

COMMITTEE WELCOME PACKET

Plan Sponsor Education Series



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When a company decides to offer a retirement plan or when an individual is appointed to sit on an investment committee, a full understanding of ERISA and fiduciary responsibility isn't automatically conferred. There is no packet handed out with the adoption agreement that explains what an individual needs to know before taking on the personal liability associated with managing a retirement plan. It is up to the plan sponsor to understand the responsibilities involved, appoint other individuals to help in the decision making process (committee member), and ensure they all receive the education and resources necessary.

Building a committee member packet is easy and with a few basic documents, fiduciaries can gain the foundational knowledge needed to be effective in their role. Use this worksheet as a starting point to help investment fiduciaries and plan committee members better understand their role, and create the document trail to help support the management of an employer-sponsored plan according to a prudent process. Be sure to provide a packet to all newly appointed committee members as well.

ITEMS TO INCLUDE:

The following documents should be included as a starting point:

1. FIDUCIARY RESPONSIBILITY DOCUMENTS:

Each member should thoroughly understand what their responsibility is as assigned by the company, as well as the specifics surrounding the investment selection and review components (see *Designee Library* for sample documents).

Committee Charter or Bylaws. If the company or Board of Directors adopted a committee charter or bylaws for the formation of the committee, this document should be read and signed by all members of the committee.

Investment Policy Statement (IPS). If the company has created a formal policy statement, this document is critical to the management of the plan investments and all committee members and investment fiduciaries should be familiar with the directives outlined in this document.

Fiduciary Acknowledgment Letter. This document should be read and signed by all members of the committee to ensure they understand the fiduciary responsibility being undertaken.

Meeting Minutes. These documents captures a written record of each committee meeting, including agendas, items discussed, decision voted upon, and other pertinent information.

2. REGULATIONS THAT APPLY TO EMPLOYER-SPONSORED RETIREMENT PLANS:

Each committee member must be aware of his or her personal fiduciary responsibility, and fully understand the issues involved in managing a successful and compliant plan.

Fiduciary Overview. The Department of Labor created a guide to help retirement plan fiduciaries understand their duties titled, Meeting Your Fiduciary Responsibilities. This guide can be downloaded from the DOL website at: <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/publications/meeting-your-fiduciary-responsibilities.pdf>

Prudent Practices for Investment Stewards. This handbook was written by Fi360, and is available on their website at www.fi360.com. It was developed specifically for Investment Stewards - trustees, investment committee members, attorneys, accountants, institutional investors, and anyone else who is involved in managing investment decision-making. The Handbook provides investment fiduciaries with an organized process for making informed and consistent decisions.

3. SERVICE PROVIDER DUE DILIGENCE DOCUMENTS:

Each committee member must understand that a process for evaluating service providers is essential to prudent due diligence.

408(b)(2) Disclosures. This document is required of all covered service providers - those receiving, or expecting to receive, \$1,000 or more in compensation - in connection with providing one or more covered services. The written disclosures includes services, status, and compensation to responsible plan fiduciaries in advance of the arrangement.

Provider Service Contracts. Each service provider will provide a contract to be agreed upon and executed by all parties. These documents set expectations by detailing the terms of services, costs, and other elements of the relationship.

Plan Expense Benchmarking Reports. Plan fiduciaries have a duty to control and account for plan fees and expenses. Such reports demonstrate that plan fiduciaries are periodically comparing plan fees to appropriate benchmarks.

Provider Initial Selection Checklists. This document includes the criteria that are used to evaluate, compare, and select service providers.

Provider Annual Review Checklists. This document includes criteria that are used to periodically review existing service providers to evaluate their ongoing appropriateness.

4. INVESTMENT SELECTION & MONITORING DOCUMENTS:

Investment selection and monitoring are another critical fiduciary duty. After selecting investments - in accord with IPS-specified criteria - committee members should engage in periodic reviews to ensure that the investment objectives and constraints are being met and that the Prudent Practices are consistently applied.

Investment Monitoring Reports. These documents should be prepared and reviewed quarterly indicating how well investment managers are performing relative to the objectives set in the IPS, against their peers, and against an appropriate industry index.

Investment Call to Action Documentation. This documentation captures decisions made (or not made) regarding the investment lineup. For example, the plan advisor may recommend replacement of a manager, rebalancing the portfolio, or revisiting the plan's goals and objectives.

Investment Policy Review Checklist. This document serves to standardize the periodic review of the plan IPS. It may include a review of roles and responsibilities, asset allocation and rebalancing guidelines, and due diligence procedures.

5. PARTICIPATION COMMUNICATION DOCUMENTS:

At a minimum, DOL-mandated communications must be provided to eligible plan participants (including those not participating in the plan, along with their beneficiaries (when applicable)). However, a non-mandatory participant communication strategy can go a long way to creating well-informed employees.

Enrollment Kit. This document is provided to all eligible plan participants. It contains information regarding eligibility, vesting, contribution, and other provisions of the plan.

ERISA Section 404(c) Notice. This document is required to be provided to all eligible employees covered under a safe harbor 401(k) plan stating the intent to comply with the provisions of ERISA Section 404(c). It provides protections to plan sponsors for the decisions made by plan participants.

Annual Participant Fee Notice. This document is required to be provided to plan participants by the ERISA plan administrator. It details the plan-related fees being paid by the recipient.

Summary Annual Reports with Confirmation of Annual Distribution. This document is to summarize for employees the information that appears in ERISA Form 5500 (itself known as the "annual report").

Sample Participant Education Material. Any participant communication and/or educational material should be retained for compliance purposes.

6. PLAN ADMINISTRATION DOCUMENTS:

One of the most common 401(k) failures as identified by the IRS is the failure to follow the plan documents. It's critical that committee members are familiar with the features and benefits offered on their plan in order to demonstrate prudent management and make informed decisions.

Plan Document. All members of the committee should review and sign off on the plan document since it is the legal documents the plan will be upheld to follow.

Summary Plan Description (SPD). This document is distributed to all participants, and committee members should be familiar with its contents in order to address any questions that arise.

Adoption Agreement. This is an employer-specific document that details plan provisions such as when an employee becomes eligible to participate in the plan or employer contribution formulas.

Summary of Material Modifications. This document must be provided to plan participants when there is a material modification in the terms of the plan or any change to the Summary Plan Description.

5500 Report. This document serves as an important compliance, research, and disclosure tool for the DOL, a disclosure document for plan participants and beneficiaries, and a source of information and data for use by other Federal agencies, Congress, and the private sector.

Nondiscrimination Testing. These documents details the annual discrimination testing required of "large" plans to demonstrate contributions or benefits provided under the plan do not discriminate in favor of highly compensated employees.

Fiduciary (Fidelity) Bond Documentation. This document demonstrates insurance coverage that protects the plan against loss resulting from fraudulent or dishonest acts - though not all breaches - by covered plan fiduciaries.

Fiduciary Insurance Documentation. This document demonstrates insurance coverage for a sub-category of errors & omission insurance, and provides additional coverage against a breach by any plan fiduciary. Unlike a fidelity bond, it does not insure against criminal acts on the part of plan fiduciaries.