

ERISA requires plan fiduciaries to act prudently and solely in the interest of the plan's participants and beneficiaries with the exclusive purpose of providing retirement benefits. Fiduciaries are also required to adhere to the plan's governing documents. Unfortunately, numerous studies have shown that plan fiduciaries are often unaware of their fiduciary status or how to go about implementing prudent processes – particularly in the small plan market where decision-makers often wear many hats. Advisers, therefore, can play an important role by educating employers and offering to assist with the formation and maintenance of a committee to track fulfillment of plan requirements.

Advisers can create economies of scale by leveraging third-party resources. This PRI Fiduciary Education Resource Guide lists some of the most useful governmental publications and information compiled by industry trade associations designed to assist plan fiduciaries in the design, operations and maintenance of employee benefit plans.

I. General Education on Fiduciary Duties

Because fiduciaries may be held personally liable for breaching their duties, committee members need to understand the required standard of care and what activities give rise to fiduciary status. In addition to providing education on the nature and scope of responsibilities, advisers should consider preparing an acknowledgement for each member to sign that lists his/her specific area of oversight and describes the committee's fiduciary duties generally to ensure the members clearly understand what is required.

- [Meeting Your Fiduciary Responsibilities](#) – a DOL publication that provides an overview of the basic fiduciary responsibilities applicable to retirement plans under the law and provides answers to the following questions:
 - What are the essential elements of a plan?
 - Who is a fiduciary under ERISA?
 - What is the significance of being an ERISA fiduciary?

II. Selection and Monitoring of Service Providers

Hiring a service provider in and of itself is a fiduciary function. When considering prospective service providers, the DOL suggests providing each of them with complete and identical information about the plan and what services are being sought so that a meaningful comparison can be made.¹ Advisers can add value by assisting committee members with documenting the process used to select and monitor service providers.

- [Tips For Selecting And Monitoring Service Providers For Your Employee Benefit Plan](#) – a DOL factsheet designed to assist employers in carrying out their responsibilities under ERISA to prudently select and monitor plan service providers.
- [Selecting And Monitoring Pension Consultants – Tips For Plan Fiduciaries](#) – a jointly developed DOL/SEC publication setting forth ten questions for plan sponsors to ask when engaging pension consultants and registered investment advisers regarding potential conflicts of interest.

¹ Some items a fiduciary needs to consider when selecting a service provider include:

1) information about the firm itself: financial condition and experience with retirement plans of similar size and complexity; 2) information about the quality of the firm's services: the identity, experience, and qualifications of professionals who will be handling the plan's account; any recent litigation or enforcement action that has been taken against the firm; and the firm's experience or performance record; and 3) a description of business practices: how plan assets will be invested if the firm will manage plan investments or how participant investment directions will be handled; the proposed fee structure; and whether the firm has fiduciary liability insurance. See also, [PRI Disclosure Management](#) supporting materials.

Evaluating Fees and Expenses

Fiduciaries charged with selection and monitoring of the plan's service providers have a responsibility to ensure that the services are necessary and that the cost of those services is reasonable. In recent years, there has been a dramatic increase in the number of investment options, as well as level and types of services, offered to and by plans in which participants have individual accounts. In determining the number of investment options and the level and type of services for a plan, it is important to understand the fees and expenses for the services offered. Advisers should consider taking advantage of the following resources to assist the committee members establish a prudent process for evaluating fees and expenses:

- [Understanding Retirement Plan Fees and Expenses](#) - a DOL publication that is designed to assist plan sponsors better understand and evaluate plan fees and expenses and provides answers to the following questions:
 - Why consider fees?
 - What are the types of plan fees and who pays for them?
 - What fees are associated with the investment choices in the plan?
- [401\(k\) Plan Fee Disclosure Form](#) - a model disclosure published by the DOL that is designed to assist plan fiduciaries in making informed cost-benefit decisions and provides templates for organizing fees and services as well as a glossary of commonly-used terms.

III. Administration, Reporting and Disclosure

In addition to regulating the responsibilities of plan fiduciaries and other issues regarding plan administration, ERISA contains various provisions intended to protect the rights of plan participants and beneficiaries in employee benefit plans. These protections include requirements relating to reporting and disclosure, participation, vesting, and benefit accrual, as well as plan funding. In addition, ERISA contains various standards that a plan must meet in order to receive favorable tax treatment, and also governs plan termination. The following resources are designed to assist plan sponsors in understanding and tracking fulfillment of their reporting and disclosure obligations:

- [Recurring Deadlines for 401\(k\) Plans](#) - an ASPPA Government Affairs Committee publication that provides a summary of notable 401(k) deadlines in chart form.
- [Reporting and Disclosure Guide for Employee Benefit Plans](#) - a DOL resource that provides an overview of the most common disclosures that plan administrators (both pension and welfare benefit) are required to furnish to participants, beneficiaries, and certain other individuals under Title I of ERISA.
- [401\(k\) Resource Guide - Plan Sponsors - Filing Requirements](#) - a checklist published by the IRS that may be used as a tool to help plan sponsors meet 401(k) filing requirements.