Evolving regulations have increased retirement plan sponsors’ fiduciary and compliance responsibilities. All plans are required to meet a variety of IRS-enforced compliance requirements. And even though fiduciary requirements enforced by the Department of Labor (DOL) apply to ERISA plans, parallel state fiduciary laws and industry “best practices” often mean that meeting them is appropriate for sponsors of all types of plans. The penalties for noncompliance can be heavy, but your obligations can be managed by establishing and following proper processes.

At TIAA-CREF, we understand your challenges as a plan sponsor and are dedicated to equipping you with information and tools to help you provide a compliant plan that offers your employees opportunity for a safe, secure, and timely retirement. We offer the following checklist to help you in assessing your plan’s compliance. (The checklist is only a tool and should not be used as an alternative to conducting a comprehensive review.)

**PLAN GOVERNANCE**

- □ Have you established written plan governance policies that define roles, protocols and procedures for the governing fiduciary body or bodies?
- □ Have you appointed or selected plan fiduciaries according to the plan governance policies and any applicable laws?
  - □ Have you identified all potential plan fiduciaries and notified them of their fiduciary status?
  - □ Have all of the plan’s fiduciaries been trained and made aware of their duties and responsibilities, including the duties of prudence and acting solely in the interest of plan participants?
  - □ Are fiduciaries aware of their potential personal liability for not meeting their fiduciary duties?
  - □ If an ERISA-covered plan, is every fiduciary and person who handles funds or other plan property covered by a fidelity bond?
- □ Have fiduciary responsibilities that can be delegated been clearly established in writing?
- □ Are meetings of fiduciaries held regularly to review the plan and plan document and to make decisions as appropriate? Does each fiduciary regularly attend the meetings?
- □ Are meeting minutes and documentations of actions, with supporting rationale, maintained accurately and retained for a specified time period (e.g., 10 years) in a due diligence file?
PLAN DOCUMENTS

☐ Do you have a plan document?

☐ If your plan is a 403(b) plan, is your plan in writing and does it satisfy the requirements of the final regulations?

☐ Have you reviewed and updated your plan document in the last year to reflect recent required changes?

☐ Is the plan operated in accordance with the plan document and the other governing documents?

☐ Do you maintain copies of the plan document(s) at the principal office of the plan administrator for examination by participants and beneficiaries?

☐ Do you have a process for responding to written participant inquiries for copies of plan documents and information within 30 days?

☐ If subject to ERISA, do you have a process for providing plan participants with summary plan descriptions, summaries of any material modifications of the plan, and annual summary financial reports?

INVESTMENT POLICY & MANAGEMENT

☐ Do you have an Investment Policy Statement (IPS) and does it align with your Benefits Policy? (NOTE: Having an IPS and Benefits Policy in place is considered a “best practice,” but is not an ERISA requirement.)

☐ Has the IPS been reviewed in the last year and updated as necessary?

☐ Do you have an investment committee that ensures the Investment Policy is followed?

☐ Does your investment committee meet regularly to review all applicable aspects of the plan’s investment options, including performance and suitability?

☐ Is the investment lineup for the plan intended to satisfy the ERISA Section 404(c) safe harbors, (i.e., contain appropriately diverse asset classes from a risk and return perspective)?

☐ Does your investment lineup offer at least three core options with various risk/return characteristics (i.e.: Fixed Income vs. Stocks vs. Stable Value or Cash)?

☐ Has a plan fiduciary (a) determined that the plan’s investments are prudent and offered solely in the interests of the plan participants and beneficiaries; and (b) evaluated the risks associated with the investments, prior to including them in the plan?

☐ Have you made educational materials available to help participants make effective investment decisions that meet their individual needs?

☐ If your plan permits participants to select investments, do you have mechanisms in place to provide them with enough information to enable them to make informed decisions?

☐ Do you track the effectiveness of your ongoing employee investment education and advice services?

☐ Do you provide them with appropriate and timely notifications of any changes to the investment lineup?

☐ If your plan has a Qualified Default Investment Alternative (QDIA), has the QDIA been reviewed for compliance with federal regulations?

☐ Do you periodically review the plan’s investments against appropriate peer groups and benchmarks over varying periods of time and as otherwise required by the investment policy?

☐ Have you completed an annual investment review to ensure your investment lineup continues to be aligned with your investment policy statement?

☐ Has appropriate action been taken to remove, close or replace plan investment options, if warranted by results of review?

☐ If you have outsourced any services, have any conflicts of interest been identified and disclosed?

☐ Do you maintain documentation in the plan’s due diligence file for:

☐ Annual Investment Review

☐ Periodic Investment Return and Risk Reporting (typically quarterly)

☐ Rationale for any investment policy changes?

☐ Rationale for any investment lineup changes?

☐ Other relevant meeting notes or analysis?
COMPLIANCE MONITORING

☐ Are all those responsible for ensuring plan compliance fully trained and aware of their duties and responsibilities?

☐ Do you have a process in place for ensuring that the appropriate individuals have up-to-date information on applicable compliance requirements? Does the process include new hires or appointments?

☐ Is your plan required to perform nondiscrimination testing?

☐ Do you have a process in place to perform the testing?

☐ Does the plan pay participant benefits on time and in the correct amounts?

☐ Are contributions to the plan remitted in a timely way, in accordance with DOL requirements?

☐ Do you have a process in place to track the amounts that you contribute for your plan participants annually to ensure that they don't exceed the statutory limits? Do you have a process in place to refund contributions that exceed the statutory limits?

☐ Do you have a process in place to certify loan eligibility and ensure that individual participant maximums are not exceeded?

☐ Do you have a process in place to certify hardships and ensure that all distributions comply with applicable rules and limitations?

☐ Do you have a process in place to notify participants that they are required to take Required Minimum Distributions and to oversee the distribution process?

☐ Do you have appropriate agreements in place with all approved service providers to ensure that information necessary for compliance is being shared between you and your approved service providers?

PARTICIPANT COMMUNICATION

☐ Within the past 12 months, have all employees (including non-participants) received, or had access to, information about the benefits of participating in your retirement program and how they can enroll?

☐ Are participants provided access to the Plan Document, information about all available investment options (including prospectuses as required) and other informational/governing documents?

☐ On an ongoing basis, do all participants receive, or have access to, educational materials and facilities that explain basic investment considerations including risk and return and the importance of asset allocation/diversification?

☐ Do your plan participants have access to personalized investment guidance or advice, or to investment choices that offer a simplified approach to investing, such as lifestyle or lifecycle investment options, or managed accounts?

☐ Do all participants receive sufficient information about each of the plan’s investment options including relevant risks, transfer policies and liquidity restrictions?

☐ Do participants receive full disclosure about the fees and expenses that are charged by the plan’s investment options, including any costs that are not itemized on their statements, such as investment management fees that are deducted from investment returns?

☐ Over the past 12 months, have participants received advance notice (at least 30 days) of any changes to the plan’s investment lineup and/or any blackout periods that may have occurred that limited their ability to execute transactions in their account?

☐ Do participants receive quarterly account statements that include:

☐ all transaction activity within their accounts (e.g., deferrals, fees, withdrawals, exchanges, etc.),

☐ the allocation of their account balance and future deferrals by asset class, and other relevant information?
ANNUAL PLAN REVIEW & REPORTING
☐ In the past 12 months, has a review of your plan been conducted at the request of your fiduciaries, including at least the following elements:
  ☐ a statistical analysis of participant activities (participant deferrals, asset mix, transaction history),
  ☐ a review of the total cost of the program (investment and administrative), and
  ☐ an examination of service quality and participant/employee satisfaction.

☐ In the past 12 months, has there been a review of all aspects of your plan’s investment choices, including selection, performance and expenses, that involves comparison with the investments’ peer groups and benchmarks, and comparisons with similar retirement plans?

☐ Do you have a process in place to ensure that you have the applicable information for your Form 5500 and that it is filed on a timely basis?

☐ Have you advised all your providers what documentation they will need to provide for your Form 5500 filing?

☐ Where appropriate, have you selected an auditor to provide the appropriate report to accompany your Form 5500?

NEXT STEPS
After completing the questionnaire, ask a TIAA-CREF Managing Consultant about the Fiduciary and Compliance services we offer to help you manage these responsibilities.

If you are served exclusively by the Administrator Telephone Center, please call 888 842-7782, 8 a.m. to 8 p.m. (ET), Monday through Friday. Our consultants will be happy to help you.