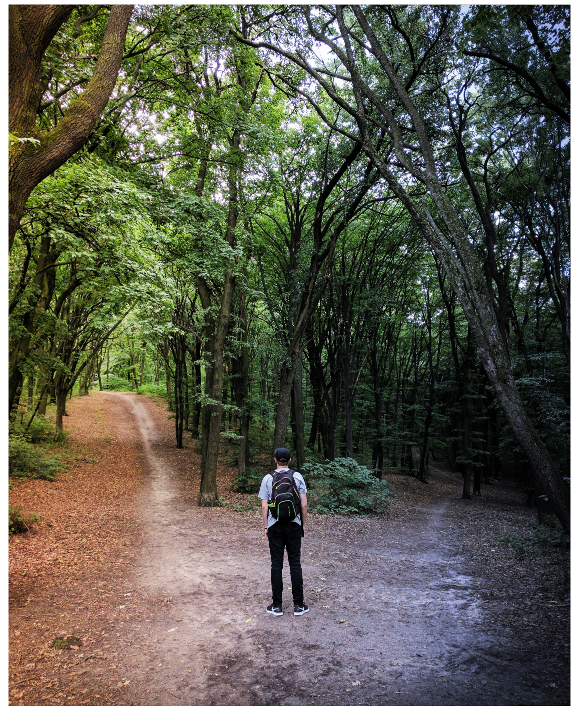
Volume 31, Issue 2, August 2025

Commco Comments

Timely Information and Updates for Employers and Retirement Plan Sponsors

Investment Choices: When Participants Get it Wrong

As a 401(k) plan sponsor, one of your most critical roles is acting as a fiduciary: someone legally and ethically obligated to act in the best interest of plan participants. While this duty is clear when you're making choices about the plan, it can feel murky when it comes to decisions that individual participants make for their own accounts. This can be especially tricky when those decisions don't seem appropriate, such as a young employee investing solely in money market funds or an older employee allocating heavily to aggressive growth stocks.



So what is your responsibility when a participant chooses investments that seem inappropriate for them?

Participant-Directed Accounts and ERISA

Under ERISA Section 404(c), if your plan allows participants to direct their own investments and meets certain requirements, fiduciaries are not liable for losses resulting from the participant's decisions. This protection only applies if the plan complies fully with 404(c) requirements, including providing a broad range of investment options, adequate disclosures, and the ability for participants to make changes at reasonable intervals.

Even if participants are responsible for their own investment choices, plan sponsors still have a fiduciary duty to prudently select and monitor the investments offered. This means:

- Providing a diverse lineup of options that cover a range of risk levels and asset classes.
- Reviewing the performance, fees, and overall suitability of each investment option regularly.
- Considering the use of a Qualified Default Investment Alternative (QDIA) for participants who fail to proactively select their own investments. These are most commonly target date portfolios, which automatically adjust risk based on the account owner's age.

If your plan has a QDIA but a participant opts out of it in favor of an inappropriate allocation, and the plan complies with 404(c), you're generally protected. However, if you notice a pattern of unsuitable decisions across multiple participants, it may signal a deeper issue in education, communication, or plan design.

Win a $25 Gift Card

to your choice of Starbucks or Powell's Books!

To be entered into the drawing, email quiz@thecommco.com with the correct answer to this question:

In the context of retirement plans, what does QDIA stand for?

the commerce company

Retirement & Investment Services

Volume 31, Issue 2, August 2025

the commerce company
Retirement & Investment Services

5440 SW Westgate Drive, Suite 110
Portland, OR 97221
thecommco.com

tel 503-203-8585
fax 503-203-8590
toll 800-203-8510

Congratulations to our most recent gift card winner:

Steve S. of Optimize Technologies, Inc.

For answers to previous issues' questions, visit [***https://thecommco.com/commco-comments/***](https://thecommco.com/commco-comments/)

The Role of Participant Education

While you don't have the obligation (or the ability) to prevent every poor choice an employee might make, you do have a duty to ensure participants receive the information and tools they need to make informed decisions. This includes:

- Offering regular educational sessions or webinars.
- Providing clear, easy-to-understand investment information (this is generally done by the plan's investment provider via their participant website).
- Making access to financial advisors or other advisory tools available.

If participants consistently make unsuitable choices, it's worth reviewing whether the plan could be doing more to educate participants about asset allocation, risk, and diversification.

Steps You Can Take

The first step is to work with your plan's financial advisor to create a well-structured plan with strong default options, a broad and prudent investment menu, and robust participant education. Make sure participants know that investment or other financial education is available to them and how to obtain it.

Additionally, your provider's annual reports may contain information that your financial advisor can use to determine if any partcipants' investments are misaligned with their age. You can then work with your advisor to create a plan to identify and reach out to those participants for personalized education.

Remember to document all plan reviews, educational invitations, outreach attempts, and other plan-related communications in your retirement plan files. If a participant were ever to claim they did not receive educational opportunities, you'll want to be able to prove what was offered, as well as when and how.