



## Named Fiduciaries

Under ERISA, a plan must name at least one fiduciary or provide a procedure for identifying a named fiduciary. Named fiduciaries usually include the plan sponsor, the plan trustee, and the plan administrator.

<b>Plan Sponsor</b>	<ul style="list-style-type: none"> <li>• Almost always a fiduciary</li> <li>• Oversees all the other fiduciaries</li> <li>• Duty to monitor the other fiduciaries &amp; replace them if they are failing to do their responsibilities under ERISA</li> </ul>
<b>Plan Trustee</b>	<ul style="list-style-type: none"> <li>• Prudently selects &amp; monitors plan investments</li> <li>• Ensures that expenses paid by the trust are reasonable</li> <li>• Holds fiduciary liability &amp; is overseen by the Plan Sponsor</li> </ul>
<b>Plan Administrator</b>	<ul style="list-style-type: none"> <li>• Responsible for overseeing plan operations</li> <li>• Can be a single person or consist of a retirement plan committee</li> <li>• Has fiduciary duties, liabilities &amp; is overseen by the Plan Sponsor</li> </ul>

## Fiduciary Service Providers

Named fiduciaries hire service providers to serve as plan fiduciaries for specific functions. This helps mitigate some of the liability. Fiduciary Service Providers fall under three categories:

<b>3(21) Co-Fiduciary</b>	<ul style="list-style-type: none"> <li>• Shared fiduciary liability between the client &amp; advisor for the plan investments</li> <li>• Recommends the selection &amp; replacement of plan investment options, plan sponsor must approve changes</li> <li>• For plan sponsors that are comfortable assuming investment fiduciary liability</li> </ul>
<b>3(38) Investment Fiduciary</b>	<ul style="list-style-type: none"> <li>• Majority of investment responsibilities are lifted from the plan sponsor &amp; assumed by the 3(38) advisor</li> <li>• Advisor has discretion over the investment selection, monitoring &amp; replacement of plan investment options</li> <li>• For plan sponsors that don't have the time or want the responsibility of the plan's investments</li> </ul>
<b>3(16) Plan Administrator</b>	<ul style="list-style-type: none"> <li>• Signs the annual form 5500</li> <li>• Manages the day to day operations of the plan</li> <li>• Majority of fiduciary tasks &amp; plan communications are their responsibility</li> <li>• 58 Plan Administrator Responsibilities</li> </ul>

## Multiple Employer Plan 401(k) (MEP)

- Single 401(k) plan, adopted by a number of unrelated employers
- Considered a single plan under both IRS Tax Code & ERISA
- Single 5500 filed for plan

## Advantages of an MEP

- Reduced administrative work for employer
- Access to features typically only offered in larger company plans
- Lower fees via shared resources & economy of scale

## Advantages of an MEP (Cont.)

- Employee keeps more of their retirement savings
- Retirement savings can grow quicker
- Reduced fiduciary liability for employer
- Allows company to focus on their core business

## 58 Plan Fiduciary Responsibilities

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|-------------------------------------|---|
| 1. Investment Manager Appointment   | 30. Quarterly Investment Review         |
| 2. 402(g) Limit Reporting           | 31. Death Benefit Approval              |
| 3. 404(a)(5) Notice Distribution    | 32. Distribution Reporting              |
| 4. 404(c) Notice Distribution       | 33. DOL & IRS Issue Resolution          |
| 5. 408(b)(2) Notice Distribution    | 34. Eligibility Calculations            |
| 6. Discrimination/Coverage Testing  | 35. Eligibility Notifications           |
| 7. Fee Negotiations with Vendors    | 36. Employer Contribution Monitoring    |
| 8. Audit Completion Support         | 37. ERISA Bond Review                   |
| 9. Audit Firm Hiring & Monitoring   | 38. Error Correction Monitoring         |
| 10. Auto Enroll Notice Distribution | 39. Fiduciary Ins. Coverage Review      |
| 11. Beneficiary Designation Maint.  | 40. Force Out Processing                |
| 12. Beneficiary Determinations      | 41. Form 5330 Preparation               |
| 13. Blackout Notice Distribution    | 42. Prep, Sign & File Form 5500         |
| 14. Census Review                   | 43. Prep, Sign, & File Form 8955        |
| 15. Corrective Distributions        | 44. Fund Change Notice Distribution     |
| 16. Harship Withdrawal Approval     | 45. Monitor & REport Rate Changes       |
| 17. Loan Approval & Reporting       | 46. Required Minimum Distributions      |
| 18. Loan Default Monitoring         | 47. Safe Harbor Notice Distribution     |
| 19. Loan Policy Administration      | 48. SAR Production & Distribution       |
| 20. Lost Earnings Calculations      | 49. SMM Notice Distribution             |
| 21. Assist Participant Enrollment   | 50. SPD Production & Distribution       |
| 22. Payroll Aggregation             | 51. Spousal Consent Approvals           |
| 23. Payroll File Aggregation        | 52. Termination Date Verification       |
| 24. Plan Design Review              | 53. Termination Date Maintenance        |
| 25. Plan Document Interpretation    | 54. Approve Termination Withdrawal      |
| 26. Plan Document Prep & Archiving  | 55. Trustee Duties                      |
| 27. Plan Irregularity Notification  | 56. Vesting Verification & Tracking     |
| 28. QDIA Notice Distribution        | <b>57. *Upload Payroll Files</b>        |
| 29. QDRO Review & Reporting         | <b>58. *Collect/Review Yr. End Data</b> |
- \*Tasks that may be completed by the current payroll company.**

## Secure Act

<b>Startup Plan Tax Credit</b>	\$5,000 / year for 3 years
<b>New Auto Enrollment Tax Credit</b>	\$500 / year for 3 years
<b>IRS Filing Penalties</b>	\$25 per day penalty for filing Form 5500 late or materially incomplete. Max penalty of \$150k per plan year.
<b>Part-time Retirement Plan Access</b>	Beg. 2021, employees with at least 500hrs./week over previous 2 years will be eligible to participate in 401(k) plans.
<b>Auto-Enrollment Cap</b>	6% of employee annual earnings in first year. Up to 10% in 5th year of participation and thereafter.

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