



Convenient solutions for complex fiduciary issues.



One of the most common concerns for plan sponsors is fiduciary responsibility. Partnering with a financial professional allows you to delegate some of these responsibilities to help ensure that your investment lineup meets accepted standards and is consistently reviewed. Although the plan's named fiduciary may delegate certain fiduciary duties, it retains selection and oversight responsibilities relating to its fiduciary service providers.

Some commonly selected fiduciary services incorporate investment insight and documented processes to help plan sponsors meet their fiduciary responsibilities under the Employee Retirement Income Security Act (ERISA).

A financial professional engagement requires a separate service agreement solely between the plan sponsor and the financial professional.

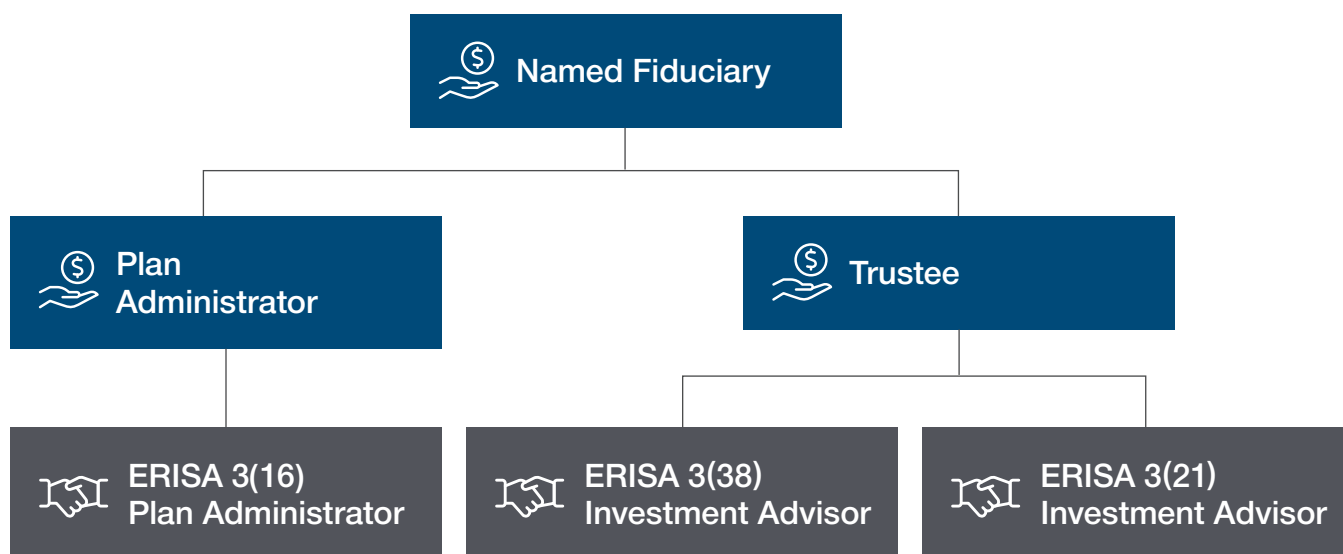
Who is a plan fiduciary?

The plan fiduciaries are those who make, or have the authority to make, the decisions on behalf of the plan. In general, a fiduciary is an individual or entity (such as a plan fiduciary committee or the sponsoring employer's board of directors) who:

- Exercises discretionary authority or control over the management of a plan or over the management or disposition of its assets;
- Provides investment advice for a fee (typically an outside investment advisor); or
- Has any discretionary authority or responsibility in the administration of such plan.

In determining whether a person is an ERISA fiduciary, it is irrelevant whether the person:

- Intends to act as a fiduciary;
- Knows that he or she is acting as a fiduciary; or
- Is authorized to act as a fiduciary



Plan Fiduciary Services



Named Fiduciary

ERISA requires the plan document to provide for one or more “named fiduciaries” that jointly or severally have authority to control and manage the operation and administration of the plan. Plans often specify a single “named fiduciary” such as a retirement committee, but the plan document can specify more than one named fiduciary and allocate fiduciary responsibilities among them. For example, it is common for a plan document to specify two committees as “named fiduciaries,” one committee to be responsible for selecting and monitoring plan investments, and another committee to be responsible for overseeing all other plan administration and compliance activities.



Trustee

The plan’s trustee has exclusive authority to manage and control plan assets. Many plans use a so-called “directed” trustee, some or all of whose duties are subject to the direction of a fiduciary who is not the trustee. The scope of a directed trustee’s fiduciary responsibilities is limited to any undirected, discretionary authority over the management and control of plan assets.



Plan Administrator

ERISA requires that a “plan administrator” be designated under the plan. The plan administrator is responsible for managing the day-to-day operation of the plan. These duties are set by ERISA and the terms of the plan. The plan administrator could be an individual, a committee, or the plan’s sponsoring employer.



ERISA Section 3(16) Plan Administrator service

The plan administrator is the fiduciary responsible for the overall operation of the plan and managing the day-to-day administration. This role (a portion or all) can be outsourced to an service provider, in the most comprehensive scenario, the 3(16) Plan Administrator accepts all of the functions of the plan administrator, including assuming the legal title and signing the Form 5500. Even when a 3(16) plan administrator is contracted to perform these services, the plan sponsor as fiduciary is still responsible for selecting the provider and overseeing their performance.

Outsourced Investment Fiduciary Services



ERISA Section 3(21) Limited Scope service

Recommends investments for your plan, monitors those investments, and suggests replacements, and documents all in accordance to the plan’s Investment Policy Statement. Many 3(21) fiduciaries also provide participant education and advice. While 3(21) fiduciaries owe fiduciary duties of prudence and loyalty when they provide investment advice to the plan sponsor or participants, they do not have any discretion or responsibility for investment decisions at the plan level.



ERISA Section 3(38) Investment Manager service

A 3(38) investment manager is delegated full fiduciary responsibility for selecting fund managers, monitoring them, and making any necessary changes. This role assumes full responsibility for investment decisions for the plan, and must be someone with the requisite qualifications, such as a registered investment adviser (RIA). If the fiduciary elects to go this route, it is important that the delegation of authority to the 3(38) investment manager fiduciary be in writing and be clear as to what specific duties are being delegated. Even when a 3(38) investment manager is hired to select, monitor, and make changes to plan investments, the plan sponsor as fiduciary is still responsible for selecting that professional and for overseeing their performance.

Outsourced Fiduciary Investment Services at a Glance

	3(21)	3(38)
Role Type	Investment Advice	Investment Management
Investment Role	<ul style="list-style-type: none"> ■ Investment recommendations ■ Investment monitoring ■ Suggest replacements 	<ul style="list-style-type: none"> ■ Investment selections ■ Investment monitoring ■ Replace/Add/Remove Investments
Discretion	No	Yes
Who can provide service?	Broad array of service providers, including money managers, investment consultants, and financial advisors	Limited to banks, insurance companies and registered investment advisers
Investment Policy	May consult on Investment Policy Statement	May provide Investment Policy Statement
Common Reasons for Hiring	Provides professional advice to plan fiduciaries to guide actions with respect to investment decisions, ongoing monitoring and management.	Allows plan fiduciaries to assign full discretion for investment decisions to a professional investment manager. While this action assigns the fiduciary responsibility for investment decisions, the plan fiduciaries maintain responsibility for the selection and oversight of the 3(38) service provider.

A 3(21) financial professional may work best for:

A plan sponsor needing technical knowledge and experience to properly manage investments as required by ERISA.

A 3(38) financial professional may work best for:

A plan sponsor wanting to transfer the day-to-day responsibility for the investment decisions of the plan while retaining oversight of the investment manager appointed to carry out such authority.

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