

Presentation to: The Nonprofit Financial Managers



Considerations for
Creating, Maintaining, &
Staying in Compliance

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Presented by:



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Differences in Retirement Plans

Types of Retirement Plans

- **401(a): Employer Funded Programs**
- **Non ERISA 403(b): Employee only programs**
 - *****How not to Trigger ERISA*****
- **ERISA 403(b): Employer and employee Funded Programs**
- **401(k): Employer and employee Funded Programs**

How are fees Charged on Retirement Plans?

- **Plan Sponsor Fees: Charged to the organization (Hard Dollar Fees)**
- **Participants Fees: Additional fees charged to the participants (Soft dollar fees)**
- **Investment Fees: Charged by the investment companies and paid by the participants**

A difference of just 1% in annual fees lowers investment returns over the long term



“A fiduciary has a specific obligation to ... ensure that fees and expenses are reasonable in light of the level and quality of services provided...”

U.S. Department of Labor, “A Look at 401(k) Plan Fees.” Publications, 3. Section 28(e) Fees (“Soft Dollars”)

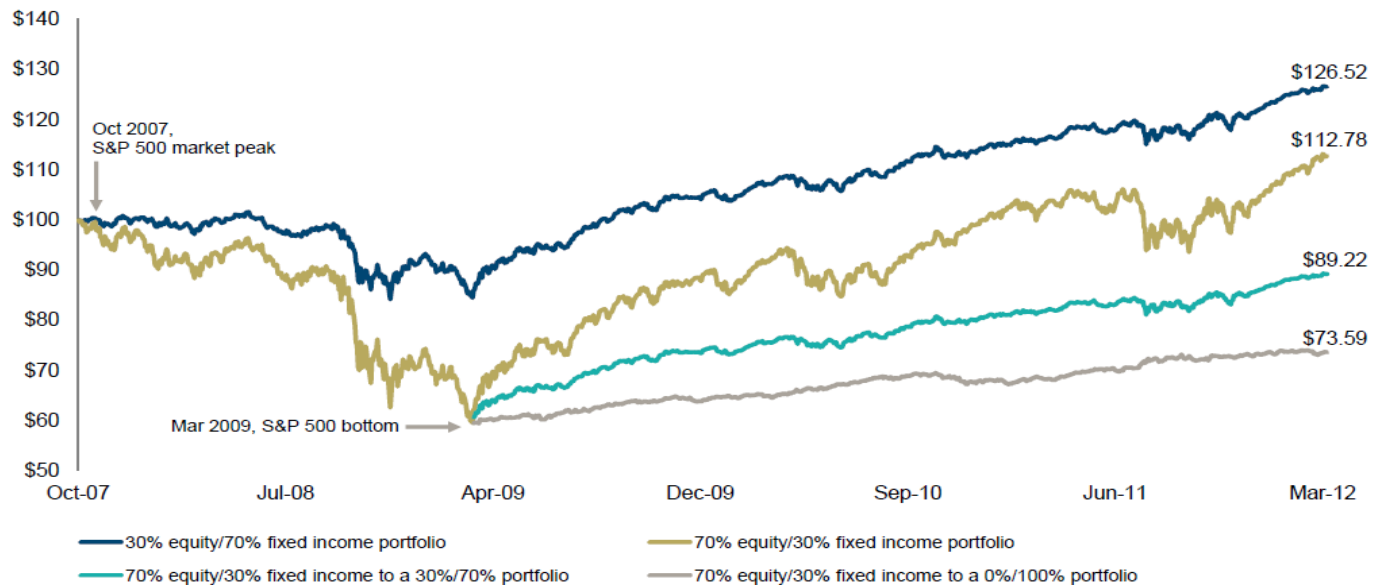
Investment Considerations

Types of Investment options:

Mutual Funds: Registered Under the securities Act of 1940.

Group Annuities: (Separate Accounts) Insurance based products

Diversified portfolios that stayed the course weathered the downturn better than investors who shifted to a more conservative portfolio at market bottom



The proper allocation of investments can yield better and more consistent results

What are my responsibilities?

Who is a Plan Fiduciary?

A Fiduciary is a person who exercises any discretionary authority or control over the management of the plan or its assets.. The definition depends on the functions a person performs and not on the person's title.

Plan service providers such as actuaries, attorneys, accountants, brokers, and record keepers are NOT fiduciaries unless they exercise discretion or are responsible for the management of the plan or its assets.

What are my responsibilities as a Plan Fiduciary?

According to ERISA §404(a)(1), a fiduciary has four primary duties and is required to discharge those duties solely in the interest of the participants and beneficiaries. They include:

- A Duty of “Exclusive Purpose”
- A Duty of Prudence
- A Duty to Diversify
- A Duty to Follow Plan Documents (unless inconsistent with ERISA)

Although an IPS is not required, ERISA states that plans must have some type of documented process for making investment decisions.

Differences in Management Services

The “Broker Model”

- Not a Fiduciary
- Ambiguous duties
- No Risk management

• High Fee Structure

- Group Annuity Contracts
- Pricing not revisited
- Negative impact on plan participants
- Nebulous fee structure

The “Consulting” Model

- Investment advisory:
- Employee Education
- Fiduciary Governance: 3(21) Fiduciary Services

• Fee Structure

- Fee Structure is transparent
- Fee Structure reduced over time
- Duties and responsibilities are known
- Generally using Mutual funds not annuities

**Lower fees, higher quality investments, prudent plan management
bring positive outcomes in retirement**

Retirement Plan Best Practices...Creating a Prudent Process

Investment Policy Statement:

The current version of the plan's Investment Policy Statement (IPS) and any historical copies of the plan's IPS

Meeting Minutes:

Minutes for every meeting that takes place regarding the plan. (Minimum: Annually)
Minutes should include detailed information for any decisions that have been made and the reasoning behind these decisions

Investment Monitoring Reports:

Quarterly reports that analyze and monitor the plan investments according to the IPS

Plan Reviews:

Plan performance reviews, benchmarking studies that have been conducted on the plan including analysis about issues such as plan design, employee participation, fiduciary issues, asset allocation, employee education, and total plan costs

Fees & Expenses:

Invoices, fee audit or analysis that has been conducted on the plan. Fee disclosures provided by all service providers to the plan (each provider should disclose their previous year compensation in both percentages and dollars on an annual basis, including direct and indirect compensation).

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