If you are a business owner that offers a retirement plan to your employees, you are a fiduciary, and are ultimately responsible for the administration and management of their retirement plan assets. Fiduciaries are often left to guess what practices comply with the Employee Retirement Income Security Act (“ERISA”) and the Department of Labor guidelines. It is important to understand what the key fiduciary responsibilities are in order to avoid a potential breach of fiduciary duty in the complex and litigation-prone world of defined contribution plans.

Review our “10 Questions Retirement Plan Sponsors Should Ask” to better understand best practices in fulfilling your fiduciary duty as a retirement plan sponsor.

“A well-designed, efficient retirement plan that offers diversified investment options, participant education, and a reasonable fee structure can assist your employees in attaining a more financially sound future.”
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ERISA’s Fiduciary Standard

ERISA holds plan fiduciaries to certain standards of care, and explains that a fiduciary must act in the best interest of plan participants and their beneficiaries. Other key ERISA fiduciary responsibilities are:

- Making decisions for the plan that are aligned with the plan governing documents
- Ensuring that plan assets are diversified
- Understanding fee structures and paying reasonable expenses
- Avoiding conflicts of interest
- Selecting and monitoring investment managers and service providers

Implement a process

An investment policy statement (“IPS”) is an essential tool in helping you develop and follow a fiduciary governance program. A well-written IPS can go a long way in helping you meet your fiduciary duties. It also serves as a blueprint as to why the investment options under the plan were selected, removed or maintained. However, having an IPS is not enough; it also should be followed in order to reduce unnecessary fiduciary risk.

Most defined contribution plans are set up so that participants decide how to invest their assets, however, plan fiduciaries have the responsibility to select and monitor the investment options based on the needs of the plan and options available in the marketplace. Employing a good investment selection and monitoring process is key to meeting fiduciary obligations.

A good fiduciary investment selection/monitoring process may include:

- Understanding the documents that govern the plan, including the plan’s investment objectives.
- Meeting regularly to discuss and review the plan’s investment options (the process followed is key).
- Following a consistent decision-making process for selecting, monitoring, and replacing investment options and documenting such process.
- Aligning plan participant characteristics to the target-date funds offered (or risk-based).
- Reviewing key attributes of the investment options (i.e. performance, volatility).
- Reviewing service provider fees and investment expenses.
- Benchmarking investment performance, as well as, service provider and investments fees for comparable services and funds.

As a best practice, an effective fiduciary governance program has an established process, ensures the process is followed, and documents each step in the program. Fiduciaries will face more scrutiny for the process that led to the decision than the actual outcome of the decision.
10 Questions Retirement Plan Sponsors Should Ask

As a retirement plan sponsor, you do not have to afford or provide large employer contributions to provide a valuable employee benefit to attract and retain talent. A well-designed, efficient retirement plan that offers diversified investment options, participant education, and a reasonable fee structure can assist your employees in attaining a more financially sound future. Plan sponsors can limit fiduciary liability, in certain situations, by having and maintaining a fiduciary file (documentation that defines the fiduciary process) and monitoring service providers to assure that they are handling the plan’s investments prudently, and in accordance with the service agreements.

Some questions that can help plan sponsors evaluate if improvement is needed:

- Are my employees prepared for retirement?
- Do I have a Fiduciary File? An IPS? When was the last time I reviewed them?
- Do I offer diversified, cost-effective investment options?
- What type of investment education do I provide to my employees?
- What are the fees for the service providers? Are they reasonable? When was the last time I reviewed them?
- Have I reviewed the plan’s performance, over time, for each investment option? How do they compare against the benchmark?
- Did I follow the process per the IPS to monitor or replace the investment options? Did I document it?
- When was the last time I met with my investment advisor and other service providers?
- Am I ready for a Department of Labor audit?
- How well is my 401(k) plan working for my employees? Should I consider other strategies for employee retention or to address the “retirement income gap”?

Action Steps

If you have any questions or would like an objective perspective on your 401(k) or other retirement plan, please contact your Cherry Bekaert Wealth Management professional. We are happy to start the conversation with you – and give you some peace of mind regarding fiduciary best practices, evaluating plan expenses, diversified investment options, and ERISA requirements.
Investment Advisory Services and insurance products are offered through Cherry Bekaert Wealth Management, LLC. Cherry Bekaert Wealth Management, LLC and Cherry Bekaert, LLP are affiliated companies.