ALGER

FIVE RETIREMENT PLAN FIDUCIARY BEST PRACTICES

THINK FURTHER FOR RETIREMENT

The list of fiduciary duties employers take on when they adopt a retirement plan can seem daunting. Fortunately, there are steps they can take to set themselves on course for compliance with ERISA's fiduciary mandates.

HELPING **PLAN SPONSORS** THINK FURTHER FOR THEIR RETIREMENT PLAN

Building a support team of service providers and setting up a prudent decision-making process with checks and balances are key to managing fiduciary compliance. Following are five fiduciary best practices that will help Plan Sponsors **Think Further** about their fiduciary duties.

1 IDENTIFY PLAN FIDUCIARIES & SERVICE PROVIDERS

Under ERISA, most plan sponsors take on two sets of responsibilities.

- **Named fiduciary** – overall responsibility for the plan, including overseeing plan investments
- **Plan administrator** – discretion over how the plan is operated

A named fiduciary can appoint others to share the fiduciary role.

Plan Committee or Business Management Team
- Overall plan management
- Investment management

Financial Advisor
- Fiduciary advice to help build and monitor the plan's investment alternatives
- Provide information and education, without making fiduciary recommendation

Third Party Administrators & Recordkeeper
- Operational and compliance support
- Typically no discretion over how the plan is administered and not considered ERISA fiduciaries

Service agreements should reflect whether service providers are acting as ERISA fiduciaries or as non-fiduciaries acting only at the direction of the plan sponsor.

2 EDUCATE PLAN FIDUCIARIES ABOUT THEIR RESPONSIBILITIES

Once fiduciaries have been identified, it is critical that each fiduciary understands his/her role.

Most new plan sponsors or newly appointed fiduciaries would benefit from foundational education.

Fiduciary Education Topics

- Business objectives for establishing the plan
- Responsibilities of a plan fiduciary
- Details about plan fees
- Service provider fee disclosure requirements
- Review of the plan document
- Critical compliance deadlines
- Nondiscrimination testing basics
- Fidelity bond requirements

3 ADOPT PRUDENT POLICIES AND PROCEDURES FOR MANAGING FIDUCIARY RESPONSIBILITIES

Fiduciaries should consider adopting policies and procedures for all critical fiduciary functions.

- Written policies will help guide individuals and committees to consistently monitor important plan activity and identify any concerns that should be addressed.
- Identifying and addressing a problem early can often prevent it from growing into a crisis.
- Annual reviews with the plan's financial advisor and other service providers to review current practices will help assess how well policies were followed and identify any necessary adjustments.

Sample Policy Issues

- **Timely deposits** – making timely deposits of employee contributions, loan repayments and employer contributions
- **Plan data** – providing timely, accurate and complete census information and payroll data to the plan's service providers
- **Reports** – promptly reviewing all plan reports and other communications sent by service providers
- **Employee communications** – making certain plan fiduciaries or service providers deliver all employee notices and disclosures within the time frames required by the rules
- **Transactions** – authorizing distributions and loans, following the terms of the plan document
- **Form 5500** – reviewing the Form 5500 prepared by the service provider and filing it on time
- **Corrections** – addressing any plan errors or employee concerns that arise

4 CAREFULLY MONITOR PLAN FEES

Plan fiduciaries have a duty to make certain that fees paid from plan assets are necessary and reasonable. To fulfill this responsibility, plan sponsors must:

- ☑ Collect and analyze fee disclosures provided by service providers
- ☑ Carefully monitor all plan fees, including investment fees

In recent years, there have been a growing number of lawsuits initiated by retirement plan participants alleging that plan fiduciaries breached their fiduciary duty by paying excessive fees for services or investments. Plan fiduciaries are not required to choose the lowest cost service providers or least expensive investments, however, the fees must be "reasonable." Plan sponsors have a fiduciary responsibility to weigh the value of the services received and the benefit to the plan and the participants against the cost for those services when evaluating which investments are the best fit for the plan.

Putting a fee monitoring process in place will help plan sponsors give plan fees the attention they need today – and in future years. A fiduciary best practice is to work with a financial advisor or consultant to build a fee management process.

- ☑ Collect fee disclosures in accordance with the DOL's service provider fee disclosure requirements
- ☑ Benchmark fees
- ☑ Build a schedule to review administrative and investment fees (e.g., annually)
- ☑ Monitor litigation and regulatory enforcement efforts related to plan fees

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5 MAINTAIN PLAN RECORDS

Another best practice is to Think Further about plan records.

Maintaining written records documenting compliance with the plan's written policies and procedures and other fiduciary activity are instrumental in demonstrating that fiduciaries' actions were prudent and in the best interest of plan participants.

Documentation Examples

- Meeting minutes for service provider performance discussions and fee benchmarking
- Minutes for investment performance reviews and supporting documentation
- Dates, topics and attendees for education provided to fiduciaries

To learn more about the responsibilities of a plan fiduciary or to access tools for working with plan fiduciaries, reach out to your Alger contact, email us at retirement@alger.com or visit us at www.alger.com.

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Tax and ERISA matters are very complicated and the consequences to plans, plan sponsors, fiduciaries and participants will depend on the facts of a particular situation. We encourage retirement plan sponsors, fiduciaries and participants to consult their own advisors regarding these matters, including applicable federal, state, local and foreign laws and the effect of any possible changes in the law.

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