



Retirement Plan Sponsors Held Personally Liable for Failure to Comply

The IRS and U.S. Department of Labor (DOL) have dramatically increased their audits of qualified retirement plans for compliance with the Employee Retirement Income Security Act (ERISA). A recent survey found that one in three employers had their retirement plans audited by the federal government over the past two years.¹ *With the government's ramped up focus and efforts, it is likely that a company's retirement plan will receive an audit in the near future.*

If you are a C-level executive, head of Human Resources, or serve on a pension or retirement committee you should read this:

- Has your retirement plan been running on a "set-it-and-forget-it" basis?
- Are you 100% sure that all required legal documents are up-to-date and in-sync with plan operations?
- Has your company acquired or merged with any organizations with their own retirement plans?
- Do you know how the plan is being governed internally?
- Are you aware that as fiduciary of the plan you can be held personally liable for any negligence regarding the administration of your plan?
- Does your 401(k) plan offer only the lowest-cost mutual funds available?

If you are unsure of the answer to any of the above, now is the time to do an assessment of your plan.

A Plan Assessment Will Reduce Your Risks

Plan fiduciaries may be held personally liable for all plan losses incurred due to violations. Non-compliance with ERISA can not only lead to fines and penalties (ranging from \$100 to \$2,063 per day and up to \$28 per employee) but also plan disqualification and exposure to potential lawsuits from current and former employees.²

It is always less costly to correct any inconsistencies in the plan or ensure it is operating in compliance with ERISA by having an independent expert perform a review, rather than following discovery in a government audit. Chernoff Diamond's experienced audit professionals will determine if all operations are ERISA compliant, make recommendations, advise you on governance best practices and create action items to fill in any gaps in your risk management strategy. Our independent consultants will help manage the potential risk of disqualification by conducting a plan assessment and documenting your procedures and internal controls in a comprehensive administration manual. For more information or for a complementary assessment of your plan, please call Retirement Plan Services at (516) 683-6100.

¹Highlights from the [2016 Willis Towers Watson U.S. Retirement Plan Governance Survey](#)

²US DOL EBSA Fact Sheet, "[Interim Final Rule Adjusting ERISA Civil Monetary Penalties for Inflation](#)"

³Penalty cost per distribution

⁴Penalty cost per day

⁵Penalty cost per participant

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