

Competitive & Compliant Strategies for Growth

Jason Roberts

CEO, Pension Resource Institute
Partner, Retirement Law Group



- Plan Sponsor Demand vs. “Advisor” Supply
- Overview of Competitors’ Business Models
- Opportunities for Advisors under SECURE Act
- Advisor Managed Accounts
- Best Practices for Best Interest™
- Q&A

- **Half** report “regulatory compliance” as top 3 concerns
- **A third** have faced a governmental audit of their plan(s) over the past 2 years
- **Half** with > 25,000 employees have submitted to governmental audit in last 3 years
- Nearly **half** reported facing moderate to significant barriers to effective governance related to legislative and regulatory complexity to a moderate or greater extent; and
- A **third** said the same regarding lack of time.

2016 Willis Towers Watson U.S. Retirement Plan Governance Survey



31% said their advisor is very good at proving their value to the plan



38%—an all-time high—are actively looking to change their advisor

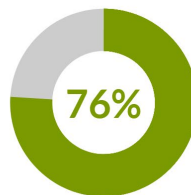


55% agreed that a solicitation for plan business piqued their interest

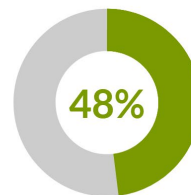
2017 Fidelity Investments Plan Sponsor Attitudes Survey 8th Edition

Most Valuable Advisor Service

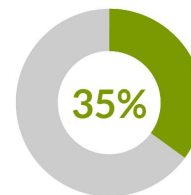
- **34%** Retirement plan expertise
- **18%** Ability to understand the needs of our company and employees
- **17%** Investment expertise
- **15%** Helps us comply with fiduciary requirements



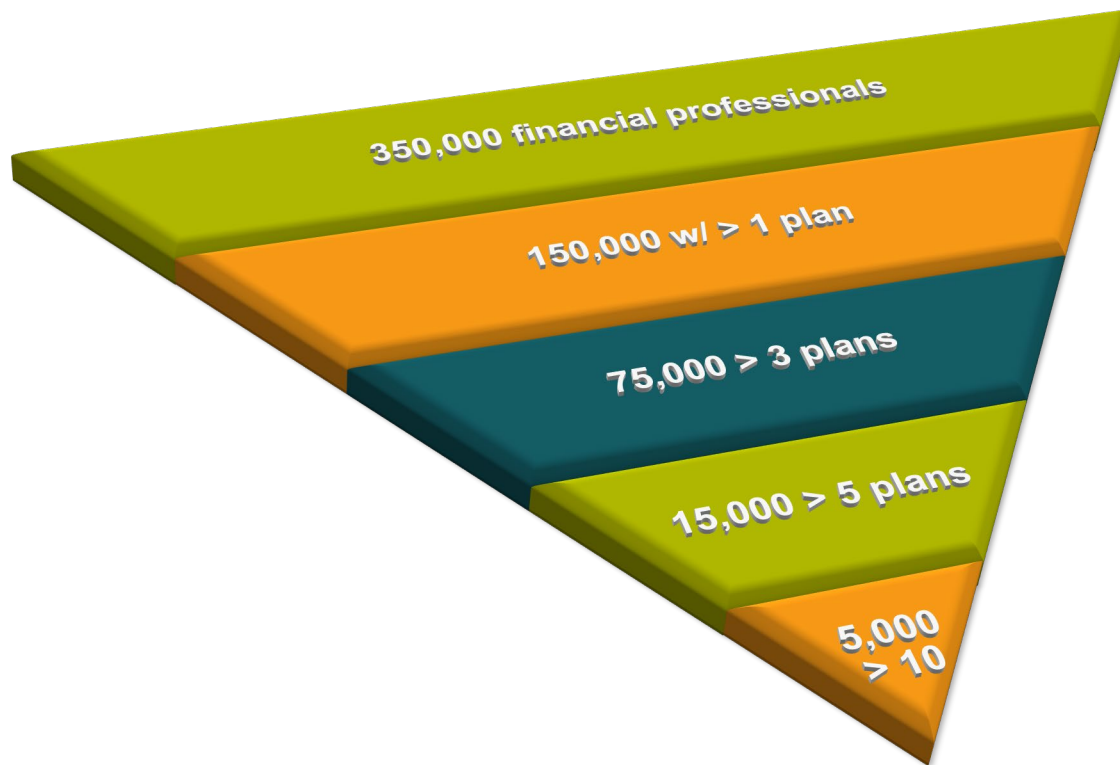
Have hired or are considering hiring someone to help with fiduciary duties



Expect significant impact on management of their plan



Remain less confident in their understanding of plan fiduciary responsibilities



	Broker-Dealer	RIA	Bank Trust
Pros	<ul style="list-style-type: none"> - Easy BOR takeovers 	<ul style="list-style-type: none"> - Fiduciary services <i>may</i> be available - Level comp. - Boardroom services are typically higher touch but generally delivered directly by advisor (vs. team or centralized/regional specialists) 	<ul style="list-style-type: none"> - Fiduciary - Level comp. - Boardroom increasingly being delivered via centralized or regional reps; branch reps may serve breakroom only - Not as much focus from competitors
Cons	<ul style="list-style-type: none"> - Non-fiduciary only - Unlevel comp. potential - Focus on breakroom - Susceptible to competitors 	<ul style="list-style-type: none"> - Longer takeovers from BDs - Scale required to deliver boardroom services if IAR acts alone - Clients' expectations may be higher - Agreements may not convey full scope/value of services 	<ul style="list-style-type: none"> - Longer takeovers from BDs - Scale required to deliver boardroom services if branch rep acts alone - Clients' expectations may be higher - Agreements may not convey full scope/value of services
Consultant Opportunities	Very High	Moderate to High	Lower (if centralized/regional) Very High (if not)

A person is a fiduciary if he/she:

- Exercises discretion over the management of the plan or plan assets
- Renders investment advice to a plan or plan participant for compensation
- Has any discretionary authority in the administration of the plan.

See [ERISA Sec. 3\(21\)](#)

A person is a NOT a fiduciary with respect to other services provided, which are authorized, even if the person is acting as an ERISA fiduciary with respect to one or more of the above functions.

INVESTMENTS

- Approving investment policies
- Selecting new investments
- Monitoring and replacing existing investments

SERVICE PROVIDERS

- Hiring or firing service providers for the plan
- Approving payments to service providers from the plan
- Overseeing the activities of service providers
- Delegating fiduciary duties to service providers (i.e., investment managers)

ADMINISTRATION

- Determining eligibility and vesting
- Approving loans, QDROs, and distributions from the plan
- Filing governmental reports (i.e., Form 5500)
- Processing contributions
- Delivering required disclosures to participants (i.e., 404(a)(5) fee disclosure, Summary Plan Description, blackout notices, etc.)

Fiduciaries must use a process ...

that, among other things, “gives ‘appropriate consideration’ to those facts and circumstances that... the fiduciary knows or should know are relevant to [arrive at a well-informed decision]”

See 29 CFR 2550.404a-1



EXAM-READY FIDUCIARY FILE



INVESTMENTS

Investment Policy Statement (IPS)

Copy of IPS

Reporting

- Investment Selections and Monitoring Reports
- Model Portfolio Allocation and Performance Reports
- Other Investment Reports and Research
- 3(38) Investment Fiduciary Selection and Monitoring Material and Reports

Committee Meetings

- Meeting Minutes
- Documentation Resulting From Action Items



ADMINISTRATION & REPORTING

Plan Documents

- Plan Document (With Amendments & Restatements)
- Trust Document
- Summary Plan Description (SPD)
- Determination Letter(s)
- Delegations of Fiduciary Duty

Notices

- Benefits Statements
- Notice of right to diversify out of employer securities
- 404(c); Auto Enrollment/QDIA; 404a-5 (Annual); & Blackout

Bonding & Insurance

- Copy of: Fidelity Bond; Fiduciary Liability Policy; Etc.

Service Provider Agreements

- Custodial; Investment Advisor; Recordkeeping; Etc.

Participant Communications

- Enrollment Records
- Beneficiary Designations
- Contribution Elections
- Employee Meeting Attendee Lists
- Distribution Records
- Proof of 404a-5 Notice Distribution

Discrimination Testing

- Testing Records

Regulatory Filings

- 5500 & Other Financial Statements & Filings

Committee Meetings

- Meeting Minutes
- Documentation Resulting From Action Items



SERVICE PROVIDERS

Plan Needs Analysis

- Documentation of plan and participant needs

Requests for Proposal (RFP)

- Compiled Results
- Provider Proposals

Fee Disclosure Statements

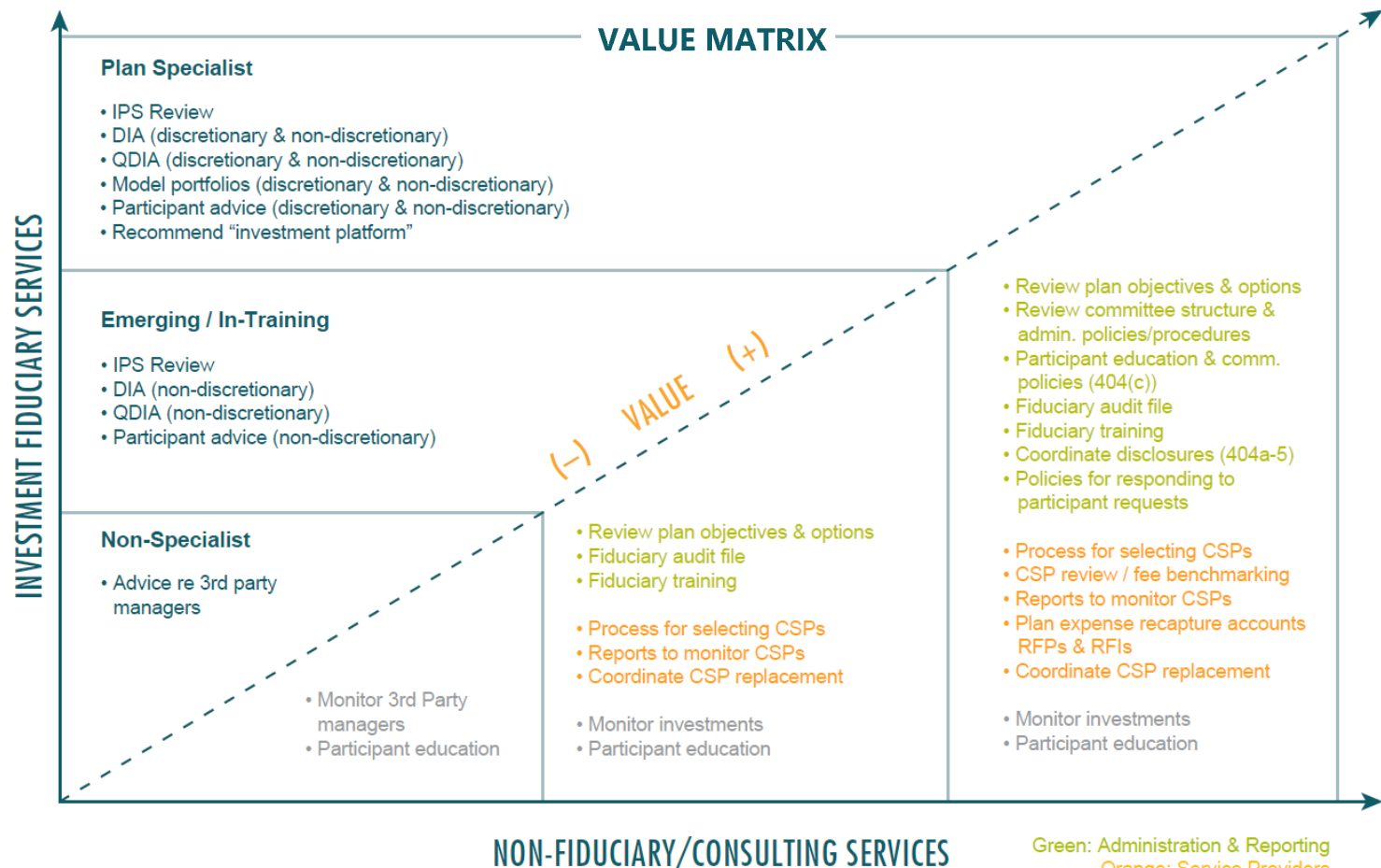
- 408(b)(2) Fee Disclosure Reports

Benchmarking & Performance Analysis

- Benchmarking Reports
- Fee & Service Reviews

Committee Meetings

- Meeting Minutes
- Documentation Resulting From Action Items



SERVICE PROVIDERS

Advisor assists with identifying services and products for Fiduciaries to consider

Committee evaluates needs of plan, performs initial review of vendors, proposals, etc.

Proposed arrangements sent to Fiduciaries to approve as necessary and reasonable

ADMINISTRATION & REPORTING

Advisor assists with information gathering and helps the committee monitor fulfillment

Committee calendars deadlines and confirms filing/disclosure requirements

Committee verifies fulfillment and sends disclosures & filings to Fiduciaries to approve

INVESTMENTS

Role of the advisor depends on scope of services (investment education, advice or management)

Committee members review IPS and investment monitoring reports

If replacement is necessary, Committee sends proposed investment(s) to Fiduciaries to approve

PLAN ADVISOR

Info/analysis presented to Fiduciaries

Plan sponsors must designate person(s) to make decisions affecting the management or administration of the plan. These fiduciaries will be subject to ERISA and must act prudently and solely in the interests of plan participants.

FIDUCIARY (VOTING MEMBER) DUTIES

Follow plan document(s)

Select & monitor service providers when necessary

Select, monitor and diversify investments

Avoid unnecessary expenses

Make informed decisions

FIDUCIARY FUNCTION:



Basis for Decisions are documented and filed.



FIDUCIARY FILE

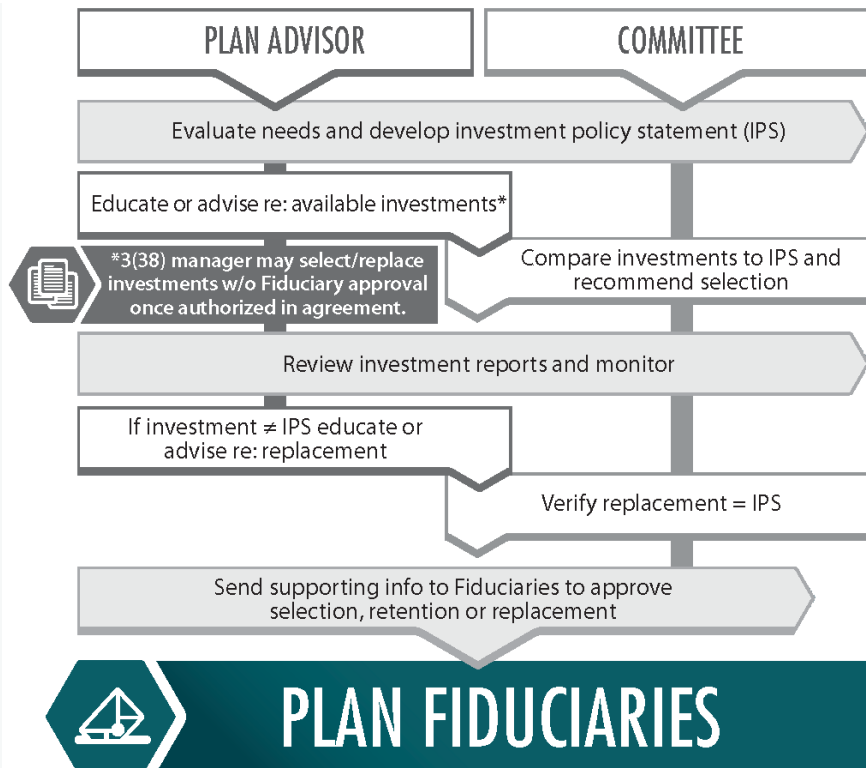
Documents & information considered and support for decisions

Advisor, Third-Party or
TPA's RIA Plan-Level
Services

1. DIAs;
2. Models;
3. QDIA; and
4. Participant Advice or
Managed Accounts

Advisor's Participant-Level
Services

1. Education and/or
Advice
2. Financial Wellness,
Retirement Planning,
etc.



PRI G-MAP at P. 4

ERISA requires fiduciaries to follow a prudent process when selecting, monitoring and/or replacing investments. Sec. 404(c) protects fiduciaries who offer a “broad range” of diversified Designated Investment Alternatives (DIAs).

If participants are automatically enrolled, fiduciaries must designate appropriate Qualified Default Investment Alternatives (QDIAs).

INVESTMENTS



EVALUATION

- How much help do participants need in planning and investing for retirement?
- What behaviors do participants exhibit regarding risk tolerance, withdrawal patterns, etc.?
- What is the appropriate number/type of investment options to make available to participants?
- What criteria should govern the process for selecting, monitoring, and replacing DIAs and QDIAs, model portfolios and investment managers, if applicable?

OUTPUT

Documentation of information reviewed and basis for decision to select, monitor and replace investments.

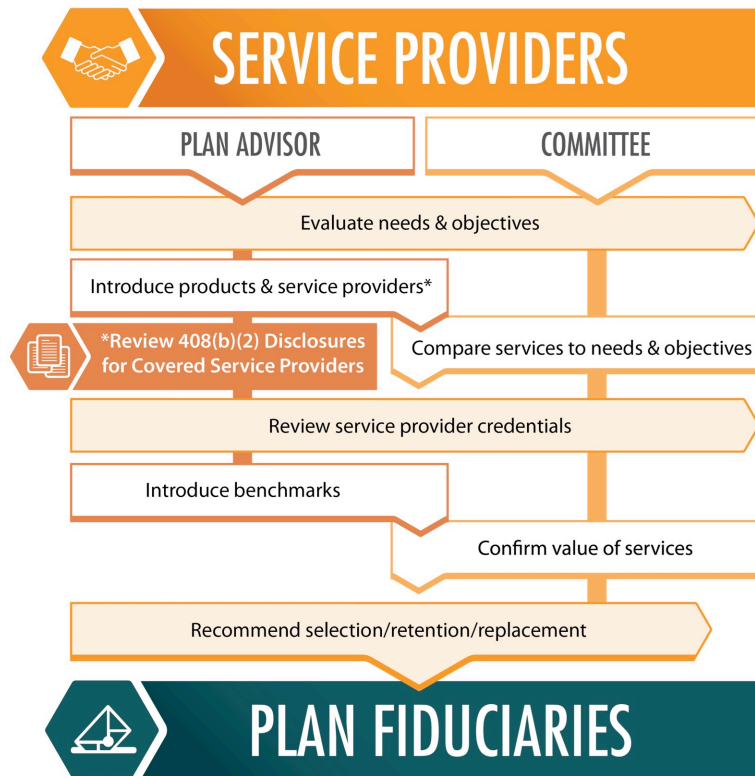
FIDUCIARY FILE



Most plan fiduciaries require some degree of support in the service provider selection/monitoring process.

The flowchart on the right shows how an experienced retirement plan consultant can help.

Note: Plan fiduciaries remain responsible for selecting, monitoring and replacing service providers.



Fiduciaries are required to make informed decisions when selecting, monitoring and replacing service providers. Sec. 408(b)(2) requires all “covered” service providers to disclose certain information, including a description of the services and all direct and indirect compensation received.

To avoid entering into a prohibited transaction, fiduciaries must evaluate this information, prior to selection and periodically thereafter, to ensure the services are necessary and terms and compensation are reasonable.

SERVICE PROVIDERS



EVALUATION

- What are the needs of the plan/participants?
- Are participants satisfied and are services utilized?
- What is the experience and background of the service provider?
- How is the service provider compensated?
- Are there any potential/actual conflicts of interests that may affect the judgment of the service provider?
- Is the compensation received reasonable in light of the value of the services provided?

OUTPUT

Documentation of information reviewed and basis for decision to select/retain service provider.

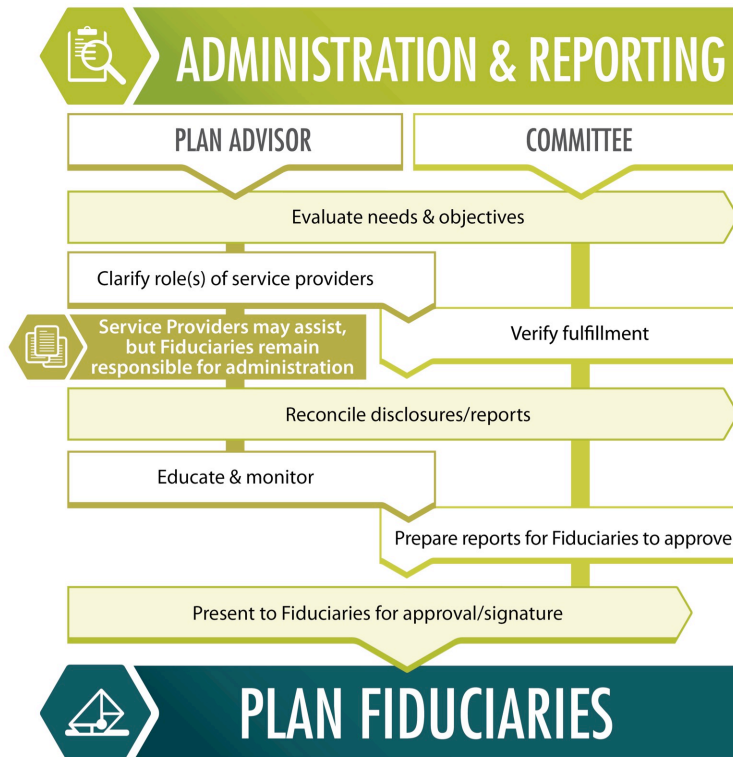


FIDUCIARY FILE

Most plan fiduciaries require some degree of support in meeting the administration and reporting requirements.

The flowchart on the right shows how an experienced retirement plan consultant can help.

Note: Plan fiduciaries remain responsible for ensuring the plan is properly administered and all required notices/filings have been sent.



Fiduciaries are responsible for ensuring that the plan is properly administered and certain notices, disclosures and forms are provided to participants and regulators. The 408(b)(2) disclosures should contain the data necessary to prepare disclosures to participants under 404a-5 and for completing the Form 5500 and Schedule C, if applicable.

Fiduciaries should be familiar with the plan document and create a process to oversee eligibility and vesting. The plan advisor may assist by coordinating service provider assistance.

ADMINISTRATION & REPORTING

EVALUATION

- What are the policies concerning, and who is responsible for approving, loans and distributions, and who will ensure contributions are deposited?
- What notices, forms and/or disclosures are required to be provided to participants and at what frequencies?
- What records will be used to reconcile information required to determine eligibility and vesting?
- Who is responsible for preparing, approving and distributing notices, disclosures and filings?

OUTPUT

Copies of all required notices, disclosures and filings and any supporting information and/or notes.

FIDUCIARY FILE



- Fiduciaries and committee members are educated and understand their roles and responsibilities;
- The plan is administered and operated in accordance with the Plan Document;
- Services provided to the plan are necessary;
- Expenses are properly paid from plan assets and CSP disclosures are current;
- CSPs are delivering services in accordance with the terms of their arrangements, and fees paid to CSPs continue to be reasonable in light of the value received;
- All notices and required disclosures and reports are timely and accurately delivered;
- Compliance documentation is retained and current;
- Investments are selected, monitored and replaced in accordance with the IPS; and
- Participants receive sufficient information from which to direct the investment of their individual accounts.

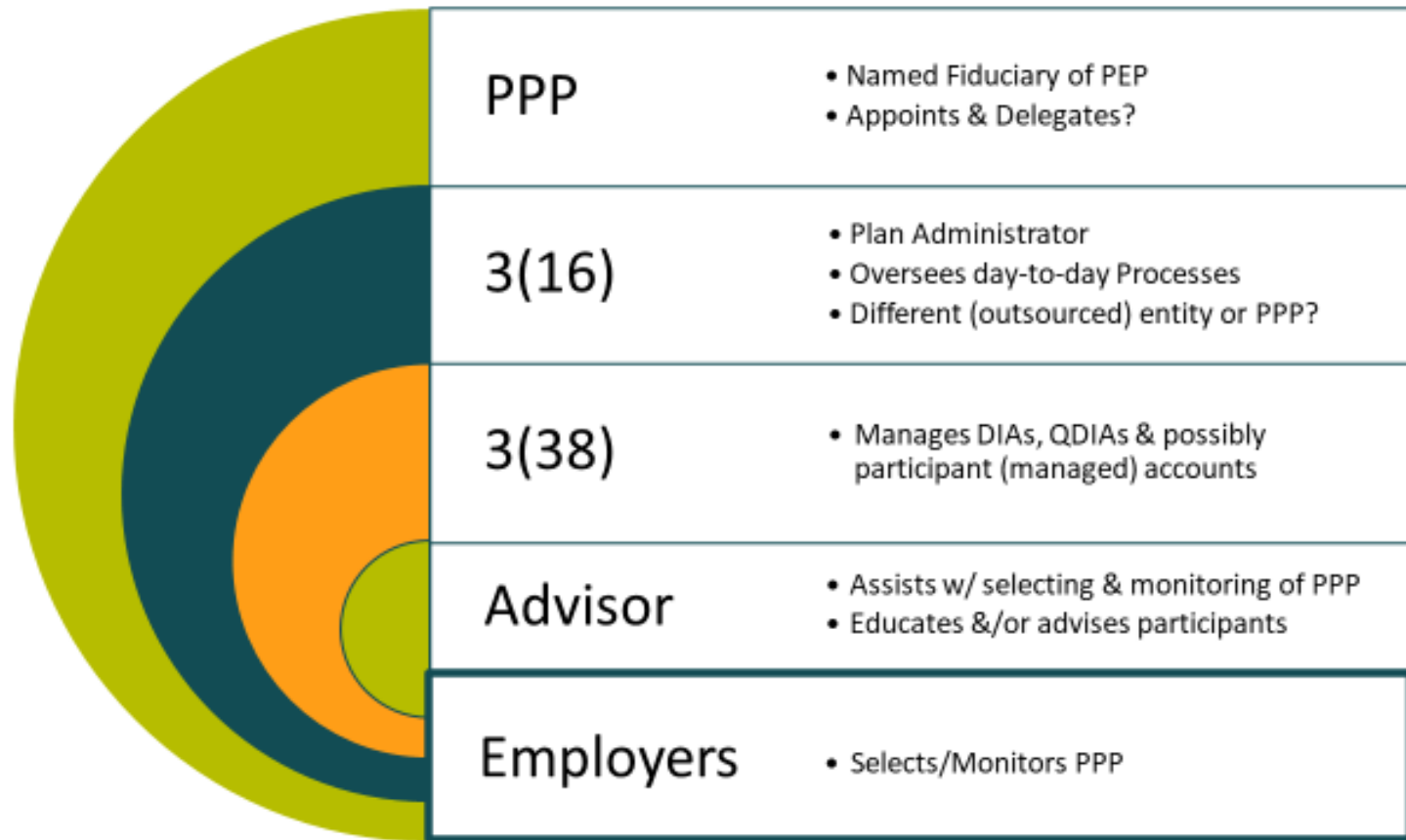


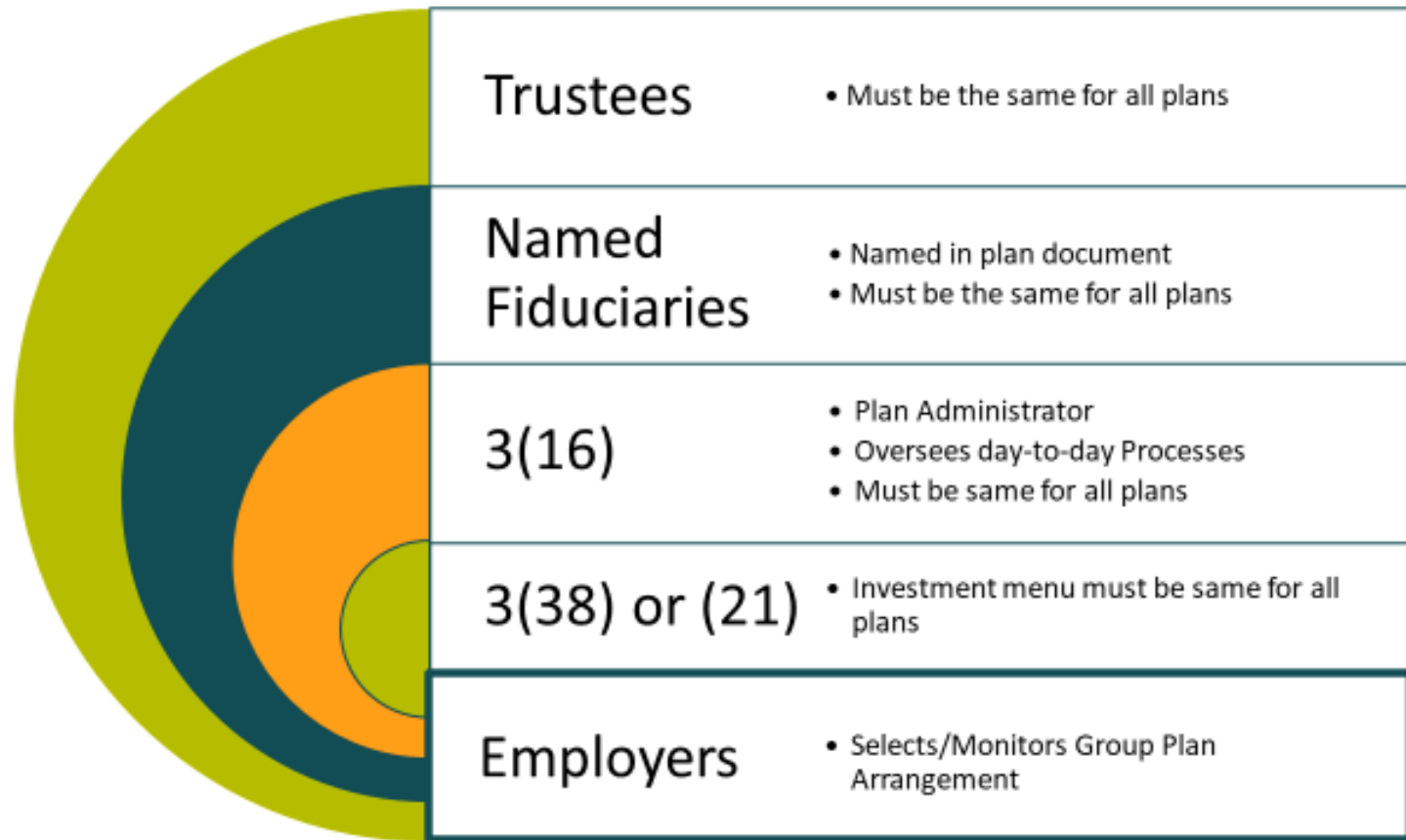
Plan Type	Features/Requirements
Professional Employer Organization Plan (PEO MEP)	The “bona fide Professional Employer Organization” was permitted by the new DOL MEP reg to sponsor a traditional MEP as long as it meets certain criteria. These still exist after the SECURE Act, but a PEO which questions whether they actually meet the DOL regs’ rules may want to consider operating as a PEP MEP instead.
Association Retirement Plan (ARP)	This term was coined by the DOL’s new regulation on MEPs. All it does is refer to the traditional MEPs, under which the DOL somewhat expanded the definition of what constitutes an “association” (and therefore has “commonality”). They still exist after the SECURE Act.
Multiple Employer Plan (MEP)	This is your plain vanilla, traditional “Multiple Employer Plan.” Yes, they will still exist after all is said and done, and if you have a MEP that meets all of the pre-SECURE Act rules regarding “commonality and control” (including the regs which also describe PEO MEPs and Association MEPs), you don’t need to do anything-EXCEPT that the (i) plan terms must provide for a simplified “One Bad Apple” (or unified plan rule) and (ii) there are new Form 5500 reporting requirements.
Pooled Employer Plan (PEP)	Simply put, [a PEP] is a still MEP,, but one that doesn’t fulfill the “commonality” requirement. Instead, the PEP will qualify as a MEP if it has something called a “Pooled Plan Provider.” Yes, the MEP that’s a PEP will also (i) have to have a simplified “One Bad Apple” (or unified plan rule) rule in its terms, and (ii) have special Form 5500 reporting requirements.
Group of Plans	Neither a MEP nor a PEP MEP, [but is comprised of] unrelated employers who can file a “combined” Form 5500 if they have the same: i) trustee; ii) plan administrator; iii) plan year; iv) and investments options. The idea of a GOP is that if you don’t meet the MEP rules, and you have no interest in joining a PEP by using a PPP, you can still get economies of scale by entering into common contractual/ fiduciary arrangements with unrelated employers- by filing a single 5500 in the same way a MEP or PEP can.

* Originally published by Bob Toth, of counsel to Retirement Law Group, at: <https://www.businessofbenefits.com/2020/01/articles/multiple-employer-plans/glossary-of-terms-for-meps-after-the-secure-act/>

Plan Type	Features/Requirements
Pooled Employer Plan	<p>A “Pooled Plan Provider” has to be hired by the PEP in order to qualify as a MEP. A PPP is a “person” (it really can be anybody: TPA, and insurance company, a mutual fund management firm, a broker, or even just an individual) that is: i) a named fiduciary [that] accepts full responsibility, in writing, for the plan meeting the terms of ERISA and the Code; ii) registers with the DOL as such, before becoming a PPP; iii) the participating employer agrees to provide to the PPP the info needed to properly operate the plan; and iv) the PPP makes sure all parties handling plan assets are bonded.</p> <p>A traditional MEP doesn’t qualify as a PEP. And until the DOL and IRS issue guidance on how you do a PEP, you can operate under a good faith basis after the effective date.</p> <p>PS: Each Participating employer in the PEP is still considered a plan sponsor.</p>

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- Plan advisor selects core funds and allocations for various combinations of participant data points;
- Provider and/or third-party RIA maps data points to allocations and trades accounts;
- Can be tri-party (advisor, provider/3rd-party RIA and sponsor), subadvisor or direct advisor to sponsor agreement; and
- Participant-level agreements and disclosures may be required under certain arrangements.

Compensation Arrangement	Pros	Cons
Paid by Employer	<ul style="list-style-type: none"> • Most compliant – avoids scrutiny • High adoption rates 	<ul style="list-style-type: none"> • Less attractive to many sponsors
Charged as Plan-Level Fee	<ul style="list-style-type: none"> • Justifiable – if fees are reasonable • High adoption rates 	<ul style="list-style-type: none"> • Can present competitive fee challenges
Charged to Participant Accounts	<ul style="list-style-type: none"> • Potential for higher revenue 	<ul style="list-style-type: none"> • Potential compliance risk (but can be mitigated through policies, procedures and training) • Lower adoption rates

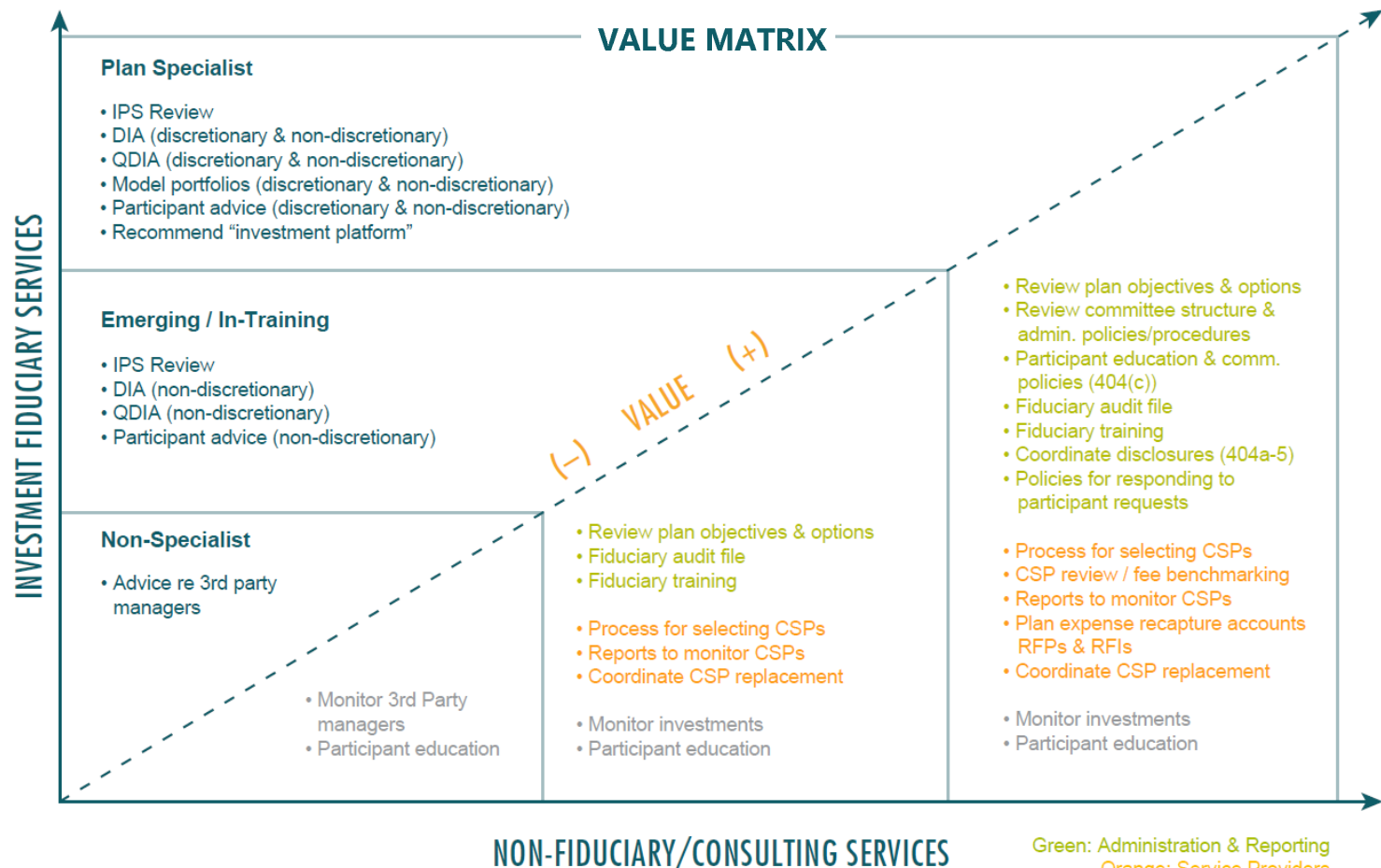
Reasonable compensation =

- Value of services provided in alignment with the needs of the client;
- “value” is based upon the nature, scope and frequency of services provided; and
- background, experience and credentials of the fiduciary.



SAMPLE NEEDS ASSESSMENT WORKSHEET

	VERY IMPORTANT	IMPORTANT	NOT IMPORTANT / UNSURE
REVIEW OF OBJECTIVES AND OPTIONS AVAILABLE THROUGH THE PLAN?			
COMMITTEE STRUCTURE AND ADMINISTRATIVE POLICIES?			
PARTICIPANT COMMUNICATION AND EDUCATION POLICIES?			
DEVELOPMENT AND MAINTENANCE OF FIDUCIARY AUDIT FILE AND DOCUMENT RETENTION?			
ASSISTANCE WITH SELECTING, MONITORING AND REPLACING SERVICE PROVIDERS?			
REVIEW OF COVERED SERVICE PROVIDER DISCLOSURES AND FEE BENCHMARKING?			
REVIEW OF REPORTS TO MONITOR SERVICE PROVIDERS?			
ASSISTANCE WITH OVERSEEING PLAN EXPENSE ACCOUNTS?			
PREPARATION AND REVIEW OF REQUESTS FOR PROPOSALS?			
DEVELOPMENT OF INVESTMENT POLICY STATEMENT?			
INVESTMENT EDUCATION AND GUIDANCE?			
INVESTMENT RECOMMENDATIONS OR ADVICE?			
DISCRETIONARY INVESTMENT MANAGEMENT?			
ENROLLMENT SUPPORT AND INVESTMENT EDUCATION AND GUIDANCE?			
INVESTMENT RECOMMENDATIONS OR ADVICE?			
DISCRETIONARY INVESTMENT MANAGEMENT?			



FOR MORE INFORMATION:



[PENSION-RESOURCES.COM](https://pension-resources.com)

 [@PensionResource](https://twitter.com/PensionResource)

jroberts@pension-resources.com



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 [@RetirementLaw](https://twitter.com/RetirementLaw)

jroberts@retirementlawgroup.com