

Year-End Fiduciary Check-up

December 7, 2022

PRACTICES Employee Benefits and Executive Compensation, Retirement Plans

As another year comes to a close, plan sponsors should review the past 12 months and consider whether any events occurred that might require amendments to their employee benefit plans or changes to their plans' administrative policies. In doing so, it's important to keep in mind that while plans' third-party administrators and other service providers might be responsible for ensuring plan documents are kept up to date to comply with changes in the law, service providers will not likely be aware of changes to the plan sponsor's personnel or corporate organization that might also require updates to plan documents, summary plan descriptions, and/or other administrative policies. Because plan amendments may have to be adopted by the end of the year, plan sponsors should conduct this review and, if necessary, contact their plans' legal counsel and service providers as soon as possible to ensure that any year-end deadlines can be met.

In reviewing the events of the past year, plan sponsors should focus on changes to the plan sponsor's corporate organization and controlled group as well as internal personnel changes and consider the following questions:

- Did the plan sponsor acquire any new entities in the past year? If so, have the new entities properly adopted the plan sponsor's plans? Additionally, if required, has the plan sponsor approved the new entities' adoption of the sponsor's plans? Alternatively, if the acquiring entity kept the plans of an acquired entity in place post-closing, has the plan sponsor updated its fiduciary liability policy and committee charters to cover the acquired plans?
- Did any of the plan sponsor's employees who serve on a plan's administrative and/or investment committees terminate employment or change job titles? If so, have all plan policies and/or committee charters specifying the makeup of the committees been appropriately updated? Has the plan sponsor properly notified the plans' third-party administrators of the personnel changes to ensure that the terminating employees' access to plan records and files has been revoked? Has the plan sponsor appointed new employees to the affected committees to replace any terminating employees? Have such appointments been properly documented? Have fiduciary liability policies been updated to reflect any newly appointed fiduciaries?

In the busyness of the year, it can be all too easy to forget to make necessary updates to plan documents, policies, and procedures. Analyzing the above questions as the year comes to a close will help ensure all documents are up to date as we start the new year.