

SPONSOR E-NEWS



Welcome to the June 2007 edition of Sponsor E-News!

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This month's edition explains how the Transamerica Investment Monitor provides support to you in fulfilling your fiduciary duties.

Part 2 of Sponsor E-News' ongoing series, *Fiduciary Focus*, will help you understand the functional definition of a fiduciary, so that you will know who is – and is not – a fiduciary for your plan.

Your participants can benefit from our new online educational tools, including a new participant resource page on our Web site.

We continue to highlight the 5500 process in this issue. We will provide you with information on the filing deadlines for your Form 5500, in addition to information on how to file an extension for your Form 5500, if needed.

To help convey important information to you quickly, our newsletter messages are color-coded:



Action Required: Noted in red, these messages require action, such as a signature, by the Trustee or Fiduciary of the plan



Legislative / Compliance Update: Noted in blue, these messages discuss legislative or compliance-related topics.



For Your Information: Noted in green, these messages provide you with general information covering subjects such as participant education, product and service features, and helpful tips for using the Web site.



Transamerica Investment Monitor

Did you know that Transamerica's Investment Monitor can help you fulfill your fiduciary duties?

The Transamerica Investment Monitor ("TIM") is a well-balanced investment selection and monitoring process designed to support you in understanding and fulfilling your fiduciary responsibilities.

TIM is Transamerica Retirement Services¹ proprietary investment selection and monitoring process. TIM provides you with the information you need to build a quality investment platform.

Under the TIM process, each new investment option is evaluated according to strict selection criteria, and subsequently monitored according to equally stringent standards to ensure it qualifies to remain in our investment platform.

Transamerica considers reviewing performance a critical component of the selection and monitoring process. However, as a practical approach, our investment committee does not chase performance when reviewing potential investment options. TIM's strategy also considers investment options that behave consistently within their asset class and have lower than average management expenses. TIM examines six different criteria to determine if an investment option is appropriate for our investment line-up:

- Performance Measurement
- Style Consistency
- Fees & Expenses
- Investment Process & Portfolio Composition
- Management Tenure
- Organization

TIM's exhaustive due diligence process seeks to identify managers and organizations that have the resources, processes and disciplines in place to deliver consistent performance over time.

Where can I access the Transamerica Investment Monitor?

- Log on to www.TA-Retirement.com using your Sponsor password and ID.
- Select "Plan Funds" in the left-hand navigation.
- Select "Investment Scorecard."
- Select "How to Read Your Investment Scorecard" for a useful guide to understanding the TIM process.

If you'd like to learn more about Transamerica's Investment Monitor, please contact SponsorConnect at (866) 498-4557 for additional assistance.



Fiduciary Focus: Part II

In last month's *Fiduciary Focus*, we discussed how ERISA (the Employee Retirement Income Security Act of 1974) defines a plan fiduciary in functional terms based on an individual's authority and control over the

plan itself.

This month, *Fiduciary Focus* will examine how ERISA's functional definition has been applied to determine an individual's fiduciary status.

How is ERISA's functional definition applied to determine fiduciary status?

ERISA's functional definition is fact-based and requires a determination that the acts performed by an individual be consistent with the acts described in ERISA's definition of a plan fiduciary (see above). If an individual performs acts consistent with ERISA's definition, then they are a plan fiduciary. In cases of dispute, a court of law typically determines an individual's fiduciary status.



Certain types of activities will likely result in fiduciary status.

Certain activities performed by an individual will likely result in fiduciary status. These include:

- Interpreting plan provisions
- Selecting and monitoring plan investments and investment vehicles
- Exercising discretion in approving or denying claims for plan benefits
- Selecting and monitoring third party service providers
- Negotiating the compensation of third party service providers
- Appointing other plan fiduciaries
- Delegating responsibility to, or allocating duties among, other plan fiduciaries
- Giving plan investment advice for a fee



Certain job "titles" inherently carry fiduciary status.

Certain job titles that are associated with the administration of qualified retirement plans automatically give an individual the authority to perform fiduciary functions. As a result, these positions inherently carry fiduciary status. Titles and functions that automatically bestow fiduciary status include the *Named Fiduciary, Trustee and Plan Administrator*.

The fact that a title can automatically establish fiduciary status may seem to contradict ERISA's functional approach in determining fiduciary status. However, these titles formally grant discretionary authority over the plan, which is consistent with ERISA's functional definition. Further, whether or not the individual acts on that authority is irrelevant. Simply having the authority triggers ERISA's functional definition and creates fiduciary status for that individual.

An individual can be a fiduciary without ever performing a fiduciary function.

A person who, by title or position, has the right and the power to exercise discretionary authority over the plan may be deemed a plan fiduciary, and held liable if he or she fails to exercise his or her discretionary authority and the plan suffers as a result.

An individual without final decision-making authority can be a plan fiduciary.

ERISA states that an individual is a plan fiduciary if he or she has *any* discretionary authority over a retirement plan or the disposition of plan assets. Therefore, an individual does not have to have sole and/or final decision-making authority to be a plan fiduciary.

An individual without formal plan authority can be deemed a fiduciary.

While courts of law have had differing opinions on this subject, you should be aware that some courts have determined that individuals who exercise discretionary actions with respect to a qualified retirement without proper authority to do so become plan fiduciaries under ERISA and are liable for any plan losses resulting from their actions.

An individual can unknowingly be a plan fiduciary.

An individual's fiduciary status is determined through an objective assessment of the functions they perform with respect to a plan. If the individual performs, or has the authority to perform, any of the activities defined in ERISA Section 3 (21) (A), that individual is a plan fiduciary even if they are not aware of it.

Next month in *Fiduciary Focus*, we will examine the limitations to fiduciary status.



New Online Tools for Participants

As part of our goal to expand educational resources for participants, we are pleased to announce the launch of our new online *Made Simple Series* of web-based presentations and the new *Resources* Web page available to your participants.

Enrollment and Seminars

Transamerica has created multi-media presentations to help participants enroll in your company's retirement plan, and learn the basics of investing. We have provided links to these presentations for you below.

[Enrollment Presentation](#)

"Retirement: A Journey Made Simple"® describes the benefits of your company-sponsored retirement plan, and provides a step-by-step guide to enrolling. This presentation is also available via DVD or video in both English and Spanish.

[Investing Made Simple](#)

This seminar educates your employees on the fundamentals of investing for retirement. It presents the advantages of starting early, investing for the long term, balancing risk, and many more important investment principles. This presentation is also available in PowerPoint format, in English or Spanish.



New "Resources" Web Page For Your Employees

Our new *Resources* Web page is available for employees under the "Employee" tab on www.TA-Retirement.com. The *Resources* page highlights the Web tools that your participants

can use to more effectively plan for retirement.

We hope that you will take a moment to view the new *Resources* Web page, and notify your employees of the retirement planning tools available to them. If you need any assistance, please contact us.

LEGISLATIVE / COMPLIANCE UPDATE

Filing an Extension for Form 5500

July 31, 2007 is the filing deadline for IRS Form 5500, plus schedules and any attachments, for 2006 calendar-year plans (those plans whose 2006 plan year ended December 31, 2006).

Before your plan's recordkeeper can complete the Form 5500 and most attachments, all year-end testing should be completed (including any corrections made for failed tests). If your plan requires an independent audit, you will need to coordinate the audit with your independent accountant.

Good news: You might already have an extension on the filing due date of the Form 5500! If the employer sponsoring the retirement plan filed for a tax extension on its tax return, the due date for the Form 5500 is automatically extended to the employer's tax filing due date.

For example: For calendar-year plans, the employer's tax filing was due March 15, 2007. If the employer filed an extension until September 15, 2007, then the Form 5500 also doesn't have to be filed until September 15, 2007.

Better news: Even if the employer didn't file for a tax extension, you can still extend the filing date of the Form 5500 if necessary. For any 2006 calendar-year plan, an extension may be filed for the Form 5500 on or before **July 31, 2007**, which will extend the filing date for the Form 5500 to October 15, 2007 (regardless of whether the employer filed for an extension on its tax return).

How to File an Extension for Form 5500

In prior years, you were required to sign the IRS Form 5558 to extend the filing deadline of the Form 5500 from July 31st to October 15th for calendar-year plans. Now, there is no requirement to sign the 5558 to file for an extension. Plan sponsors can file the IRS Form 5558 without a signature. Because of this change, we can now file the extension on your behalf.

This new IRS guidance allows Transamerica Retirement Services to file an extension directly with the IRS for your Form 5500. If your Plan is a calendar year plan and you have not received your Form 5500 by July 31st, we will automatically file a Form 5558 on your behalf with the IRS. A copy of the Form 5558 that was filed with the IRS will be included when you receive your Form 5500 and applicable schedules from Transamerica.

At your request, we will send Sponsor E-News to anyone at your organization who you believe would benefit. Just e-mail us at sponsorconnect@transamerica.com, and we will add them to our mailing list.

We would also like to hear your suggestions and ideas for future topics for E-News. Please let

us know how we can be of service to you by replying to this e-mail, or by calling (866) 498-4557. We look forward to hearing from you.

¹Transamerica Retirement Services, a marketing unit of Transamerica Financial Life Insurance Company ("TFLIC"), Purchase, New York, and Transamerica Life Insurance Company ("TLIC"), Cedar Rapids, Iowa, and other TFLIC and TLIC affiliates, specializes in the promotion of retirement plan products and services. TLIC is not authorized in New York and does not do business in New York.

