Guide to Additional Testing Services
Overview of Additional Testing Services

This guide covers the additional testing services offered, in addition to the NDT Test Package, through Fidelity’s Testing & Reporting Services.

For each additional test service, the guide covers:

- An overview of the testing service
- When would a client engage Fidelity for a service
- What data is needed from the client for Fidelity to complete the service
- How/When the service occurs
- What happens if the plan fails the additional testing, when applicable

The following are the different types of additional testing services offered through Fidelity’s Testing & Reporting Services. Additional fees may apply for services.

✔ General Test
✔ Benefits, Rights & Features
✔ Compensation Test
✔ Average Benefit Test

The following conditions must be met for Fidelity’s Testing & Reporting Services to provide any employer calculations and/or additional testing services:

1. The client’s plan must be set up on the Fidelity Volume Submitter plan document.
2. The client must be signed up for the nondiscrimination testing (NDT) Comprehensive package and the NDT must be complete before a calculation service and/or additional testing service can begin.
3. The client has no other defined contribution plans outside Fidelity.
4. The client has no defined benefit plan that needs to be considered for additional testing purposes.
401(a)(4) General Test

Overview

Employer non-elective profit sharing allocations that do not fall within the design-based ‘safe harbor’ formulas are subject to General Testing. This testing may be performed on a contribution basis or benefits basis.

Passing the required General Test depends on the design and complexity of the allocation formula and the participant demographics. Examples of non-elective options that trigger the general test noted below.

- Non-Elective Formula found in APA/SPA of Volume Submitter Document
  - Age Based Formula
  - Service Based Formula
  - Division Based Formula
  - Group Based Formula
  - Points
- Aggregation of plans with different non-elective formulas

This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure. ‘Significant change’ must be determined by the plan sponsor and/or their ERISA counsel. If the plan sponsor identifies such change, they may then request off cycle testing.

When would a plan engage Fidelity for General Testing?

1. Group based Non-Elective Profit Sharing Formula elected in Volume Submitter and/or Superceding Plan Amendment.
2. The General test service is elected in the plan’s Service Agreement.
3. Plan sponsor provides non-uniform profit sharing contributions in nondiscrimination testing data - If plan has elected New comparability service, it includes both the profit sharing calculation and general test – See New comparability service for more details.
4. Nondiscrimination testing is complete for applicable plan year.

TIP: A General Test can sometimes be used to address a failing Compensation Test.
When General Test is due (3 year cycle) - How does the process work for this service?

1. Plan sponsor submits nondiscrimination testing data for plan year via PSW.
2. Nondiscrimination testing is completed and results provided to plan sponsor via PSW.
3. If the General Test is due for plan year (3 year cycle), the service will begin in order of NDT completion amongst all plans with this type of service, beginning the second quarter following plan year end.
4. Once the General Test service begins, the NDT client contact will be alerted by email when we post any additional data need questions, if applicable, via PSW Service request.
5. When the General Test is complete the NDT client contact will be alerted by email when we post test results via PSW Service Request.

What information may the client need to provide for a General Test?

1. Dependent on plan provisions, and/or, initial result of the testing, additional information may be required such as:
   a. Eligible Compensation for the non-elective profit sharing used for calculation purpose
   b. Hours of service during plan year
   c. Specific group IDs for each employee
   d. Formula used for allocation rates

Timing of the General Test

- General test service is prepared on an annual basis, when applicable. The test will begin in order of NDT completion amongst all plans with this type of test service, beginning in the second quarter following plan year end
- This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure
- When the service is elected in the service agreement, Fidelity will assist the plan sponsor with monitoring of the 3 year cycle date for testing.

NOTE: If General Test service is not included in a plan’s service agreement, the plan sponsor may contact their Fidelity Representative to inquire about the service.
Important Notes for General Testing

Fidelity’s Testing & Reporting Services can only support the General Test, if the client has no other defined contribution plans outside Fidelity, and/or, no defined benefit plan that needs to be considered for additional testing purposes.

The total employee population of the employer is considered in the General Test, such as any other DC plan recordkept at Fidelity, and/or, any excluded class employees that would have met eligibility of the plan.

What if the plan fails General Testing?

Generally, if the general test fails and the allocation has already been funded by the plan sponsor, additional funding to certain groups of employees may be necessary to achieve a passing result.

If the allocation has not been funded, the plan sponsor may have option to allocate a uniform allocation versus the different allocation percentages.

A Fidelity Testing & Reporting Service Delivery Manager can be available to discuss how/why the testing may not be satisfied. However, the plan sponsor may need to engage ERISA counsel to explore all options available and/or provide any additional non-elective profit sharing details to be included in the test.
Benefits, Rights & Features Test

Overview

The Benefits Rights & Features (BRF) testing is done to determine if each benefit, right and feature of the plan is available to employees on a nondiscriminatory basis. The availability of the BRF is tested to prove it does not favor the HCEs.

This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure. ‘Significant change’ must be determined by the plan sponsor and/or their ERISA counsel. If the plan sponsor identifies such change, they may then request off cycle testing.

When would a plan engage Fidelity for BRF testing?

1. Group based Employer Match Formula elected in Volume Submitter and/or Superseding Plan Amendment.
2. The BRF test service is elected in the plan’s Service Agreement.
3. Plan sponsor provides non-uniform employer match contributions in nondiscrimination testing data; Or, if plan sponsor has elected Fidelity to provide the group based employer match calculation, the test will be performed while calculation is prepared
4. Nondiscrimination testing is complete for applicable plan year

IMPORTANT: Other rights and features such as the right to different vesting, right to brokerage account, loans and catch up may trigger BRF testing. TRS performs BRF testing for different rates of matching contribution only.

When BRF test is due (3 year cycle) - How does the process work for this service?

1. Plan sponsor submits nondiscrimination testing data for plan year via PSW.
2. Nondiscrimination testing is completed and results provided to plan sponsor via PSW.
3. If the BRF test is due for plan year (3 year cycle), the service will begin in order of NDT completion amongst all plans with this type of service, beginning the second quarter following plan year end.
4. Once BRF test service begins, the NDT client contact will be alerted by email when we post any additional data need questions, if applicable, via PSW Service request.
5. When the BRF test is complete the NDT client contact will be alerted by email when we post test results via PSW Service Request.
NOTE: If BRF Test service is not included in a plan’s service agreement, the plan sponsor may contact their Fidelity Representative to inquire about the service.

What does the client need to provide for Benefits Rights & Features Testing?

- Specific group IDs for each employee, including the match formula applied to each group of employees.

Timing of the Benefits, Rights & Features Test

BRF service is prepared on an annual basis, when applicable. The test will begin in order of NDT completion amongst all plans with this type of test service, beginning in 2nd quarter following plan year end.

This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure.

When the service is elected in the service agreement, Fidelity will assist the plan sponsor with monitoring of the 3 year cycle date for testing.

What if the plan fails BRF testing?

The plan sponsor will need to engage ERISA counsel to explore all options available to the plan for correcting the failure, which may include a corrective amendment to the plan document.

Fidelity Testing & Reporting Service Delivery Manager can be available to discuss the general reasons how/why the testing may not be satisfied.
Compensation Test

Overview
A qualified plan must define the compensation upon which contributions may be based. A plan may use different definitions of compensation for different types of contributions.

Certain definitions of compensation under IRC Section 414(s) are deemed to be nondiscriminatory (safe harbor definitions). If a plan elects to use a non-safe harbor definition of compensation for the plan, the compensation must be tested to ensure compensation does not discriminate in favor of highly compensated employees.

Safe Harbor Compensation: Gross compensation (Section 415(c)(3)), or Section 414(s) Test compensation, which is 415 compensation modified to exclude fringe benefits, other special compensation items, and any portion of compensation of some or all HCEs but not for NHCEs.

In performing the ADP and ACP tests, the regulations require the plan sponsor to use a nondiscriminatory definition of compensation. A nondiscriminatory definition of compensation for purposes of nondiscrimination testing is defined in IRC Sections 415 and 414(s). This is the compensation used for testing, even if a different definition was used to determine the allocation of employer contributions.

This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure. ‘Significant change’ must be determined by the plan sponsor and/or their ERISA counsel. If the plan sponsor identifies such change, they may then request off cycle testing.

When would a plan engage Fidelity for Compensation Testing?
1. Compensation exclusions elected in Volume Submitter or Superceding Plan Amendment applicable to contributions, such as profit sharing and/or Safe Harbor provision and the impacted contributions are funded for plan year.
2. Alternate definition of test compensation used for ADP and ACP tests.
3. Compensation test service elected in the plan’s Service Agreement.
4. Nondiscrimination testing is complete for applicable plan year.

NOTE: If Compensation Test service is not included in a plan’s service agreement, the plan sponsor may contact their Fidelity Representative to inquire about the service.
**When Compensation test is due (3 year cycle) - How does the process work for this service?**

1. Plan sponsor submits nondiscrimination testing data for plan year via PSW.
2. Nondiscrimination testing is completed and results provided to plan sponsor via PSW.
3. If Compensation Test is due for plan year (3 year cycle), the service will begin in order of NDT completion amongst all plans with this type of service, beginning the second quarter following plan year end.
4. Once the Compensation Test service begins, the NDT client contact will be alerted by email when we post any additional data need questions, if applicable, via PSW Service request.
5. When the Compensation Test is complete, the NDT client contact will be alerted by email when we post test results via PSW Service Request.

**What does the client need to provide for Compensation Testing?**

- Plan Allocation compensation, i.e., gross compensation minus compensation exclusions applicable, amount for each eligible employee and gross compensation for each eligible employee

**Timing of the Compensation Test**

- Compensation test service is prepared on an annual basis, when applicable. The test will begin in order of NDT completion amongst all plans with this type of test service, beginning in the second quarter following plan year end.

- This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure.

- When the service is elected in the service agreement, Fidelity will assist the plan sponsor with monitoring of the 3 year cycle date for testing.

**What if the plan fails Compensation Testing?**

If a non-safe harbor (modified) definition of compensation does not pass the test, a safe harbor definition of compensation must be used when performing the nondiscrimination tests.

If a plan sponsor has elected to exclude certain forms of compensation (such as bonuses, commissions, or overtime) from the plan document and the plan does not pass the test, a safe harbor definition of compensation must be used when allocating employer contributions. This may require a corrective amendment.
The plan sponsor will need to engage ERISA counsel to explore all options available to the plan for correcting the failure, which may include a corrective amendment to the plan document.

A Fidelity Testing & Reporting Service Delivery Manager can be available to discuss the general reasons how/why the testing may not be satisfied.

**TIP:** If the Compensation Test is being prepared on the Non-Safe Harbor Profit Sharing contribution source only, a General Test may be prepared to address the failure.
Average Benefit Test

Overview

The Average Benefit Test (ABT) is one of two types of coverage tests a qualified plan can undergo in order to satisfy the minimum coverage requirement, part of nondiscrimination testing (NDT). The other test is called the Ratio Percentage Test. To satisfy the minimum coverage requirement, a plan must pass either the ABT or Ratio Percentage Test.

To pass the Ratio Percentage Test, the percent of non-excludable NHCEs benefiting under the plan must be at least 70% of the non-excludable HCEs benefiting under the plan. Sometimes when a plan fails the Ratio Percentage Test, there is an opportunity to pass the coverage testing when utilizing the ABT.

This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure. ‘Significant change’ must be determined by the plan sponsor and/or their ERISA counsel. If the plan sponsor identifies such change, they may then request off cycle testing.

When would a plan engage Fidelity for the Average Benefit Testing?

1. The plan is failing minimum coverage, with a ratio percentage below 70%, but higher than 20%.
2. The plan has no other DC plans recordkept outside of Fidelity and/or, no DB plans that must be considered for testing purposes.
3. Nondiscrimination testing is complete for the applicable plan year.

NOTE: If Average Benefit Test service is not included in a plan’s service agreement, the plan sponsor may contact their Fidelity Representative to inquire about the service.

When ABT test is due (3 year cycle) - How does the process work for this service?

1. Plan sponsor submits nondiscrimination testing data for plan year via PSW.
2. Nondiscrimination testing is completed and results provided to plan sponsor via PSW.
3. If the ABT test is due for plan year (3 year cycle), the service will begin in order of NDT completion amongst all plans with this type of service, beginning the second quarter following plan year end.
4. Once the ABT test service begins, the NDT client contact will be alerted by email when we post any additional data need questions, if applicable, via PSW Service request.
5. When the ABT test is complete the NDT client contact will be alerted by email when we post test results via PSW Service Request.

**Timing of the Average Benefit Test**

- ABT test service is prepared on an annual basis, when applicable. The test will begin in order of NDT completion amongst all plans with this type of test service, beginning in the second quarter following plan year end.

- This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure.

- When the service is elected in the service agreement, Fidelity will assist the plan sponsor with monitoring of the 3 year cycle date for testing.

**What does the client need to provide for Average Benefit Testing?**

- Dependent on plan provisions, and/or, initial result of the testing, additional information *may* be required such as:
  
  a. Eligible Compensation for the non-elective profit sharing used for calculation purpose
  
  b. Hours of service during plan year

**Important Notes About the Average Benefit Test**

Fidelity’s Testing & Reporting Services can only support the ABT test, if the client has no other defined contribution plans outside Fidelity, and/or, no defined benefit plan that needs to be considered for additional testing purposes.

The total employee population of the employer is considered in the General Test, such as any other DC plan recordkept at Fidelity, and/or, any excluded class employees that would have met eligibility of the plan.

**What if the plan fails the Average Benefit Test?**

The plan sponsor will need to engage ERISA counsel to explore all options available to the plan for correcting the failure, which may include a corrective amendment to the plan document.

A Fidelity Testing & Reporting Service Delivery Manager can be available to discuss the general reasons how/why the testing may not be satisfied.
Frequently Asked Questions about ECAT Services

**Is there a fee for employer calculation and/or additional testing service?**
Yes, there is an additional fee for the employer calculation services and a fee may apply for an additional test service. Your Fidelity representative can discuss the applicable fees and how to start the process of adding a service to your service agreement.

**What is the best way to contact someone to discuss a current employer calculation or additional test service?**
Dial your Fidelity toll-free number, select ‘Testing and 5500’ and one of our Testing & Reporting Services Technical Consultants will be happy to assist. You may also submit an NDT service request via PSW with any questions or details related to a employer calculation or additional test service, a TRS team member will be in contact.

**Why do I need to complete my plan’s nondiscrimination testing prior to beginning my employer calculation or additional test service?**
The nondiscrimination testing is prepared prior to a calculation service to ensure that the census data is in good order, as well as, all necessary testing related detail is available, as applicable to the calculation or additional testing. i.e., 402g failures, ROEs reclassified as catch-up, and/or 415 test issues.

**We need our employer calculation or additional testing service to take place during the first quarter of the year. What do I need to do to see if this is possible?**
Contact your Fidelity representative to discuss the service timing need and they will alert Testing & Reporting Services.
Commonly Used Terms and Phrases

(IRC) Internal Revenue Code
The (IRC) Internal Revenue Code of 1986 is the basic source of rules relating to federal tax matters.

401(a)(4) General Test
Employer non-elective profit sharing allocations that do not fall within the design-based ‘safe harbor’ formulas are subject to General Testing. This testing may be performed on a contribution basis or benefits basis. This test can be performed, after the completion of nondiscrimination testing on a 3 year cycle, if no significant change occurs in the plan design, employer structure, and/or, employee demographics. ‘Significant change’ must be determined by the plan sponsor and/or their ERISA counsel. If the plan sponsor identifies such change, they may then request off cycle testing.

401(k) Contributions
Elective deferral contributions, which may be either pretax or designated Roth Contributions; generally subject to actual deferral percentage (ADP) test; participants over age 50 may also make additional ‘catch up’ contributions.

401(m) Contributions
Contributions considered in the actual contribution percentage (ACP) test; generally these include employer matching contributions and employee after-tax contributions; they may also include qualified matching contributions and qualified non-elective contributions.

402(g) Limitation (IRC402(g))
The amount of employee deferral contributions an individual may elect to defer in a calendar year is limited by IRC section 402(g). Please note: this limit includes both employee pretax deferral contributions and Roth Deferral Contributions.

410(b) Average Benefit Test
A retirement plan must meet minimum coverage requirements under section 410(b) to retain the tax exempt status as a qualified retirement plan. A plan may use either the ratio percentage test or the average benefit test to comply with the minimum coverage requirements. Due to the complexity of the average benefit test, it is generally used only in the event a plan does not meet the minimum coverage requirements using the ratio percentage test.

414(s) Compensation Testing
Certain definitions of compensation under IRC Section 414(s) are deemed to be nondiscriminatory (safe harbor definitions). If a plan elects to use a non-safe harbor definition of compensation for the plan, the compensation must be tested to ensure compensation does not discriminate in favor of highly compensated employees. This test can be performed, after the completion of nondiscrimination testing on a 3 year cycle, if no significant change occurs in the plan design, employer structure, and/or, employee demographics. ‘Significant change’ must be determined by the plan sponsor and/or their ERISA counsel. If the plan sponsor identifies such change, they may then request off cycle testing.
415 Compensation
Compensation used when applying the 415 Limitation; generally, this is considered gross compensation.

415 Limitation (IRC 415 (c)(1))
The amount of annual additions an employee receives from all defined contribution plans during each limitation year is limited by IRC 415(c)(1). This limit is an indexed amount and will periodically increase in $1,000 increments.

Actual Contribution Percentage (ACP) Test
The actual contribution percentage (ACP) test is required annually by the IRS. The purpose of this test is to demonstrate the plan does not discriminate in favor of highly compensated employees (HCEs), with respect to 401(m) contributions (employer matching contributions and/or employee after-tax contributions).

The ACP test must be performed and any corrections made within the 12 months following the end of the plan year or the plan could lose its tax exempt status. In addition, if the plan fails the ACP test, the plan sponsor may be assessed a 10% excise tax on the distributions required to correct the failed test. To avoid the excise tax, the plan sponsor must have the test completed, and make corrective distributions within 2 1/2 months after the end of the plan year, if a qualified matching contribution or a qualified non-elective contribution will not be used help the plan pass this test. For plans meeting the requirements for eligible automatic contribution arrangements (EACA) under IRC Section 414(w), this deadline is 6 months after the end of the plan year.

To satisfy the ACP test, a 401(k) plan must pass either the basic or the alternative test.

1. Basic Test: The ACP of the HCEs may not exceed 125% of the average ACP of the non-highly compensated employees (NHCEs). For example, if the HCE ACP is 7%, and the NHCE ACP is 5%, the plan fails the basic test (7% exceeds 125% of the NHCE ACP).
2. Alternative Test: The ACP of the HCEs may not exceed the lesser of: 2 percentage points above the NHCE ACP, or 200% of the NHCE ACP. For example, if the HCE ACP is 7%, and the NHCE ACP is 5%, the plan passes the alternative test (7% does not exceed the lesser of: the NHCE ACP plus 2, or the NHCE ACP times 2).

Actual Deferral Percentage (ADP) Test
The actual deferral percentage (ADP) test is required annually by the IRS. The purpose of this test is to demonstrate the plan does not discriminate in favor of highly compensated employees (HCEs) with respect to 401(k) contributions (employee deferral contributions).

The ADP test must be performed and any corrections made within the 12 months following the end of the plan year or the plan could lose its tax exempt status. In addition, if the plan fails the ADP test, the plan sponsor may be assessed a 10% excise tax on the distributions required to correct the failed test. To avoid the excise tax, the plan sponsor must have the test completed and make corrective distributions within 2 1/2 months of the end of the plan year, if a qualified matching contribution or a qualified non-elective contribution will not be used help the plan pass this test. For plans meeting the requirements for eligible automatic contribution arrangements (EACA) under IRC Section 414(w), this deadline is 6 months after the end of the plan year.
To satisfy the ADP test, a 401(k) plan must pass either the basic or the alternative test.

1. Basic Test: The ADP of the HCEs may not exceed 125% of the ADP of the non-highly compensated employees (NHCEs). For example, if the HCE ADP is 7%, and the NHCE ADP is 5%, the plan fails the basic test (7% exceeds 125% of the NHCE ADP).

2. Alternative Test: The ADP of the HCEs may not exceed the lesser of: 2 percentage points above the NHCE ADP, or 200% of the NHCE ADP. For example, if the HCE ADP is 7%, and the NHCE ADP is 5%, the plan passes the alternative test (7% does not exceed the lesser of: the NHCE ADP plus 2%, or the NHCE ADP times 2).

Adoption Agreement
Part of a pre-approved plan that includes employer elected provisions such as eligibility requirements, vesting, contribution formula, etc.

Benefiting Employees
An employee is considered to benefit in the employee deferral contribution portion of a plan if he/she is eligible to participate in the plan, regardless of whether or not he/she makes employee deferral contributions. An employee is considered to benefit in the employer matching contribution portion of the plan if he/she is eligible to make an employee after-tax contribution or if he/she is eligible to receive an employer matching contribution as a result of making an employee deferral contribution - even if the employee does not make an employee deferral contribution. An employee is considered to benefit in the employer discretionary contribution or ESOP portions of a plan if he/she receives an allocation for that contribution type for the plan year. An employee may be considered a Benefiting Employee for one contribution type but not necessarily for all contribution types.

Benefits Rights & Features Test
The Benefits Rights & Features (BRF) testing is done to determine if each benefit, right and feature of the plan is available to employees on a nondiscriminatory basis. The availability of the BRF is tested to prove it does not favor the HCEs. This test may be performed every three years, unless significant change occurs in the plan design, employee demographics, and/or, employer structure. ‘Significant change’ must be determined by the plan sponsor and/or their ERISA counsel. If the plan sponsor identifies such change, they may then request off cycle testing.

Other rights and features such as the right to different vesting, right to brokerage account, loans and catch up may trigger BRF testing. Fidelity’s Testing & Reporting Services performs BRF testing for different rates of employer match only.

Catch Up Contributions
If the plan provides, a participant who has attained or is expected to attain age 50 before the close of the calendar year shall be eligible to make catch up contributions to the plan in excess of an otherwise applicable plan or statutory limit. Catch up contributions are subject to contribution limitations.

Employee contributions can only be considered catch up contributions when they exceed one of the three limits: 415 Limitation, the plan Limit, 402g Limit, or to reclassify an ADP required distribution. The
determination of when contributions are considered catch up contributions is made at the end of the calendar year. Contributions considered catch up contributions are removed before any testing takes place.

**Collectively Bargained Employee**
An employee included in a unit of employees covered by an agreement that the Secretary of Labor finds to be a collective-bargaining agreement between employee representatives and one or more employers. This agreement must contain language evidencing that retirement benefits were the subject of good faith bargaining. This term may also be referred to as union employee.

**Continuing Eligibility Requirements**
A plan may require an eligible employee to meet requirements each year in order to receive an allocation of employer contributions, such as an employer matching contribution or employer discretionary contribution. Generally, the requirements are employment on the last day of the plan year and/or completion of a specified number of hours. If applicable, these requirements are set forth in the adoption agreement or plan document.

**Controlled Group (IRC 414(b), IRC 414(c))**
IRC 414 requires the aggregation of groups of employers or business under common control, based upon stock ownership, regardless of whether or not the controlling party provides input on how the business is operated.

There are two types of Controlled Group relationships, as defined in IRC 1563(a):

1. Parent-subsidiary - this exists if at least 80% of the stock of a company is owned by a parent or another organization.
2. Brother-sister - this exists if 5 or fewer individuals collectively own more than 80% of the stock of each brother-sister corporation. These same individuals would own more than 50% of the stock of each corporation, when considering only the identical common ownership in each corporation for each individual.

For example, IRC 414(b) references parent-subsidiary groups or brother-sister groups and IRC 414(c) references trades or businesses under common control. In the case of such aggregation, all members of the controlled group are considered to be one employer, and any reference to the employer includes all members of the controlled group. Fidelity does not determine Controlled Group status. This should be done by the Plan Sponsor and/or their ERISA Counsel or CPA as a Controlled Group has tax implications beyond retirement plan considerations.

**Corrective Action**
With respect to compliance testing, a corrective action is required if a plan fails to satisfy any of the compliance tests. Such action may include making corrective distributions, forfeiting non-vested contributions of affected participants or, if the plan allows, making qualified employer contributions (qualified non-elective contributions or qualified matching contributions). Corrective actions may also be referred to as curing methods. Failing to take the necessary corrective action in a timely manner may subject the employer to penalties assessed by the IRS and/or the plan to disqualification.
Corrective Distributions
If a plan fails any of the IRS’s annually required tests, the employer must take corrective action on a timely basis. This corrective action may result in certain distributions or forfeiture of excess amounts (including excess deferrals, excess contributions, excess aggregate contributions, excess annual additions, and orphan matching contributions) and earnings on these contributions.

Excludable Employee
This is a term used in coverage and nondiscrimination testing. It refers to employees disregarded when identifying the employees that must be taken into account to determine whether the plan satisfies the coverage and nondiscrimination tests. The term is sometimes used to represent two different categories of employees. First, in general, an employee is excludable if the employee falls into any of the following categories:

1. Fails to satisfy the plan's eligibility requirements
2. Is a union employee
3. Is a non-resident alien without U.S. source income

Secondly, when a plan utilizes permissive disaggregation in coverage and nondiscrimination testing, eligible employees are further divided into non-excludable employees and excludable employees. These excludable employees will be shown as excludable on your test reports but they are sometimes referred to as ‘otherwise excludable’.

Highly Compensated Employee
IRC 414(q) defines a highly compensated employee (HCE) as an employee who meets one or more of the following criteria:

1. During the determination year or the look back year, anyone who is a (greater than) 5%; or,
2. During the look back year, anyone who earned more than the annual allowable amount in gross compensation, as indexed pursuant to IRC Section 415(d)). If the top paid group election is made in the adoption agreement or plan document, the number of HCEs is limited to the top 20% of the employer's employees, including all Controlled Group members, ranked by gross compensation who earned more than the annual allowable amount in gross compensation, as indexed pursuant to IRC Section 415(d)).

This definition applies when performing the nondiscrimination compliance tests.

In-Service Withdrawal
Distributions made for a reason other than severance from employment, death, or disability.

Non-Benefiting Employees
An individual who does not meet the definition of either being a benefiting employee or an excludable employee

Non-Excludable Employee
An employee who is not an excludable employee for purposes of certain compliance tests
Non-Highly Compensated Employee (NHCE)
Any employee who is not a highly compensated employee

Orphan Match
Employer matching contributions required to be forfeited due to failure of the actual deferral percentage (ADP), actual contribution percentage (ACP), annual additions limit or 402(g) limitation tests. Orphan matching contributions represent the matching dollars attributed to excess contributions (failure of the ADP test) excess aggregate contributions (failure of the ACP test), excess annual additions (415 limitation test) or excess deferrals (failure of 402(g) test). The earnings associated are also forfeited. Employer match contributions attributed to excess amounts reclassified as catch up contributions may also be forfeited if catch up contributions are not matched.

Participant
An employee who is eligible to be covered by the plan and is earning or retaining credited service under the plan, whether or not they are actively contributing; includes retired or separated employees and beneficiaries who are receiving benefits or have a deferred vested benefit in the plan.

Plan Disqualification
Loss of favorable tax status; disqualification may result in penalties and taxes to be paid by the employer and potentially, taxation of benefits on a participant level.

Plan Document
The written document setting forth the provisions of a retirement plan, such as eligibility and vesting requirements, determination of benefits, and distribution of benefits

Plan Termination
Typically occurs when the plan sponsor takes the appropriate action by Board of Directors resolution for a corporation, or similar action for a partnership or sole proprietorship to terminate the plan.

Plan Year
Generally, the 12 consecutive month period specified in the plan’s adoption agreement or plan document

Qualified Non-Elective Contribution (QNEC)
Qualified non-elective contributions are contributions made by an employer which are fully vested and subject to the same distribution rules as employee deferral contributions. These contributions may be used to improve or correct a failed actual deferral percentage (ADP) or actual contribution percentage (ACP) test.

Qualified Separate Line of Business (QSLOB)
To be considered a Qualified Separate Line of Business under IRC Section 414(r) a business must:

1. Be formally organized as a separate organizational unit of the employer
2. Be operated as a separate profit center within the employer
3. Maintain its own separate work force
4. Maintain its own separate management
5. Employ at least fifty (50) individuals
6. Notify the IRS that it is applying the QSLOB rules

A plan that is a Qualified Separate Line of Business may have compliance tests performed differently than plans not considered part of a QSLOB. Consult with your accountant or attorney for further assistance.

**NOTE:** The determination of whether an organization meets the QSLOB rules is very complex. You should consult with your accountant or attorney for further assistance in making this determination.

Return of Excess (ROE) Service Request
This type of PSW® Service Request initiates corrective distributions due to failed tests. It should be submitted back to Fidelity Investments after reviewing the compliance test results.

Social Security Integration
Social Security Integration is a calculation that may be needed for a plan that allows employees who earn compensation above the wage base the ability to receive an additional percentage of the employer’s profit sharing. The additional percentage is based upon an integration level pre-selected and the amount allocated to all employees in the plan.

Union Employee
A union employee is an employee who is included in a unit of employees covered by a collective bargaining agreement, as defined by the Secretary of Labor, between employee representatives and one or more employers. This term may also be referred to a collectively bargained employee.