



HEFREN-TILLOTSON

METICULOUS WEALTH MANAGEMENT SINCE 1948

MaherDuessel CPE

Apollo 13....A Guide to Survive Your 403(b) Plan

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Agenda

- Hefren Background
- 403(b) Fiduciary Best Practices
- Investment Menu
- Employee Education Best Practices



Who is Hefren-Tillotson

- Firm established in 1948
- Oldest, largest privately-owned financial services firm in the region
- 260 Employees
- \$12 billion AUM
- 350 Defined Contribution retirement plans (\$1 billion)
- Hefren-Tillotson Corporate Services



Disclosures

IMPORTANT DISCLOSURES

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Fiduciary Best Practices





Who is a Fiduciary

- “**Named** Fiduciaries” at the Organization
- “**Functional** Fiduciary” - individuals who “exercise any **discretionary authority** or discretionary **control** with respect to the management of the plan ordisposition of plan assets”.
 - Directors
 - Officers
 - Senior executives
 - HR professionals
 - The Plan’s Financial Advisor (see also, 2016 DOL “Conflict of Interest” Rule; and 2019 SEC “Regulation Best Interest”



Advisors as Fiduciaries

- The Plan's Financial Advisor
 - 3(21) Advisor vs 3(38) Manager
 - **Fee-based** vs commission-based compensation
 - The Plan pays a fee
 - Plan sponsor pays an invoice, or
 - May be deducted from Participant accounts
 - Investment Companies pay commissions directly to the Advisor
 - **Level** compensation – the same amount regardless of which investment the participant chooses (can be \$ or %)
 - Participant advice – if level, fee-based compensation, then advice is deemed “unbiased”
 - DOL “Conflict of Interest” Rule (2016), and
 - SEC “Regulation Best Interest” (2019)



Who else can be a Fiduciary?

- Some Third-Party Administrators can also serve as a **3(16) fiduciary Plan Administrator**
 - Eligibility tracking
 - Submit contributions on behalf of the Plan
 - Sign/approve distributions
 - Sign/file the Form 5500
 - Can reduce the risks associated with Plan administration



Fiduciary Procedures

- Establish a written Investment Policy Statement (IPS) for the plan;
- Diversify plan assets;
- Make investment decisions with the skill and care of a prudent expert (similar to one “familiar with such matters”);
- Monitor investment performance on an on-going basis;
- Control investment expenses; and
- Avoid prohibited transactions.
- Document a regular, ongoing process that outlines how you are doing the above.



What If - DOL or IRS Audits

- **Document** regular, ongoing reviews of the following items:
 - Compliance with Standards and Laws
 - Plan Document
 - Documentation of Enrollment elections
 - Documentation of Deferral changes
 - Submission of employee contributions
 - Investment Policy Statement
 - Investment menu
 - Investment Performance vs. Benchmark and vs. Category
 - Investment Expenses
 - Plan Expenses & Benchmarking (Brightscope, 401(k) Averages Book)



Building an Investment Menu





Building an Investment Menu

- 10-20 Options that cover core investment categories
- Target Date-type funds
- Risk-based portfolios
- Actively-managed funds
 - Performance (net of costs)
 - Risk
 - Costs
- Passively-managed/Index funds
- Environmental, Social, Governance (ESG) funds



Target Date Funds

- DOL “Target Date Tips for ERISA Plan Fiduciaries”
 - Establish a process for comparing and selecting TDFs
 - Establish a process for the periodic review of selected TDFs
 - Understand the fund’s investments & allocation
 - Stocks, bonds, cash, specialty funds
 - Glide Path
 - Review the fund’s fees and expenses
 - Determine if Proprietary or Non-proprietary is the best fit
 - Develop effective employee communications
 - Document the process



ERISA 404(c)

- **ERISA Section 404(c)** (29 CFR 2550.404(c)-1) states that plan fiduciaries can avoid liability for losses incurred by plan participants if they provide their employees with:
 - A “broad range of investment alternatives” sufficiently diversified to avoid the risk of “large losses”;
 - The ability to change their investment options at least quarterly; and
 - Sufficient information to allow plan participants to make informed decisions.
- If this is done, it will be deemed that the plan participants exercised independent control over the assets in their accounts and, therefore, the **plan fiduciaries will not be responsible for their losses.**



Employee Education





Education Best Practices

- There are no guidelines in ERISA regarding participant education (frequency, content, etc.)
- Do Participants **understand** the plan provisions?
- Do Participants have **easy access** to review their retirement account and make necessary changes?
- Do participants have a **resource for investment guidance** or advice?
- What about other **Financial Wellness** topics?



Education Best Practices

- Hold **regular, ongoing** educational sessions
- Or, send regular email/mail/text communications to participants about the plan (many recordkeepers have capacity to do this)
- **Document** meeting attendees, email recipients, etc. to establish a written record of how/how often information about the benefit was communicated
- **Listen** to employees....what are they asking for?



Additional Resources

- DOL Target Date Guidelines

Internet Search “DOL Target Date Guidelines”

<https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/target-date-retirement-funds.pdf>

- ESG DOL Field Assistance Bulletin

Internet Search “DOL ESG Guidelines”

<https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2018-01>



Questions?

- Contact Hefren-Tillotson Corporate Services:

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