



AAFCPAs

Best Practices for Plan Fiduciaries



DAVIDE VILLANI
MANAGING DIRECTOR
AAFCPAs

Agenda/Objectives

- Who are your plan fiduciaries?
- What requirements do fiduciaries have under ERISA?
- Can fiduciary liability be shifted to others?



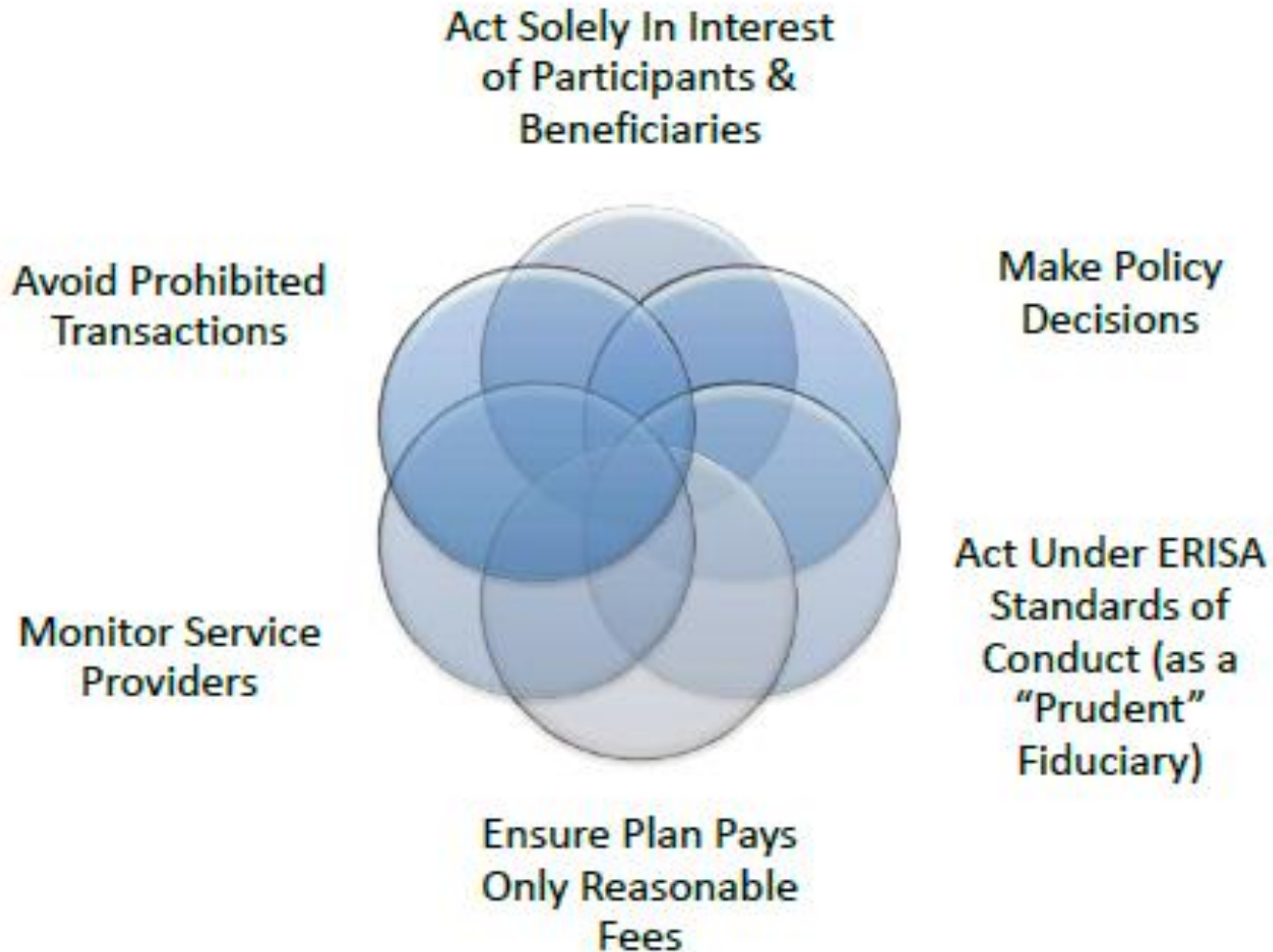
Key take-away - Practical steps for a fiduciary to take in meeting their responsibilities

Who Are Your Plan Fiduciaries?

- **Named Fiduciary (specifically named or appointed)**
 - Designate a plan oversight committee
 - Plan trustees
 - Fiduciary advisor and/or investment manager
- **Functional Fiduciary (due to job functions performed)**
 - Plan administrators
 - Finance department
 - Human resource department
 - Payroll
- **Documentation is critical**
- Define and document all of the plan fiduciaries and their responsibilities
- Be careful to follow the plan document



Plan Fiduciary Responsibilities



Shifting Fiduciary Liability to Others

- **ERISA section 3(38) investment manager**
 - Must be a bank, insurance company or a registered investment advisor (RIA)
 - Plan sponsor can delegate investment selection and monitoring responsibilities
 - 3(38) investment manager has discretion
 - Generally the 3(38) investment manager will consult with and discuss decisions with the plan sponsor/fiduciaries
- **ERISA section 3(21) fiduciary**
 - Less responsibility than a 3(38) fiduciary
 - Recommend, assist, and advise the plan sponsor
 - 3(21) fiduciary has NO discretion

Shifting fiduciary liability to others

- The plan sponsor still has ultimate responsibility to monitor the 3(38) investment manager or 3(21) fiduciary



Key Take-Aways

- Document who the plan fiduciaries are and their respective responsibilities
- Assign a plan oversight committee that will meet regularly
- Work with your 3(38) or 3(21) advisors to monitor and select investments and retain materials from reviews of investments and related plan fees
- Retain minutes for plan oversight committee meetings and memorialize all decisions
- Maintain a plan compliance binder and checklist to ensure fiduciary compliance and retention of respective documentation
- Review our [sample Fiduciary Responsibility Checklist](#)

Questions & Comments



DAVIDE VILLANI
MANAGING DIRECTOR
AAFCPAs

774.512.4012
dvillani@aafcpa.com