



## 2018 New Year's Resolutions

Retirement plans are complex and the Department of Labor has made them their focus over the past several years, specifically Fiduciary Guidelines and Standards. The media may play a part in influencing your decisions related to your retirement plan. Advisors make recommendations affecting the retirement plan. However, they are not legally responsible for the plan. *You are!* Sometimes the simple details relating to plan compliance and operations get lost in the shuffle. Regulations require you to be in control and responsible. The government starts with you when things go astray, not the hired professionals.

**Here are five resolutions to help you, the plan sponsor, get a handle on important compliance issues:**

- 1. I will review the documents sent by my service providers** (investment company, financial advisors, TPA, etc.) before we send them out to our participants. Plan notices and communications are a minefield. It is your legal responsibility for these documents. While your service providers assist you in their preparation, the documentation needs to contain specific information and describe your plan accurately. Don't assume what you were sent is correct. We live in a litigious society. You can be sued by a disgruntled employee who might believe he was promised benefits in error because your communications were incorrect.
- 2. I will understand the provisions of my plan.** One of the most common plan mistakes, according to the IRS, is failure to use the correct definition of compensation in calculating contributions. Whether you use W-2 compensation or some other basic definition, and whether overtime and bonuses count, will be clearly stated in your plan document. If you don't understand the plan provisions, ask us or another adviser. Each year ABA provides a review of your plan in our Annual Plan Review document. It explains many features specific to your plan. Your plan document and the Annual Plan Review will also specify important rules about who qualifies for benefits, when forfeitures occur, and how to handle the forfeitures. You need to know these rules to administer the plan properly.
- 3. I will consult with our advisers when I need them.** Running even a small plan is a complicated matter. It is difficult for company fiduciaries to develop the expertise to handle plan investments or understand new regulations. Every plan should have a knowledgeable investment advisor, an ERISA attorney, a CPA who is familiar with ERISA matters, and, of course a TPA. Fiduciaries can be personally liable for losses caused by a breach of responsibility. Failure to hire professionals to assist you and utilize their services is penny-wise and pound foolish.
- 4. I will know the deadlines for taking important actions.** If a 401(k) or 403(b) plan fails to distribute excess contributions within 2½ months following the end of the plan year, or otherwise correct the failure, an excise tax must be paid. If the excess contributions remain uncorrected after the end of the following year, a plan can be disqualified. Employee deferrals and participant loan payments must be deposited EVERY pay period. These examples of missing a deadline can cause big problems. If you know the deadlines, you can prepare in advance to meet them.
- 5. I will document our plan decisions.** Plan decisions aren't reviewed with 20-20 hindsight. Follow a prudent process at all times to fulfill your responsibilities. You can't prove that you followed a prudent process if you fail to document the actions. Memories can falter, staff and advisers change. If your plan is audited or you are sued, there is no better defense than a written record of a good decision-making process. ABA provides you with tools and documentation to assist in fulfilling your fiduciary duties. Review and understand them.