

Retirement Plan Check-Up: Fidelity Bonds

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PRACTICES Employee Benefits and Executive Compensation, Retirement Plans

When companies first establish their qualified retirement plans, they are required to purchase a fidelity bond, which is basically a form of insurance that protects plans against losses caused by acts of fraud or dishonesty including, among other things, larceny, theft, embezzlement, and misappropriation.

ERISA requires plan fiduciaries to carry fidelity bond coverage equal to the greater of:

- At least ten percent of the plan assets that are handled up to \$500,000 (or \$1 million for retirement plans that hold company stock), and
- \$1,000.

Because the fidelity bond must cover at least ten percent of the plan's assets, as a plan's assets grow over time, it is important to review the coverage amount to ensure that it remains sufficient. Furthermore, the plan sponsor must report the coverage amount each year on the plan's Form 5500 annual return. Plan sponsors should review the plan's Form 5500 each year to ensure that the plan's fidelity bond coverage is accurately reported. Finally, if an insurer stops providing ERISA fidelity bond coverage, it is imperative that plan sponsors work with their insurance brokers to obtain coverage from another insurer. Insufficient fidelity bond coverage or erroneous reporting of coverage on the plan's Form 5500 annual report could trigger a governmental audit of the plan and expose the plan's fiduciaries to personal liability for losses that should have been covered by a fidelity bond.

Plan sponsors should consult with the plan's legal counsel to ensure the plan's fidelity bond meets all of the applicable legal requirements.