# Bonding Requirements

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## COMPASS Q&A

### The Long + Short of It

At Compass, we know you have questions – but you also have limited time to seek out the answers. We get it, so we've done the work for you. We've compiled the research from trusted sources, and simplified the information. Here, we give you **Compass Q&A: Long + Short of It.**

## THE QUESTION

**Who and what has to be bonded in a pension or profit sharing plan?**

## THE SHORT ANSWER

Virtually every fiduciary and every person that touches it (there are a few exceptions to the rule). There are also required minimum bond amounts based on the plan assets.

## THE LONG ANSWER

Every fiduciary of a pension plan or profit sharing plan and every person ("plan official") who handles funds of the plan must be bonded, with few limited exceptions. The bond furnishes protection to the plan against loss caused by fraud or dishonesty on the part of each plan official, whether the loss is direct or through connivance with others. It is unlawful for any plan official who is subject to the bonding requirements to receive, handle, disburse, or otherwise exercise custody or control of the plan's funds or other property without being bonded. Likewise, it is unlawful for any persons to procure the required bond from a surety or other company through an agent or broker whose business operations the plan has any control or significant interest.

The surety of the bond must be a corporate surety company which is an acceptable surety under authority granted by the Secretary of the Treasury. The bond must be in a form or of a type of approved by the Secretary, including individual bonds, schedule bonds for a group of named individuals, or blanket bonds which cover a group or class of individuals.

There are no stated penalties for the failure to comply with the bonding requirements; however, it is considered unlawful under ERISA and could be considered a breach of fiduciary duty. Furthermore, IRS Form 5500-Series ask whether the plan has a bond and the amount of the bond. If the answer is “No,” this may trigger an audit of the plan by either the IRS or the Department of Labor.

### Required Minimum Bond Amounts if More than 95% of Plan Assets are “Qualifying Plan Assets” at the Beginning of the Plan Year

- $1,000 if total plan assets are $100,000 or less
- 10% if total plan assets are more than $100,000 but less than $5,000,000
- $500,000 if total plan assets are more than $5,000,000 (the Secretary of Labor may, after notice and hearing, prescribe an amount in excess of $500,000, subject to the 10% limitation mentioned in (2) above)

“Qualifying Plan Assets” generally include:

- Employer stock
- Compliant participant loans
- Assets held by a bank, trust company, insurance company or registered broker-dealer
- Mutual fund shares
- Investment and annuity contracts

### Additional Bond Amounts Required for "Nonqualifying Plan Assets"

If more than 5% of the plan assets are not "Qualifying Plan Assets," the plan must purchase coverage equal to 100% of the value of the nonqualifying plan assets. This bond must be in place as of the first day of the plan year. For a calendar year plan, the bond must be in place as of January 1st. Depending upon the value of the nonqualifying plan assets, this may require coverage in excess of the amounts listed in 1 through 3 above. This requirement also may cause the plan to require a bond in excess of $500,000. Failure to obtain the required bond, in the sufficient amount, subjects the plan, including small plans with less than 100 participants, to a mandatory audit by an independent CPA firm. Retirement plans with fewer than 100 participants are generally exempt from such audits when the proper bond coverage is in place. It is important to note that these audits are required annually in the absence of the proper bond and generally cost several thousand dollars.

To purchase the required bond, you should contact your business insurer or any insurance provider that offers this type of coverage. Many insurers refer to this bond as an "ERISA Bond."

**If you have questions regarding the proper amount of coverage to purchase, please contact your consultant at Compass Retirement Consulting Group at (603) 778-9920.**

"Bonding Requirements" was written by:

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Stacy has worked in the industry for over 17 years and has been with Compass going on her second year.  In her free time, she enjoys making jewelry and spending time with her family!