**BENEFIT PLANS PRELIMINARY ACQUISITION DUE DILIGENCE: CHECKLIST OF ITEMS TO REVIEW**

Please provide the following information.

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| **1.** | **The Companies.** Please provide the name and corporate structure of the buyer, the entity being acquired, and the names and ownership of all related entities (before the transaction occurs). |
| **2.** | **The Transaction.** Please provide the name and corporate structure of the company (buyer) acquiring the other entity (target) and the manner in which the transaction is structured. For example, is it an asset purchase, a stock purchase, or a merger? What will happen to the target company and its employees after the transaction? |
| **3.** | **Types of Retirement Plans.** Please indicate whether the target sponsors or has *ever* sponsored any of the following types of plans. If there is more than one of a type, please indicate how many and the names of each. Please provide this information for the entity being acquired *and* all related entities before the transaction. If the plan is terminated, please so indicate and advise whether all assets have been distributed.

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| □ | Defined Benefit Pension Plan | □ | Profit Sharing Plan | □ | Stock Bonus Plan |
| □ | Money Purchase Pension Plan | □ | Target Benefit Plan | □ | 401(k) Plan |
| □ | 403(b) Plan  | □ | Cash Balance Plan | □ | 457 Plan |
| □ | Employee Stock Ownership Plan  | □ | Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

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| **4.** | **Responsible Parties.** Please provide the names of the persons at the target company who are responsible for retirement plan matters, as well as the following service providers:* Trustee for each plan (if any)
* Fundholder for each plan
* Third-party administrator for each plan (if any)
* Investment advisor for each plan (if any) to both the investment fiduciary and the plan participants (if any)
* Investment manager for each plan (if any)
* Administrative Committee members for each plan (if any)
* Actuary (for defined benefit plans only)
* Plan auditor (for plans with more than 100 participants)
* Whoever performs the annual nondiscrimination testing
* Claims administrator
* If Company participates in a pooled employer plan, name of the plan and name of the pooled plan provider.

Attach service agreements for all of the above service providers, as well as most recent year's billings received from each. |
| **5.** | **Plan Documentation.** Please provide a copy of the following for *all* of the target's retirement plans:* Plan document currently in effect and all amendments to the document
* IRS favorable determination letters (or, if preapproved plan, IRS opinion letter issued to document provider) for qualified plans
* Resolutions of Board of Directors adopting the plan and the amendments
* Summary plan descriptions and summaries of material modification (also called SPD supplements)
* Participant loan program (if any)
* Qualified domestic relations order procedure (if any)
* Third-party administrator service contracts
* Fundholder and recordkeeper contracts or custodial agreements
* Trust agreements, including rabbi trusts for executive compensation plans (if any)
* Investment policy statement (if any)
* Engagement agreements and fee disclosures from all service providers to the plan
* Insurance contracts (if any)
* If a company participates in a multiple-employer plan, main plan document and, if applicable, adoption agreement, as well as joinder agreement or other documents used for the employer to adopt into the plan and designate plan provisions
* Records of any Coronavirus Aid, Relief, and Economic Security Act or Setting Every Community Up for Retirement Enhancement Act provisions required to be documented prior to the end of the 2022 plan year
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| **6.** | **Fiduciary Duties.** Please provide copies of the following for all of the target's retirement (except where otherwise indicated):* Committee governance documents (if any)
* Minutes or other records of meetings of the plan committee or other fiduciaries for the past three years
* Minutes or other records of meetings of those responsible for plan investments for the past three years
* Investment policy statement (if any)
* All service contracts with service providers to the target's plans, as well as any and all fee disclosure documents provided by such providers as required under ERISA Section 408(b)(2)
* Copy of correspondence with service providers who failed to provide 408(b)(2) disclosures, and any DOL reports regarding such failures
* Fidelity bond for any plan (if any)
* Fiduciary insurance policy in relation to any plan (if any)
* Records of any fiduciary education programs used by the fiduciaries during prior three years
 |
| **7.** | **Reporting and Disclosure.** Please provide a copy of the following for *all* of the target company's retirement for the last three completed plan years:* Sample participant benefit statement
* For retirement plans, copies of the most recent annual and the last four quarterly participant disclosures required under the regulations to Labor Regulation Section 2550.404(a)-5
* Summary annual report
* Annual funding notice (if defined benefit plan)
* Copy of any blackout notices provided to participants and/or executives
 |
| **8.** | **Nondiscrimination Testing for the Retirement Plans.** Please provide the following for *each* plan:* If 401(k) plan, copy of actual deferral percentage (ADP) and actual contribution percentage (ACP) testing for most recent plan year and documentation of any correction undertaken for the year
* Top-heavy testing for the most recent year
* Any available testing under Code Section 410(b) (coverage), 401(a)(4) (nondiscrimination), or 415 (maximum benefits)
* Any other nondiscrimination testing done for the plan(s) for the most recent plan year
* If safe harbor 401(k) plan, copy of annual notice to participants for current year and prior two years
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| **9.** | **Distributions and Loans from Retirement Plans.** Please provide the following for each plan:* Copy of forms provided to participant for completion when a distribution is requested
* Copy of forms provided to participants for completion when a loan is requested
* Copy of loan documentation, including promissory note, spousal consent (if applicable), and amortization schedule
* Have any loans been deemed to be distributions in the past five years? If so, have Forms 1099-R been filed?
* Have any annuities been purchased by the Plan for distribution to participants in the past five years?
* How is the interest rate on loans determined?
* Copy of contract for the provision of automatic rollovers to an IRA for terminated participants with benefits of less than $5,000
* How is eligibility for, and amount of, hardship distributions substantiated? Please provide copy of any forms package for this purpose.
* If COVID-related loans or distributions were made: copies of forms completed by participants to certify status as qualified individuals.
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| **10.** | **Other.*** Please provide the target company's employee handbook or employee manual.
* Are there any lawsuits pending or threatened against the plan, the plan fiduciaries, the trustee, or the target company in relation to any plans or benefits? If so, please advise.
* Are there any claims pending or threatened against the plan that could lead to litigation?
* Are there contributions that are accrued and unpaid at this time? Please list.
* Have there been any prohibited transactions in the last six years?
* Have there been any PBGC reportable events in the last six years? Were they reported?
* Have all PBGC premiums been paid when due?
* Please provide all correspondence with federal or state governments regarding any plans during the past four years, not including the initial Form 5500 filing for each year and favorable determination letter requests.
* Have any representations been made to participants regarding benefits or vesting in the event that the target company is acquired?
* Have any promises or representations been made to participants or former participants regarding any benefits or other payments that are to continue past employment?
* Does the target company have any union employees? If so, does it contribute to any multiemployer plans? If so, please provide name of plan, collective bargaining agreement, and any other documentation of the benefits and other provisions of this plan.
* Does the target company lease employees?
* Does the target company use independent contractors? If so, provide number of such individuals used in each of the last three years.
* Are there entities that provide at least 50 percent of their services to the target company?
* Does the target or any related company use the services of a professional employer organization (PEO)?
* Does the target or any related company participate in a multiple-employer plan or a pooled employer plan or other multiple-employer arrangement (such as an “exchange” or other combined contracting arrangement)?
* Have any claims for benefits been denied in the past five years that exceed $10,000 either individually or in total?
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**DUE DILIGENCE WORK PLAN**

**I. Identification of Plans**

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| A. | Identify all employee benefit plans |
| B. | Obtain copies of all plan documentation, administrative procedures and committee minutes, insurance contracts, and employee communications materials. |

**II. Review of Retirement Plans**

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| A. | Tax qualification

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| 1. | Review plan documents to determine whether the form of the documents is in compliance with current legislation. |
| 2. | Confirm that plans are covered by a current Internal Revenue Service (IRS) opinion or notification letter that complies with the Pension Protection Act (PPA) or after July 3, 2022, the Third Cycle.

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| (a) | If individually designed plan, see if any favorable determination letter has been issued. |
| (b) | If plan is a 403(b) plan, make sure that it has been documented effective on or after January 1, 2009, and determine if the plan document is preapproved on or before March 31, 2020 (and, if not, that the decision has been made to use an individually designed document and that the failure to be on a preapproved document is not the result of failure to amend). |

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| 3. | Confirm that any required “interim” amendments were adopted by the end of the year in which they were effective. If individually designed plan, check required amendments lists issued by the IRS since last determination letter to ensure that the document is up to date. |
| 4. | Review plan documents and prepare schedule of administrative provisions. |
| 5. | Review plan operations to ensure that they match the plan terms. |
| 6. | Review distributions, loans, hardship withdrawals, and automatic IRA rollovers to ensure that IRS tax withholding, tax reporting, and rollover rules are being followed. |
| 7. | Review plan coverage, nondiscrimination testing (or annual notices in regard to safe harbor 401(k) plan, if applicable) and benefit limitation controls to ensure that there are no likely violations. Review distributions of excess deferrals or excess contributions for timeliness, proper calculation, and proper reporting. |
| 8. | Review any 401(k), 403(b), or 457 plan to determine if designated Roth contributions are permitted and, if so, confirm that such contributions are being properly accounted for. |
| 9. | Review Forms 5500, as sent to the Department of Labor (DOL), for completeness and compliance with reporting requirements. |
| 10. | Confirm that there are no current IRS audits in process in relation to the plans. |
| 11. | Confirm that all contributions have been deposited to the plans on a timely basis (e.g., deferrals within 7-day rule if plan has fewer than 100 participants or as soon as administratively feasible if not; employer contributions by tax return due date, or, if pension and earlier, 8 ½ months after the plan year end) and that all minimum funding requirements have been met. |
| 12. | If it is possible that the plan will be terminated after transaction, evaluate whether there is anything that would impede such termination (e.g., underfunding, contractual obligations, charges by fundholders for surrender of products). |
| 13. | Review Target's plan to determine if Seller's employees will be eligible to enter the plan after the transaction and evaluate whether pre-transaction amendments are required to meet Buyer's goals. |
| 14. | Review Buyer's plans to determine when Target employees will be covered after transaction, and evaluate whether pre-transaction amendments are required to meet Buyer's goals. |
| 15. | Review any annual CPA audits of plan to ensure unqualified opinions were obtained. |

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| B. | ERISA (fiduciary rules) compliance

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| 1. | Identify fiduciaries (trustee, plan administrator, investment manager, administrative committee, investment committee, loan committee, etc.). |
| 2. | Confirm that fiduciaries are properly bonded (including additional bonding requirements if the plan has nonqualifying assets and/or employer securities). |
| 3. | Review any plan governance documents to identify the various plan fiduciaries and the respective obligations of the fiduciaries. |
| 4. | Confirm that the governance document procedures are being followed and that committee/fiduciary minutes reflect such compliance. |
| 5. | Confirm that administrative fiduciaries have kept due diligence files for decision-making for plan operations and that the processes and decisions seem prudently handled. |
| 6. | Review plan investments to ensure that they are properly in the name of the trust and that they appear to be reasonable and prudent. |
| 7. | Confirm that responsible investment fiduciaries have kept due diligence files for selection of investments and have continued to monitor investment choices. |
| 8. | Review to ensure that there are no apparent prohibited transactions. |
| 9. | Confirm that all filings required by the IRS, the DOL, and the Pension Benefit Guaranty Corporation (PBGC) have been made. |
| 10. | Confirm that the employer has a policy of depositing employee contributions and salary deferral contributions within the DOL's permitted time frame, and that failures to do so have been properly corrected through the depositing of interest and filing of Form 5330 to pay excise taxes. |
| 11. | Confirm that there are no apparent breaches of fiduciary standards. |
| 12. | Confirm that all DOL reporting and disclosure requirements have been met, including summary plan descriptions, summaries of material modifications, participant statements, summary annual reports, independent audit of plans, blackout notices, annual funding notices (for defined benefit plans), and automatic IRA rollover documentation. |
| 13. | Confirm that there are no pending DOL investigations or fiduciary breach lawsuits. |
| 14. | Review plans for compliance with ERISA Section 404(c) (if applicable), including provision of notice of intent to comply and impact of compliance on fiduciary obligations. |
| 15. | Review any and all information relating to fee disclosure, including disclosures needed from service providers to plan sponsors and administrators under ERISA Section 408(b)(2) and disclosures needed to be provided to participants under Labor Regulation Section 2550.404a-5. Make sure that none is missing or, if any are, that the plan administrator has taken appropriate action to report those service providers to the DOL and to terminate their services. |
| 16. | Review due diligence files for service provider selection. Determine when the plan administrator last assessed whether fees for the service providers were reasonable and how such assessment was performed. Determine whether procedure was sufficient to meet fiduciary duties. |

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| C. | Latent funding liabilities

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| 1. | Confirm that defined benefit plan annual funding notices (AFN) have been prepared for each year. |
| 2. | If AFN shows adjusted funding target attainment percentage (AFTAP) is less than 80%, review plan document for ramifications and make sure that proper steps have been taken. |
| 3. | Review unfunded liabilities of defined benefit plans and, if union plans, potential withdrawal liability. |
| 4. | Confirm that all PBGC premiums have been paid timely. |
| 5. | Confirm that no waived funding deficiencies are being amortized. |
| 6. | Confirm that there are no due and unpaid contributions. |

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| D. | Service provider contracts and liabilities

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| 1. | Review service provider and fundholder contracts to determine the following:

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| (a) | Costs of termination of such services (if desired). |
| (b) | Services being provided (and any overlaps or gaps in service that need to be addressed). |
| (c) | Compatibility with Buyer's contracts in case the providers are to be retained. |

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| 2. | Determine whether anyone has evaluated the appropriateness and reasonableness of fees being paid by the plan. If so, review such evaluation. |
| 3. | Compare most recent billing from service providers to determine if the fees charged are in conformance with the 408(b)(2) disclosures. |

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| E. | COVID-related review

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| 1. | Determine if the plan has permitted COVID-related distributions or loans to qualified individuals. |
| 2. | If so, confirm procedures for loans and distributions, including revision of amount permitted and certification of qualified individual status. |
| 3. | Confirm that documents are amended by end of 2022 plan year. |

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| F. | Multiple-Employer Plan or Pooled Employer Plan

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| 1. | Determine if the plan is a multiple-employer plan (i.e., covers the Target and one or more companies that are unrelated to the Target). |
| 2. | Determine if the plan is or is intended to be a pooled employer plan under ERISA Section 3(43). |
| 3. | Review the governing documents for the plan to ensure that the options selected by the Target for its portion of the plan are permitted under the plan. |
| 4. | Review the governing documents for the plan to identify whether the plan covers any members of the Target's controlled or affiliated service group. |
| 5. | Review the governing documents and service agreements to identify whether and when the sponsor needs to be informed of acquisition or disposition and how and when modifications or termination of the plan can be made. |
| 6. | Review the fee schedule for the plan to identify reasonableness of fees paid historically to the plan and its service providers. |
| 7. | If the plan is intended to be a pooled employer plan, review the DOL's Web site to ensure that the pooled plan provider is appropriately registered.8. Review Form 5500 for listing of adopting employers and confirm that Target is listed |

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| G. | Recommendations for future

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| 1. | Identify considerations if the plan is to be terminated. |
| 2. | Identify considerations if the plan is to be maintained on an ongoing basis. |
| 3. | Determine whether benefits may be distributed and rolled over to qualified plan of Buyer or whether the plans should be merged. |
| 4. | Determine whether Buyer's or Seller's plan needs to be amended prior to closing of transaction to avoid coverage problem. |
| 5. | Determine if Target's plan needs to be terminated before acquisition is effective. If so, determine timeline and responsibility list for this. |
| 6. | Will there be any blackout periods during the transaction period? |
| 7. | Will there be any blackout periods soon after the transaction period due to anticipated changes in benefits? |
| 8. | Will any terminations or modifications result in the termination of services of current service providers and, if so, what are the costs associated with such termination? |
| 9. | Identify when next restatement of plan is required (and the type of restatement, i.e., preapproved document or individually designed document subject to 5-year cycle). |

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## SYSTEMS REVIEW

To obtain an understanding, and document that understanding, of the control environment, accounting systems, and operating characteristics of the plan.

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| 1. | Thoroughly interview appropriate personnel to obtain an overall understanding of the employer's plan administrative procedures and of the systems used to facilitate those procedures. The interview should include a discussion and documentation of the following items:

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| a. | The computer systems in place affecting the operation of the plan, including the personnel, payroll, and benefit systems. |
| b. | Processing of new hires and rehires. |
| c. | Classification of employees. |
| d. | Enrollment of eligible employees. |
| e. | Obtaining and retention of beneficiary designations from eligible employees. |
| f. | Procedures for allocating contributions and transmitting funds to the trustee. |
| g. | Procedures for ensuring that no salary deferrals exceed the Section 402(g) limits in a calendar year ($19,500 for 2021 if participant is under age 50, $26,000 if participant is age 50 or older during the calendar year). |
| h. | Procedures for changing elections, including contribution amounts, investment elections, and beneficiary designations. |
| i. | Compensation used for all plan purposes. |
| j. | Calculation of vested percentages. |
| k. | Procedures related to processing qualified domestic relations orders (QDROs). |
| l. | Procedures related to processing in-service and hardship distributions. Ensure that the employer obtains and retains documentation of existence of hardship. |
| m. | Procedures related to distribution on account of death, disability, retirement, and termination. |
| n. | Procedures related to processing required minimum distributions. |
| o. | Procedures related to performing Section 401(k) and 401(m) tests, the Section 415 limitation test, and participant and coverage requirements. |
| p. | Procedures for identifying and separately accounting for designated Roth contributions and the five-year period for determining qualified distributions. |
| q. | Procedures related to the processing of participant loans from the plan. |
| r. | Other qualified plans maintained by the employer and whether there has been any merger of any other plan into or with this plan and whether there has ever been any transfer of assets and/or liabilities between this plan and any other plan. |
| s. | If COVID distributions are permitted pursuant to the CARES Act, confirm that:

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| i. | participants were given notice of availability; |
| ii. | procedures exist for determining whether participants are qualified individuals (including procedure for employee certification); and |
| iii. | amount of distributions are properly limited. |

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| t. | Confirm that loans to COVID-qualified individuals are not defaulted during extended repayment period. |
| u. | If COVID loans are permitted by plan, confirm that:

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| i. | participants were given notice of availability; |
| ii. | procedures exist for determining whether participants are qualified individuals (including procedure for employee certification); |
| iii. | amount of loan was properly limited; and |
| iv. | any necessary follow-up procedures for documentation have been instituted and are being used. |

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| 2. | Subsequent to the interviews, have the compensation and benefits group prepare a summary of the procedures in place with regard to the operation of the plan. |
| 3. | Based on findings from the interviews, revise the work program to reflect the proper scope and objectives of the plan review. |
| 4. | Determine the sample size for each test to be performed and judgmentally or statistically select the samples for each test. |
| 5. | Notify the Target of the participants selected in the samples and have them gather the necessary personnel/benefits files to be used in verifying data. |
| 6. | To the extent that information is stored electronically, check for cybersecurity procedures and insurance, both for the Target and in relation to its service providers. |

In my opinion, the above objectives have been met.

Signature:

Date:

## NONPARTICIPANT REVIEW OBJECTIVES AND PROCEDURES

To obtain assurance that the plan administrator has correctly determined whether employees are properly included or excluded from participation in the plan and has correctly determined whether employees are properly considered as ineligible for participation in the plan.

## Ineligible Employees

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| 1. | From the plan document, determine the eligibility requirements for participation in the plan. |
| 2. | From the payroll/personnel data file, create a list that consists of all employees who were classified as ineligible employees at some point within the three-year period. The list should include the following fields:

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| --- | --- |
| a. | Social Security number; |
| b. | Name; |
| c. | Employee number; |
| d. | Participant number; |
| e. | Status code; |
| f. | Date of hire; |
| g. | Date of birth; and |
| h. | Date of termination. |

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| 3. | From the list of ineligible employees created in step 2, judgmentally select 20 employees and trace the employee census data (e.g., date of hire, date of birth, and date of termination) to the proper source documents. |
| 4. | Calculate the expected date of eligibility and compare that date with the actual date of eligibility that is reflected within the benefit system. |
| 5. | Discuss with Target whether any action has been taken to create and/or maintain records for long-term short-time employees in preparation for 2024. |

In my opinion, the above objectives have been met.

Signature:

Date:

## PARTICIPANT REVIEW OBJECTIVES AND PROCEDURES

To obtain assurance that participant accounts have been properly maintained with regard to eligibility, credited service, vesting, allocation of contributions, and the determination of applicable compensation for various plan purposes.

## New Participants

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| 1. | From the benefit system file, judgmentally select 20 participants who were hired during the prior three years. |
| 2. | Obtain the following fields for each participant to determine that the participant was properly included in the plan:

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| a. | Social Security number; |
| b. | Name; |
| c. | Employee number; |
| d. | Participant number; |
| e. | Date of hire; |
| f. | Hours during first eligibility computation period; and |
| g. | Date of participation/eligibility. |

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| 3. | Trace and agree the employee's census data (e.g., Social Security number, name, employee number, and date of hire) to the applicable source document. |
| 4. | Recalculate the employee's date of eligibility based on the participant's date of hire and hours of service during his or her first eligibility computation period. |
| 5. | NOTE: Consider discussing the forthcoming “long-term, part-time employee” rules with the Target to help determine what changes are needed to systems to enable recordkeeping for these individuals to properly capture and retain hours information in 2021. |

## Eligibility

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| 1. | From the benefit system file, judgmentally select 20 participants across the prior two years. |
| 2. | Using the above sample, obtain the following fields for each participant to determine that the participant was properly included in the plan and is credited with the correct years of service:

|  |  |
| --- | --- |
| a. | Social Security number; |
| b. | Name; |
| c. | Employee number; |
| d. | Participant number; |
| e. | Date of hire; |
| f. | Date of birth; |
| g. | Date of termination; and |
| h. | Date of eligibility/participation. |

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| 3. | Trace and agree the participant's Social Security number, name, employee number, date of hire, and date of birth to the applicable source document within the employer's personnel file maintained in the personnel department. |
| 4. | Trace and agree the participant's date of termination, if applicable, to the source document within the employer's personnel file maintained within the personnel department. |
| 5. | Based on the date of hire, recalculate the date of eligibility/participation to determine that it is reasonable. |

## Coverage

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| 1. | Determine how plan meets coverage rules: ratio percentage test or average benefits test. |
| 2. | Determine whether QSLOB testing is used to meet coverage. If so:

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| a. | Confirm that there was a Form 5310-A filing. |
| b. | Confirm that every employee group in the entire controlled/affiliated service group is assigned to one QSLOB. |
| c. | Confirm that every QSLOB has at least 50 employees. |

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| 3. | Determine if any acquisition/disposition occurred within prior two plan years and whether coverage is being met using a transition period. If so, determine whether the current acquisition will require an amendment that will affect the transition period. |
| 4. | Confirm that the coverage testing for the prior year was performed correctly. |

## Contributions/Allocations

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| 1. | Determine from the plan documents the types of contributions available under the plan (i.e., 401(k) salary deferrals; designated Roth contributions; discretionary profit-sharing contributions; formulaic profit-sharing contributions; qualified nonelective contributions or qualified matching contributions; catch-up contributions; voluntary employee after-tax contributions; mandatory employee after-tax contributions). |
| 2. | Using the sample generated under the **Eligibility** section above, obtain the following fields from the benefit system for each participant to determine that all contributions were properly calculated and credited to the participants' accounts:

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| a. | Social Security number; |
| b. | Name; |
| c. | Annual 401(k) deferral for each year under review; |
| d. | Annual after-tax contribution for each year under review; |
| e. | Annual employer match allocation for each year under review; |
| f. | Annual profit-sharing allocation for each year under review; |
| g. | Annual forfeiture allocation for each year under review; |
| h. | Portion of 401(k) deferral that was deemed by the plan administrator for each year under review to be a catch-up contribution; |
| i. | Portion of 401(k) deferral for each year under review that was a designated Roth contribution; |
| j. | Hours of service for each eligibility computation period during the years under review; and |
| k. | Compensation for benefit accrual purposes. |

 |
| 3. | Trace the employer contributions from the check ledger or other indicia of contribution (i.e., deposit slip) to the trustee's statements. |
| 4. | Determine the date when the salary deferrals, after-tax employee contributions, and payroll deducted loan payments were deposited in the plan's trust account versus the payroll date when the contributions were withheld from the employee's paycheck to ensure that they were transmitted as soon as possible after the payroll date. If not, obtain copies of Form 5330 to pay excise tax and calculations of additional interest due participants on late deposits. |
| 5. | Judgmentally select 30 deferring participants and trace the amount of their contributions, both pretax and after-tax, from the payroll register and their Forms W-2 to their individual participant's statements and their individual election forms and to the company's payroll journal and Forms 941 for all plan years. |
| 6. | Verify on an aggregate basis that all employee deferral, designated Roth contributions, and voluntary contributions were deposited in the trust account at the fundholder within seven business days of the date that the contributions were withheld from the employee's paycheck. |
| 7. | If participants have the ability to direct the investment of all or a portion of their individual accounts and if the Target processes the directions, using the same sample of participants, verify that the directions provided to the plan administrator were followed. |
| 8. | If participants have the ability to direct the investment of all or a portion of their individual accounts and if the participant communicates his or her directions directly to the asset custodian, judgmentally select 20 participants and verify by direct communication with the participant that the directions they provided to the asset custodian were followed. *(If possible, use sample in step 3 above.)* |
| 9. | Determine whether the amount of elective deferral contributions for such participants for the *calendar* year do not exceed the Section 402(g) limits for such year. |
| 10. | Trace and agree the 401(k) deferral and designated Roth contributions to each employee's Form W-2 for the applicable year. |
| 11. | Recalculate the employer matching contribution based on the plan document formula (note whether the match is determined on a per payroll basis, or on an annual basis; if the latter, check for true-up contribution where applicable). |
| 12. | Determine whether the annual additions to the participants' accounts satisfy the annual allocation limits under Code Section 415(c). Recalculate the annual addition for each participant's account and trace and agree this amount to the annual addition used in the Section 415(c) limitation test. Recalculate the Section 415(c) percentage and agree to the calculated percentage in the test. |
| 13. | Trace and agree the 401(k) deferral amount and designated Roth contribution (less any catch-up contribution related to anything except the failed ADP test) to the deferral amount used for the 401(k) average deferral percentage (ADP) test. Recalculate the ADP and agree to the percentage calculated in the test. |
| 14. | Trace and agree the after-tax employee contribution and employer matching contribution amounts to the 401(m) average contribution percentage (ACP) test. Recalculate the ACP and agree to the percentage calculated in the test. |
| 15. | Identify whether any automatic enrollment or automatic increase provisions apply to the participants' salary deferrals. If so, review the selected deferrals to ensure that deferrals have been initiated and increased as required by these provisions. |

## Compensation

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1. | Using the sample generated above, obtain the following fields for each participant to determine that compensation was properly calculated with respect to allocations/benefit accruals, Section 401(k) and 401(m) nondiscrimination testing, Section 415 limitation testing, top-heavy determination, 401(a)(4) gateway determination, and for the determination of highly compensated employees:

|  |  |
| --- | --- |
| a. | Social Security number; |
| b. | Name; |
| c. | Employee number; |
| d. | Participant number; |
| e. | Compensation for allocations/benefit accruals; |
| f. | Compensation for Section 401(k) and 401(m) testing; and |
| g. | Compensation for Section 415 limitation testing. |

 |
| 2. | Compare the compensation used for each plan purpose and the calculated amounts to determine that the correct compensation was used for each plan purpose. |
| 3. | Obtain from the plan administrator a list of the highly compensated employees for the current year and the look-back year. From each list, judgmentally select 10 highly compensated employees and determine:

|  |  |
| --- | --- |
| a. | Whether the participant's compensation was properly limited for plan purposes as provided in Code Section 401(a)(17) (e.g., $300,000 for 2021); |
| b. | Whether compensation used in the determination of the employee's status as highly compensated was appropriate by recalculating the plan definition of compensation for purposes of determining highly compensated employees; |
| c. | Whether the employee's status, if any, as an officer was correctly determined; and |
| d. | Whether the employee was correctly classified as a highly compensated employee. |

 |
| 4. | Review compensation for terminated participants to ensure that proper severance compensation under the plan was included and that amounts payable after termination of employment that would not have been paid but for the termination (i.e., “true” severance) was excluded from plan compensation. |

In my opinion, the above objectives have been met.

Signature:

Date:

## BENEFIT PAYMENT REVIEW OBJECTIVES AND PROCEDURES

To obtain evidence that amounts distributed to participants or their beneficiaries have been properly calculated, that the time and method of payment is in accordance with the plan document, that the appropriate election forms and spousal consents have been obtained where necessary, that payments made to beneficiaries have been made pursuant to a valid beneficiary designation, and that participants who attained age 70 ½ during each of the past three years have begun to receive the minimum distributions required by the Internal Revenue Code.

## Separation from Service

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1. | Generate a list of all distributions on account of separation from service (i.e., death, disability, termination, and retirement) across all years. The list should consist of the following fields:

|  |  |
| --- | --- |
| a. | Social Security number; |
| b. | Name; |
| c. | Employee number; |
| d. | Participant number; |
| e. | Date of hire; |
| f. | Date of birth; |
| g. | Date of termination; |
| h. | Distribution type code; |
| i. | Hours of service for each eligibility computation period during the years under review; |
| j. | Vested percentage; |
| k. | Gross distribution amount; |
| l. | Tax withholding amount; |
| m. | Net distribution amount; |
| n. | Date of distribution; |
| o. | Marital status; |
| p. | Benefit payment form; and |
| q. | Payee. |

 |
| 2. | From the list of participants who received distributions on account of separation from service in all plan years, judgmentally select 15 distributions. |
| 3. | Verify that a distribution event occurred, that participants were credited with the appropriate number of vesting years of service, and that their vested percentage was correctly calculated and in accordance with the vesting schedule reflected in the plan document. Verify the increment of the vested percentage for the year of distribution. |
| 4. | Verify that the amount of each participant's distribution was correct, according to his or her vested amount, and trace the amount to the check or evidence of rollover amount. |
| 5. | Obtain a copy of the distribution request form and determine whether those participants were given the option of a direct rollover of their distributable benefit and determine whether (a) there was such a rollover, or (b) if not, 20 percent was properly withheld for income taxes. |
| 6. | From the list of participants who received a lump-sum distribution in excess of $1,000, verify that the form included all available options for the form of the benefit payment and that the participant signed a form prior to the distribution consenting to the distribution. |
| 7. | If the payee was other than the participant, verify that the distribution was pursuant to a valid beneficiary designation and that, if the distribution was to anyone other than a spouse of a participant, that such spouse executed a valid consent to such beneficiary designation, if applicable. |
| 8. | If adopted, confirm proper determination of and reporting of COVID-related distributions. |
| 9. | Discuss with Target procedures that have been established to prevent cybertheft of participant accounts. |

## Automatic IRA Rollovers

|  |  |
| --- | --- |
| 1. | Identify from plan document whether automatic rollovers apply, or that the plan applies the lower cash-out amount of $1,000. |
| 2. | If cash-out amount was lowered to $1,000 (per #1 above), evaluate the distributions selected in #2 of the previous section to ensure that participants receiving between $1,000 and $5,000 made an election and, if no election for distribution was received, that the funds remained in the plan. |
| 3. | If automatic rollover rules apply:

|  |  |
| --- | --- |
| a. | Review contract with service provider to receive automatic rollovers to ensure it complies with the DOL regulations. |
| b. | Locate and review notice to participants regarding automatic rollovers and identity of rollover provider. |
| c. | Identify the service provider who processes the automatic rollovers. Ensure that the relationship of the service provider to the plan does not create any potential prohibited transactions. |
| d. | From the list of participants eligible to receive a distribution of an account valued between $1,000 and $5,000, confirm that the participant received an automatic rollover or that he or she elected an alternative distribution:

|  |  |
| --- | --- |
| i. | Confirm that the participant made an affirmative election if the distribution was over $1,000. |
| ii. | Confirm that the IRA was created for participants who made no election pursuant to the IRA agreement with the IRA provider. |
| iii. | Confirm that any alternate distribution form was pursuant to an affirmative election by the participant. |
| iv. | Confirm that the distribution codes are correct on Forms 1099-R for such participants. |

 |
| e. | Determine if there have been any in-plan conversions of pretax accounts into Roth accounts. Ensure that proper elections are prepared. |

 |

## Designated Roth Contributions

|  |  |
| --- | --- |
| 1. | Identify from the plan document whether the plan permits designated Roth contributions. |
| 2. | If there are designated Roth contributions, create a list of participants who received distributions during the year. |
| 3. | From that list, judgmentally select 20 participants. |
| 4. | From the selected participant list:

|  |  |
| --- | --- |
| a. | Identify those who had designated Roth accounts. |
| b. | Confirm whether the distribution from the designated Roth accounts from such participants was a qualified distribution. |
| c. | Confirm that qualified distributions were distributed to the participant tax-free. |
| d. | Determine whether the taxable portion of the distribution was determined correctly if the distribution was not a qualified distribution. |
| e. | Review Forms 1099-R to ensure that distributions were properly reported. |

 |
| 5. | Determine if there have been any in-plan conversions of pretax accounts into Roth accounts. Ensure that proper elections and tax forms were prepared. |
| 6. | Determine for rollovers whether information relating to the five-year period for qualified distributions was provided to the rollover recipient. |

## Minimum Distributions

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1. | Generate a list of participants who attained age 70½ (72 for years after 2020) during any of the plan years. The list should consist of the following fields:

|  |  |
| --- | --- |
| a. | Social Security number; |
| b. | Name; |
| c. | Employee number; |
| d. | Participant number; |
| e. | Date of hire; |
| f. | Date of birth; |
| g. | Date of termination; |
| h. | Distribution type code; |
| i. | Vested percentage; |
| j. | Credited years of service; and |
| k. | Total account balance as of the end of each of the two years preceding the distribution. |

 |
| 2. | From the list of participants who attained age 70½ (72 for years after 2020) during any of the past two plan years, judgmentally select five participants who attained age 70½ (72) in either of the two or three prior years and verify that they have begun receiving the required minimum distributions and that the amount of such distributions is at least equal to the required minimum. |
| 3. | Confirm that no required minimum distributions were provided for 2020 or, if provided:

|  |  |
| --- | --- |
| a. | That the plan so permits; and |
| b. | That they were treated for purposes of tax reporting as eligible rollover distributions. |

 |

## Missing Participants

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1. | Obtain from trustee or recordkeeper an accounting for any checks that have been issued to participants but that are uncashed after six months.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| a. | Discuss with Target procedures for:

|  |  |
| --- | --- |
| i. | Locating participants with uncashed checks. |
| ii. | To the extent needed, cancelling, and reissuing uncashed checks. |

 |
| b. | Evaluate effectiveness of procedures for uncashed checks. |

 |
| 2. | Obtain from trustee or recordkeeper listing of any terminated participants who have not requested distributions of their benefits or whose distributions have been returned to sender.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. | Discuss with Target procedures for:

|  |  |
| --- | --- |
| i. | Identifying contact information for participants on termination of employment and upon later address changes. |
| ii. | Identifying when a participant appears to be “missing.” |
| iii. | Identifying what steps are taken to locate missing participants. |

 |
| b. | Check Forms 8955-SSA to identify participants for whom the plan maintains a deferred vested benefit and compare to list of missing participants or participants for whom checks are uncashed. |
| c. | Discuss with Target whether it maintains procedures for forfeiting the benefits of vested unlocatable participants, subject to restoration if participants are later located. If such procedures exist, identify how such information is maintained. |

 |

In my opinion, the above objectives have been met.

Signature:

Date:

## PARTICIPANT LOAN, HARDSHIP/IN-SERVICE WITHDRAWAL, AND QDRO REVIEW OBJECTIVES AND PROCEDURES

To obtain evidence that loans to participants are made pursuant to plan provisions, that the amounts of the loans do not exceed the maximum permitted, that loan repayments satisfy the requirements of the loan documents, that any hardship withdrawals satisfy the Internal Revenue Code and plan requirements for such distributions, and that the plan is in compliance with procedures dealing with domestic relations orders:

|  |  |
| --- | --- |
| 1. | Determine whether the plan has a written loan policy as required by DOL regulations and that the loan policy is consistent with the terms of the plan document. |
| 2. | Obtain a list detailing participant loans and, for all new loans, determine whether the loans made to the participants were made pursuant to and in compliance with the written loan policy and the plan provisions.

|  |  |
| --- | --- |
| a. | Select five new loans made during the period under review and compare loan terms to those required under the loan policy. Agree data to loan agreement signed by the participant. |
| b. | If loans are secured by the participant's interest in the plan, verify whether the participant's spouse consented to the loans selected above (or that an exception to requirement for spousal consent exists). |
| c. | Select five loans and determine that selected loans are current by agreeing four payments per loan to trustee statement and to payment records or checks. Disclose any loans in default. Also disclose any loan payments that were not made by payroll deduction and by personal check. |
| d. | If any loan payments were made by personal check, verify that the check was deposited in the plan's trust account within the DOL guidelines for deposits of salary deferrals and loan payments (i.e., as soon as possible, but in no event later than the fifteenth day after the close of the month in which the payment was made). |
| e. | Review all loans selected in item a or c above and verify that the term of the loan does not exceed five years unless the loan proceeds were used to acquire the participant's principal residence. |
| f. | Review all loans to disqualified persons, other than participant loans, and determine whether the loan resulted in a prohibited transaction. |
| g. | For 2020, review all loans for which payments were not made, and:

|  |  |
| --- | --- |
| i. | Determine whether the borrowing participant is a COVID-qualified individual; and |
| ii. | If yes, confirm that no Form 1099R was filed if default occurred during relevant period. |

 |
| h. | For 2020, review all loans made between March 27 and September 23 and:

|  |  |
| --- | --- |
| i. | Determine whether plan permits COVID loans; |
| ii. | If yes, was the borrower a qualified individual? and |
| iii. | If yes, confirm that loan did not exceed the COVID limits and that the start date for loan repayments is properly determined. |

 |
| i. | Determine whether the plan permits hardship or in-service withdrawals by the participants. If so,

|  |  |
| --- | --- |
| a. | Describe the standards for hardship and in-service distributions contained in the plan document. Determine whether such hardship withdrawal standard complies with Treasury Regulations Sections 1.401(k)-1(d)(3)(iii) and 1.401(k)-1(d)(3)(iv), or with the IRS's substantiation guidelines memorandum. |
| b. | Generate a list of participants who received an in-service or hardship distribution during any of the three years. The list should consist of the following fields:

|  |  |
| --- | --- |
| i. | Social Security number; |
| ii. | Name; |
| iii. | Employee number; |
| iv. | Participant number; |
| v. | Date of hire; |
| vi. | Date of birth; |
| vii. | Status code; |
| viii. | Distribution type code; |
| ix. | Gross distribution amount; |
| x. | Tax withholding amount; and |
| xi. | Net distribution amount. |

 |
| c. | Judgmentally select five in-service/hardship withdrawals and determine whether such distributions comply with the plan provisions regarding hardship distributions. |
| d. | Obtain a copy of the in-service/hardship distribution request form noting that the distribution was properly approved, that the amount requested and approved agrees with the distribution, that the distribution was made from the proper account, and that the distribution was made on account of an allowable reason, if applicable. |
| e. | Verify the proof that the hardship actually occurred is maintained in the participant's file, if the substantiation guidelines of the IRS's memo are not being followed. If the substantiation guidelines are being used, review the information provided to the participant to confirm it complies with the guidelines. |
| f. | Suspension of pretax or after-tax contributions after hardship:

|  |  |
| --- | --- |
| i. | For years prior to 2019, verify that any participants who received in-service/hardship distributions did not make any pretax or after-tax contributions for at least six months after the hardship distribution. |
| ii. | For 2019, confirm that suspension of contributions was not eliminated by plan document. |
| iii. | For 2020 forward, confirm that no suspension of contribution has occurred. |

 |
| g. | For years prior to 2020, if the plan has a loan provision, verify that all available loan amounts were obtained prior to requesting and receiving the hardship/in-service withdrawal. |
| h. | If part of the distribution was related to a designated Roth account, confirm that the taxable part of the distribution was properly determined and that the amount of the account that remains eligible for a hardship distribution is properly determined. |
| i. | Discuss with Target procedures in place to prevent cybertheft of participant funds through the participant loan program. |

 |

 |
| 3. | Obtain a copy of the plan's procedures for reviewing domestic relations orders (DROs). From a list of DROs received by the plan administrator, judgmentally select five such orders. Determine whether any participant subject to a selected DRO was at any prior time the subject of any other DRO.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| a. | Determine whether such DROs specify the following:

|  |  |
| --- | --- |
| i. | The name and last known mailing address of the participant and the other parties to the DRO; |
| ii. | The amount or percentage of the participant's benefits to be paid to such other party or the manner in which the amount or percentage is to be determined; |
| iii. | The number of payments or period to which the DRO applies; and |
| iv. | The name of the plan to which the DRO applies. |

 |
| b. | Confirm that the DRO does not require:

|  |  |
| --- | --- |
| i. | Payments to be made to someone who does not qualify as an alternate payee. |
| ii. | The plan to provide any type or form of benefit or option not otherwise provided in the plan. |
| iii. | The plan to provide for an increase in benefits. |
| iv. | The payment of benefits to any person that is required to be paid to any other person under a prior DRO. |

 |
| c. | Confirm that an acknowledgement letter went out to the participant and alternate payee upon receipt of DRO, enclosing the QDRO Procedure. If the plan has a Form QDRO, confirm that it was sent to the parties. |
| d. | Confirm that letter approving the QDRO was sent to the participant and alternate payee. |
| e. | Determine whether a distribution was made to the alternate payee upon approval of the DRO as a QDRO. If so, ensure that the plan so permits or that the participant had a distributable event. |
| f. | Confirm that the proper person was taxed on the QDRO payment (i.e., participant if recipient is an alternate payee other than a former spouse; former spouse if he/she was the alternate payee). |

 |

In my opinion, the above objectives have been met.

Signature:

Date:

## NONDISCRIMINATION TESTING REVIEW OBJECTIVE AND PROCEDURES

To obtain assurance that the plan has satisfied the participation and coverage tests for each of the last three plan years; to obtain assurance that the plan has met the nondiscrimination requirement under Code Section 401(a)(4) for each of the last three plan years, including the average deferral percentage (ADP) and average contribution percentage (ACP) tests, if applicable; with respect to all rights, benefits, and features, to obtain assurance that, if the plan was top heavy in any of the past three plan years or in any of the preceding four plan years, the minimum benefit/allocation and accelerated vesting requirements of Code Section 416 were satisfied; and to obtain assurance that the plan has satisfied the benefit/annual addition limitations of Code Section 415.

## ADP/ACP Test

|  |  |
| --- | --- |
| 1. | Review the highly compensated employee group for any inconsistencies between the years under review. |
| 2. | Determine whether the plan uses the top-paid group election. If so, document the Target procedures used for determining the number to be included within the top-paid group. |
| 3. | Determine whether the plan provides for prior year or current year testing. |
| 4. | Recalculate a judgmental sample of ADP ratios and ACP ratios. |
| 5. | Review the results of the test for accuracy. |
| 6. | If excess contributions were distributed to any highly compensated employees, determine whether any matching contributions related to those excess amounts were properly forfeited. |
| 7. | If excess contributions or excess aggregate contributions were distributed, determine whether any allocable income was also distributed. Verify the date of the distribution and the year the employee included the distribution in income and, if the distribution was made after two and one-half months following the close of the plan year, determine whether the employer filed Form 5330 for payment of excise taxes. |
| 8. | Determine whether the contributions and compensation used in the test were based on the plan year. |
| 9. | If the plan provides for designated Roth contributions, determine how the plan determines whether refunds of salary deferrals required under the ADP testing are pretax 401(k) amounts or designated Roth contributions. Ensure that refunds were properly determined. |
| 10. | If the plan is a safe harbor plan, confirm that the safe harbor contribution is the same as provided in the plan document and that the safe harbor notice was provided to participants on a timely basis. |
| 11. | If the plan was amended to be a safe harbor plan or amended to remove safe harbor plan status:

|  |  |
| --- | --- |
| a. | Review amendment to be sure it was adopted timely; and |
| b. | Review circumstances of change from safe harbor to ensure it meets the requirements of the Code and regulations. |

 |
| 12. | Ensure that any catch-up contributions were treated appropriately for ADP/ACP testing purposes. |

## 415(c) Limitation Test

|  |  |
| --- | --- |
| 1. | Review the results of the test for reasonableness, noting any Section 415(c) limits (100 percent of compensation or $58,000 (for 2021), whichever is less, increased to $64,500 if the participant is catch-up eligible and the plan is a 401(k) plan and the participant contributed the maximum catch-up contribution of $6,500) that were exceeded. |
| 2. | If any annual addition limits were exceeded, determine the method used for correcting the excess, and determine whether the method is consistent with the plan document. |

## Top-Heavy Provisions

|  |  |
| --- | --- |
| 1. | Determine whether the benefits (accrued benefits for a defined benefit plan, account balances for a defined contribution plan) for key employees are at least 60 percent of total benefits. If so, determine whether the plan has properly satisfied the requirements for a top-heavy plan. |
| 2. | Through a review of the governing plan documents and interviews with the appropriate personnel, determine whether all rights, benefits, and features (such as benefit amounts, participant loans, alternative distribution forms, or early retirement benefits) are available to all participants. |
| 3. | If not, determine whether rights, benefits, and features that are not available to all participants are available to highly compensated employees on a discriminatory basis. |

## GENERAL PLAN ADMINISTRATION

To obtain evidence that the plan has been administered properly with respect to participant benefit statements; prohibited transactions; the requirement that the plan be maintained for the exclusive benefit of the plan participants; plan merger requirements; partial terminations; contribution limits; and valuation of plan assets.

|  |  |
| --- | --- |
| 1. | Determine whether the plan administrator has timely provided the plan participants with annual or quarterly benefit statements, as required. |
| 2. | ERISA Section 408(b)(2):

|  |  |
| --- | --- |
| a. | Obtain copies of all contracts with service providers. |
| b. | Review such contracts to ensure compliance with ERISA Section 408(b)(2). |
| c. | Select a statistical sampling of billings from service providers. |
| d. | Ensure that billings conform to the disclosures provided in connection with ERISA Section 408(b)(2). |

 |
| 3. | Determine the identities of parties in interest with respect to the plan. |
| 4. | Review plan transactions over the past three years to determine whether there were any transactions (sales, leases, or exchanges) between the plan and any party in interest. |
| 5. | If a prohibited transaction did occur, determine whether:

|  |  |
| --- | --- |
| a. | VFCP filing was made. |
| b. | If not, that Form 5330 has been filed and any applicable excise tax paid. |
| c. | The plan sponsor has taken the necessary corrective action. |

 |
| 6. | Review the plan's assets and determine whether those assets have been held and maintained by the plan for the exclusive benefit of the plan participants. |
| 7. | Determine whether there have been any mergers of any other qualified plans with this plan in the past three years. |
|  | a.If so, determine whether a Form 5310-A was needed and, if so, that it has been filed (if so, obtain a copy for the files). |
| 9. | Determine whether there has been a decrease of 20 percent or more in the number of plan participants from the beginning of any of the last three plan years to the end of the plan year.

|  |  |
| --- | --- |
| a. | If so, determine whether the plan administrator or the plan's legal counsel has reviewed the decrease to determine whether a partial termination occurred. |
| b. | NOTE: Take particular notice of effect of COVID pandemic in 2020 to determine potential for partial plan termination and whether rehires of terminated participants occurred and be sure to apply the 80% rule for 2020 and 2021 that were enacted as part of the Consolidated Appropriations Act, 2021. |

 |
| 10. | Review the amount of the employer's contribution to the plan for each of the past three years to determine whether the contribution exceeded the deductible limits under Code Section 404. |
| 11. | If the contribution exceeded the deductible limits, determine whether Form 5330 has been filed and the appropriate excise tax paid. |
| 12. | Review the plan's assets to identify any that do not have a readily ascertainable fair market value. For those that do not, determine the procedures the plan administrator followed to determine the value of those assets. |

## SECURE ACT REVIEW/PLANNING

To ensure that Target has made necessary changes for the SECURE Act modifications and that it is engaged in proper planning for 2021 modifications.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1. | If new plan is adopted (for years following 2019), ensure that adoption took place prior to tax return due date (including extensions).

|  |  |
| --- | --- |
| a. | Note: 401(k) plan must be adopted prior to deferral of compensation. |
| b. | Note: Form 5500 due seven months after plan year or, if later, tax return due date if plan year and corporate year are the same. Form 5558 can be filed to extend but must be filed *within the seven-month period*, regardless of tax return due date. |

 |
| 2. | If safe harbor 401(k) feature is added in 2020 or later, ensure that it is adopted before year end if safe harbor is a matching contribution; no later than 30 days before year end for a 3% nonelective contribution, and by end of following year if nonelective contribution for first effective year is at least 4%. |
| 3. | For 401(k) plan, confirm that employer is instituting systems to enable capture of hours information for long-term, part-time employees as of 1/1/2021. |
| 4. | Consider whether there is more than one defined contribution plan with the same trustee, plan administrator, named fiduciary, plan year end, and investment options that may be jointly filed in same Form 5500 for the plan for 2022 and later plan year ends. |
| 5. | If the company participates in a MEP, determine whether it will become a PEP in 2021 and, if so, whether separate independent CPA audit of employer's portion of the plan will be required at that time. |
| 6. | Confirm that post-2020 RMD procedures are modified so that distributions are not initiated until a participant with a date of birth after 6/30/49 is age 72. |
| 7. | Confirm that plan procedures regarding post-death RMDs are modified for plan years 2020 and later to eliminate “stretch” payouts to beneficiaries who are neither spouses nor eligible designated beneficiaries. |
| 8. | For 403(b) plans, determine whether custodial account program is intended to be terminated and initiate distribution of custodial accounts in connection with termination. |
| 9. | If the plan permitted credit card loans, ensure that these loans were suspended after 12/20/2019. |
| 10. | Determine if the plan permits birth/adoption withdrawals after 12/31/2019, and if so:

|  |  |
| --- | --- |
| a. | Confirm procedures comply with the rules; |
| b. | Confirm that proper reporting is performed. |

 |
| 11. | Discuss with employer how the plan will conform to lifetime income disclosure rules once the DOL issues guidance (e.g., will recordkeeper provide). |
| 12. | If annuities are commonly purchased from plan or if plan is undergoing termination, confirm that named fiduciary is aware of new SECURE Act safe harbor for annuity selection. |
| 13. | Determine if company would like to reduce in-service distribution age for pension plan from 62 to 59 ½ for plan years after 2019. |
| 14. | If any of these provisions are instituted, ensure that amendments to so reflect are adopted by end of 2022 plan year. |

In my opinion, the above objectives have been met.

Signature:

Date: