Employer Connect | Four Things to Know About ERISA Fidelity Bonds and Fiduciary Liability Insurance

MAKING IT ACTIONABLE

The **Employee Retirement Income Security Act** known as "**ERISA**" regulates 401(k) and most other types of employee benefit plans. Under ERISA, anyone who handles retirement plan funds must be covered by a fidelity bond. The bond protects the plan from losses that may result from fraudulent or dishonest acts.

ACTION TO TAKE NOW

The following are four essential facts you should know about fidelity bonds. This topic doesn't get a lot of headlines, but it's important you're aware of these requirements and take steps to maintain proper coverage.

1 **An ERISA fidelity bond is not the same thing as fiduciary liability insurance.**
A fidelity bond insures the retirement plan against losses due to fraud or theft by people who handle the plan's funds or property. Fiduciary insurance, conversely, protects the fiduciaries themselves against losses due to breaches of fiduciary responsibility. While many plan fiduciaries may have fiduciary liability coverage, ERISA doesn't require it and it doesn't satisfy the fidelity bonding requirement.

2 **Not every fiduciary of the plan needs to be bonded.**
The intent of a fidelity bond is to protect the plan from losses due to bad behavior by people whose roles and responsibilities involve handling funds or other property of the plan. A plan fiduciary who has no access to these processes or authority to direct funds does not require a fidelity bond.

3 **There are coverage requirements.**
The amount of the required fidelity bond is 10% of the amount of plan funds the person handles. Since 2008, the maximum required bond has been $1,000,000. Buying more coverage is permitted, but that decision is a fiduciary act also.

Something else to note here:
Some retirement plans hold what are called “non-qualifying assets.” These are investments that include limited partnerships, artwork, collectibles, mortgages, real estate or the securities of “closely-held” companies. If a plan has more than 5% of its balances in these non-qualifying assets, the company needs either a bond amount equal to 100% of these assets or it needs to arrange for an annual full-scope CPA audit.

4 Using plan assets to pay for fidelity bonds is OK.

This is allowed because the plan itself is the named beneficiary of a fidelity bond. You also have the option of purchasing the bond as a business expense.

Talk to us about the details of sourcing and maintaining an ERISA fidelity bond for your plan.