Morgan Stanley

At a Glance:

Your Responsibilities as a Retirement Plan Sponsor

Did you know most of your employees could be relying heavily on your company's retirement plan to save for their future?

Your Fiduciary Responsibilities

A recent study revealed that 55 percent of U.S. households reported that they had employer-sponsored retirement plans — that is, they had assets in defined contribution plan accounts, were receiving or expecting to receive benefits from defined benefit plans, or both.* It's no wonder there are strict laws governing retirement savings plans.

The rules that govern retirement plans and their sponsors are in place to protect investors — in this case, your employees and their retirement benefits. At Morgan Stanley, we can help you make sense of the rules that govern retirement savings plans so you can fulfill your responsibilities as a retirement plan sponsor.

Retirement plan regulations come from two primary sources: the Employee Retirement Income Security Act of 1974, as amended (more commonly known as ERISA) and the Internal Revenue Code. ERISA provides the detailed federal statutory framework for employee benefit plans. The Internal Revenue Code governs the taxation of retirement plans and accounts, including 403(b) plans, 457 plans and Individual Retirement Accounts. There are also regulations, notices, announcements and rulings that periodically come from the Employee Benefit Services Administration of the U.S. Department of Labor (with respect to ERISA) and the Internal Revenue Service (with respect to the Code).

A Look at ERISA

Of all the laws affecting retirement plans, ERISA is given predominant attention because it spells out what you, as a fiduciary of your company's retirement plan, must do. ERISA holds you accountable for the initial selection of investment options made available to plan participants and for monitoring the performance of those investments.

Among other things, ERISA requires that you:

- Act solely in the interests of plan participants and their beneficiaries.
- Act with the same care, skill, prudence and diligence that a prudent person who is familiar with such matters would utilize in similar circumstances.
- Diversify the plan's assets in a way that minimizes the risk of large losses.
- Follow the plan documents unless they conflict with ERISA.
- Avoid prohibited transactions involving the plan or its assets, as defined under ERISA and the Internal Revenue Code.

If you breach any of your responsibilities, you can be personally liable to the plan for any losses. You'll also be required to restore to the plan any profits you have made through the use of any plan assets. Plus, you can be held accountable for the imprudent actions of others if you knew about them and permitted them to occur. Finally, ERISA prohibits a number of transactions in order to prevent conflicts of interest between fiduciaries and the plan.

Some Fiduciary-Duty Relief

ERISA places a lot of weight on plan sponsors, but it also includes a provision that can provide some relief. By complying with Section 404(c) of ERISA, you can transfer investment allocation responsibilities to plan participants to help satisfy your fiduciary responsibilities. Here's a general description of what you must do:

- Give employees a broad selection of investment choices, including a core of at least three different investment options that have different risk and return characteristics.
- Allow employees to transfer account balances between investment alternatives and/or change investment direction at least once per quarter.
- Provide employees with information about investing in general and the plan's investment choices in particular to help them make informed investment decisions. ▶

- Provide the appropriate 404(c) disclosures. The participant must be furnished with an explanation that the plan is intended to comply with Section 404(c) under ERISA and that the fiduciaries of the plan may be relieved of liabilities for any losses that are the direct result of the investment instructions given by the participants.
- Be aware that complying with 404(c) does not relieve the obligation to prudently select and monitor the plan's investment options. This still remains a crucial fiduciary responsibility under ERISA.

Managing Fiduciary Responsibilities

In general, most senior executives involved in choosing and structuring their company's retirement plan investments are considered fiduciaries. Once you cross into that territory, you can expose yourself to fiduciary liability, and cofiduciary liability, under ERISA.

When it comes to meeting your fiduciary responsibilities as a retirement plan sponsor, there are many considerations. Morgan Stanley can help you make sense of it all. Morgan Stanley offers a broad range of investment choices and detailed performance reporting, as well as employee education and communications. We provide premium, personalized service to you, the fiduciary and plan sponsor. We also offer asset allocation and investment guidance to your company's employees through our nationwide network of trusted Financial Advisors.

Contact a Morgan Stanley Financial Advisor today to learn how we can help you to comply with these important rules and to fulfill your responsibilities as a retirement plan sponsor.

* 2016 Investment Company Fact Book–A Review of Trends and Activity in the U.S. Investment Company Industry.

CRC1708825 KP24022 CS 8833776 04/17