

401(k) Fiduciary Checklist



This is a sample 401(k) fiduciary checklist intended for illustrative purposes only. As such, this checklist may include items not specific to your plan or may exclude items that you deem necessary for a more complete record of your fiduciary activity.

Introduction

As a best practice, plan sponsors should review their 401(k) plan throughout the year—particularly at year end—to ensure that all fiduciary tasks have been completed and that the plan is in compliance with all legislative and regulatory requirements. This review should provide:

- A list of any items that need completion or corrective action
- A record showing progress toward key fiduciary milestones
- Areas for improving policies and practices associated with plan management

The following checklist is designed to track the plan's annual fiduciary tasks and their respective completion dates. Given the number and variety of tasks, the checklist is broken into two sections:

Deadline tasks—tasks that must be completed or reviewed by a specified date

Periodic tasks—tasks that should be completed or reviewed throughout the year

Deadline tasks

1 If the plan was amended during the year, was the amendment(s) executed timely?

Note: Most discretionary plan amendments must be executed no later than the last day of the plan year in which the amendment became effective; however, where an anti-cutback issue may result, the amendment should be adopted prior to the effective date of the amendment.

- ☐ Yes—the amendment was executed on _____
- ☐ No
- ☐ Not applicable

2 If the plan was amended during the year, did participants receive a summary of material modifications (SMM) or updated summary plan description (SPD)?

Note: Participants must receive an SMM or updated SPD within 210 days of the close of the plan year in which the amendment was effective.

- ☐ Yes—the SMM was distributed to participants on _____
- ☐ No
- ☐ Not applicable

3 Was an SPD provided to all new participants?

Note: An SPD must be provided to all new participants within 90 days of becoming eligible.

- ☐ Yes—the SPD was distributed to participants on _____
- ☐ No
- ☐ Not applicable

4 Were the annual compliance tests prepared and, if applicable, was corrective action completed?

Note: Annual compliance testing should be completed no later than the last day of the following plan year in case corrective action is needed. For example, if the plan fails the actual deferral percentage (ADP) or actual contribution percentage (ADC) test and the corrective action is to distribute excess contributions (and applicable earnings) to the affected highly compensated employees (HCEs), the refunds must be distributed within two and a half months of the following plan year for the plan sponsor to avoid paying a 10% excise tax on the excess contribution amounts.

- ☐ Yes—annual compliance testing, including any corrective action, was completed on _____
- ☐ No

5 Was the Form 5500 filed timely?

Note: The deadline for filing the Form 5500 for the plan is seven months following the end of the plan year. If the plan is placed on extension, it has an additional two and a half months to file its Form 5500.

- ☐ Yes—the Form 5500 was filed on _____
- ☐ No

6 Did you provide the summary annual report (SAR) to participants and beneficiaries on a timely basis?

Note: The SAR must be provided within 60 days after the filing deadline of the Form 5500, including extension.

- ☐ Yes, the SAR was distributed on _____
- ☐ No

7 Did you provide the 404(a)(5) notices to participants on a timely basis?

Note: Plan fiduciaries must provide certain plan and fee information to participants when they become eligible for the plan, and then on an annual basis. In addition, participants must receive fee and expense information on a quarterly basis.

- ☐ Yes
☐ No

8 Did you provide annual notices to participants and beneficiaries on a timely basis?

Note: Annual notices (i.e., qualified default investment alternative (QDIA), auto-enrollment/automatic increase, or safe harbor) must be provided at least 30 days and no more than 90 days prior to the beginning of each plan year.

- ☐ Yes—the notice(s) was distributed on _____
☐ No

9 Were 401(k) contributions and loan repayments deposited to the plan on a timely basis?

Note: 401(k) contributions and loan payments must be deposited in the plan as soon as they can be reasonably segregated from the general assets of the company. The DOL timing standard for small plans (fewer than 100 participants) is seven business days. There's no DOL timing standard currently for large plans. Alternatively, a plan sponsor should submit 401(k) contributions and loan repayments in a consistent manner (for example, within three business days each payroll period).

- ☐ Yes
☐ No

Periodic tasks

1 Did you update your list of plan fiduciaries during the year?

- ☐ Yes
☐ No
☐ Not applicable—no changes during the year

2 When did your retirement committee(s) meet during the year?

- ☐ Once during the year
☐ Semiannually
☐ Quarterly
☐ Other (explain) _____

5 Did you make any changes to the plan's investment lineup during the year?

- ☐ Yes—documentation can be found in the meeting minutes dated _____
☐ No

7 Does the plan offer a QDIA for 404(c) protection?

- ☐ Yes—the fund is the _____
☐ No

8 In order to determine whether the fees being paid by the plan are reasonable, did you conduct a fee review that includes a comprehensive comparison of fees and services to a benchmark group of similar plans?

- ☐ Yes
☐ No

9 Every fiduciary of the plan is required to be bonded. The amount of the bond required is 10% of plan assets handled, with the maximum required amount of the bond being \$500,000. Is your fidelity bond current?

- ☐ Yes—the company currently maintains a \$ _____ fidelity bond
☐ No

10 Do you have copies of your recent cycle 3 plan restatement, the associated IRS determination letter or opinion letter, and any plan amendments executed since the plan restatement?

- ☐ Yes
☐ No

This information was developed as a general guide to educate plan sponsors but is not intended as authoritative guidance or tax or legal advice. Each plan has unique requirements, and you should consult your attorney or tax advisor for guidance on your specific situation. In no way does using the information provided ensure the plan sponsor will be in compliance with ERISA regulations. E2E Financial is another business name of Independent Advisor Alliance, LLC. All investment advice is offered through Independent Advisor Alliance, LLC, a registered investment adviser.

This piece is not intended to be an exhaustive review of fiduciary duties under ERISA. The objective is to highlight the key responsibilities of a plan fiduciary and present the challenges that plan fiduciaries may face in discharging their duties.

FOR PLAN SPONSOR USE ONLY. NOT FOR USE WITH PLAN PARTICIPANTS.

