

Plan Sponsors Must Focus On the Required Response Date For Plan Regulatory Notices

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PRACTICES Employee Benefits and Executive Compensation

At any point, a plan sponsor could receive a letter from a regulatory agency regarding a plan deficiency or similar request (“**Plan Regulatory Notice**”). When receiving such a notice from the DOL, IRS, or other regulatory agency, the plan sponsor should first determine the date by which a response is required. The Plan Regulatory Notice generally will provide that a response must be received within a specified number of days from the date listed at the top of such notice. As a reminder, the ultimate responsibility for plan compliance, including responsibility for responding to Plan Regulatory Notices, falls on the plan sponsor even if a third-party service provider handles most of the day-to-day administration of the plan.

In connection with the review of Plan Regulatory Notices, plan sponsors should implement policies and procedures to ensure that such notices, when received, are immediately directed to the appropriate department within the organization that will be responsible for preparing and delivering a timely response. Because the plan sponsor may need additional information from service providers to provide the required information, the initial response may include a request for an extension and clarifying questions. In the event a response is late, penalties may continue to accrue each day that a response is not provided. Timely communication could prevent the plan sponsor from incurring substantial penalties and additional headaches.