



In Unsettling Times, Go Back to Fiduciary Basics

When faced with uncertainty, confusion, and stress, it is human nature to let our focus to wander. But for retirement plan sponsors tasked with fulfilling myriad important—and often, complicated—fiduciary duties, even the slightest misstep could expose their firm (and themselves) to liability.

A great way to steer clear of costly mistakes—particularly in unsettling times—is to go back to the basics of fiduciary responsibility. Let's look at the foundational tasks retirement plan sponsors can lean on to remain focused amid distraction.

Follow a Blueprint for Investments

Although it is not required by ERISA, an investment policy statement (IPS) is nonetheless strongly recommended—it may be the single most important retirement plan document for a fiduciary. The IPS is the blueprint that defines all investment-related decisions of the plan (e.g., removing or adding an investment option), and its terms must be rigorously followed. An IPS with terms that are too complicated or confusing can lead to just as many problems as not having one at all. Keep your IPS simple and easy to follow. Use plain language and avoid complicated provisions that could set you up for failure in the event they are too difficult to appropriately implement.

i Back-to-basics tip: In your role as a plan sponsor and fiduciary, if you do not possess expertise in a particular area, you are required by ERISA to hire a “prudent expert” to assist with duties that fall under it. Most plan sponsors hire a third-party fiduciary expert, such as a retirement plan advisor, consultant, or another service provider to help them manage plan investments, maintain the IPS, and assist with other fiduciary concerns.

Let the Plan Document Be Your Guide

At the heart of every ERISA retirement plan is a plan document. It prescribes the written terms of the plan—such as eligibility, contribution limits, vesting schedules, and distribution options—that need to be strictly adhered to when administering the plan. Other critical plan-related documents may include service provider agreements and contracts, summary plan descriptions, custodial agreements, plan amendments, and copies of communications about plan decisions and transactions.

i Back-to-basics tip: Maintain a plan governance file (hard copy or digital) that contains all important plan documentation. On an annual basis, use a checklist to review the contents to ensure that all documents have been retained and reflect any changes that were implemented of the prior year.

Manage Costs

As fiduciaries, retirement plan sponsors are responsible for continuously monitoring all plan-related fees to ensure that they are reasonable for the services for which they are being charged. Remember: reasonable does not always mean *lowest!* Defaulting to the lowest product or service provider fee may land you in as much hot water as if you chose a product with a higher fee; instead, compare multiple service providers and products, and weigh each factor to determine which would serve your employees best.

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i Back-to-basics tip: One of the most effective ways to assess fees is to perform a benchmarking exercise. This will help you determine how your plan's investment and product-related fees stack up. From there, you'll be in a better position to negotiate (if warranted) more reasonable fees with current service providers, or search for new products or service providers that offer more reasonably priced offerings. Your retirement plan advisor or consultant can help you organize your assessment. Also, remember to document your benchmarking exercise and keep a copy in your fiduciary file.

Keep Employees' Best Interests at the Heart of Decision-Making

Lastly, when performing fiduciary duties, ERISA requires that the best interests of your employees (and their beneficiaries) be at the forefront of your actions and decision-making process. After all, a retirement plan exists exclusively for them. Be sure to weigh all actions and decisions carefully and thoughtfully with them in mind.

i Back-to-basics tip: Are you unsure whether your decision-making logic is prudent and sound? Seek the guidance of an expert, such as a retirement plan advisor, as required by ERISA when you or your firm do not possess enough knowledge or expertise.



DOL Modernizes Notice and Disclosure Delivery Rules

Welcome retirement plan administrative relief has been finalized. In a move that will modernize the process for delivering required retirement plan notices and disclosures to plan participants, the DOL and Employee Benefits Security Administration finalized a rule to allow disclosures and notices to be delivered by email or other electronic methods.

The rule, according to [a fact sheet published on May 21, 2020, by the DOL](#), allows plan administrators to use two methods for providing notices and disclosures to plan participants and beneficiaries:

- **Website posting.** Plan administrators may post covered documents on a website if appropriate notification of internet availability is furnished to the electronic addresses of covered individuals.
- **Email delivery.** Alternatively, plan administrators may send covered documents directly to the electronic addresses of covered individuals, with the covered documents either in the body of the email or as an attachment to the email.

The new e-delivery guidelines are estimated to save approximately \$3.2 billion in net costs to ERISA-covered plans, including mailing and printing costs. The eligible notices and disclosures for e-delivery would include any retirement plan disclosure required by Title I of ERISA. Disclosures that are available on a by-request basis must still be furnished and would not be eligible for e-delivery.

Although the rule becomes effective 60 days after its publication in the Federal Register (which was May 27, 2020), the DOL has indicated it will not take action on administrators who rely on the new rule's provisions before that date.



The CARES Act: How Employers Have Reacted

In reaction to the coronavirus pandemic that has swept the globe, lawmakers passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Notably, it contained measures that eased many retirement plan administration rules for plan sponsors and their employees. [A recent report from Fidelity](#) provides insight on how retirement plan sponsors have reacted to the optional changes the CARES Act allows them to make to their plans. The report notes the following:

- Most (63 percent) plan sponsors are maintaining their current match program, while only 8 percent have suspended or reduced the match.
- Nearly all (97 percent) plan sponsors have opted to adopt the CARES Act distribution provisions.
- More than half (54 percent) have enabled loan deferments under the CARES Act.
- About half (49 percent) of plans able to offer new loans under the CARES Act have enabled the provision.

Have you and your firm discussed whether you will adopt the CARES Act provisions? If you're uncertain, schedule a call with your retirement plan service provider, third-party administrator, or plan advisor.



We Can Help

Contact us to learn more about strategies for helping your employees save for retirement and the fiduciary service options available to you. We're ready and willing to help.

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