

Hicks Pension Services

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Plan Document and Design

- Does your plan have an IRS-approved document in place and is the document up-to-date for recent law changes?
- Has your plan been designed with the assistance of a competent professional so it is customized to help meet the needs of your company?

Plan Document and Design

- Does your plan have an up-to-date summary plan description (SPD) and have you distributed the SPD to participants at the times required by law?
- If you have any workers (including independent contractors or temporary employees) at your company who are not covered under the plan, does your plan document specifically exclude them from participation?

Plan Document and Design

- If you, your family or your company have ownership rights in any other businesses, have you received advice concerning the possible consequences to your plan?

Plan Fiduciaries

- Are the plan fiduciaries (e.g., plan committee, trustees, officers and owners) aware they are fiduciaries and have they been informed of their responsibilities under ERISA?
- Do the plan committee and other fiduciaries meet at least annually?

Plan Fiduciaries

- Is a due diligence file maintained with the notes, minutes, agenda, background information and supporting documentation for plan and investment decisions made at the fiduciary meetings?

Plan Fiduciaries

- Have the plan fiduciaries reviewed the costs associated with the plan? Do they understand the services provided by the following various parties and find their value reasonable and appropriate?
 - (a) Product provider
 - (b) Investment professional
 - (c) Mutual fund companies (regarding the underlying mutual fund expenses)
 - (d) Plan administrator
 - (e) Other advisors and consultants, as utilized

Plan Fiduciaries

- Do the plan fiduciaries ensure the plan collects and invests the employee deferrals as timely as possible?
- Is your plan covered by a fidelity bond of at least 10% of plan assets (up to \$500,000) and does the bond cover plan fiduciaries as well as other employees or third parties that handle or have access to plan assets?

Plan Fiduciaries

- Are the plan fiduciaries covered by fiduciary liability insurance to protect business and personal assets?

Plan Investments

- Does your plan have investments in at least the following investment categories so that participants may invest in a “broad range” of funds?
 - (a) Stable value investment, guaranteed investment contract (GIC) or money market
 - b) U.S. government or corporate bonds;
 - (c) Large-cap U.S. equities;
 - (d) Mid/small-cap U.S. equities;
 - (e) International or global equities

Plan Investments

- Does your plan have a written investment policy statement?
- Have the plan fiduciaries reviewed the plan's investments in the last 12 months? Was each investment compared to its peer group and the appropriate index for performance over periods of 1,3,5, and 10 years?

Plan Investments

- Do you have a procedure (and acted upon it, when necessary) for replacing an investment within the plan, or placing it on “watch,” because of its under performance or other failure to satisfy the investment policy statement?

Plan Investments

- Does your plan minimize overlap of similar stock holdings among investment options by offering options from more than one investment management company?
- Are you not limited in your ability to select superior funds because your investment provider limits the number of funds from other providers?

Plan Investments

- Does your plan provide employee enrollment programs explaining the importance of participation in the plan, investing for retirement, and investment basics?
- Does your plan provide ongoing employee investment education materials and/or programs?

Plan Investments

- Does your plan provide lifestyle funds target maturity or asset allocation models for employees who lack the investment knowledge to evaluate and select individual investment options and allocate their accounts among them?

Plan Investments

- If your plan intends to obtain the fiduciary protections available under ERISA Section 404(c), does the SPD or a written notice to participants provide the following disclosures:
 - (a) Participants will be able to direct their investments;
 - (b) The plan intends to comply with 404(c) and plan fiduciaries may be relieved of liability for losses; and
 - (c) The name, address and phone number of the 404(c) plan fiduciary responsible for providing information upon request and for receiving and complying with

Plan Investments

- Does the Form 5500 indicate your plan intends to comply with ERISA 404(c) requirements?

Filing Requirements

- Are you filing Form 5500?
- Is your plan subject to an independent audit?

Review of FIDUCIARY DUTIES

- Defraying reasonable expenses of administering the plan
- Acting solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them
- Diversifying the investments of the plan so as to minimize the risk of large losses

Review of FIDUCIARY DUTIES

- With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims
- Documentation

Other Fiduciary Considerations

□ **Fee-leveling**

The fee-leveling exemption says the fiduciary advisor can accept compensation for investment advice so long as compensation does not vary depending upon the investment option selected by the plan participant.



Other Fiduciary Considerations

□ **Investment Advice:**

ERISA's fiduciary rules are amended to encourage more employers to provide investment advice to 401(k) plan participants

The Act requires plan sponsors to ensure that the fiduciary adviser contractually agrees to comply with ERISA requirements imposed on fiduciary advisers and that the fiduciary adviser acknowledges in writing it is a fiduciary providing investment advice



Disclosure Requirements

□ **Benefit Statements**

For sponsors of plans with participant-directed investment options, quarterly account statements must be provided that include more information on the importance of diversification

□ **Diversification Notice**

To enhance the diversification rights, notices must be provided to plan participants at least 30 days before they are eligible to exercise these rights. The notice must describe the diversification rights and importance of diversification



Disclosure Requirements

- Service Provider Rules (ERISA 408(b)(2))
The final rule extends the date of Service Provider Fee Disclosure to **July 1, 2012**.
- Participant Disclosure Rules (ERISA 404(a))
Initial disclosure of plan-level and investment-level information must now be distributed no later than **August 30, 2012**.
The first quarterly statement under the new rules must be furnished no later than **November 14, 2012**.





THANK YOU