Fiduciary Checklist

Questions \ Explanations \ Examples

This checklist is intended as a tool to identify potential ERISA issues, and it does not cover every aspect of employee benefit plan administration. ERISA is a comprehensive federal law, and not all of its legal requirements can be captured in a checklist. Moreover, the Internal Revenue Code governs the tax-qualification of certain types of plans. This checklist does not provide a comprehensive treatment of Code requirements. Nothing in this checklist is intended to be legal or investment advice. To obtain such advice, please consult your legal or financial advisor.

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Questions	Yes	No	N/A	Explanation / Examples
Plan Document and Procedures				
1. Are the terms of the plan set forth in a written document?	○	○	○	ERISA requires a written plan document. ERISA §402(a)(1). Note: To be a qualified plan, the terms of the plan must be written. See Treas. Reg. §1.401-1(a)(2).
2. Does the plan identify the fiduciary(s) with authority over operation and administration of the plan (or a procedure for appointing a named fiduciary)?	○	○	○	The plan document should identify the plan's fiduciaries, including a "plan administrator" and a "named fiduciary" responsible for investment matters. These may be one person or an entity, such as a committee. ERISA §402(a)(1). Different responsibilities may be given to separate fiduciaries, e.g., administration of the plan and investment of plan assets. If no plan administrator is appointed by the plan (or a procedure in the plan) the plan sponsor will be plan administrator. ERISA §3(16). For the sake of simplicity, the plan's named fiduciaries are sometimes referred to in this checklist as the "Committee."
3. Does the plan include a funding policy?	○	○	○	One of the four requisite features of an ERISA plan is a funding policy (used to enable the plan fiduciaries to determine the plan's short- and long-run financial needs and communicate these requirements to the appropriate persons) or a procedure to establish and carry one out (the other three requisite features are described in items 4, 5 and 6, below). ERISA §402(b). A funding policy is distinct from an investment policy statement (discussed below).
4. Does the plan specify a procedure for allocating responsibilities among Committee members?	○	○	○	If the plan permits fiduciaries to allocate work among themselves, the plan must also describe the procedure for doing so. ERISA §402(b).
5. Who can amend the plan? What is the procedure for amending the plan?	○	○	○	This is required under ERISA §402(b).
6. Does the plan describe the benefits available under the plan?	○	○	○	This is required under ERISA §402(b).
7. Does the plan provide that fiduciaries may serve in more than one fiduciary capacity?	○	○	○	This provision is one of three optional plan features that are specifically described in ERISA (the other two optional plan features are described in items 8 and 9, below). ERISA §402(c)(1).
8. Does the Committee have access to expert advice?	○	○	○	This can also be helpful in documenting a prudent fiduciary process. ERISA §402(c)(2).
9. Can the Committee appoint an investment manager to manage all or a portion of the plan's assets?	○	○	○	This is an optional plan provision, but it is helpful to have a mechanism for appointing investment managers. ERISA §402(c)(3). If a named fiduciary wishes to appoint an investment manager, the trustee must be subject to the direction of the investment manager.

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10. Does the plan allow fiduciaries to allocate responsibilities among themselves and permit fiduciaries to delegate fiduciary responsibilities to others? If so, does the plan Committee maintain documentation of any allocation or delegation of responsibilities?	○	○	○	Although not required, plan fiduciaries may find it useful to allocate responsibilities among themselves and to delegate fiduciary responsibilities to others. ERISA § 405(c)(1)(B). If fiduciary responsibilities are allocated or delegated, the plan Committee should maintain documentation describing such allocation or delegation.
11. Does the Committee have procedures for carrying out its responsibilities?	○	○	○	Although not required, if a committee serves as plan fiduciary, consider including procedures for the operation of the committee, such as meetings, quorums, voting, authority to act on behalf of the committee, minutes. These procedures should be drafted so that it is clear they may be changed from time to time to fit the needs of the Committee.
12. Are the plan assets held in a trust by a designated Trustee?	○	○	○	This is required by ERISA §403(a) for most types of plans.
13. How is the plan trustee appointed?	○	○	○	A plan trustee may be appointed in the trust document, by a named fiduciary, or may be named in the plan document. ERISA §403(a).
14. Does the plan address mistaken contributions?	○	○	○	The plan is not required to address this issue, however, it can be helpful to include two provisions: (1) a provision indicating whether plan will refund mistaken contributions, contributions conditioned or initial qualification or contributions conditioned on deductibility; and (2) a provision conditioning contribution on deductibility. ERISA §403(c)(2).
15. Does the plan give the Committee full authority and discretion to interpret the plan terms?	○	○	○	This is not required, but it is a best practice that simplifies the administration and enforcement of benefit claim decisions.
16. Does the plan permit payment of plan expenses with plan assets?	○	○	○	Unless prohibited, plans generally may pay reasonable expenses of administering the plan and managing plan assets. Most plans include plan provisions addressing expenses; it is important to ensure the provisions are clear and consistent with actual practices.
17. Is the Committee familiar with the terms of the plan document? Is the plan being administered in accordance with its terms?	○	○	○	Fiduciaries must operate the plan in accordance with its terms to the extent those terms comply with ERISA. ERISA §404(a)(1)(D). Failure to meet the prudence and (where applicable) diversification requirements and failure to administer the plan in accordance with its terms can result in a breach of fiduciary duty. Fiduciaries who breach their fiduciary duties may have personal liability to make the plan whole for losses caused by their breach, disgorge any profits to the fiduciary resulting from the breach, and may be subject to other equitable relief. ERISA §409(a).

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18. Does the plan hold any assets not physically in the United States?	○	○	○	ERISA requires that assets be held subject to the jurisdiction of the U.S. courts (this requirement may be satisfied for foreign securities if certain conditions are met). See ERISA §404(b); 29 C.F.R. § 2550.404(b)(1).
19. Do you have signed copies of the plan and all amendments?	○	○	○	The IRS may take the position that a plan does not exist unless and until it is signed. Good practice dictates that you have a copy of the signed document.
20. Do you have a copy of the most recent IRS favorable determination letter and application for the plan?	○	○	○	A favorable determination letter is not required for “standardized prototype” plans. You should have a copy of the IRS approval letter for the prototype, however.
21. Has the Committee engaged in a prudent process to select plan service providers?	○	○	○	ERISA requires that fiduciaries prudently select service providers. Considerations when selecting plan service providers include taking into account whether expert assistance (e.g., a consultant) is required in selecting the provider, whether the services are necessary for the establishment or operation of the plan, evaluating the quality of the services and the qualifications of the provider, understanding the total compensation (both direct and indirect) to be received by the provider, and for providers anticipated to receive $1,000 or more in compensation actually receiving disclosures regarding, (and its affiliates) in light of the services provided, evaluating the proposed fees and services against appropriate benchmarks and peer groups, evaluating whether the provider has relevant conflicts of interest, understanding whether the provider will perform the services as a fiduciary, and documenting the above-described processes and decisions. See Section on Related Party Transactions (Question 2) and Reporting and Disclosure (Question 1) for more information.
22. Does the Committee maintain records of its decisions,including backup materials, analyses and minutes of deliberations?	○	○	○	ERISA requires that fiduciaries act as a prudent expert (rather than a prudent layperson) in carrying out their duties. To do so, they must engage in a prudent process of decision-making and maintain records of that process.
23. Does the Committee regularly monitor plan service providers?	○	○	○	Part of plan fiduciaries’ prudent retention of service providers is regular monitoring of the providers. This monitoring may include considering whether the arrangement remains necessary for the establishment or operation of the plan, evaluating the quality of services provided, determining whether the compensation (both direct and indirect) received by the provider (and its affiliates) has been adequately disclosed to the Committee and remains appropriate in light of the services provided, whether the provider remains in compliance with its contract and (if applicable) fiduciary obligations under ERISA, understanding and evaluating any conflicts of interest the provider may have, and documenting the monitoring process.
24. Are the assets of the plan invested in a diversified manner so as to minimize the risk of large losses?	○	○	○	This diversification requirement applies differently to different types of plans (e.g., defined benefit plans, participant directed individual account plans, and plans that hold stock issued by the employer). ERISA §§404(a)(1)(C) and 404(a)(2).

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25. Does the plan have a written investment policy statement? If so, is it being followed?	○	○	○	While not an ERISA requirement, it is generally accepted that having an investment policy statement is helpful to guide plan fiduciaries in making decisions about plan investments. At least one court has decided that failing to adopt a written investment policy statement is evidence of imprudence. Courts have also found fiduciaries liable for failing to following the plan's investment policy statement.
26. Whether or not there is a written investment policy statement, does the plan Committee periodically evaluate the performance of the plan's investment alternatives?	○	○	○	The plan Committee must prudently select and monitor the plan's investment alternatives. With respect to plan investment alternatives, the duty to prudently monitor generally means a periodic (quarterly, semi-annual or annual) review of the performance, volatility and expenses of each investment alternative. Information regarding investment performance against benchmarks must be provided to participants in participant directed plans (see Participant Directed Retirement Plans below).
27. Is the evaluation done in accordance with the benchmarks and other criteria of the investment policy statement?	○	○	○	If the plan has an investment policy statement, it should be followed.
28. Do you have records of the evaluation referred to in Question 27?	○	○	○	These records are helpful to demonstrate that you have engaged in a prudent deliberative process.
29. Have you taken action, in accordance with any written investment policy statement, on any under-performing investment alternatives?	○	○	○	Part of a prudent monitoring process includes taking appropriate action (i.e., replace, watch, freeze) any investment alternative that is not performing in accordance with standard included in your investment policy. The Committee may be able to reduce its potential fiduciary exposure when replacing under-performing investment alternatives by ensuring that the change constitutes a "qualified change in investment options" under ERISA §404(c)(4) or by utilizing a "qualified default investment alternative" under ERISA §404(c)(5) (see Participant Directed Retirement Plans Question 3).
Related Party Transactions				
1. Does the plan have any transactions with a person who is a "party in interest"? Examples of party in interest transactions include: • sales, exchanges, leases; • loans or other extensions of credit; • providing goods or services; • transferring to or using plan assets; and • acquiring employer securities or real property.	○	○	○	A "party in interest" includes the plan sponsor, the trustee of the plan, any other fiduciary of the plan, service providers, majority owners of the business, other businesses owned by those majority owners and members of their family. Unless exempt, transactions with "parties in interest" are prohibited transactions and fiduciaries who permit prohibited transactions will breach their fiduciary duties and can be personally liable for any plan losses resulting from the transaction. Nearly identical Internal Revenue Code provisions prohibit transactions with "disqualified persons" (generally defined in the same way as a "party in interest" is defined under ERISA). The Code requires that prohibited transactions be "corrected" (usually by unwinding the transaction) and these transactions may result in an excise tax equal to 15% of the "amount involved" in the transaction for each year the transaction remains uncorrected. Committees should consider obtaining legal advice if there are questions about party in interest transactions. ERISA §406(a) and Code §4975(c).

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2. Does the plan obtain services (e.g., recordkeeping or accounting) from a party in interest (including someone who is a current service provider)?	○	○	○	Like other party in interest transactions, plan fiduciaries are prohibited from hiring a current service provider to provide the same or additional services to the plan. However, §408(b)(2) of ERISA includes an exemption for the provision of services by a party in interest. In order for the exemption to apply, the services must be necessary for the operation of the plan, the arrangement must be reasonable, and the service provider's compensation must be reasonable. As of July 1, 2012, regulations under ERISA §408(b)(2) for prohibited transaction relief require that service providers make comprehensive written disclosures of the compensation (both direct and indirect) received by the provider (and its affiliates) in connection with services provided to the plan or the provider's position with the plan.
3. Does the Committee have strategies in place for avoiding fiduciary conflicts of interest, such as dealing with plan assets for his or her own account or representing a party adverse to the plan in connection with a transaction with the plan?	○	○	○	ERISA fiduciaries may not act under a conflict of interest. ERISA §§406(b)(1) and 406(b)(2). If there are any transactions you are concerned about, consult your legal advisor.
4. Is the Committee aware of ERISA's rules against fiduciaries receiving "kickbacks" from parties dealing with the plan?	○	○	○	ERISA prohibits fiduciaries from receiving consideration for their own personal account from a party dealing with the plan. ERISA §406(b)(3). If there are any transactions you are concerned about, consult your legal advisor.
Participant Loans				
1. Does the plan permit loans to participants? (If not, skip down to Reporting and Disclosures.)	○	○	○	Because each plan participant is typically a "party in interest" to the plan, ERISA generally prohibits plan loans to participants. ERISA §406(a)(1)(b). However, an exemption permits plan loans to participants under certain conditions. ERISA §408(b)(1). Note: under section 72(p) of the Code, loans to a plan participant or beneficiary are treated as taxable distributions unless they meet certain exceptions for qualified employer plans. See also Treas. Reg. 1.72(p)-1.
2. Do participant loans comply with the conditions of ERISA section 408(b)(1)?	○	○	○	In order for a loan transaction to be exempt from ERISA's prohibited transaction provisions, the loan must: • be available to all participants and beneficiaries on a reasonably equivalent basis; • not be available to highly compensated employees in amounts greater than the amount available to other employees; • be offered pursuant to a plan provision that describes the plan's loan administrator, application procedures, approval criteria, limitations, interest rate procedures, eligible collateral and default procedures; • bear a reasonable rate of interest; and • be adequately secured.

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3. Do you have a written loan procedure?	○	○	○	The plan's loan procedures should include: • the identity of persons authorized to administer the program; • a procedure for applying for loans; • the basis on which loans will be approved or denied; • limitations on the types and amounts of loans; • the procedure under the program for determining the rate of interest; • the types of collateral which may secure a participant loan; and • the events constituting default and the steps that will be taken to preserve plan assets in the event of default.
4. How do you determine the interest rate on the loan?	○	○	○	The rate must be commercially reasonable and based on the interest an unaffiliated lender would charge under similar circumstances.
5. Does the plan have default procedures for participant loans if participants fail to make repayments?	○	○	○	Note: the Code contains detailed rules on participant loan defaults. See Code §72(p) and Treas. Reg. 1.72(p)-1.
Reporting and Disclosure				
1. Have you filed all required Forms 5500?	○	○	○	Plans are required to file an annual report on Form 5500. ERISA §§104, 103. Failure to do so leads to penalties from both the IRS ($25 per day up to $15,000) and the DOL ($1,100 per day with no maximum) Form 5500 Schedule C requires comprehensive reporting of direct and indirect compensation received by plan service providers (and in some cases their affiliates) in connection with services provided to the plan. If you have questions regarding the reporting of service provider compensation on your plan's Form 5500, consult your legal advisor.
2. If applicable, has the proper independent accountant audit accompanied the filings?	○	○	○	If the plan has more than 100 participants or more than 5% of its assets are not held by a financial institution, an audit by an independent accountant is required. (Note: a limited exception known as the "80/120 rule" may be available for a plan that had fewer than 100 participants in a prior plan year.)
3. Do you have copies of the plan's Form 5500 filings?	○	○	○	The plan administrator is required to maintain records for a minimum of 6 years. ERISA §107.
4. Have you distributed the summary plan description (SPD) to all eligible participants?	○	○	○	The plan administrator is required to distribute SPDs to each participant. See ERISA §102. The SPD must contain certain information specified by DOL regulations. See 29 C.F.R. §2520.102-3.

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5. Is the SPD up-to-date and does it accurately summarize plan benefits?	○	○	○	ERISA requires that you distribute an updated SPD or a "summary of material modifications" to the participants whenever the plan is amended in a material way. ERISA §§101, 102. Material amendments are those that affect the benefits or significant rights of participants, such as the right to obtain loans or hardship withdrawals.
6. Do you distribute the Summary Annual Report (SAR) to participants each year?	○	○	○	A Summary Annual Report must be distributed to participants each year. The SAR contains information regarding the plans assets and earnings. ERISA § 104(b)(3).
7. Do plan participants receive periodic benefit statements?	○	○	○	ERISA requirements include quarterly benefits statements for participants in individual account plans who have the ability to direct the investment of their accounts (such as most 401(k) plans) and annual statements for participants who cannot direct the investment of their accounts. Defined benefit plan participants must receive statements at least once every three years. ERISA § 105(a)(1).
8. Do participant benefit statements contain the required information?	○	○	○	Benefits statements must include the participant's total accrued benefits and information on vested benefits. ERISA § 105(a)(1)(i). For participant directed accounts, the benefit statement must also include an explanation of the limits on participants' ability to direct their own investments, and a brief notice as to the importance of diversification and the risk of holding more than 20% of a portfolio in a single security (such as the securities issued by the participant's employer). ERISA §105(a)(2)(A)(1)(ii).
Liability Protection				
1. Does the plan have a fidelity bond?	○	○	○	ERISA requires every fiduciary and every person who handles funds or other property be bonded. ERISA §412(a). Some exceptions to the bonding requirement apply.
2. If you have a bond, what is the limit of liability?	○	○	○	For plans that do not hold employer securities, ERISA requires a bond equal to 10% of plan assets or $500,000, whichever is less. ERISA §412(a)(3). For plans that hold employer securities, the amount of the bond is 10% of plan assets or $1,000,000, whichever is less. ERISA §412(a)(3).
3. Does the Company carry fiduciary liability insurance covering all plan fiduciaries?	○	○	○	While not required by law, carrying fiduciary liability insurance is generally recommended to protect the plan in case of breach of fiduciary duty. It is also recommended that individual Committee members obtain a no recourse rider.
4. If so, is the coverage adequate?	○	○	○	Adequacy of coverage amounts vary by plan.

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5. Is the plan (or plan sponsor) providing participant education for the participants in the plans?	○	○	○	This is not required by law but may be helpful to participants who have a right to direct the investment of assets in their accounts.
6. Is the plan (or plan sponsor) providing investment advice for the participants?	○	○	○	This is not required by law but may be helpful to participants who have a right to direct the investment of assets in their accounts. Participant advice programs must be carefully structured to avoid prohibited conflicts of interest on the part of advisers, or to comply with an applicable exemption from the prohibited transaction provisions. There are a number of legal structures that may be available for providing participant advice. If you have questions regarding these legal structures for participant advice, consult your legal advisor.
Participant Directed Retirement Plans				
1. To the extent the plan permits employees to defer a portion of their pay into the plan, are the deferrals being deposited to the trust as soon as possible after each payday?	○	○	○	ERISA regulations require that deferrals be deposited as soon as they may be reasonably segregated from the general assets of the employer, which in many cases, would be within a few days after payday. 29 C.F.R. §2510.3-102(a)(1). Failure to do so is a breach of fiduciary duty. For plans with fewer than 100 participants, the DOL has issued a safe harbor under which this requirement will be deemed to be met if deferrals are deposited within seven business days of a payday. 29 C.F.R. §2510.3-102(a)(2).
2. Does the plan have a “default” investment alternative?	○	○	○	The Committee may be able to reduce potential fiduciary liability in connection with investment decisions not directed by participants by meeting ERISA section 404(c)(5)’s requirements for “qualified default investment alternatives,” as further defined by DOL in its detailed regulations at 29 C.F.R. §2550.404(c)(5). On November 29, 2010, the DOL issued a proposed rule that would amend these requirements to enhance and provide more specificity with respect to information that must be disclosed with respect to qualified default investment alternatives that are “target date” funds.
3. Does the plan intend to comply with ERISA section 404(c)?	○	○	○	ERISA section 404(c) provides protection to plan fiduciaries for investment decisions made by participants if the plan complies with disclosure and other requirements covered by DOL regulations. These requirements include certain disclosures that must be made automatically to participants, while others need only be made upon request by a participant.
4. Have you informed participants that the plan intends to comply with 404(c)?	○	○	○	This is required by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. 2550.404c-1.

Questions	Yes	No	N/A	Explanation / Examples
5. Have you informed the participants that plan fiduciaries will be relieved of liability for losses based on participant investment instructions?	○	○	○	This is required by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. 2550.404c-1.
6. Do participants receive a description of each designated investment alternative available under the plan,including the investment objectives and risk and return characteristics of each designated investment alternative, a description of annual operating expenses of each designated alternative (management fees, administrative fees, transaction costs), together with information regarding the type and diversification of assets in the portfolio?	○	○	○	This is required by the DOL regulations under ERISA §404 for all participant directed plans regardless of the plan's status as a 404(c) plan. See 29 C.F.R. 2550.404(a)(b)
7. Do participants know the identity of any designated investment managers under the plan?	○	○	○	This is required by the DOL regulations under ERISA §404 for all participant directed plans regardless of the plan's status as a 404(c) plan. See 29 C.F.R. 2550.404(a)(5).
8. Have participants received an explanation of the circumstances under which they may give investment instructions and any limitations on these instructions,including restrictions on transfer, limitations on voting, tender and other rights, and information on penalties or adjustments related to fund transfers.	○	○	○	This is required by the DOL regulations under ERISA §404 for all participant directed plans regardless of the plan's status as a 404(c) plan. See 29 C.F.R. 2550.404(a)(5).
9. Have participants been informed of the name, address and phone number of the plan fiduciary or its designee responsible for giving (1) information available "upon request" to participants and beneficiaries, and (2) a description of additional information available upon request?	○	○	○	This is required by the DOL regulations under ERISA §404 for all participant directed plans regardless of the plan's status as a 404(c) plan. See 29 C.F.R. 2550.404(a)(5).
10. If requested, do participants receive a copy of the most recent prospectus provided to the Plan if the investment is subject to the Securities Act of 1933?	○	○	○	This is required by the DOL regulations under ERISA §404 for all participant directed plans regardless of the plan's status as a 404(c) plan. See 29 C.F.R. 2550.404(a)(5).The requirement applies, for example, to investment alternatives that are mutual funds and to securities issued by the plan sponsor.

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11. Do participants have the right to exercise voting rights with respect to plan investment alternatives?	○	○	○	While the plan is not required to pass through such rights with respect to investments other than employer securities, section 404(c) relief is not available to plan fiduciaries for decisions relating to using securities (including a decision to not vote) unless the plan passes voting rights to participants. If voting rights are passed through, participants must also receive: • materials provided to the plan related to the exercise of voting, tender, or similar rights with respect to such investment; and • a description of, or reference to, relevant plan provisions.
12. Do the fiduciaries provide the following information on a timely basis upon request? • Copies of any prospectuses, financial statements, reports or other materials relating to the investment alternatives that are provided to the plan. • The value of shares or units of designated investment alternatives, as well as past and current investment performance. • The value of shares or units in designated investment alternatives held in the account of a participant.	○	○	○	This is required by the DOL regulations under ERISA §404 for all participant directed plans regardless of the plan's status as a 404(c) plan. See 29 C.F.R. 2550.404(a)(5).
13. Does the plan have at least three designated investment alternatives?	○	○	○	ERISA requires that these three "core" investment alternatives must each be diversified, have materially different risk and return characteristics from the other "core" alternatives, enable the participant to achieve a portfolio with appropriate risk and return characteristics, and when combined, the core alternatives tend to minimize, through diversification, the overall risk of loss. Plans may, and often do, designate more than three investment alternatives.
14. Do the designated alternatives cover sufficient asset classes to permit participants to properly diversify their accounts?	○	○	○	This is required by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. §2550.404(c)(1).
15. Are participants permitted to make transfers among investment alternatives with appropriate frequency?	○	○	○	This is required by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. While there are general and specific "volatility" rules under ERISA § 404(c), the rules generally require transfers to be allowed at least quarterly, and more frequently if required by the volatility of the investment alternative. See 29 C.F.R. §2550.404(c)(1).

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16. Are participants provided with sufficient information to permit informed investment decision-making?	○	○	○	This is required by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. §2550.404c-1. It is generally understood that following the specific disclosure requirements under the 404(c) regulations meets this requirement, but additional disclosure may be necessary if there is a material change in that information or information that is important to informed decision-making was not disclosed. This is also required by the DOL regulations under ERISA §404for all participant directed plans regardless of the plan's status as a 404(c) plan. See 29 C.F.R. 2550.404(a)(5).
17. Does the plan offer employer securities as an investment option? (If not, skip questions 19 through 23)	○	○	○	This is not required. ERISA §407 provides detailed requirements applicable to plans that offer employer securities as an investment option. Failure to meet these requirements could result in a prohibited transaction and fiduciary breach. If you have questions about the application of ERISA §407 to your plan, please consult your legal advisor. ERISA §404(c) also includes detailed requirements applicable to employer securities in order for the fiduciary protections of ERISA §404(c) to apply to the employer security investment option.
18. Are they either publicly traded or traded with sufficient frequency to permit prompt execution of investment instructions?	○	○	○	This is required for plans that allow participants to invest in employer securities by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. §2550.404c-1.
19. Are participants given all information provided to shareholders?	○	○	○	This is required for plans that allow participants to invest in employer securities by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. §2550.404c-1.
20. Are all voting tender and similar rights passed through to the participants?	○	○	○	This is required for plans that allow participants to invest in employer securities by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. §2550.404c-1.
21. Do participants receive a description of the procedures established to provide for confidentiality of information relating to the purchase, holding and sale of employer securities, and the exercise of voting, tender and similar rights, by participants, and the name, address and phone number of the plan fiduciary responsible for monitoring compliance with the procedures?	○	○	○	This is required for plans that allow participants to invest in employer securities by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. §2550.404c-1.
22. Are participants given a description of the procedures for maintaining confidentiality of transactions with respect to employer securities, if offered by the plan?	○	○	○	This is required for plans that allow participants to invest in employer securities by the DOL regulations under ERISA §404(c) in order to obtain the protection of that section. See 29 C.F.R. §2550.404c-1.

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