Key Updates for Your Employee Benefit Plans

Table of Contents

Hot topics 3

Other accounting and auditing matters 8

Strong practices for plan management 11

How we can help 19

©2024 CliftonLarsonAllen LLP

HOT TOPICS

2023 Form 5500 changes

In February 2023, the IRS, Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) announced their annual revisions to the 2023 Form 5500 Series to be used by employee benefit plans with plan years beginning on or after January 1, 2023.

Some of the most significant changes are:

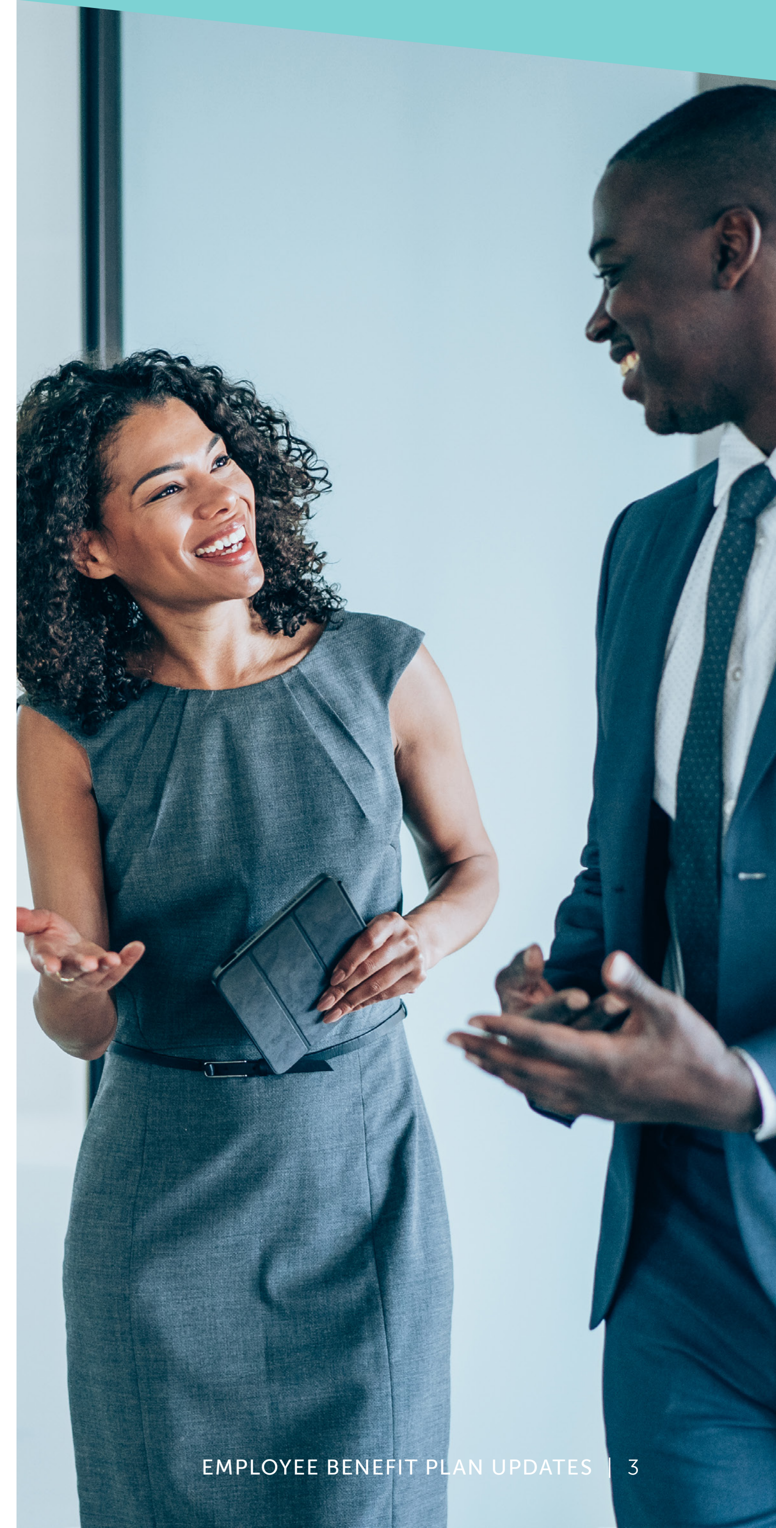
Participant count methodology

Prior to the new changes, an individual was considered a plan participant if they were actively employed and eligible to participate in the plan, regardless of whether they contributed. Under the new methodology, only employees with an account balance are considered a participant. This is likely the most impactful change for many plan administrators.

This change will likely result in a significant number of plans falling below the 100-participant threshold for large plan filers, enabling them to file as a small filer using Form 5500-SF — which includes a waiver of the independent audit requirement. The change was implemented to alleviate the administrative and financial burden to smaller plan sponsors.

New schedules

The 2023 Form 5500 includes new schedules for multiple employer plans and defined contribution groups, appropriately named Schedule MEP and Schedule DCG, respectively. Schedule MEP consolidates and regulates information related to multiple employer plans and Schedule DCG simplifies the filing requirements for defined contribution groups by allowing sponsors to file only one consolidated Form 5500 at the overall plan level.



©2024 CliftonLarsonAllen LLP

Updates to existing schedules

The new form includes changes to existing Schedules SB and MB as well as Schedule R associated with defined benefit plan reporting. These enhancements will provide the PBGC with information related to funding and other compliance and financial aspects of the plan. Schedule H of Form 5500 will have its administrative expenses section expanded to further detail the breakdown of expenses paid out of plan assets to continuously improve on fee transparency.

The IRS has also added compliance questions to various schedules throughout the Form 5500 series to gather specific information about the plan. Most notably, new questions surrounding nondiscrimination testing and the adoption of plan documents and related amendments will now be included. The IRS intends to use this information to identify compliance matters and for data mining.

Secure 2.0 Act

In December 2022, President Biden signed into law SECURE 2.0 Act of 2022, intended to supplement and build on the original Setting Every Community Up for Retirement (SECURE) Act of 2019, which included sweeping changes intended to enhance and protect retirement security.

Some of the most significant provisions of this new legislation include:

- Requiring most employers to automatically enroll employees in their retirement plan at a rate of at least 3%, but no more than 10% for any plans established after December 29, 2022. After the first year, the default automatic enrollment rate must increase by a minimum of 1% annually, to at least 10%, but no more than 15%. Employees can opt out of these provisions if they choose. Employers of newly established plans must adopt these provisions for plan years beginning after December 31, 2024.
- Increasing the age required minimum distributions (RMDs) start from 72 to 73 in 2023 and then to 75 by 2033.

©2024 CliftonLarsonAllen LLP

- Establishing an enhanced catch-up contribution for people between 60 and 63. Under previous law, retirement plan participants over 50 could contribute an additional $6,500 per year in 2022 (increasing to $7,500 in 2023). Starting in 2025, employees between 60 and 63 can make a catch-up contribution equal to the greater of $10,000 or 150% of the standard catch-up contribution. These amounts are subject to inflation adjustments annually, similar to other contribution limits.
- Requiring employees who earn $145,000 or more (indexed for inflation) to have their catch-up contributions sourced as Roth contributions, as opposed to pre-tax. This provision was supposed to start in 2024 but was changed to 2026 in accordance with IRS Notice 2023-62.
- Allowing employers to add a provision to their plan document to make matching contributions on behalf of their employees making student loan repayments, instead of matching retirement plan contributions. These changes are effective for plan years beginning after December 31, 2023.
- Providing an option for employees to elect employer matching or nonelective contributions to be Roth contributions, provided such employer contributions are nonforfeitable.
- Requiring plan sponsors who employ part-time employees who work between 500 and 999 hours annually to become eligible to participate in the company's retirement plan after no more than two consecutive years. The current waiting period is three years. These changes are effective for plan years beginning after December 31, 2024.
- Allowing penalty-free access to retirement accounts for qualifying emergencies, up to $1,000 annually, starting in 2024. Participants are allowed to repay these amounts within three years from the distribution date.

Other new changes include increasing incentives and credits for small businesses to offer retirement plans, allowing 403(b) plan sponsors to join multiple employer plans, enhancing the saver's credit, reducing excise tax penalties for failing to take RMDs, and establishing penalty-free withdrawals for victims of domestic abuse.

©2024 CliftonLarsonAllen LLP

New audit standards

Effective for periods ending on or after December 15, 2023, the American Institute of Certified Public Accountants (AICPA) issued statements on auditing standards (SAS) 143-145. The new standards come from continued changes in international accounting standards, observations from AICPA peer reviews, and need for standards modernization. The new standards are:

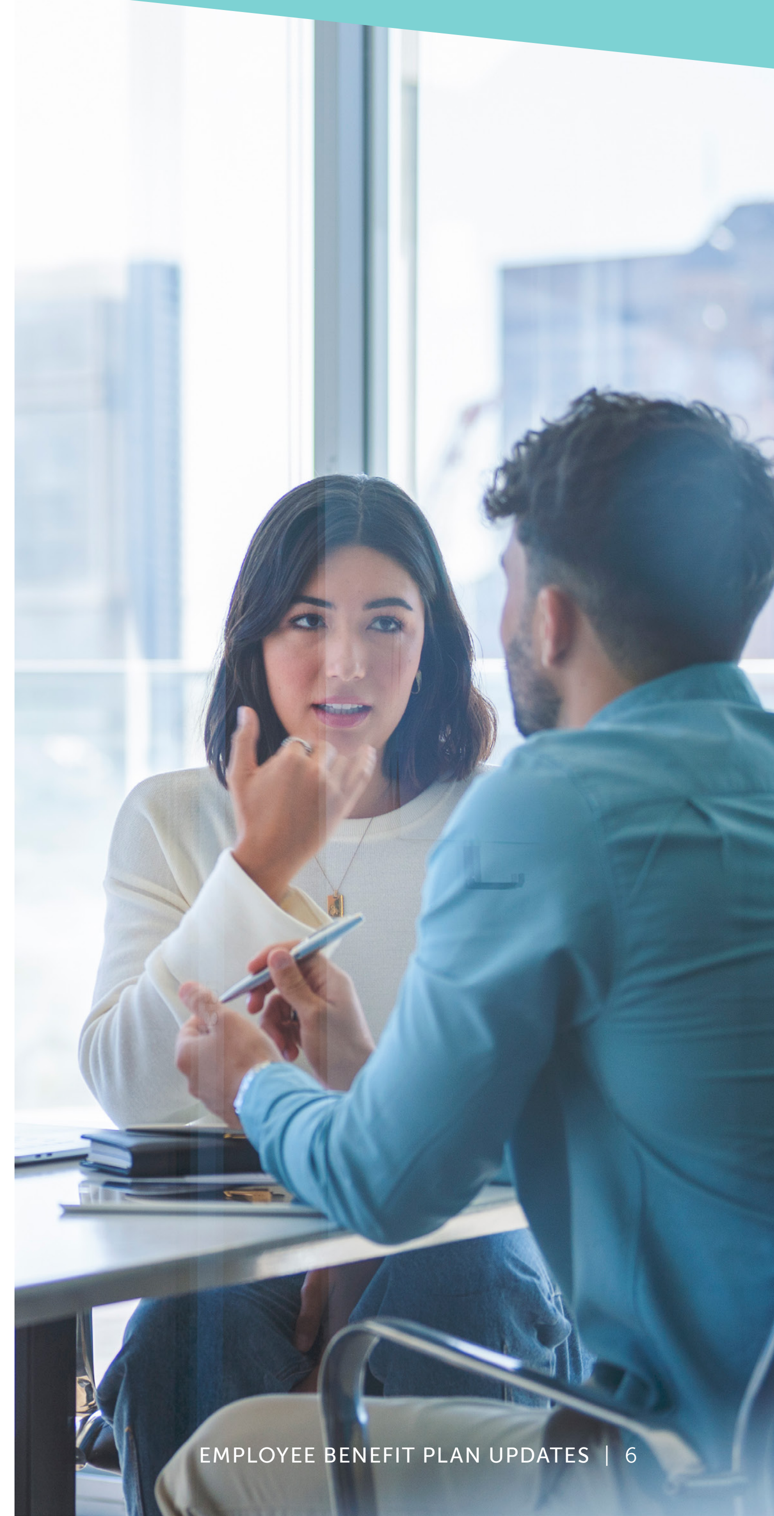
SAS 143, auditing accounting estimates and related disclosures

Clarifies the auditor's responsibilities regarding auditing accounting estimates. The standard provides guidance on whether, based on evaluation of estimates, further specialized knowledge is required (SAS 144). The standard requires the auditor to separately assess inherent risk and control risk related to accounting estimates to determine the risk of material misstatement.

Plan management can expect audit procedures and inquiries based on forming additional understanding of the plan, system, and internal control in order to assess estimates and understand the underlying data, methodology, and assumptions used in estimating. This could apply to fair value accounting estimates in employee benefit plans.

SAS 144, amendments to AU-C sections 501, 540, and 620 related to the use of specialists and the use of pricing information obtained from external information sources

The changes in SAS 144 mostly impact the auditor determination of whether an internal or external specialist is needed. Employee benefit plans with complex investments may expect to see additional use of specialists because of estimation and necessary specialists needed because of SAS 143-144.



©2024 CliftonLarsonAllen LLP

SAS 145, understanding the entity and its environment and assessing the risks of material misstatement

SAS 145 supersedes a prior SAS regarding understanding the entity, its environment, and assessing the risks of material misstatement. Concepts under SAS 145 have not fundamentally changed, instead it clarifies and enhances aspects of the identification and assessment of the risks of material misstatement.

It revises the definition of significant risks to focus on the inherent risk assessment as well as an overall holistic look at the risk assessment and audit response, focusing on risks arising from the use of information technology (IT) (which includes applications, infrastructure, processes, and personnel). The new standard focuses on enhanced and specific risk assessments as a driver of audit quality, with concise focus on understanding the entity and its environment, IT, and the system of internal control, and how this understanding funnels into specific risk assessment, driving the audit response.

SAS 143-145 will have a significant impact on audits on or after December 15, 2023, as they provide clarification and focus to increase audit quality based on modernized auditing standards.

New contribution limits

In November 2023, the IRS released the 2024 contribution and income limits for retirement accounts. These limits typically increase annually to reflect cost-of-living adjustments.

	2024	2023	2022
Defined contribution limits			
Employee deferrals	$ 23,000	$ 22,500	$ 20,500
Maximum annual additions	69,000	66,000	61,000
Catch-up contributions (age 50+)	7,500	7,500	6,500
Defined benefit limits			
Annual benefit limits	275,000	265,000	245,000
IRA limits			
Contribution limit	7,000	6,500	6,000
Catch-up contributions (age 50+)	1,000	1,000	1,000
Compensation limits			
Annual compensation limit	345,000	330,000	305,000
Highly compensated employee threshold	155,000	150,000	135,000
Key employee threshold	220,000	215,000	200,000
Social Security taxable wage base	168,600	160,200	147,000

©2024 CliftonLarsonAllen LLP

OTHER ACCOUNTING AND AUDITING MATTERS

Participant contribution remittances

The DOL continues to emphasize the importance of timely remittance of participant withholdings into the plan. While there is a safe harbor of seven business days for small plans (under 100 participants), the guideline for large plans continues to be "as soon as administratively feasible." The DOL interpretation of this regulation is generally within a few business days and is expected to be done consistently.

Reportable findings

Auditors are required to communicate reportable findings that are significant and relevant to governance. Reportable findings are items not in accordance with the criteria specified (for example, not in accordance with the plan instrument).

After testing relevant plan provisions, the auditor will evaluate the results and determine whether the matters are reportable findings:

- An identified instance of noncompliance or suspected noncompliance with laws or regulations
- A finding that is significant and relevant to those charged with governance regarding their responsibility to oversee the financial reporting process
- An indication of deficiencies in internal control identified during the audit that have not been communicated to management by other parties and that are of sufficient importance to merit management's attention

©2024 CliftonLarsonAllen LLP

Reportable findings are required to be communicated in writing to those charged with governance unless the matters are clearly inconsequential or unless all governance is aware of the matters. The written communication should include:

- A description of the reportable finding
- Sufficient information to allow governance and management to understand the context
- An explanation of the potential effects on the financial statements or to the plan

It's important for plan governance and management, as part of fiduciary responsibilities, to be informed of reportable findings identified during the audit so appropriate action can be taken or a decision can be made on whether to participate in IRS or DOL correction programs if applicable.

Common reportable findings

Employee Retirement Income Security Act (ERISA) audits often uncover common reportable findings requiring corrective actions. Some of these findings include:

Lack of review of autoenrollment implementation

It's common for plan sponsors to overlook reviewing autoenrollment implementation. This can lead to errors in the enrollment process, such as employees not being enrolled in the plan when they should be. To address this, plan sponsors should have a robust review process in place to verify the accuracy of autoenrollment implementation.

Errors originating from missed deferral opportunities

Missed deferral opportunities are also frequently identified during ERISA audits. These errors occur when employees who are eligible to participate in the plan fail to make deferral elections. Plan sponsors can implement processes to catch these errors in a timely manner. Review total contributions and eligible compensation for the year, looking for errors and missed deferral opportunities. This can help identify and rectify any missed deferral opportunities.

©2024 CliftonLarsonAllen LLP

Definition of eligible compensation

There are various options a plan sponsor can select as the definition of eligible compensation that are typically based on W-2 wages or Section 3401(a) wages with options to exclude certain types of compensation (i.e., bonuses, overtime, fringe benefits, etc.). It's important to review those provisions carefully especially when adding new compensation codes to payroll or when amending or restating your plan document.

We have seen a variety of reportable findings around missing compensation codes, restatement adoption agreement changes not reflected in payroll (i.e., newly added or deleted excluded compensation provisions), and plan sponsors not verifying fringe benefits are properly following taxation rules. Fringe benefits can generally be excluded if they are not taxable wages, which should be part of an accountable plan as defined by Section 62(c) of the Internal Revenue Code.

Autoenrollment failures, missed deferral opportunities, and incorrect definitions of eligible compensation are common errors that can result in corrective actions. Plan sponsors should prioritize implementing effective review processes and reconciliation procedures to reduce these errors and meet ERISA regulations.

©2024 CliftonLarsonAllen LLP

STRONG PRACTICES FOR PLAN MANAGEMENT

Cybersecurity

Retirement plans often hold millions of dollars or more in assets and maintain personal data on participants, which can make them attractive targets for cybercriminals. Plan governance/fiduciaries have the responsibility to maintain proper controls and practices to keep these assets safe.

The DOL's Employee Benefits Security Administration recommends including these in your company's cybersecurity plan:

- Cybersecurity program and awareness trainings
- Definition of roles and responsibilities regarding encryption of sensitive data, both stored and in transit
- Internal or third-party audits of the plan's cybersecurity system
- Business resiliency or continuity program, disaster recovery, and incident response
- Third-party service provider contracts relating to the plan's information security, cybersecurity, or security controls

CLA provided a webinar on this topic in October 2021 and issued a recent white paper outlining four steps that can help you prevent data breaches, cyber assaults, and ransomware attacks.

©2024 CliftonLarsonAllen LLP

Benchmarking investments

Investment advisors generally offer investment benchmarking as part of their services. Benchmarking enables plan fiduciaries to demonstrate they fulfilled their fiduciary responsibility of oversight of the investment options offered within the plan.

Various items are benchmarked, most notably investment performance and fees. These discussions with investment advisors should be documented in committee meeting minutes and occur no less frequently than annually.

Responsibilities of an ERISA fiduciary

ERISA was set up to protect benefit plan assets and requires those who exercise or provide discretionary control or responsibility over the plan to be subject to fiduciary responsibilities. Fiduciaries can include plan sponsors, plan administrators, plan trustees, investment advisors, and other plan service providers.

Fiduciaries have a legal obligation to act in the best interests of the plan, and they are subject to certain standards of conduct and can be held liable for any fiduciary duty breaches.

Explore recommended practices to help you successfully fulfill your role as an ERISA plan fiduciary:

- Regularly evaluate and assess the performance and fees of vendors and service providers such as record-keepers, trustees, and investment advisors. Verify they are fulfilling their obligations under the plan and align with the plan's objectives, and verify the plan fees and expenses are reasonable.
- Communicate plan information clearly and regularly to participants. Provide easy-to-understand fee disclosures, investment updates, and access to educational resources.

©2024 CliftonLarsonAllen LLP

- Make investment decisions on behalf of the plan, including choosing appropriate investments for plan participants to invest their contributions in a plan. This includes providing diversification in plan investment offerings and conducting due diligence on those options, including regularly reviewing their performance. (Plan sponsors may choose to hire an independent fiduciary to help handle investments and investment decision making.)
- Monitor plan performance, plan operations, plan provisions, and benefits provided.
- Report and disclose all required information from a regulatory perspective, including government forms and annual audited financial statements.
- Stay updated on ERISA regulations and leading practices by attending seminars, workshops, and educational programs related to ERISA compliance.
- Keep comprehensive records of all plan-related activities, including meeting minutes, investment decisions, communications, and fee disclosures.
- Seek professional guidance. If you feel uncertain about any aspect of your fiduciary duties, consider consulting with legal and financial professionals who specialize in ERISA compliance.

©2024 CliftonLarsonAllen LLP

Focus on audit quality

The DOL continues its heightened focus on employee benefit plan audit quality, including proposing a six-point plan to improve audits. The six-point plan includes pre-licensure, standards and ethics, CPA learning and support, peer review, practice monitoring of the future, and enforcement.

It's crucial to engage the services of a qualified employee benefit plan auditor to help protect the fiduciaries of the plan. The focus on audit quality and transparency aligns with many of the provisions found in the new EBP SAS 136.

The DOL is in the process of conducting an audit quality study on the 2020 plan year Form 5500 filings. The last comprehensive audit quality study was performed by the DOL for the 2011 plan year Form 5500 filings; those results were released in 2015.

Service organization control reports

The AICPA and DOL have emphasized the importance of reviewing service organization control (SOC) reports as they relate to benefit plan administration. A SOC 1 report is a type of audit report specifically designed to evaluate the effectiveness of controls at a service organization, such as a plan custodian or recordkeeper.

The information and controls found in a SOC 1 report can be useful to plan sponsors and auditors in evaluating internal controls at the service organization. A key part of SOC 1 reports relates to the complementary user entity controls. The service organization requires the plan sponsor to implement these controls to increase the reliability of the control objectives outlined in the report.

Plan management should review the SOC 1 reports related to their plans and put adequate controls in place at the user entity level. One common deficient area the DOL has noted in the current DOL study includes inadequate evaluation of the SOC 1 reports.

©2024 CliftonLarsonAllen LLP

Service provider changes

Plan sponsors change retirement plan service providers for many reasons — whether to find a less expensive or better offering or due to business-level changes (merger, acquisition, etc.).

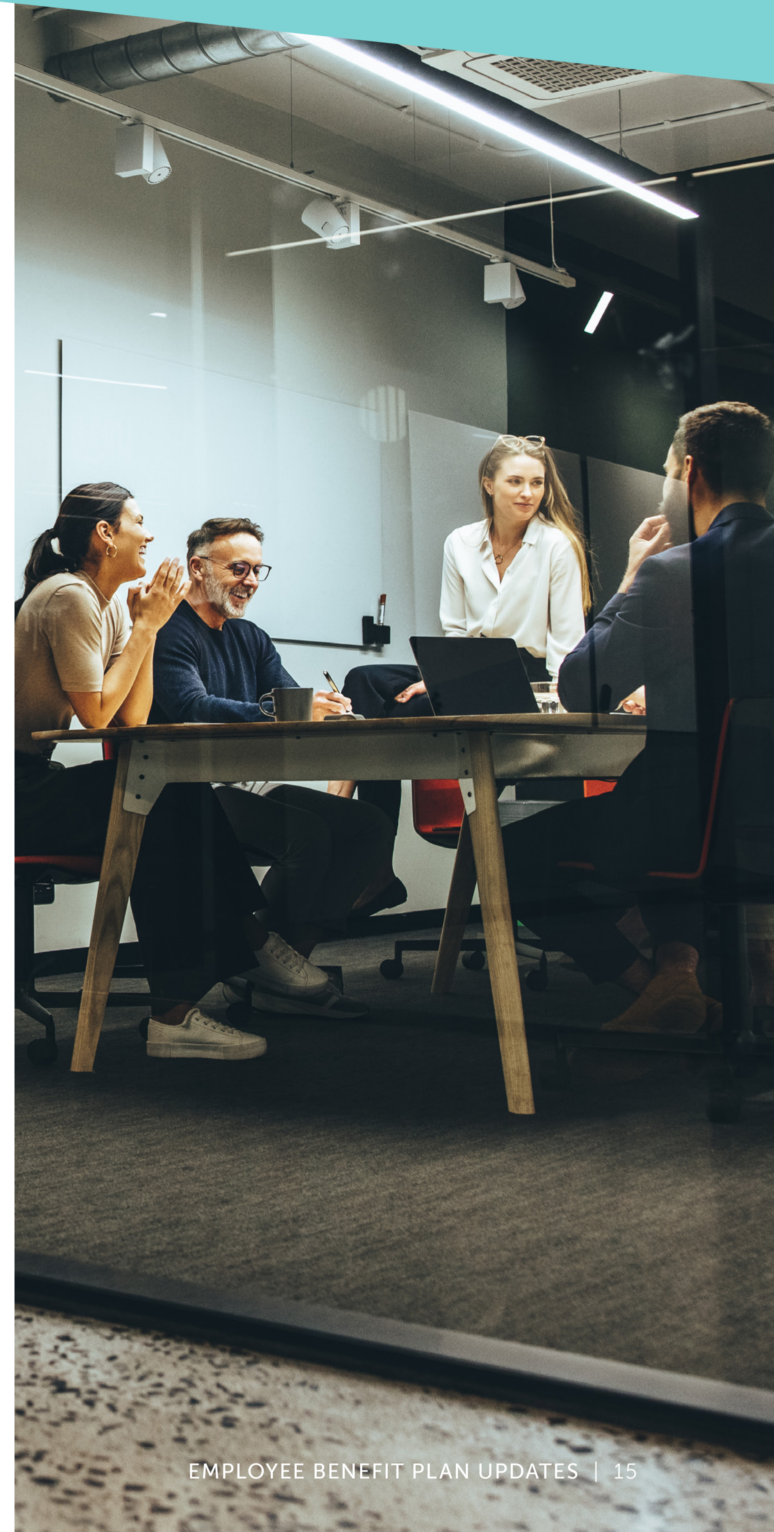
Although a good service provider will provide a transfer checklist and timeline and primarily process the necessary transfer procedures, the plan sponsor is ultimately responsible. The plan sponsor is accountable to make sure the transfer is handled properly, plan provisions are correctly reflected with the new service provider, and all participants are properly notified of the change.

The plan sponsor must also review and approve:

- All plan asset transactions
- Participant data transfers
- Deferral and investment elections
- Participant communications regarding blackout dates and investment fund mapping
- New plan documents and service agreements

Prior to the termination of the current service provider, we recommend the plan sponsor verify its records are complete and include the items listed below. Once the service provider's contract has been formally terminated, the plan sponsor is required to maintain the following from inception of the plan:

- Plan document
- Summary plan description
- Adoption agreement
- Trustee agreement
- IRS opinion/determination letter
- ERISA bonding agreements
- Service provider agreements
- Annual participant statements (which includes all information for the year)
- Annual trust/custodial/investment statements (which includes all information for the year)
- Annual payroll and W2 statements
- Annual plan census files
- Participant eligibility files



©2024 CliftonLarsonAllen LLP

Missing participants

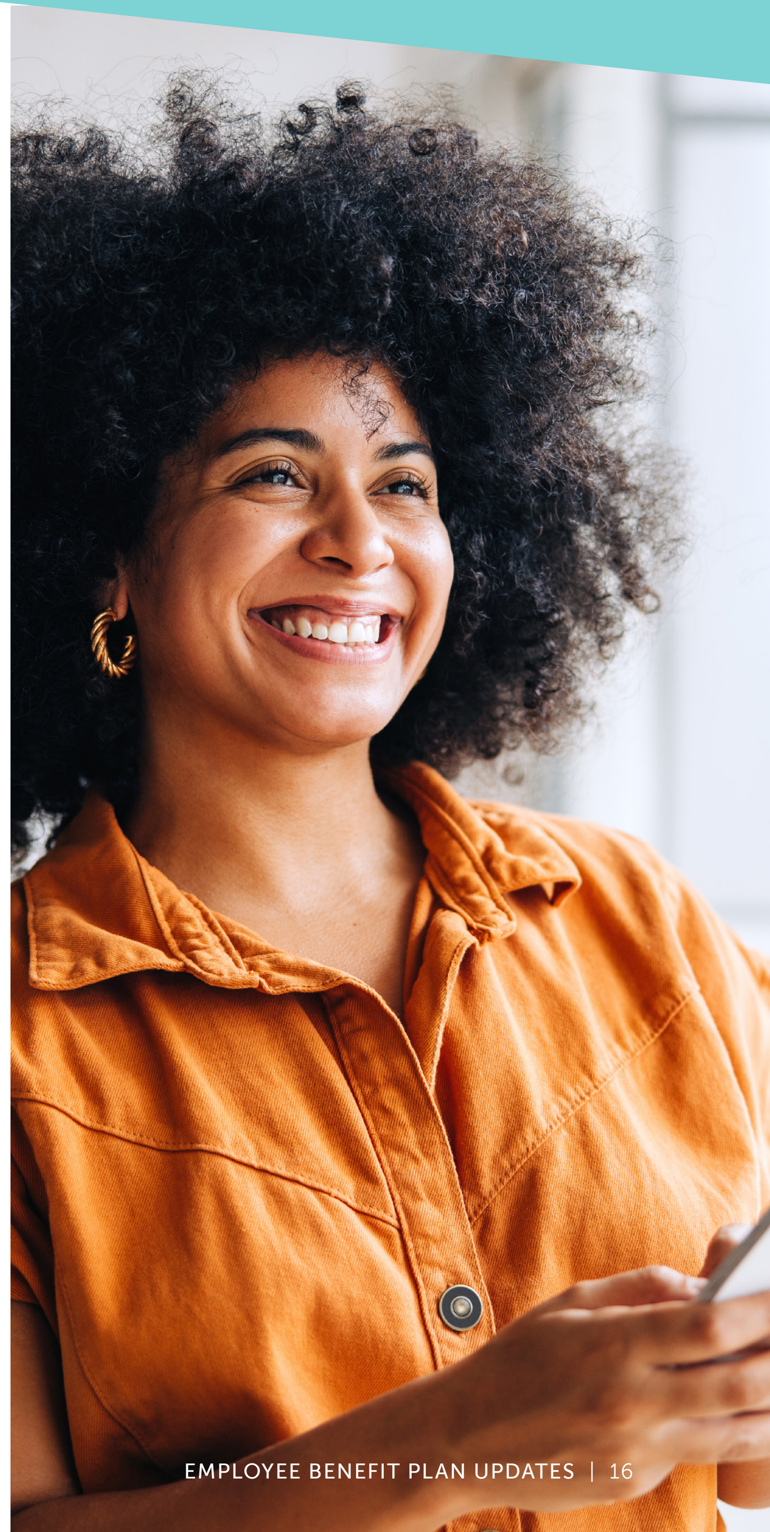
When plan participants change jobs, many leave their retirement accounts behind. This results in a growing number of participants that cannot be located due to name and address changes or other factors, including missing or outdated beneficiary information. In recent years, the DOL has placed an emphasis on the importance for plan sponsors to locate missing participants.

In January 2021, the DOL's Employee Benefits Security Administration division released three sets of new guidance to provide clarity for plan sponsors regarding missing participants. The most applicable guidance to all types of retirement plans is titled "Missing Participants — Best Practices for Pension Plans."

Within the guidance, the DOL lists a variety of steps and processes plan management can take to locate missing participants. Examples include:

- Sending certified mail to last known addresses
- Contacting designated beneficiaries or emergency contacts
- Using online search engines and public record databases
- Attempting contact via email, telephone, or social media

While not all methods may be appropriate in all situations, the guidance provides some clarity to the fiduciary responsibility of plan sponsors. Regardless of the methods used, plan management should document attempts to locate missing participants.



©2024 CliftonLarsonAllen LLP

Reasonableness of fees

Fee reasonableness continues to be a key issue in plan lawsuits and fees continue to be in the spotlight. You should consider conducting benchmarking studies internally or through an investment advisor.

Fee disclosures from all covered service providers must be provided to plan participants on an annual basis. Plan fiduciaries should review these disclosures annually to determine the reasonableness of fees incurred by the plan. Document these discussions in committee meeting minutes.

DEI considerations

Today's workforce includes a variety of skills, profiles, and backgrounds that represent remarkable value. Taking time to understand and recognize these differences can help achieve your goals when offering, communicating, and promoting your company's retirement plan.

Diversity, equity, and inclusion (DEI) is a critical part of a financial wellness program. A financial wellness program's purpose is to assist employees in improving their overall financial situation. Gain an understanding of differences that may exist between diversity groups (e.g., age, race, ethnicity, gender), and view plan data to identify groups that could benefit from additional resources.

Look at your company's demographics to spot employees who aren't saving enough (participation, contributions, asset allocation) and implement a targeted action plan to assist. Strategies to consider include:

- Create a deeper understanding of your employees' savings experience by expanding the retirement plan committee to mirror your workforce.
- Review your investment menu and consider how a DEI strategy could be reflected throughout your retirement plan's offerings.
- Talk with your service providers to learn what resources are readily available (e.g., financial wellness programs, plan data, different language options).

©2024 CliftonLarsonAllen LLP

- Automatic enrollment, escalation, and re-enrollment can help increase participation, encourage higher deferral rates, and re-engage employees who may have opted out of the plan.
- Automatic reallocations can help keep participants on track to achieve retirement goals.
- Automatic portability/rollovers can discourage employees from distributing funds when changing jobs.
- Adjusting eligibility requirements can open the plan to part-time employees or others.
- Use a variety of retirement education resources — brochures, emails, videos, infographics, articles, online calculators — to provide information to different demographic groups.

OUR CREDENTIALS

#1

provider of employee benefit plan audits in the country serving over 3,800 plans

400+

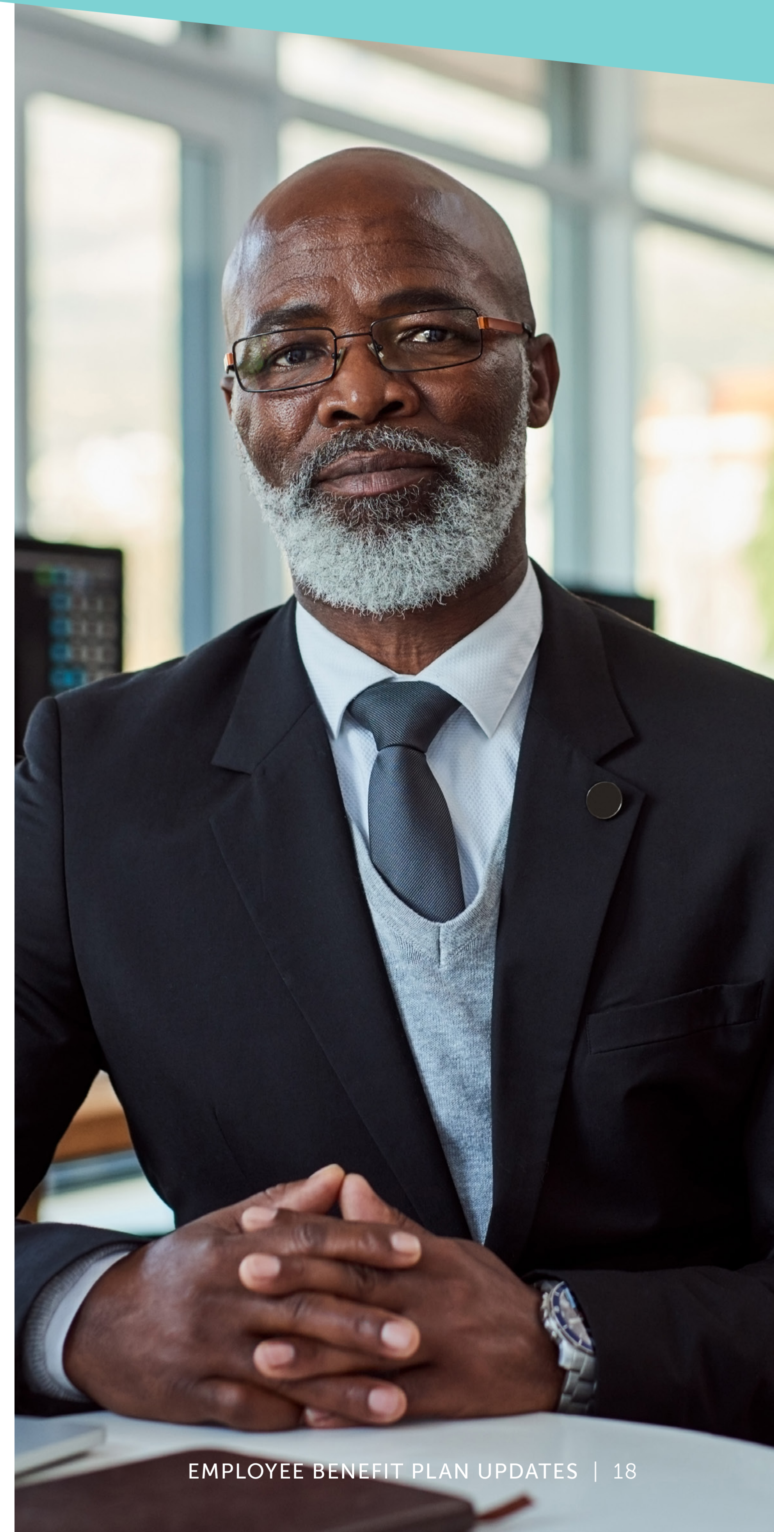
employees designated to employee benefit service lines

EBPAQC

Member of AICPA Employee Beneift Plan Audit Quality Center

Active

Actively involved on AICPA EBPAQC Executive Committee and Expert Panel



©2024 CliftonLarsonAllen LLP

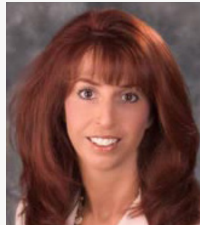
HOW WE CAN HELP

Serving as a sponsor or fiduciary on an employee benefit plan is an important responsibility, and with new regulatory requirements, it can be challenging to stay up to date.

CLA has provided employee benefit plan audit, tax compliance, and consulting services for more than 60 years. The DOL's most recently published list of top 100 firms has CLA performing the most benefit plan audits in the country. Contact us for assistance on your plan.

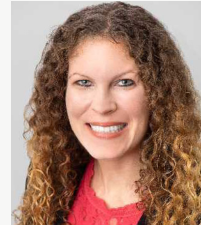
Contact us

Authors:



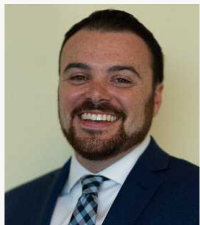
Beth Auterman
Principal
beth.auterman@CLAconnect.com
217-373-3125

Steve Villecco
Principal
steve.villecco@CLAconnect.com
860-570-6386

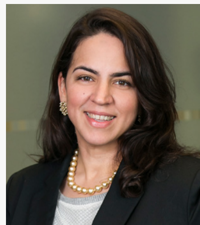


Jenna Hamilton
Signing Director
jenna.hamilton@CLAconnect.com
612-376-4524

Lisa D'Aleo
Director
lisa.daleo@CLAconnect.com
860-570-6329



Joey Kennedy
Manager
joey.kennedy@CLAconnect.com
408-387-8885



Maria Morales
Principal
maria.morales@CLAconnect.com
813-384-2723

Lisa Cushman
Principal
lisa.cushman@CLAconnect.com
509-363-6343

Jennifer Valente
Principal
jennifer.valente@CLAconnect.com
425-828-1558

©2024 CliftonLarsonAllen LLP

We'll get you there.

CPAs | CONSULTANTS | WEALTH ADVISORS

CLAconnect.com

©2024 CliftonLarsonAllen LLP. CLA (CliftonLarsonAllen LLP) is a network member of CLA Global. See CLAglobal.com/disclaimer.
Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.