



## FIDUCIARY FITNESS

Great emphasis by the SEC [Security Exchange Commission] and the DOL [Dept. of Labor] is being placed upon Plan Sponsors and providers alike to provide full disclosures of the operational characteristics of retirement plans. Preparing our clients for complying with these imminent rulings is only one of the services provided by Trent's program for the investment management of retirement plans. The eight "tips" below help to limit Plan Sponsors Fiduciary liability. Our highlighting represents only a few of the services Trent Capital offers. In addition, Trent offers the personnel certification of AIF [Accredited Investment Fiduciary] as evidence that we are acting in our client's best interests. Ask your present provider if they are willing to sign on [we are] as a Co-Fiduciary beside you the Plan Sponsor. Their answer should be very telling as to "...in whose best interest do they always act?"

- 1. Appointments to Fiduciary or Investment Committees.** It is appropriate to appoint the senior corporate officers to your plan's fiduciary or investment committees consistent with (1) knowledge and understanding of financial matters, (2) ability to devote appropriate time and resources to serving on the committee, and (3) a need to avoid "conflicts" with company responsibilities. Those appointed should actually be those performing most of the day-to-day committee responsibilities, rather than delegating them.
- 2. Board of Directors Role.** Generally, we prefer that the members of the board of directors not serve in a fiduciary capacity, with the one exception being that the board appoint the named fiduciary of the plan (to the extent that the appointment is not "hardwired" in the governing documents). This does not mean a member of the board will be excluded from playing an important role in the oversight of a company's benefit program.
- 3. Implement an Investment Policy Statement (IPS).** Nothing in ERISA requires that plans have an IPS, but the DOL and some courts have suggested that it is a good practice. An IPS can provide fiduciary protection - assuming it is followed - by clarifying fiduciary roles and expectations, by serving as evidence of proper fiduciary practice and procedure, and by helping to avoid the types of participant misunderstandings that can lead to litigation. The typical IPS contains a statement of purpose, a statement of plan investment objectives, a description of the investment structure, and a description of investment selection and ongoing monitoring procedures. We prefer that an IPS not include specific duties and responsibilities of company employees serving on fiduciary or investment committees.
- 4. Appoint an Investment Committed Liaison.** Investment committees generally meet only periodically but, for large plans, there typically are decisions that must be made or carried out on an ongoing basis. Where there is a full-time director of investments or similar position, they are likely the best candidate to be the committee's liaison to implement committee policy, oversee company staff that perform investment functions and communicate with various plan service providers.
- 5. Revisit Fee Arrangement with Service Providers.** With several lawsuits pending, new DOL disclosure requirements completed or pending and rumblings of discontent from Capital Hill, plan fees are going to be in the spotlight in 2008. It is critical that plan fiduciaries review their fee arrangements and investment alternatives on a regular basis. Now is the time to start this kind of review.
- 6. Develop Prudent Investment Oversight Procedures.** Plan fiduciaries should have procedures in place for monitoring the performance of plan investments relative to objectives set forth in the plans' IPS. Fiduciaries should be reviewing quantitative performance data on managers' vis-à-vis benchmarks and peer groups quarterly. They also should be performing qualitative reviews of each manager or designated investment alternative annually.
- 7. Observe a Regular Schedule for Committee Meetings.** It is important to establish a protocol of meetings and the documentation of committee deliberations and decisions in order to prove that plan fiduciaries did, in fact, act prudently in making decisions. If your plan is one of the many that fail to hold regular committee meetings and/or keep complete records, start 2008 off by getting into good habits.
- 8. Review Your Fiduciary Disclosure Obligations.** For fiduciaries of 401(k) and other individual account plans, now is a good time to review the type of investment and other plan information provide to participants, and even to consider whether to develop or beef up participant education programs.

The adage, "*An ounce of prevention is worth a pound of cure.*" seems to apply here. By following the eight steps discussed above, your plan will be more efficient and you will save yourself a lot of future aggravation.

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