Form 5500

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Annual Return/Report of Employee Benefit Plan

This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6057(b) and 6058(a) of the Internal Revenue Code (the Code).

▶ **Complete all entries in accordance with the instructions to the Form 5500.**

OMB Nos. 1210-0110
1210-0089

2019

This Form is Open to Public Inspection

Part I Annual Report Identification Information

For calendar plan year 2019 or fiscal plan year beginning 01/01/2019 and ending 12/31/2019

A This return/report is for:
- [ ] a multiemployer plan
- [ ] a multiple-employer plan (Filers checking this box must attach a list of participating employer information in accordance with the form instructions.)
- [X] a single-employer plan
- [ ] a DFE (specify) ____

B This return/report is:
- [ ] the first return/report
- [ ] the final return/report
- [ ] an amended return/report
- [ ] a short plan year return/report (less than 12 months)

C If the plan is a collectively-bargained plan, check here. . . . . ▶ [ ]

D Check box if filing under:
- [X] Form 5558
- [ ] automatic extension
- [ ] the DFVC program
- [ ] special extension (enter description)

Part II Basic Plan Information—enter all requested information

1a Name of plan
RUBIO ' S RESTAURANTS, INC. 401 K PLAN

1b Three-digit plan number (PN) ▶ 002

1c Effective date of plan 03/01/1997

2a Plan sponsor's name (employer, if for a single-employer plan)
Mailing address (include room, apt., suite no. and street, or P.O. Box)
City or town, state or province, country, and ZIP or foreign postal code (if foreign, see instructions)
RUBIOS RESTAURANTS, INC.

2200 FARADAY AVE SUITE 250
CARLSBAD, CA 92008

2b Employer Identification Number (EIN)
33-0100303

2c Plan Sponsor's telephone number
760-608-3675

2d Business code (see instructions)
722511

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE	Filed with authorized/valid electronic signature.	10/14/2020	BRITTANY THOMPSON
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE	Filed with authorized/valid electronic signature.	10/14/2020	BRITTANY THOMPSON
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

3a Plan administrator's name and address [X] Same as Plan Sponsor	**3b** Administrator's EIN	
	3c Administrator's telephone number	
4 If the name and/or EIN of the plan sponsor or the plan name has changed since the last return/report filed for this plan, enter the plan sponsor's name, EIN, the plan name and the plan number from the last return/report: **a** Sponsor's name **c** Plan Name	**4b** EIN **4d** PN	

5 Total number of participants at the beginning of the plan year	**5**	1644
6 Number of participants as of the end of the plan year unless otherwise stated (welfare plans complete only lines **6a(1), 6a(2), 6b, 6c,** and **6d**).		
a(1) Total number of active participants at the beginning of the plan year	**6a(1)**	1570
a(2) Total number of active participants at the end of the plan year	**6a(2)**	1746
b Retired or separated participants receiving benefits	**6b**	0
c Other retired or separated participants entitled to future benefits	**6c**	131
d Subtotal. Add lines **6a(2)**, **6b**, and **6c**	**6d**	1877
e Deceased participants whose beneficiaries are receiving or are entitled to receive benefits.	**6e**	0
f Total. Add lines **6d** and **6e**.	**6f**	1877
g Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item)	**6g**	371
h Number of participants who terminated employment during the plan year with accrued benefits that were less than 100% vested	**6h**	52
7 Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)	**7**	

8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristics Codes in the instructions:

2E 2F 2G 2J 2K 3D

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristics Codes in the instructions:

9a Plan funding arrangement (check all that apply)		**9b** Plan benefit arrangement (check all that apply)	
(1)	[X] Insurance	**(1)**	[X] Insurance
(2)	[ ] Code section 412(e)(3) insurance contracts	**(2)**	[ ] Code section 412(e)(3) insurance contracts
(3)	[X] Trust	**(3)**	[X] Trust
(4)	[ ] General assets of the sponsor	**(4)**	[ ] General assets of the sponsor

10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)

a Pension Schedules

- **(1)** [X] **R** (Retirement Plan Information)
- **(2)** [ ] **MB** (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary
- **(3)** [ ] **SB** (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary

b General Schedules

- **(1)** [X] **H** (Financial Information)
- **(2)** [ ] **I** (Financial Information – Small Plan)
- **(3)** [X] 1 **A** (Insurance Information)
- **(4)** [X] **C** (Service Provider Information)
- **(5)** [X] **D** (DFE/Participating Plan Information)
- **(6)** [ ] **G** (Financial Transaction Schedules)

Part III Form M-1 Compliance Information (to be completed by welfare benefit plans)

11a If the plan provides welfare benefits, was the plan subject to the Form M-1 filing requirements during the plan year? (See instructions and 29 CFR 2520.101-2.) ..... ☐ Yes ☐ No

If "Yes" is checked, complete lines 11b and 11c.

11b Is the plan currently in compliance with the Form M-1 filing requirements? (See instructions and 29 CFR 2520.101-2.) ..... ☐ Yes ☐ No

11c Enter the Receipt Confirmation Code for the 2019 Form M-1 annual report. If the plan was not required to file the 2019 Form M-1 annual report, enter the Receipt Confirmation Code for the most recent Form M-1 that was required to be filed under the Form M-1 filing requirements. (Failure to enter a valid Receipt Confirmation Code will subject the Form 5500 filing to rejection as incomplete.)

Receipt Confirmation Code_____

SCHEDULE A (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Insurance Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).

▶ **File as an attachment to Form 5500.**

▶ Insurance companies are required to provide the information pursuant to ERISA section 103(a)(2).

OMB No. 1210-0110

2019

This Form is Open to Public Inspection

For calendar plan year 2019 or fiscal plan year beginning 01/01/2019 and ending 12/31/2019

A Name of plan
RUBIO ' S RESTAURANTS, INC. 401 K PLAN

B Three-digit plan number (PN) ▶ 002

C Plan sponsor's name as shown on line 2a of Form 5500
RUBIOS RESTAURANTS, INC.

D Employer Identification Number (EIN)
33-0100303

Part I **Information Concerning Insurance Contract Coverage, Fees, and Commissions** Provide information for each contract on a separate Schedule A. Individual contracts grouped as a unit in Parts II and III can be reported on a single Schedule A.

1 Coverage Information:

(a) Name of insurance carrier
VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY

(b) EIN	**(c)** NAIC code	**(d)** Contract or identification number	**(e)** Approximate number of persons covered at end of policy or contract year	Policy or contract year	
				(f) From	**(g)** To
71-0294708	86509	ZH9579	1877	01/01/2019	12/31/2019

2 Insurance fee and commission information. Enter the total fees and total commissions paid. List in line 3 the agents, brokers, and other persons in descending order of the amount paid.

(a) Total amount of commissions paid	**(b)** Total amount of fees paid

3 Persons receiving commissions and fees. (Complete as many entries as needed to report all persons).

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		
	(c) Amount	**(d)** Purpose	**(e)** Organization code

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		
	(c) Amount	**(d)** Purpose	**(e)** Organization code

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

Part II Investment and Annuity Contract Information

Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

4	Current value of plan's interest under this contract in the general account at year end	4	845742
5	Current value of plan's interest under this contract in separate accounts at year end	5	5911235

6 Contracts With Allocated Funds:

a State the basis of premium rates ▶

b	Premiums paid to carrier	6b	
c	Premiums due but unpaid at the end of the year	6c	
d	If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, enter amount.	6d	

Specify nature of costs ▶

e Type of contract: (1) ☐ individual policies (2) ☐ group deferred annuity

(3) ☐ other (specify) ▶

f If contract purchased, in whole or in part, to distribute benefits from a terminating plan, check here ▶ ☐

7 Contracts With Unallocated Funds (Do not include portions of these contracts maintained in separate accounts)

a Type of contract: (1) ☐ deposit administration (2) ☐ immediate participation guarantee

(3) ☐ guaranteed investment (4) ☒ other ▶ GROUP PENSION FUNDING

b	Balance at the end of the previous year			7b	692222
c	Additions: (1) Contributions deposited during the year	7c(1)	58138		
	(2) Dividends and credits	7c(2)			
	(3) Interest credited during the year	7c(3)	10873		
	(4) Transferred from separate account	7c(4)	213069		
	(5) Other (specify below)	7c(5)	5336		
	▶ *				
	(6) Total additions			7c(6)	287416
d	Total of balance and additions (add lines **7b** and **7c(6)**)			7d	979638
e	Deductions:				
	(1) Disbursed from fund to pay benefits or purchase annuities during year	7e(1)	101163		
	(2) Administration charge made by carrier	7e(2)	980		
	(3) Transferred to separate account	7e(3)			
	(4) Other (specify below)	7e(4)	9148		
	▶ *				
	(5) Total deductions			7e(5)	111291
f	Balance at the end of the current year (subtract line **7e(5)** from line **7d**)			7f	868347

Part III Welfare Benefit Contract Information

If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organizations(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where contracts cover individual employees, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

8 Benefit and contract type (check all applicable boxes)

a ☐ Health (other than dental or vision) **b** ☐ Dental **c** ☐ Vision **d** ☐ Life insurance

e ☐ Temporary disability (accident and sickness) **f** ☐ Long-term disability **g** ☐ Supplemental unemployment **h** ☐ Prescription drug

i ☐ Stop loss (large deductible) **j** ☐ HMO contract **k** ☐ PPO contract **l** ☐ Indemnity contract

m ☐ Other (specify) ▶

9 Experience-rated contracts:				
a Premiums: (1) Amount received	**9a(1)**			
(2) Increase (decrease) in amount due but unpaid	**9a(2)**			
(3) Increase (decrease) in unearned premium reserve	**9a(3)**			
(4) Earned (**(1)** + **(2)** - **(3)**)			**9a(4)**	
b Benefit charges (1) Claims paid	**9b(1)**			
(2) Increase (decrease) in claim reserves	**9b(2)**			
(3) Incurred claims (add **(1)** and **(2)**)			**9b(3)**	
(4) Claims charged			**9b(4)**	
c Remainder of premium: (1) Retention charges (on an accrual basis) --				
(A) Commissions	**9c(1)(A)**			
(B) Administrative service or other fees	**9c(1)(B)**			
(C) Other specific acquisition costs	**9c(1)(C)**			
(D) Other expenses	**9c(1)(D)**			
(E) Taxes	**9c(1)(E)**			
(F) Charges for risks or other contingencies	**9c(1)(F)**			
(G) Other retention charges	**9c(1)(G)**			
(H) Total retention			**9c(1)(H)**	
(2) Dividends or retroactive rate refunds. (These amounts were ☐ paid in cash, or ☐ credited.)			**9c(2)**	
d Status of policyholder reserves at end of year: (1) Amount held to provide benefits after retirement			**9d(1)**	
(2) Claim reserves			**9d(2)**	
(3) Other reserves			**9d(3)**	
e Dividends or retroactive rate refunds due. (Do not include amount entered in line **9c(2)**.)			**9e**	
10 Nonexperience-rated contracts:				
a Total premiums or subscription charges paid to carrier			**10a**	
b If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in Part I, line 2 above, report amount			**10b**	

Specify nature of costs.

Part IV Provision of Information

11 Did the insurance company fail to provide any information necessary to complete Schedule A? ☐ Yes ☒ No

12 If the answer to line 11 is "Yes," specify the information not provided. ▶

SCHEDULE C (Form 5500)	Service Provider Information	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ▶ **File as an attachment to Form 5500.**	**2019** **This Form is Open to Public Inspection.**

For calendar plan year 2019 or fiscal plan year beginning 01/01/2019 and ending 12/31/2019

A Name of plan
RUBIO ' S RESTAURANTS, INC. 401 K PLAN

B Three-digit plan number (PN) ▶ 002

C Plan sponsor's name as shown on line 2a of Form 5500
RUBIOS RESTAURANTS, INC.

D Employer Identification Number (EIN)
33-0100303

Part I Service Provider Information (see instructions)

You must complete this Part, in accordance with the instructions, to report the information required for **each person** who received, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year. If a person received **only** eligible indirect compensation for which the plan received the required disclosures, you are required to answer line 1 but are not required to include that person when completing the remainder of this Part.

1 Information on Persons Receiving Only Eligible Indirect Compensation

a Check "Yes" or "No" to indicate whether you are excluding a person from the remainder of this Part because they received only eligible indirect compensation for which the plan received the required disclosures (see instructions for definitions and conditions).. . . . . [X] Yes [ ] No

b If you answered line 1a "Yes," enter the name and EIN or address of each person providing the required disclosures for the service providers who received only eligible indirect compensation. Complete as many entries as needed (see instructions).

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

VOYA RETIREMENT INSURANCE & ANNUITY

71-0294708

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

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(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "Yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

BDO

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
10	AUDITOR	9678	Yes [ ] No [X]	Yes [ ] No [ ]		Yes [ ] No [ ]

(a) Enter name and EIN or address (see instructions)

VOYA RETIREMENT INSURANCE & ANNUITY

71-0294708

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
26 64	SERVICE PROVIDER	4970	Yes [X] No [ ]	Yes [X] No [ ]	0	Yes [ ] No [X]

(a) Enter name and EIN or address (see instructions)

MERCER INVESTMENT MANAGEMENT INC.

30-0282430

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
99	SERVICE PROVIDER	0	Yes [X] No [ ]	Yes [ ] No [X]	30121	Yes [ ] No [X]

2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "Yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

Part I Service Provider Information (continued)

3. If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received $1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
MERCER INVESTMENT MANAGEMENT INC.	99	30121
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
VOYA RETIREMENT INSURANCE AND ANNUI 71-0294708	OTHER FEES	

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	

Part II Service Providers Who Fail or Refuse to Provide Information

4 Provide, to the extent possible, the following information for each service provider who failed or refused to provide the information necessary to complete this Schedule.

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

Part III Termination Information on Accountants and Enrolled Actuaries (see instructions)

(complete as many entries as needed)

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

SCHEDULE D (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

DFE/Participating Plan Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2019

This Form is Open to Public Inspection.

For calendar plan year 2019 or fiscal plan year beginning 01/01/2019 and ending 12/31/2019

A Name of plan
RUBIO ' S RESTAURANTS, INC. 401 K PLAN

B Three-digit plan number (PN) ▶ 002

C Plan or DFE sponsor's name as shown on line 2a of Form 5500
RUBIOS RESTAURANTS, INC.

D Employer Identification Number (EIN)
33-0100303

Part I **Information on interests in MTIAs, CCTs, PSAs, and 103-12 IEs (to be completed by plans and DFEs)**
(Complete as many entries as needed to report all interests in DFEs)

a Name of MTIA, CCT, PSA, or 103-12 IE: VARIABLE ANNUITY ACCOUNT D

b Name of sponsor of entity listed in (a): VOYA RETIREMENT INSURANCE & ANNUITY CO

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)
71-0294708-000	P	5911235

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

Part II Information on Participating Plans (to be completed by DFEs)

(Complete as many entries as needed to report all participating plans)

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

a Plan name	
b Name of plan sponsor	**c** EIN-PN

SCHEDULE H (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Financial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2019

This Form is Open to Public Inspection

For calendar plan year 2019 or fiscal plan year beginning 01/01/2019 and ending 12/31/2019

A Name of plan
RUBIO ' S RESTAURANTS, INC. 401 K PLAN

B Three-digit plan number (PN) ▶ 002

C Plan sponsor's name as shown on line 2a of Form 5500
RUBIOS RESTAURANTS, INC.

D Employer Identification Number (EIN)
33-0100303

Part I Asset and Liability Statement

1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.

Assets		(a) Beginning of Year	(b) End of Year
a Total noninterest-bearing cash	1a		
b Receivables (less allowance for doubtful accounts):			
(1) Employer contributions	1b(1)		
(2) Participant contributions	1b(2)		
(3) Other	1b(3)		
c General investments:			
(1) Interest-bearing cash (include money market accounts & certificates of deposit)	1c(1)		
(2) U.S. Government securities	1c(2)		
(3) Corporate debt instruments (other than employer securities):			
(A) Preferred	1c(3)(A)		
(B) All other	1c(3)(B)		
(4) Corporate stocks (other than employer securities):			
(A) Preferred	1c(4)(A)		
(B) Common	1c(4)(B)		
(5) Partnership/joint venture interests	1c(5)		
(6) Real estate (other than employer real property)	1c(6)		
(7) Loans (other than to participants)	1c(7)		
(8) Participant loans	1c(8)	87874	145291
(9) Value of interest in common/collective trusts	1c(9)		
(10) Value of interest in pooled separate accounts	1c(10)		
(11) Value of interest in master trust investment accounts	1c(11)		
(12) Value of interest in 103-12 investment entities	1c(12)		
(13) Value of interest in registered investment companies (e.g., mutual funds)	1c(13)	4770408	5911235
(14) Value of funds held in insurance company general account (unallocated contracts)	1c(14)	692222	868347
(15) Other	1c(15)		

			(a) Beginning of Year	(b) End of Year
1d	Employer-related investments:			
	(1) Employer securities	1d(1)		
	(2) Employer real property	1d(2)		
e	Buildings and other property used in plan operation	1e		
f	Total assets (add all amounts in lines 1a through 1e)	1f	5550504	6924873
	Liabilities			
g	Benefit claims payable	1g		
h	Operating payables	1h		
i	Acquisition indebtedness	1i		
j	Other liabilities	1j		
k	Total liabilities (add all amounts in lines 1g through1j)	1k	0	0
	Net Assets			
l	Net assets (subtract line 1k from line 1f)	1l	5550504	6924873

Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

	Income		(a) Amount	(b) Total
a	**Contributions:**			
	(1) Received or receivable in cash from: **(A)** Employers	2a(1)(A)	90250	
	(B) Participants	2a(1)(B)	487847	
	(C) Others (including rollovers)	2a(1)(C)	25536	
	(2) Noncash contributions	2a(2)		
	(3) Total contributions. Add lines **2a(1)(A), (B), (C),** and line **2a(2)**	2a(3)		603633
b	**Earnings on investments:**			
	(1) Interest:			
	(A) Interest-bearing cash (including money market accounts and certificates of deposit)	2b(1)(A)		
	(B) U.S. Government securities	2b(1)(B)		
	(C) Corporate debt instruments	2b(1)(C)		
	(D) Loans (other than to participants)	2b(1)(D)		
	(E) Participant loans	2b(1)(E)	5394	
	(F) Other	2b(1)(F)	10873	
	(G) Total interest. Add lines **2b(1)(A)** through **(F)**	2b(1)(G)		16267
	(2) Dividends: **(A)** Preferred stock	2b(2)(A)		
	(B) Common stock	2b(2)(B)		
	(C) Registered investment company shares (e.g. mutual funds)	2b(2)(C)		
	(D) Total dividends. Add lines **2b(2)(A)**, **(B)**, and **(C)**	2b(2)(D)		0
	(3) Rents	2b(3)		
	(4) Net gain (loss) on sale of assets: **(A)** Aggregate proceeds	2b(4)(A)		
	(B) Aggregate carrying amount (see instructions)	2b(4)(B)		
	(C) Subtract line **2b(4)(B)** from line **2b(4)(A)** and enter result	2b(4)(C)		0
	(5) Unrealized appreciation (depreciation) of assets: **(A)** Real estate	2b(5)(A)		
	(B) Other	2b(5)(B)		
	(C) Total unrealized appreciation of assets. Add lines **2b(5)(A)** and **(B)**	2b(5)(C)		0

		(a) Amount	(b) Total
(6) Net investment gain (loss) from common/collective trusts	2b(6)		
(7) Net investment gain (loss) from pooled separate accounts	2b(7)		1133149
(8) Net investment gain (loss) from master trust investment accounts	2b(8)		
(9) Net investment gain (loss) from 103-12 investment entities	2b(9)		
(10) Net investment gain (loss) from registered investment companies (e.g., mutual funds)	2b(10)		
c Other income	2c		1306
d Total income. Add all **income** amounts in column (b) and enter total	2d		1754355
Expenses			
e Benefit payment and payments to provide benefits:			
(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)	348489	
(2) To insurance carriers for the provision of benefits	2e(2)		
(3) Other	2e(3)		
(4) Total benefit payments. Add lines **2e(1)** through **(3)**	2e(4)		348489
f Corrective distributions (see instructions)	2f		13560
g Certain deemed distributions of participant loans (see instructions)	2g		518
h Interest expense	2h		
i Administrative expenses: **(1)** Professional fees	2i(1)		
(2) Contract administrator fees	2i(2)		
(3) Investment advisory and management fees	2i(3)		
(4) Other	2i(4)	17419	
(5) Total administrative expenses. Add lines **2i(1)** through **(4)**	2i(5)		17419
j Total expenses. Add all **expense** amounts in column (b) and enter total	2j		379986
Net Income and Reconciliation			
k Net income (loss). Subtract line **2j** from line **2d**	2k		1374369
l Transfers of assets:			
(1) To this plan	2l(1)		
(2) From this plan	2l(2)		

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) [ ] Unmodified **(2)** [ ] Qualified **(3)** [X] Disclaimer **(4)** [ ] Adverse

b Did the accountant perform a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 103-12(d)? [X] Yes [ ] No

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: BDO USA, LLP **(2)** EIN: 13-5381590

d The opinion of an independent qualified public accountant is **not attached** because:

(1) [ ] This form is filed for a CCT, PSA, or MTIA. **(2)** [ ] It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

4 CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete lines 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete lines 4j and 4l. MTIAs also do not complete line 4l.

During the plan year:

		Yes	No	Amount
a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.)	4a		X	
b Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.)	4b		X	

			Yes	No	Amount
c	Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.)	4c		X	
d	Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.)	4d		X	
e	Was this plan covered by a fidelity bond?	4e	X		1000000
f	Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	4f		X	
g	Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?	4g		X	
h	Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?	4h		X	
i	Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.)	4i	X		
j	Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked, and see instructions for format requirements.)	4j		X	
k	Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?	4k		X	
l	Has the plan failed to provide any benefit when due under the plan?	4l		X	
m	If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.)	4m		X	
n	If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3.	4n			

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? ☐ Yes ☒ No
If "Yes," enter the amount of any plan assets that reverted to the employer this year _____.

5b If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)	**5b(2)** EIN(s)	**5b(3)** PN(s)

5c If the plan is a defined benefit plan, is it covered under the PBGC insurance program (See ERISA section 4021.)? ..... ☐ Yes ☐ No ☐ Not determined
If "Yes" is checked, enter the My PAA confirmation number from the PBGC premium filing for this plan year_____. (See instructions.)

SCHEDULE R (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Retirement Plan Information

This schedule is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2019

This Form is Open to Public Inspection.

For calendar plan year 2019 or fiscal plan year beginning 01/01/2019 and ending 12/31/2019

A Name of plan
RUBIO ' S RESTAURANTS, INC. 401 K PLAN

B Three-digit plan number (PN) ▶ 002

C Plan sponsor's name as shown on line 2a of Form 5500
RUBIOS RESTAURANTS, INC.

D Employer Identification Number (EIN)
33-0100303

Part I Distributions

All references to distributions relate only to payments of benefits during the plan year.

1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions **1**

2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits):

EIN(s): 71-0294708

Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3.

3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year **3**

Part II Funding Information (If the plan is not subject to the minimum funding requirements of section 412 of the Internal Revenue Code or ERISA section 302, skip this Part.)

4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

If the plan is a defined benefit plan, go to line 8.

5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. **Date:** Month _____ Day _____ Year _____

If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.

6 **a** Enter the minimum required contribution for this plan year (include any prior year accumulated funding deficiency not waived) **6a**

b Enter the amount contributed by the employer to the plan for this plan year **6b**

c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount) **6c**

If you completed line 6c, skip lines 8 and 9.

7 Will the minimum funding amount reported on line 6c be met by the funding deadline? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure or other authority providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

Part III Amendments

9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box. If no, check the "No" box. ..... ☐ **Increase** ☐ **Decrease** ☐ **Both** ☐ **No**

Part IV ESOPs (see instructions). If this is not a plan described under section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part.

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan? ..... ☐ **Yes** ☐ **No**

11 **a** Does the ESOP hold any preferred stock? ..... ☐ **Yes** ☐ **No**

b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.) ..... ☐ **Yes** ☐ **No**

12 Does the ESOP hold any stock that is not readily tradable on an established securities market? ..... ☐ **Yes** ☐ **No**

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

14 Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:

a The current year	**14a**	
b The plan year immediately preceding the current plan year	**14b**	
c The second preceding plan year	**14c**	

15 Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

a The corresponding number for the plan year immediately preceding the current plan year	**15a**	
b The corresponding number for the second preceding plan year	**15b**	

16 Information with respect to any employers who withdrew from the plan during the preceding plan year:

a Enter the number of employers who withdrew during the preceding plan year	**16a**	
b If line 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers	**16b**	

17 If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

18 If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment ☐

19 If the total number of participants is 1,000 or more, complete lines (a) through (c)

a Enter the percentage of plan assets held as:
Stock: _____% Investment-Grade Debt: _____% High-Yield Debt: _____% Real Estate: _____% Other: _____%

b Provide the average duration of the combined investment-grade and high-yield debt:
☐ 0-3 years ☐ 3-6 years ☐ 6-9 years ☐ 9-12 years ☐ 12-15 years ☐ 15-18 years ☐ 18-21 years ☐ 21 years or more

c What duration measure was used to calculate line 19(b)?
☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify):

20 **PBGC missed contribution reporting requirements.** If this is a multiemployer plan or a single-employer plan that is not covered by PBGC, skip line 20.

a Is the amount of unpaid minimum required contributions for all years from Schedule SB (Form 5500) line 40 greater than zero? ☐ Yes ☐ No

b If line 20a is "Yes," has PBGC been notified as required by ERISA sections 4043(c)(5) and/or 303(k)(4)? Check the applicable box:

☐ Yes.

☐ No. Reporting was waived under 29 CFR 4043.25(c)(2) because contributions equal to or exceeding the unpaid minimum required contribution were made by the 30th day after the due date.

☐ No. The 30-day period referenced in 29 CFR 4043.25(c)(2) has not yet ended, and the sponsor intends to make a contribution equal to or exceeding the unpaid minimum required contribution by the 30th day after the due date.

☐ No. Other. Provide explanation_____

Rubio's Restaurants, Inc.
401(k) Plan

Financial Statements
and Supplemental Schedule
As of December 31, 2019, and 2018 and for the
Year Ended December 31, 2019

The report accompanying these financial statements was issued by
BDO USA, LLP, a Delaware limited liability partnership and the U.S. member of
BDO International Limited, a UK company limited by guarantee.

Rubio's Restaurants, Inc.
401(k) Plan

Financial Statements
and Supplemental Schedule

As of December 31, 2019, and 2018 and for the
Year Ended December 31, 2019

Rubio's Restaurants, Inc. 401(k) Plan

Contents

Independent Auditor's Report 3-4

Financial Statements

Statements of Net Assets Available for Benefits as of December 31, 2019, and 2018 6

Statement of Changes in Net Assets Available for Benefits for the Year Ended December 31, 2019 7

Notes to Financial Statements 8-13

Supplemental Schedule

Form 5500 - Schedule H, Line 4i – Schedule of Assets (Held at End of Year) as of December 31, 2019 15

Note: Schedules other than that listed above have been omitted because they are not applicable or are not required by 29 CFR 2520.103-10 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, as amended.

Tel: 858-404-9200
Fax: 858-404-9201
www.bdo.com

3570 Carmel Mountain Road
Suite 400
San Diego, CA 92130

Independent Auditor's Report

To the Plan Administrator
Rubio's Restaurants, Inc. 401(k) Plan
San Diego, California

Report on the Financial Statements

We were engaged to audit the accompanying financial statements of Rubio's Restaurants, Inc. 401(k) Plan (the "Plan"), which comprise the statements of net assets available for benefits as of December 31, 2019 and 2018, and the related statement of changes in net assets available for benefits for the year ended December 31, 2019, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with auditing standards generally accepted in the United States of America. Because of the matter described in the *Basis for Disclaimer of Opinion* paragraph, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Note 3, which was certified by Voya Retirement Insurance and Annuity Company, ("VOYA"), except for comparing such information with the related information included in the financial statements. We have been informed by the plan administrator that VOYA holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from VOYA as of December 31, 2019 and 2018, and for the year ended December 31, 2019, that the information provided to the plan administrator by VOYA is complete and accurate.

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Disclaimer of Opinion

Because of the significance of the matter described in the *Basis for Disclaimer of Opinion* paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on these financial statements.

Other Matter

The supplemental Schedule H, Line 4i - Schedule of Assets (Held at End of Year) as of December 31, 2019 is required by the Department of Labor's (DOL) Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 and is presented for the purpose of additional analysis and is not a required part of the financial statements. Because of the significance of the matter described in the *Basis for Disclaimer of Opinion* paragraph, we do not express an opinion on the supplemental schedule.

Report on Form and Content in Compliance With DOL Rules and Regulations

The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the information certified by VOYA, have been audited by us in accordance with auditing standards generally accepted in the United States of America and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

BDO USA, LLP

San Diego, California
October 13, 2020

Financial Statements

Rubio's Restaurants, Inc. 401(k) Plan

Statements of Net Assets Available for Benefits

December 31,	**2019**	2018
Assets:		
Investments, at fair value	**$ 5,911,235**	$ 4,770,408
Investments, at contract value	**868,347**	692,222
Notes receivable from participants	**145,291**	87,874
Net assets available for benefits	**S 6,924,873**	$ 5,550,504

See accompanying notes to financial statements.

Rubio's Restaurants, Inc. 401(k) Plan

Statement of Changes in Net Assets Available for Benefits

Year ended December 31,		2019
Changes to net assets attributed to:		
Net investment income:		
Net appreciation in fair value of participant-directed investments	$	1,133,150
Dividends on investments		10,873
Other income		1,306
Total net investment income		**1,145,329**
Interest income from notes receivable from participants		5,394
Contributions:		
Participant		487,847
Employer		90,250
Rollover		25,536
Total contributions		**603,633**
Distributions:		
Benefits paid to participants		348,490
Administrative expenses		17,419
Corrective distributions		13,560
Deemed distributions		518
Total distributions		379,987
Net increase in net assets available for benefits		1,374,369
Net assets available for benefits, beginning of year		5,550,504
Net assets available for benefits, end of year	$	6,924,873

See accompanying notes to financial statements.

1. Description of the Plan

The following description of the Rubio's Restaurants, Inc. 401(k) Plan (the "Plan") provides only general information. Participants should refer to the Plan document for a more complete description of the Plan's provisions.

General

The Plan is a 401(k)-salary deferral and profit-sharing plan covering substantially all employees of Rubio's Restaurants, Inc. (the "Company") and is subject to provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The Company is the Plan's sponsor and serves as plan administrator.

Eligibility

Employees of the Company are eligible to participate in the Plan upon reaching age 21 and after completing one year of service in which at least 1,000 hours are worked.

Contributions

Participants may elect to contribute up to 100 percent of eligible compensation, as defined, to the Plan each year, subject to an annual maximum as established by Internal Revenue Service ("IRS") regulations ($19,000 in 2019). Participants age fifty years or over can make catch-up contributions in addition to the above, up to the maximum amount allowed by the IRS ($6,000 in 2019).

The Company may elect to make discretionary matching and profit-sharing contributions to the Plan. Participants must complete at least 1,000 hours of service during the Plan year and be employed as of the last day of the Plan year to be eligible to receive any profit-sharing contributions. Profit-sharing contributions are allocated to participants in the same proportion as a participant's compensation bears to the total of all participants' compensation. There were no profit-sharing contributions for the year ended December 31, 2019. The Company matches 25 percent of employee contributions, up to 6% of eligible compensation deferred to the Plan.

Rollover Contributions

With the Company's approval, an eligible participant may also contribute amounts representing distributions from other qualified defined benefit or defined contribution plans.

Participant Accounts

Each participant's account is credited with the participant's contribution and allocations of (a) the Company's contribution, and (b) Plan earnings, and charged with an allocation of administrative expenses that are paid by the Plan. Allocations are based on participant earnings, account balances, or specific participant transactions, as defined. Participants may direct the investment of their account balances into various investment options offered by the Plan. Participants may change their investment options on a daily basis, directly with VOYA. The benefit to which a participant is entitled is the benefit that can be provided from the participant's vested account.

Vesting

Participants are fully vested in their salary deferrals plus actual earnings thereon. In general, vesting in Company's contributions is based on years of service, as defined, with increases in increments of 20 percent per year until fully vested after five years.

Notes Receivable from Participants

Participants may borrow from their accounts a minimum of $1,000 up to a maximum equal to the lesser of $50,000 or 50 percent of their vested account balance. The loans are issued by the Plan and secured by the balance in the participant's account. All loans must be repaid within a period of five years; however, if the loan is for the purchase of a participant's principal residence, the plan administrator may permit a longer repayment term. Under the terms of the plan agreement, plan loans will bear a reasonable rate of interest determined by the plan administrator. Principal and interest is paid ratably through payroll deductions. As of December 31, 2019, the rates of interest on outstanding loans ranged from 4.25% to 6.50%, with various maturities through October 2032.

Payment of Benefits

Upon termination of service due to death, disability, or retirement, a participant may elect to receive either a lump-sum amount equal to the value of the participant's vested interest in his or her account or a systematic withdrawal arrangement. For termination of service for other reasons, a participant may receive the value of the vested interest in his or her account as a lump-sum distribution.

Forfeitures

Forfeitures are the non-vested portion of a participant's account that is lost upon termination of employment. Forfeitures are retained in the Plan and will first be used to pay Plan administrative expenses, with any remaining amount used to reduce future Company contributions. As of December 31, 2019, and 2018, forfeited non-vested accounts totaled $8,889 and $9,830, respectively. The Plan used $9,678 of forfeitures to reduce the Plan's expenses for the year ended December 31, 2019.

2. Summary of Significant Accounting Policies

Basis of Accounting

The accompanying financial statements of the Plan are prepared under the accrual method of accounting in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and changes therein, and the disclosure of contingent assets and liabilities. Actual results could materially differ from those estimates.

Risks and Uncertainties

The Plan invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the Statements of Net Assets Available for Benefits.

The Plan invests in investment options that invest in securities of foreign companies, which involve special risks and considerations not typically associated with investing in U.S. companies. These risks include devaluation of currencies, less reliable information about issuers, different securities transaction clearance and settlement practices, and possible adverse political and economic developments. Moreover, securities of many foreign companies and their markets may be less liquid and their prices more volatile than those of securities of comparable U.S. companies.

Recent Accounting Pronouncements

In January 2016, FASB issued ASU No. 2016-01, *Financial Instruments – Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities*, which addresses certain aspects of recognition, measurement, presentation, and disclosure of financial instruments. The amendments in this ASU are effective for fiscal years beginning after December 15, 2018, and interim periods within fiscal years beginning after December 15, 2019. With certain exceptions, early adoption is not permitted. Plan management determined that there was not a material impact on the financial statements upon adoption in 2019.

In August 2018, the FASB issued ASU 2018-13, "Fair Value Measurement (Topic 820): Disclosure Framework - Changes to the Disclosure Requirements for Fair Value Measurement" ("ASU 2018-13"). ASU 2018-13 eliminates, adds and modifies certain disclosure requirements for fair value measurements as part of its disclosure framework project. The standard is effective for all entities for financial statements issued for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Plan management adopted ASU 2018-13 for the year ended December 31, 2019. Plan management is currently evaluating the impact that ASU 2016-01 will have on its financial statements.

Investment Valuation and Income Recognition

The Plan's investments have been reported at fair value as certified by VOYA as of December 31, 2019 and 2018. If available, quoted market prices are used to value investments.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (the exit price). See Note 4 and Note 5 for discussion of fair value measurements.

Purchases and sales of securities are recorded on a trade-date basis. Dividends are recorded on the ex-dividend date. Interest income is recorded on the accrual basis. The net appreciation/ depreciation in fair value of investments consists of both the realized gains or losses and unrealized appreciation and depreciation of those investments.

Notes Receivable from Participants

Notes receivable from participants are measured at amortized cost, which represents unpaid principal balance plus accrued but unpaid interest and are classified as notes receivable. Interest income is recorded on an accrual basis.

Payment of Benefits

Benefits are recorded when paid. As of December 31, 2019, and 2018, there were no benefit amounts that participants had elected to withdraw which had not been paid.

Administrative Expenses

The Company sponsors the Plan. Personnel within the Company perform various administrative services for the Plan. The payroll and related overhead costs associated with these services are not included as Plan expenses. Most administrative expenses of the Plan are paid by the Company. Investment expenses incurred by the manager of the funds and directly related administrative expenses are deducted from the earnings of the Plan. Expenses paid by the Plan totaled $17,419 for the year ended December 31, 2019.

3. Investments Certified by VOYA

The Plan Administrator has elected the method of annual reporting compliance permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA. Accordingly, VOYA has certified that the following data included in the accompanying financial statements and supplemental schedule are complete and accurate.

(a) Investments and notes receivable from participants, as shown in the Statements of Net Assets Available for Benefits as of December 31, 2019 and 2018;

(b) Net appreciation in fair value of participant-directed investments, dividends on investments, other income and interest from notes receivable from participants, as shown in the statement of changes in net assets available for benefits;

(c) Investment information disclosed in Note 4 and Note 5; and

(d) All information included in the Schedule H, Line 4i – Schedule of Assets (Held at End of Year) as of December 31, 2019, as shown in the supplemental schedule.

The Plan Administrator instructed the Plan's independent auditors not to perform any auditing procedures with respect to this certified information, except for comparing such information with the related information included in the financial statements and supplemental schedule.

4. Investment Contracts with Insurance Companies

The Plan invests in a fully benefit-responsive fixed interest account, the VOYA Fixed Account (Fixed Account), which is available through a group funding contract issued by VOYA Retirement Insurance and Annuity Company. The Fixed Account is an obligation of VOYA's general account which supports all of the company's insurance and annuity commitments. It is not a portfolio of contracts whose

yields are based on changes in fair value of underlying assets as would be found in a Stable Value fund.

The value of the Fixed Account is determined by the daily crediting of interest which is subject to minimum contractual guarantees. The Fixed Account does not have a maturity date. Investment transfers to and from the Fixed Account, and withdrawals to pay participant benefits (as defined in the contract) are made at book (i.e., "contract") value. Non-benefit surrenders from the Fixed Account would either be subject to a market value adjustment (MVA) or paid in installments as elected by the contract holder. A contract surrender charge may also be applicable, depending on the terms of the contract.

5. Investments Measured Using the NAV Per Share Practical Expedient

The variable funds are pooled separate accounts that invest directly in designated mutual funds or, in some cases, collective investment trusts. The separate account owns and holds the underlying mutual fund or collective trust shares which are valued daily at their net asset values ("NAV"). Plans and participants hold "units of participation" in the separate account.

The following table summarizes investments for which fair value is measured using the NAV per share practical expedient as of December 31, 2019 and 2018.

	Fair Value	Unfunded Commitments	Redemption Frequency (if Currently Eligible)	Redemption Holding Period
December 31, 2019				
Pooled separate accounts	$ 5,911,235	N/A	Daily	None
December 31, 2018				
Pooled separate accounts	$ 4,770,408	N/A	Daily	None

6. Tax Status

The Plan adopted a prototype 401(k) profit sharing plan maintained by VOYA. The Plan's prototype received its most recent opinion letter on September 1, 2014, in which the IRS stated that the prototype, as then designed, was in compliance with the applicable requirements of the Internal Revenue Code ("IRC"). The Plan administrator believes that the Plan is still currently designed and being operated in compliance with the applicable requirements of the IRC. Accordingly, no provision for taxes has been included in the Plan's financial statements.

Accounting principles generally accepted in the United States of America require plan management to evaluate tax positions taken by the Plan and recognize a tax liability (or asset) if the Plan has taken an uncertain position that more likely than not would not be sustained upon examination by the Internal Revenue Service. The Plan is subject to routine audits by taxing jurisdictions; however, there are currently no audits for any tax periods in progress.

7. Corrective Distributions

The Plan failed certain nondiscrimination tests. As a result, refunds of excess contributions were required to be paid out to participants in order for the Plan to meet compliance testing requirements. Refunds of $13,560 were paid during the year ended December 31, 2019.

8. Plan Termination

Although it has not expressed any intent to do so, the Company has the right to terminate the Plan or reduce or cease contributions or amend the Plan at any time and in any respect subject to the provisions of ERISA. In the event of Plan termination, amounts allocated to a participant's account become fully vested.

9. Party-In-Interest Transactions

Plan investments include pooled separate accounts which invest in mutual funds managed by VOYA Institutional Trust Company, an affiliate of VOYA. Certain administrative fees related to the administration of the plan were paid by the plan. Transactions with these entities qualify as exempt party-in-interest transactions.

10. Subsequent Events

The Plan has evaluated subsequent events from the date of the statement of net assets available for benefits through October 13, 2020 the date the financial statements were available to be issued.

COVID 19

On January 30, 2020, the World Health Organization ("WHO") announced a global health emergency because of a new strain of coronavirus originating in Wuhan, China (the "COVID-19 outbreak") and the risks to the international community as the virus spreads globally beyond its point of origin. In March 2020, the WHO classified the COVID-19 outbreak as a pandemic based on the rapid increase in exposure globally.

The full impact of the COVID-19 outbreak continues to evolve as of the date of this report. This pandemic has adversely affected global economic activity and greatly contributed to significant instability in financial markets. Because the value of the Plan's individual investments have and will fluctuate in response to changing market conditions, the amount of losses that will be recognized in subsequent periods, if any, and related impact on the plan's liquidity cannot be determined at this time.

CARES Act

On March 27, 2020, President Trump signed into law the "Coronavirus Aid, Relief, and Economic Security (CARES) Act." The CARES Act, among other things, includes several relief provisions available to tax-qualified retirement plans and their participants. Plan management has evaluated the relief provisions available to plan participants under the CARES Act and has implemented the following provisions:

- Suspended required minimum distributions for 2020.

Supplemental Schedule

Rubio's Restaurants, Inc. 401(k) Plan

Form 5500 – Schedule H, Line 4i - Schedule of Assets (Held at End of Year) December 31, 2019

	Identity of Issuer, Borrower, Lessor or Similar Party	Description of Investment, including Maturity Date, Rate of Interest, Collateral, Par, or	Cost	Current
*	Voya Large Cap Growth Prt Adv	Registered Investment Company	**	$ 1,060,297
*	Voya Fixed Account	Insurance Company General Account	**	868,347
	American Funds CapWld G&I R3	Registered Investment Company	**	658,905
	American Funds EuroPacific R3	Registered Investment Company	**	537,312
*	Voya Intermediate Bond Fund R	Registered Investment Company	**	505,642
*	Voya Indx Solution 2035 P Adv	Registered Investment Company	**	498,815
	American Funds Wash Mtual R3	Registered Investment Company	**	427,049
*	Voya US Stock Index Port Adv	Registered Investment Company	**	294,284
	American Funds Fdmntl Inv R3	Registered Investment Company	**	257,598
*	Voya Mid Cap Opport Port A	Registered Investment Company	**	197,313
*	Voya Indx Solution 2045 P Adv	Registered Investment Company	**	191,105
	AB Global Bond Fund R	Registered Investment Company	**	173,249
	Victory Sycmr Est Vl Fd R	Registered Investment Company	**	155,662
*	Voya Russell SmCp Indx Prt A	Registered Investment Company	**	153,511
*	Voya Indx Solution 2055 P Adv	Registered Investment Company	**	141,910
*	Voya Russell MdCp Indx Prt A	Registered Investment Company	**	129,397
*	Voya Indx Solution 2040 Pt Adv	Registered Investment Company	**	106,616
*	Voya Indx Solution 2025 P Adv	Registered Investment Company	**	105,226
*	VY Columbia SmCp Vl II P Adv	Registered Investment Company	**	99,797
*	Voya Indx Solution 2050 Pt Adv	Registered Investment Company	**	86,533
	Carillon Eagle Sm Cap Grw R3	Registered Investment Company	**	65,614
	American Funds Income Fnd R3	Registered Investment Company	**	22,280
*	Voya Indx Solution 2060 P Adv	Registered Investment Company	**	17,064
*	Voya Indx Solution 2030 Pt Adv	Registered Investment Company	**	8,905
*	Voya Gv Mny Mkt F A (Hld Acct)	Registered Investment Company	**	8,889
*	Voya Indx Solution Inc P Adv	Registered Investment Company	**	8,262
	Participant loans	Participant loans - Rates 4.25% to 6.50% with maturities through October 2032	**	145,291
				$ 6,924,873

** Fund is managed by an affiliate of VOYA, therefore, a party-in-interest as defined by ERISA.*
*** Historical cost information is not required, as investments are participant-directed.*

Attachment to 2019 Form 5500
Schedule H, line 4i - Schedule of Assets
(Held at End of Year)
Rubio's Restaurants, Inc. 401(k) Plan
EIN#33-0100303
Plan#002
As Of December 31, 2019

(a)	(b) Identity of issue, borrower, lessor or similar party	(c) Description of investments including maturity date, rate of interest, collateral, par, or maturity date	(d)Cost	(e) Current Value
	AB Global Bond Fund R	Registered Investment Company		$173,249
	American Funds Cap Wld G&I R3	Registered Investment Company		$658,905
	American Funds EuroPacific R3	Registered Investment Company		$537,312
	American Funds Fdmntl Inv R3	Registered Investment Company		$257,598
	American Funds Income Fnd R3	Registered Investment Company		$22,280
	American Funds Wash Mtual R3	Registered Investment Company		$427,049
	Carillon Eagle Sm Cap Grw R3	Registered Investment Company		$65,614
	Victory Sycmr Est Vl Fd R	Registered Investment Company		$155,662
*	Voya Fixed Account	Insurance Company General Account		$868,347
*	Voya Gv Mny Mkt F A (Hld Acct)	Registered Investment Company		$8,889
*	Voya Indx Solution 2025 P Adv	Registered Investment Company		$105,226
*	Voya Indx Solution 2030 Pt Adv	Registered Investment Company		$8,905
*	Voya Indx Solution 2035 P Adv	Registered Investment Company		$498,815
*	Voya Indx Solution 2040 Pt Adv	Registered Investment Company		$106,616
*	Voya Indx Solution 2045 P Adv	Registered Investment Company		$191,105
*	Voya Indx Solution 2050 Pt Adv	Registered Investment Company		$86,533
*	Voya Indx Solution 2055 P Adv	Registered Investment Company		$141,910
*	Voya Indx Solution 2060 P Adv	Registered Investment Company		$17,064
*	Voya Indx Solution Inc P Adv	Registered Investment Company		$8,262
*	Voya Intermediate Bond Fd R	Registered Investment Company		$505,642
*	Voya Large Cap Growth Prt Adv	Registered Investment Company		$1,060,297
*	Voya Mid Cap Opport Port A	Registered Investment Company		$197,313
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*	Voya Russell SmCp Indx Prt A	Registered Investment Company		$153,511
*	Voya US Stock Index Port Adv	Registered Investment Company		$294,284
*	VY Columbia SmCp Vl II P Adv	Registered Investment Company		$99,796
		Participant Loan Rates 4.25%-6.50%		$145,291
	TOTAL			$6,924,873

* denotes party-in-interest
Column (d) is not required as the Plan's investments are totally participant directed.

Rubio's Restaurants, Inc.
401(k) Plan

Financial Statements
and Supplemental Schedule
As of December 31, 2019, and 2018 and for the
Year Ended December 31, 2019

The report accompanying these financial statements was issued by
BDO USA, LLP, a Delaware limited liability partnership and the U.S. member of
BDO International Limited, a UK company limited by guarantee.

Rubio's Restaurants, Inc.
401(k) Plan

Financial Statements
and Supplemental Schedule

As of December 31, 2019, and 2018 and for the
Year Ended December 31, 2019

Rubio's Restaurants, Inc. 401(k) Plan

Contents

Independent Auditor's Report 3-4

Financial Statements

Statements of Net Assets Available for Benefits as of December 31, 2019, and 2018 6

Statement of Changes in Net Assets Available for Benefits for the Year Ended December 31, 2019 7

Notes to Financial Statements 8-13

Supplemental Schedule

Form 5500 - Schedule H, Line 4i – Schedule of Assets (Held at End of Year) as of December 31, 2019 15

Note: Schedules other than that listed above have been omitted because they are not applicable or are not required by 29 CFR 2520.103-10 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, as amended.

Tel: 858-404-9200
Fax: 858-404-9201
www.bdo.com

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San Diego, CA 92130

Independent Auditor's Report

To the Plan Administrator
Rubio's Restaurants, Inc. 401(k) Plan
San Diego, California

Report on the Financial Statements

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Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with auditing standards generally accepted in the United States of America. Because of the matter described in the *Basis for Disclaimer of Opinion* paragraph, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Note 3, which was certified by Voya Retirement Insurance and Annuity Company, ("VOYA"), except for comparing such information with the related information included in the financial statements. We have been informed by the plan administrator that VOYA holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from VOYA as of December 31, 2019 and 2018, and for the year ended December 31, 2019, that the information provided to the plan administrator by VOYA is complete and accurate.

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Report on Form and Content in Compliance With DOL Rules and Regulations

The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the information certified by VOYA, have been audited by us in accordance with auditing standards generally accepted in the United States of America and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

BDO USA, LLP

San Diego, California
October 13, 2020

Financial Statements

Rubio's Restaurants, Inc. 401(k) Plan

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Net assets available for benefits, beginning of year		5,550,504
Net assets available for benefits, end of year	$	6,924,873

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Eligibility

Employees of the Company are eligible to participate in the Plan upon reaching age 21 and after completing one year of service in which at least 1,000 hours are worked.

Contributions

Participants may elect to contribute up to 100 percent of eligible compensation, as defined, to the Plan each year, subject to an annual maximum as established by Internal Revenue Service ("IRS") regulations ($19,000 in 2019). Participants age fifty years or over can make catch-up contributions in addition to the above, up to the maximum amount allowed by the IRS ($6,000 in 2019).

The Company may elect to make discretionary matching and profit-sharing contributions to the Plan. Participants must complete at least 1,000 hours of service during the Plan year and be employed as of the last day of the Plan year to be eligible to receive any profit-sharing contributions. Profit-sharing contributions are allocated to participants in the same proportion as a participant's compensation bears to the total of all participants' compensation. There were no profit-sharing contributions for the year ended December 31, 2019. The Company matches 25 percent of employee contributions, up to 6% of eligible compensation deferred to the Plan.

Rollover Contributions

With the Company's approval, an eligible participant may also contribute amounts representing distributions from other qualified defined benefit or defined contribution plans.

Participant Accounts

Each participant's account is credited with the participant's contribution and allocations of (a) the Company's contribution, and (b) Plan earnings, and charged with an allocation of administrative expenses that are paid by the Plan. Allocations are based on participant earnings, account balances, or specific participant transactions, as defined. Participants may direct the investment of their account balances into various investment options offered by the Plan. Participants may change their investment options on a daily basis, directly with VOYA. The benefit to which a participant is entitled is the benefit that can be provided from the participant's vested account.

Vesting

Participants are fully vested in their salary deferrals plus actual earnings thereon. In general, vesting in Company's contributions is based on years of service, as defined, with increases in increments of 20 percent per year until fully vested after five years.

Notes Receivable from Participants

Participants may borrow from their accounts a minimum of $1,000 up to a maximum equal to the lesser of $50,000 or 50 percent of their vested account balance. The loans are issued by the Plan and secured by the balance in the participant's account. All loans must be repaid within a period of five years; however, if the loan is for the purchase of a participant's principal residence, the plan administrator may permit a longer repayment term. Under the terms of the plan agreement, plan loans will bear a reasonable rate of interest determined by the plan administrator. Principal and interest is paid ratably through payroll deductions. As of December 31, 2019, the rates of interest on outstanding loans ranged from 4.25% to 6.50%, with various maturities through October 2032.

Payment of Benefits

Upon termination of service due to death, disability, or retirement, a participant may elect to receive either a lump-sum amount equal to the value of the participant's vested interest in his or her account or a systematic withdrawal arrangement. For termination of service for other reasons, a participant may receive the value of the vested interest in his or her account as a lump-sum distribution.

Forfeitures

Forfeitures are the non-vested portion of a participant's account that is lost upon termination of employment. Forfeitures are retained in the Plan and will first be used to pay Plan administrative expenses, with any remaining amount used to reduce future Company contributions. As of December 31, 2019, and 2018, forfeited non-vested accounts totaled $8,889 and $9,830, respectively. The Plan used $9,678 of forfeitures to reduce the Plan's expenses for the year ended December 31, 2019.

2. Summary of Significant Accounting Policies

Basis of Accounting

The accompanying financial statements of the Plan are prepared under the accrual method of accounting in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and changes therein, and the disclosure of contingent assets and liabilities. Actual results could materially differ from those estimates.

Risks and Uncertainties

The Plan invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the Statements of Net Assets Available for Benefits.

The Plan invests in investment options that invest in securities of foreign companies, which involve special risks and considerations not typically associated with investing in U.S. companies. These risks include devaluation of currencies, less reliable information about issuers, different securities transaction clearance and settlement practices, and possible adverse political and economic developments. Moreover, securities of many foreign companies and their markets may be less liquid and their prices more volatile than those of securities of comparable U.S. companies.

Recent Accounting Pronouncements

In January 2016, FASB issued ASU No. 2016-01, *Financial Instruments – Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities*, which addresses certain aspects of recognition, measurement, presentation, and disclosure of financial instruments. The amendments in this ASU are effective for fiscal years beginning after December 15, 2018, and interim periods within fiscal years beginning after December 15, 2019. With certain exceptions, early adoption is not permitted. Plan management determined that there was not a material impact on the financial statements upon adoption in 2019.

In August 2018, the FASB issued ASU 2018-13, "Fair Value Measurement (Topic 820): Disclosure Framework - Changes to the Disclosure Requirements for Fair Value Measurement" ("ASU 2018-13"). ASU 2018-13 eliminates, adds and modifies certain disclosure requirements for fair value measurements as part of its disclosure framework project. The standard is effective for all entities for financial statements issued for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Plan management adopted ASU 2018-13 for the year ended December 31, 2019. Plan management is currently evaluating the impact that ASU 2016-01 will have on its financial statements.

Investment Valuation and Income Recognition

The Plan's investments have been reported at fair value as certified by VOYA as of December 31, 2019 and 2018. If available, quoted market prices are used to value investments.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (the exit price). See Note 4 and Note 5 for discussion of fair value measurements.

Purchases and sales of securities are recorded on a trade-date basis. Dividends are recorded on the ex-dividend date. Interest income is recorded on the accrual basis. The net appreciation/ depreciation in fair value of investments consists of both the realized gains or losses and unrealized appreciation and depreciation of those investments.

Notes Receivable from Participants

Notes receivable from participants are measured at amortized cost, which represents unpaid principal balance plus accrued but unpaid interest and are classified as notes receivable. Interest income is recorded on an accrual basis.

Payment of Benefits

Benefits are recorded when paid. As of December 31, 2019, and 2018, there were no benefit amounts that participants had elected to withdraw which had not been paid.

Administrative Expenses

The Company sponsors the Plan. Personnel within the Company perform various administrative services for the Plan. The payroll and related overhead costs associated with these services are not included as Plan expenses. Most administrative expenses of the Plan are paid by the Company. Investment expenses incurred by the manager of the funds and directly related administrative expenses are deducted from the earnings of the Plan. Expenses paid by the Plan totaled $17,419 for the year ended December 31, 2019.

3. Investments Certified by VOYA

The Plan Administrator has elected the method of annual reporting compliance permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA. Accordingly, VOYA has certified that the following data included in the accompanying financial statements and supplemental schedule are complete and accurate.

(a) Investments and notes receivable from participants, as shown in the Statements of Net Assets Available for Benefits as of December 31, 2019 and 2018;

(b) Net appreciation in fair value of participant-directed investments, dividends on investments, other income and interest from notes receivable from participants, as shown in the statement of changes in net assets available for benefits;

(c) Investment information disclosed in Note 4 and Note 5; and

(d) All information included in the Schedule H, Line 4i – Schedule of Assets (Held at End of Year) as of December 31, 2019, as shown in the supplemental schedule.

The Plan Administrator instructed the Plan's independent auditors not to perform any auditing procedures with respect to this certified information, except for comparing such information with the related information included in the financial statements and supplemental schedule.

4. Investment Contracts with Insurance Companies

The Plan invests in a fully benefit-responsive fixed interest account, the VOYA Fixed Account (Fixed Account), which is available through a group funding contract issued by VOYA Retirement Insurance and Annuity Company. The Fixed Account is an obligation of VOYA's general account which supports all of the company's insurance and annuity commitments. It is not a portfolio of contracts whose

yields are based on changes in fair value of underlying assets as would be found in a Stable Value fund.

The value of the Fixed Account is determined by the daily crediting of interest which is subject to minimum contractual guarantees. The Fixed Account does not have a maturity date. Investment transfers to and from the Fixed Account, and withdrawals to pay participant benefits (as defined in the contract) are made at book (i.e., "contract") value. Non-benefit surrenders from the Fixed Account would either be subject to a market value adjustment (MVA) or paid in installments as elected by the contract holder. A contract surrender charge may also be applicable, depending on the terms of the contract.

5. Investments Measured Using the NAV Per Share Practical Expedient

The variable funds are pooled separate accounts that invest directly in designated mutual funds or, in some cases, collective investment trusts. The separate account owns and holds the underlying mutual fund or collective trust shares which are valued daily at their net asset values ("NAV"). Plans and participants hold "units of participation" in the separate account.

The following table summarizes investments for which fair value is measured using the NAV per share practical expedient as of December 31, 2019 and 2018.

	Fair Value	Unfunded Commitments	Redemption Frequency (if Currently Eligible)	Redemption Holding Period
December 31, 2019				
Pooled separate accounts	$ 5,911,235	N/A	Daily	None
December 31, 2018				
Pooled separate accounts	$ 4,770,408	N/A	Daily	None

6. Tax Status

The Plan adopted a prototype 401(k) profit sharing plan maintained by VOYA. The Plan's prototype received its most recent opinion letter on September 1, 2014, in which the IRS stated that the prototype, as then designed, was in compliance with the applicable requirements of the Internal Revenue Code ("IRC"). The Plan administrator believes that the Plan is still currently designed and being operated in compliance with the applicable requirements of the IRC. Accordingly, no provision for taxes has been included in the Plan's financial statements.

Accounting principles generally accepted in the United States of America require plan management to evaluate tax positions taken by the Plan and recognize a tax liability (or asset) if the Plan has taken an uncertain position that more likely than not would not be sustained upon examination by the Internal Revenue Service. The Plan is subject to routine audits by taxing jurisdictions; however, there are currently no audits for any tax periods in progress.

7. Corrective Distributions

The Plan failed certain nondiscrimination tests. As a result, refunds of excess contributions were required to be paid out to participants in order for the Plan to meet compliance testing requirements. Refunds of $13,560 were paid during the year ended December 31, 2019.

8. Plan Termination

Although it has not expressed any intent to do so, the Company has the right to terminate the Plan or reduce or cease contributions or amend the Plan at any time and in any respect subject to the provisions of ERISA. In the event of Plan termination, amounts allocated to a participant's account become fully vested.

9. Party-In-Interest Transactions

Plan investments include pooled separate accounts which invest in mutual funds managed by VOYA Institutional Trust Company, an affiliate of VOYA. Certain administrative fees related to the administration of the plan were paid by the plan. Transactions with these entities qualify as exempt party-in-interest transactions.

10. Subsequent Events

The Plan has evaluated subsequent events from the date of the statement of net assets available for benefits through October 13, 2020 the date the financial statements were available to be issued.

COVID 19

On January 30, 2020, the World Health Organization ("WHO") announced a global health emergency because of a new strain of coronavirus originating in Wuhan, China (the "COVID-19 outbreak") and the risks to the international community as the virus spreads globally beyond its point of origin. In March 2020, the WHO classified the COVID-19 outbreak as a pandemic based on the rapid increase in exposure globally.

The full impact of the COVID-19 outbreak continues to evolve as of the date of this report. This pandemic has adversely affected global economic activity and greatly contributed to significant instability in financial markets. Because the value of the Plan's individual investments have and will fluctuate in response to changing market conditions, the amount of losses that will be recognized in subsequent periods, if any, and related impact on the plan's liquidity cannot be determined at this time.

CARES Act

On March 27, 2020, President Trump signed into law the "Coronavirus Aid, Relief, and Economic Security (CARES) Act." The CARES Act, among other things, includes several relief provisions available to tax-qualified retirement plans and their participants. Plan management has evaluated the relief provisions available to plan participants under the CARES Act and has implemented the following provisions:

- Suspended required minimum distributions for 2020.

Supplemental Schedule

Rubio's Restaurants, Inc. 401(k) Plan

Form 5500 – Schedule H, Line 4i - Schedule of Assets (Held at End of Year) December 31, 2019

	Identity of Issuer, Borrower, Lessor or Similar Party	Description of Investment, including Maturity Date, Rate of Interest, Collateral, Par, or	Cost	Current
*	Voya Large Cap Growth Prt Adv	Registered Investment Company	**	$ 1,060,297
*	Voya Fixed Account	Insurance Company General Account	**	868,347
	American Funds CapWld G&I R3	Registered Investment Company	**	658,905
	American Funds EuroPacific R3	Registered Investment Company	**	537,312
*	Voya Intermediate Bond Fund R	Registered Investment Company	**	505,642
*	Voya Indx Solution 2035 P Adv	Registered Investment Company	**	498,815
	American Funds Wash Mtual R3	Registered Investment Company	**	427,049
*	Voya US Stock Index Port Adv	Registered Investment Company	**	294,284
	American Funds Fdmntl Inv R3	Registered Investment Company	**	257,598
*	Voya Mid Cap Opport Port A	Registered Investment Company	**	197,313
*	Voya Indx Solution 2045 P Adv	Registered Investment Company	**	191,105
	AB Global Bond Fund R	Registered Investment Company	**	173,249
	Victory Sycmr Est Vl Fd R	Registered Investment Company	**	155,662
*	Voya Russell SmCp Indx Prt A	Registered Investment Company	**	153,511
*	Voya Indx Solution 2055 P Adv	Registered Investment Company	**	141,910
*	Voya Russell MdCp Indx Prt A	Registered Investment Company	**	129,397
*	Voya Indx Solution 2040 Pt Adv	Registered Investment Company	**	106,616
*	Voya Indx Solution 2025 P Adv	Registered Investment Company	**	105,226
*	VY Columbia SmCp Vl II P Adv	Registered Investment Company	**	99,797
*	Voya Indx Solution 2050 Pt Adv	Registered Investment Company	**	86,533
	Carillon Eagle Sm Cap Grw R3	Registered Investment Company	**	65,614
	American Funds Income Fnd R3	Registered Investment Company	**	22,280
*	Voya Indx Solution 2060 P Adv	Registered Investment Company	**	17,064
*	Voya Indx Solution 2030 Pt Adv	Registered Investment Company	**	8,905
*	Voya Gv Mny Mkt F A (Hld Acct)	Registered Investment Company	**	8,889
*	Voya Indx Solution Inc P Adv	Registered Investment Company	**	8,262
	Participant loans	Participant loans - Rates 4.25% to 6.50% with maturities through October 2032	**	145,291
				$ 6,924,873

** Fund is managed by an affiliate of VOYA, therefore, a party-in-interest as defined by ERISA.*
*** Historical cost information is not required, as investments are participant-directed.*