

MCM



DO YOU NEED A PLAN AUDIT?

The annual Form 5500 filing for a qualified retirement plan generally must include audited financial statements for the plan. However, the U.S. Department of Labor (DOL) exempts a small retirement plan from the general audit requirement under certain conditions.

Definition of a Small Plan

Plans with fewer than 100 participants at the beginning of the plan year are eligible for the audit waiver if they meet specific requirements. In addition, a plan that has between 80 and 120 covered participants at the beginning of the plan year that filed a small plan annual report for the previous year may elect to continue to file as a small plan.

Covered participants generally include active plan participants and beneficiaries; employees who were eligible to participate in the plan as of the beginning of the plan year, even if they don't contribute to the plan; and terminated participants who have plan account balances.

Other Waiver Requirements

In addition, a plan has to meet three other basic requirements to be eligible for the audit waiver:

- As of the last day of the preceding plan year, at least 95% of the plan's assets must be "qualifying plan assets." If less than 95% are qualifying plan assets, any person who handles nonqualifying assets must be bonded in an amount at least equal to their value.
- The plan must include certain information in the Summary Annual Report (SAR) furnished to participants and beneficiaries in addition to the usual required information.
- The plan administrator must furnish, without charge, copies of statements the plan receives from financial institutions holding or issuing the plan's qualifying plan assets to any participant or beneficiary who requests the information. In addition, the administrator must provide participants evidence of any required fidelity bond, upon request.

Check with us if you have questions about plan audit requirements or the waiver.

Qualified Plan Newsletter

Second Quarter 2010

JUNE 2010 CAPITAL MARKETS REVIEW

INDEX	PERIOD ENDING JUNE 30, 2010			
	QRT	1 YEAR	5 YEAR	10 YEAR
S&P 500 Index	(11.43%)	14.43%	(0.79%)	(1.59%)
Russell 2000 Index	(9.92%)	21.49%	0.37%	3.00%
MSCI World Ex U.S.	(13.63%)	7.03%	1.48%	0.56%
90 Day U.S. Treasury Bills	0.04%	0.13%	2.68%	2.58%

All referenced indices are unmanaged and not available for direct investment. Past performance is not a guarantee of future results.

The US stock market retreated during the second quarter of 2010 as concerns of a contagion effect from the Euro Zone debt crisis and the uncertainty regarding the speed of the recovery within the US, caused investors to take profits and seek safety of principal. While GDP and corporate profit growth have shown positive signs, unemployment numbers remained historically high and resulted in a significant decline in consumer confidence in June. Furthermore, housing related indicators remained mixed with little indication of when the market will begin to strengthen.

International equity market performance was primarily dictated by the Euro Zone debt crisis and the associated impact on the viability of the euro as a benchmark currency. During the quarter, the International Monetary Fund and European Union pledged \$750 billion to stave off the possibility of default by any European Union member nations, while Greece, Spain, and Portugal each introduced austerity measures to address their respective fiscal conditions. Investors, however, remained skeptical particularly as Greece's debt was downgraded to below-investment-grade status in the quarter.

In aggregate, emerging market countries, experienced smaller losses than the developed markets in the quarter as investors continued to view these economies as being better positioned to lead a global recovery.

Driven by the Euro Zone crisis, the value of the US dollar strengthened versus most major currencies during the quarter, with the notable exception of the Japanese yen.

The aggregate US fixed income market earned a favorable absolute return in the quarter aided by a flight to safety that translated into long-term Treasury returns earning double digit positive returns. High-quality corporate debt also earned positive returns in the quarter as improved corporate profitability and the continued strengthening of balance sheets led to tighter credit spreads.

The US Federal Reserve continued its policy commitment toward monetary stimulus and maintained the target Fed Funds rate at the historically low range of 0% to 0.25% with language implying that the target could remain at this level for an extended period of time. —M Financial Wealth Management

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THE NEED FOR AN INVESTMENT POLICY STATEMENT

Pension law (ERISA) doesn't specifically require a plan sponsor to have a written investment policy statement (IPS). But almost 85% of 401(k) plans do. That's up from about 55% in 1999.* What's behind this increase? One possibility is that more plans are opting for ERISA Section 404(c) fiduciary liability protection.

Section 404(c) offers employers and other plan fiduciaries a means of shielding themselves from liability for losses that may result when employees exercise control over the investment of their plan accounts. An IPS that addresses the selection of plan investment managers and details how their actions will be supervised can help document that an employer is meeting its fiduciary responsibilities and 404(c) compliance requirements.

General Guidance

An IPS provides general instructions regarding various types of investment management decisions. It also provides a way for an employer to make broad decisions concerning investments, set investment goals, and communicate the policy to employees. Without a prudent investment policy, the plan sponsor could be legally liable for poor

investment results. A written investment policy statement is documentary evidence that a prudent policy exists.

What To Include

While investment policies differ from plan to plan, most include the following.

A *Mission Statement* outlining in broad terms the investment policy goals, general guidelines for the plan trustee, investment committee, and plan administrator, and the reasons for having these goals and guidelines. Some investment policy statements include specific criteria for selecting investment managers.

Policy Specifics detailing the types of investments available under the plan, the investment objective of each, the acceptable levels of risk the manager may take, and any appropriate asset allocation guidelines. If an employer is seeking liability protection under Section 404(c), generally, the plan must offer at least three diversified investment options with materially different risk and return characteristics. An IPS can include guidelines for ensuring employees have adequate investment choice for the plan to meet 404(c) requirements and for employees to build sufficient retirement assets.

Policy Monitoring Procedures to be used to monitor the plan's investment performance. The IPS should include a specific schedule for reviewing the plan's investment selections, its overall policy, and investment manager performance. Reviews should be conducted at least annually and the findings should be documented. The IPS also should include procedures for replacing plan investments and investment managers.

Self-directed Plans

Plans that allow participants to direct their own investments should consider specifying:

- How employees can exercise control over the assets in their plan accounts. A 404(c) plan generally must allow employees to give investment instructions at least quarterly and provide participants with specific investment information.
- Benchmarks for measuring investment performance and the procedures for monitoring and evaluating performance.

** 43rd and 52nd Annual Survey of Profit Sharing and 401(k) Plans, Profit Sharing/401(k) Council of America (PSCA). A model investment policy statement is available from PSCA online at www.psc.org.*

GUIDANCE FOR DEPOSITING PLAN CONTRIBUTIONS

The Department of Labor's (DOL's) final "safe harbor" deposit deadline regulations for plans with 100 participants or less provides plan sponsors with guidance with regards to how quickly they must deposit participant contributions and loan repayments into the plan. These guidelines apply to welfare benefit plans including 401(k), Salary Plans (SAR-SEPs), and Savings Incentive Match Plans (SIMPLE) IRAs.

What the Regulations Say

The final regulations say that participant contributions and loan repayments will be treated as being made in a timely manner if they are deposited with the plan no later than the seventh business day following the date they are received by the employer.

For amounts withheld from wages, it's the seventh business day following the date the amount would otherwise have been payable to the participant in cash. The DOL will regard amounts as deposited if they are placed in an account of the plan. Allocation among the participants on that date is not necessary.

Generally, employers may meet their obligation to deposit participant contributions in a timely manner by transferring participant contributions into retirement plans by the earliest date on which these contributions can reasonably be segregated from the employer's general assets.

A word of caution: Determining the "earliest date" is not always a simple matter. Thus, small plan sponsors that can take advantage of the seven-day safe harbor should strongly consider doing so.

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