

Voluntary Fiduciary Correction Program Checklist



U.S. Department of Labor
Employee Benefits Security Administration
April 2006

Use this checklist to ensure that you are submitting a complete Voluntary Fiduciary Correction Program (VFCP) application. The applicant must sign and date the checklist and include it with the 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.

- | | |
|---|---|
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 1. Have you reviewed the eligibility, definitions, transaction and correction, and documentation sections of the VFCP? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 2. Have you included the name, address and telephone number of a contact person familiar with the contents of the application? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 3. Have you provided the EIN, Plan Number, and address of the plan sponsor and plan administrator? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 4. Have you provided the date that the most recent Form 5500 was filed by the plan? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 5. Have you enclosed a signed and dated certification under penalty of perjury for each applicant and the applicant's representative, if any? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 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? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 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? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 8. Where applicable, have you enclosed a copy of an appraiser's report? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | 9. Have you enclosed supporting documentation, including: <ul style="list-style-type: none"><input type="checkbox"/> a. A detailed narrative of the Breach, including the date it occurred;<input type="checkbox"/> b. Documentation that supports the narrative description of the transaction;<input type="checkbox"/> c. An explanation of how the Breach was corrected, by whom and when, with supporting documentation;<input type="checkbox"/> d. A list of all persons materially involved in the Breach and its correction (e.g., fiduciaries, service providers, borrowers, lenders);<input type="checkbox"/> 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" pages(s) after completing use of the Online Calculator; and

- f.** Proof of payment of Principal Amount and Lost Earnings or Restoration of Profits; and
- g.** If application concerns delinquent employee 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?

Yes No N/A

10. If you are an eligible applicant and wish to avail yourself of excise tax relief under the VFCP Class Exemption:

- a.** Have you made proper arrangements to provide within 60 calendar days after submission of this application a copy of the 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 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?

Yes No N/A

11. 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)?

Yes No N/A

12. Where applicable, have you enclosed a description demonstrating proof of payment to participants and beneficiaries whose current location is known to the plan and/or applicant, and for individuals who need to be located, have you described how adequate funds have been segregated to pay missing individuals and commenced the process of locating the missing participants individuals using either the IRS and SSA locator services, or other comparable means?

Yes No N/A

13. For purposes of the three transactions covered under Section 7.1 has the plan implemented measures to ensure that such transactions do not recur?

Name of Applicant: _____

Signature of Applicant and Date Signed: _____

Title/Relationship to the Plan: _____

Name of Plan, EIN and Plan Number: _____