

## FIDUCIARY CHECKLIST FOR PLAN SPONSORS

**Plan sponsors need to be aware of their fiduciary responsibilities under ERISA. While the laws governing retirement plans and their fiduciaries' responsibilities are complex, complying with them doesn't have to be stressful.** The following are areas of review that retirement plan fiduciaries may want to consider in fulfilling their fiduciary responsibilities. This is only a guide, not an exhaustive list of all fiduciary responsibilities. Plan sponsors and plan officials are encouraged to consult their ERISA attorneys, service providers, advisors, or consultants for additional guidance and information.

### Roles and Responsibilities

- Have you identified and made a list of the fiduciaries involved in your plan?
- Have you provided education for the named fiduciaries in your plan? Investments/ Annual

### Investment Due Diligence

- Have you established a written Investment Policy Statement, reviewed it for updates, and monitored plan compliance with the Investment Policy Statement?
- Do you review investments for diversification, performance v. benchmarks, and fees?
- If the plan is intended to comply with ERISA Section 404(c), have you ensured that the investment lineup meets the required guidelines?
- Have you documented the investment options review, including decisions regarding the evaluation and replacement of investment options that do not meet the required criteria?
- Do you maintain this documentation in a central due diligence file?

### Administration and Compliance

- Do you conduct an annual or more frequent meeting with the retirement committee and plan fiduciaries, and record detailed minutes of those meetings, including all decisions?
- Have you reviewed the process for collecting employee contributions, loan repayments, forwarding contributions and repayments to the service provider, and meeting the "timely manner" criteria?
- Are you in compliance with Internal Revenue Code tests, such as non-discrimination?
- Do you review outside experts and service providers annually (including investment advice providers, plan consultants, trustee and/or record keeper, etc.)?
- Have you reviewed fees paid to all outside service providers to the plan (direct and indirect) to ensure complete understanding of all costs and services associated with those fees?
- Have you reviewed contracts with experts and service providers, making sure the contracts are in writing, do not contain provisions that conflict with fiduciary standards of care, and do not authorize fees that are in excess of "reasonable compensation?"
- Have you checked the fidelity bond to ensure that it provides an appropriate coverage amount and that it covers fiduciaries and other employees or third parties involved with the retirement plan?
- Have you completed and filed all government reporting, such as Forms 5500 and 1099R?
- Do you document all procedures and decisions and maintain the documents in a central file?

*(over)*

### Operational Review

- Have you reviewed the plan document to ensure that it has been updated for all required legislative provisions (e.g., GUST, EGTRRA, etc.)?
- Did you verify that the plan covers the right employees, does not exclude employees who may be entitled to participate in the plan, and that the plan's definition of an eligible employee is consistent with the way the plan is being administered?
- Have you reviewed the definition of compensation as defined in the plan document, and verify that the correct compensation amounts are being sent to the service providers?
- If the plan includes an automatic enrollment plan feature, have you verified that the default investment option is selected using a prudent process consistent with ERISA, confirmed contributions are invested in the default option, and provided participants with communications regarding the default?
- If the plan document is a "prototype" document, have you made sure that it is IRS-approved and has been amended as required by the IRS procedures?
- Have you reviewed the process for making plan loans and verified that the loan processing by the service provider is consistent with the written procedures of the plan?

### Plan Design

- Have you considered trends/competition - how does your plan compare to your peers?
- Do you understand legislative or regulatory changes that impact the plan or procedures?
- Have you reviewed the impact of corporate/demographic changes, and considered contribution limit changes?

### Employee Participant Communication and Education

- Have you maintained a Summary Plan Description (SPD), updated for all plan design changes, and distributed to all employees? (ERISA requires that SPDs, summaries of material modification, and summary annual reports are automatically disclosed to participants/beneficiaries.)
- Do you provide ongoing communication on investments (including investment option information) and plan features (e.g., loans, distributions, contributions, etc.)?
- Have you conducted educational meetings, met the communication requirements for compliance with 404(c), and complied with fee disclosure requirements under 404(a)?
- Have you maintained samples of all participant communications, including the date provided and to whom provided, and have you maintained a record of the administrative procedures used to distribute the required disclosures?

### Limiting Liability

- Have you obtained fiduciary liability insurance (errors and omissions insurance)?
- Do you use qualified experts (individuals, firms, and sources with advanced knowledge and experience with qualified plans and fiduciary responsibilities) to assist plan fiduciaries?
- Have you considered having the plan comply with ERISA Section 404(c)?

**For more guidance on plan sponsor fiduciary responsibility, contact [Julie Courtney](mailto:jcourtney@shannon-cpas.com) at [jcourtney@shannon-cpas.com](mailto:jcourtney@shannon-cpas.com) or [Jeanette Roatch](mailto:jroatch@shannon-cpas.com) at [jroatch@shannon-cpas.com](mailto:jroatch@shannon-cpas.com)**