

ERISA Section 404(c) Checklist

Staying Compliant with ERISA

This checklist is designed to help you make sure your plan qualifies for ERISA 404(c) protection, which can reduce your fiduciary liability. It lists the general investment, administrative, and information disclosure requirements that fiduciaries must meet to take advantage of section 404(c).

It also includes information about how Fisher can help plan administrators maintain compliance.



Investment & Administrative Requirements	How Fisher Helps Satisfy this Requirement
<input type="checkbox"/> The plan must be an “individual account plan” such as a 401(k) plan or profit-sharing plan.	Fisher consults with the plan sponsor to optimize the plan for wealth creation. This includes assisting to structure the plan as an individual account plan.
<input type="checkbox"/> Plans must give participants the opportunity to change their investments as often as the volatility of the investments may require, and at least every three months.	All plans managed by Fisher are participant-directed, and all recordkeepers for Fisher clients allow for participants to give instructions on demand regarding their investments.
<input type="checkbox"/> The plan must provide participants the opportunity to exercise control over the assets in their accounts.	
<input type="checkbox"/> The plan must provide participants the opportunity to receive written confirmation of investment instructions.	All recordkeepers for Fisher clients provide written confirmation of participant investment instructions.
<input type="checkbox"/> The plan must offer participants a choice from a broad range of investment alternatives. <i>A plan meets this requirement only if the available investment alternatives provide the participant with a reasonable opportunity to satisfy the four requirements listed below.</i> This means the investment alternatives:	As an ERISA 3(38) Investment Manager, Fisher curates a fund lineup for our clients that provides a broad range of investment alternatives. Through our proprietary fiduciary process, we proactively review all investments on the plan lineup. Our review includes making sure:
<input type="checkbox"/> 1. Are diversified	<input checked="" type="checkbox"/> Funds remain properly diversified
<input type="checkbox"/> 2. Have materially different risk and return characteristics	<input checked="" type="checkbox"/> Fund options include different risk and return characteristics
<input type="checkbox"/> 3. Enable the construction of a portfolio with aggregate appropriate risk and return characteristics	<input checked="" type="checkbox"/> Plan investment options allow participants to control potential risk and return.
<input type="checkbox"/> 4. Tend to minimize through diversification the overall risk of a participant’s portfolio.	<input checked="" type="checkbox"/> Plan investment options allow participants to achieve risk and return profiles that are appropriate for themselves and their beneficiaries. This is done on an ongoing basis, and reviewed with clients annually.

Mandatory Information & Disclosure Requirements	How Fisher Helps Satisfy this Requirement
<input type="checkbox"/> An explanation that plan fiduciaries may be relieved of liability for losses resulting from the participant's investment directions.	Fisher clients receive this disclosure in their annual Summary Plan Description (SPD).
<input type="checkbox"/> Detailed information, presented in a comparative format, about each designated investment alternative, including its name, the type of investment, performance history, benchmark, fee and expense information, a website providing access to the fund's governing documents, a glossary of terms, and other disclosures.	Fisher clients have on-demand access to information regarding the funds available in their plan, including but not limited to: <ul style="list-style-type: none"> • Fund investment objectives • Risk/return characteristics • Underlying fund holdings • Investment manager identification • All applicable fees • Information regarding employer securities (if applicable). • Fund prospectuses, including information regarding applicable voting rights.
<input type="checkbox"/> Detailed information about the plan's investment structure, including the identification of any designated investment manager.	
<input type="checkbox"/> A description of any administrative fees or individual fees that may be charged to participants.	
<input type="checkbox"/> Information regarding investments in employer securities, including a description of the procedure to provide for confidentiality and identity of the fiduciary charged with monitoring compliance with the confidentiality requirement.	Contact information for all service providers, including Fisher Investments as the ERISA 3(38) Investment Manager
<input type="checkbox"/> After investment, participants must be given any materials provided to the plan related to the exercise of voting, tender, or similar rights.	



Fisher has your back.

Fisher's service agreement states that we will assist with plan governance and review requirements under Section 404(c) of ERISA on an ongoing basis. This service is backed by our money-back service-level guarantee.

Information & Disclosure Requirements Available Upon Request

- The plan must identify, on request, the fiduciary (or the person designated to act on its behalf) to provide plan information requested by the participant. It must be the latest available information.

This includes the following four requirements:

- 1. Prospectuses or fund governing documents
- 2. Financial statements or reports
- 3. Valuation statements
- 4. Holdings reports

How Fisher Helps Satisfy this Requirement

Fisher clients have on-demand access to plan information including, but not limited to:

- Information on plan fiduciaries
- Information regarding all fees related to the plan. Fisher proactively provides an analysis & benchmarking of plan fees, and reviews this with clients annually.
- Fund prospectuses
- Material related to the funds available in the plan
- An accounting of past and current net performance of all funds available in the plan
- Information regarding the participant's personal holdings and performance

In addition to this information, Fisher clients receive the following annual notices:

- Fee disclosures
- Summary Plan Description
- Qualified Default Investment Alternative disclosure
- Plan-specific disclosures



We Can Review Your Plan

While this checklist can help give you a basis for monitoring and maintaining your 401(k) plan's compliance with ERISA section 404(c), it's best to have an expert review your 401(k) plan in detail.

A Fisher Small Business Specialist can help you understand what requirements you need to satisfy and how you can take care of them effectively and easily. Contact us now to learn more:

[Schedule a consultation](#)