

# Examination Referral Checklist B

(To be completed by the EP Examiner's for referral to DOL)

Date mailed to Regional Director

Date returned to IRS

Employer/Sponsor Name Address

IRS File Number

Plan Name

Plan EIN/PIN

Address of Plan Books and Records

Plan Year Examined

Unagreed Case

Yes

No

## Plan Explanation Items

(Circle one.)

1. Do the investments of the trust appear to be prudent and permitted by the plan document, and is the performance of the investment portfolio monitored? (ERISA sec 404)	NA	Yes	No
2. Does the plan appear to have diversified its investments by not holding more than 20% of its portfolio in any SINGLE investments, except as permitted by the plan document? (ERISA sec. 404(a)(1)(C)).	NA	Yes	No
3. With respect to any person rendering services to the plan, and receiving directly or indirectly more than \$5,000 in compensation from the plan (excluding employees of the plan earning less than \$1,000 each month), does the compensation appear reasonable for services rendered? (ERISA sec. 404(a)(1)(A))	NA	Yes	No
4. Have individuals receiving expense reimbursement from the plan supplied sufficient documentation to warrant the reimbursement? (ERISA sec. 408(c)(2))	NA	Yes	No
5. Has a written appraisal been made by an unrelated third party within three months prior to any contribution, sale, or purchase of real estate or non-publicly traded securities? (ERISA sec. 103 & 408(e))	NA	Yes	No
6. Are trust assets and individual account balances reported and allocated at current value? (ERISA sec. 103(b)(3)(A))	NA	Yes	No
7. Were any loans or leases by the plan, or fixed income obligations due the plan, in default as of the close of the plan year or classified during the year as uncollectible? (ERISA sec. 103(b)(3), 404, & 406)	NA	No	Yes
8. Have any individuals engaged in a non-exempt prohibited transaction, which was not corrected? (ERISA sec. 406)	NA	No	Yes
9. Does the plan fail to meet minimum funding standards as a result of a fiduciary breach? (ERISA sec. 302)	NA	No	Yes
10. Have all the required reports (and accountant's opinion, where required) been filed or distributed in a timely manner? (if Yes, just circle Yes. If No, circle No and check type of report below): 5500 <input type="checkbox"/> SMM <input type="checkbox"/> SPD <input type="checkbox"/> SAR <input type="checkbox"/>	NA	Yes	No
11. Are all plan personnel who are handling plan funds covered by a fidelity bond? (ERISA sec 412)	NA	Yes	No
12. Other Referrals - see remarks below	NA	Yes	No

Remarks

## IRS Referral Information

IRS Examining Specialist	IRS Office	Phone No.	<b>Action Taken by DOL</b> <input type="checkbox"/> No action planned <input type="checkbox"/> DOL investigation planned <input type="checkbox"/> Additional Information Requested (Specify on separate sheet of paper.)
Name of DOL Reviewer	Regional Office	Phone No.	
<input type="checkbox"/> DOL Participation Requested	Signature (EP Area Manager)		

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## Instructions for Completing Checksheet B

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- 1). Plan fiduciaries should be asked to explain current monitoring procedures for plan investments (*e.g., are investments consistent with investment guidelines and limitations contained in the plan document.*) The investment practices of the fiduciaries as well as the return on plan investments should be examined.
- 2). ERISA section 404 contains the diversification requirements. Please describe the possible lack of diversification in the remarks section.
- 3). Look to the Form 5500 questions and attached schedules regarding payments to persons rendering services to the plan.
- 4). ERISA section 408(c)(2) allows plan fiduciaries reimbursement for expenses properly and actually incurred in carrying out plan business.
- 5). ERISA section 103 requires plan assets to be reported at their current value. ERISA section 408(e) permits the acquisition or sale of qualifying employer securities and real property between the plan and a party in interest, if the transaction is for adequate consideration, no commissions are paid and the requirements of section 407(a) are otherwise satisfied (*i.e., percentage limitations*).
- 6). ERISA section 103(b)(3)(A) requires a plan to report its assets and liabilities at current value.
- 7). Look to the Form 5500 and the accountant's report (*especially the notes to the financial statements*) for helpful information.
- 8). ERISA section 406 specifically prohibits certain transactions between a plan and a party in interest. ERISA section 408 provides certain statutory exemptions for transactions, which would otherwise be prohibited. The prohibitions and exemptions are virtually identical to those contained in IRC 4975. Please list the nature of the violations in the remarks section.
- 9). Describe the fiduciary breach that resulted in the funding deficiency in the remarks section.
- 10). The reporting and disclosure requirement apply to both pension and welfare plans.

The Summary Plan Description (SPD) is to be distributed to participants and beneficiaries within 120 days after the plan becomes subject to ERISA.

The Summary Annual Report (SAR) is to be distributed to participants and beneficiaries 9 months (*plus extensions*) after the plan fiscal year end.

The Summary of Material Modifications (SMM) represents changes to data contained in the SPD and is to be distributed to participants and beneficiaries 210 days after the plan fiscal year end for years in which changes occur.

- 11). ERISA Section 412 contains the bonding requirements for fiduciaries and other persons who handle funds or property of a plan.
- 12). List the reasons for referral in the remarks section.  
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### IRS Instructions

- 1). All questions on this checksheet must be answered. Answers, which fall in the rightmost column, require referral to the DOL.
- 2). The "DOL Participation Requested" block must be checked in unagreed examinations involving the excise taxes under Section 4971 or 4975.
- 3). Checksheet B is to be mailed to the appropriate Regional Director.

### DOL Instructions

- 1). Complete "Date returned to IRS".