



# Self-Employed Individuals (SEI) What should you know?



## Do you or any of your employees report compensation through a K-1 or Schedule-C?

If so, these employees are considered a Self-Employed Individual (SEI). Self-Employed Individuals are individuals who have earned income through self-employment, generally reported on a K-1 or Schedule-C Form. Examples include sole proprietors, partners of partnerships, partners of LLPs and members of LLCs taxed as a partnership. Please note that owners of S Corporations and members of LLCs taxed as a S Corporation are not included.

### What is the timing for a SEI to make a deferral election?

A participant must make an election to defer his/her compensation to a 401(k) plan before their compensation is available.<sup>1</sup> For purposes of making a 401(k) deferral election, a partner's compensation (earned income) is deemed currently available on the last day of the partnership taxable year. A sole proprietor's compensation is deemed currently available on the last day of the sole proprietor's taxable year.

A Self-Employed Individual may not make a 401(k) deferral election after the last day of the partnership's or proprietor's taxable year.<sup>2</sup> This time frame relates to the timing of the owner's "salary reduction" election, not necessarily the funding of the elected contributions.

### How can a SEI elect to contribute to the ADP TotalSource Retirement Savings Plan?

The SEI Deferral Election Form is part of the Annual Compliance process and is generally available in November each year. An authorized representative for the Adopting Employer must download the SEI election forms from the Voya Financial® Sponsor Web <https://sponsor.voya.com> and distribute copies to employees who receive Schedule K-1 or Schedule-C earnings. The authorized representative should gather the signed

copies to maintain as part of the company records before the last day of the company's taxable year. During the annual compliance package submission process, the Adopting Employer's authorized representative must enter these SEI elections on the **Highly Compensated, Key and Self-Employed Determination** worksheet located on Voya Financial's Sponsor Web.

Once a SEI deferral election is made, it is **binding, non-revocable** and will need to be funded timely to the Plan. Failure to fund these amounts timely may result in a 10% excise penalty being assessed to the Adopting Employer.

### Why can a SEI only elect to contribute at year-end?

If a partnership provides draws ("cash advance payments") via payroll during the year based on the value of the partner's services prior to the date of payment, which do not exceed a reasonable estimate of the partner's earned income for the taxable year, the final regulations do allow a partner to defer from the draw even though the deferral occurs before the determination of the partner's earned income.<sup>3</sup>

However, since a partnership will not determine each partner's earned income until after the end of the partnership's taxable year, a partner who defers during the year: (i) may "overshoot" a plan imposed limit on deferrals based on compensation (earned income) or a deferral election made

as a percentage; (ii) may have to "true-up" the deferrals at year-end to correspond to his/her election; and (iii) may not have sufficient earned income to sustain the deferral which would make the participant (and plan) exceed the 415 limit and the Plan would have to correct in accordance with the IRS Employee Plans Compliance Resolution System (EPCRS).<sup>4</sup> For these reasons, we only allow SEI elections at year-end and funding of these contributions occurs after year-end.

Should an employee receive both W-2 wages in addition to K-1 or Schedule-C earned income, the total combined deferral amount cannot exceed the 402(g) limit for the Plan Year.

### Once an election is made, how is the SEI funding sent to the ADP TotalSource Retirement Savings Plan?

Voya will distribute an Employer Funding Request in conjunction with the Compliance Testing results. When this is available, authorized representatives of the Adopting Employer will receive an Employer Funding Request notification via email.

<sup>1</sup> Treas. Reg. §1.401(k)-1(a)(3)

<sup>2</sup> Treas. Reg. §1.401(k)-1(a)(6)(iii)

<sup>3</sup> Treas. Reg. §1.401(k)-1(a)(6)(iv)

<sup>4</sup> (Rev. Proc. 2013-12)



## When does the actual contribution take place?

Annually – funding instructions are provided on the Employer Funding Request letter provided by Voya®.

## How does the employer matching contribution get calculated?

The employer matching contribution is calculated as part of the year-end process to ensure the correct eligible compensation and/or contributions are included in the match calculation. Voya will calculate any employer contributions attributable to SEI compensation and/or contributions that were supplied in the Annual Compliance Package process. Voya will request funding for those amounts on the Employer Funding Request.

## What happens if refunds are necessary as a result of an ADP Compliance Testing failure?

If there's an ADP Compliance Testing failure and corrective distributions are necessary, all SEIs must fully fund their deferral contribution amounts and any associated matching/profit sharing contributions before the corrections/refunds can be processed. Failure to fund these amounts timely may result in a 10 percent excise penalty being assessed to the Adopting Employer.

## How do I submit compensation for SEI's with both W-2 wages and K-1 or Schedule-C earned income on the Annual Compliance Package?

You do not need to submit W-2 wages or deferrals made on those wages. Those amounts are supplied by ADP TotalSource. Only K-1 or Schedule C earnings and contributions elections on those earnings should be supplied during the Annual Compliance Package submission.

The Annual Compliance Package should not be submitted until the K-1 or Schedule-C earned income amounts are available.

## If I don't choose my investment elections, where do my contributions go?

If a SEI has not provided investment instructions, they will be automatically invested in the ADP TotalSource Retirement Savings Plan's default investment option, one of the Voya Target Solution Trusts. For those that have failed to provide investment instructions, future contributions and/or loan repayments made to the Plan, will also be invested in one of the Voya Target Solution Trusts.

## How can I take out a loan?

You can request or model a loan by calling the ADP TotalSource Retirement Savings Plan Service Center at Voya at (855) 646-7549 and simply press 0 to speak to a Customer Service Associate or by going to the Loan section of the Voya Participant website, <https://adptotalsource.voya.com>. If you are requesting a residential loan, a loan form, Truth-in-Lending Statement and promissory note will be sent to you for completion.

You can also set up direct deposit but you must plan in advance. Once you've initiated or changed your direct deposit information online or through a Benefits Service Center representative, there is a seven calendar day waiting period before the direct deposit option will be available. During this waiting period you still have the option to receive your loan proceeds via a check by US mail.

*Note: If you plan ahead and set up ACH or direct deposit, you will receive general loan proceeds electronically in lieu of a check.*

## As a SEI, how do I pay a loan if I don't get wages via payroll?

A loan may be paid back electronically via ACH if a SEI is not paid via payroll. You can set up ACH through the Banking Information section under the **Personal Information** section on the Voya Participant website, <https://adptotalsource.voya.com>.

