



*Corporate acquisitions and mergers have become very common in today's business world. However, when it happens to your company, it can be anything but common. What happens when your employer is considering the possibility of acquiring another company and it sponsors an employee benefit plan? What do you need to know and do to get through this process?*

*The below "Plan Acquisition Checklist" will help you through this process. This list is not all inclusive, but intended to provide a framework of the items to gather and consider when combining an acquired plan into your company's benefit plan:*

PLAN ACQUISITION CHECKLIST
1. Obtain all of the customized plan documents, base/basic plan documents, adoption agreements, plan amendments, service provider agreements, trust agreements and insurance contracts as applicable to the plan that is part of the acquisition process.
2. Obtain any documents supplied to the plan participants or made available to them that are still applicable. (For example, summary plan descriptions, summary of material modifications, summary annual reports and any other notices that the employer provided relevant to the plan.)
3. Obtain a copy of the most current IRS determination letter or IRS opinion letter applicable to the plan.
4. Obtain the most recent filed form 5500. Ask your counsel how many years of past filings to request.
5. Obtain a census of the plan sponsor employees, indicating who is participating in the plan and who could be in the plan, as well as who are the highly compensated employees (HCE).
6. Put together a list of all of the third party providers (TPAs) for the plan, along with contact name and phone number.
7. Obtain the most current completed non-discrimination testing results.
8. Obtain a listing of the most current notes receivable from participants (ie participants' loans with payment schedules)
9. Has the plan had any reportable events or prohibited transactions over the last several years? If so, what are the details?
10. Determine whether the plan is part of a multiple employer plan.
11. Supply a list of any other plans that were terminated over the last 5 to 10 years.
12. Are there any collectively bargained contracts associated with the plan?
13. Has the plan received any notices from any governmental agencies: IRS, DOL, PBGC etc.?
14. Obtain the plan's current fidelity bond policy.
15. Has there been any claims or complaints made against the plan?
16. If the plan is a defined benefit plan, obtain all of the reports from the actuary for the most current year. Ask your counsel how many years of past reports to request from the actuary.
17. If the plan is a defined benefit plan, obtain the most recent PBGC premium filing. Ask your counsel how many years of past filings to request.
18. If the plan is a multiemployer plan, find out if the plan is required to contribute to it and if the withdrawal liability can be assessed.



This list should help you gather the major items needed to start the acquisition and merger process. Once you have reviewed all of the applicable documents, the next step is to have detailed communication with all parties involved. Make sure the binding agreements/amendments clearly state the proper names, dates and intentions of the desired transactions.

In closing I have audited several plans that had great intentions in combining plans, but the proper communication and documentation was not given to the custodian and recordkeeper of the plans. This caused dates and transfer amounts to be wrong, and changed the desired outcome. Communication at the start, as well as throughout the acquisition process, is essential to accomplishing the successful combination you are seeking.

**If you have any further questions, please feel free to contact the author below:**

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