



## Topics for Retirement Plans

- [IRAs](#)
- [Types of Retirement Plans](#)
- [Required Minimum Distributions](#)
- [Retirement Plans FAQs](#)
- [Published Guidance](#)
- [Forms & Publications](#)
- [Correcting Plan Errors](#)
- [Newsletters](#)
- [Retirement Plans A-Z](#)
- [Tax Exempt and Government Entities](#)
- [Retirement Plans Home](#)

## A Plan Sponsor's Responsibilities

Congratulations! You have an employee retirement plan in place! Of course, you want to do the right things to run your plan. These tips will help you stay on course.

### Remember that you, the employer, are responsible for keeping your plan in compliance

- Your plan document must be written to comply with all requirements in the Internal Revenue Code.
- Your plan must be administered to follow its terms in operation.
- [Review](#) your plan annually to make sure it's operating according to its terms and the law.

### Double-check the options you selected in your adoption agreement

If you buy a pre-approved plan, you may have an adoption agreement. The adoption agreement is a supplement to the basic plan document and lists plan features from which you may choose. The adoption agreement becomes part of your plan. Know what your adoption agreement says about:

- When your employees are eligible to participate in the plan;
- Types and amounts of allowable plan contributions;
- How employer contributions are divided among participants;
- When participants are vested; and
- When and how benefits are paid.

### Know what your service agreement does and doesn't cover

All plans require certain administrative tasks. Know who is going to do these tasks and make sure that person has the information they need to:

- Review the plan document for law changes and update it as necessary.
- Enforce the plan's terms for participation, contributions and distributions.
- Give the required plan notices to the participants.
- File required forms and documents with the IRS or Department of Labor.
- Determine any required testing and timely conduct it.
- Maintain records for participant accounts.
- Invest the plan funds and determine any associated fees.
- Learn about your [fiduciary responsibilities](#).
- Bring the plan [back into compliance](#) (if it becomes non-compliant) and pay any fees associated with this process.

### Communicate with your pre-approved plan provider

Pre-approved plans are a convenient, easy way to start a retirement plan, but your responsibility doesn't end once your plan is adopted. You should:

- Learn what fees you'll be charged by the pre-approved plan provider.
- Keep the IRS issued opinion or advisory letter for your pre-approved plan.
- Promptly sign any plan amendments the pre-approved plan service provider sends you.
- Send copies of plan amendments from your pre-approved plan to your plan administrator.
- Inform your provider if:
  - you make changes to your business, employees or their compensation.
  - you need to make changes to your plan's terms, for example, change your matching or contribution formula.

### Communicate with your plan service provider

Communicate frequently with your plan service provider and/or payroll department for:

- New hires, re-hires, terminations and compensation changes
- Accurate payroll compensation amounts for each participant
- Census data for determining plan eligibility and benefit payments
- Data necessary to accurately identify highly compensated employees
- Plan terms for defining employee contributions, plan payments and loans
- Any plan amendments, for example, changes to the plan's:
  - definition of compensation
  - hardship withdrawal provisions
  - loan provisions
  - contribution or allocation formulas

### Keep up with your ongoing plan maintenance responsibilities

These tasks will help you keep your plan running smoothly and remain qualified for tax benefits.

- Review your service provider's reports:
  - review the allocation report for possible contribution errors.
  - review the distribution report to ensure that participants have timely started their required minimum distributions and consented to these payments.
- If your plan allows participant loans, ensure that:
  - loans were made according to the plan's terms;
  - participants' account balances were adequate to support the loan;
  - participants make their loan repayments timely; and that you act on defaulted loans.
  - For hardship withdrawals, keep documents that show the participant's need.

- Review your plan's terms to ensure you are following them.
- Get an independent review of your plan. - An independent reviewer may see something that has been overlooked by others, which could save money for you and your employees and may improve benefits.

**Keep up with the rules**

- [Retirement Plan Reporting and Disclosure](#)
- Many plans annually file [Form 5500](#). Distributions are reported on [Form 1099-R](#).
- [Correct Your Retirement Plan Errors](#) - many corrections can be made without penalty and without notifying the IRS.

**IRS compliance resources**

- [Retirement Plan Operation and Maintenance](#) - tips for keeping your plan in compliance
- [Have You Had Your Retirement Plan Check-Up This Year?](#)
- [Fix-It Guides](#) -Tips on how to find, fix and avoid common mistakes in retirement plans
- [Publications](#)

**IRS publications**

- [Publication 560](#)  
Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)
- [Publication 590-A](#)  
Contributions to Individual Retirement Arrangements (IRAs)
- [Publication 590-B](#)  
Distributions from Individual Retirement Arrangements (IRAs)
- [Publication 3998](#)  
Choosing A Retirement Solution for Your Small Business
- [Publication 4118](#)  
Lots of Benefits when you set up an employee retirement plan
- [Publication 4222](#)  
401(k) Plans for Small Businesses
- [Publication 4224](#)  
Retirement Plan Correction Programs
- [Publication 4333](#)  
SEP Retirement Plans for Small Businesses
- [Publication 4334](#)  
SIMPLE IRA Plans for Small Businesses
- [Publication 4336](#)  
SARSEP for Small Businesses
- [Publication 4407](#)  
SARSEP - Key Issues and Assistance

**U.S. Department of Labor publications**

- [Meeting Your Fiduciary Responsibilities](#)  
An overview of the basic fiduciary responsibilities applicable to retirement plans under the law.
- [Understanding Retirement Plan Fees and Expenses](#)  
This booklet will help you better understand and evaluate your plan's fees and expenses.
- [401\(k\) Plan Fee Disclosure Tool](#)  
A form that helps employers make cost-effective decisions and compare plan service providers investment fees and administrative costs.
- [Selecting An Auditor For Your Employee Benefit Plan](#)  
Information to assist you, as plan administrator to select an auditor and review the audit work and report.
- [Reporting and Disclosure Guide for Employee Benefits Plans](#)  
A quick reference tool for certain basic reporting and disclosure requirements.

*Page Last Reviewed or Updated: 26-May-2015*



## Topics for Retirement Plans

- [IRAs](#)
- [Types of Retirement Plans](#)
- [Required Minimum Distributions](#)
- [Retirement Plans FAQs](#)
- [Published Guidance](#)
- [Forms & Publications](#)
- [Correcting Plan Errors](#)
- [Newsletters](#)
- [Retirement Plans A-Z](#)
- [Tax Exempt and Government Entities](#)
- [Retirement Plans Home](#)

## Retirement Plan Fiduciary Responsibilities

In general terms, a fiduciary is a person who owes a duty of care and trust to another and must act primarily for the benefit of the other in a particular activity. For retirement plans, the law defines the actions that result in fiduciary duties and the extent of those duties.

Many of the actions needed to operate a qualified retirement plan involve fiduciary decisions - whether you hire someone to manage the plan for you or do the plan management yourself. Controlling the plan assets or using discretion in managing the plan makes you or the entity you hire a plan fiduciary to the extent of that discretion or control. Fiduciary status is based on the functions performed for the plan, not a title. Be aware that hiring someone to perform fiduciary functions is itself a fiduciary act.

Some plan decisions are business decisions, rather than fiduciary decisions. For instance, the decisions to establish a plan, include certain features, amend or terminate a plan are business decisions. When making these decisions, you are acting for your business, not the plan, and therefore, you wouldn't be a fiduciary. However, when you take steps to implement these decisions, you (or those you hire) are acting for the plan as a fiduciary.

### Basic responsibilities

Fiduciaries are in a position of trust with respect to the participants and beneficiaries in the plan. A fiduciary's responsibilities include:

- acting solely in the interest of the participants and their beneficiaries;
- acting for the exclusive purpose of providing benefits to workers participating in the plan and their beneficiaries, and defraying reasonable expenses of the plan;
- carrying out duties with the care, skill, prudence and diligence of a prudent person familiar with the matters;
- following the plan documents; and
- diversifying plan investments.

The responsibility to be prudent covers a wide range of functions needed to operate a plan. Since you must carry out these functions in the same manner as a prudent person, it may be in your best interest to consult experts in such fields as investments and accounting.

For some functions, there are rules that help guide the fiduciary. For example, if your plan provides for salary reductions from employees' paychecks for contribution to the plan, then you must deposit these contributions as soon as it's reasonably possible to do so, but no later than the 15th business day of the month following the payday. If you can reasonably make the deposits sooner, you need to make the deposits at that time.

### Limiting liability

With these responsibilities, there is also some potential liability. However, there are actions you can take to demonstrate that you carried out your responsibilities as well as ways to limit your liability.

Fiduciary responsibilities cover the process used to carry out the plan functions rather than the results. For example, a plan investment doesn't have to be a "winner" if it was part of a prudent overall diversified investment portfolio for the plan. Since a fiduciary needs to carry out activities through a prudent process, you should document your decision-making process to demonstrate the rationale behind the decision at the time it was made.

There are other ways to limit potential liability. You can set your plan up to give participants control of the investments in their accounts. For participants to have control, they must have sufficient information on the specifics of their investment options. If properly executed, this type of plan limits your liability for the investment decisions made by participants. You can also hire a service provider or providers to handle some or most of the fiduciary functions, setting up the agreement so that the person or entity then assumes liability.

### Hiring a service provider

Even if you hire a financial institution or retirement plan professional to manage your plan, you retain some fiduciary responsibility for the decision to select and keep the service provider. You should document your selection process and monitor the services provided to determine if you need to make a change.

Some items to consider in selecting a plan service provider:

- Information about the firm's affiliations, financial condition, experience with 401(k) plans, and assets under their control;
- A description of how the firm will invest plan assets or how it will handle participant investment directions, and its proposed fee structure;
- Information about the identity, experience, and qualifications of the professionals who will be handling the plan's account such as:
  - any recent litigation or enforcement action that has been taken against the firm;
  - the firm's experience or performance record;
  - whether the firm plans to work with any of its affiliates in handling the plan's account; and

- whether the firm has fiduciary liability insurance.
- Once hired, these are additional actions you should take when monitoring a service provider:
  - Review the service provider's performance;
  - Read any reports they provide;
  - Check actual fees charged;
  - Ask about policies and practices (such as trading, investment turnover, and proxy voting); and
  - Follow up on participant complaints.

**Prohibited transactions and exemptions**

The law prohibits certain transactions to prevent self-dealing or conflicts of interest that could harm the plan. However, there are a number of exceptions under the law, and the U. S. Department of Labor may grant additional exemptions where protections for the plan are in place in conducting the transactions.

For example, an exemption permits you to offer loans to participants through your plan. If you do, you must carry out the loan program in such a way that protects the plan and all other participants.

See [FAQs Regarding Plan Investments](#) for more on prohibited transactions and disqualified persons.

**Bonding**

Finally, you generally cover persons handling plan funds or other plan property by a fidelity bond to protect the plan against fraud and dishonesty.

**Additional resources**

- [Meeting your fiduciary responsibilities](#)
- [401\(k\) Plan Fees Disclosure Tool](#)

*Page Last Reviewed or Updated: 09-Oct-2015*

## United States Department of Labor Employee Benefits Security Administration Fiduciary Education Campaign

### Getting It Right - Know Your Fiduciary Responsibilities

The Fiduciary Education Campaign, a compliance assistance initiative of the Employee Benefits Security Administration (EBSA), is designed to improve workers' health and retirement security by educating employers and service providers about their fiduciary responsibilities under the Employee Retirement Income Security Act (ERISA).

Plan sponsors and other fiduciaries have a solemn responsibility to protect the interests of the workers and retirees in their benefit plans. The Department's program "Getting It Right-Know Your Fiduciary Responsibilities" will provide employers and plan officials with an understanding of the law and their responsibilities and will focus on steps for avoiding the most common problems EBSA encounters in its enforcement activities. The program emphasizes the obligation of plan sponsors and other fiduciaries to:

- Understand the terms of their plans
- Select and monitor service providers carefully
- Make timely contributions to fund benefits
- Avoid prohibited transactions; and
- Make timely disclosures to workers and their beneficiaries and reports to the government

The Fiduciary Education Campaign includes nationwide educational seminars and webcasts to help plan sponsors understand rules and meet their responsibilities to workers and retirees, thereby improving their financial security. The campaign also includes educational materials on topics such as understanding fees and selecting an auditor.

#### ERISA Fiduciary Advisor

The [ERISA Fiduciary Advisor](#) provides information and answers to a variety of questions about who is a fiduciary and their responsibilities under ERISA. It was developed by EBSA in its continuing effort to increase awareness and understanding about basic fiduciary responsibilities when operating a retirement plan.

#### Publications

[Meeting Your Fiduciary Responsibilities \[en español\]](#)

To meet their responsibilities as plan sponsors, employers need to understand some basic rules, specifically the Employee Retirement Income Security Act (ERISA). ERISA sets standards of conduct for those who manage an employee benefit plan and its assets (called fiduciaries). This publication provides an overview of the basic fiduciary responsibilities applicable to retirement plans under the law.

[Understanding Retirement Plan Fees And Expenses](#)

This booklet will help retirement plan sponsors better understand and evaluate their plan's fees and expenses. While the focus is on fees and expenses involved with 401(k) plans, many of the principles discussed in the booklet also will have application to all types of retirement plans.

[401\(k\) Plan Fee Disclosure Tool](#)

A form developed by banking, insurance and mutual fund trade groups to provide employers with a way to collect and compare investment fees and administrative costs of competing providers of plan services, [now available in MS Word format](#). This form was not developed by the Department and was not designed to ensure compliance with the Department's [regulations on service provider fee disclosure to plans](#) or [plan fee disclosure to 401\(k\) plan participants and beneficiaries](#).

[Selecting An Auditor For Your Employee Benefit Plan](#)

Federal law requires employee benefit plans with 100 or more participants to have an audit as part of their obligation to file the Form 5500. This booklet will assist plan administrators in selecting an auditor and reviewing the audit work and report.

[Selecting And Monitoring Pension Consultants - Tips For Plan Fiduciaries](#)

ERISA requires that fiduciaries of employee benefit plans administer and manage their plans prudently and in the interest of the plan's participants and beneficiaries. In carrying out these responsibilities, plan fiduciaries often rely heavily on pension consultants and other professionals for help. Findings included in a report by the SEC released in May 2005, however, raise serious questions concerning whether some pension consultants are fully disclosing potential conflicts of interest that may affect the objectivity of the advice they are providing to their pension plan clients.

[Tips For Selecting And Monitoring Service Providers For Your Employee Benefit Plan](#)

Business owners are responsible for ensuring that their 401(k) plans comply with Federal law and rely on other professionals to assist them with their plan duties. Selecting a service provider is one of the most important responsibilities of a plan sponsor.

[Target Date Retirement Funds - Tips for ERISA Plan Fiduciaries](#) - Target date retirement funds (also called target date funds or TDFs) have become an increasingly popular investment option in 401(k) plans and similar employee-directed retirement plans. EBSA prepared the following general guidance to assist plan fiduciaries in selecting and monitoring TDFs and other investment options in 401(k) and similar participant-directed individual account plans.

[Reporting and Disclosure Guide for Employee Benefit Plans](#)

This guide is intended to be used as a quick reference tool for certain basic reporting and disclosure requirements under ERISA.

#### Voluntary Fiduciary Correction Program

#### Upcoming Seminar Locations

Nothing Scheduled at This Time

#### Webcast Archive

▪ [Part I](#) | [Part II](#) | [Part III](#)

#### Previous Seminar Locations

Anchorage AK	Indianapolis IN	Pasadena CA
Atlanta GA	Los Angeles CA	Philadelphia PA
Boston MA	Louisville KY	Phoenix AZ
Burlington MA	Madison WI	Pittsburgh PA
Charleston SC	Melville NY	Portland ME
Chicago IL	Memphis TN	Sacramento CA
Cincinnati OH	Miami FL	Saddle Brook NJ
Columbus OH	Milwaukee WI	Salt Lake City, UT
Dallas TX	Minneapolis MN	San Antonio TX
Detroit MI	Nashville TN	San Diego CA
Denver CO	New Orleans LA	San Francisco CA
Eastlake OH	New York NY	Seattle WA
Fairfax VA	Norfolk VA	St. Louis MO
Farmington CT	Oklahoma City OK	Tucson AZ
Hartford CT	Overland Park KS	
Kansas City MO		

The Voluntary Fiduciary Correction Program (VFCP) is designed to encourage employers to voluntarily comply with ERISA by self-correcting violations of the law. Workers can benefit from the program as a result of the increased retirement security associated with restoration of plan assets and payment of additional benefits. The program also will help plan officials understand the law. In addition, the Department is giving applicants immediate relief from payment of excise taxes under a class exemption.

- [Online Calculator](#)
- [Fact Sheet](#)
- [Frequently Asked Questions](#)
- [Federal Register Notice](#)
- [Class Exemption](#)
- [Class Exemption Frequently Asked Questions](#)
- [Application Checklist](#)
- [Sample No Action Letter](#)

### **Delinquent Filer Voluntary Compliance Program**

The Delinquent Filer Voluntary Compliance Program (DFVCP) is designed to encourage voluntary compliance with the annual reporting requirements under ERISA. The program gives delinquent plan administrators a way to avoid potentially higher civil penalty assessments by satisfying the program's requirements and voluntarily paying a reduced penalty amount. To increase incentives for delinquent plan administrators to voluntarily comply, the Department reduced penalties and simplified the rules governing participation in the program.

- [Technical Updates to Federal Register Notice](#)
- [Form 5500 Version Selection Tool](#)
- [Fact Sheet](#)
- [Frequently Asked Questions](#)
- [Final Rule](#)
- [Penalty Calculator and Online Payment](#)