



## Checklist for 404(c) Fiduciary Success

Help your employees save smart and reduce your fiduciary liability!  
That's what running a 404(c) compliant 401(k) plan is all about.

All ShareBuilder 401k plans are designed to be ERISA 404(c) compliant. It's good for you and your employees. ERISA section 404(c) from partially relieves you and your company's fiduciaries (sponsors, owners, internal investment committee members, etc.) investment losses your employees could experience. Simply empower your employees to direct their own investment decisions in line with their financial goals and you will be on the road to less liability while helping your employees save for a comfortable future.

We help make it easy for you with intuitive online tools and communications that are fully supported by experienced Customer Care agents. There are three main categories to managing 404(c) best practices:

1. **Investment Line-Up:** Diversity across asset classes with ranges of risk tolerance
2. **Employee Empowerment:** Investment selection, notifications, and guidance
3. **401(k) Notifications and Disclosures:** 404(c), fiduciary, and fee disclosures

### Investment Line-up

ERISA 404(c) states you must offer a broad range of investment alternatives with differing potential for investment risk and return. Only three investment options are required to meet the requirements, and it is satisfied by offering funds that cover equity, fixed income, and capital preservation asset classes.

All ShareBuilder 401k plans satisfy this requirement with an array of stock, bond, money market, specialty funds and model portfolios. We even cover other asset classes including a real estate fund. In fact, you will already have satisfied the Investment line-up checklist simply by offering your employees a ShareBuilder 401k:

- Investment options enable employees to materially affect potential returns as well as degree of investment risk within their accounts

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- we make this easy
- you'll need to do this

- The plan offers investment alternatives (at least 3 in total) that:
  - Are diversified—each fund holds many securities which helps reduce risk
  - Provide materially different risk and return attributes
  - Allow employees to combine investment options to create greater diversification and help minimize risks
  - Enable employees to build a portfolio in line with their current and future risk and return goals (we offer 5 model portfolios along with our 16 fund line-up to help make this easy for your employees)
  
- Allow employees to select multiple funds to diversify their account sufficiently to help avoid large losses. This simply enables employees to allocate the amount they want in different asset classes and funds in the percentage amounts they desire

All in all you can feel good that your plan will stay in line with 404(c) goals given that our Investment Committee ensures these requirements are met.

Whew, that one's done. On to the next items!

### Employee Empowerment

Good news! The following key items on your checklist are also satisfied with a ShareBuilder 401k as long as your employees have online access. Employee empowerment is all about giving your employees the ability to direct their contributions and that you (the plan sponsor) can ensure it is done. Key list items include:

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- Employee investment instructions will be followed and implemented by the plan sponsor. Most commonly, this will include the percent of salary to be put in the plan and how much to invest in each fund. *Of course this excludes any illegal or prohibited transactions like telling you to use their savings to buy a company yacht or something.*
  
- Employees can change investment selections frequently. In the regulation, it requires at least quarterly. ShareBuilder 401k enables participants to make changes daily.
  
- Ensure employees have access to a computer to manage their 401(k) account. The regulation requires confirmations of investment instructions such as trading and contributions. By ensuring employees manage this all online, this is easily met.

We help you avoid additional liability by not allowing your company's stock to be included in the plan. It is a significant risk and noted as a poor practice given Enron and other failed

businesses that offered company stock as an investment choice.

### 401(k) Notifications and Disclosures

This is where we work to provide the documents, communications, and tools for you to do a great job complying with 404(c) and minimize the time and resources needed to do so. Most items we do for you automatically. A few you will need to support from time to time. Important information and disclosures to be a 404(c) plan fall into two camps:

1. Information you must proactively provide to notify participants before investing
2. Items to provide if your employees request it

#### Information to Proactively Provide:

- Provide a statement to your participants that the plan is intended to be an ERISA 404(c) plan and that this is intended to relieve plan fiduciaries of liability for losses due to participants' investment direction. We automatically provide this for you in your Summary Plan Description that all participants have access to. Make sure your employees are given notice to review this.
- Give a description of the investment objectives and risk / return attributes of each fund and model portfolio offered in your plan. Information about the type and diversification of assets provided in the fund or portfolio option must also be provided. Our Investment Center takes care of this and each participant has the opportunity to see this as they get started and on an ongoing basis.
- There are not typically investment managers in smaller plans. It's one reason ShareBuilder's Investment Committee selects the investment line-up and manages model portfolios for our customers. If you choose to select an investment manager for your firm, let your employees know who you've designated for this role.
- In addition, provide contact information for the fiduciary who can provide employees more information about 404(c) if requested. This is covered in an addendum to your Summary Plan Description for you. If you are unsure how to answer any employee question on 404(c), we are happy to help.
- Explain how to direct investments in your plan, employee rights and any limitations. This is the email that tells your employees about how to access the plan online and make investment selections and changes. Our plan administrator will provide this information to you as you launch the plan. Make sure you keep it for any new hires so they can easily get started.

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- A description of any transaction fees or expenses charged to participants for buys or sells of the funds offered. ShareBuilder 401k doesn't have any transaction fees or sales loads to worry about, so you're all good here too! And as a transparent provider, we disclose all fund expense ratios and any asset management fees your employees may experience.
- Make prospectuses available for the funds offered in the plan. This should be done before an employee invests. In addition to general fund summaries, our prospectuses for your plan's fund options are always available and easily accessible online for your employees to review.

**Information to provide upon request:**

- Each employee's current holdings in units, price and value. Employees can easily view this when they log in to their ShareBuilder 401k account.
- Description of operating expenses for investments that reduce the rate of return for participants. All fund expenses and asset management fees are provided clearly in our Investment Center and pricing disclosure pages that your employees have access to via the website.
- Current per share price / value of funds offered with past and present performance data. This, of course, is all available online and our Customer Care agents are happy to help answer any navigation questions or others that may arise.
- Prospectuses, financial statements, reports, and other information about the investments in your plan. We make this easily available online. If you ever need help locating information, just give us a call and we'll gladly help.

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