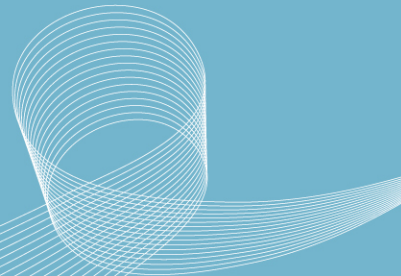


MOSS ADAMS<sub>LLP</sub>

Certified Public Accountants | Business Consultants



# EMPLOYEE BENEFIT PLANS FOR NFPs

Bertha Minnihan, Partner, Moss Adams LLP  
Brad Wall, Partner, Moss Adams LLP

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# BERTHA MINNIHAN



Bertha has nearly 20 years of experience in public accounting and serves as National Practice Leader of Moss Adams' Employee Benefit Plan Group. She has extensive experience directing all phases of audits for a variety of benefit plans including 401(k), 403(b), pension, employee stock ownership, health and welfare benefit plans. She has also worked with a number of SEC 11(k) clients. Her ERISA expertise includes the specialized knowledge required for audits, Form 5500s and related filings.

Bertha serves on the AICPA Employee Benefit Plan Experts Panel. Previously, she's served on the Audit Quality Center's Executive Committee and AICPA's Technical Standards Subcommittee, which assists with the Department of Labor's review of ERISA audits and auditors.

# BRAD WALL



- Brad is a Partner in Moss Adam's Silicon Valley office who focuses in the areas of EBP and NFP audits.
- Brad has 20+ years of experience in EBP audits with experience in auditing 401(k), pension, health & welfare and 403(b) plans.
- Brad is heavily involved in training and acts as a technical resource for the firm's EBP practice.
- Brad also practice's in the firms NFP practice, primarily focusing on audits of Foundations.

# LEARNING OBJECTIVES / AGENDA

1. Various types of plans
2. Regulatory and reporting requirements
3. Fiduciary plan governance
4. Best practices and trends

# TYPES OF PLANS

- Defined contribution plans
  - 401a
  - 403b
- Defined benefit plans
- Deferred compensation plans

# REGULATORY AND REPORTING REQUIREMENTS

- Form 5500 and SAR
- Annual audit (dependent on head count)
- Understanding how the plan works
- Working with service providers

# DOL AUDIT QUALITY STUDY

- 83,000 ERISA plans
- 7,300 ERISA auditors
- 400 audits reviewed by DOL
- DOL rejected Form 5500 filings for deficient audits
- Potential fines \$1,100 per day
- Evaluate your plan auditor qualifications

# EBP FINANCIAL STATEMENT AUDITS

- Plan Financial Reporting and Audit Process and Management's Responsibilities
- Purpose, Objectives and Benefits of the Independent Audit
- General Audit Considerations
- Full Scope vs. Limited Scope
- Audit Areas
- The Audit Process
- Auditor's Report
- Your Role in the Audit Process





# 403(b) PLAN GOVERNANCE

- The importance of plan governance
  - Protection
  - Responsibility
- What does effective plan governance look like?
  - Knowledge of the plan and your role as fiduciary
  - Best interest of the participants
  - Establishment of procedures
  - Investment monitoring
  - Expense monitoring
  - Compliance with ERISA and DOL Regulations



# IMPORTANCE OF PLAN GOVERNANCE



- Protection of participants
- Who can be a fiduciary?
  - Plan Sponsor – Ultimate fiduciary
- Fiduciary role and responsibility
  - Acting solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them;
  - Carrying out their duties prudently;
  - Following the plan documents (unless inconsistent with ERISA);
  - Diversifying plan investments; and
  - Paying only reasonable plan expenses.
- Shields fiduciaries from potential liability

# IMPORTANCE OF PLAN GOVERNANCE



- Limiting liability
  - Document process to carry out fiduciary duties
  - Participant direction of investments
  - Qualified default investments
    - 4 types of investment alternatives and notice to participants automatically enrolled or enrolling without making an investment election

# WHAT CONSTITUTES EFFECTIVE PLAN GOVERNANCE?



- Strong knowledge of plan document and adoption agreement
  - Consistency of details
  - Documents should inform participants and beneficiaries of specific benefits, rights and obligations
- Identify those involved (retain documentation)
  - Finance - > investment options
  - Plan committee - > oversight and plan document
  - Human resources - > plan administration and enrollment

# WHAT CONSTITUTES EFFECTIVE PLAN GOVERNANCE?



Governing body should be aware of:

- Establishment of controls
  - Segregation of duties – employer, payroll provider, record keeper
  - Monitoring of service provider controls
  - Understand plan sponsor’s “user controls”
  - Communication to employees
- Controls – design and implementation
  - Plan operations
  - Information technology
  - Payroll

# WHAT CONSTITUTES EFFECTIVE PLAN GOVERNANCE?



- Establishment of sound governance committee procedures
  - Regular meetings
  - Documentation and retention of meeting minutes
  - Actions and delegated authorities
  - Plan amendment procedures should ensure that amendments are properly adopted
- Who should serve on a committee

# WHAT CONSTITUTES EFFECTIVE PLAN GOVERNANCE?



- Oversight of investments
  - Monitoring Performance
    - Retain material from reviews of investments
  - Establishment of an investment policy
    - Should be flexible enough that it is practical
    - Avoid measurements that are specifically performance based
    - Set standards on fund metrics and statistics
    - Consideration of fees
    - Compare to benchmarks
    - Aim for qualitative measures that have proven success historically

# WHAT CONSTITUTES EFFECTIVE PLAN GOVERNANCE?



- Monitoring plan expenses
  - Ensure proper reporting by vendors to plan sponsors 408(b)(2)
  - Review agreements with vendors
  - Evaluate whether plan expenses are reasonable and proper
    - Approval process for expenses
    - Benchmarking
    - DOL website has tools ([dol.gov](http://dol.gov))
    - Fiduciaries can be held responsible for unreasonable fees
    - Increased litigation in this area



# WHAT CONSTITUTES EFFECTIVE PLAN GOVERNANCE?



- Reports from management
  - Internal controls
  - Operational deficiencies
  - Delinquent contributions
  - Unusual plan expenses
- Annual reporting compliance
- Changes in pension law and fiduciary education
- Monitoring third party vendors

# PLAN GOVERNANCE CLOSING THOUGHTS



- Be aware of responsibility and potential liability related to the role of fiduciary
- Identify and document those involved with Plan
- Responsibility and awareness of plan-related controls
- Importance of a designated body/committee for plan oversight
- Regular reviews of investment performance and fees
- Internal awareness of specific plan related issues
- External education concerning industry updates/hot topics

# BEST PRACTICES – PLAN ADMINISTRATION

- Timeliness of contributions into trust
- Eligibility – EE vs. ER contributions
- Eligibility – part-time become full-time close to year end, when eligible to enroll
- Determination letter – status of program
- Eligible compensation
- Propriety of distributions
- Reasonable expenses to the plan



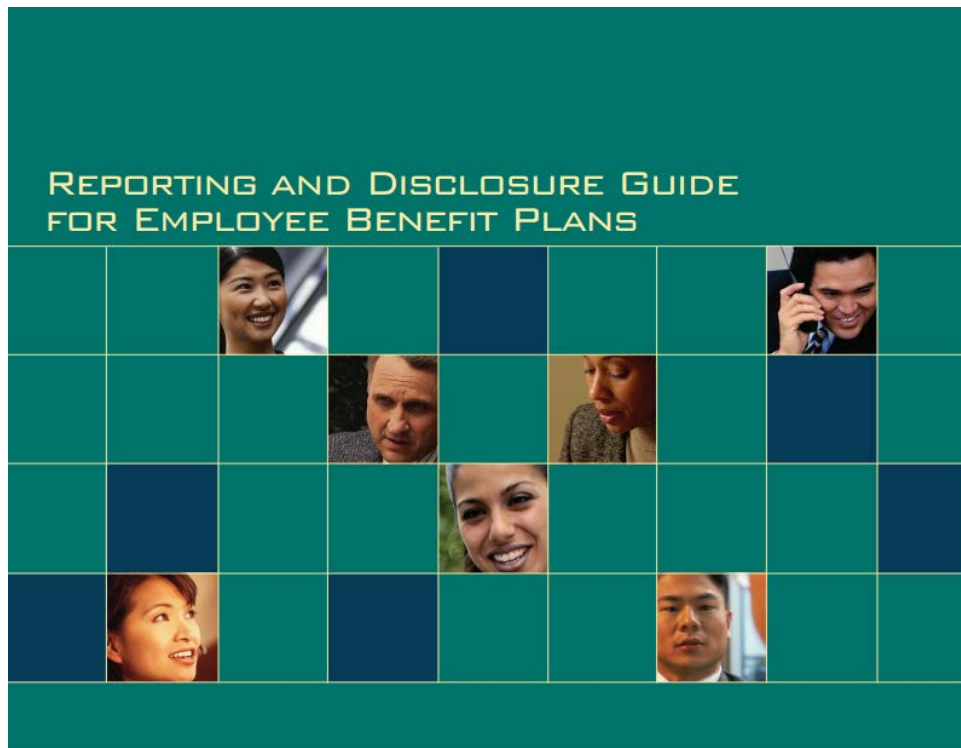
# TRENDS – VENDOR CONSOLIDATION

- Considering consolidation (investments and plan)
- Beginning the process
- Evaluating vendors, benchmarking
- Communicating with participants
- Revenue sharing
- Litigation trends/considerations



# RESOURCES

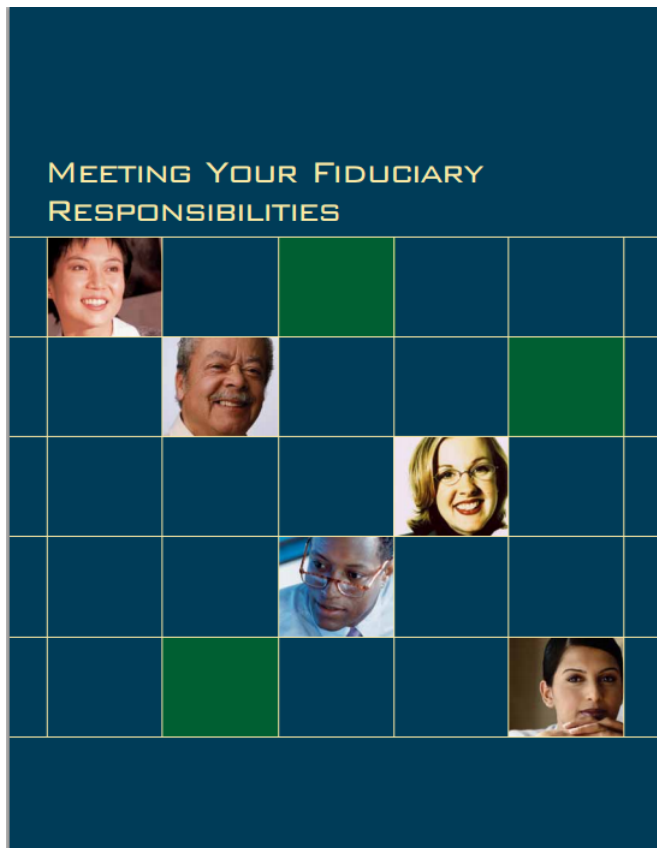
# DOL PUBLICATION ON REPORTING AND DISCLOSURES



- Reference tool for certain basic reporting and disclosure requirements under ERISA.
- Contains a list of EBSA and PBGC resources where laws, regulations, and other guidance are available on ERISA's reporting and disclosure requirements

<http://www.dol.gov/ebsa/pdf/rdguide.pdf>

# DOL PUBLICATION ON FIDUCIARY RESPONSIBILITIES

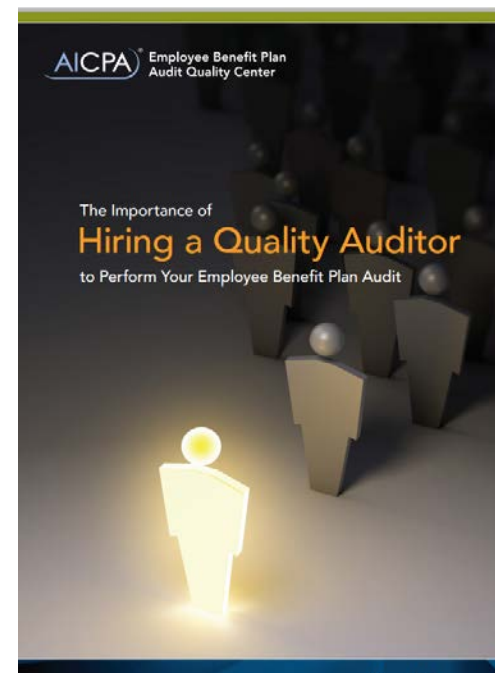


- Addresses the scope of ERISA's protections for private-sector retirement plans.
- Provides a simplified explanation of the law and regulations.

<http://www.dol.gov/ebsa/pdf/meetingyourfiduciaryresponsibilities.pdf>

# THE IMPORTANCE OF HIRING A QUALITY AUDITOR

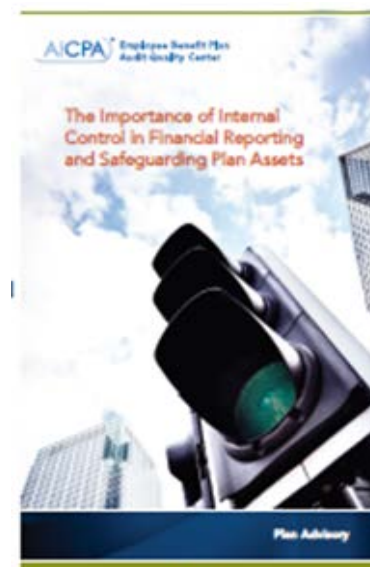
- Why a Financial Statement Audit Is Important
- Risks to Plan Sponsors if a Quality Audit Is Not Performed
- Evaluating Auditor Qualifications
- The Proposal Process
- Documenting the Agreement
- Additional Resources





# THE IMPORTANCE OF INTERNAL CONTROLS IN FINANCIAL REPORTING AND SAFEGUARDING PLAN ASSETS

- Why Internal Control Is Important to Your Plan
- How to Establish Cost-Effective Internal Control
- Monitoring Your Controls
- Auditor Communications of Internal Control Deficiencies



# INTERNAL CONTROLS – ADDITIONAL RESOURCES

- COSO website at [coso.org](http://coso.org)
- AICPA Audit and Accounting Guide, Employee Benefit Plans
- AICPA EBPAQC Plan Advisories
  - The Importance of Internal Control in Financial Reporting and Safeguarding Plan Assets
  - Effective Monitoring of Outsourced Plan Recordkeeping and Reporting Functions
- Using a SOC1 Report in Audits of Employee Benefit Plans

# EFFECTIVE MONITORING OF OUTSOURCED PLAN RECORDKEEPING AND REPORTING FUNCTIONS

- Selecting and Monitoring Service Organizations
- Quality of Plan Accounting Information
- Monitoring Service Organization Controls Over Plan Accounting Information
- SOC1 Reports
- Special Considerations for Different Plan Types



# VALUING AND REPORTING PLAN INVESTMENTS

- Reporting Plan Investments
- Valuing Investments and Establishing Internal Controls
- Special Considerations for Alternative Investments
- Investment Information You Should Request From the Plan Trustee or Custodian and Investment Manager



# UNDERSTANDING AUDITOR COMMUNICATIONS

- Overview of Auditor Communications
- Auditor's Communication With Those Charged With Governance
- Engagement Letters
- Management Representation Letters
- Communications About Internal Control Matters Identified in an Audit
- Management Letters and Verbal Communications
- How Auditor Communications Can Help You
- Were to Obtain Additional Information About Auditor Communications



# AICPA AUDIT QUALITY CENTER TOOLS AND RESOURCES

- EBPAQC Plan Advisories
  - The Importance of Hiring a Quality Auditor to Perform Your Employee Benefit Plan Audit
  - Employee Benefit Plans—Financial Statement Audits
  - Understanding Auditor Communications
  - Effective Monitoring of Outsourced Plan Recordkeeping and Reporting Functions
  - The Importance of Internal Controls in Financial Reporting and Safeguarding Plan Assets
  - Valuing and Reporting Plan Investments

## TRENDS – REVENUE SHARING

- Becoming very popular
- Is it a plan asset?
- What should be paid from revenue sharing accounts?
- Set a process for monitoring the account – read the agreement
  - Proper revenue credited to the account
  - Reasonable expenses paid from the account
  - Funds may be required to be distributed to participants before year end

Questions?





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