



## Documenting Fiduciary Plan Management Responsibilities

ERISA states that every plan document must identify a “Named Fiduciary” to be the individual or entity serving as the primary fiduciary responsible for all plan management activities (e.g., President, Plan Administrator, The Company (BOD), or another individual or entity).



The Named Fiduciary can delegate nearly all plan management responsibilities to “co-fiduciaries”; however, they must retain the responsibility to regularly monitor the prudent management of these co-fiduciaries (e.g., individuals who comprise a plan steering committee or others who impact plan decision making).

Having a Committee Charter is very beneficial when delegating any fiduciary responsibilities to co-fiduciaries.

A Committee Charter documents the delegation of the specified plan management responsibilities, as well as plan practices and procedures, to plan co-fiduciaries. A board resolution adopting the committee is also helpful (if there is no BOD or other controlling entity, an adoption resolution is not necessary). Your financial professional can assist with a sample Committee Charter, and related documents, that can be easily edited to suit your needs.

Co-fiduciary Acceptance, and Resignation signatures, although not specifically required by ERISA, are quite important. The fiduciary acceptance (by signature) specifies the specific responsibility delegations. Resignation signatures are important as well as they can remove the fiduciary from further post resignation liability. ERISA holds that if a co-fiduciary (e.g., Committee member) leaves the Committee, but does not leave the company, they remain liable for the actions of the remaining co-fiduciaries (committee members) unless they sign a resignation statement (also available via your financial professional). Finally, resigning fiduciaries need to follow plan procedures and make certain that another fiduciary is carrying out any responsibilities left behind that are required for prudent plan management. It is critical that a plan has appropriate fiduciaries in place so that it can continue



Fiduciary Plan Partners

operations and participants have a way to interact with the plan.

See the following link for the DOL's stated positions on these and other fiduciary responsibilities:

<https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/meeting-your-fiduciary-responsibilities.pdf>

*This material was created to provide accurate and reliable information on the subjects covered but should not be regarded as a complete analysis of these subjects. It is not intended to provide specific legal, tax or other professional advice. The services of an appropriate professional should be sought regarding your individual situation. The "Retirement Times" is published monthly by Retirement Plan Advisory Group's marketing team. This material is intended for informational purposes only and should not be construed as legal advice and is not intended to replace the advice of a qualified attorney, tax adviser, investment professional or insurance agent. (c) 2021. Retirement Plan Advisory Group. Fiduciary Plan Partners is not affiliated with Retirement Plan Advisor Group but subscribes to its annual services offering. Fiduciary Plan Partners is a registered investment adviser with its principal place of business in the State of New Jersey. Registration does not imply a certain level of skill or training.*