

## **APPENDIX B**

### **COVER PAGE**

#### **PAPERWORK BURDEN DISCLOSURE NOTICE** **OMB Control Number 1210-0118; expires 03/31/2028**

The information identified on this checklist is required for a valid application for the Voluntary Fiduciary Correction Program of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA). You must complete this form and submit it as part of the application to receive the relief offered under the Program with respect to a breach of fiduciary responsibility under Part 4 of Title I of ERISA. EBSA will use this information to determine that you have satisfied the requirements of the Program. EBSA estimates that completing and submitting the form and this checklist will require an average of 7 hours. This collection of information is currently approved under OMB Control Number 1210-0118. You are not required to respond to a collection of information unless it displays a currently valid OMB Control Number. You may send comments on this collection of information, including suggestions for reducing burden to: US Department of Labor, Office of Research and Analysis, Attention: PRA Officer, 200 Constitution Avenue, NW, Room N-5718, Washington, DC 20210; or send to [ebsa.opr@dol.gov](mailto:ebsa.opr@dol.gov).

**DO NOT INCLUDE THIS PAPERWORK REDUCTION ACT BANNER IN NOTICES**

## **Appendix B – VFC Program Application Checklist (Required)**

Use this checklist to make sure you are submitting a complete application. Indicate “Yes”, “No” or “N/A” next to each item. A “No” answer or the failure to include a completed checklist will delay review of the application until all required items are received. The applicant must sign and date the checklist and include it with the application. Check with the relevant Regional Office whether it accepts email submissions of VFC Program applications.

\_\_\_\_\_ 1. Have you reviewed the eligibility, definitions, transaction and correction, and documentation sections of the VFC Program?

\_\_\_\_\_ 2. Have you included the name, address (street or email) and telephone number of a contact person familiar with the contents of the application?

\_\_\_\_\_ 3. Have you provided the EIN, Plan Number, and address (street and email) of the plan sponsor and plan administrator?

\_\_\_\_\_ 4. Have you provided the date that the most recent Form 5500 was filed by the plan (or for a bulk application as described in section 4(d), the nine-digit employer identification number for each plan sponsor of a named plan)?

\_\_\_\_\_ 5. Have you enclosed a signed and dated certification under penalty of perjury for the plan fiduciary with knowledge of the transactions and for each applicant and the applicant's representative, if any? In the case of a bulk application, have you enclosed a signed and dated certification under penalty of perjury for the bulk applicant based on knowledge of the transactions and for the bulk applicant's representative, if any? In the case of a contributing or adopting employer in a multiemployer plan or multiple employer plan, the employer may sign

the Penalty of Perjury statement and, without regard to the employer's status as a plan fiduciary, no other plan fiduciary need sign.

\_\_\_\_\_ 6. Have you enclosed relevant portions of the plan document and any other pertinent documents (such as the adoption agreement, trust agreement, or insurance contract) with the relevant sections identified?

\_\_\_\_\_ 7. If applicable, have you provided written notification to EBSA of any current investigation or examination of the plan, or of the applicant or plan sponsor in connection with an act or transaction directly related to the plan by the PBGC, any state attorney general, or any state insurance commissioner?

\_\_\_\_\_ 8. If applicable (under section 4(b)(2) of the Program), have you included the following items?

\_\_\_\_\_ a. Contact information for the law enforcement agency notified of the criminal activity;

\_\_\_\_\_ b. A statement from the applicant asserting no involvement in the potential criminal activity; and

\_\_\_\_\_ c. A statement as to whether a claim relating to the criminal activity has been made under an ERISA section 412 fidelity bond.

\_\_\_\_\_ 9. Where applicable, have you enclosed a copy of an appraiser's report?

\_\_\_\_\_ 10. Where applicable, have you enclosed a copy of an independent fiduciary's approval?

\_\_\_\_\_ 11. Have you enclosed supporting documentation, including:

- \_\_\_\_\_ a. A detailed narrative of the Breach, including the date it occurred;
- \_\_\_\_\_ b. Documentation that supports the narrative description of the transaction;
- \_\_\_\_\_ c. An explanation of how the Breach was corrected, by whom and when, with supporting documentation;
- \_\_\_\_\_ d. A list of all persons materially involved in the Breach and its correction (e.g., fiduciaries, service providers, borrowers, lenders);
- \_\_\_\_\_ e. Specific calculations demonstrating how Principal Amount and Lost Earnings or Restoration of Profits were computed, or, if the Online Calculator was used, a copy of the “Print Viewable Results” page(s) after completing use of the Online Calculator;
- \_\_\_\_\_ f. Proof of payment of principal amount;
- \_\_\_\_\_ g. Proof of payment of Lost Earnings or restoration of profits to the plan; and

**Caution: The correction amount and the costs of correction cannot be paid from plan assets, including by charges against participant accounts or plan forfeiture accounts.**

\_\_\_\_\_ h. If application concerns delinquent participant contributions or loan repayments, a statement from a Plan Official identifying the earliest date on which participant contributions/loan repayments reasonably could have been segregated from the employer’s general assets and supporting documentation on which the Plan Official relied?

\_\_\_\_\_ 12. If you are an eligible applicant and wish to avail yourself of excise tax relief under the VFC Program Class Exemption:

\_\_\_\_\_ a. Have you made proper arrangements to provide within 60 calendar days after submission of this application a copy of the VFC Program Class Exemption notice to all interested persons and to the EBSA Regional Office to which the application is filed; or

\_\_\_\_\_ b. If you are relying on the exception to the notice requirement in section IV.C. of the VFC Program Class Exemption because the amount of the excise tax otherwise due would be less than or equal to \$100.00, have you provided to the appropriate EBSA Regional Office a copy of a completed IRS Form 5330 or other written documentation containing the information required by IRS Form 5330 and proof of payment?

\_\_\_\_\_ 13. In calculating Lost Earnings, have you elected to use:

\_\_\_\_\_ a. The Online Calculator; or

\_\_\_\_\_ b. A manual calculation performed in accordance with section 5(b) of the VFC Program?

\_\_\_\_\_ 14. If the application involves payments to participants and beneficiaries:

\_\_\_\_\_ a. Have you enclosed a description demonstrating proof of payment to participants and beneficiaries whose current location is known to the plan and/or applicant in accordance with section 5(d) of the VFC Program?

\_\_\_\_\_ b. For individuals who need to be located, have you demonstrated how adequate funds have been segregated to pay missing individuals and included a description of the process that you commenced to locate missing individuals in accordance with section 5(d)?

\_\_\_\_\_ 15. For purposes of the three transactions involving participant contributions covered under section 7.1, has the plan implemented measures to ensure that such transactions do not recur?

**Signature of Applicant and Date Signed:**

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**Name of Applicant:**

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**Title/Relationship to the Plan:**

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**Name of Plan, EIN and Plan Number:**

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**Contact information: Phone; email**

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