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ERISA 403(b) Plan Litigation: New Frontier in Retirement Fund Litigation

Causes of Action, Defenses, Dismissals and Settlements, Lessons From 401(k) Claims

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ERISA 403(b) Plan Litigation: New Frontier in Retirement Fund Litigation

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Bruce M. Steen, Partner

September 26, 2017

McGUIREWOODS

ERISA 403(b) Plan Litigation: New Frontier in Retirement Fund Litigation

- Litigation trends and developments
  - Overview of Lawsuits and Summary of ERISA Fiduciary Standards
  - Original claims
  - Dismissed Claims
  - Pending Litigation
- Defense perspective
  - Theories of liability
  - Defenses
- Lessons from 401(k) claims
- How plan fiduciaries can adopt practices to lower their risk of losing a lawsuit

Litigation Trends and Developments

Overview of Lawsuits

- Complaints filed against 16 prominent universities and in some cases individuals
- Claims generally fall into four categories:
  - Excessive recordkeeping fees
  - Costly investment options
  - Excessive / duplicative investment options
  - Imprudent investment options
- Lawsuits led by a seasoned plaintiff's firm with a history of bringing high-profile 401(k) plan fee litigation
  - Schlichter Bogard & Denton has brought the majority of these suits
  - Other plaintiff's firms have also joined in bringing similar suits
- Prior settlements agreed to by targets of similar suits alleging ERISA fiduciary breaches with respect to 401(k) plan administration ranged in the tens of millions of dollars

Overview of Lawsuits – Who should pay attention?

- Current targets – private universities that sponsor 403(b) plans
  - Straightforward application of ERISA fiduciary obligations
  - Large number of participants / significant assets
  - Common plan administration issues (influenced by university culture?) that allegedly increase costs to participants
- Potential targets
  - Private high schools and primary education organizations
  - Foundations
  - Hospital systems
  - Public universities
  - Other public defined contribution retirement arrangements

Background – What is a Fiduciary?

- Long recognized under the law as a person who has special responsibilities to another.
  - Duties of honesty and loyalty
- Employee Retirement Income Security Act of 1974 (ERISA).
  - Adopted the fiduciary concept to establish standards for employee benefit plan management.
  - ERISA fiduciary duties are referred to by the courts as “the highest known to the law.”
  - Federal regulators take the position that ERISA fiduciaries should periodically have training regarding their responsibilities.

Background – Who is a Fiduciary?

- One who exercises certain functions:
  - Discretionary authority over management of the plan
  - Authority or control over management of plan assets
  - Discretionary authority or responsibility over plan administration
  - Providing investment advice for a fee
- Status may also be relevant
  - Plan must designate a “named fiduciary”
  - Trustee
  - Investment manager
  - Plan administrator

Background – ERISA Fiduciary Responsibilities

- Act solely in the interest of, and for the exclusive purpose of providing benefits to plan participants and beneficiaries and defraying reasonable expenses of administering the plan (duty of loyalty).
- Act with care, skill, prudence and diligence of a prudent person acting in a similar capacity (duty of prudence).
  - Procedural Prudence - careful investigation; consideration of relevant factors; consultation with experts; periodic monitoring
- Diversify plan investments unless clearly not prudent to do so
- Follow terms of the plan documents to the extent they are consistent with ERISA.
- Not engage in "prohibited transactions."

Special Fiduciary Rules for 401(k) and 403(b) Plans

- 401(k) and 403(b) plan fiduciaries may be relieved of liability for certain investment losses:
  - When participants make their own investment decisions
  - Investments made default (*i.e.*, in the absence of an election by a participant)
  - Reallocating a participant's investment from one fund to another "reasonably similar" fund as a result of a change in fund options.
- Availability of these protections requires compliance with a number of conditions (such as disclosure requirements).
- Fiduciaries generally retain responsibility for prudently selecting and monitoring investment funds offered under the 401(k) or 403(b) plan.
- Paying fees that are "reasonable"

Paying Reasonable Expenses from Plan Assets

- Permitted if the following conditions are met:
  - The plan document does not prohibit the payment of the expense from the plan's assets.
  - The goods or services (and associated expense) are related to the fiduciary's administration of the plan and not to "settlor" activities.
  - It was prudent for the plan to incur the expense and the amount of the expense is reasonable.
  - If the provider of the goods or services is a "party in interest" (*e.g.*, a party related to the plan in certain ways), the arrangement for providing those services meets the conditions of an ERISA prohibited transaction exemption (summarized later).
  - If the services are provided by a plan fiduciary or a person in which the plan fiduciary has an interest (such as the employer, an affiliate of the employer or an employee of the employer or an affiliate), the amount paid from the plan to that service provider must be limited to no more than service provider's "direct expenses."

Services Provided by "Parties in Interest"

- Special exemption applies if the provider receiving payment from the plan is a party in interest to the plan (*e.g.*, a service provider, fiduciary, or employer of employees covered by the plan).
- Conditions:
  - The service must be necessary for the operation of the plan.
  - The service must be furnished under a contract or arrangement which is reasonable.
  - No more than reasonable compensation is paid for the service.
  - If provider is a "covered service provider," then the provider must furnish retirement plan with certain written disclosures "reasonably in advance" of the date on which the contract or arrangement is first entered into (and at certain times thereafter).

Original Claims – Excessive Recordkeeping Fees

- Excessive Recordkeeping Fees
  - Plans targeted hold significant assets
  - Suits allege that plan fiduciaries failed to leverage assets to negotiate lower recordkeeping fees
  - Focus on revenue-sharing arrangements by which recordkeeper retains the portion of asset-based expense ratio paid by mutual funds / other investment vehicles
  - Plan sponsors' failure to capture revenue-sharing payments, which can be used to offset plan expenses or be returned to participants, effectively increased recordkeeping costs

Original Claims – Imprudent Investment Options

- Costly Investment Options
  - Institutional vs. retail investment options
  - Plans hold significant assets
  - Plan fiduciaries should have negotiated with recordkeepers to include less expensive institution share classes
- Excessive and Duplicative Investment Options
  - Plan fiduciaries permitted too many investment options to the detriment of participants
  - Some plans had over 400 investment options
  - “Investment Paralysis”
  - Multiple and duplicative investment options diluted ability to negotiate lower fees as assets spread across overlapping and largely similar investments

Original Claims – Inappropriate Investment Options

- Inappropriate Investment Options
  - Suits targeting specific investment options and allege that inclusion of these funds is a breach of ERISA fiduciary duties
  - Focus on historical underperformance of these specific investment options
  - Fiduciaries should have known these investments were not suitable for plan participants

Dismissed Claims

- University of Southern California
  - March 2017 – Court held that USC cannot force retirement plan participants to take their claims into arbitration
    - USC employees had signed arbitration agreements at the start of their employment
    - Arbitration agreements were not signed by anyone with authority to bind an ERISA plan and not part of the plan documents

Dismissed Claims

- Emory University – May 2017
  - Court allowed many claims to proceed, including:
    - Retail vs. institutional share classes;
    - Failure to utilize "open architecture" design permitting greater investment line up flexibility
    - Fee layering resulting in costly investment options
    - Inclusion of historically underperforming investment options
    - Stable value vs. traditional annuity
    - Failure to capture revenue sharing and failure to negotiate lower recordkeeping fees from multiple vendors
    - Breach of duty of loyalty
  - Court rejected "investment paralysis" theory and "locking in" of investment elections over six years old – but damages possible due to decision to leave investment options in the plan
    - Mutual fund claims dismissed under exemption and *Hecker v. Deere*
  - Court deferred decision on prohibited transaction claims due to inappropriate investment option

Dismissed Claims

- New York University – August 2017
  - Two plans at issue – Faculty member plan and School of Medicine plan
  - Surviving Claims
    - Breach of Duty of Prudence – excessive recordkeeping fees due to the failure to solicit competitive bids, failure to monitor / control recordkeeping fees (revenue sharing and leverage plan size to negotiate lower fees), failure to use a timely process to determine whether to engage a single recordkeeper for both plans
    - Breach of Duty of Prudence – failure to prudently select and evaluate investment options by offering funds with high fees and poor performance

Dismissed Claims

- New York University – August 2017 (cont.)
  - Dismissed claims
    - Plaintiff's failed to allege that inclusion of proprietary investment funds breached NYU's duty of loyalty because no allegations that the decision was meant to benefit itself or someone else
    - Contractual requirement to include specific investment options not breach of duty of prudence – plaintiff must show that the options were "plainly risky"
    - Retaining current recordkeeper when others were less expensive not a per se breach of duty of prudence
    - Claims regarding fee layering not sufficient since plaintiff did not allege that these led to excessive fees overall
    - ERISA does not require a plan sponsor to limit investment options / consolidate investment options into a core line-up
    - "Lock in" of revenue sharing payments was not a prohibited transaction involving plan assets / payment for plan services is not a prohibited transaction
    - Plaintiffs' claims that NYU retaining exclusive possession of information regarding delegated fiduciary duties not sufficient to support failure to monitor fiduciaries allegations

Dismissed Claims

- Columbia University – August 2017
  - Court generally referred to the NYU ruling and for the same reasons dismissed most of the claims against Columbia
  - Like NYU, allegations regarding breach of duty of prudence concerning excessive recordkeeping fees and imprudent investment options allowed to proceed
  - Court deferred judgment on additional claim concerning co-fiduciary liability

Dismissed Claims

- Duke University – May 2017
  - Allegations regarding breach of fiduciary duties due to "locking in" of investment options time-barred since the contract requiring their inclusion was entered into more than 6 years prior to the filing of the claim
    - Likewise, prohibited transaction claims based on "locking in" of investment options also dismissed as time-barred
  - Other claims allowed to move forward

Dismissed Claims

- MIT – August 2017
  - Allegations made against MIT's 401(k) plan
  - Investment paralysis claims rejected, but costly investment options claims can proceed – court cited recent decision by plan fiduciaries to remove certain funds from the plan's line up
  - Duty of loyalty allegations relating to recordkeeper's proprietary funds included in plan's line up rejected – involved CEO of recordkeeper serving as MIT board member
  - Claims of excessive recordkeeping fees allowed to proceed – recordkeeper had been in place since 1999 and no competitive bidding process undertaken
  - Prohibited transaction claims allowed to proceed due to relationship between recordkeeper CEO and university
  - Claims against mutual funds dismissed
  - Failure to monitor designated fiduciaries allowed to proceed with respect to non-dismissed claims

Dismissed Claims

- Princeton – September 2017
  - Breach of duty of loyalty claims dismissed; plaintiff's must do more than recast breach of duty of prudence claims as disloyal acts
  - Breach of duty of prudence claims regarding reasonableness of administrative / investment management fees allowed to proceed.
    - Claims regarding failure to monitor fiduciaries and service providers dismissed, though plaintiffs permitted to amend complaint
  - Summary judgement motion based on statute of limitations denied
    - Plaintiffs' claims concern conduct within applicable period;
    - Defense arguments regarding plaintiffs' "constructive" knowledge of claims due to provision of prospectuses and other materials not persuasive

Dismissed Claims

- U Penn – September 2017
  - First complete dismissal of plaintiffs' claims
  - "Locking in" CREF Stock Account and Money Market claims fail to allege breach of fiduciary duty
  - Multiple recordkeeper claims dismissed – bundling investment options with recordkeeping services not a per se breach
    - ERISA does not require cheapest investment options
  - Asset-based vs. per-participants fee recordkeeping arguments rejected – plan administrator has discretion how to allocate fees
    - Per-participant fee structures disadvantage smaller accounts
  - Retail vs. institutional share class claims rejected; inclusion based on actual assets in the particular fund
  - Investment paralysis claims rejected – plan provided four categories of investment assistance ranging from managed to no-support
  - Fund underperformance not necessarily a breach of fiduciary duty
  - Prohibited transaction claims dismissed as entrance into recordkeeping services agreement and corresponding compensation paid to service provider is not a prohibited transaction; no kick-back scheme alleged

401(k) Plan Litigation Analogies

Oracle Case

- Oracle, its retirement plan committee and the individual members of the retirement plan committee were sued by a prominent plaintiffs' law firm alleging multiple breaches of fiduciary duties owed to 401(k) plan participants
- Plan held approximately $12 billion in assets at time of suit
- Close to 66,000 participants in plan as of 2015 (prior to lawsuit)
- Fidelity acted as recordkeeper and plan offered Fidelity investment options
- Fidelity also served as trustee for the plan and held approximately $2 billion in Oracle company stock

Oracle Case

- Allegations
  - Plan paid excessive recordkeeping fees to Fidelity
    - Fidelity had been recordkeeper for 26 years without Oracle engaging in a competitive bidding process
    - Asset based fee vs. per-participant fee structure
    - Revenue sharing
  - Failure to prudently monitor and select investment alternatives
    - Under-performing mutual funds
  - Concealed fiduciary breaches
    - Failure to properly report indirect revenue sharing fees
  - Failure to monitor co-fiduciaries
    - Oracle appointed the retirement plan committee, but failed to monitor its compliance with ERISA obligations

Oracle Case

- Original suit filed January 2016
- Federal Magistrate Judge recommended Oracle's motion to dismiss be denied in February 2017
- District Court in the 10th Circuit denied Oracle's motion to dismiss in March 2017
- Case will go to trial (unless settled beforehand)

AonHewitt Case

- Aon Hewitt was sued in connection with its arrangement to provide financial guidance to Caterpillar retirement plan participants via an arrangement with Financial Engines
- Aon Hewitt was the plan's recordkeeper
- Suit alleges excessive fees due to "kick-back" arrangement between Aon Hewitt and Financial Engines
- Similar cases brought against Xerox, Fidelity and Voya Financial

Aon Hewitt Case

- Financial Engines provided professional investment management services to Caterpillar retirement plan participants
- Fees were based on account balance size and ranged from 0.40% for up to $100,000, 0.30% for $100,000 to $250,000, and 0.20% for $250,000 or more
- Aon Hewitt received 25% of advice fees and 20% to 25% of managed account fees received by Financial Engines
- Complaint alleges Aon Hewitt and Financial Engines reconfigured their relationship in 2014 to obscure fee-sharing arrangement
- Aon Hewitt acted as an ERISA fiduciary in its selection of Financial Engines to perform services for plan participants

Aon Hewitt Case

- The “kick back” arrangement violated ERISA’s prohibited transaction rules
- The compensation received by Aon Hewitt with respect to the services performed by Financial Engines were unreasonable and excessive in light of the fact that Aon Hewitt performed no financial advisory services
- Case filed in January 2017

Aon Hewitt Case – Related Decision

- In a similar lawsuit involving a different vender, a district court recently held:
  - The third-party administrator who contracted with Financial Engines was not a plan fiduciary during its negotiation of the contract for its services and did not become a plan fiduciary afterwards since it had no control over its compensation beyond the terms of the contract
  - Fee-splitting with Financial Engines was irrelevant since the arrangement was disclosed to the plan sponsor and was essentially a cost-allocation matter
  - Prohibited transaction claims also dismissed due to a failure to allege that the plan sponsor or third-party administrator knowingly paid excessive fees
- Plan sponsors may not be able to avail themselves of similar defenses

Additional 401(k) Plan Litigation

- Similar allegations have been made against 401(k) plan sponsors:
  - Lower cost shares of the same mutual fund (or shares of better performing fund with a comparable style of another fund company) should have been offered.
    - American Airlines – compares the expense ratio of the plan's index funds (13-15 bps) with those of similar Vanguard index funds (2 bps).
    - Anthem and Chevron – Vanguard funds imprudent because similar Vanguard funds with even lower expense ratios were available to plan.
  - Funds could have been offered at a lower cost through separate accounts or collective trusts.
  - Because record-keeper was paid an uncapped percentage of assets, fees increased with plan asset size although there was no corresponding increase in services.
    - Alleged that recordkeeping fees should only have been computed on a per-participant basis.

Additional 401(k) Plan Litigation

- Some allegations move beyond a focus purely on excessive fees.
  - It was per se imprudent to offer a money market account.
    - Chevron -- fiduciaries should have instead offered a stable value fund.
  - Plan fiduciaries offered imprudent stable value funds.
    - CVS -- too large a percentage of fund assets were allocated to short-term debt instead of GICs, thus deflating potential yield.
    - Similar claims have been brought against stable fund managers (Fidelity).
  - Plan fiduciaries allowed improperly managed funds to be offered.
    - Disney -- Sequoia fund imprudent because too many fund assets were invested in a poor performing stock (Valeant).
    - Intel and Fujitsu -- custom target date funds were imprudently constructed because they included too many unique and non-traditional asset classes (real estate, emerging markets stocks and bonds, hedge funds, commodities and private equity investments) and natural resources).

Questions or Comments?

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Lessons from 401k Litigation Action Steps for Fiduciaries

Reducing Your Litigation Risk

Carol Buckmann
Cohen & Buckmann p.c.

Best Practices and Takeaways from Litigation

- No absolute protection exists but be proactive
- A prudent and well-documented fiduciary process is the best defense
  - Clearly delegate and allocate fiduciary responsibilities and consider a “Named Fiduciary” committee
  - Adopt and update written policies
  - Engage in specific actions such as regularly reviewing investments, benchmarking fees and regular rfps to provide additional protection
  - Document, document, document what was considered and the reasons for decisions
  - Maintain adequate fiduciary liability insurance

Develop an Investment Policy (or update the one you have)

- Most (over 90%) of 401k plans have an investment policy statement but 2016 PSCA Survey says half of 403b sponsors either don't have an IPS or don't know if they have one
- It should set out your standards for selecting and monitoring investments independent of who is the vendor. Avoid statements such as "Our policy is to provide investments offered by Fidelity."
- If you don't have a separate fee policy, it should have a specific section on fee review
- Also specifically cover:
  - Default investments
  - Cash equivalents
  - Target Date Funds
  - Transfer and Investment Restrictions

Other Policies to Consider

- Internal controls
- Participant education
- Separate fee policy

- The importance of following policies can't be overstated. It's better to have no policy than a policy that is never followed.
  - If the IPS is a plan document, failure to follow it is a fiduciary breach (district court decision in Tussey v. ABB)

Litigation Focuses on Prudence, Loyalty and Self-Dealing

- Section 404 of ERISA requires fiduciaries to invest like a prudent man "familiar with like matters"-also called the prudent expert standard
- Also requires fiduciaries to manage plan for the exclusive benefit of participants and beneficiaries (duty of loyalty)
- Section 406(b) of ERISA prohibits fiduciary conflicts of interest-fiduciaries can't personally benefit from investment of plan assets. Plaintiffs not generally successful in 401k litigation on these claims.
- ERISA Section 404(c) says fiduciaries are not responsible for losses where participants "control" their accounts. Almost all plans use 404(c) safe harbor, but the safe harbor doesn't protect fiduciaries if the investment menu is imprudently selected or participants have insufficient information.

Complaints Say: Too many investment funds

- This claim will be proceeding in the Duke 403b case, where there were 400 funds, and was thrown out in others.
- John Deere case (569 F. 3d 708, 7th Cir. 2009) originally said in the 401k context that if plan offers lots of choices, it is the participant's responsibility not to select funds with high fees. Originally thought by some to mean no excessive fee suit viable if a plan offered many options, but the case law has developed since then.
- Related issue: Alina complaint says control of investments was ceded to vendor when every fund on the vendor's platform was selected.
- What to do-
  - Winnow your investment lineup. Even if you think choice is good, helpful to eliminate high fee poorly performing funds
  - Do not make every fund your vendor offers available
  - Regularly review funds-- preferably with a fiduciary adviser (prudent expert standard). Can you really review 400 funds properly? Can they all be good?
  - Develop a core menu including index funds

Complaints Say: Multiple Recordkeepers Cause Excessive Fees

- This is not an issue in 401k litigation, where plans have one recordkeeper.
- 403b plans have often had multiple vendors, each with its own suite of investments. Vendors have provided administration and recordkeeping for their own menus.
- One plan cited in complaints had 5 recordkeepers; another had 4.
- Complaints say these are duplicative services; pooling assets with one recordkeeper would result in lower fees.
- Complaints cite lack of competitive bidding.
- But there is a practical problem-finding a single vendor to provide recordkeeping services for the different platforms. Some 403b fiduciaries think consolidation is not possible, but PSCA survey showed 83% of surveyed plans had moved to a single provider.
- What to do—
  - Determine whether more than one recordkeeper is necessary or appropriate and document the reasons.
  - Do regular rfps to determine reasonableness of fees-importance of competitive bidding and thorough search
  - Can renegotiate based on rfp results
  - Document actions taken to find a competitive single vendor

Complaints Say: Select Institutional Share Classes

- Based on the US Supreme Court decision in Tibble v. Edison. (135 S. Ct. 1823, 2015) (401k plan)
- Claim is that institutional funds make same investments as retail funds but with lower fees. Large investors qualify.
- In one case, it was argued that asset minimum was regularly waived for 401k plans-fiduciaries were penalized for not asking.
- Also Braden v. Walmart, (588 F.3d 585, 8th Cir. 2009)-one of the largest plans in the country was using retail class shares. Ultimately settled.
- In allowing this claim to proceed, the judge in the Emory case thought that no reasonable fiduciary would choose retail class shares, but nothing in ERISA currently prohibits it
- Also note SEC enforcement action and settlement with Envoy, a 403(b) plan adviser. Envoy recommended class A shares when institution class shares were available. Envoy's affiliated dealer received 12b-1 fees from the class A shares. SEC said conflicts not adequately disclosed.

- What to do---
  - Investigate share classes available and if there are any additional restrictions on institutional class shares
  - Ask if you don't meet the minimum investment requirement
  - Justify any selection of retail class funds and monitor revenue sharing
  - Revenue sharing must be used to benefit participants, and amount paid to service provider should not exceed value of the services.

Complaints Say: Failure to Monitor

- Supreme Court decision in Tibble hinged on fiduciary duty to monitor.
- Complaints cite failure to replace higher fee and poorly performing investment options for similar better options available in the market
- Alina complaint alleges that defendants breached their fiduciary duties by "failing to adequately monitor other persons to whom they had delegated the management and administration of the plans' assets", who loaded the plans with investments that benefitted Fidelity (though Fidelity is not a defendant). Funds were only replaced when Fidelity eliminated them from the lineup.
- What to do-
  - Hire a professional adviser if you do not have investment expertise
  - Establish a schedule for regularly reviewing investments with adviser to determine whether funds should be replaced or eliminated
  - Document your review
  - Limit your menu to a number of funds that can be appropriately reviewed

Complaints Say: Vendors Engaged in Prohibited Transactions and Self-Dealing

- Duke complaint said TIAA "locked in" an arrangement with subpar TIAA-CREF products, including traditional annuity, CREF Stock Fund
- Complaints say prohibited for vendors to profit from offering their own mutual funds
- Complaints say fiduciaries failed to scrutinize vendor revenue and conflicts
- These claims have been dismissed, as they were with respect to 401k plans. ERISA does not prohibit vendors from offering their own funds.

Complaint Cites: Plan Fiduciary Violation of Duty of Loyalty and Self-Dealing

- One 401k case stands out as a lesson in the need to properly apply and monitor revenue sharing payments from mutual funds.
- In Tussey v. ABB (746 F.3d 327, 8th Cir. 2015 and No. 15-2792, 8th Cir. 2017), fiduciaries determined to replace the Vanguard Wellington Fund with the Fidelity Freedom Funds.
- Plaintiffs successfully alleged that fiduciaries choose Freedom Funds in order to get cheaper corporate services from Fidelity.
- Fiduciaries overpaid Fidelity to get corporate benefit.
- What to Do—
- Make sure that revenue sharing payments aren't used for the plan sponsor's benefit
- Make sure revenue sharing payments don't exceed value of services

Complaint Says: Incomplete Disclosure

- Alina complaint alleges that participants received inadequate disclosures:
  - Failed to properly identify fees and expenses charged to accounts
  - Failed to properly identify source of the fees

- This has not been a successful claim in 401k cases
- However, fee disclosure is separately required under existing regulations for all plans that permit participants to select investments

- What to do—
  - Have participant disclosures reviewed by counsel for compliance with regulations under ERISA 404(a) and 404(c)
  - Consider more complete disclosure of revenue sharing than required
  - Make sure disclosures are understandable

Complaints Say: Recordkeeping fee should be a flat fee per participant

- The argument is that recordkeeping services do not increase just because the value of plan assets goes up, so fees should not be a percentage of plan assets
- Nothing in ERISA prohibits asset based fees, and no 401k case has found it to be a violation.
- The counterargument is that a flat fee per participant unfairly impacts participants with small accounts
- What to do----
- Be aware of the alternatives-vendors may be open to different fee arrangements
- Document the reasons for your choice and make sure the total fee will be reasonable in relation to the services provided.

Looking to the Future

- So far, the surviving claims in 403b litigation are similar to the successful 401k plan claims, but more decisions are coming and should be monitored.
- The Department of Labor's Fiduciary Rule adds new layers-Do you know when your advice is being give in a fiduciary capacity or when you are on your own?
  - Advice must follow best interest standards, but important exceptions
    - Sophisticated Investor
    - Hire Me
- Development of "clean shares" and potentially failure to use them

More questions

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- You can also follow future developments on our blog at http://cohenbuckmann.com/blog/