

Include the plan name, Applicant's EIN and plan number on each page of the compliance statement, including attachments

**Section I - Identifying Information**

1. Applicant's name		
2. Applicant's EIN ( <i>do not use SSN</i> )	3. Plan number	
4. Plan name		

**Section II - Applicant's Description of Failures**

Attach additional pages, as needed. Label the attachment "**Section II. Applicant's Description of Failures.**" List and number each failure separately. If using the Form 14568 Schedules, specify the Schedules that are included and attach them to this compliance statement.

**Section III - Applicant's Description of the Proposed Method of Correction**

Attach additional pages, as needed. Label the attachment "**Section III. Applicant's Description of the Proposed Method of Correction.**" Describe the correction method for each failure listed in Section II. If using the Form 14568 Schedules, specify the Schedules that are included and attach them to this compliance statement.

**Section IV - Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries**

Attach additional pages, as needed. Label the attachment "**Section IV. Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries.**" Describe the methods that will be used to locate and notify former employees and beneficiaries, or provide an affirmative statement that no former employees or beneficiaries were affected by each failure listed in Section II or will be affected by the correction methods described in Section III.

**Section V - Applicant's Proposed Revision to Administrative Procedures**

Attach additional pages, as needed. Label the attachment "**Section V. Applicant's Proposed Revision to Administrative Procedures.**" Include an explanation of how and why the failures arose and a description of the measures implemented (or will be implemented) to ensure that the same failures do not occur in the future. If using the Form 14568 Schedules, specify the Schedules that are included and attach them to this compliance statement.

**Section VI - Requests Related to Excise Taxes, Additional Tax and Tax Reporting**

- The Applicant requests that the Internal Revenue Service (IRS) not pursue the following taxes under the Internal Revenue Code (IRC) (attach supporting rationale)
- Excise tax under IRC Section 4972 with respect to failures number \_\_\_\_\_
  - Excise tax under IRC Section 4973 with respect to failures number \_\_\_\_\_
  - Excise tax under IRC Section 4974 with respect to failures number \_\_\_\_\_
  - Excise tax under IRC Section 4979 with respect to failures number \_\_\_\_\_
  - Imposition of additional tax under IRC Section 72(t) with respect to failures number \_\_\_\_\_

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- The Applicant requests that the IRS grant the following for plan loan failures that did not comply with IRC Section 72(p)
- With respect to all loans described in this compliance statement, that a deemed distribution corrected pursuant to this VCP submission not be required to be reported on Form 1099-R and that repayments made by the correction not result in the affected participant having additional basis in the plan for purposes of determining the tax treatment of subsequent distributions from the plan.
  - With respect to all loans described in this compliance statement, that a deemed distribution be reported on Form 1099-R with respect to affected participants for the year of correction instead of the year of the failure.
  - For one or more plan loans described in this compliance statement that it be permitted to report the loans as deemed distributions in the year of correction instead of the year of the failure. For other affected plan loans, the plan sponsor requests relief from reporting them as deemed distributions. Attach additional narrative details that explain why the relief should be granted and which specific loans will be receiving what type of special relief.

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### **Section VII - Enforcement Resolution (*to be completed by IRS only*)**

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The Applicant will neither attempt to nor otherwise amortize, deduct or recover from the IRS any portion of the paid user fee associated with this submission nor receive any federal tax benefit on account of payment of the fee.

The IRS will not pursue the sanction of revoking the tax-favored status of the plan under Sections 401(a), 403(b), 408(k) or 408(p) of the IRC on account of the failures described in this compliance statement. This compliance statement considers only the acceptability of the correction methods including the revisions of administrative procedures described in the compliance statement and does not express an opinion as to the accuracy or acceptability of any calculations or other materials included with or provided at any time during the processing of the VCP submission. The reliance provided by this compliance statement is limited to the specific failures and years specified and does not provide reliance for any other failure or year. In no event may this compliance statement be relied on for the purposes of concluding that the plan or plan sponsor was not a party to an abusive tax avoidance transaction. This compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

This compliance statement expresses no opinion as to whether the plan otherwise satisfies the requirements of the IRC and is not a letter ruling or a determination letter within the meaning of Revenue Procedure 2019-1 (updated annually) and Revenue Procedure 2019-4 (updated annually).

This compliance statement is conditioned on (1) there being no misstatement or omission of material facts in connection with the submission and (2) the completion of all corrections described in this compliance statement within 150 days of the date of this compliance statement. For governmental plans within the meaning of IRC Section 414(d), corrective plan amendments required by this compliance statement that fix the operational failures or employer eligibility failure described in this compliance statement, must be adopted by the later of 150 days after the date of this compliance statement or the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after 91 days after the date of this compliance statement.

- The IRS will treat the failure to adopt interim amendments, as described in this compliance statement as if they had been adopted timely for the purpose of making available the extended remedial amendment period set forth in Rev. Proc. 2007-44 and beginning on January 1, 2017, Rev. Proc. 2016-37, or its successors. However, this compliance statement does not constitute a determination as to whether the plan amendments, as drafted, comply with the applicable changes in qualification requirements.
- The IRS will treat the failure to timely adopt a written plan, as required under the IRC Section 403(b), Final Treasury Regulations under IRC Section 403(b) and Notice 2009-3, as if it had been adopted timely for the purposes of making available the extended remedial amendment period set forth in Announcement 2009-89, Rev. Proc. 2013-22, Rev. Proc. 2017-18, Rev. Proc. 2019-39, and any future superseding guidance. However, this compliance statement does not constitute a determination as to whether the written plan, as drafted, complies with the applicable requirements associated with IRC Section 403(b) and the Final Treasury Regulations under IRC Section 403(b).

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- With regard to failure number \_\_\_\_\_ (provided that no modification has been made to either the plan document or adoption agreement of the plan that would otherwise cause the employer to lose reliance on the plan's opinion or advisory letter), the corrective amendment will not cause the plan to lose its status as a Pre-approved Plan and (provided that no modification has been made that would otherwise affect the employer's eligibility for the six-year remedial amendment cycle) the employer will be allowed to remain within the six-year remedial amendment cycle described in Rev. Proc. 2016-37 on a continuing basis until the expiration of the next six-year remedial amendment cycle as provided in Section 16.01 of Rev. Proc. 2016-37.
- The IRS will not pursue the following on account of the qualification failures described in this submission:
- Excise tax under IRC Section 4972
  - Excise tax under IRC Section 4973
  - Excise tax under IRC Section 4974
  - Excise tax under IRC Section 4979
  - With respect to the overpayment failures described in this compliance statement that were corrected by removing improper distributions from the IRAs of the affected participants and returning those distributions to the plan, the IRS will not pursue \_\_\_\_\_% of the 10% additional income tax under IRC Section 72(t).
- With respect to the loan failures described in this compliance statement:
- For all loans that are corrected by a corrective repayment to the plan or reamortization as described in this compliance statement. The IRS will not require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures, and repayments made pursuant to the correction of the loans will not result in an affected participant having additional basis in the plan for the purpose of determining the tax treatment of subsequent distributions from the plan to the participants.
  - For all loans that will be reported as deemed distributions. The IRS will require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures. However, the plan will be permitted to report deemed distributions on Form 1099-R in the year of correction, instead of the year of the failure.
  - If the requested relief is not applied consistently to all loans. For loans where relief from issuing Form 1099-R is applicable, all repayments made pursuant to the correction of the loans will not result in an affected participant having additional basis in the plan for the purpose of determining the tax treatment of subsequent distributions from the plan to the participants. For all other loans (or situations where affected participants do not choose to or may not qualify for Form 1099-R relief), the IRS will require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures. However, the plan will be permitted to report the deemed distributions on Form 1099-R in the year of correction, instead of the year of the failure.

Approved:

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 Manager, Employee Plans Voluntary Compliance  
 Tax Exempt and Government Entities Division

Date \_\_\_\_\_