



## 2024 Fiduciary Training Series, Part 3: Fiduciary Risk Management (Webinar Recording)

With increasing and varied litigation, it has become more difficult for retirement plan fiduciaries to manage their risk. Best practices have become more challenging as plaintiffs' attorneys find new ways to sue plan sponsors, while at the same time fiduciary liability insurance has become less comprehensive and more expensive.

What's a fiduciary to do? Join CAPTRUST and some of the leading experts in the field of fiduciary risk management as we provide practical solutions to these problems and help plan sponsors become more confident in managing their fiduciary risk.

## Webinar Recap—Practical Playbook for Fiduciary Risk Management in 2024

Senior consultant Lisa Keith moderates a deep-dive discussion with three specialists who live and breathe plan-sponsor risk: Encore Fiduciary president Dan Aronowitz, Kilpatrick Townsend ERISA attorney Sterling Perkinson, and CAPTRUST defined-contribution practice leader Jennifer Doss. Together they outline where today's biggest exposures lurk—and how committees of any size can blunt them.

### The Current Risk Landscape

Regulator attention is up. IRS and DOL audits increasingly target late contribution deposits, missing-participant procedures, and cybersecurity controls—issues that crop up in small and jumbo plans alike.

Litigation keeps evolving. Beyond “excess-fee” suits, plaintiffs now attack conservative target-date performance, use of forfeitures, even allegedly low record-keeping fees that sacrifice service quality.

Two recent BlackRock target-date cases underscore how meeting minutes and IPS language can be weaponized.

## **Six Habits of Lawsuit-Resistant Committees**

Document everything. Courts look for robust agendas, pre-meeting packets, probing questions, and watch-list follow-ups—not rubber-stamp approvals.

Benchmark on a cadence. Conduct annual fee reviews or RFPs and keep evidence of any renegotiations or share-class moves.

Police performance with the right yardstick. Define benchmarks that match each fund's risk profile before plaintiffs pick their own in hindsight.

Close the forfeiture gap. Spell out in the plan document how forfeitures are used (expenses vs. employer contributions) to avoid fiduciary-duty claims.

Outsource smartly. Shifting investment oversight to a 3(38) manager or administration tasks to a 3(16) fiduciary reduces, but never erases, your liability—monitor those providers and confirm they carry adequate insurance.

Match coverage to exposure. Fiduciary-liability policies now scrutinize fee structures and investment lineups; tailor limits and deductibles to current claim trends and insist on indemnification from outsourced fiduciaries.

## **Key Take-Home Messages**

Process over perfection: Courts and underwriters reward committees that can prove a thoughtful, repeatable methodology—even when markets or expenses move against them.

Plan documents are risk tools: Venue-selection, arbitration, and clear IPS language can limit where and how claims are filed.

Insurance isn't a silver bullet: It supplements (not replaces) diligent oversight, timely corrections via IRS/DOL programs, and a culture of continual improvement.

Learn about managing this fiduciary risk checklist to update your fiduciary calendar, shore up documentation gaps, and brief senior leadership before the next audit letter—or plaintiff's subpoena—arrives.

To download a copy of the transcript, [click here](#).

## **Additional Resources**



[The Importance of Fiduciary Training](#)

[2024 Fiduciary Training Series, Part 1: Roles and Responsibilities](#)

[2024 Fiduciary Training Series, Part 2: Plan Governance](#)

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