3(21) AND 3(38) FIDUCIARY SERVICES

Plan sponsors are required by ERISA to provide an investment lineup for participants that has been prudently selected and monitored to minimize and control risk. To ease this burden, a retirement plan advisor may act as an ERISA 3(21) investment fiduciary with regards to the selection, monitoring and replacement of plan investments or as an ERISA 3(38) fiduciary with full discretion regarding the selection, monitoring and replacement of plan investments.

A retirement plan advisor can serve in either a 3(21) or 3(38) fiduciary capacity, and in some cases, both capacities. The needs and desires of the plan sponsor typically dictate the specific arrangement, which is predicated upon the subject of risk mitigation versus risk avoidance. Some plan sponsors want assistance with their fiduciary responsibilities but want to maintain discretion and control of their plans' investment menus. Others want to shift responsibilities to a third party due to their lack of expertise, and ultimately, fear of exposure to liability.

Differences

Any individual is a fiduciary under Section 3(21) if he or she exercises any authority or control over the management of the plan or the management or disposition of its assets; if he or she renders investment advice for a fee (or has any authority or responsibility to do so); or if he or she has any discretionary responsibility in the administration of the retirement plan.

Section 3(38) defines "investment manager" as a fiduciary due to their responsibility to manage the plan's assets. 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 Advisers Act of 1940.

3(21)	3(38)
State in writing fiduciary status	State in writing fiduciary status
Follows IPS to build an approved fund menu*	Drafts IPS & must follow the IPS to build the fund menu
Provides a list of approved funds	Builds fund lineup**
Assists with monitoring of approved fund menu	Monitors fund lineup
Makes recommendations for changes to approved fund menu	Makes changes to fund lineup
Recommends mapping guidelines	Determines mapping strategies
Provides documentation	Provides documentation

*Plan sponsors can choose from a menu of approved funds that the advisor maintains through the use of an IPS and the proprietary Scorecard System™.

**The advisor will build, monitor and make the necessary changes to the fund lineup for a plan.

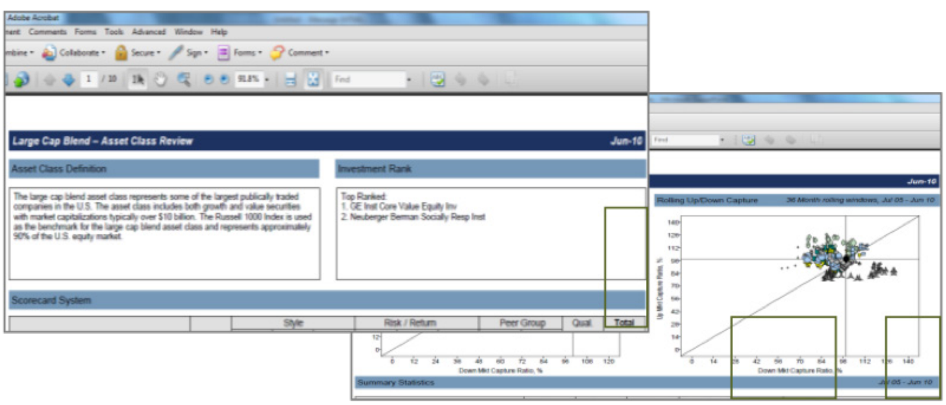
Similarities

Anyone can call himself or herself a fiduciary, but a fiduciary is determined not only by title, but by actions as well. Both 3(21) and 3(38) advisors accept fiduciary responsibility and adhere to ERISA §404(a)'s duty to serve solely in the interest of plan participants. In addition, both have to meet the "prudent expert" standard of care. Plan sponsors retain the responsibility to select and monitor the advisor, regardless of their advisor's fiduciary status. Plan sponsors should consider the advisor's experience, skill and level of expertise, in addition to their desire to take on exposure to potential liability.

The Scorecard System

Retirement Plan Advisory Group's proprietary Scorecard System™ is an independent industry pace-setter that takes into account risk adjusted return characteristics, as well as style, peer group rankings and qualitative factors. This institutional approach, which can be used for plans of any size, utilizes a straight forward 0 to 10 pass/fail criteria to evaluate funds and fund managers.

Eighty percent of the fund's score is quantitative, incorporating modern portfolio theory statistics, quadratic optimization analysis, and peer group rankings. The other 20 percent of the score is qualitative, taking into account factors such as manager tenure and the fund expenses. The System evaluates active, passive and asset allocation strategies.



Each client receives a complete Fiduciary Investment Review to identify top performing funds, as well as those to be watchlisted or replaced, as dictated by the IPS. The Fiduciary Investment Review is reviewed by a consultant with your goals and objectives in mind.

Working with a retirement plan advisor as your 3(21) or 3(38) fiduciary has great potential to limit your exposure to fiduciary liability, while reducing the time and expertise required to perform the plan's ongoing investment monitoring and selection duties. Most of the responsibility for (and virtually all responsibility in the case of 3(38) engagement) investment-related decisions is shifted to the advisor, giving the plan sponsor greater peace of mind and time to focus on other aspects of its business.

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