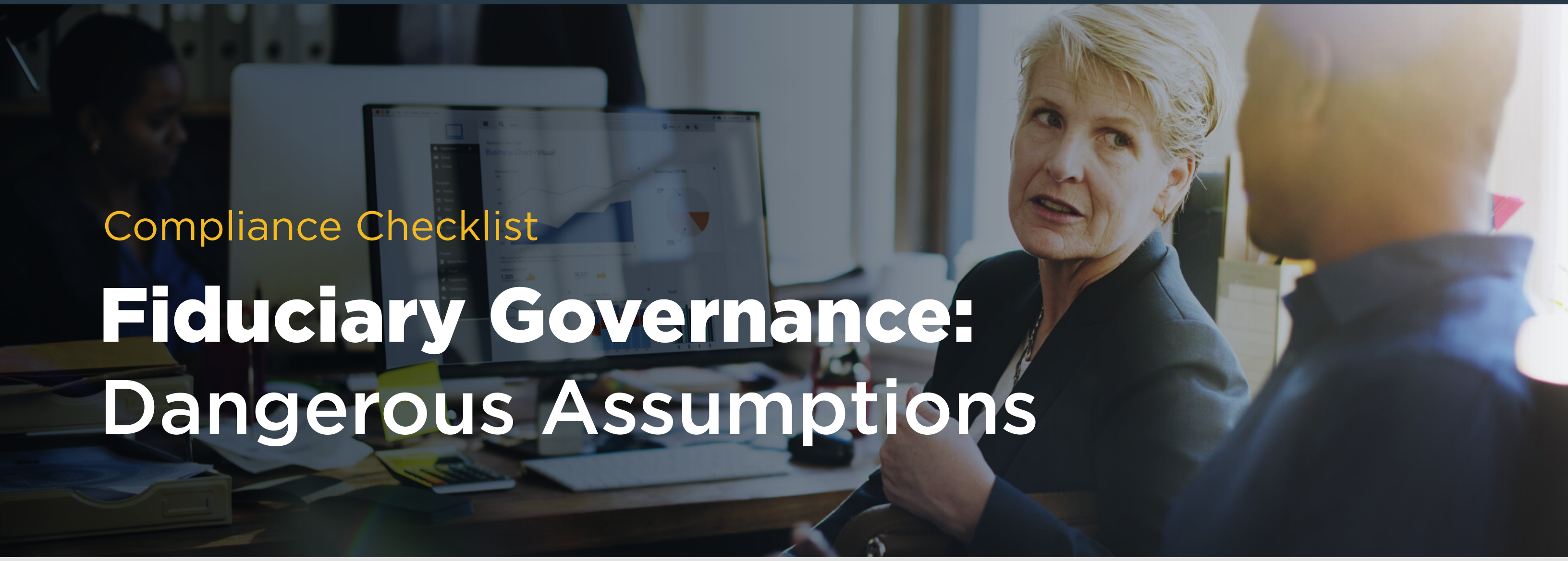

Compliance Checklist

Fiduciary Governance: Dangerous Assumptions

This checklist is designed to help plan committees make informed and prudent decisions for their plans and is a good starting point for addressing the questions and assumptions.

1. Participant Deferrals: **Time Matters!**

- ☐ Are deferrals and plan loan repayments transferred to the plan's trust no later than the outer limit of the 15th business day of the month following the month in which they are withheld from the employees' paychecks?

- ☐ If so, for a small plan (covering less than 100 participants) are the deferrals and plan loan repayments deposited in the plan's trust no later than the 7th business day following the date on which they are withheld from the employees' paychecks?

- ☐ For larger plans, are the deferrals and plan loan repayments deposited into the plan's trust as soon as the money can reasonably be segregated from the company's bank accounts?

- ☐ Also, for larger plans, are the deferrals and plan loan repayments deposited on a consistent basis (for example, two to three days after withholding), such that a pattern of prompt deposits is established and maintained?

2. Investment policy statements: **Legal requirement or best practice?**

- ☐ Does the plan have an investment policy statement to help the plan committee make compliant and consistent decisions about the plan's investments?
- ☐ Does the IPS have the specific criteria that the plan committee should use to select, monitor, remove and replace the plan's investments?
- ☐ Do the investment reports provided to the committee by the plan's adviser and provider apply that criteria to the investments?
- ☐ Does the plan committee review and consider the IPS when monitoring the plan's investments?
- ☐ Does the IPS say that it provides guidelines—the process and the criteria—but that it is not binding on the committee and that the committee can use its best judgment to make decisions based on other factors?

3. Fiduciary Bonds & Insurance: **Does it Matter?**

- ☐ Do the plan committee members know the difference between ERISA bonds and ERISA fiduciary liability insurance?
- ☐ Does the plan have an ERISA bond?
- ☐ Does the ERISA bond satisfy the minimum required amounts of at least 10% of assets, but not to exceed total coverage of $500,000?
- ☐ Is everyone at the plan sponsor who handles plan money (including employee deferrals) or who has access to the plan's assets (for example, to request withdrawals from the plan—other than for their own accounts) covered by the bond?
- ☐ Does the plan have ERISA fiduciary liability insurance to cover the plan committee members and the company?
- ☐ If the plan does not have ERISA fiduciary liability insurance, does the company and/or the plan committee want the protection of obtaining that coverage?

4. Fiduciary Delegation: **How Much?**

- ☐ Does the plan committee understand that the members are fiduciaries for the plan and have the ultimate responsibility for the plan's administration and investments?
- ☐ Do the plan committee members understand their responsibility to prudently select and monitor their plan service providers, including their fees, and do they perform those functions on a regular basis?
- ☐ Has the plan committee delegated any of its fiduciary administrative duties to a 3(16) administrative service provider that has agreed to be a fiduciary for that purpose?
- ☐ Has the plan committee delegated any of its fiduciary investment responsibilities to an investment adviser that has agreed to be a fiduciary for that purpose?
- ☐ Does the plan committee understand the difference between a 3(21) nondiscretionary fiduciary adviser and a 3(38) discretionary investment manager and, if so, has the committee picked the one that will best serve its needs?

5. Fiduciaries: **Responsible for What You Don't Know!**

- ☐ Has the plan committee engaged an investment adviser and/or ERISA attorney to provide fiduciary education on the decisions they need to make and how to make those decisions in a prudent manner?
- ☐ Has the plan committee considered the share classes of the investments offered to participants by their 401(k) or 403(b) plan and selected the share classes appropriate for their plan?
- ☐ Does the plan committee have a process to regularly monitor their plan's service providers and to obtain information about reasonable fees and costs for service providers?
- ☐ Does the plan committee get periodic updates from a fiduciary investment adviser and/or ERISA attorney about lawsuits, regulations and legislation concerning retirement plans and the impact those changes could have on their plans and responsibilities?

Put our global resources and local expertise to work for you.

Consult with your Retirement & Private Wealth Advisor to help you ensure fiduciary compliance.

The views expressed in this checklist are the author's own and not necessarily those of Faegre Drinker, HUB International or anyone else. This guide is for general information only and is not intended to provide investment, tax or legal advice or recommendations for any particular situation or type of retirement plan. Please consult with a financial, tax or legal advisor on your own particular circumstances.

HUB Retirement and Private Wealth representatives may be either HUB employees or independent contractors and may be Registered Representatives of and offer Securities and Advisory services through various Broker Dealers and Registered Investment Advisers, which may or may not be affiliated with HUB International. Insurance services are offered through HUB International and several other appropriately licensed and registered HUB affiliates. Consult your HUB representative for additional information about the provision of specific securities, investment advisory, and insurance services.