with respect to new and/or low balance accounts pursuant to RCW 43.330.735(11), the department of commerce and the financial services firm must negotiate and agree upon any changes to such fee prior to the submission of an amended application.

(4) If the amended retirement plan meets the requirements set forth in RCW 43.330.732(7), 43.330.735, and WAC 208-710-050 for inclusion on the Washington small business retirement marketplace, the department of financial institutions will issue a verification letter for the amended retirement plan.

[Statutory Authority: RCW 43.330.732, 43.330.735, 43.330.750, and 43.320.180. WSR 17-21-082, § 208-710-070, filed 10/16/17, effective 11/16/17; WSR 16-13-016, § 208-710-070, filed 6/3/16, effective 7/4/16.]