

# Fiduciary Duties

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The Employee Retirement Income Security Act (“ERISA”) sets standards of conduct for sponsors of employee benefit plans.<sup>1</sup> Those who manage employee benefit plans are called **fiduciaries**. Keep in mind that whether one is a fiduciary depends on one’s actions regarding the plan and not just on one’s title as a fiduciary.

Under ERISA, there are several basic responsibilities required of fiduciaries:

1. Act only in the interest of plan participants and their beneficiaries;
2. Act only within the scope allowed under the plan documents;
3. Pay employee contributions as soon as reasonably possible;
4. Provide required plan and investment information to participants;
5. Obey the plan documents;
6. Prudently, diligently, and skillfully execute all tasks;
7. Diversify plan investments;
8. Pay only reasonable plan expenses and fees;
9. Monitor the plan’s service provider’s and investment advisor’s actions; and
10. Avoid conflicts of interest that could have an adverse effect on the plan.

In addition to requiring these basic responsibilities, ERISA prohibits fiduciaries from engaging in certain transactions:

1. Self-dealing transactions;
2. Sales, leases, or exchanges between the plan and a prohibited party;
3. Lending or extending credit between the plan and a prohibited party;
4. Providing goods, services, or facilities between the plan and a prohibited party; and
5. Accepting money or other incentives for personal use from a prohibited party.

It is important for all fiduciaries to know and understand what ERISA requires and prohibits so that the employee benefit plan remains ERISA-compliant. If a fiduciary has violated a duty, employers are encouraged to correct the violation via the Department of Labor’s Voluntary Fiduciary Correction Program. If the violation causes a monetary loss in the employee benefit plan, the fiduciary may be personally liable to reimburse the plan to the extent of the loss.

If you have any questions regarding the fiduciary’s role in your plan, please contact us:

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<sup>1</sup> This document was not intended to provide a full list of fiduciary requirements and prohibitions. More information regarding fiduciaries can be found at [www.dol.gov/ebsa/publications/fiduciaryresponsibility.html](http://www.dol.gov/ebsa/publications/fiduciaryresponsibility.html).