

## NOTICE TO PLAN TRUSTEE

### FIDELITY BONDING REQUIREMENTS FOR YOUR PLAN

#### Employee Retirement and Income Security Act

Section 412 of ERISA requires that fiduciaries and other persons who handle or are responsible for the assets of a qualified plan must be bonded.

#### What is the purpose of the bonding requirement?

The bond is to reimburse the plan if any plan assets are lost through the fraud or dishonesty of persons handling plan funds. Fraud or dishonesty includes such acts as theft, forgery, embezzlement, misappropriation, or willful misapplication of plan assets.

#### Who must be bonded?

Federal regulations state that the “administrators, officers and employees” of a qualified plan who “handle” plan assets must be bonded.

- An administrator is defined as: A person with responsibility for the ultimate control, disposition or management of the money received or contributed.

Examples: Plan Administrator; Plan Trustee

If a partnership, corporation association or other entity is named the administrator of a plan, the bonding requirements apply to the representatives of the entity who actually handles plan funds.

- An officer is defined as: Any person who is designated as an officer by the plan or who performs or is authorized to perform executive functions of the plan.

Example: Plan Committee

- An employee is defined as: Any person who performs work for or directly related to the plan.

Example: Office manager of the plan sponsor who writes checks for the plan.

For the purpose of the bonding provisions, the terms “administrator, officer or employee” also includes persons indirectly employed or otherwise delegated to perform such work for the plan who performs “handling functions” for the plan.

### **What does "handling" plan assets mean?**

A person is considered to "handle" plan assets whenever his duties or activities are such that there is a risk that the assets could be lost because of his acts of fraud or dishonesty. This includes relationships which involve access to plan assets or decision making powers regarding plan assets which could give rise to such a loss.

### **What amount of bond is necessary?**

Every individual must be bonded for at least 10 percent of the amount of plan funds he handles up to a maximum of \$500,000 but in no case for less than \$1,000. The amount of funds considered to be handled by each person shall be the total funds subject to risk of loss through acts of fraud or dishonesty by such person during the preceding year.

### **How do I get a fidelity bond?**

You can obtain the necessary bond by calling your casualty agent and asking him to get an ERISA fidelity bond for your plan. Tell him the persons to be bonded and for what amounts.

The bond must be one which reimburses the plan from the first dollar of loss up to the full amount for which the person causing the loss is bonded. The bond must provide a period of no less than one year after termination or cancellation in which to discover a plan loss. It may be a blanket schedule or individual bond.

### **Are there any exceptions to the bonding requirement?**

Yes. If a business is wholly owned by an individual or by an individual and his spouse, and if there are no employee participants other than the individual and his spouse, bonding is not required. In a partnership, bonding is not required if there are no employee participants other than the partners and their spouses.

### **But I don't want to buy a bond . . .**

However irritating the bonding requirement may be, the law clearly states that it is "unlawful" for any plan official to receive, handle, disburse, or otherwise exercise custody or control of any plan assets without being bonded. Indeed, the annual report submitted to the IRS requires that the amount of the bond and name of the surety company issuing the bond must be shown.

Be sure your casualty agent understands that a fidelity bond is not the same as fiduciary liability insurance. Have him call us if he has questions. As we will need your bonding information to complete your annual report, please return the attached Fidelity Bond Confirmation Sheet to our office as soon as possible.

**QUALIFIED RETIREMENT PLANS  
NOTICE OF SURETY BONDING REQUIREMENTS**

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Department of Labor regulations require all "Fiduciaries" of Qualified Retirement Plans to be bonded. The regulation requires all persons who handle funds or property of such plan must be bonded where there is a risk of loss of the funds or property through fraud or dishonesty of such persons.

**Amount of Bond:**

Each individual who handles funds must be bonded for at least 10% of the amount of plan funds he or she handles and never for less than \$1,000 or more than \$500,000 with respect to a single plan. Generally this amount is computed by starting with the amount held at the beginning of the previous reporting year, adding contributions and income. If this calculation is not feasible, the amount is to be estimated.

**Placement of Bond**

The bond is normally purchased from your Financial Advisor working with your plan, Property & Casualty Agent.

Please make sure the surety company is approved by the Treasury Department. If the corporation already maintains a "blanket bond" for the officers of the firm and these same officers are the Trustees of the plan, and the amount exceeds the minimum requirements above, then the fiduciary bonding requirements may be satisfied by the corporations blanket bond. This can generally be accomplished by adding a rider to the blanket bond.

*Please complete the following since it must be reported on the plan's annual Form 5500:*

Plan Name: \_\_\_\_\_

Amount of Bond Coverage: \_\_\_\_\_

Company Issuing Coverage: \_\_\_\_\_

**NOTE:** If there are any changes to the Name of the Company issuing coverage or the amount of coverage, please notify us immediately. Thank you.

**RETURN TO:**

**SCHWEITZER & COMPANY, LLC**  
160 HOWELLS RD.  
SUITE 4  
BAY SHORE, NY 11706

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