

# THE BOTTOM LINE ABOUT YOUR FIDUCIARY RESPONSIBILITY

An Employer's decision to sponsor a retirement plan typically brings with it certain fiduciary responsibilities under the Employee Retirement Income Security Act of 1974 ("ERISA"). These responsibilities include:

- 1** The selection and monitoring of service providers for your plan such as recordkeeper, administrator, trustee and custodian, along with their respective fees' reasonableness.
- 2** The selection and monitoring of brokers, consultants, investment advice service providers, along with monitoring associated fees.
- 3** The selection and monitoring of investment managers, investment options available in the plan, along with monitoring of investment expenses.

Under most retirement plan platforms available in the market today, the trustee does not have discretionary authority over the investment of plan assets. Instead, the trustee is a so-called "directed trustee," meaning that another fiduciary, such as the employer, has responsibility for directing the trustee as to the investment of plan assets. In such cases, the employer retains the fiduciary responsibility under ERISA for investments.

Some retirement plan platforms seek to provide some protection to employers with this responsibility by one of two means:

## SECTION 3(21) FIDUCIARY

An advisor agrees to be a fiduciary as defined in Section 3(21) of ERISA. Such a fiduciary typically provides recommendations or advice only as to plan investments but does not have the authority to make investment decisions. **As a result, the engagement of this advisor does not relieve the employer of fiduciary responsibility under ERISA.**

## SECTION 3(38) FIDUCIARY

An "investment manager" is appointed with authority for making investment decisions and is responsible for ensuring that plan investments comply with the fiduciary responsibility provisions of ERISA. **However, the employer retains fiduciary responsibility and monitoring under ERISA for appointing and continuing to retain the 3(38) investment manager.**

Through its unique design, the **ABA Retirement Funds Program ("the Program")** provides employers with the most protection from fiduciary liability under ERISA. As a result, these other designated fiduciaries, as described above, are not necessary under the Program's structure to protect employers from fiduciary liability under ERISA.

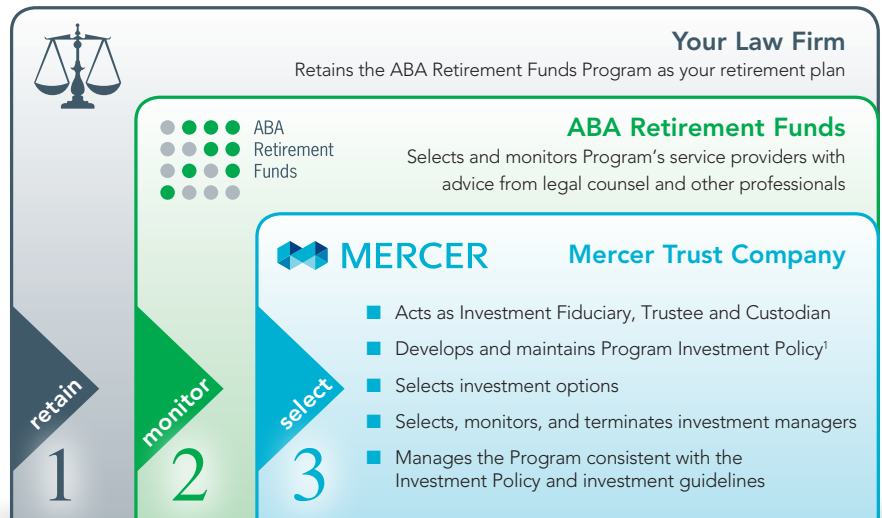
A DIFFERENT KIND OF RETIREMENT PLAN

Call an ABA Retirement Funds Program Regional Representative today at **800.826.8901**.

## THE ABA RETIREMENT FUNDS PROGRAM FIDUCIARY SOLUTION

Unlike most pension and 401(k) plans, the trustee of the Program, Mercer Trust Company, has discretionary authority and control over investment responsibility for the Program's assets.

1. Your only investment fiduciary responsibility is for the selection, and the continued use, of the Program.
2. ABA Retirement Funds monitors services provided to your Retirement Plan.
3. Mercer Trust Company has responsibility for development of the Investment Policy for the Program, subject to acceptance by ABA Retirement Funds, for implementation of the Policy, and for monitoring of the platform of Fund investments and any manager appointed to manage the Funds.



1 Subject to acceptance by ABA Retirement Funds.

### MERCER TRUST COMPANY HAS INVESTMENT RESPONSIBILITY FOR THE PROGRAM'S ASSETS THAT ARE INVESTED IN THE FUNDS.

**Section 3(21) Fiduciary**  
LIMITED PROTECTION  
Directed Trustee

**Section 3(38) Fiduciary**  
SELECT PROTECTION  
Directed Trustee







**ABA Retirement Funds Program**  
COMPREHENSIVE PROTECTION  
Discretionary Trustee

ERISA mandates that plan assets be held in trust, and that the trustee have exclusive authority and discretion to manage and control assets of the plan, with two exceptions. Unlike other retirement plan platforms, the Program complies with this mandate, not the exceptions.

Scarlett Ungrean, CFA  
Executive Director, ABA Retirement Funds

## TAKE A DEEPER LOOK AT YOUR FIDUCIARY RESPONSIBILITIES

Through a unique design, the ABA Retirement Funds Program provides employers with the most comprehensive protection from investment fiduciary liability under ERISA. Other providers of retirement plan platforms may claim that their platforms provide limited liability under ERISA because the providers of these platforms make available fiduciaries under Section 3(21) of ERISA or investment managers as defined in Section 3(38) of ERISA. Because of the way the Program is structured, these other designated fiduciaries are not necessary to protect employers from investment fiduciary liability under ERISA for those who engage the Program.

Fiduciary Liability to Your Firm	No Outside Fiduciary	Section 3(21) Fiduciary	Section 3(38) Fiduciary	ABA Retirement Funds Program
FIDUCIARY ACTS AND DECISIONS	RESPONSIBLE FIDUCIARY			
Adoption and continued use of a plan provider	YOUR FIRM	YOUR FIRM	YOUR FIRM	YOUR FIRM
Selection and periodic monitoring of trustee, investment manager, and recordkeeper	YOUR FIRM	YOUR FIRM	YOUR FIRM	
Selection and monitoring of investment advice service provider to participants	YOUR FIRM	YOUR FIRM	YOUR FIRM	
Development and maintenance of Investment Policy <sup>1</sup>	YOUR FIRM	YOUR FIRM	YOUR FIRM	
Selection, termination, and monitoring of all fund managers and investment options consistent with the Investment Policy <sup>1</sup>	YOUR FIRM	YOUR FIRM	Investment Manager	
Monitoring of all investment manager purchase/sale activity for compliance with investment guidelines	YOUR FIRM	YOUR FIRM Investment Manager	Investment Manager	
Determining applicability of, and compliance of fund investment line-up with, certain ERISA requirements including prudence, broad range, and suitability	YOUR FIRM	YOUR FIRM Investment Manager	Investment Manager	

<sup>1</sup> Subject to acceptance by ABA Retirement Funds.

### COMMONLY ASKED QUESTIONS

#### Do you acknowledge your fiduciary protection in your Program Annual Disclosure Document?

Yes, you can refer to our Program Annual Disclosure Document in the section entitled "ERISA and Fiduciary Obligations."

#### Why doesn't the Program offer a certified fiduciary warranty like other providers?

We don't believe it would have any value other than sales promotion. The Program offers the following meaningful documentation to serve as fiduciary authenticity: Program Annual Disclosure Document, Program Investment Policy, Program Report – outlining all of the Program's oversight annually, and Retirement Plan Library – a binder to house all plan and compliance documentation.

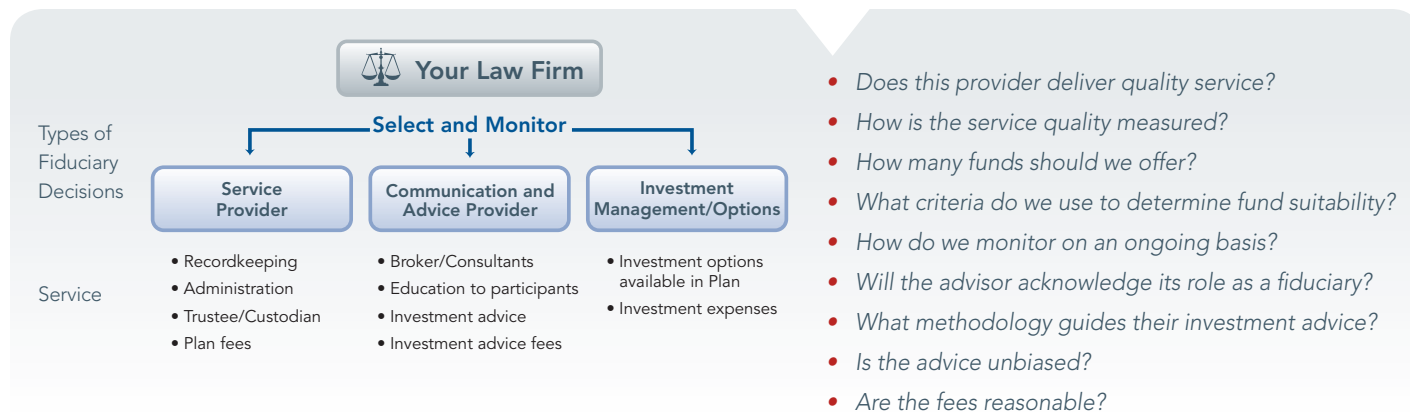
#### What is my fiduciary liability when it comes to the Self-Directed Brokerage Account?

Under current rules, because the Self-Directed Brokerage Account allows plan participants to access a broad range of investment options, in addition to the Program's designated options, your fiduciary responsibility outlined in section 404(c) of ERISA should be satisfied. To the extent new Department of Labor rules require any additional reporting, the Program will take necessary or appropriate action to facilitate compliance.

## How are the Plan Sponsor's Responsibilities Different with the ABA Retirement Funds Program than with Other Programs Available in the Marketplace?

In the two decision workflows below, we compare the types of decisions that a plan sponsor is responsible for under an arrangement commonly available through retirement plan platforms to that of the ABA Retirement Funds Program. The key difference is that under the typical platform, the plan sponsor is required to make, and take fiduciary responsibility for, multiple decisions. Many of these decisions, such as those pertaining to the initial selection and continued suitability of each investment option, require significant due diligence and technical resources. Under the Program, the sponsor makes only a single decision – selection and ongoing use of the Program – which should limit the burden and day-to-day obligations of the sponsor.

### The TYPICAL RETIREMENT PLAN PLATFORM Requires **Multiple** Decisions



### The ABA RETIREMENT FUNDS PROGRAM Requires a **SINGLE** Decision



  
800.826.8901

  
joinus@abaretirement.com

  
www.abaretirement.com

Please read the Program Annual Disclosure Document (April 2017) carefully before investing. This Disclosure Document contains important information about the Program and investment options. For email inquiries, contact us at: [joinus@abaretirement.com](mailto:joinus@abaretirement.com).

Securities offered through Voya Financial Partners, LLC (member SIPC).

Voya Financial Partners and Voya Retirement Advisors are members of the Voya family of companies ("Voya"). Voya, the ABA Retirement Funds, Mercer Trust Company, and TD Ameritrade, Inc. are separate, unaffiliated entities, and not responsible for one another's products and services.