

Solutions for a New Economy

Our goal is to provide confidence in guiding complex decisions, provide oversight based on wisdom, and offer extensive knowledge, backed with formal educations.

Our services include retirement plan consulting, endowment & foundation consulting, along with individual investment & retirement management services.

By always acting in a fiduciary capacity, we provide objective and unbiased investment advisory services to our clients.



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Lost Art of Monitoring your Consultant

If you are a retirement plan sponsor, your list of duties is long and overshadowed by your personal liability under ERISA. ERISA requires fiduciaries to monitor their consultants, a duty that should be formally documented. Unfortunately, evaluating a consultant is a specialty within a specialty and infrequently performed.

The Department of Labor and Securities and Exchange Commission are very concerned with potential conflicts of interest. The Investment Adviser Act tries to expose all conflicts of interest that might incline a consultant to render advice which was not disinterested. The Center for Due Diligence believes that the ongoing due diligence of your consultant should include a review of formal educations, credentials, experience, resources, and fiduciary liability coverage.

From a compensation perspective, consultants should be disclosing direct and indirect compensations derived from their services. As a plan sponsor, are you obtaining written disclosure from your consultant? If the consulting firm provides

services outside of investment advice, do you know and understand the flow of compensation and potential conflicts? Examples of areas that can lead to conflicts of interest include services provided to investment bankers or work in the expert witness area.

Have you documented the educational background, professional credentials, and experience of your consultants? If you are ever challenged on the use of your consultants, their professional backgrounds will either aid or hinder your defense. Although most plan sponsors have fiduciary insurance, do you know the level of insurance your consultant has to cover their exposures? Is the level of coverage adequate given the total level of a consulting firm's client base?

The Center for Due Diligence encourages plan sponsors to use all credible means at their disposal to check a consultant's background. For example, ERISA Section 411 specifically precludes some individuals from serving ERISA plans.

This Issue's Trivia Question

Q: How much is a ton of money worth?

A: If the denomination is the \$20 bill, a ton of money is worth \$19.6 million.

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The Layaway Plan

The SEC requires timely filing of disclosure documents. Has the consulting firm filed disclosures in a timely manner? For example, Form ADV is required to be filed by March 31st annually.

A consultant owes its clients a duty of utmost good faith, and full and fair disclosure of all facts. Consultants also have an affirmative obligation to employ reasonable care to avoid misleading clients. In addition to the disclosure required by Form ADV, all consultants, as fiduciaries, are expected to inform advisory clients of any conflicts of interest. To help fulfill this obligation, plan sponsors may want to periodically seek direct written confirmation, in addition to the Form ADV, that all potential conflicts of interest have been disclosed. This should be signed by the plan's lead consultant in order to cover all of the bases.

If you would like to explore this topic further, please feel free to contact us.

In today's economy, the layaway plan has made a big resurgence. In a layaway plan, you set the items you want to purchase aside at the store. You make several payments to complete the sale and receive the items. This seems simple enough, but the stores generally have some conditions.

For example, they charge a service fee, require a down payment, set a payment schedule, and charge a cancellation fee if you change your mind. This is not a bad scheme for the stores.

One of the best layaway plans has been the US employer sponsored retirement system. The retirement system grew to \$17.5 trillion in assets by the end of 2010. Unlike a store layaway plan, employers usually reward setting aside money with matching contributions. As a result, Americans have continued to grow their

retirement assets even in turbulent market conditions.

David Wray from the Plan Sponsor Council of America recently commented on the stabilizing effects our retirement system has on the markets. As other market participants were pulling money out of the

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markets during the recent downturn, retirement participants continued to buy into the markets.

In fact, the average contribution rate remained just above 5%.

Have you considered your retirement layaway plan? To sustain your standard of living into retirement it is estimated that you will need to save between 10% and 15% of your earnings over your working career. In a similar manner to a store, this will require a payment plan. Discipline over time in good and bad markets is required to achieve the best layaway plan.

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