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Meeting Your Fiduciary Responsibilities

The fiduciary responsibilities of a 401k plan sponsor on their face seem pretty straight forward. The U.S. Department of Labor lists the essential elements.

Each plan has certain key elements. These include:

- A written plan that describes the benefit structure and guides day-to-day operations;
- A trust fund to hold the plan's assets[1];
- A recordkeeping system to track the flow of monies going to and from the retirement plan; and
- Documents to provide plan information to employees participating in the plan and to the government.

Most 401k products contain these features.

Many of the actions of the employer or entity sponsoring and operating the plan make them a fiduciary. The actions and functions performed for the plan are what make you a fiduciary, not just an individual's title. The written plan must name at least one person or entity, such as a committee or board of directors as the named fiduciary and can include the trustee, investment advisers and all individuals exercising discretion in the administration of the plan.

Fiduciaries have important responsibilities. These include:

- Acting solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them;
- Carrying out their duties prudently;
- Following the plan documents (unless inconsistent with ERISA);
- Diversifying plan investments; and
- Paying only reasonable plan expenses.

With these responsibilities, there is also potential liability. While the elements and responsibilities seem obvious the actions sponsors must take to meet those responsibilities are not always clearly spelled out. A relatively simple way to meet these responsibilities is to establish a process used to carry out your fiduciary responsibilities and documenting that process. Hiring a service provider or providers to handle these functions can go a long way towards limiting this liability and helping you establish a well run 401k plan.