

Fact Sheet

U.S. Department of Labor

Employee Benefits Security Administration

June 26, 2003

Secretary of Labor's Enforcement of ERISA

What is ERISA?

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for retirement and health plans that are voluntarily established by private sector employers to provide protection for individual participants in these plans.

ERISA requires plans to provide participants with information regarding plan features and funding; imposes fiduciary duties on those who manage and control plan assets; requires plans to establish a grievance and appeals process for participants to seek disputed benefits from their plans; and gives participants the right to sue for benefits and breaches of fiduciary duty.

ERISA protects plans from mismanagement and misuse of assets through its fiduciary provisions.

Who is a Fiduciary?

ERISA defines a fiduciary as anyone who exercises discretionary control or authority over plan management or plan assets; anyone with discretionary authority or responsibility for the administration of a plan; or anyone who provides investment advice to a plan for compensation or has any authority to do so. Plan fiduciaries include plan trustees, plan administrators, and members of a plan's investment committee.

Fiduciary status is not just a matter of title, however. If a person exercises the requisite authority over plan assets or administration then the person is a fiduciary, whether or not the plan documents name him or her as a fiduciary. For example, when a corporate officer exercises authority over the management of plan assets or the selection of plan officials, the officer acts as a fiduciary to the plan and is subject to ERISA's duties. If, however, the plan does not name the officer as a fiduciary, and the officer neither has nor exercises any authority over the plan or its assets, ERISA's fiduciary provisions do not apply.

What are Fiduciary Duties?

The primary responsibility of fiduciaries is to run the plan solely in the interest of participants and beneficiaries and for the exclusive purpose of providing benefits and paying plan expenses. Fiduciaries must act prudently and with undivided loyalty to the plan's participants. They must also follow the terms of plan documents to the extent that the plan terms are consistent with ERISA. In addition, they are expressly forbidden from engaging in certain transactions on behalf of the plan that would benefit parties related to the plan such as other fiduciaries, service providers, or the plan

sponsor.

Fiduciaries who do not follow these principles of conduct may be personally liable to restore any losses to the plan or to restore any profits that they make through improper use of plan assets. Courts may take whatever action is appropriate against fiduciaries who breach their duties under ERISA, including seeking their removal.

What Is The Role Of The Labor Department In Regulating Retirement Plans?

The Department of Labor enforces Title I of ERISA, which, in part, establishes participants' rights and fiduciaries' duties. The Labor Department's Employee Benefits Security Administration is the agency charged with enforcing the rules governing the conduct of plan managers, investment of plan money, reporting and disclosure of plan information, enforcement of the fiduciary provisions of the law, and workers' benefit rights.

The Secretary of Labor may directly bring a civil action under ERISA to enforce the fiduciary duty provisions of ERISA. The Secretary also has limited authority to bring a civil action to enforce ERISA's participation, vesting, and funding standards with respect to a tax-qualified plan. In addition, the Secretary of Labor has discretion to intervene in lawsuits filed in federal court to enforce rights under ERISA, and to file amicus briefs expressing her view of the law.

Contact Information

More information about the ERISA law and EBSA may be obtained on the agency's website at www.dol.gov/ebsa.