

M&A Buyer's Checklist for Retirement Plan Due Diligence

To prepare for due diligence of a target's retirement plan, the buyer should request:

- ✓ A list of all retirement plans, qualified and nonqualified, including those related to operations outside of the U.S., along with plan documents, adoption agreements, amendments, contracts, trust agreements, administrative forms, Form 5500, schedules, audit reports, actuarial reports (if applicable), IRS determination letters, investment committee meeting minutes, policies and procedures
- ✓ The names of the oversight and investment committee members
- ✓ A list of outsourced services and any professional or administrative service agreements with respect to the benefit plans
- ✓ The names and positions of individuals performing day-to-day tasks for the retirement plan(s), and internal controls and procedures for those tasks
- ✓ The basis for recording benefit costs and liabilities
- ✓ Employee handbooks, manuals, policies, programs, practices and job descriptions
- ✓ Employee communication materials (SPDs, SMMs, SARs, enrollment materials, blackout notices, etc.)
- ✓ A summary of any labor disputes and their outcomes
- ✓ A list of any unresolved benefits-related complaints that have been filed with local, state or federal
- ✓ Union activity, work stoppage, strikes, collective bargaining agreements (including side letters or letters of understanding), participation in any multiemployer pension plan (within the past six years), and, if so, proof of an assessment of withdrawal liability
- ✓ Details of individual contracts and employment agreements (written and oral), management incentives, bonus plans, stock options, retention and severance agreements, deferred compensation arrangements, unfunded liabilities and change of control agreements that could trigger golden parachute rules
- ✓ If there is a defined benefit plan, pension trust agreement, investment policy, actuarial reports, interest and investment assumptions and associated plan costs including administrative costs, employer contributions, benefit distributions and employee contributions (when applicable)
- ✓ Copies of agreements relating to rabbi trusts or other arrangements established to secure the payment of deferred compensation
- ✓ Post-retirement benefits and their associated liabilities prepared in accordance with FASB