

# Avoiding Mistakes

## Choosing & Diversifying Plan Investments

ERISA requires plan fiduciaries to make investment decisions prudently and for the sole benefit of plan participants and their beneficiaries. ERISA also requires plan fiduciaries to diversify the plan investments to minimize the risk of large losses. These requirements apply both to:

- *participant-directed plans*, in which employees make their own investment decisions by choosing from the plan's investment menu and,
- *trustee-directed plans*, in which the plan trustee is directing all plan investments.

ERISA not only requires employers to make these decisions initially, when establishing the plan, but to implement ongoing procedures for monitoring plan investments.

ERISA does not require plan fiduciaries to select the investment option which will have the most favorable outcome, but instead requires them to implement thoughtful procedures for choosing and monitoring plan investments.

### **FAILURE TO PROPERLY CHOOSE AND DIVERSIFY INVESTMENTS**

A fiduciary whose investment decisions fail to satisfy these broad requirements of ERISA can be held personally liable for any resulting plan losses.

### **IMPLEMENTING AN INVESTMENT POLICY STATEMENTS**

One of the best ways to minimize the fiduciary risk associated with investment decision-making is to adopt and follow an Investment Policy Statement (IPS). A properly drafted IPS, while technically not required by ERISA, provides a roadmap for making plan investment decisions and documents prudence in investment selection and monitoring. When an IPS is adopted, it is important that it be communicated to employees and closely followed. An IPS that is not followed can create more of a liability than not having one at all as this could document a lack of care in selecting and monitoring plan investments.

TPC recommends that all plan sponsors and plan fiduciaries talk with their investment advisors about the need for an IPS. For more information about the specifics of drafting an Investment Policy Statement, please contact your TPC plan consultant today.

