PLAN SPONSOR
Digest

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Your Challenge, Our Solutions™

A fiduciary blueprint for 2025

As a retirement plan sponsor, you're providing your employees the opportunity to accumulate wealth for the future. But with this valuable benefit comes a fiduciary responsibility to protect participants' assets in the plan. With an increased spotlight on retirement plan fiduciaries in recent years, plan sponsors should make sure they understand their fiduciary role under the Employee Retirement Income Security Act of 1974 (ERISA) and have processes in place to meet their responsibilities each year.

Understand fiduciary and nonfiduciary roles

The purpose of ERISA is to ensure that individuals with authority to manage retirement plans act in the best interests of plan participants and handle plan assets properly. Fiduciaries must follow ERISA's high standards of conduct when making decisions regarding the plan:

1. Base each decision regarding the plan solely on what is best for the plan participants and beneficiaries.
2. Act prudently in overseeing the plan, which requires knowledge about retirement plan investments and administration. If the plan sponsor does not have the expertise necessary, professionals who have that expertise should be engaged.
3. Diversify investments to the extent needed to reduce the risk of large losses to plan assets.
4. Follow the terms of the plan document when operating the plan.
5. Pay only reasonable fees for necessary plan services from plan assets.

The plan sponsor is typically considered the ERISA "named fiduciary" with overall responsibility for the plan. Plan sponsors also take on the fiduciary role of plan administrator, sometimes referred to as an ERISA 3(16) fiduciary. The plan administrator has authority

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and discretion over how the plan is operated, including hiring and monitoring service providers to help administer the plan and ensuring that required plan notices and disclosures are delivered to participants.

Plan sponsors can hire or appoint others to share their fiduciary roles but can never fully transfer their role as an ERISA fiduciary. For example, plan sponsors typically rely on the investment expertise of a financial professional to help select and monitor the plan's investment menu. A financial professional may serve as a nonfiduciary financial professional, or as an ERISA investment fiduciary following one of two paths:

1. An ERISA 3(38) investment manager assumes full discretionary responsibility for selecting and monitoring plan investments, relieving the plan sponsor of fiduciary liability for the investments. The plan sponsor is still responsible for prudently selecting and monitoring the 3(38) manager.
2. An ERISA 3(21) investment financial professional makes investment recommendations subject to the ERISA fiduciary standards and shares legal responsibility for the selection of investments with the plan sponsor, but the plan sponsor makes the decisions regarding investments for the plan.

Plan sponsors also rely on the compliance expertise of recordkeepers and third-party administrators (TPAs) to help them navigate the tax rules for qualified retirement plans. Example of these rules include contribution and deduction limits, and nondiscrimination requirements that prevent a plan from disproportionately favoring the highest paid employees. Service providers also assist with other plan administrator requirements such as delivering employee notices, tracking the detailed plan data and transactions, and preparing the Form 5500 annual return for the plan. TPAs and recordkeepers do not typically take on an ERISA fiduciary role, so plan sponsors retain the ultimate responsibility for compliance with the tax rules, along with prudent selection of services and providers for the plan.

Prudence focuses on the process

As stated by the Department of Labor in its Meeting Your Fiduciary Responsibilities guide for plan sponsors, "prudence focuses on the process" for making decisions. Following the provisions of your plan document, obtaining expert assistance and diligently following processes designed to support prudent decision making are the keys to meeting your fiduciary responsibilities. Documenting your actions will help demonstrate that you have carried out your duties. You may also want to keep a plan file with minutes of fiduciary meetings, documentation of significant plan-related decisions and copies of reports used to evaluate investment options and plan fees.

Consider including the items on the following checklist as you develop processes for managing your fiduciary responsibilities throughout the year.

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Fiduciary blueprint

Understand roles, service agreements and plan documents

- ☐ Identify your plan's fiduciaries.
  - — If you have delegated responsibilities to a committee or service provider, make sure each responsible person understands their role and responsibilities.
- ☐ Review service agreements with your plan's service providers.
  - — Understand your responsibilities and whether any of your service providers are performing services as an ERISA fiduciary.
  - — Understand the fees being charged for services and how they're being paid.
- ☐ Review your plan document.
  - — Understand the provisions of your plan document to ensure that your plan is being operated according to the terms selected in the plan document.
  - — Consult with your document provider to ensure your plan document is up to date for all required amendments.
  - — Maintain a current Summary Plan Description (SPD) and deliver it timely to newly eligible employees and make it available upon request for plan participants and beneficiaries.
- ☐ Confirm you have an adequate fidelity bond in place.
  - — Plan sponsors are required to protect the plan in case of fraud or dishonesty by securing a fidelity bond covering each individual who "handles" plan assets. The bond must be equal to at least 10% of the plan assets handled in the preceding year, with a minimum bond of $1,000 and a maximum of $500,000 ($1 million for plans that hold employer securities).

Monitor plan investment options and plan fees

- ☐ Understand the role of your financial professional.
  - — Will they provide investment information and education, or will they provide investment advice or investment management as an ERISA fiduciary?
- ☐ Work with your financial professional to set investment objectives for your plan.
  - — Consider adopting an investment policy statement (IPS), if you haven't already, to define the strategic objectives for the plan's investments as well as the specific criteria that will be used to evaluate investments on an ongoing basis.
- ☐ Adopt a prudent process for monitoring your plan investments and plan fees on a regular basis. Your financial professional can provide benchmarking and other evaluation tools to help you.
  - — Review the required fee disclosures and make sure you understand the fee structures used by service and investment providers.
  - — Evaluate the performance of the plan's investment options against the criteria in the plan's IPS to determine if they continue to fit the objectives of your plan.
  - — Monitor the reasonableness of plan investment fees, including benchmarking fees against those for other available investment alternatives.
  - — Review service provider fees to ensure they are reasonable for the services provided.

Manage plan operations

- ☐ Make timely deposits of employee contributions and loan repayments every payroll.
- ☐ Double-check the accuracy of the census information and payroll data you provide to plan service providers.
- ☐ Review all plan reports and other communications sent to you by your service providers.
- ☐ Correct any failed nondiscrimination tests or contribution excesses timely.
- ☐ Make certain you or your service providers deliver all employee notices and disclosures within the time frames required by the rules (e.g., Summary Annual Report, participant fee disclosures, lifetime income disclosures)
- ☐ Authorize distributions and loans, following the terms of your plan document.
- ☐ Review the Form 5500 prepared by your service provider and file it on time.
- ☐ Promptly address any plan errors or employee concerns that arise.

What's new for plan sponsors in 2025 from SECURE 2.0 Act of 2022

On December 29, 2022, President Joe Biden signed the SECURE 2.0 Act of 2022 into law, further modifying many of the federal tax rules that apply to qualified retirement plans and other types of tax-preferred retirement accounts. Detailed below are new provisions that impact plan sponsors of 401(k), 403(b) and SIMPLE IRA plans that go into effect on January 1, 2025.

Expanding automatic enrollment in retirement plans

New 401(k) and 403(b) plans now must meet the requirements of an eligible automatic contribution arrangement, including:

- Automatic enrollment with a default rate between 3–10%
- A 90-day unwind feature
- Annual automatic increase in contributions of at least 1% until they reach 10% but not more than 15%

The following employers and plan types are exempt from this requirement:

- Plans established before December 29, 2022
- Governmental plans, church plans and SIMPLE 401(k) plans
- Small businesses that normally employ 10 or fewer employees
- Newly established business that have existed for less than three years

There is no requirement for retirement plans established prior to December 29th, 2022, to include automatic enrollment as they are grandfathered.

New catch-up contribution limit for participants ages 60–63

Effective January 1, 2025, 401(k), 403(b) and 457(b) participants ages 60, 61, 62 and 63 are eligible for higher catch-up contribution limits capped at $10,000 or 50% more, whichever is greater. There is a similar catch-up contribution limit for participants of SIMPLE IRA plans ages 60–63 that is capped at $5,000 or 50% more than the standard catch-up, whichever is greater. Beginning in 2026, this "additional catch-up" limit for those ages 60–63 will be indexed for inflation.

Expanding coverage for long-term, part-time employees

Under the SECURE 2.0 Act, there has been an improvement to coverage for long-term, part-time employees. For plan years beginning January 1, 2025, employees must complete at least 500 hours of service during two consecutive years to be eligible to participate in a 401(k) or 403(b) plan. This requirement has been reduced from three years. In addition, service before 2021 is disregarded for vesting purposes. For each 12-month period in which an employee completes 500 hours of service, they must be credited with one year of vesting service.

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