



In recent years, significant changes have occurred in regard to the management and oversight of a qualified plan. These changes create a great opportunity to call plan sponsors to discuss the impact of these regulations on their plan. The questions below can assist plan sponsors in evaluating potential improvements in the governance of their qualified plan.

**List of regulatory changes:**

- Plan sponsor documentation to comply with 408(b)(2) disclosure regulations
- 404(a)(5) Annual participant fee disclosure – distributed annually
- New loan regulations
- New hardship regulations
- The impact of *Tibble v. Edison* on investment committee decisions and monitoring procedures

**Questions to discover potential fiduciary breach:**

1. Who is the named fiduciary in the plan document?
2. Does anyone meet regularly and make decisions affecting the plan's administration?
3. Is the committee or person making administrative and investment decisions officially appointed by the board of directors?
4. If the plan sponsor has delegated the fiduciary duties to a third party, does the plan document permit a delegation of authority, if so, has the delegation been documented properly?

**Questions to evaluate administrative procedures to prevent an operational defect:**

1. Has the plan document been compared to the summary plan description to determine any inconsistencies?
2. Are plan features able to be administered by the plan sponsor's staff, ie, automatic enrollment?
2. How is employee eligibility determined, and who is responsible for this determination?
3. How are years of service determined for eligibility, vesting, and benefit accrual purposes, and who is responsible for this determination?
4. Is the definition of compensation in the plan document being provided to the third-party administrator correctly?
5. Is there documentation documenting the plan is complying with the Internal Revenue Code, ERISA, and the Plan Documents?