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February 2015
National Edition
Volume 9 Issue 1

Consulting Offices:
Omaha, Nebraska
Albuquerque, New Mexico
Gainesville, Florida

Regional Consulting and Administrative Office:
Tucson, Arizona

Ask Kidder.

Is your plan in the DOL's crosshairs?

The Department of Labor (DOL) has a very good track record when it comes to enforcing its regulations – and it's enforcement efforts are growing! In 2014, the DOL's Employee Benefits Security Administration conducted more than 3,900 civil investigations, with nearly 66% of the reviews resulting in sanctions. All told, nearly $600 million in fines, penalties and assets were collected during the year.

How can you protect yourself and your plan?

Rule No. 1: Focus on compliance. Rule No. 2: See Rule No. 1.

If you are a plan sponsor or plan fiduciary, you have the ultimate responsibility for plan compliance. While it's often prudent to outsource certain plan functions – including compliance – to third-parties, outsourcing does not necessarily remove your fiduciary liability. In fact, many of the DOL's recoveries relate to functions that are not or cannot be delegated. Simply put, using service providers doesn't relieve you from the responsibility to monitor service quality. Protect yourself by being vigilant. Identify and apply best practices that result in consistent procedures and decision-making processes.

If you have an existing compliance concern, Kidder's DOL Resolution Team may be able to help. The DOL provides an array of voluntary correction programs for situations of non-compliance. By helping you take advantage of these programs, we may be able to resolve important issues prior to a DOL audit, thereby reducing your potential liabilities.

What is the DOL looking at in 2015?

The DOL has always focused on document, administration and operational compliance. Now they're beginning to also look at the 408(b)(2) fee and service disclosures that TPAs, recordkeeping platforms, mutual funds, auditors and other plan vendors must provide to the plan sponsor. To assure compliance, sources report that the DOL is requesting copies of written contracts and plan-related minutes, such as from a Board of Directors or fiduciary committee, as part of their audit process.

What should you be thinking about?

Do you have a compliant fiduciary decision-making process?
Are there policies in place that are consistently applied and documented to support investment and fiduciary decisions? Do you have an assigned decision-making group that meets regularly, at least once or twice per year, to discuss Investment due diligence and administrative issues? Are minutes taken at these meetings?

Are plan vendors' fee and service arrangements reasonable?
According to ERISA 408(b)(2), providing disclosures is only the first step in determining what is "reasonable." Plan sponsors and fiduciaries are also required to *review and compare* fees and services. By providing access to national fee and benchmarking services, Kidder can assist you in satisfying this fiduciary responsibility. Keep in mind that "reasonable" does not necessarily mean lowest cost. "Reasonable" means receiving appropriate value for what you are paying. It is a combination of a tangible number, tangible results achieved and fiduciary comfort (an intangible).

Are there any conflicts of interest?
Do the plan fiduciaries, plan sponsor or a service provider benefit to the detriment of the plan participants? In order to provide for proper plan functioning, there are many allowable exceptions to the conflict rules. Still, the DOL, the SEC, Congress and even the White House are focused on expanding the definition of fiduciary with a goal of increased protection for plan participants. If you are a plan fiduciary, your legal responsibilities have significantly grown. A conflict of interest can create a prohibited transaction, subjecting the plan and the party involved with civil and possible criminal penalties.

To help plan sponsors and fiduciaries satisfy their growing fiduciary responsibilities, Kidder has introduced a comprehensive suite of plan level fiduciary services – including acting as co-fiduciary. With our long and successful history in the qualified plan space, we are uniquely positioned to provide fiduciary support beyond the scope of most other providers. For more information, please visit with your Kidder Consultant or Primary Administrator.

Kidder Expands into Florida

Kidder is pleased to introduce our new Consulting Office in Gainesville, Florida. The office is headed by Elio Chiarelli, Jr., M.S., AIF®. As Regional Pension Consultant, Elio will be covering Florida and the southeastern United States, working with 401k, Defined Benefit, Cash Balance and ESOP clients.