

## Fiduciary Compliance Checklist

Employer Name: \_\_\_\_\_

Plan Name: \_\_\_\_\_ EIN/PN: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Representative: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail address: \_\_\_\_\_

### FIDUCIARIES

- |   |                              |                             |                                   |
|---|------------------------------|-----------------------------|-----------------------------------|
| 1. Have you identified your plan's fiduciaries <sup>1</sup> ?                   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 2. Are fiduciaries aware that they are fiduciaries?                             | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 3. Do fiduciaries understand their roles and responsibilities <sup>2</sup> ?    | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 4. Have you educated your fiduciaries on how to fulfill their fiduciary duties? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |

### INVESTMENTS

- |  |                              |                             |                                   |
|--|------------------------------|-----------------------------|-----------------------------------|
| 5. Does your plan have a written investment policy statement (IPS) that identifies each fiduciary responsible for the selection and monitoring of plan investment options? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 6. Do the fiduciaries responsible for investments meet at a minimum annually to review the plan's investment options?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 7. Do you maintain a due diligence file with meeting minutes, notes and supporting documentation to track investment decisions made at the investment meetings?            | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 8. Are your plan investments diversified, meaning does the plan offer a broad range of funds such as the ones below, to participants?                                      | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
- Cash equivalents
  - U.S. government and corporate bonds
  - Large cap U.S. equities
  - Mid/small cap U.S. equities

<sup>1</sup> Check out CCLBenefits.com Link to Am I A Fiduciary <http://www.cclbenefits.com/2013/06/28/am-i-a-fiduciary/>

<sup>2</sup> Check out <http://www.dol.gov/ebsa/publications/fiduciaryresponsibility.html> for information from DOL on how to meet your fiduciary responsibilities

- International or global equities

- |   |                              |                             |                                   |
|---|------------------------------|-----------------------------|-----------------------------------|
| 9. Have you consulted with an investment advisor to review the plan's investments, in the last 12 months?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 10. If you have reviewed the investments, was the review in accordance with your IPS and are the investment options aligned with the IPS?                                       | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 11. Did your investment review analyze peer group rankings, performance, fees, and other factors?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 12. During your investment review, did you remove and replace failing funds?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 13. Are your investment costs reasonable in comparison to the appropriate benchmarks?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 14. Do fiduciaries fully understand all investment costs and the services provided for these costs?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 15. If investment costs were not reasonable, did fiduciaries conduct an RFP to look at other investment providers?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 16. Do you have an employee education strategy, such as having someone available to explain the importance of participating, saving for retirement and the basics of investing? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 17. Does the plan provide ongoing investment education materials or seminars to employees? Are you keeping participants informed and updated?                                   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 18. Are participants aware of investments that are performing poorly?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 19. Are participants allowed to withdraw their entire account balance at retirement? If no, are they aware of restrictions?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 20. Have you reviewed all plan assets including assets held in individual contracts to ensure the investment options are not failing and the fees are not excessive?            | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |

## **ADMINISTRATION**

- |   |                              |                             |                                   |
|---|------------------------------|-----------------------------|-----------------------------------|
| 21. Do you have a process in place for collecting employee contributions and loan repayments and remitting the contributions and loan repayments to the plan's trust in a | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
|---|------------------------------|-----------------------------|-----------------------------------|

timely manner<sup>3</sup>?

- |   |                              |                             |                                   |
|---|------------------------------|-----------------------------|-----------------------------------|
| 22. Is your plan passing compliance testing as required under the Internal Revenue Code?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 23. Have you reviewed all required forms to be filed with various government agencies to ensure the accuracy of the information reported and that the forms are timely filed? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 24. Are you providing all eligible employees the opportunity to participate?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 25. Do you have a process in place for approving plan loans and hardship withdrawals, such as written policies and procedures?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 26. Are you responding to participants' questions and requests in a timely manner <sup>4</sup> ?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 27. Do you have a process in place for selecting your service providers, such as plan consultants, and record keepers?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 28. Have you conducted an annual review of service providers to ensure reasonableness of fees and that performance standards are being met?                                   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| 29. Do you have periodic meetings with plan fiduciaries to review the overall status of the plan? Do you keep minutes of these meetings?                                      | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |

## PLAN COMMUNICATIONS

30. If your plan fiduciaries wish to be protected under ERISA section 404(c) from participant investment decisions, does your summary plan description (SPD) or other written notice inform participants of:
- |  |                              |                             |                                   |
|--|------------------------------|-----------------------------|-----------------------------------|
| • Their ability to direct their own investments?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |
| • The plan's intention to comply with 404(c) and that plan fiduciaries may be relieved of liability for investment losses? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Sure |

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<sup>3</sup> DOL requires that employers segregate participant contributions and remit to the plan's trust at the earliest date that they can be reasonably segregated from the employer's assets. Failure to timely remit contributions will result in a breach of fiduciary duty and prohibited transaction.

<sup>4</sup> One of the biggest complaints DOL gets from participants is the lack of responsiveness by plan fiduciaries. This is important because participant complaints can trigger audits by government agencies.

- The name, address and phone number of the 404(c) plan fiduciary responsible for providing information upon request and for receiving and complying with participants' investment instructions?  Yes  No  Not Sure

31. For participants who make deferrals but fail to make investment allocation decisions, have you set up qualified default investment alternatives (QDIA)?  Yes  No  Not Sure

**PROTECTING THE PLAN AND YOURSELF**

32. Does your plan have a compliant fidelity bond<sup>5</sup> with the appropriate coverage amount, and covering all fiduciaries, other employees, and third parties who handle or have access to plan assets?  Yes  No  Not Sure

33. Are the fiduciaries covered by fiduciary liability insurance<sup>6</sup>?  Yes  No  Not Sure

Authorized representative signature: \_\_\_\_\_

Date: \_\_\_\_\_, \_\_\_\_\_, 2013

<sup>5</sup> Plans **are required** to maintain a fidelity bond for at least 10% of plan assets up to a maximum of \$500,000 and \$1,000,000 for plans holding employer securities. See DOL Field Assistance Bulletin No. 2008-04: <http://www.dol.gov/ebsa/regs/fab2008-4.html> for more information.

<sup>6</sup> Although fiduciary insurance is not required, it is always recommended as a best practice.