

Fiduciary Considerations When Assessing Investment Vehicles

With participants becoming increasingly aware of fees and a corresponding increase in litigation, there are important considerations for fiduciaries to be cognizant of when making decisions. These considerations should be a component of a fiduciary's due diligence process. Litigation risk can be managed by documenting investment vehicle comparisons as part of a fiduciary's investment selection and monitoring process. Once a strategy is selected, investigate and document these four categories to help guide a fiduciary's vehicle decision that is in participants' best interest.

Availability



WHAT VEHICLES ARE AVAILABLE?

Oftentimes, multiple investment vehicles such as mutual funds, collective investment trusts (CITs), and separately managed accounts are available for similar objectives. Failing to consider vehicle availability puts you at a greater risk for litigation. Notable 401(k) fee litigation allegations and settlements stated the failure to consider CITs as a fiduciary breach. Understanding and documenting which vehicles are available can help avoid this.

DIG DEEPER:

What vehicles are available in the plan providers' universe?

Will size of a plan influence vehicle availability?

Are there capacity constraints or asset minimums for each vehicle?

Is there an option for asset minimums to be waived?

DO THE INVESTMENT PROCESSES DIFFER?

Many investment managers offer a particular investment strategy in various vehicles. As a fiduciary, it's crucial to understand and document the differences between investment process or management in order to determine which vehicle is in participants' best interest.

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Do all vehicles offer the same management team and process?

If not, are there differences in manager experience and reputation?

Are there any liquidity boundaries or trading considerations?

Is there flexibility to customize investment strategies to a plan?

Investment



Fees



WHAT ARE THE FEES OF EACH VEHICLE?

Failing to break down and analyze fees may mean that you miss out on an opportunity for fee flexibility or a reduced or waived minimum. Asking the right questions can help you determine the most cost effective vehicle for your plan.

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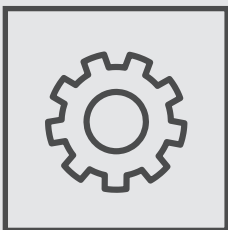
Is there more transparency with one vehicle over the other?

What share classes and revenue sharing levels are available?

Is there an opportunity to customize or negotiate fees?

Are the fees appropriate for plan size and strategy?

Oversight



WHAT IS THE REGULATORY IMPACT?

Different regulatory agencies govern the various vehicles. For instance, CITs must comply with ERISA and are held to Department of Labor fiduciary standards. Mutual funds are held to FINRA and SEC standards. Asking questions about how this impacts procedures and operations helps make it easier for fiduciaries to understand the regulatory impact and act in participants' best interest.


DIG DEEPER:

What terms and conditions are set forth in the vehicle's governing document?

What type of reporting will be available to plan sponsors and participants?

Does the investment manager act as an ERISA fiduciary for the investment decisions?

Given all the available information, is the investment vehicle the best fit for plan participants?



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