

Fiduciary tool kit for financial professionals



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Vanguard®

Vanguard is your
partner to help guide
you and your clients
in addressing
fiduciary duties.

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Executive summary

In today's evolving legal, regulatory, and litigation environments, it is more important than ever that employee benefit plan fiduciaries understand their roles and responsibilities. As plan sponsors evaluate the nuances of their fiduciary duties, they often turn to financial professionals to guide and support them. This tool kit will provide you with the information and resources to assist your clients in complying with ERISA fiduciary responsibilities and in mitigating risk.

Fundamentals of fiduciary responsibilities

Who is a fiduciary and what does it mean to be a good plan fiduciary? In addition to a specific person (or title) being named in the plan document, a fiduciary is defined in the Employee Retirement Income Security Act (ERISA) as someone who:

- 1) Exercises discretion over management of the plan or authority over plan assets;
- 2) Renders fee-based investment advice, either directly or indirectly; or
- 3) Has discretion over plan administrative issues.

Anyone who meets this functional definition can be a plan fiduciary, regardless of his or her role or title. Examples of plan fiduciaries include plan sponsors, plan committee members, plan investment managers, and plan trustees.

Fiduciary duties

Underlying the conduct of fiduciaries in private pension plans are the core fiduciary duties drawn from ERISA:

Exclusive benefit. Fiduciaries must act for the exclusive purpose of providing benefits to participants and beneficiaries while defraying reasonable expenses of administering the plan.

Prudence. Fiduciaries have a duty to act with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in like capacity and familiar with such matters would act, including ensuring investments remain prudent investments. In other words, fiduciaries must meet a “prudent expert” standard: They must act as an experienced or knowledgeable expert might.

Diversification. Fiduciaries have a duty to ensure that plan assets are well diversified in an effort to “avoid large losses.” Such diversification is required unless it is clearly prudent not to do so under the circumstances. (There is an exception to this diversification requirement for company stock in defined contribution [DC] plans. See the company stock section on page 16.)

Documents. Fiduciaries must follow the terms of the plan document and other documents governing the plan, unless inconsistent with ERISA. The plan document’s provisions must be consistently applied.

Courts also shape the definition of what it means to be a good fiduciary. In cases against plan fiduciaries related to plan expenses or company stock, courts do not judge fiduciaries against a standard of perfection but rather a standard of prudence in decision-making. Recent court decisions have continued to reflect the idea that procedural due diligence is generally more important than the results attributable to fiduciary decisions.

In Vanguard’s view, it is critical for fiduciaries to apply personal experience, judgment, and knowledge to maximize the welfare of the plan’s participants. Above all, fiduciaries must bring the highest levels of ethical conduct and fiduciary care to the operation and ongoing management of a retirement program.

Fiduciary best practices checklist

This checklist offers sample questions to help assess your clients and determine how your services can help them fulfill their fiduciary responsibilities. In addition, we've summarized Vanguard resources available to support you and your clients.



Fiduciary committee

Does your organization . . .

- ☐ **Ensure** appointment and oversight of plan fiduciaries?
- ☐ **Appoint** well-qualified and knowledgeable fiduciaries—and ensure that they receive appropriate training and support?
- ☐ **Ensure** fiduciaries have a full understanding of their legal duties and personal liability?
- ☐ **Conduct** regular meetings on all aspects of the plan, both administrative and investment-related?
- ☐ **Obtain** fiduciary insurance?
- ☐ **Ensure** that plan documents describe committee structure, composition, role, and purpose?
- ☐ **Document** all fiduciary decisions, including minutes of committee meetings?

Looking for **solutions**?

You can provide guidance to your clients on committee oversight. Refer to our *Fiduciary best practices in action: Your guide to retirement-committee success* for an annual committee meeting calendar and core topics that should be reviewed each time the committee meets. This guide includes common committee agenda topics and a sample annual committee calendar.

You can also use the committee agenda template to customize your clients' next committee meetings.



Investment selection and monitoring

Does your organization . . .

- ☐ **Establish** clear goals and objectives of the plan's investment options with well-defined measures for success?
- ☐ **Develop** an appropriate investment strategy for the plan's assets and oversee its execution?
- ☐ **Maintain** a disciplined process for hiring, evaluating, and terminating investment managers for the plan?
- ☐ **Choose** an appropriate default fund for DC plans?
- ☐ **Document** all of the above in an Investment Policy Statement?

Looking for **solutions**?

Vanguard provides the tools and resources you need to offer your clients the following services:

- Assistance in setting goals, establishing strategies, and evaluating managers.
- Analysis of investment lineup.
- Analysis and data for monitoring investment performance.
- Reviews of mutual funds, with manager oversight.

Vanguard Investment Strategy Group offers a variety of publications on investment-related topics, including best practices for investment committees and group decision-making.

Vanguard Center for Investor Research offers many papers relevant to investment committees, including publications about reenrollment, target-date funds, and retirement readiness.



Plan costs

Does your organization . . .

- ☐ **Understand** fully the difference between settlor and plan expenses?
- ☐ **Monitor** and understand the plan's all-in fees, including all direct investment and administrative charges, as well as any third-party or indirect fees or reimbursements?
- ☐ **Assess** whether plan fees are reasonable?
- ☐ **Ensure** that all plan fees charged to participants are clearly disclosed to them?

Looking for **solutions**?

Vanguard offers an all-in fee report to help clients understand their complete costs, including direct and indirect charges.

In addition, plan participants are provided with fund fact sheets that report the expense ratio associated with each investment option in the plan, along with relevant information on risk and return.

Vanguard also provides quarterly participant statements with information for specific participant investments, as well as online access to vast fund information available in the plan.



Administrative oversight

Does your organization . . .

- ☐ **Maintain** current plan documents and review plan documents and processes on a regular basis to ensure that they comply with all relevant laws and regulations of the Internal Revenue Service (IRS), Department of Labor (DOL), Pension Benefit Guaranty Corporation (PBGC), and Securities and Exchange Commission (SEC)?
- ☐ **Ensure** that the processes used to manage the plan conform to the written plan documents?
- ☐ **Conduct** a periodic review of all plan transactions?
- ☐ **Ensure** administrative compliance with the following rules:
 - Participant notifications required under the law?
 - Claims appeal processes?
 - Timely remittance of contributions?
- ☐ **Comply** with federal nondiscrimination testing rules for DC plans?

Looking for **solutions**?

Regulatory briefs, webcasts, and our presence in Washington, D.C., provide you and your clients with ongoing information about the changing legal and regulatory environment and how it affects all aspects of plan design and administration.

Vanguard can assist you and your clients in ensuring compliance with nondiscrimination testing and other tax-law rules. The client service team can help with alternative

strategies to nondiscrimination testing issues such as safe-harbor plan designs, automatic plan design strategies, and targeted education programs.

Refer to our *Plan design optimization guide* to help your clients see how their plan measures up to best practices and how it benchmarks to plans sponsored by their peers.

Additional fiduciary considerations



ERISA section 404(c) compliance for DC plans

Does your organization . . .

- ☐ **Qualify** as a Section 404(c) plan for added fiduciary protection?
- ☐ **Conduct** a periodic 404(c) review, ensuring compliance with all relevant rules, including providing:
 - A minimum of three diversified investment options with varying risk and return characteristics?
 - Ability for participants to change investments at least quarterly?
 - Investment information and education programs to assist participant decision-making?
 - Designation of plan as a 404(c) plan?
- ☐ **Ensure** compliance with special 404(c) requirements for employer securities for DC plans offering company stock?
- ☐ **Offer** a qualified default investment alternative (QDIA) as the default fund in the plan?

Looking for **solutions**?

Vanguard automatically provides a number of services to assist you and your clients in satisfying 404(c), including:

- A broad array of Vanguard and non-Vanguard investment options that may be offered within the plan.
- Recordkeeping flexibility to allow participants to change investment instructions daily.
- Fund facts sheets and mutual fund prospectuses as well as online access to vast fund information.
- Education programs to assist participants in making informed investment decisions.



Participant education and advice

Does your organization . . .

- ☐ **Offer** an enrollment education program?
- ☐ **Provide** ongoing education in the workplace?
- ☐ **Offer** investment advice programs to plan participants?
- ☐ **Evaluate** and monitor advice providers on an ongoing basis?
- ☐ **Develop** objectives and measures of success for education and advice programs?

Looking for **solutions**?

Vanguard can work with you to supplement your education and advice services, including:

- A complete education program on enrollment, saving and investing, and retirement preparation.
- Multichannel delivery—online, email, on-demand, print, and optional on-site meetings.

- Targeted communications.
- Optional participant advice from Managed by Morningstar.*

The *Planillustrator* report can assist in developing strategies for education and advice services and can help evaluate effectiveness.

* Morningstar Retirement Manager is offered by and is the property of Morningstar Associates, LLC, a registered investment advisor and wholly owned subsidiary of Morningstar, Inc. Investment advice generated by Retirement Manager is based on information provided and limited to the investment options available in the defined contribution plan. Projections and other information regarding the likelihood of various retirement income and/or investment outcomes are hypothetical in nature, do not reflect actual results, and are not guarantees of future results. Results may vary with each use and over time. Morningstar Associates and its affiliates are not related to Ascensus® and its affiliates, or to Vanguard. Morningstar Associates, LLC, is not affiliated with The Vanguard Group, Inc., or any of its affiliates.



Brokerage option in DC plans

Does your organization . . .

- ☐ **Evaluate** the brokerage option in terms of its prudence and its potential impact on the diversification of plan assets, as with other investments in the plan?
- ☐ **Communicate** the risks and costs of brokerage accounts clearly to participants?
- ☐ **Consider** limits on the assets transferred to a brokerage account by a participant, particularly if the brokerage option permits investments in single stocks?
- ☐ **Monitor** and evaluate brokerage holdings on an ongoing basis?

Looking for **solutions**?

Vanguard offers an optional, self-directed brokerage service through TD Ameritrade* that can be tailored to limitations set by the plan sponsor. For example, your

participants can limit brokerage account holdings to mutual funds or specify a percentage of total the assets in the brokerage account.

*Self-directed brokerage services are provided by TD Ameritrade. TD Ameritrade is not affiliated with Vanguard Marketing Corporation, The Vanguard Group, Inc., or any of its affiliates.



Company stock in DC plans

Does your organization . . .

- ☐ **Ensure** adequate training for fiduciaries?
- ☐ **Certify** company stock as a prudent plan investment at least annually and document the decision?
- ☐ **Evaluate** company stock performance on an ongoing basis and document the evaluation?
- ☐ **Remind** participants of the dangers of single-stock concentration?
- ☐ **Discourage** concentrated holdings by participants?
- ☐ **Prepare** for sudden or gradual deterioration in the performance of the company's stock?

Looking for **solutions**?

Vanguard can provide an assessment of the benefits and risks of company stock within DC plans and can identify risk-mitigation strategies in the areas of plan design and participant communications.



Lifetime income

Does your organization . . .

- ☐ **Evaluate** ways to provide employees with tools and products that will allow them to receive some form of lifetime income?
- ☐ **Determine** whether it is appropriate to offer a lifetime income solution as a feature of the plan (an “in-plan” solution) or to leave the decisions regarding lifetime income solely to the participant (an “out-of-plan” solution)?
- ☐ **Assess** available information on each income option to reach a reasonable, informed decision about whether it is an appropriate option for the plan?
- ☐ **Understand** the stability of the organization offering the product, the service provider’s experience with offering similar products, fees associated with the product, and any related services, including participant communications and education?



Defined benefit (DB) funding status

Does your organization . . .

- ☐ **Gain** an in-depth understanding of the actuarial valuation report by meeting with the actuary?
- ☐ **Oversee** funding status for, and ensure compliance with, relevant rules of:
 - The IRS?
 - The organization’s auditors and shareholder reporting?
 - The Pension Benefit Guaranty Corporation?

In Vanguard's view, the fiduciary standards of ERISA and best practices can be summarized by a single phrase: **"Doing the right thing for plan participants."** This means going beyond the technical meaning of a regulation and focusing on the spirit of the law, thereby bringing the highest levels of ethical conduct and fiduciary care to the operation and ongoing management of a retirement program.



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All investing is subject to risk, including the possible loss of the money you invest.

Diversification does not ensure a profit or protect against a loss.