

ERISA 3(16) Fiduciary

Frequently asked questions about the 3(16) Plan Administrator role



What is a 3(16) Fiduciary?

Under ERISA, a **3(16) fiduciary is the Plan Administrator** who has control over the management of the retirement plan.

The Plan Administrator is the person named in the plan document. **If no person is named, then the Plan Administrator is the Plan Sponsor** (or the committee of persons that established and who currently maintain the plan). An authentic, outsourced ERISA section 3(16) Plan Administrator can **accept all fiduciary responsibilities and the associated liability** on behalf of the Plan Sponsor.

Why is the 3(16) role important right now?

ERISA regulation 408(b)(2) placed **stricter requirements on Plan Sponsors** to evaluate their service providers' fees and determine whether they are reasonable. DOL enforcement actions indicate that **Plan Sponsors of all plan sizes are not equipped** to deal with this significant change to their fiduciary responsibility. Many are not properly trained in ERISA plan governance or service provider monitoring and may wrongly assume the services of their current providers will fulfill such requirements.

Department of Labor (DOL) Enforcement Statistics

In fiscal year (FY) 2017, the Employee Benefit Security Administration (EBSA – enforcement arm of the DOL) collected **\$692,300,000** in plan restorations, fines, penalties, and corrections from 1,114 of 1,704 (65.3%) retirement and health and welfare plans.

In FY 2017, the EBSA reviewed **more than 174,603 inquiries and recovered \$418,700,000 through resolution of individual complaints**. Inquiries that were received from workers and their beneficiaries via EBSA's toll-free number and Web site resulted in 60.5% of the DOL's overall penalty receipts. Total recoveries equaled \$1,100,000,000.

Why didn't we already have a 3(16) in place?

Many Plan Sponsors are unaware that they have an **option to outsource their responsibilities** to an accredited, independent, professional 3(16) administrator that reduces their legal risk and lessens their fiduciary burden.

Recent regulatory changes have dramatically altered the landscape for Plan Sponsors and their fiduciary role. Plan Sponsors have no escape from ERISA's demand that they have processes to prove that service provider fees are reasonable, and to ensure that their investment providers serve their plans' best interests.

A lack of proper vendor management places Plan Sponsors at increased risk of violating their fiduciary duty.

What responsibilities do Roland|Criss accept?

Named fiduciary: We execute the IRS Form 5500 and assume the role of responsible plan fiduciary.

ERISA Compliance: Ensure compliance with all exemptions from prohibited transactions available within ERISA.

Plan Oversight: Ensure plan operations (all plan services and transactions) conform to the plan's documents and policies.

Service Provider Management: Select and monitor all plan service providers (including the recordkeeper, third-party administrator (TPA), custodian, advisor(s), fiduciaries, and auditor) and ensure their respective fees are reasonable.

Filing Accuracy: Verify that all required filings with the federal government (including the Form 5500) are accurate and timely.

Participant Distribution Approvals: Confirm participants are qualified for the distribution type, approved, and retain all documentation.

Document Fulfillment: Approve (determine adequacy and accuracy) and distribute required documents, disclosures, and notices to eligible plan participants on a timely basis.

What are the benefits of engaging a professional, non-conflicted 3(16) Plan Administrator?

- Plan Sponsors already have a full-time job. So, do we. Fiduciary Plan Administration is all we do. It is our sole focus for your protection. We are not a recordkeeper, TPA, custodian, or investment advisor. There is no duplication of services.
- Plan Sponsors no longer bear sole responsibility for developing or implementing the processes required for prudent (documented) plan oversight. Roland|Criss accepts that responsibility in writing.
- Plan Sponsors and participants alike gain a tangible demonstration of the high quality and value of their plan's selected service providers.
- Our ERISA regulation 408(b)(2) assurance process means participants pay only reasonable administrative and investment expenses - creating a path to better retirement outcomes.
- Service providers enjoy the streamlined flow of operational and administrative processes - because a professional 3(16) is fluent in ERISA language and requirements.
- A professional 3(16) Plan Administrator who agrees to take on that role in writing adopts the legal liability that would otherwise fall solely on the Plan Sponsor under ERISA.
- For those responsible for managing plan and participant transactions each day, mistakes WILL occur. With a professional Plan Administrator monitoring operations on your behalf, errors of commission or omission are promptly discovered, given priority and swiftly reconciled in order to maintain full regulatory compliance.
- The oversight of a fully independent 3(16) Plan Administrator provides Plan Sponsors peace of mind, knowing that all plan decisions are made without conflict and in the best interest of participants, as mandated by ERISA.

In summary, fiduciary outsourcing includes two major benefits - reduced administrative burden AND reduced risk.

Many so-called 3(16) fiduciary solutions refuse to accept the Named Fiduciary role

Erroneously thinking they have delegated their fiduciary risk to a third party, many Plan Sponsors learn that vendors exist that promote an inauthentic ERISA 3(16) program that fails to remove any legal risk from the plan's managers.

For more information contact us 3 ways:

- Email: [click here](#)
- Phone: 800-440-3457
- Website: rolandcriss.com