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Institutional Investor Practice Group

Fiduciary/ERISA

Seyfarth attorneys regularly act as fiduciary counsel to employee benefit plans subject to ERISA (both single employer and multi-employer), governmental retirement systems, and tax-exempt organizations.

In representing our clients with respect to these fiduciary matters, we can call upon a diverse team of attorneys across departments to provide the necessary advice. Our team, comprised of employee benefits attorneys, corporate attorneys, and litigators, regularly advises regarding:

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| <input checked="" type="checkbox"/> Fiduciary responsibility and liability | <input checked="" type="checkbox"/> Use of prohibited transaction exemptions |
| <input checked="" type="checkbox"/> ERISA and related Department of Labor guidance | <input checked="" type="checkbox"/> Public access to meetings, documents, and records |
| <input checked="" type="checkbox"/> Fiduciary related-contractual matters | <input checked="" type="checkbox"/> Issues related to environmental, social, and governance (“ESG”) investing |
| <input checked="" type="checkbox"/> State pension statutes and related regulatory authority | <input checked="" type="checkbox"/> Litigation related to fiduciary matters |
| <input checked="" type="checkbox"/> Measures that protect fiduciaries from co-fiduciary liability | <input checked="" type="checkbox"/> Conflicts of interest |
| <input checked="" type="checkbox"/> Structuring alternative investments appropriately | <input checked="" type="checkbox"/> Governance and procedural diligence |
| <input checked="" type="checkbox"/> Uniform Prudent Management of Institutional Funds Act | <input checked="" type="checkbox"/> Counseling investment committees |

Track Record of Results

- Represented an Illinois public retirement fund as fiduciary counsel, providing advice on a variety of issues including: conflicts of interest and investment policies, as well as the use of minority and emerging managers, and state freedom of information laws.
- Successfully represented defined benefit plans in connection with Department of Labor examinations of fiduciary issues regarding investment portfolios, including in-depth examinations of alternative investment portfolios.
- Identified a likely non-exempt prohibited transaction under ERISA in connection with a client's perspective investment in an open-ended alternative investment vehicle relating to valuation and management fees and assisted manager in instituting better policies going forward to prevent the issue.
- Designed appropriate fiduciary structures and counseled fiduciaries—such as trustees and investment committee members—regarding individual fiduciary roles and duties related to qualified employee benefit plans subject to ERISA.
- Represented numerous pension funds, including single and multi-employer private plans and governmental systems, in negotiating investment management agreements and various other types of investment-related contracts.
- Drafted requests for proposal for prospective investment consultants (and/or investment managers) and assisted clients with the process of prudently assessing, selecting, and contracting with respect to such investment consultants.
- Represented a major metropolitan transportation authority pension plan in litigation with an investment manager regarding the manager's suspected breach of fiduciary duty and failure to comply with established investment policy guidelines, resulting in a favorable multimillion dollar settlement.
- Conducted Qualified Professional Asset Manager ("QPAM") compliance audits for financial organizations managing the assets of their own employee benefit plans as required by the QPAM class exemption.
- Prosecuted a Supreme Court case on behalf of a retirement plan client against an insurance company for breach of fiduciary duty. This dispute arose when the insurance company promised to invest funds from our client, as instructed, but instead invested the funds in another instrument and kept the interest accrued during that time.
- Contracted with various independent fiduciaries for services regarding independent fiduciary assessments with respect to employee stock, annuity purchases, or other issues where conflicts may be present.
- Assisted a tax-exempt organization with the legal analysis relating to adding a socially-oriented investment restriction to its investment policy statement under the applicable state law.
- Represented numerous institutional investors regarding fiduciary issues connected with investments in alternative investments, including international and domestic private equity, real estate, and hedge funds, co-investments, and direct investments.



"Seyfarth Shaw" refers to Seyfarth Shaw LLP. Our London office operates as Seyfarth Shaw (UK) LLP, an affiliate of Seyfarth Shaw LLP. Seyfarth Shaw (UK) LLP is a limited liability partnership established under the laws of the State of Delaware, USA and is authorised and regulated by the Solicitors Regulation Authority with registered number 556927. Legal services provided by our Australian practice are provided by the Australian legal practitioner partners and employees of Seyfarth Shaw Australia, an Australian partnership. Our Hong Kong office "Seyfarth Shaw," a registered foreign law firm, is a Hong Kong sole proprietorship and is legally distinct and independent from Seyfarth Shaw LLP, an Illinois limited liability partnership, and its other offices.