



3(16) Fiduciary Frequently Asked Questions

What is a 3(16) Fiduciary?

A 3(16) plan administrator is an administrative fiduciary on a retirement plan as defined by ERISA Section 3(16). Anyone can act as a 3(16) administrator on an employer sponsored retirement plan. Under ERISA, a plan fiduciary is defined as an individual who has discretionary authority or responsibility for plan administration. Every plan must have a person who serves as its administrator for ERISA purposes, and this person is required to fulfill certain reporting and disclosure obligations. By outsourcing these administrative duties to Anchor 3(16) Fiduciary Solutions, Plan Sponsors can limit their responsibilities and associated risks.

Why is the 3(16) Role Important?

The Department of Labor has heightened its vigilance over Plan Sponsors following the publishing of ERISA rule 408(b)(2) (otherwise referred to as the "fee disclosure rule"). As most Plan Sponsors or the individuals appointed to handle the day-to-day operations associated with the company's retirement plan are not aware of their fiduciary responsibilities, and most administrative mistakes on a plan are a result of an oversight by the 3(16) Plan Administrator.

What are the Benefits to the Plan Sponsor of Engaging a 3(16) Fiduciary?

As an independent 3(16) fiduciary whose founders have extensive backgrounds in the TPA marketplace, Anchor 3(16) Fiduciary Solutions, LLC will assume various administrative services for Plan Sponsors and Administrators. Anchor 3(16) performs tasks in conjunction with the TPA, financial advisor, payroll provider, and investment platform for seamless operation of the plan. Through this arrangement, plan sponsors can reduce their fiduciary liabilities while allotting more time to focus on running and growing their business.

What are the Benefits to the Advisor and Investment Vendors of Engaging a 3(16) Fiduciary?

Anchor 3(16) helps advisors to demonstrate their unique value to Plan Sponsors, providing differentiation from the competition while relieving them from various time-consuming fiduciary compliance tasks. A professional 3(16) fiduciary who is fluent with ERISA language can be an asset to vendors to be able to provide a reliable solution to Plan Sponsors who want relieved of administrative tasks.

Can the Plan Sponsor Eliminate All Fiduciary Obligation by Hiring a 3(16) Fiduciary?

Unfortunately, no. Choosing a 3(16) fiduciary to be responsible for some or all of the plan administration duties can help to limit the Plan Sponsor's fiduciary responsibility. However, given the fact that it is the Sponsor's decision to hire and retain a 3(16) fiduciary, they remain responsible for the duly diligent selection and monitoring of such service provider.

What is the difference between a 3(16), 3(21), and 3(38) Fiduciary?

ERISA [Section 3\(16\)](#) fiduciary services involve various plan administration duties. Typically, these different administrative services provided by a 3(16) fiduciary are tasks that most Third Party Administration firms (TPA) do not want to perform due to fiduciary liability. Some of these services performed by Anchor 3(16) include signing of the Form 5500 on the Administrator's behalf, reviewing and approving loans and distributions, ensuring proper implementation of 401(k) elections and changes, and handling payroll contribution uploads to the investment platform.

An individual is a fiduciary under ERISA [Section 3\(21\)](#) if he or she exercises any authority or control over plan assets or provides investment advice to Plan Sponsors. This type of fiduciary shares responsibility for any recommendations that are acted upon with regard to investments, essentially mitigating the Plan Sponsor's risk.

An investment manager is defined as a fiduciary under ERISA [Section 3\(38\)](#) due to their responsibility to manage the plan's assets. This type of fiduciary can buy and sell investments without Plan Sponsor approval. ERISA provides that a Plan Sponsor can delegate the responsibility (and thus, likely the liability) of selecting, monitoring and replacing investments to a 3(38) investment manager/fiduciary. A 3(38) fiduciary may only be a bank, an insurance company, or a registered investment advisor (RIA) subject to the Investment Advisors Act of 1940.

Additional questions or concerns? Contact us!

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