



Ben Grosz quoted in recent PlanSponsor article "Fiduciary Basics for New Plan Sponsors"

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Ben Grosz, a tax and ERISA partner at Ivins, Phillips & Barker, says third main ERISA fiduciary rule, also known as the investment rule, covers diversification. Grosz says the rule is relatively straightforward, so there is less confusion or litigation around it.

Grosz notes that ERISA Section 404(c) also provides an exception against fiduciary liability for investment losses in participant-directed retirement plans, such as 401(k) plans. He explains that the participants are responsible for their investment outcomes if a sponsor satisfies the 404(c) requirements, including adequate diversification.

According to Grosz, the fourth main fiduciary duty comes from the plan documents rule, which states that fiduciaries must follow their plan documents unless the documents conflict with ERISA, says Grosz.

Grosz tells plan committees with which he works that "the buck stops with you, and you need to make sure that these things happen and happen accurately, but it's not necessarily that you personally do them."

A plan's fiduciaries must maintain and provide a summary plan description and may be required to send out a summary of material modifications if material changes are made to the plan. Also, fiduciaries should "generally ensure that plans are compliant from a tax and legal perspective," Grosz adds. Failing to fulfill these tasks can be expensive.