

## Duty to Follow Plan Terms IV: The Tough One

At the same time, this is the most difficult and easiest duty to follow. It is very simple. The plan sponsor and committee are required to follow plan terms as outlined in the documents and instruments governing the plan. If you have the documents its easy; if not, it is very difficult.

We find this duty lacking the most often when we talk to plan sponsors. Many plans either don't have the documents needed or have them and either have never read them or don't follow them.

When we talk about plan documents we are talking about many things. Included is the actual plan itself and the Investment Policy Statement (IPS).

The IPS is perhaps the most important document, other than the plan contract. It basically discusses the "the rules of the road" as to how the plan is going to be managed. It includes many items that are too numerous to list here but a few very important ones need to be discussed.

It tells the plan sponsor how to diversify the mutual fund selection. It tells them the type of funds that need to be included. Importantly, it tells the committee what the Qualifies Default Investment Alternative (QDIA) should look like. It may talk about how to determine whether a fund should be put on watch or removed from the plan. It will also talk about how to monitor the plan funds for performance. It generally will include protections for the fiduciaries as long as policies are followed.

If you do not have an IPS how do you know how to manage the plan? Plan performance could suffer if the committee is managing the plan without paying any attention to or not having an IPS.

If your plan ever gets audited, you can be sure the DOL will ask for the IPS. If you do not have one be ready for a fine and a deeper dive into your plan. They just want to know if you are managing the plan for the "sole benefit of plan participants and beneficiaries". If all documents have been drawn up and implemented the audit will be easy. If not, it will be very unpleasant.

This is the final post in our five-part series on managing 401ks. We have spent a lot of time talking about consequences of not administering your 401k plan properly. We have told you many times what happens in an audit if you are not properly executing your fiduciary duties. Perhaps, these are not the most important reasons, although they are important. The most important reason is to have a better performing plan. So, what does that mean? If you manage your plan for the "sole benefit of the participants and beneficiaries" you will have happier employees. They will, because they will see better financial performance which may cause them to invest more. As plan participant become more involved their financial well being will rise. As financial well-being rises, employee stress drops and participants become happier and will, we hope, better employees. As an employer, we think over time, you will become a more competitive employer and will keep and attract the best people.

If you have any questions or need any help with your plan, please give us a call.

Jim and Sean