

A fiduciary is a person or organization that acts on behalf of a person or persons, putting their interests above their own. In retirement plans, plan sponsors (the business owner who sets up the plan) are always fiduciaries and must act in the best interest of the participants and beneficiaries. If they are a sole fiduciary, they are held solely liable for the compliance of the plan.

However, the DOL recognizes that business owners might not (and rarely are) experts in retirement plan regulations and compliance. It states: "A fiduciary can hire a service provider or providers to handle fiduciary functions, setting up the agreement so that the person or entity then assumes liability for those functions selected." Therefore, business owners can hire a fiduciary or fiduciaries to take on certain tasks and liability for various aspects of the plan. This allows business owners to reduce the workload and risk associated with their retirement plan.

DIFFERENT TYPES OF FIDUCIARIES

There are three types of fiduciaries business owners can hire in order to outsource the tasks and liability associated with their retirement plans.

Investment fiduciaries

3(21) – A 3(21) investment advisor provides investment advice and expertise, but the plan sponsor must still make investment decisions if they hire this type of fiduciary.

3(38) – A 3(38) investment manager is not only the subject matter expert for investments, but also takes full control of the plan's assets and investment choices. Therefore, hiring a 3(38) fiduciary provides more investment liability protection than a 3(21).

Administrative fiduciary

3(16) – A 3(16) fiduciary or plan administrator performs several administrative and compliance-related tasks for the plan. This type of fiduciary manages IRS and DOL compliance, along with tedious work, such as sending notices, tracking eligibility, and approving loans and distributions.



Hiring a fiduciary is a great way to save time and reduce risk, especially if employers don't have the time or resources to manage their retirement plan confidently. Retirement plan compliance and investments are complicated and require specific expertise, so if business owners don't have experts on their team, outsourcing to a fiduciary can be a great option for them. Contact us to learn more about this option and the 3(16) Fiduciary Services we offer.