

A MISTAKE A DAY: TOP 5 401(K) COMPLIANCE MISTAKES & BEST PRACTICES

Oct 16, 2018

This week, we are discussing the five most common compliance mistakes made by 401(k) plan administrators and fiduciaries, the potential liability associated with such mistakes, and steps you can take to avoid making them yourself. Each day we will discuss a new compliance mistake. Yesterday, we discussed [failures to timely update plan documents](#). Today, we are discussing an SPD-related failure. Check in through the end of the week for more compliance mistakes!

SPD Fails to Accurately Describe Plan Terms

Description

A Summary Plan Description ("SPD"), by definition, must accurately summarize a plan. This means that all descriptions in the SPD must accurately describe the terms of the underlying plan document.

Potential Liability

If an SPD includes different provisions than the corresponding plan document, a court may enforce the provisions of the SPD rather than those of the plan. The facts that a plaintiff must prove to receive this relief varies from circuit to circuit.

Examples

The plan requires that a participant be employed on the last day of the plan year to receive a matching contribution. The SPD indicates that participants will receive a matching contribution regardless of whether they are in the employer's employment on the last day of the year. The SPD does not accurately describe the of plan's eligibility provisions.

The Fix

Regularly review the SPD for consistency with applicable plan terms and plan operation.

RELATED PRACTICE AREAS

- Employee Benefits & Executive Compensation

MEET THE TEAM



Lisa A. Van Fleet

St. Louis

lisa.vanfleet@bclplaw.com

+1 314 259 2326

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.