

# Staying Organized – A Fiduciary Checklist

*The following are ideas that fiduciaries may want to consider in fulfilling their fiduciary responsibilities. Plan sponsors should consult their ERISA attorney, provider, advisor or consultant for further guidance.*

## Auditing Your Plan

- Have an IRS-approved plan document. Most “prototype” documents have been approved by the IRS. Keep a copy of the “determination letter,” if available, with the plan document.
- Make sure the plan document is updated for all the required legislative provisions (i.e., GUST, etc.)
- Maintain a Summary Plan Description (SPD), updated for all plan design changes, and distribute to all employees. ERISA requires that SPD’s, Summary of Material Modifications, and Summary Annual Reports are automatically disclosed to participants/beneficiaries.
- Verify that the plan covers the right employees, or does not exclude employees who may be entitled to participate in the plan.
- Verify that the plan’s definition of eligible employee is consistent with the way the plan is administered.
- With assistance from ERISA counsel, determine who the plan fiduciaries are. Ensure they are aware of and understand their fiduciary responsibilities.
- Check the plan documents and trust agreements to ensure that the plan fiduciaries have been appointed accordingly.
- Conduct an annual (or more frequently as needed) meeting with the retirement committee and plan fiduciaries. Record detailed minutes of these meetings including all decisions made by the committee.
- Review the definition of compensation as defined in the plan document, and verify that the correct compensation amounts are being sent to the service provider(s).  
Note: in the case of *Flanagan et. al. vs. Transamerica Life and Annuity Company*, the court held that the service provider was not required to verify the accuracy of the statistical data reported by the firm (i.e., compensation for discrimination testing purposes) and that the performance of ministerial duties did not make the service provider a fiduciary.
- Review the process of collecting employee contributions and loan repayments, forwarding contributions and loan repayments to the provider, and investing the contributions and loan repayments in a timely manner.  
*ERISA provides that participant contributions become plan assets as of the earliest date that they can reasonably be segregated from the employer’s assets.*
- Check the fidelity bond.  
A general rule of thumb for the amount of the bond is 10% of plan assets (up to \$500,000). Determine whether the bond covers fiduciaries, as well as other employees or third parties involved with the retirement plan.
- Maintain a written investment policy. A sample investment policy is available at [www.pasca.com](http://www.pasca.com) or [www.401khelpcenter.com](http://www.401khelpcenter.com).
- Maintain a broad, well diversified, investment lineup that covers the risk/return spectrum.
- Review the plan’s investments at least annually, and in accordance with the requirements of the plan’s written investment policy statement. Document the review along with the relevant investment options information, including discussions and decisions regarding the evaluation and replacement of poorly performing investment options.
- Review the fee structure to ensure complete understanding of all costs and services associated with those fees. If the DOL conducts an audit of the plan, they will ask for a detailed listing of plan fees. Refer to the DOL fee checklist.

- Conduct educational meetings, and provide general financial/investment information on the following topics:
  - Participating in the plan
  - Saving for retirement
  - Diversification
  - Asset allocation, including asset class characteristics and historical return differences
  - Dollar cost averaging
  - Advantages of tax deferral
  - Risk/return concepts
  - Impact of inflation
  - Compounding
  - Market behaviors (recession, etc.)

Provide ongoing communication on investments, etc. Communication and education efforts should be geared towards the demographics of the participants.

Distribute information to all employees regarding the investment options under the plan.

If the plan is intended to comply with ERISA § 404(c), ensure that all requirements under this provision are being met. Ensure the Form 5500 indicates the intent to comply with the 404(c) requirements.

Conduct an annual review of any outside experts that have been hired to assist the fiduciaries. Document the review/maintain minutes of the meetings, important discussion items, and decisions that are made.

Document all procedures and decisions and maintain the documents in a central due diligence file.

Enhance relationships with service providers by meeting regularly with the investment consultant, advisor, trustee, and/or provider, etc. on a regular basis to help educate fiduciaries, and ensure proper due diligence and decision making. Document the meetings and issues discussed, as well as any decisions made during or due to the meetings.

Other considerations for your plan

---

---

---

---

---

---

---

---

### Keeping It on File

*Fiduciaries should not only follow a well defined procedure for fulfilling their fiduciary responsibilities, they should also keep a well-documented due diligence file. This file can include, but should not be limited to all the information and documentation listed above.*