
**Minutes of the
Oregon Retirement Savings Program
Board Meeting of May 4, 2021**

Members Present: Treasurer Tobias Read, Chair
Jeff Anderson
Kara Backus
Edward Brewington
Cory Streisinger

Members Absent: Senator Lee Beyer
Representative Pam Marsh

Network Staff: David Bell, Deputy Director
Kaellen Hessel, Advocacy/Outreach Manager
Michael Parker, Executive Director
Sabra Purifoy, Operations Director
Missy Simpson, Executive Coordinator
John Valley, Policy & Outreach Director
James Sinks, Financial Education Program Manager
Kasey Krifka, Engagement Director
Stephanie Swetland, Plan Specialist

Others Present: Angela Antonelli, Georgetown Center for Retirement
Meredith Coba, Legislative and Outreach Coordinator
David Elott, Assistant General Counsel
Christal Fenton, Ascensus
Ryan Fitzgerald, Sellwood Consulting
Matt Golden, BNY Mellon/Sumday
Jeff Gudman, Lake Oswego
Ryan Harvey, Sellwood Consulting
Michael Kaplan, Deputy Treasurer
Soohyang Lee, AKF Consulting
Doug Magnolia, BNY Mellon/Sumday
Lisa Massena, Massena & Associates
Vidur Mehra, SSgA
Alex Nelson, Senior Project Manager
George Piquette, Ascensus
Kevin Raymond, Sellwood Consulting
Michael Terdeman, BNY Mellon/Sumday
Aidan Yeaw

The meeting was called to order at 1:05 p.m. by Treasurer Tobias Read, Chair.

Agenda Item 1 – Review and approval of the February 23, 2021 Board Minutes (ACTION ITEM)

MOTION: Board Member Cory Streisinger moved to approve the February 23, 2021 minutes, seconded by Board Member Kara Backus. The minutes were approved by a 4/0 vote.

Agenda Item 2 – Capital Preservation Fund (ACTION ITEM)

Michael Parker, Executive Director, presented the analysis of the Capital Preservation Fund and recommendation for the Board. After a lengthy discussion with the Board, staff asked for a motion on the recommendation, a copy of which is part of the Network’s records for this Board meeting (Attachment 1).

MOTION: Board Member Jeff Anderson moved to approve the Resolution of the Board relating to the Standard Investment Election for the Oregon Retirement Savings Plan, seconded by Chair Tobias Read. With a roll call vote, the Board approved the Resolution by a 3/2 vote.

Name	Yes	No
Jeff Anderson	X	
Kara Backus		X
Edward Brewington	X	
Cory Streisinger		X
Chair Tobias Read	X	

Agenda Item 3 – Fee Structure (ACTION ITEM)

Michael Parker, Executive Director, gave an overview of the fee structure and recommendation for the Board. After discussion with the Board, staff asked for a motion on the recommendation, a copy of which is part of the Network’s records for this Board meeting (Attachment 2).

MOTION: Chair Tobias Read moved to approve the Resolution of the Board relating to Fees for the Oregon Retirement Savings Plan, seconded by Board Member Edward Brewington. With a roll call vote, the Board approved the Resolution by a 4/1 vote.

Name	Yes	No
Jeff Anderson	X	
Kara Backus	X	
Edward Brewington	X	
Cory Streisinger		X
Chair Tobias Read	X	

MOTION: Chair Tobias Read moved to approve the Resolution relating to amendment of Administrative Rules (Attachment 3), seconded by Board member Edward Brewington. The resolution was approved by all 5 voting members.

Agenda Item 4 – Executive Director’s Report (INFORMATION ITEM)

Michael Parker, Executive Director, reported to the Board, the movement with the Auto IRA programs nationally and in Congress. Staff is working with the members of Oregon’s congressional delegation to help with the passage of Secure Act 2.0. The original Secure Act was passed last year. Secure Act 2.0 could offer help for employers to offset some of their time, or help them facilitate auto-IRA programs. The Secure Act allowed employers a tax break if they sponsored a 401k. The Secure Act 2.0 will have similar language to allow for some form of a tax break if an employer facilitates an Auto IRA. Staff is also hiring another outreach manager to help with employer and employee education.

Agenda Item 5 – Transition Update (INFORMATION ITEM)

Sabra Purifoy, Operations Director, gave an update on the conversion and shared a high-level project dashboard giving an overview of milestones for the conversion, a copy of which is part the Network’s records for this Board meeting. The OTSN team is meeting weekly with Ascensus and Sunday, and the conversion is on schedule for October 18th. The finalized Program Administrator Agreement will be presented to the Board at the June meeting for approval, along with the rule amendments.

Agenda Item 6 – Program Implementation Administration (INFORMATION ITEM)

David Bell, Deputy Director, presented the Program Manager Update. As of today, the program is over \$100 million in assets under management, with assets up \$15 million from last quarter. Funded accounts increased by 16,000 last quarter, which includes the onboarding of home care workers into the program. A copy of the Program Manager update is part of the Network’s records for this Board meeting.

Agenda Item 7 – Investment Performance Report (INFORMATION ITEM)

Ryan Harvey, Sellwood Consulting, gave an update on the investment Performance Report. Mr. Harvey reported on the markets, the program and 1st quarter, and the trailing year. The rising rates caused some underperformance in the quarter, and caused State Street to reassess the types of bonds it offers for long term savers in the program. A copy of the Investment Performance Report is part of the Network’s records for this Board meeting.

PUBLIC COMMENT:

There was no public comment.

The next scheduled Board meeting will be Wednesday, June 30, 2021.

The meeting was adjourned at 3:39 p.m.

OREGON RETIREMENT SAVINGS BOARD

**Resolution of the Board relating to the
Standard Investment Election for the Oregon Retirement Savings Plan**

May 2021

WHEREAS, the Oregon Retirement Savings Board (the “Board”) is proposing to amend its administrative rules governing the Oregon Retirement Savings Plan (the “Program”) to eliminate the current fixed standard investment election and, instead, authorize the Board to designate the standard investment election and the holding period for contributions placed in that investment; and

WHEREAS, the Board wishes to designate the standard investment election and the holding period for contributions placed in that investment, contingent on amendment of the administrative rules to authorize such designation (the “Administrative Rule Amendment”).

NOW, THEREFORE, it is hereby resolved that:

1. Commencing on the date of adoption of the Administrative Rule Amendment and ending on the date preceding the date of conversion of Program administration services from Ascensus College Savings Record Keeping Services, LLC, to Sunday Administration, LLC, and its affiliates (the “Conversion Date”), the first \$1,000 of contributions from an Employee who has not specified an alternate investment will be placed in the capital preservation investment designated by the Board and held in that investment until withdrawn or transferred to another investment by the Employee; and
2. Commencing on the Conversion Date and continuing thereafter, but contingent on adoption of the Administrative Rule Amendment, the contributions from an Employee who has not specified an alternative investment will be placed, during the first 90 days after their first contribution, in the capital preservation investment designated by the Board. At the end of the 90 period, those contributions will be transferred to the Target Date Fund corresponding with the Employee’s age.

OREGON RETIREMENT SAVINGS BOARD

**Resolution of the Board relating to
Fees for the Oregon Retirement Savings Plan**

May 2021

WHEREAS, ORS 178.205 and OAR 170-080-0045 authorize the Oregon Retirement Savings Board (the “Board”) to collect administrative fees to defray the cost of administering the Oregon Retirement Savings Plan (the “Program”); and

WHEREAS, the Board has determined that an adjustment of the administrative fees is necessary to support continued operation of the Program.

NOW, THEREFORE, it is hereby resolved that:

1. The Board shall charge an administrative fee of \$18 plus 0.15%, per account, per year (“New Fee”);
2. The New Fee is conditioned on appropriate amendment of OAR 170-080-0045(1) (the “Fee Standard”) to permit the New Fee; and
3. The New Fee shall replace the existing administrative fee of 0.90%, per account, per year, and apply beginning on the later of (a) the date of adoption of an administrative rule amending the Fee Standard to permit the new fee, or (b) the date of conversion of Program administration services from Ascensus College Savings Record Keeping Services, LLC, to Sunday Administration, LLC, and its affiliates.

OREGON RETIREMENT SAVINGS BOARD

**Resolution of the Board relating to
Amendment of Administrative Rules**

May 2021

WHEREAS, in accordance with ORS 178.215, the Oregon Retirement Savings Board (the “Board”) has adopted administrative rules, codified at OAR Chapter 170, Division 80, to govern administration of the Oregon Retirement Savings Plan (the “Program”); and

WHEREAS, the Board desires to amend the rules to (a) modify the timeline for certain Employers to register with the Program or file a Certificate of Exemption, (b) modify the investments for Participating Employees and Participating Individuals who use the standard election (c) modify the standard for setting the Program administrative fee, and (d) make certain technical adjustments, substantially as reflected in the draft proposed administrative rules in Attachment A to this Resolution (the “Proposed Rules”).

NOW, THEREFORE, it is hereby resolved that:

1. The Executive Director of the Oregon Savings Network (the “Executive Director”) is authorized to provide the notices and take the actions required for adoption of the Proposed Rules under the Oregon Administrative Procedures Act, other than adoption of the final Proposed Rules; and
2. The Executive Director shall submit the final Proposed Rules to the Board for consideration and adoption.

**ATTACHMENT A
DRAFT PROPOSED ADMINISTRATIVE RULES**

[Oregon State Treasury](#)

[Chapter 170](#)

Division 80
OREGON RETIREMENT SAVINGS PROGRAM

[170-080-0001](#)

Notice Rule for Rulemaking, Model Rules of Procedure

(1) Notice Rule for Rulemaking. Before adopting, amending or repealing any permanent rule, the Board will give notice of the intended action:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(b) By e-mailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(c) By mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(d) By mailing or furnishing a copy of the notice to the list of interested parties compiled and maintained by the State Treasurer.

(2) Model Rules of Procedure. The Attorney General's Model Rules of Procedure as set forth in OAR 137, Divisions 1 through 4, are adopted as rules of procedure for administrative rulemaking and other administrative law functions as exercised by the Board in respect to the Program.

(3) Collaborative Dispute Resolution Model Rules. The Attorney General's Collaborative Dispute Resolution Model Rules, as set forth in OAR 137 Division 5, to the extent not inconsistent with the Act or the Code, are adopted by the Board as its rules for dispute resolution.

Statutory/Other Authority: ORS 183.335, 183.341 & 183.502

Statutes/Other Implemented: ORS 183.341, 183.502 & 178.220–178.245

History:

OST 3-2017, f. & cert. ef. 4-19-17

[170-080-0002](#)

Confidentiality and Inadmissibility of Mediation Communication

The policies and procedures of the Oregon State Treasurer set forth in OAR 170 in regard to confidentiality and inadmissibility of mediation communication, to the extent not inconsistent with the Act or the Code, are adopted as the policies and procedures of the Board.

Statutory/Other Authority: ORS 36.224, 183.335, 183.341 & 183.502

Statutes/Other Implemented: ORS 36.224, 36.228, 36.230 & 36.232

History:

OST 3-2017, f. & cert. ef. 4-19-17

170-080-0005

Inspection, Certification or Copying Public Records

The policies and procedures of the Oregon State Treasurer set forth in OAR 170, Division 2 in regard to inspection, certification or copying of public records, to the extent not inconsistent with the Act or ORS Chapter 178, are adopted as the policies and procedures of the Board.

Statutory/Other Authority: 178.050

Statutes/Other Implemented: ORS Ch 183 & 192.410–192.505

History:

OST 3-2017, f. & cert. ef. 4-19-17

170-080-0010

Administration

(1) Policy. The Board intends that, consistent with ORS Section 178.210(1)(p), the Program be operated, and these rules be construed, in a manner consistent with applicable guidance provided by the U.S. Department of Labor relating to payroll deduction IRA programs that are not pension plans under Title I of the Employee Retirement Income Security Act (ERISA) including, but not limited to, 29 CFR Sections 2509.99-1, 2510.3–2(d).

(2) Definitions. All capitalized terms used in these rules shall be as defined in the Act. Where a conflict is found to exist between a definition stated in these rules and the corresponding definition in the Act, the statutory definition shall apply. As used in these rules, unless the context indicates otherwise:

(a) “Act” means ORS 178.200 to 178.245, as amended from time to time.

(b) “Automatic Contribution Plan” means a program that allows a Participating Individual to contribute funds to a Program Roth or Traditional IRA at regular intervals through electronic transmission. Contributions shall be deemed to be made at regular intervals if they are made at least quarterly.

(c) “Beneficiary” means the individual(s), person(s), or entity(ies) entitled to receive the proceeds of a Program IRA.

(d) “Board” means the Oregon Retirement Savings Board established in ORS 178.200(1).

(e) “Certificate of Exemption” means a truthful statement by an authorized representative of an Employer that it offers a Qualified Plan to some or all of its Employees.

(f) “Client Employer” means a client of a Worker Leasing Company that obtains services of Leased Workers as defined in OAR 436-050-0005.

(g) “Code” means the Internal Revenue Code and any regulations, rulings, announcements, or other guidance issued thereunder, as amended.

(h) “Compensation” means W-2 wages, as defined in 26 CFR 1.415(c)-2(d)(4).

(i) “Distribution” means any distribution of funds from an IRA established pursuant to the Program.

(j) “Employee” means any person 18 years of age and older working in an Employment, as defined herein.

(k) “Employer” means any employing unit which employs one or more individuals in an Employment in

each of 18 separate weeks during any calendar year, or in which the employing unit's total payroll during any calendar quarter amounts to \$1,000 or more.

(l) "Employer of Record" means the business associated with the Business Identification Number (BIN), or if unavailable, the Federal Employer Identification Number (FEIN), listed on an Employee's or Participating Employee's W-2.

(m) "Employment" means any employment subject to ORS Chapter 657 provided that, notwithstanding the exemptions from the definition of Employment contained in Chapter 657, for the purposes of the Program, Employment includes:

(A) Agricultural labor, as defined in ORS 657.045; and

(B) Commissioned positions, as defined in ORS 657.085, 657.087(1) and (2), and 657.090.

(n) "Enrollment Date" means either:

(A) the Initial Enrollment Date, for Participating Employees hired on or before the Facilitating Employer's required Registration Date; or

(B) a date not more than 60 days following start of employment, for Participating Employees hired after the Facilitating Employer's required Registration Date.

(o) "Executive Director" means the Executive Director of the Oregon Savings Network.

(p) "Exempt Employer" means an Employer who offers a Qualified Plan to some or all of its Employees; and

(A) has filed a valid and current Certificate of Exemption pursuant to procedures established by the Board; or

(B) has received a notice of presumed exemption, as provided in OAR 170-080-0020.

(q) "Facilitating Employer" means an Employer whose Registration Date has passed and who is not an Exempt Employer.

(r) "Initial Enrollment Date" means the date not more than 60 days after the Facilitating Employer's required Registration Date, by which a Facilitating Employer must initially enroll its Participating Employees.

(s) "IRA" means the individual retirement account established by a Participating Individual or by or for a Participating Employee under the Program.

(t) "IRS" means the Internal Revenue Service of the United States Treasury Department.

(u) "Minimum Initial Contribution" means the minimum Non-Payroll Contribution required for a Participating Individual to establish a Program IRA.

(v) "Non-Payroll Contributions" means contributions other than Payroll Deduction Contributions, rollover contributions, or transfer contributions.

(w) "Number of Employees" means the number of employees as submitted on the Employer's Oregon Quarterly Tax Report (Form OQ): Number of covered workers for Unemployment Insurance, in accordance with OAR 170-080-0015.

(x) "Participating Employee" means any person who is an Employee of a Facilitating Employer, enrolled in the Program, maintains a Program IRA and is not a Participating Individual..

(y) "Participating Individual" means any person who is in the Program independent of an employment relationship with a Facilitating Employer, maintains a Program IRA, and is not a Participating Employee.

(z) "Payroll Date" means the date that an Employee's Compensation is paid to the Employee by the Employer through the payment of cash, issuance of a check, electronic funds transfer or other method.

(aa) "Payroll Deduction Contributions" means contributions made by a Participating Employee or Participating Individual pursuant to a payroll deduction.

(bb) "Program" means the Oregon Retirement Savings Program established by the Board pursuant to ORS 178.205(1).

(cc) "Program Administrator" means a third party administrator chosen by the Board to assist in carrying out the requirements of the Act.

(dd) "Qualified Plan" means a retirement plan qualified under the Code section 401(a), section 401(k), section 403(a), section 403(b), section 408(k), section 408(p), section 413(c), section 414(f), or a governmental plan qualified under section 457(b) of the Code. For purposes of this rule, a payroll deduction IRA program as defined in 29 CFR 2510.3-2(d) is not a Qualified Plan.

(ee) "Registration Date" means, for each Employer, the date by which the Employer is required to register with the Program or file a Certificate of Exemption, in accordance with OAR 170-080-0015.

(ff) "Roth IRA" means an individual retirement account as defined in Code section 408A.

(gg) "Standard Elections" means the default Program elections applicable to a Participating Employee who has not opted for different elections, as specified in OAR 170-080-0030.

(hh) "Target Date Fund" means a professionally-managed fund containing a mix of investments that invests based on the employee's age and/or projected retirement date.

(ii) "Traditional IRA" means an individual retirement account as defined in Code section 408(a).

(jj) "Worker Leasing Company" (also known as a Professional Employer Organization or PEO) means a person who provides workers, by contract and for a fee, to work for a client and is licensed as a Worker Leasing Company by the Oregon Department of Consumer and Business Services.

Statutory/Other Authority: ORS 178.200–178.245

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 1-2019, amend filed 04/04/2019, effective 04/09/2019](#)

[OST 5-2018, temporary amend filed 10/16/2018, effective 10/20/2018 through 04/10/2019](#)

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

[OST 6-2017, amend filed 10/24/2017, effective 10/24/2017](#)

OST 3-2017, f. & cert. ef. 4-19-17

[170-080-0011](#)

Executive Director

The Executive Director is responsible for the day-to-day operations of the Program and for carrying out such duties and responsibilities as assigned by the Board.

Statutory/Other Authority: ORS 178.200 to 178.245

Statutes/Other Implemented: ORS 178.200 to 178.245

History:

[OST 6-2017, adopt filed 10/24/2017, effective 10/24/2017](#)

[170-080-0015](#)

Employer Registration and Employee Enrollment

(1) Registration

(a) Except as provided in subsection (e), each Employer shall register with the Program or file a Certificate of Exemption on or before the Registration Date.

(b) Unless otherwise permitted by the Program Administrator, the Registration Date for an Employer shall be as follows:

(A) An Employer employing one hundred (100) or more Employees: November 15, 2017.

(B) An Employer employing at least fifty (50) but no more than ninety-nine (99) Employees: May 15, 2018.

(C) An Employer employing at least twenty (20) but no more than forty-nine (49) Employees: December 15, 2018.

(D) An Employer employing at least ten (10) but no more than nineteen (19) Employees: May 15, 2019.

(E) An Employer employing at least five (5) but no more than nine (9) Employees: November 15, 2019.

(F) Client Employers, as defined in 170-080-0010: A time to be determined by the Board, but no sooner than October 1, 2021. Date to be published on program website.

(G) An Employer employing four (4) or fewer Employees: A time to be determined by the Board, but no sooner than October 1, 2021. Date to be published on program website.

(c) In determining the Number of Employees for the purposes of this section, Employers shall use data as submitted on the 2016 4th quarter Oregon Quarterly Tax Report (Form OQ): Number of covered workers for Unemployment Insurance, except under the following circumstances:

(A) An Employer who first meets the definition of Employer after January 1, 2017 will use the number of employees submitted on the Employer's most recently filed Form OQ;

(B) An Employer with no Employees reported on Form OQ will have a Registration Date to be determined by the Board, but no sooner than October 1, 2021. Date to be published on the program website; or

(C) At the Program Administrator's discretion, an Employer with a valid business reason may use data from a more recent Form OQ.

(d) To register with the Program, a Facilitating Employer shall use the internet portal established by the Program Administrator to provide the following information:

(A) Employer name and assumed business name, if any;

(B) Employer Identification Numbers (Federal Employer Identification Number and Business Identification Number);

(C) Employer mailing address;

(D) Name, title, telephone number and email address of an individual designated by the Employer as the Program's point of contact;

(E) Number of Employees; and

(F) Any other information reasonably required by the Program for the purposes of administering the Program.

(e) An Employer who received a notice of presumed exemption from the Program Administrator, as specified in OAR 170-080-0020, is not required to take any further action as long as it continues to offer a Qualified Plan to some or all of its Employees.

(f) New Employers: the Registration Date for an Employer who first meets the definition of Employer after July 1, 2017, shall be the later of:

(A) the date specified in subsection (1)(b) above, or

(B) 90 days after the Employer first meets the definition of Employer.

(g) The Registration Date for an Exempt Employer that ceases to offer a Qualified Plan to some or all of its Employees shall be the later of:

(A) the date specified in subsection (1)(b) above, or

(B) 90 days after the Exempt Employer ceases to offer a Qualified Plan to some or all of its Employees.

(h) A Facilitating Employer who lacks access to the internet may register with the Program by alternate means established by the Program Administrator.

(2) Employee Enrollment through a Facilitating Employer

(a) On or before the Initial Enrollment Date, and on or before the Enrollment Date for each subsequently hired Employee, a Facilitating Employer shall enroll its Employees using the Program Administrator's internet portal or other means of data transmittal specified and validated by the Program Administrator. The Facilitating Employer shall provide the following information for each Employee no more than 30 days after the Registration Date (for Employees hired on or before the Registration Date) and no more than 30 days following the start of Employment (for Employees hired after the Registration Date):

(A) Full legal name;

(B) Social security number or taxpayer ID number;

(C) Date of birth;

(D) Mailing address;

(E) Employee's designated email address; and

(F) Any other information reasonably required by the Program for the purposes of administering the Program.

(b) In order to allow for Employees to establish an IRA through an automatic enrollment process, the Board shall establish procedures with the Program Administrator for the execution or adoption of such documents as are necessary or appropriate to establish an IRA for such Employee. If the Employee has not opted out after notice of the opportunity to opt out was sent to the Employee using the contact information on file with the Program, and the opt-out period has lapsed, then an IRA will be established for such Employee pursuant to directives and procedures established by the Board.

(c) Automatic Employee enrollment occurs 30 days after the Facilitating Employer provides the information in OAR 170-080-0015(2)(a), unless the Employee and Facilitating Employer agree to an earlier date.

Statutory/Other Authority: ORS 178.200–178.245

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 1-2020, amend filed 05/11/2020, effective 05/13/2020](#)

[OST 4-2019, temporary amend filed 10/16/2019, effective 10/16/2019 through 04/12/2020](#)

[OST 1-2019, amend filed 04/04/2019, effective 04/09/2019](#)

[OST 5-2018, temporary amend filed 10/16/2018, effective 10/20/2018 through 04/10/2019](#)

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

[OST 6-2017, amend filed 10/24/2017, effective 10/24/2017](#)

OST 5-2017(Temp), f. & cert. ef. 6-22-17 thru 12-18-17

OST 3-2017, f. & cert. ef. 4-19-17

[170-080-0020](#)

Employer Exemptions

(1) An authorized representative of an Employer may file a Certificate of Exemption with the Program by certifying, through the Program Administrator's internet portal or other means of data transmittal specified and validated by the Program Administrator, that the Employer offers a Qualified Plan to some or all of its Employees.

(2) A Certificate of Exemption is valid so long as the Employer continues to offer a Qualified Plan to some or all of its Employees. If the Employer ceases to offer a Qualified Plan to some or all of its Employees, it is required to notify the Program Administrator and register with the Program on or before the Registration Date, as listed in this OAR 170-080-0015.

(3) The Program Administrator shall, from time to time, compare Form 5500 (Annual Return/Report of Employee Benefit Plan) filings with the database of Employers and Exempt Employers.

(a) For an Employer identified as offering a Qualified Plan to some or all of its Employees, or an Exempt Employer identified as continuing to offer a Qualified Plan to some or all of its Employees, the Program Administrator may send written notice of presumed exemption from the Program.

(b) If the Program Administrator determines that the Employer or Exempt Employer no longer offers a Qualified Plan to some or all of its Employees, or is not identified as having a current Form 5500 on file with the U.S. Department of Labor, the Program Administrator may send written notice directing the Employer or Exempt Employer to either file a Certificate of Exemption or register with the Program.

(4) The exemption of an Exempt Employer that received a notice of presumed exemption is valid so long as the Exempt Employer continues to offer a Qualified Plan to some or all of its Employees. If the Employer ceases to offer a Qualified Plan to some or all of its Employees, it is required to notify the Program Administrator and register with the Program on or before the Registration Date, as listed in this OAR 170-080-0015.

Statutory/Other Authority: ORS 178.200 - 178.245

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 1-2020, amend filed 05/11/2020, effective 05/13/2020](#)

[OST 4-2019, temporary amend filed 10/16/2019, effective 10/16/2019 through 04/12/2020](#)

[OST 1-2019, amend filed 04/04/2019, effective 04/09/2019](#)

[OST 5-2018, temporary amend filed 10/16/2018, effective 10/20/2018 through 04/10/2019](#)

OST 3-2017, f. & cert. ef. 4-19-17

170-080-0025

Responsibilities in Joint or Co-employment Circumstances

(1) With respect to any Employee or Participating Employee in a joint or co-employment relationship, except as provided in subsection 2, the terms “Employer” and “Facilitating Employer” shall mean the Employer of Record.

(2) With respect to any Employee or Participating Employee provided by a Worker Leasing Company, who is not provided on a temporary basis, as described in OAR 436-050-0420, the term “Employer” and “Facilitating Employer” shall mean the Client Employer.

(3) Notwithstanding the foregoing, with respect to any Employee or Participating Employee of a Worker Leasing Company who is not a Leased Worker as defined in OAR 436-050-0005, the terms “Employer” and “Facilitating Employer” shall mean the Worker Leasing Company.

(4) Nothing in this rule shall prohibit a Worker Leasing Company and a Client Employer from entering into an agreement under which the Worker Leasing Company may assist the Client Employer in the performance of some or all of the Client Employer’s responsibilities under these rules.

Statutory/Other Authority: ORS 178.200 to 178.245

Statutes/Other Implemented: ORS 178.200 to 178.245

History:

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

[OST 6-2017, amend filed 10/24/2017, effective 10/24/2017](#)

OST 3-2017, f. & cert. ef. 4-19-17

[170-080-0030](#)

Standard and Alternate Elections for Contributions; Automatic Increases; Ceasing Contributions; Requesting Participation

(1) Standard Elections

(a) An Employee who has not provided notice as specified in this section shall participate using the following Standard Elections:

(A) Contribution to the Program at an initial rate of 5% of Compensation;

(B) Auto-escalation at the rate of an additional 1% of Compensation each year until a maximum of 10% is reached;

(C) Investments:

(i) An employee's initial contributions will be held in an investment for a set period of time (hold period) as determined by the Board and outlined in the program disclosure booklet. On the last day of the hold period, or on the day following the hold period, all of the employee's contributions made during the hold period will be transferred to the appropriate Target Date Fund;

(ii) All subsequent contributions will be invested in a Target Date Fund; and

(D) The Program account will be a Roth IRA and contributions will occur on a post-tax basis.

(2) Alternate Elections

(a) An Employee who does not wish to participate using the Standard Elections shall notify the Program Administrator, in a form or format established by the Program, and within the 30 days prior to their Enrollment Date, that:

(A) The Employee wishes to participate in the Program:

(i) at an initial contribution rate different from the Standard Elections, which shall be a percentage of available Compensation expressed as any whole number (i.e. three (3) percent but not three and one-half (3.5) percent). The minimum contribution rate is 1% and the maximum contribution rate is 100% of available Compensation, up to the IRS annual contribution limits; or

(ii) at an initial contribution rate different from the Standard Elections, expressed as a specific whole dollar amount. The Program Administrator will establish the minimum contribution. The maximum contribution rate is 100% of available Compensation, up to the IRS annual contribution limits; or

(iii) at an initial contribution rate consistent with the Standard Elections but without auto-escalation; or

(iv) at an initial contribution rate different from the Standard Elections and without auto-escalation.

(B) The Employee is opting out of the Program.

(b) A Participating Employee may change contribution elections by notifying the Program Administrator of the change request, in a form or format established by the Program. This change shall be effected on the Participating Employee's payroll as soon as administratively practicable, but within 30 days of receipt of a notice of change.

(c) An Employee who wishes to select an investment option other than that provided by the Standard Elections shall notify the Program Administrator, in a form or format established by the Program, that

the Employee wishes to participate in the Program by investing future contributions directly into another fund or funds offered by the Program, which selection shall be effected as soon as administratively practicable.

(d) A Participating Employee may change investment elections for any portion of the balance of the Program by notifying the Program Administrator of a requested change in investment elections, either in writing, electronically, or in any other form permitted by the IRS, to be effected as soon as administratively possible.

(e) An Employee who wishes to select a Traditional IRA shall notify the Program Administrator, in a form or format established by the Program, that the Employee wishes to participate using a Program Traditional IRA.

(f) The Facilitating Employer will process Program Traditional IRA contributions on a post-tax basis.

(3) Ceasing Contributions or Requesting Participation

(a) A Participating Employee may cease contributions to the Program by notifying the Program Administrator of intent to cease making contributions and revoking the authorization of the Facilitating Employer to make contributions on their behalf. The Participating Employee will give notice of this revocation, in a form or format established by the Program, to the Program Administrator.

(b) An Employee of a Facilitating Employer who initially opted out of participation in the Program may become a Participating Employee by completing and delivering, in a form or format established by the Program, instructions to initiate participation to the Facilitating Employer. The request shall be effective on the Employee's payroll following notification as soon as administratively practicable, not to exceed 30 days.

Statutory/Other Authority: ORS 178.200 to 178.245

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 1-2019, amend filed 04/04/2019, effective 04/09/2019](#)

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

[OST 6-2017, amend filed 10/24/2017, effective 10/24/2017](#)

OST 3-2017, f. & cert. ef. 4-19-17

170-080-0035

Contributions

(1) Beginning 30 days following the Enrollment Date, and in accordance with a Participating Employee's election under OAR 170-080-0030, the Facilitating Employer shall, on each Payroll Date, transfer from the Participating Employee's Compensation for contribution to the Participating Employee's IRA:

(a) 5% of Compensation; or

(b) The Participating Employee's elected contribution rate, if different from the Standard Elections; or

(c) The auto-escalated percentage of Compensation for that Participating Employee.

(2) Notwithstanding subsection (1), amounts deducted by the Facilitating Employer pursuant to this Rule 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, are made by the Facilitating Employer.

(3) Amounts deducted by the Facilitating Employer pursuant to this rule shall be transmitted to the Program Administrator as specified by the Program, as soon as administratively possible, not to exceed seven (7) business days from the date of deduction. Failure to transmit the amount as required constitutes an unlawful deduction under ORS 652.610(4).

(4) Beginning January 1, 2019, the Facilitating Employer shall increase the deduction specified in subsection (1) of this Rule for each Participating Employee who has not opted out of auto-escalation:

(a) For a Participating Employee who elected a percentage of available Compensation, the Facilitating Employer shall increase the amount by an additional 1% of Compensation per year until the total deduction has reached 10% of Compensation.

(b) For a Participating Employee who elected an initial contribution rate expressed as a specific dollar amount, the Facilitating Employer shall increase the amount using a schedule or rate established by the Board.

(5) Auto-escalation will occur on January 1 each year for Participating Employees who:

(a) Are contributing less than 10% of Compensation; and

(b) Completed the initial Payroll Deduction Contribution specified in subsection (1) of this Rule on or before July 1 of the prior year.

Statutory/Other Authority: ORS 178.200 to 178.245

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

[OST 6-2017, amend filed 10/24/2017, effective 10/24/2017](#)

OST 3-2017, f. & cert. ef. 4-19-17

[170-080-0036](#)

Non-Payroll Contributions

(1) Any Participating Employee or Participating Individual may choose to make Non-Payroll Contributions to the Program.

(2) Such contributions must not exceed, in combination with Payroll Deduction Contributions, the annual IRA contribution limit as determined by the Code and related rules promulgated by the IRS, and must be delivered to the OregonSaves IRA trustee in accordance with procedures determined by the Board and approved by the Program Administrator.

(3) The Program Administrator will establish the minimum contribution.

(4) Non-Payroll Contributions may be made electronically or by personal check.

Statutory/Other Authority: ORS 178.200 to 178.245

Statutes/Other Implemented: ORS 178.200 to 178.245

History:

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

[OST 6-2017, adopt filed 10/24/2017, effective 10/24/2017](#)

170-080-0040

Distributions and Distribution Requests

(1) A Participating Employee, Participating Individual, or Beneficiary may request a Distribution of all or a portion of funds from a Program Roth or Traditional IRA at any time by submitting a completed distribution request to the Program Administrator, in a form or format established by the Program and permitted by the IRS.

(2) A Program IRA Distribution shall be subject to any applicable state and federal income tax obligations and may be subject to penalties under the Code.

Statutory/Other Authority: ORS 178.215(7)

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

OST 3-2017, f. & cert. ef. 4-19-17

170-080-0045

Program Administration Fees and Expenses

(1) The Board will charge each IRA a Program administrative fee that may consist of an asset-based fee and/or an annual fee.

(2) The Board will from time to time review, adjust, and notify Participating Employees and Participating Individuals of changes to Program Administration fees.

Statutory/Other Authority: ORS 178.225

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

OST 3-2017, f. & cert. ef. 4-19-17

170-080-0050

Employer Guidelines

(1) A Facilitating Employer is not a fiduciary to this program. Facilitating Employers shall:

(a) Collect contributions and remit those amounts promptly to the Program Administrator or its designee;

(b) Provide information to the Program Administrator, as described in OARs 170-080-0015, 170-080-0020, and 170-080-0030;

(c) Retain the notice of any Employee elections or election changes pursuant to any action defined in OAR 170-080-0030 for a period not less than three (3) years from the date of the notice. Facilitating Employers may choose to comply with this requirement by allowing the Program Administrator to maintain such documentation on their behalf, either electronically, or in any other medium allowable under applicable law;

(d) Record the Participating Employee's elections and election changes in its payroll system in a manner that enables the Facilitating Employer to make accurate deductions from the Participating Employee's paycheck;

(e) Make clear that the Facilitating Employer's involvement in the Program is limited to collecting contributions and remitting them to the Program Administrator or its designee, and that the Facilitating Employer does not provide any additional benefit or promise any particular investment return on Employee savings; and

(f) Remain neutral about the Program.

(2) Facilitating Employers shall not:

(a) Contribute to the Program;

(b) Require, endorse, or discourage employee participation in the Program; and

(c) Execute any discretionary authority, control, or responsibility with respect to the Program.

(3) Facilitating Employers may, if they choose:

(a) Provide additional general information and other educational materials that explain the advisability of retirement savings, including the advantages of contributing to an IRA; and

(b) Answer Employee inquiries about the mechanics of the IRA payroll deduction.

(4) Facilitating Employers should refer other inquires to the Program Administrator or as otherwise directed by the Board.

Statutory/Other Authority: ORS 178.200–178.245

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

OST 3-2017, f. & cert. ef. 4-19-17

[170-080-0055](#)

Distribution of Materials to Employees

(1) After the Facilitating Employer submits the Employee information in accordance with OAR 170-080-0015(2)(a), the Program Administrator will distribute informational materials directly to Employees. The Program Administrator will provide a Facilitating Employer a set of informational materials about the Program upon completion of the Facilitating Employer's registration in the online portal. The Program Administrator will provide the materials to the Facilitating Employer by supplying the internet address where such materials may be accessed or, upon request of the Facilitating Employer, will provide the materials in hard copy form.

(2) Upon request of the Employee, the Facilitating Employer will provide the Employee a set of hard copy materials or supply the internet address where such materials may be accessed. The Facilitating Employer will provide the materials in the manner requested by the Employee.

(3) The informational materials will include the following information:

- (a) The benefits and risks associated with making contributions to a Program IRA;
- (b) Instructions describing how to make contributions to the Program, including the Standard Elections applicable if the Participating Employee does not make other elections;
- (c) A description of the other elections available under the Program, including how to opt out of the Program;
- (d) Investment alternatives available under the Program and instructions describing how to make or change an investment election;
- (e) The process for requesting a Distribution of retirement savings from the Program;
- (f) How to obtain additional information about the Program, including the fees associated with the Program;
- (g) That the Facilitating Employer does not endorse or recommend the Program;
- (h) That Employees and Participating Employees seeking financial advice should contact financial advisers, that Facilitating Employers are not in a position to provide financial advice, and that Facilitating Employers are not liable for decisions Employees and Participating Employees make regarding the Program;
- (i) That the Program is not an employer-sponsored retirement plan;
- (j) That Employee participation in the Program is completely voluntary;
- (k) That information on IRAs outside of the Program is available from other sources;
- (l) That neither the value of a Program IRA, nor the rate of return are guaranteed by the state, the Facilitating Employer, or anyone else;
- (m) That by Standard Election, contributions under the Program are made to a Roth IRA, and that a Roth IRA may not be appropriate for all individuals; and
- (n) That the Program has a Traditional IRA option and summarizing the tax implications, withdrawal penalties, conversion details, and enrollment process for a Traditional IRA.

Statutory/Other Authority: ORS 178.200–178.245

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

[OST 6-2017, amend filed 10/24/2017, effective 10/24/2017](#)

OST 3-2017, f. & cert. ef. 4-19-17

[170-080-0056](#)

Individual Participation

(1) An individual who is 18 years of age and older and is eligible to contribute to an IRA under the Code may choose to participate in the Program as a Participating Individual.

(2) An individual may become a Participating Individual by:

- (a) Completing and delivering, in a form or format established by the Program, instructions to initiate enrollment using the internet portal established by the Program Administrator; and
 - (b) Establishing an Automatic Contribution Plan; or
 - (c) Making a Minimum Initial Contribution as required by the Program Administrator.
- (3) Participating Individuals shall receive individual participation-specific Program materials from the Program Administrator at the time of enrollment. The Program Administrator will deliver the informational materials electronically, unless the Participating Individual elects to receive a set of hard copy materials.
- (4) A Participating Individual who works for an Exempt Employer will make Non-Payroll Contributions unless the Exempt Employer agrees to process Payroll Deduction Contributions.
- (5) Exempt Employers who agree to process Payroll Deduction Contributions for Participating Individuals are not Participating Employers. Exempt Employers are solely responsible for determining whether their payroll deduction IRA programs satisfy IRS and DOL requirements for exemption from ERISA.
- (6) The Program Administrator will establish the minimum contribution rate for a Participating Individual through an Automatic Contribution Plan.
- (7) A Participating Individual with an Automatic Contribution Plan may make additional Non-Payroll Contributions to a Program IRA.
- (8) The Participating Individual is responsible for ensuring that annual contributions do not exceed the annual IRA contribution limit as determined by the Code and related rules promulgated by the IRS. Contributions must be delivered to the OregonSaves IRA trustee in accordance with procedures determined by the Board and approved by the Program Administrator.
- (9) The Board will establish a default election for Participating Individuals.

Statutory/Other Authority: ORS 178.200-178-245

Statutes/Other Implemented: ORS 178.200-178-245

History:

[OST 3-2018, adopt filed 10/11/2018, effective 10/19/2018](#)

170-080-0057

Rollovers and Transfers

The Board shall establish procedures with the Program Administrator through which a Participating Employee, Participating Individual, or Beneficiary may roll over or transfer all or a portion of a Program IRA account to a different retirement savings vehicle in accordance with the Code. In addition, Program IRAs may receive rollovers and transfers from other retirement savings vehicles in accordance with the Code.

Statutory/Other Authority: ORS 178.200-178.245

Statutes/Other Implemented: ORS 178.200-178.245

History:

[OST 3-2018, adopt filed 10/11/2018, effective 10/19/2018](#)

170-080-0058

Termination of Facilitating Employer Status through Program Exemption

(1) A Facilitating Employer who begins offering a Qualified Plan must notify the Program Administrator at least 60 days prior to the cessation of Payroll Deduction Contributions.

(2) Unless otherwise elected by the Participating Employee, Program IRAs will remain in the Program after the Facilitating Employer certifies its exemption and Participating Employees may continue to make contributions as Participating Individuals pursuant to OAR 170-080-0056.

(3) The Program Administrator will notify Participating Employees of the Facilitating Employer's termination of participation in the Program and provide further instructions for future interaction with their Program IRAs.

(4) The Facilitating Employer must inform Participating Employees of their intention to terminate participation in the Program at least 30 days prior to cessation of Payroll Deduction Contributions. The Program Administrator will provide hard copy informational materials to the Facilitating Employer for distribution to Participating Employees.

Statutory/Other Authority: ORS 178.200-178.245

Statutes/Other Implemented: ORS 178.200-178.245

History:

[OST 3-2018, adopt filed 10/11/2018, effective 10/19/2018](#)

170-080-0060

Technical Assistance to Employers

The Program Administrator will provide a range of tools and technical assistance for Employer use. Facilitating Employers shall advise the Program Administrator if they desire technical assistance in completing Program requirements.

Statutory/Other Authority: ORS 178.200 to 178.245

Statutes/Other Implemented: ORS 178.200-178.245

History:

OST 3-2017, f. & cert. ef. 4-19-17

170-080-0061

Account Closure

A Program IRA account may be closed by a process established by the Board if:

(1) No funds have been deposited into the account for at least 18 months; and

(2) All funds from the Participating Employee's or Participating Individual's account have been withdrawn pursuant to OAR 170-080-0057; or

(3) All funds from the Participating Employee's or Participating Individual's account have been rolled over or transferred pursuant to OAR 170-080-0058.

Statutory/Other Authority: ORS 178.200-178.245

Statutes/Other Implemented: ORS 178.200-178.245

History:

[OST 3-2018, adopt filed 10/11/2018, effective 10/19/2018](#)

170-080-0062

Abandoned Accounts

A Program IRA will be presumed abandoned according to the unclaimed property law of the state of the last known address of the Participating Employee or Participating Individual. If the last known address of the Participating Employee or Participating Individual is in Oregon, the provisions of the Uniform Disposition of Unclaimed Property shall apply (ORS 98.302 to 98.436). If there is no last known address of the Participating Employee or Participating Individual in the Program records, federal common law shall determine the state with the first priority claim.

Statutory/Other Authority: ORS 178.200-178.245

Statutes/Other Implemented: ORS 178.200-178.245

History:

[OST 3-2018, adopt filed 10/11/2018, effective 10/19/2018](#)

170-080-0065

Confidentiality

(1) **Confidentiality.** The Board will treat Individual IRA account information as confidential, including without limitation, names, addresses, telephone numbers, personal identification information, contributions, and earnings.

(2) **Written release.**

(a) The Board may disclose an individual's Program IRA account information to persons or entities other than those described in subsection (4) of this Rule if it receives a signed release from the Participating Employee or Participating Individual consenting to disclosure of some or all of the individual's Program IRA account information to a specific person or entity. For purposes of this paragraph, "an individual's Program IRA account information" includes information pertaining to:

(A) the Participating Employee's or Participating Individual's IRA account;

(B) Beneficiary designations;

(C) Distributions; or

(D) other information contained in any draft court order.

(b) A written authorization to release information is valid indefinitely, unless a specific end date is provided in the written statement.

(3) **Subpoena.** A subpoena for information available from the Program must be made out to the State of Oregon, Oregon Retirement Savings Program. The Program reserves the right to object to any subpoena on the grounds that the subpoena fails to provide a reasonable time for preparation and travel, is otherwise unreasonable or oppressive, or that service was improper, in addition to any other basis legally available. To facilitate prompt processing, copies of subpoenas should be served at the Office of the State Treasurer. Faxed subpoenas are not acceptable.

(4) **Disclosure.** The Board may disclose anonymized data which does not include information that is identifiable to an individual Participating Employee, Participating Individual, Beneficiary, or Employer for purposes of research associated with the Program. The Board may disclose information that it is required to disclose under the Oregon Public Records Law. The Board may disclose an individual's Program IRA account information to the Program Administrator, the providers of investments for the Program, regulatory agencies to the extent disclosure is required by law, and to other persons or entities to the extent the Board determines disclosure is necessary to administer the Program.

Statutory/Other Authority: ORS 178.220

Statutes/Other Implemented: ORS 178.200–178.245

History:

[OST 3-2018, amend filed 10/11/2018, effective 10/19/2018](#)

[OST 6-2017, amend filed 10/24/2017, effective 10/24/2017](#)

OST 3-2017, f. & cert. ef. 4-19-17