



## FIDUCIARY PROCESSES Best Practices

### **A Reminder – What and Who is a Fiduciary**

ERISA (the Employee Retirement Income Security Act of 1974) defines a fiduciary as someone who has discretionary authority or control over a retirement plan, whether with regard to the plan's administration or assets. According to the DOL, people take on fiduciary status based on the functions they perform for the plan – not the title they hold. If they exercise discretionary authority or control over the plan, they are fiduciaries.

The "Prudent Man" rule mandates that plan sponsors must act "with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims."

### **How to Improve Your Fiduciary Process**

The rules surrounding fiduciary responsibilities may seem complex, but complying with them doesn't have to be. Most of the requirements are commonsense tasks that are simply good business practices. Here is a listing of best practices broken down into three broad areas – plan operations, investment and communications.

#### *Operational Practices*

- Identify all plan fiduciaries – whether named in plan documents or functional fiduciaries
- Establish procedures – create a paper trail to demonstrate compliance with ERISA rules
- Deposit contributions promptly
- Follow service provider hiring protocols – this helps you compare and contrast them against other potential providers and their fees
- Conduct annual reviews – this helps the plan and its fiduciaries stay current and in compliance
- Satisfy all reporting and testing requirements

#### *Investment Practices*

- Offer diversified investment options – an ongoing process of selecting and monitoring to ensure investments remain consistent with plan objectives.
- Consider an Investment Policy Statement – this provides fiduciaries with guidelines or general instructions concerning types of investments and investment management decisions

#### *Communications Practices*

- Meet basic communications requirements – beyond providing legally required documents to participants, good communications help employees make better retirement planning decisions
- Offer more guidance – provide education on financial planning basics

### **Actions that Support Process Best Practices**

- Offer a prudently designed plan that's more likely to help employees achieve their retirement goals by using opt-out, rather than opt-in features (automatic enrollment and deferral increases)
- Document all plan-related decisions
- Understand all fees associated with the plan and provide full disclosure to participants
- Deliver a full suite of communications that addresses initial enrollment and ongoing communications and presents information that's simple to understand, effective and helps create participant action
- Select a plan provider that offers flexibility in the investment options available and plan services provided, good value for the fees charged and superior relationship management – including the human touch

This information was developed as a general guide to educate Plan Sponsors, but is not intended as authoritative guidance or tax or legal advice. Each plan has unique requirements, and you should consult your attorney or tax advisor for guidance on your specific situation. In no way does advisor assure that, by using the information provided, Plan Sponsor will be in compliance with ERISA regulations.

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