

BONDING REQUIREMENTS

Under Department of Labor regulations, your retirement plan is required to obtain an ERISA fidelity bond. A fidelity bond protects the assets in the plan from misuse or misappropriation by the plan fiduciaries. Plan fiduciaries include the plan trustees and any person who has:

- Physical contact with cash, checks or other plan property.
- Power to transfer or negotiate plan property for a price.
- Power to disburse funds, sign checks or produce negotiable instruments from the plan assets.
- Decision making authority over any individual described above.

At the very least, the bond must equal 10% of the value of the total plan assets, with a minimum bond value of \$1,000. For the first year, the bond amount will be based on the estimated amount of assets that will be handled by the plan for the year. Plans covering only owners and their spouses are exempt from the bonding requirements.

Plan assets that "qualify" for a 10% bond include employer securities; participant loans; assets held by financial institutions such as banks, insurance companies, broker-dealers, or other organization authorized to hold IRA assets; mutual funds; investment and annuity contracts issued by an insurance company; and self-directed individual account plans in which the participant gets a statement of assets at least once a year. All other assets are considered non-qualifying plan assets.

However, if more than 5% of the plan assets are in limited partnerships, artwork, collectibles, mortgages, real estate or securities of "closely-held" companies and are held outside of regulated institutions such as a bank; an insurance company; a registered broker-dealer or other organization authorized to act as trustee for individual retirement accounts under Internal Revenue Code §408, the plan sponsors need to do one of two things – 1) make certain that the bond amount is equal to 100% of the value of these "non-qualified" assets or 2) arrange for an annual full-scope audit, where the CPA physically confirms the existence of the assets at the start and end of the plan year.

There are serious consequences for not purchasing and maintaining a sufficient ERISA fidelity bond. For one thing, it can be a red flag to the DOL that they need to take a closer look at the plan. In addition, in cases where a plan has more than 5% in non-qualified assets, a serious underwriting risk may arise if the non-qualified assets are not properly listed on the bond application. This is because non-qualifying assets carry a higher level of risk for loss. If the non-qualified assets are not listed on the bond, the underwriter would have cause to deny coverage if there was a loss due to misuse or misappropriation by a plan fiduciary. Under those circumstances, the loss may be denied and the trustees could be liable for the losses to the plan.

HOW TO GET AN ERISA FIDELITY BOND

We recommend that you purchase your ERISA fidelity bond from Colonial Surety Company. Colonial Surety Company has been a trusted source of fidelity and surety bonds for over 70 years. The Company is United States Treasury approved, rated Excellent by A.M. Best Company, and enjoys positive reviews of its exceptional financial history, service and support systems.

You can easily obtain an ERISA fidelity bond for your plan on their secure website, www.erisadirect.com . If you prefer, you can call Colonial Surety Company at 1-800-221-3662 and a fidelity bond consultant will assist you with the bond application. You are under no obligation to purchase your bond from Colonial Surety or any other company we may recommend. You can also find additional bond information on our site www.pensysinc.com .

Wherever you decide to obtain your bond, be certain that you are purchasing an ERISA Fidelity Bond, NOT an employee dishonesty bond or a fiduciary bond. These other bonds do not fulfill the DOL requirements for ERISA compliance.

1. Do you currently have an ERISA fidelity bond? (Please circle) Yes or No
2. If yes, what company do you use _____
3. What is the expiration date of your bond? _____ / _____ / _____
4. What is the current value of the plan assets? _____
5. Are the assets Qualified or Non-Qualified (see below)*? _____

*Qualified assets are held in a financial institution and include stocks, bonds, liquid assets, etc, and need to be bonded for 10% of the assets.
Non-Qualified assets are things like Real Estate, Collections, etc., and need to be bonded for 100% of the assets