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Mastering Your Retirement Plan: Doing Well While Doing Good

Fiduciary Governance

A key to fiduciary governance is knowing what is required of you as a fiduciary and having the right pieces in place to satisfy those requirements. Here are some of the important things to know about how to have the right pieces to help with that job:

- Knowing when you are a fiduciary.
- What does it mean to be a fiduciary?
- How fiduciary training helps with compliance.
- The fiduciary “structure”—committee members, meetings and minutes.
- The role (and importance) of an investment policy statement (IPS).
- The role (and importance) of an investment adviser.

Knowing When You Are a Fiduciary

Do you make decisions about the operation of your firm's retirement plan...about the service providers, the investments, the administration? If so, you are a fiduciary for making those decisions.



Knowing When You Are a Fiduciary

The most common decisions—and the ones that are often brought up in litigation—are the costs and quality of the investments and the compensation paid to the service providers. The people who make those decisions will either be appointed fiduciaries (for example, members of a plan committee) or “functional” fiduciaries—those that aren’t formally appointed but make the decisions.



What Does It Mean to Be a Fiduciary?

Fiduciaries have a number of responsibilities under ERISA, the federal law governing retirement plans. That includes making decisions consistent with:

- **Providing retirement benefits** for participating employees
- **Paying only reasonable expenses** for investments and service providers
- Providing a **diversified investment line-up.**



What Does It Mean to Be a Fiduciary?

- All of those decisions must be done in a manner that complies with the prudent person rule.
- Fiduciaries must act with the “care, skill, prudence and diligence” of a person who is knowledgeable about the matter being considered.
- In other words, fiduciaries must gather and study the information needed to make an informed decision about the particular matter, and then evaluate it thoughtfully.



How Fiduciary Training Helps with Compliance

- The officers and committee members who act as fiduciaries may not know all the decisions they need to make or all of the factors they need to consider in making those decisions.
- To complicate matters, the investments, services, laws and regulations affecting retirement plans are constantly changing.
- Fortunately, plan fiduciaries can fill in those gaps with fiduciary education.



How Fiduciary Training Helps with Compliance

One approach for understanding the decisions that need to be made and the changes to laws, products, services and costs is to have initial and annual fiduciary training.

That approach help fiduciaries start out with knowledge of the rules and the requirements and to then keep up to date with changes.

Focused retirement plan advisors usually have training materials that can help with that initial and ongoing education.



The Fiduciary “Structure” – Committee Members, Meetings and Minutes

As with any job, it helps to have the basic structure to complete the tasks of that job. For plan fiduciaries, three of the basics are:

- Committee members
- Meetings
- Minutes

Setting up a plan committee creates a platform for making key plan decisions. A committee usually consists of 3 to 5 members, with representation from finance and human resources, among others.

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The Fiduciary “Structure” – Committee Members, Meetings and Minutes

- Committees usually meet quarterly. While that is a good practice, the law just requires that fiduciaries review plans at “appropriate intervals.”
- Committees should prepare minutes of the decisions that they make—as evidence of doing their job. The minutes can be straightforward—the materials reviewed, the advice given, and the decisions made.



The Role (and Importance) of An Investment Policy Statement (IPS)

- An investment policy statement is not required by law—it is a best practice.
- An IPS is a roadmap for the compliant selection and monitoring of a plan's investments. The IPS should be detailed enough that the plan committee can apply it when making investment decisions. An IPS is a support tool to help committee members make thoughtful decisions about the investments offered to the participants.
- An IPS could be reviewed once a year by the committee—with the help of the plan's advisor—as a reminder of the criteria to be used to select and monitor the plan's investments. It is also a useful training tool for new committee members.

The Role (and Importance) of An Investment Adviser

While the management of a retirement plan requires knowledge of complex investment issues, the law does not require that fiduciaries be experts on all those issues.

But the law does require fiduciaries to use knowledgeable advisers where they need help. For example, fiduciaries are expected to know about investment share classes, expense ratios, and revenue sharing. Experienced plan advisers can support plan committees on those issues and the decisions that need to be made.



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The Role (and Importance) of An Investment Advisor

Another example is the requirement that plans cannot pay no more than “reasonable compensation” to the plan’s service providers. That includes the total compensation to a plan’s recordkeeper, which includes amounts the plan pays and any payments to the recordkeeper from the investments.

Plan fiduciaries may not know if their plan’s recordkeeper receives revenue sharing from the investments and, as a result, may not have considered those payments in benchmarking the compensation of the recordkeeper.

Fortunately, experienced advisors know how to obtain, benchmark and evaluate that information.

Concluding Thoughts

Plan fiduciaries need to make decisions that are in the best interest of their participants. Paying too much for plan services and investments violates the fiduciary standard because it reduces the benefits that participants have for retirement.

A good structure, including advice, for identifying the necessary decisions and how to best make them is critical. Fiduciary training, committee meetings and an IPS are helpful tools in making decisions in the right way.

Thank you

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RPW-348-0524 (Exp. 05/26)

