PRE-MEETING OVERVIEW

MANAGING RISK FOR BUSINESS OWNERS

Your success. Our priority.

What to know before your meeting

Congress enacted the Employee Retirement Income Security Act of 1974 (ERISA) to help protect the benefits of workers who participate in retirement plans of private-sector employers. ERISA entrusts the care of these benefits and the proper operation of retirement plans to “fiduciaries” of the plans, such as the business owners who sponsor them. Essentially, ERISA requires plan fiduciaries to act solely in the interest of plan participants and beneficiaries, with the exclusive purpose of protecting retirement benefits and defraying reasonable expenses of administering plans.

If plan sponsors and other fiduciaries fail to fulfill their responsibilities, they can be held personally liable for any losses the plan may incur and they could face civil and criminal penalties. With so much at stake, an ongoing fiduciary review process is one way plan sponsors and other plan fiduciaries can better ensure they are aware of their obligations, have a plan in place to meet them and therefore better manage their fiduciary risk and liability.

Questions to review before your meeting

Q: What is a fiduciary review process?

A: A fiduciary review process is a thorough and regular assessment of your plan and its operation against established fiduciary standards. A fiduciary review should evaluate four main areas:

- The plan fiduciaries: who they are and their roles
- All plan and service provider documentation
- Plan operations and administration procedures
- Plan investments

Q: What happens if I discover a gap in fulfilling my fiduciary responsibilities during a fiduciary review?

A: Any issues you identify during the fiduciary review process should be corrected immediately. Some fiduciary violations can be corrected through Department of Labor (DOL) programs known as the Voluntary Fiduciary Correction Program and the Delinquent Filer Voluntary Compliance Program. You can get more detailed information on these programs at the DOL’s website, dol.gov.

Q: Are there other fiduciary liability management strategies I could consider in addition to a fiduciary review process?

A: Yes, some of the most commonly used fiduciary risk management strategies that plan sponsors use include the following: identifying and documenting the roles and responsibilities of co-fiduciaries; using an investment policy statement (IPS); satisfying the provisions of ERISA Sec. 404(c); using qualified default investment alternatives; ensuring compliance with the expanded plan fee disclosure rules; and implementing safe harbor plan designs.

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Checklist to complete before your meeting

Your financial advisor can help you understand and put in place a fiduciary review process. Before you meet with your financial advisor, you may want to gather some important information and documents:

- [ ] A list of plan fiduciaries you have identified
- [ ] All plan documentation (e.g., the plan document, investment policy statement, trust agreement, service provider agreements, summary plan description, fidelity bond, fiduciary liability insurance, participant communication material, etc.)
- [ ] Documentation on the administrative procedures for your plan
- [ ] A list of the current investments for the plan and their providers

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