



# SELF-ASSESSMENT OF FIDUCIARY EXCELLENCE

# SAFE<sup>TM</sup>

Criteria for the Annual Audit of the Arrangement  
Between a Plan Sponsor and a Fiduciary Adviser

THE 2006 PENSION PROTECTION ACT REQUIRES THE ENGAGEMENT BETWEEN THE PLAN SPONSOR OF A QUALIFIED PENSION PLAN AND A FIDUCIARY ADVISER (AN ADVISER WHO IS PROVIDING SPECIFIC INVESTMENT ADVICE TO PARTICIPANTS) TO BE AUDITED EVERY YEAR BY A QUALIFIED AND INDEPENDENT AUDITOR. THIS SAFE OUTLINES THE SUGGESTED CRITERIA FOR THE ANNUAL AUDIT.

# INTRODUCTION

The Pension Protection Act of 2006 (PPA) requires an "Arrangement Audit" between a qualified plan sponsor and a "fiduciary adviser" every year.

This Self-Assessment of Fiduciary Excellence (SAFE™) is intended to introduce the criteria that should be used as the basis for the Arrangement Audit. More detailed criteria and procedures on how the Arrangement Audit should be conducted are included in a companion piece called the Consultant's Assessment of Fiduciary Excellence (CAFE™).

The SAFE and the companion CAFE are based on auditing procedures defined by ISO-19011 ([www.iso.org](http://www.iso.org)), a globally recognized auditing standard, and CEFEX ([www.cefex.org](http://www.cefex.org)), an international certifying body for investment fiduciaries. The SAFE and CAFE auditing criteria include industry best practices and requirements that have been specified by the PPA.

PPA requires that the auditor: (1) be independent, (2) have appropriate technical training or expertise and proficiency, (3) make such representations in the audit report, and (4) present in the audit report specific findings regarding compliance with the PPA.

Each question in this SAFE is intended to be answered in the affirmative ("Yes"). A careful inquiry should be made into all "No" responses to determine whether:

1. There is an omission to the plan sponsor's and/or fiduciary adviser's procedures; and/or
2. The question is not applicable to the audit.

The auditing criteria outlined in this SAFE and the CAFE are based on the assumption that the fiduciary adviser is an investment fiduciary to the plan and, therefore, may be co-liable for breaches by the plan's other fiduciaries, most notably the plan sponsor's investment committee. Therefore, the audit begins with an assessment of the plan sponsor's procedural prudence. After all, the best participant advice in the world will still fall short if the plan is not being prudently managed.

TO FIND AN INVESTMENT ADVISOR IN YOUR AREA WHO IS FAMILIAR WITH THE FIDUCIARY PRACTICES REFERENCED IN THIS SAFE, GO TO [WWW.FI360.COM](http://WWW.FI360.COM) AND LOOK FOR THE AIF®/AIFA® DESIGNEE SEARCH ICON:



The audit criteria are based on fiduciary Practices outlined in the Prudent Practices for Investment Stewards and Prudent Practices for Investment Advisors handbooks.



The assessment of the plan sponsor's procedural prudence (Part 1 of the Arrangement Audit) includes references to Practices from the Investment Stewards handbook.



The assessment of the adviser's procedural prudence (Part 2 of the Arrangement Audit) includes references to Practices from the Investment Advisors handbook.



The Practices are fully substantiated by ERISA, case law, and regulatory opinion letters; and are covered in the Legal Memoranda handbook, which was prepared by the law firm of Reish Luftman Reicher & Cohen.

**Editorial Note:** This document uses the terms "adviser" and "advisor."

"Adviser," as in "fiduciary adviser," is in reference to the term defined by the PPA.

"Advisor," as used by Fiduciary360 throughout its materials, refers to the professional who is providing comprehensive and continuous investment advice.

## Part 1 – Assessing the Procedural Prudence of the Plan Sponsor as it Pertains to the PPA

- 1 Are investments managed in accordance with applicable ERISA and PPA provisions, the plan's trust documents, and written investment policy statements (IPS)? (*Practice S-1.1*)
- 2 Are the roles and responsibilities of the fiduciary adviser defined, documented, and acknowledged? (*Practice S-1.2*)
- 3 Is there no indication that the fiduciary adviser is involved in self-dealing? (*Practice S-1.3*)
- 4 Are service agreements and contracts of the fiduciary adviser in writing? Are they written without provisions that conflict with fiduciary standards of care? (*Practice S-1.4*)
- 5 Is the fiduciary adviser covered by the required ERISA surety bond? (*Practice S-1.5*)
- 6 Are the plan's investment options appropriate, given the participant demographics? (*Practices S-2.1, 2.2, and 2.3*)
- 7 Do selected asset classes represented by the plan's various investment options provide participants the ability to prudently diversify their portfolio? (*Practice S-2.4*)
- 8 Are selected asset classes consistent with the plan sponsor's implementation and monitoring constraints? (*Practice S-2.5*)
- 9 Does the plan have an IPS which contains the detail to define, implement, and manage a specific investment strategy? (*Practice S-2.6*)
- 10 Have the plan's investment options been prudently selected? (*Practice S-3.1*)
- 11 Is the plan following applicable "safe harbor" requirements (when elected)? (*Practice S-3.2*)
- 12 Are investment vehicles appropriate for the portfolio size? (*Practice S-3.3*)
- 13 Is a due diligence process followed in selecting service providers? (*Practice S-3.4*)
- 14 Are there periodic reports comparing investment performance against an appropriate index, peer group, and IPS objectives? (*Practice S-4.1*)
- 15 Are periodic reviews made of qualitative and/or organizational changes of investment decision-makers? (*Practice S-4.2*)
- 16 Are fees for investment management consistent with agreements and with all applicable laws? (*Practice S-4.4*)
- 17 Are "finder's fees" or other forms of compensation that may have been paid for asset placement appropriately applied, utilized, and documented? (*Practice S-4.5*)
- 18 Is there a process to periodically review the plan sponsor's effectiveness in meeting its fiduciary responsibilities? (*Practice S-4.6*)

## Part 2 – Assessing the Procedural Prudence of the Fiduciary Adviser

- 19 Has the fiduciary adviser: acknowledged fiduciary status in writing, received express authorization from an independent plan fiduciary to function as a fiduciary adviser, identified the "eligible investment advice arrangement," and provided the plan sponsor and the participants any other disclosures required by the adviser's registration with regulators (such as the ADV for a RIA)? (*Practice A-1.3*)
- 20 Are documents pertaining to the adviser's investment management process filed in a centralized location and maintained for a period of six years? (*Practice A-1.2*)
- 21 Does the fiduciary adviser have a procedure for providing information to a participant about the adviser's investment process prior to the time they receive any advice and annually thereafter, upon request, and in the event of any material change in the adviser's information? (*Practice A-1.2*)

- 22** Does the adviser provide in writing to the plan sponsor and each participant:
- Any material affiliation or contractual relationship with any other party in the development of the investment advice program?
- Any material affiliation or contractual relationship with any other party in the selection of the investment options under the plan?
- The past performance of the investment options under the plan?
- All fees or other compensation to the fiduciary adviser or any affiliate in connection with the advice or with the sale, acquisition or holding of any investments?
- Any material affiliation or contractual relationship of the advisor or any affiliate in connection with any investment on which advice is offered?
- The manner, and under what circumstances, any participant information provided under the investment advice arrangement will be used or disclosed?
- The types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser?
- The adviser is acting as a fiduciary for the provision of the advice?
- Participants receiving advice may use other advisers that have no material affiliation with, and receive no compensation from, the investments?  
*(Practice A-1.3)*
- 23** Are the fiduciary adviser's explanations provided to participants written in a clear and conspicuous manner, and in a manner the average plan participant can understand? Are the explanations sufficiently accurate and comprehensive to reasonably apprise the participant of the information required in the notice? *(Practice A-1.3)*
- 24** Is there evidence that investments occur solely at the direction of the participant? *(Practice A-1.4)*
- 25** Has the computer-driven advice model (model) used by the fiduciary adviser been certified by an independent "eligible investment expert" (when one is utilized)?
- 26** Can the adviser demonstrate that the sources, timing, and distribution of retirement savings for each participant have been taken into consideration? *(Practice A-2.1)*
- 27** Can the adviser demonstrate that each participant's retirement time horizon has been taken into consideration? *(Practice A-2.1)*
- 28** Can the adviser demonstrate that each participant's level of investment risk has been taken into consideration? *(Practice A-2.2)*
- 29** Can the adviser demonstrate that an "expected" or "modeled" return which takes into account all of the participant's sources for retirement income has been calculated for each participant? *(Practice A-2.3)*
- 30** Can the adviser demonstrate that participant assets are appropriately diversified to conform to each participant's specified time horizon, risk/return profile, and asset class preferences? *(Practice A-2.4)*
- 31** Are the adviser's methodology and tools used to establish appropriate portfolio diversification effective and consistently applied? *(Practice A-2.4)*
- 32** Does each participant's Participant Policy Statement (PPS) define the duties and responsibilities of the adviser? *(Practice A-2.6)*
- 33** Does each participant's PPS define a suggested investment strategy that is consistent with the participant's risk tolerance, asset class preferences, retirement time horizon, and expected return; also taking into account other sources of retirement income? *(Practice A-2.6)*
- 34** Does each participant's PPS define rebalancing guidelines? *(Practice A-2.6)*
- 35** Are participants provided relevant and timely information about the performance of their investment options? *(Practice A-4.1)*
- 36** Are the adviser's operations periodically reviewed to foster continued improvement? *(Practice A-4.6)*

# The Periodic Table of Global Fiduciary Practices

<p><b>Practice M-1.1</b></p> <p>Senior management demonstrates expertise in their field, and there is a clear succession plan in place.</p>	<p><b>Practice M-1.2</b></p> <p>There are clear lines of authority and accountability, and the mission, operations, and resources operate in a coherent manner.</p>		
<p><b>Practice M-1.3</b></p> <p>The organization has the capacity to service its client base.</p>	<p><b>Practice M-1.4</b></p> <p>Administrative operations are structured to provide accurate and timely support services and are conducted in an independent manner.</p>	<p><b>Practice SA-1.1</b></p> <p>Investments are managed in accordance with applicable laws, trust documents, and written investment policy statements (IPS).</p>	<p><b>Practice SA-1.2</b></p> <p>The roles and responsibilities of all involved parties (fiduciaries and non-fiduciaries) are defined, documented, and acknowledged.</p>
<p><b>Practice M-1.5</b></p> <p>Information systems and technology are sufficient to support administration, trading, and risk management needs.</p>	<p><b>Practice M-1.6</b></p> <p>The organization has developed programs to attract, retain, and motivate key employees.</p>	<p><b>Practice SA-1.3</b></p> <p>Fiduciaries and parties in interest are not involved in self-dealing.</p>	<p><b>Practice SA-1.4</b></p> <p>Service agreements and contracts are in writing, and do not contain provisions that conflict with fiduciary standards of care.</p>
		<p><b>Practice SA-1.5</b></p> <p>Assets are within the jurisdiction of courts, and are protected from theft and embezzlement.</p>	<p><b>1</b></p> <p><b>ORGANIZE</b></p>
<p><b>Practice M-4.1</b></p> <p>There is a defined process for the attribution and reporting of costs, performance, and risk.</p>	<p><b>Practice M-4.2</b></p> <p>All aspects of the investment system are monitored and are consistent with assigned mandates.</p>	<p><b>Practice SA-4.1</b></p> <p>Periodic reports compare investment performance against appropriate index, peer group, and IPS objectives.</p>	<p><b>4</b></p> <p><b>MONITOR</b></p>
<p><b>Practice M-4.3</b></p> <p>Control procedures are in place to periodically review policies for best execution, "soft dollars," and proxy voting.</p>	<p><b>Practice M-4.4</b></p> <p>There is a process to periodically review the organization's effectiveness in meeting its fiduciary responsibilities.</p>	<p><b>Practice SA-4.2</b></p> <p>Periodic reviews are made of qualitative and/or organizational changes of investment decision-makers.</p>	<p><b>Practice SA-4.3</b></p> <p>Control procedures are in place to periodically review policies for best execution, "soft dollars," and proxy voting.</p>
		<p><b>Practice SA-4.4</b></p> <p>Fees for investment management are consistent with agreements and with all applicable laws.</p>	<p><b>Practice SA-4.5</b></p> <p>"Finder's fees" or other forms of compensation that may have been paid for asset placement are appropriately applied, utilized, and documented.</p>
		<p><b>Practice SA-4.6</b></p> <p>There is a process to periodically review the organization's effectiveness in meeting its fiduciary responsibilities.</p>	

<b>Practice SA-2.1</b> An investment time horizon has been identified.	<b>Practice SA-2.2</b> A risk level has been identified.	<b>Practice M-2.1</b> The organization provides disclosures which demonstrate there are adequate resources to sustain operations.	<b>Practice M-2.2</b> The organization has a defined business strategy which supports their competitive positioning.
<b>Practice SA-2.3</b> An expected, modeled return to meet investment objectives has been identified.	<b>Practice SA-2.4</b> Selected asset classes are consistent with the identified risk, return, and time horizon.	<b>Practice M-2.3</b> There is an effective process for allocating and managing both internal and external resources and vendors.	<b>Practice M-2.4</b> There are effective and appropriate external management controls.
<b>Practice SA-2.5</b> Selected asset classes are consistent with implementation and monitoring constraints.	<b>Practice SA-2.6</b> There is an IPS which contains the detail to define, implement, and manage a specific investment strategy.	<b>Practice M-2.5</b> The organization has a defined process to control its flow of funds and asset variation.	<b>Practice M-2.6</b> Remuneration of the company and compensation of key decision-makers is aligned with client interests.
<b>2</b> <b>FORMALIZE</b>	<b>Practice SA-2.7</b> The IPS defines appropriately structured socially responsible investment (SRI) strategies (where applicable).	<b>Practice M-2.7</b> The organization has responsible and ethical reporting, marketing, and sales practices.	<b>Practice M-2.8</b> There is an effective risk-management process to evaluate both the organization's business and investment risk.
<b>3</b> <b>IMPLEMENT</b>	<b>Practice SA-3.1</b> The investment strategy is implemented in compliance with the required level of prudence.	<b>Practice M-3.1</b> The asset management team operates in a sustainable, balanced, and cohesive manner.	<b>Practice M-3.2</b> The investment system is defined, focused, and consistently adds value.
<b>Practice SA-3.2</b> Applicable "safe harbor" provisions are followed (when elected).	<b>Practice SA-3.3</b> Investment vehicles are appropriate for the portfolio size.	<b>Practice M-3.3</b> The investment research process is defined, focused, and documented.	<b>Practice M-3.4</b> The portfolio management process for each distinct strategy is clearly defined, focused, and documented.
<b>Practice SA-3.4</b> A due diligence process is followed in selecting service providers, including the custodian.		<b>Practice M-3.5</b> The trade execution process is defined, focused, and documented.	

**LEGEND:**

Practices in gold that begin with an "SA" define a fiduciary standard of excellence for Investment Stewards and Investment Advisors.

Practices in orange that begin with an "M" define a fiduciary standard of excellence for Investment Managers.

"SA" Practices highlighted are best reviewed in conjunction with Investment Managers Practices.

## Mission of Fiduciary360

To promote a culture of fiduciary responsibility and improve the decision-making process of investment fiduciaries.

“SOCIETY DEPENDS UPON PROFESSIONALS TO PROVIDE RELIABLE FIXED STANDARDS IN SITUATIONS WHERE THE FACTS ARE MURKY OR THE TEMPTATIONS TOO STRONG. THEIR PRINCIPAL CONTRIBUTION IS AN ABILITY TO BRING SOUND JUDGMENT TO BEAR ON THESE SITUATIONS. THEY REPRESENT THE BEST A PARTICULAR COMMUNITY IS ABLE TO MUSTER IN RESPONSE TO NEW CHALLENGES.”

–Dr. Robert Kennedy



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