

Building an Effective Investment Committee

An Executive Guide to Design and Implementation

Successful investment committees are the result of significant planning that takes into account the variables and culture that make your company unique.

TABLE OF CONTENTS

INTRODUCTION	BUILDING AN EFFECTIVE INVESTMENT COMMITTEE	1
PART I	STRUCTURING THE INVESTMENT COMMITTEE	2
Step One:	The Role of the Committee	
Step Two:	Identify Members' Roles and Responsibilities	
Step Three:	Define Expectations for Committee Members	
Step Four:	Create the Investment Policy Statement	
PART II	IMPLEMENTING A SUCCESSFUL INVESTMENT COMMITTEE	7
PART III	EVALUATING THE EFFECTIVENESS OF THE INVESTMENT COMMITTEE	9

INTRODUCTION

Building an Effective Investment Committee

Better Decision Making Process

Creating and running a retirement investment committee can be a very satisfying undertaking for a plan sponsor.

When dealing with plan investment decisions, plan sponsors are best served (and protected) by utilizing a committee approach.

Knowing that you are offering your employees a retirement benefit that will help them get to and through a comfortable retirement is rewarding, and so is the satisfaction earned from engaging in a thoughtful, structured process that provides for the continuous review and monitoring of the investment options available to your employees. At Schwab, we work with plan sponsors on a daily basis, consulting with them on matters such as how to structure their investment committee and sharing best practices of other plan sponsors so they can build an investment committee process that works best for their organization and their employees.

When approaching topics that have ERISA¹ fiduciary implications, plan sponsors ask: What's the best approach? What are the best investment choices for my employees? How can I make sure that over time the investments in the plan are meeting my employees' needs?

These issues are even more complex when dealing with qualified plan investments because ERISA mandates that plan fiduciaries operate as a "prudent experts,"² making decisions and adopting the perspectives and methods an expert would. Plan sponsors, at times, perceive this standard as being difficult, if not impossible, to achieve. This is especially true when it comes to investment decision making. Few plan sponsors have on staff an individual

with the skill and desire to function as a "prudent expert" in selecting, monitoring and replacing investment funds for their qualified retirement plan.

This executive guide provides the steps you need to take to build an effective

investment committee – the structure that can produce better decision making processes, more appropriate plan investments and more controlled fiduciary liability.

Committee Approach

As a result of the ERISA imposed standards – especially when dealing with plan investment decisions – plan sponsors

A committee structure produces better decision making processes – yielding more appropriate plan investments and... more controlled fiduciary liability.

are best served (and protected) by utilizing a committee approach. Using a committee structure creates better decision making processes – yielding more appropriate plan investments, and to some degree, more controlled liability for individuals ultimately responsible for fiduciary decision making. By creating a better decision making process, which includes a rational approach with multiple perspectives, investment decision making is streamlined and improved so that participants have a better 401(k) investment menu. Moreover, it's usually easier to select an investment to include in the plan than it is to determine when to remove an investment from the plan. By putting a process around the removal, it objectifies that decision and makes it a much easier task for the committee. In ad-

dition, employees are also best served when a committee process is employed. More points of view, more opinions and people with varying backgrounds contribute through the committee process providing a dynamic environment in which your employees' best interests can be served.

It's important to remember, ERISA mandates that people who are fiduciaries are personally liable for the decisions they make. That personal liability is not easily delegated to another person and in many cases not covered by insurance. The "prudent expert" rule requires fiduciaries to do what an expert would do. This generally means engaging in an appropriate process to ensure you are making the right decisions. More information on the changing fiduciary landscape and the steps to take toward fiduciary success is available in our executive guide, *Understanding Your Fiduciary Responsibility: An Executive Guide to*

Reducing Risk and Responsibility. Consult with your Schwab representative or call us at the number listed at the back of this guide to receive your copy.

The Steps

The question then arises, how do you implement a successful investment committee that provides for the best decision making process, the best outcomes of those decisions, and manages the fiduciary liability of those involved – including the plan sponsor? The answer is best discussed in three specific areas:

- I. Structuring the investment committee
- II. Implementing a successful investment committee
- III. Evaluating the effectiveness of the investment committee

PART I

Structuring the Investment Committee

Successful investment committees are the result of significant planning that takes into account the variables that may exist in prudent processes, individual styles, and the corporate culture that make your company unique. Effective committees incorporate this advance planning into a written committee charter (see insert) that forms the basis for all committee operations. The committee charter provides by-laws and operating procedures and governs the behavior of the investment committee. Keep in mind that an investment committee should also have an Investment Policy Statement (IPS) to govern how the committee operates with respect to the selection, monitoring, and replacement of specific investments. The IPS is not a substitute for the committee charter, which governs the roles of committee members (and possibly the criteria for committee member selection), as well as the processes the committee will undertake regarding the fund selection criteria established in the IPS. In addition to the sample committee charter inserted in this guide, we can also provide you with a sample IPS and work with you to help create one appropriate for your plan and participants.

STEP ONE: The Role of the Committee

1

The first step in determining what the charter should contain is to identify the role the committee will take with respect to actual investment decision

The first step in determining what the charter should contain is to identify the role the committee will take with respect to actual investment decision making.

making. Committees may assume various roles from investigation and recommendation of investment alternatives to another group, or to company executives, to actually making final “fiduciary” decisions with respect to plan investments without oversight (or interference) from plan sponsor executives. Most committees fulfill the roles of both investigator and decision maker. However, in some cases, it is important to have those roles separated to accommodate the needs, and possibly the culture, of the plan sponsor’s organization.³ In this era of enhanced fiduciary scrutiny, the roles of investigator and decision maker must be clearly identified and understood, and those charged with appropriate responsibility must fully understand the implications of their roles and the actions they take.

STEP TWO: Identify Members’ Roles and Responsibilities

2

In addition to distinguishing the role of the committee from the role of the plan sponsor or its agents, the committee charter should also identify the roles and

responsibilities of committee members including critical factors such as:

- Which members of the committee have a vote?
- Will some committee members provide specialized input⁴ but not actually participate in committee deliberations?

Fiduciaries, in being “prudent experts,” are judged not on the outcomes of their decisions, but rather on the prudence of the process they use to reach those outcomes.

- Will there be a chairperson and what responsibilities will that person have?
- How will members of the committee be appointed, for what length of time, and how will they be replaced?

Also, take great care in determining who the members of the committee will be. Each member is a co-fiduciary with all of the other members of the committee and can greatly impact the committee’s dynamics and ability to perform effectively.

STEP THREE: Define Expectations for Committee Members

3

In addition to forming the structure of the committee, the charter should also define the expectations the committee has of its members. Effective committees require active and prepared committee members. Built within the structure of the committee should be processes that ensure all pertinent and relevant materials are provided in advance to all committee

members, the scheduling of regularly recurring committee meetings, and the engagement of subject matter experts to ensure that the committee is aware of its fiduciary responsibilities to follow a prudent decision making process.

WHO SHOULD BE ON YOUR INVESTMENT COMMITTEE?

The choice of who should be on your investment committee could possibly be the single most important decision you will make with respect to the committee. In most cases, the committee itself will be considered a fiduciary under ERISA by virtue of its role as a decision maker with respect to plan investments. In addition, each member of the committee will be considered a fiduciary because of his or her role on the committee. Because ERISA places high standards on fiduciaries, and in some cases holds co-fiduciaries liable for the actions of one another, it is in the best interest of the plan sponsor, the committee and each committee member to ensure the appropriate selection of the members.

ERISA Says

Often a plan sponsor will select individuals who hold specific responsibilities as employees in the organization to be a part of the committee, solely by virtue of their position. Typically, these appointees will include employees from finance (theoretically because of their expertise in financial and investment matters), human resources (to provide a more “benefits oriented” perspective, if not to give a voice to the employees by proxy), and possibly “regular” employees (both to obtain their perspective as participants in the plan, and to obtain “buy in” from the rank and file by publicizing the role of these committee members). Such strategies, even though they may be appropriate from an employer or plan sponsor perspective, could possibly be inappropriate from the perspective of fiduciary obligations under ERISA.

Keep in mind that ERISA mandates that fiduciaries abide by several fundamental precepts defining their obligations:

- First, fiduciaries must operate exclusively in the best interests of the plan and its participants, and to provide the benefits described in the plan documents.
- Second, they must do so as a prudent expert would.
- Third, they must diversify plan assets to minimize the risk of large losses, and, in the case of a participant-directed plan attempting to comply with ERISA Section 404(c),⁵ they must select investment options so participants can structure investment portfolios appropriate for themselves.
- Fourth, fiduciaries must abide by the terms of the written plan documents, unless it is clearly imprudent to do so.

Having committee members who understand these obligations and are willing to put aside their personal interests – and even the interests of their employer – in order to fulfill these obligations is critical for determining who should be on the committee.

In addition, your committee should be comprised of members who will each bring added insight to augment the committee’s deliberations. Appointing individuals who have the aptitude, desire, experience, and fortitude to actively participate in possibly contentious discussions would be far, far more important than having appropriate names or titles on the committee.

Appointing individuals who have the aptitude, desire, experience and fortitude to actively participate in possibly contentious discussions would be far, far more important than having appropriate names or titles on the committee

(cont’d)

(cont'd)

The C-Crowd

Indeed, appointing individuals to a committee based on their title alone may be counterproductive as well as inappropriate from the perspective of fiduciary obligations under ERISA. Many times, having a CEO, CFO or other “C” level individual on the committee may actually hinder discussion (and debate), which would be essential for the committee to fulfill its fiduciary obligations. At other times, having such individuals on the committee may place them in a position of having to choose between their obligations as a corporate executive (requiring that certain corporate information be closely held until communicated consistent with securities laws and regulations) and their obligations as a fiduciary member of the committee.⁶

Rank and File

Likewise, having “rank and file” members on a committee is valuable only if they have the requisite knowledge and experience to be able to make a valuable contribution to the dialogue. Using slots on the committee to obtain employee buy-in, improve employee relations, or promote other company objectives is inconsistent with the committee’s fiduciary obligations. You can better achieve such corporate objectives through the use of an ad hoc committee – not functioning as a fiduciary – that includes a broader range of employees.

It Takes Work

The committee members must have the disposition to be active, prepared participants. Serving on the investment committee takes work and dedication. Reviewing reams of material to determine what’s important for decision making purposes does not occur during the committee meetings. It occurs beforehand. Selecting committee members willing to do the preparatory work necessary to actively participate in meetings is key to ensuring a successful committee, and the best outcomes.

**Serving on
the investment
committee
takes work and
dedication.**

ERISA sets a process-based standard of fiduciary responsibility. The drafters of ERISA knew that it would be improper to second guess the decisions of fiduciaries – there will always be a “better fund” with a higher return. To hold a committee to a standard of absolutely positively always picking “the best” funds at all times goes against the true definition of fiduciary responsibility. Fiduciaries, in being “prudent experts,” are judged not on the outcomes of their decisions, but rather on the prudence of the process they use to reach those outcomes. Establishing the process an investment committee will follow is part of the solution – but ensuring that each of the members understands the obligations ERISA imposes on them as a fiduciary completes the solution.

STEP FOUR: Create the Investment Policy Statement



Another tool integral to a well-functioning investment committee is the Investment Policy Statement (IPS). We believe every qualified plan should have an IPS in place. Scholars argue whether ERISA mandates the adoption of a written IPS, but there is little disagreement that a prudent expert would have guidelines in place to aid in decision making. An IPS is a legal document designed to describe the goals and strategies the investment committee will adhere to when selecting, monitoring and replacing investment managers or funds. Criteria for selecting a manager or fund may be different from those of monitoring and removing them, and generally an IPS will have a section dealing with each of these aspects of investment decision making.

Drafting an IPS involves both the art and science of investment decision making, and should include a discussion of the duties and obligations of the committee members consistent with the committee charter; the specific committee processes for selecting, monitoring and removing

HOW MANY FUND OPTIONS SHOULD A PLAN HAVE?

We are often asked: “How many fund options should a participant-directed plan offer?” And our answer is consistent: “It depends.” Selecting the number of funds your plan will have is a fiduciary decision that should take into account your participant population that will be making investment choices. While compliance with ERISA Section 404(c) is optional,⁷ language in the regulations may be helpful in understanding how to determine the appropriate number of funds.

The regulations essentially provide that plan fiduciaries must select investment options, each of which is diversified, with materially different risk and return characteristics, which when taken as a whole, will allow each participant to structure a portfolio with risk and return characteristics within the normal range for participants with similar income, time horizons and risk tolerances. Simple, right? We can examine the regulations for more insight in discerning how many funds are appropriate.

Selecting the number of funds your plan will have is a fiduciary decision that should take into account your participant population that will be making investment choices.

Plan Demographics and Participant Needs

First, you must understand and consider the demographics of your plan. A starting point for all plans is to ensure that at least one option is available in the main equity investment style categories, plus possibly including a fixed income option and a stable value option. This will generally ensure that the majority of plan participants will be able to structure an appropriate portfolio for themselves. The more difficult decisions concern what additional types of options should be made available, including multiple fixed income options (long, short, intermediate term, “AAA” rated, junk, or somewhere in between), international funds (true international, foreign or global options), sector funds, and whether or not to include multiple options within a specific investment style category.

What is best for your participants ... is based on the fiduciaries’ understanding of participants and their needs – and not necessarily what participants say they want.

These are questions that must be answered based on what is best for your participants – in other words, based on the fiduciaries’ understanding of the participants and their needs – and not necessarily what participants say they want. If, as a plan

sponsor, you know that you have employees who need help with diversification, asset allocation or just need a simple solution that provides ongoing rebalancing, then including the largest possible universe of funds to try to cover all bases may not ultimately serve the best needs of your plan or your participants.

If your employees are looking for answers, what are you doing to help them? Simply focusing on “how many funds” misses the mark. The good news is that there are solutions that simplify the process for your employees such as plan features that offer personalized savings recommendations and ongoing, automatic rebalancing or

(cont’d)

(cont'd)

age-based, target-date retirement funds that offer an embedded decision making approach.

Risking Inaction

Second, consider that after a certain point, the more fund options you offer, the more choice paralysis you create. Many studies have confirmed that when you offer too many choices, most people make no choice. Give them a few options, and they are much more likely to make a decision. This is especially important when a participant is confronted with multiple options within a single asset category requiring multiple levels of decisions and compounded confusion. It is easier to get a participant to realize that an appropriate asset allocation strategy would include exposure to an asset class (“I know I should have some large cap growth exposure in my portfolio.”) than it is to get a participant to choose between options within an asset class (“Which of these large cap growth funds should I choose?”).

Finally, consider whether it would be better to offer a limited number of “core funds” to eliminate confusion and choice paralysis and also include an option for a self-directed brokerage window. This approach allows those who have a need for greater diversity to have a wide array of options. Deciding to include a brokerage window should be based on a determination that a segment of your participant base truly has a need for this expanded opportunity, and confidence that the entire participant base understands, or can be educated appropriately, on the use and potential risks of a brokerage window.

Keep it Simple

The bottom line is that, in most cases, about eight to fourteen funds are sufficient. The trend has been toward having fewer, highly select core funds in a line up, supplemented with an array of age- or risk-based lifestyle funds. While these types of funds increase the number of choices based on the number of lifestyle options offered, they are perceived as being only “one” option in total for the plan, since their intent is to provide a single investment decision for the participant. Again, where appropriate, including a brokerage window adds flexibility for those who understand and are willing to undertake greater responsibility for their own investment decision making.

investment options; and the goals and objectives of the investment decision making process, based on the specific demographics, needs and interests of plan participants.

The IPS needs to contain general criteria by which investment decisions will be made, but should not be so restrictive as to essentially automate the decision making process. For example, mandating that all investments selected remain in the top decile for 1, 3 and 5 year performance relative to a suitably defined peer group would make decision making very easy – if a fund does not meet and maintain the appropriate ranking, it would not be considered. Unfortunately, such rigid criteria would severely restrict the universe of funds or managers considered (possibly to zero) and not take into consideration other equally, if not more, important criteria including manager tenure, volatility, expense ratios, other fees and style specificity.

SUMMARY

In review, when structuring an effective investment committee you must first determine the appropriate role of the committee and each of its members, and embody those definitions along with the fundamental processes the committee will undertake to accomplish its goals in a formal written charter. As the sample committee charter we have included demonstrates (see insert), this needn't be a long or complicated document. Second, select the appropriate members based on the added value each individual will bring to the committee in accomplishing its objectives. Third, ensure each member of the committee understands their fiduciary obligations, the committee's objectives and the processes essential for full participation. Each member must agree to be adequately prepared prior to each meeting and to actively participate. Finally, utilize the services of appropriate subject matter experts and define your investment objectives in an IPS, which will be used by the committee in making its investment decisions.

Help your investment committee stay on track and consistent with its established processes with this checklist:

Fiduciary Checklist for Investment Committees

- Members are active and prepared, and understand their roles and responsibilities
- Committee meets regularly and maintains documentation pertaining to its investment decisions and actions
- Committee considers the needs of all participants when making decisions regarding investment options
- Committee has prepared an Investment Policy Statement and ensures it is properly executed
- Committee follows a consistent due diligence process in selecting each investment option
- Committee periodically reviews each investment option and all fees and expenses associated with the plan

PART II

Implementing a Successful Investment Committee

If you structure your committee appropriately, you have taken the most important step in ensuring its success. However, to maintain its effectiveness and to continue exhibiting the characteristics of a prudent expert, you need to take several additional steps.

Agenda-Driven Meetings

A successful committee will have regularly scheduled meetings, which follow an agenda prepared in advance, with members well prepared to participate in the committee's discussions and deliberations. Most committees have a designated chairperson responsible for logistics and ensuring the committee stays on track when meeting.

Providing a sufficiently detailed agenda and appropriate supporting materials to committee members in advance is the most critical success factor for a well run committee meeting. Preparatory materials available in a "briefing book" a week or two in advance will help each member be an active participant in the committee's discussions and is essential for the committee to fulfill its obligations of selecting, monitoring and replacing investment options. This interplay of ideas from well-informed members ensures a better outcome from the entire committee. The key to active participation of the members is advance preparation. As fiduciaries, each member should be aware of the standards imposed on them under ERISA, as discussed earlier, and must strive to be fully prepared for the discussions scheduled for the meeting.

Meeting Minutes

Because the committee and each of its members function as fiduciaries and must adhere to the prudent expert standard, a record of their deliberations should be made, and the minutes preserved, to record committee actions. Meeting minutes can demonstrate that a prudent process was followed. Experts disagree on how inclusive the

Providing a sufficiently detailed agenda and appropriate supporting materials to committee members in advance is the most critical success factor for a well run committee meeting.

minutes of committee meetings should be – ranging from a mere statement that "the committee met, a discussion was had, and the committee decided to..." all the way to virtually recording verbatim the entire discussion. The decision on how much to memorialize is itself a fiduciary decision. The committee has to decide on the level of detail to include in its minutes. Factors to consider are:

- To what extent does the committee want to rely on individual perceptions and recollections of what transpired in case its deliberations are ever called into question?
- Will detailed notes or even transcriptions of discussion have a "chilling effect" on those discussions?

- Could an independent expert (if called to offer testimony) determine that the committee followed its pre-determined process to arrive at the decision?

Meeting minutes can demonstrate that a prudent process was followed ...

- Would the expert be forced to apply his or her own process to validate (or invalidate) the committee's decision?

Especially in light of the latter consideration, we believe that the meeting minutes should:

- Show sufficient detail to demonstrate adherence to a prudent process (as defined in the committee charter and IPS)
- Clearly document any decisions the committee has reached
- Clearly document the rationale applied and decision-making process behind decisions reached

Minutes should be addressed as an agenda item in subsequent meetings, and each member should feel free to comment on the adequacy of those minutes, and possibly provide an addendum to those minutes that explains why the member believes more clarity is necessary.

Adherence to IPS Criteria

In addition to demonstrating that a prudent process was followed, the minutes can demonstrate adherence to the criteria established in the IPS for selecting, monitoring and replacing investment funds or managers. Keep in mind that the IPS is a roadmap for investment decision making, and once adopted, becomes the definitive standard by which the committee will be judged. As discussed previously, the IPS needs to be artfully drafted to provide sufficient guidance to the committee in making decisions, but not so restrictive as to mandate certain decisions. Arguably, liability is increased when a committee has an IPS, but fails to follow it.

Each member needs to understand the

Meeting minutes can demonstrate adherence to the criteria established in the IPS for selecting, monitoring and replacing investment funds or managers.

reasons certain provisions exist in the documents and the courses of action appropriate under specific circumstances. For example, in the event an investment selection fails to meet criteria established in the IPS, to place the option on a "watch list," the committee must understand:

- What is contemplated by "watch list" status
- How the committee's monitoring activities may need to change
- What the next steps may be in the event the investment improves and needs to be removed from the "watch list" or the investment continues to violate the criteria established

In addition, should such an investment option deteriorate and violate criteria causing the investment to be placed into "warning" status, the range of options available to the committee need to be fully understood and may include: continued heightened scrutiny, monitoring or removal and replacement of the investment.

The IPS should never dictate the specific course of action, but should define

the range of options available to the committee and, once established, the committee must act in conformity with those options as the prescribed "best course(s) of action," unless altered, which brings us to the third tenet of a successful committee.

PART III

Evaluating the Effectiveness of the Investment Committee

If you structure your committee appropriately, you have taken the most important step in ensuring its success. However, to maintain its effectiveness and to continue exhibiting the characteristics of a prudent expert, you need to take several additional steps.

Times change. Participant needs change. Situations are never truly identical. The key to remaining effective and maximizing protection from liability is to maintain a consistent process that is

The key to remaining effective and maximizing protection from liability is to maintain a consistent process that is adaptable...

adaptable to specific situations and to adjust the process to new and different situations when appropriate. Prudent experts constantly test their processes to ensure applicability in given situations and change them to maintain effectiveness when required. Ensuring the effectiveness of an investment committee requires the continuous examination and evaluation of:

- Needs of your participants
- Current market conditions
- Current industry trends and changes
- Your IPS goals and strategy
- Your investment committee

Participant Needs

First, always be cognizant of the needs of your participants. One of the fiduciary obligations mandated by ERISA is to operate the plan exclusively for the purpose of providing benefits to the participants and their beneficiaries. Generally, this requires that fiduciaries always ask “How would this action af-

fect the participants’ benefits under the plan?” prior to taking any action.

Clearly, it is not necessary to always maximize the monetary benefit a participant may expect to receive, but it is incumbent on a fiduciary to recognize that each and every decision made individually – and as part of a committee – may have an impact, and that the impact is consistent with the goals of the committee, the terms of the plan, and ERISA.

Evaluating the needs of the participants means understanding their demographics and any trends that may be evident. Is the workforce aging? What is the average education level? What do they know about investments and retirement concepts? Is the group engaged and willing to take charge of their investments and retirement planning? Or, do they prefer to “set it and forget it”? An accurate assessment of employee needs is a fiduciary function, and while credence should be given to what the group expresses as their wants, what they need may be different.

Market Conditions

Changing market conditions also may demand a reevaluation of what participants may need. A steadily growing economy may warrant various options

that allow participants to structure a more – or less – aggressive portfolio based on individual situations. In times of high volatility, fewer choices may be called for, including possibly eliminating some of the more aggressive asset classes, or even eliminating a brokerage window from the menu.

Industry Changes

Industry trends and changes are also a factor to consider when assessing needs. Not many years ago, people were scratching their heads wondering why we needed to have daily valuation and the ability to make investment changes on a daily basis. Innovation may provide solutions to needs that have yet to be identified or that may even be the

Most notable with respect to investment products is the recent development of age-appropriate managed lifecycle funds...

result of the innovation. Nonetheless, expanding product sets and feature creep need to be considered in light of the needs of participants.

Most notable with respect to investment products is the recent development of age-appropriate managed lifecycle funds, that provide an asset allocation based on the time horizon a participant has until expected retirement. Such “auto-pilot” investment options were not widely used a few years ago, when “risk-based” (conservative, moderate,

and aggressive) funds were dominant as the option of choice. Such age-appropriate funds have almost eclipsed risk-based funds for the simple reason that they are self adjusting, based on a theoretical model, over the course of a lifetime, and are designed to eliminate the need for a participant to even determine at what point in their lives they should be aggressive, moderate, or conservative in their investments.

IPS Goals

The committee must continually re-evaluate the strategy and goals embodied in the IPS. A well crafted IPS leaves much to the sound judgment of the committee, but the criteria for determining investment selection and replacement still need to be tested against reality. In many cases, a fund may be meeting the criteria established but, for reasons not previously contemplated, may no longer be a suitable investment option for participants. The committee needs to evaluate whether the criteria need to be replaced, or additional parameters should be placed in the IPS for these purposes. An example of non-IPS related criteria that may cause a committee to consider replacing an investment option or fund could be the fund's allowance of certain market timing or other activities not consistent with the efficient operation of the fund. In such cases, a committee may have to conclude that it would be better to remove such a fund even though it does not violate IPS criteria.

Investment Committee

Lastly, committee members must continually evaluate themselves. Being prepared and engaged is essential to fulfilling one's fiduciary obligations under ERISA, as well as determining the success of the committee as a whole. While there may political issues involved in removing or replacing committee members, establish a process in the committee charter to deal with those situations where a committee member no longer wants to, or is unable to, appropriately discharge his or her duties.

Success Can Be Yours

A successful investment committee is one that has been structured thoughtfully and with a thorough understanding of its goals and objectives. An effective investment committee is implemented using regularly scheduled meetings with advance preparation of its members and evolves through rational evaluation and change as appropriate – taking into account the evolving needs of the participant base, market dynamics, industry innovation, the IPS goals and the commitment and contribution of its membership.

Investment Committee Checklist

Structure:

- Assemble and formalize the committee
- Create a fiduciary checklist
- Establish an IPS

Implementation:

- Meet regularly
- Adhere to goals and strategies within the IPS
- Maintain documentation

Evaluation:

- Continually assess the needs and interests of participants
- Reevaluate strategies and goals within the IPS
- Continually evaluate committee members
- Adjust committee policies and procedures as necessary

Success can be defined in many ways, but when it comes to effective committee implementation and operation, take care to understand the needs of your participant base. While it may be more expedient to simply follow the whims and wants of employees, your investment committee members are fiduciaries who must adhere to the precepts of ERISA and apply their talents to selecting, monitoring and replacing investment funds to help participants get to and through a comfortable retirement.

One of our clients summed up the reasons for the success of their investment committee by saying “Our committee members are passionate and engaged.

They put aside their personal biases and do what is prudent for the participants in our plan. They care!”

Schwab's Sponsor Services team is available to assist you with the process of constructing and implementing a successful investment committee. To learn more about how we can help, or to request a copy of *Understanding Your Fiduciary Responsibility: An Executive Guide to Reducing Risk and Liability*, contact your Schwab representative or call Michael Olah, JD or John Sturiale, CFP®, AIF® at 888-444-4015.

You can also visit:
www.scrs.schwab.com

ABOUT THE AUTHORS



MICHAEL OLAH, JD
Field Vice President
ERISA Services

Michael Olah is a Field Vice President with Schwab, concentrating on managing relationships with large-market clients. In that capacity, Michael is primarily responsible for ensuring clients of Schwab Corporate & Retirement Services receive the full range of appropriate services.

Michael has extensive experience in all matters pertaining to retirement plan design, documentation, administrative processes and procedures, and compliance and fiduciary concerns. In connection with fiduciary issues, Michael is instrumental in working with clients to develop processes and procedures for establishing prudent fiduciary processes, and monitoring decision making, and working with others to ensure appropriate processes for investment selection. He also works as a resource for client benefits and investment committees in setting policy with respect to plan design, administration and funding.

Michael received his law degree from the University of Akron in 1985, and his LLM (Taxation / Benefits) from Case Western Reserve University in 1995, and has practiced in law firms in northeastern Ohio and Virginia. Prior to joining Schwab, Michael was Director of ERISA Services for a mutual fund company, and previously Trust and Fiduciary Counsel for a large Midwestern-based national bank. Michael has extensive experience in the industry, and teaches employee benefits law and related issues in the Certified Employee Benefits Specialists (CEBS) program, and benefits courses in various Paralegal Studies curricula. He has also been active in various local, regional and national employee benefit professional organizations, including the Midwest Benefits Conference, WEB (Working in Employee Benefits), International Foundation of Employee Benefits, and is frequently a speaker on various topics before these and other professional organizations and conferences.



JOHN STURIALE, CFP®, AIF®
Field Vice President
Retirement Investment Services

John Sturiale is Field Vice President of Retirement Investment Services at Schwab. John has worked in the institutional investment industry since 1989. Prior to joining Schwab in 2000, John spent three years as the team leader and Senior Portfolio Manager for the Retirement Plan Services Group at National City Bank. He also served as an Investment Analyst and Senior Portfolio Manager with Goodyear Tire & Rubber Co. Also at Goodyear, John was part of the five-member team responsible for the investments of their \$2.5 billion defined benefit pension plan. In addition, John served a short time as a Financial Planner/

Investment Advisor and advised high net worth clients on various aspects of their personal financial plan.

John has been noted for the development of the SCR (Sturiale Consistency Ratio). This measure is used by advisors and the industry to analyze the frequency and magnitude of mutual funds that outperform their benchmarks. In addition, he has created the Portfolio Diversification Measure, a model used to assist plan sponsors and their advisors in scoring their defined contribution investment line-ups.

John earned his Bachelor of Science degree in finance from the University of Akron and his MBA from Ashland University. He is also a Certified Financial Planner (CFP®). In addition, he has earned the Accredited Investment Fiduciary™ (AIF®) designation from the Center for Fiduciary Studies at the University of Pittsburgh. John is a member of the Association for Investment Management and Research and the Financial Planning Association.

Footnotes

¹ Employee Retirement Income Security Act of 1974 as amended; 29 U.S.C. § 1001 et. seq.

² ERISA §404(a)(1)(B).

³ Care must be taken when separating the roles, as the decision maker will generally be deemed to be the fiduciary under ERISA, and, as such, would be charged with having been fully apprised of all material facts that would weigh in on those decisions. It would be incumbent on that fiduciary to ensure that the information being received from others fulfills this standard.

⁴ Such as the input provided by certain professionals, including lawyers, actuaries, or financial or investment professionals.

⁵ ERISA Section 404(c) provides in part that a plan fiduciary must select a broad array of investment options, each of which is diversified, with differing risk and return characteristics, which, when taken as a whole, allow a participant to structure a portfolio with risk and return characteristics within the normal range for a participant of that type. In other words, the fiduciary must select the right funds so that each participant can structure a portfolio uniquely for that individual.

⁶ This is especially true in cases where a company security is part of an investment fund offered under the terms of the plan. In those cases, obligations to maintain certain corporate information confidentially (such as during communication black-outs immediately prior to earnings or news releases) are in direct conflict with the fiduciary obligations to disclose all known information that may impact the investment or participants in the plan.

⁷ ERISA Section 404(c) generally provides that in participant directed qualified plans, fiduciaries will not be liable for participant losses if an appropriate number of and kind of fund options are made available; appropriate mechanisms are available with which participants may implement investment decisions as often as may be prudent; and appropriate investment and plan information is distributed to participants. If a participant then makes an affirmative decision and acts to select from among plan investments, the plan fiduciaries should not be liable for any losses suffered by the participant as a result of those investment decisions.

The Charles Schwab Corporation (Schwab) provides services to retirement plan sponsors and participants through its affiliates, Schwab Retirement Plan Services, Inc., The Charles Schwab Trust Company, and Charles Schwab & Co., Inc. Schwab also provides equity compensation plan services and other financial and retirement services to corporations and executives through Charles Schwab & Co., Inc. Schwab Retirement Plan Services, Inc. provides recordkeeping and related services with respect to retirement plans. CSTC, a California state-chartered, non-depository trust company, provides trust and custody services with respect to retirement and other benefit plans, including individual retirement accounts. Charles Schwab & Co., Inc. (Member SIPC) is a registered broker/dealer, offering the Schwab Personal Choice Retirement Account® (PCRA), as well as other brokerage and custody services to its customers.