

**YOU
ARE A FIDUCIARY.
NOW WHAT?**



Ask Kidder.

The qualified plan experts

If you are a plan sponsor or if you make discretionary decisions for a qualified retirement plan, congratulations!

YOU ARE A FIDUCIARY.

As a fiduciary, you have significant responsibilities and liabilities. We can help you understand and satisfy these responsibilities, while protecting yourself, your participants and your plan.

Kidder Benefits Consultants is nationally recognized for our expertise in pension consulting and administration. Our people, systems and experience position us to provide fiduciary support beyond the scope of most other providers. For additional information about our comprehensive suite of qualified plan services, visit askkidder.com.



WHY BE CONCERNED ABOUT FIDUCIARY ISSUES?

The Department of Labor (DOL) has a very good track record when it comes to enforcing its regulations - and it's enforcement efforts are growing! In 2014, the DOL's Employee Benefits Security Administration conducted more than 3,900 civil investigations, with nearly 66% of the reviews resulting in sanctions. All told, nearly \$600 million in fines, penalties and assets were collected during the year.

HOW CAN YOU PROTECT YOURSELF AND YOUR PLAN?

Rule No. 1: Focus on compliance.

Rule No. 2: See Rule No. 1.

If you are a plan sponsor or plan fiduciary, you have the ultimate responsibility for plan compliance. While it's often prudent to outsource certain plan functions - including compliance - to third-parties, outsourcing does not necessarily remove your fiduciary liability. In fact, many of the DOL's recoveries relate to functions that are not or cannot be delegated. Simply put, using service providers doesn't relieve you from the responsibility to monitor service quality. Protect yourself by being vigilant. Identify and apply best practices that result in consistent procedures and decision-making processes. Look to Kidder for expert guidance and support, as well as greater peace of mind.

DO YOU HAVE A COMPLIANT FIDUCIARY DECISION-MAKING PROCESS?

Are there policies in place that are consistently applied and documented to support investment and fiduciary decisions? Do you have an assigned decision-making group that meets regularly, at least once or twice per year, to discuss Investment due diligence and administrative issues? Are minutes taken at these meetings?

ARE PLAN VENDORS' FEE AND SERVICE ARRANGEMENTS REASONABLE?

According to ERISA 408(b)(2), providing disclosures is only the first step in determining what is "reasonable." Plan sponsors and fiduciaries are also required to review and compare fees and services. By providing access to national fee and benchmarking services, Kidder can assist you in satisfying this fiduciary responsibility. Keep in mind that "reasonable" does not necessarily mean lowest cost. "Reasonable" means receiving appropriate value for what you are paying. It is a combination of a tangible number, tangible results achieved and fiduciary comfort (an intangible).

ARE THERE ANY CONFLICTS OF INTEREST?

Do the plan fiduciaries, plan sponsor or a service provider benefit to the detriment of the plan participants? In order to provide for proper plan functioning, there are many allowable exceptions to the conflict rules. Still, the DOL, the SEC, Congress and even the White House are focused on expanding the definition of fiduciary with a goal of increased protection for plan participants. If you are a plan fiduciary, your legal responsibilities have significantly grown. A conflict of interest can create a prohibited transaction, subjecting the plan and the party involved with civil and possible criminal penalties.

WHO CAN YOU TURN TO FOR FIDUCIARY SUPPORT?

Many types of fiduciary service providers are designated by ERISA. Some provide more comprehensive services than others. When interviewing a potential provider, ask that they provide a clear description of the scope of services offered, the liabilities assumed and – most importantly – the responsibilities and liabilities that remain with you. Consider the provider's experience, systems, processes and resources, as well as the ability to communicate effectively with all concerned.

- **402(a) Named Fiduciary**

The Named Fiduciary is identified in plan documents and has primary responsibility (and liability) for decisions about plan management and operations. This plan fiduciary can be an individual, such as yourself. Or it can be a group, such as a management team or board of directors. Named Fiduciaries can delegate various functions to third-parties to help mitigate or share compliance and other risks. But they are absolutely required to monitor fees, services and results.

- **3(21) Fiduciary**

The discretionary authority to control or manage the plan or its assets comes from ERISA Section 3(21). Make sure this plan fiduciary clearly defines the type and scope of the responsibilities it will provide and – more importantly – *not* provide.

- **3(21) Investment Fiduciary**

As the name implies, this fiduciary focuses on plan investments – providing advice on investments and custodians, conducting due diligence, preparing and implementing investment policies and processes, reviewing participant education, plan design and service providers. The Plan Fiduciary and 3(21) Investment Fiduciary should meet regularly and make joint decisions.

- **3(38) Investment Fiduciary**

This fiduciary makes discretionary plan investment decisions in accordance with the plan's investment policy statement *without* input from the 3(21) or Plan Fiduciaries. Since additional authority is assigned to the 3(38) Fiduciary, potential liabilities are reduced,

but not eliminated. Results must be monitored. If expected results are not achieved, the Plan Fiduciary has a duty to remove and/or replace the 3(38).

- **3(16) Plan Administrator**

You might think this is a third-party administrator – *but it's not*. The 3(16) Plan Administrator is a *full-scope* fiduciary appointed by the Plan Fiduciary or designated in the plan document. Simply put, this fiduciary assumes responsibility for managing and operating the plan – including:

- plan qualification and operations;
- reporting and disclosure;
- plan coverage and testing;
- contributions, withdrawals and distributions; and
- plan asset management.

The 3(16) performs both fiduciary and ministerial functions, such as filing the Form 5500, providing disclosures, communicating with plan participants and other parties, producing the census, determining eligibility, hiring service providers and more. Third-party administrators are often hired to support the 3(16). The Named Fiduciary must monitor all results.

- **3(16) Plan Administrator – Service Provider**

This limited-scope provider will assume fiduciary responsibility and liability for services in which it has adequate control over necessary information – including many of the services and functions performed by a full-scope 3(16) Plan Administrator. Actual services vary from provider to provider. And not all providers assume this liability.

OR YOU CAN SIMPLY CALL KIDDER.

Kidder Benefits Consultants provides a comprehensive suite of plan level services to help plan sponsors and fiduciaries satisfy their fiduciary responsibilities.

FORM 5500 FILINGS

Kidder will complete and file the Form 5500 and applicable schedules – including the Plan's financial statement – and will sign as the Plan Administrator. The client is responsible for retaining a Plan Auditor, if required by ERISA. We can assist in the selection of an auditor.

QUALIFIED DEFAULT INVESTMENT ALTERNATIVE (QDIA) NOTICES

Kidder will draft any required QDIA Notices and provide distribution guidance. The client is responsible for the proper distribution of the notices to plan participants.

SUMMARY PLAN DESCRIPTION (SPD) AND SUMMARY OF MATERIAL MODIFICATIONS (SMM)

Kidder will draft required SPD and SMM documents. The client is responsible for distribution, delivery and filing of the documents.

FIDUCIARY DETERMINATIONS

We will act as the fiduciary responsible for administration and making final determinations on behalf of the Plan for the following fiduciary issues:

- Loans;
- Hardship withdrawals;
- Beneficiary determinations; and
- Participant claims and appeals.

SPOUSAL CONSENT

Kidder will be responsible for ensuring that proper spousal consent on payments is submitted, when required by the Plan.

LEGAL PROCESS

Service of legal process for lawsuits related to the Plan can be made upon Kidder Benefits Consultants as the Plan Administrator.

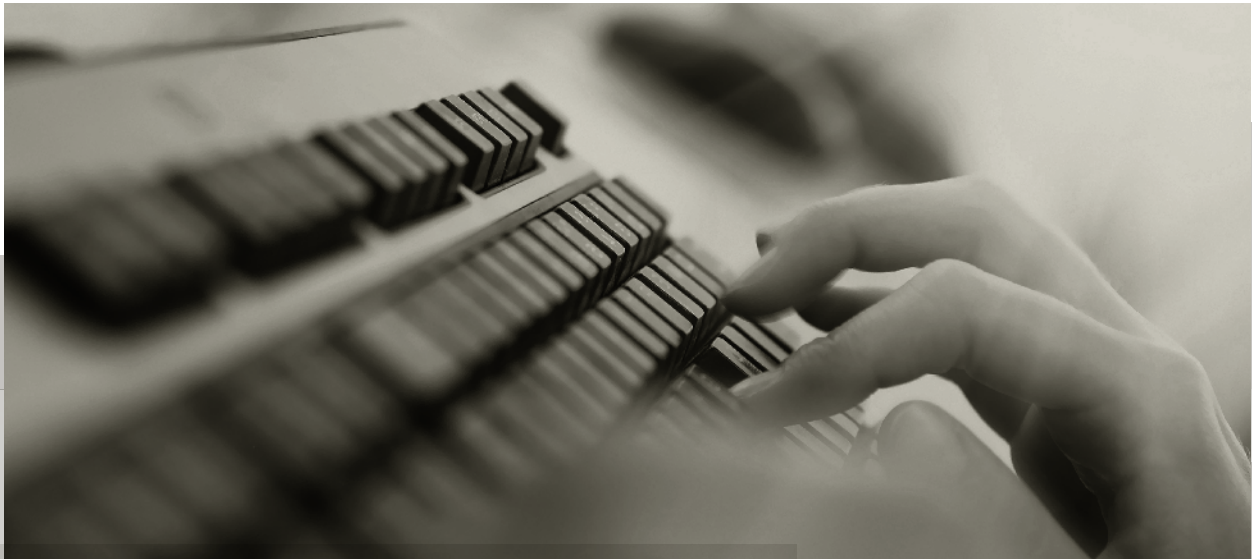
QUALIFIED DOMESTIC RELATIONS ORDER (QDRO) DETERMINATIONS

As Plan Administrator, we will make the determination as to the qualified status of any domestic relations order.

BENEFITS PAYMENTS

Kidder will serve as Plan Administrator and authorize any payments to participants.

Visit fiduciaryhelpdesk.com
powered by Kidder



Ask Kidder.

The qualified plan experts

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Kidder adheres to the American Society of Pension Professionals & Actuaries (ASPPA) Standard of Practice for Retirement Plan Service Providers. The ASPPA Standard describes how a service provider can help plan sponsors fulfill their fiduciary obligations. It includes best practices for governance, organization, human resources, operations, planning, systems and disclosure.

