



November 3, 2017

At Hedman Partners, we believe that keeping our clients prepared for what the future may hold is part of what makes our firm stand out above the rest. We pride ourselves in keeping informed of future hot topics and issues that directly affect you and your employee benefit plans. Employee benefit plans especially can be an area of scrutiny given the multiple agencies that plan sponsors have to comply with. In addition, the fiduciary nature of running a plan lends all parties involved, from the plan sponsor to the plan broker to the plan auditor, to a higher level of responsibility. We hope the following topics provide you with an increased awareness of issues that may be affecting your plan.

## **1. Cybersecurity and Plan Operations**

We all know that one employee that uses “password” as their password. If only our cyber way of life was so simple. Protecting employee information is a significant concern for the Department of Labor. In 2016, the ERISA Advisory Council released a report titled “Cybersecurity Considerations for Benefit Plans” in order to assist plan sponsors in identifying and protecting themselves against cyber security threats. Another tool that is provided to plan sponsors is the SOC 1 report that most plan service providers prepare and provide with the annual audit package. Plan sponsors should be reviewing these reports when they are provided to ensure that the controls and procedures related to their service providers are sufficiently operating. One common misconception is that since the service provider is the party holding the assets and providing recordkeeping services, they must be the party responsible for maintaining security of employee information. However, ERISA law and many state laws, along with the IRS and the DOL, have clear requirements that the plan administrator must take “appropriate and necessary measures reasonably calculated to ensure that the electronic delivery service protects the confidentiality of personal information”. Do you have a clear understanding of your plan’s cyber security threats and available measures to thwart attacks? Do you have cybersecurity insurance in the event of an actual attack? If your answer to either of these questions is no, then it is time to start that process.

## **2. The Importance of Documenting Your Plan Expenses**

Do you know how much your plan service providers cost and what they are actually charging for? Do you know who is paying for these costs? Why are you choosing the plan service providers and investments you currently have? Many times we hear from our clients that there are no plan expenses, or that there might just be some expenses paid directly by the participants only. Wouldn’t it be nice to live in a world where we could actually get something for nothing? The fact is that many plan related fees are often hidden. Plan expenses can be netted against unrealized gains and losses in the recordkeeping. Even with the expanded Form 5500 Schedule C reporting requirements, many plan sponsors have a difficult time understanding the types and amounts of these fees. The 408(b)(2) regulations do not require any specific documentation of plan fees, but having a written plan fee policy and guidelines in order to better understand your plan fees, as well as documenting how you monitor them, is a good best practice. In addition, benchmarking these fees is a requirement, and the documentation of that process should also be included in your written plan fee policy.

November 1, 2017

Page Two

### **3. Separated But Not Gone**

Within the last year, the DOL initiated a pilot program reviewing Form 5500 of defined benefit plans due to the fact they noted a significant amount of participants were separated but vested. Upon their inquiry to the plan sponsors, they were noted as being “missing”, however the DOL was able to contact the majority of them with their last address on file. This has prompted the program to be expanded to a national program with speculations that other benefit plans, such as 401(k) plans, will also be included. The ultimate fiduciary responsibility of a plan sponsor and plan administrator is the distribution of plan assets to the participant or beneficiaries. The DOL has documented “minimum” steps in their Field Assistance Bulletin No. 2014-01 that must be taken specifically if a plan has terminated, however, with the new program in place we can safely assume they would expect these steps in the case of any plan. The DOL does have the ability to treat the failure to properly identify “missing” participants and distribute plan assets to them as a breach of fiduciary duty which may result in significant penalties. Once again, developing a written policy to identify separated participants along with the process to distribute plan assets is another best practice we recommend.

Protecting the plan assets of retirement plans for participants is always going to be the objective of the IRS and the DOL. Holding plan sponsors accountable is becoming more and more complex with new regulations and enforcement initiatives of these agencies. At Hedman Partners, our experienced and knowledgeable team has developed effective and efficient procedures for reviewing plan controls and procedures. We are always available to answer any questions or to help implement controls for your plan operations. Please feel free to give us a call if you have any questions regarding the deficiencies noted above or have questions related to your plan.

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