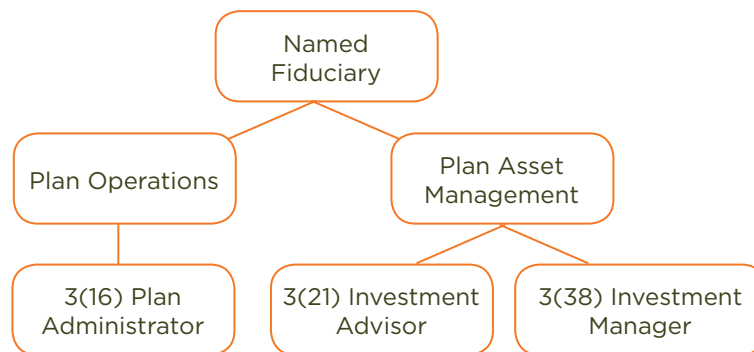


If You Are a Plan Sponsor, You Are a Plan Fiduciary

A retirement plan sponsor has obligations and responsibilities to its employees who participate in the retirement plan.

Through the Named Fiduciary, the sponsor has the duty to make prudent decisions with regard to the plan and to make such decisions solely in the interest of the plan’s participants. This person or group is named in the plan and is authorized to oversee the plan’s operation and administration and is responsible for plan asset management. The Named Fiduciary can be considered the “Fiduciary-in-Chief.”



The Plan Administrator is also named in the plan and is directly responsible for plan administration. The Plan Administrator can be considered the plan’s “Chief Operating Officer.”

Under ERISA, a plan fiduciary must meet these core fiduciary standards:

DUTY OF LOYALTY

Act solely in the interest of participants

DUTY OF PRUDENCE

Act with “care, skill, prudence, and diligence of a prudent “expert” (ignorance is no defense

DUTY OF DIVERSITY

Minimize risk of large losses through diversity of investments

EXCLUSIVE PURPOSE

Act in the best interest of participants in providing benefits and paying only reasonable expenses with plan assets

PLAN GOVERNANCE

Act in accordance with plan documents and instruments

WHERE DOES A FIDUCIARY GET ASSISTANCE?

Plan Administration

The Plan Administrator will typically hire a record keeper and a Third Party Administrator (TPA) to assist in plan administration. These entities are not typically fiduciaries; they perform ministerial services at the direction of the Plan Administrator.

Plan Asset Management

The Named Fiduciary may hire investment advisors to meet its duty of prudence with respect to asset management. By using a combination of a 3(21) Fiduciary Investment Advisor and a 3(38) Investment Manager, the Named Fiduciary can avail itself of partners that specifically accept fiduciary status under the plan. Fiduciary partners will, and must, act in the best interest of participants in the performance of their duties.

The 3(21) Investment Advisor shares fiduciary duties with the Named Fiduciary while the 3(38) Investment Manager will accept full fiduciary responsibility for selecting and monitoring the investment options offered under the plan.

3(21) FIDUCIARY INVESTMENT ADVISOR	3(38) FIDUCIARY INVESTMENT MANAGER
Acknowledge Fiduciary Status in Writing	Acknowledge Fiduciary Status in Writing
Assist Named Fiduciary select Investment Manager	Draft Investment Policy Statement
Monitor that Investment Manger meets responsibilities	Take full discretionary control of selection of plan investments
Provide participant investment education	Select and monitor investment funds offered to plan participants
“Quarterback” and Monitor performance of retirement team (record keeper; TPA)	Create professionally managed risk-based portfolio options for participant election
Review and Discuss Investment Reports	Designate plan’s qualified default investment alternatives.

WHAT IF A FIDUCIARY BREACHES ITS DUTY?

Fiduciaries are liable for their fiduciary decisions. To limit personal liability, fiduciaries must understand their duties to the plan and plan participants. ERISA strictly prohibits fiduciaries from dealing with plan assets in own interest, in engaging in transactions involving the plan on behalf of a party whose interest is adverse to the interests of the plan or plan participants, or receiving consideration for their own accounts from a party dealing with a plan asset transaction. As a general rule, transactions between a plan and its fiduciaries are prohibited unless the transaction is exempted under ERISA or the Department of Labor has issued a prohibited transaction exemption under ERISA.

The best way to avoid fiduciary problems is to do what is right for participants. Acting in participants’ best interests is your best fiduciary defense.

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