Plan sponsor fiduciary guide

A tool to help you manage your company retirement plan

RBC Wealth Management

Overview

One of the most important duties you have as the sponsor of your company retirement plan is your fiduciary responsibility to act in the best interests of plan participants. Are you aware of your responsibilities as a plan fiduciary? Does your plan have an investment policy statement? Do you want to comply with ERISA regulations that help reduce your fiduciary liability? Are you prepared to evaluate the reasonableness of the compensation and expenses related to services provided by plan providers? Do you review your plan on an annual basis? Although you cannot delegate all your fiduciary responsibilities to others, you can hire professionals—financial representatives, trustees, attorneys, accountants and administrators—who can offer their expertise and guidance. Our goal is to help you make well-informed decisions about your company retirement plan.

This Plan Sponsor Fiduciary Guide is designed to help you understand your fiduciary responsibilities to your company retirement plan.

Inside you will find valuable information on important topics that may help you make decisions about your retirement plan.

What is ERISA?

The Employee Retirement Income Security Act of 1974 (ERISA) is the federal law that governs the administration and management of employer and union sponsored retirement plans and health/welfare plans.

ERISA was enacted to protect the interests of plan participants and their beneficiaries. Under ERISA, when a plan sponsor is acting as a fiduciary, it must do so in the best interests of plan participants and their beneficiaries.

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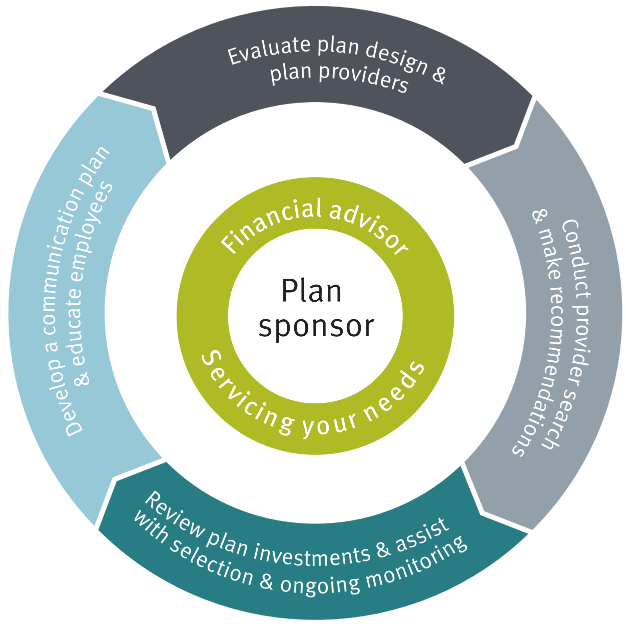
The role of an ERISA fiduciary

Who is a fiduciary?

Many of the activities involved in operating a plan make the person or entity performing them a fiduciary. Using discretion in administering and managing a plan or controlling the plan's assets makes that person a fiduciary to the extent of that discretion or control. The plan's fiduciaries will normally include:

- **Plan administrator** — May be the employer itself, an administration committee, or an individual, as named in the plan document.
- **Plan trustees** — Bank trustees, individuals, committees, etc.
- **Named fiduciaries** — Plan documents are required, under ERISA, to identify, either by name or through an appointment process described in the plan document, one or more fiduciaries as "named fiduciaries."
- **Others** — Third-party investment managers retained by the named fiduciary.



Fidelity bond

ERISA requires fiduciaries, or others who handle plan assets, to be insured by a Fidelity Bond. For a fiduciary having overall responsibility for a plan, the amount of the bond must be at least 10% of the value of the plan's assets and need not be greater than $500,000 ($1,000,000 for plans holding employer securities). The bond provides coverage for loss of property resulting from dishonest or fraudulent acts. Fidelity Bond information is required to be reported on the annual IRS Form 5500.

Fiduciary responsibilities: in general, a fiduciary must:

- **Demonstrate prudence** — Act with care, prudence, skill and diligence of a prudent person acting in a similar capacity.
- **Diversify investments** — Diversify to minimize the risk of large losses.
- **Comply with the Exclusive Benefits Rule** — Act solely in the interest of plan participants and their beneficiaries with the exclusive purpose of providing benefits to them and defraying the reasonable expenses of the plan.
- **Adhere to the plan** — Act in accordance with the documents and instruments governing the plan (unless inconsistent with ERISA).

Annual plan review

Plan review

ERISA requires plan fiduciaries to operate the plan in accordance with its written terms. Therefore, it makes sense to review the plan's routine operations at least once every year. You can use the following checklist as an agenda for your plan review. This checklist is not exhaustive. There may be other areas of your plan's operations that should be included in your review. Consult with your legal advisers to make sure that you're covering all of the bases.

Mark the boxes in the checklist below that you routinely use to manage your fiduciary responsibility.

- ☐ Have an IRS-approved plan document — "Prototype" documents have been approved by the IRS. Keep a copy of all required "interim" or "model" plan amendments, along with the prototype plan document's IRS "Opinion" Letter, as well as the plan's IRS "Determination" Letter, in the event one was obtained from the IRS.
- ☐ Make sure the plan document has been amended to reflect all required legislative updates (e.g., GUST, EGTRRA, PPA, etc.).

- ☐ Maintain a current Summary Plan Description (SPD), updating it as necessary to reflect plan design changes, and distribute it to all participants and beneficiaries currently receiving benefits under the plan. (ERISA requires that SPDs, Summaries of Material Modification, and Annual Reports be provided to participants/beneficiaries).
- ☐ If you, your family or your company have ownership rights in any other businesses, be sure to engage expert advice concerning the possible consequences to your plan (e.g., controlled group).
- ☐ Verify that the plan's definition of an eligible employee is consistent with the way the plan is administered. If you have any workers, such as temporary employees, at your company who are not covered under the plan, does your plan document specifically exclude them from participation?
- ☐ Review the definition of compensation as defined in the plan document, and verify that the correct compensation amounts are being sent to your service provider(s).
- ☐ Review the process of collecting and forwarding employee contributions and loan repayments to your provider. Make sure the contributions and loan repayments are invested in a timely manner. (ERISA provides that participant contributions become plan assets as of the earliest date that they can reasonably be segregated from the employer's assets).
- ☐ Conduct regular, periodic, and as needed meetings with the plan fiduciaries. Record minutes of these meetings, including all decisions made by the fiduciaries (and include any background information and supporting documentation for any investment decisions made).
- ☐ Check your ERISA Fidelity Bond for proper coverage. The ERISA Fidelity Bond is protection for participants in the event a fiduciary, or other responsible person, steals or mishandles plan assets. The minimum required amount of the bond is 10% of plan assets—up to $500,000 (or $1,000,000 if plan holds employer securities). Determine whether the bond covers other fiduciaries, as well as other employees or third parties involved with handling funds or other property of the retirement plan.
- ☐ Review process for employee enrollment programs explaining the importance of plan participation, saving for retirement, and investment basics.
- ☐ Conduct a review of the investments in the plan, in accordance with the investment policy statement. Like all plan documents, an investment policy statement (IPS) should be carefully drafted and thoroughly reviewed by the plan sponsor and its legal counsel. It's important to review and update the IPS periodically to reflect any changes in the plan's investment strategy.
- ☐ Monitor and evaluate the plan's investment options and, as applicable, investment managers. Gather and evaluate information on the proper peer group and indices, historical performance, expenses, volatility and other significant factors to review the investment options.
- ☐ Review employee investment education materials and/or programs.
- ☐ Confirm that your plan offers a "broad range" of funds to minimize the risk of large losses such as:
  - Stable Value or Money Market Fund
  - U.S. Government or Corporate Bonds
  - Large-Cap U.S. Equities
  - Mid/Small-Cap U.S. Equities
  - International or Global Equities
- ☐ If the plan is intended to comply with ERISA Sections 404(c) and 404(a)(5), see that all requirements under these provisions are being met. Make sure the IRS Form 5500 indicates the intent to comply with the ERISA Section 404(c) requirements.
- ☐ Review the fee structure of the service provider arrangements and of the plan's investment options for complete understanding of all costs and services associated with those fees.
- ☐ Update and document all procedures and decisions; maintain the documents in an appropriate file.

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