

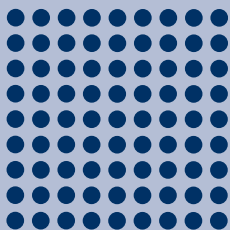
B L U E P R A I R I E G R O U P

# 404c and Liability



Protecting Your Company's Retirement Solutions | PART IV





The spotlight on recent mutual fund scandals is now shining on all companies who sponsor retirement programs. Across the country, plan sponsors face concerned participants who are afraid that their retirement funds might be in jeopardy. As a fiduciary, you want to fulfill your

responsibilities in accordance with the exacting standards of proper fiduciary conduct, especially since you can be held personally responsible for your decisions. And few people would disagree that your employees' financial futures deserve all the protection the law can provide. But what if, despite your best efforts at plan design, communication and education, one of your employees makes a poor choice, loses money and decides to sue you? You certainly don't want to be responsible for the monetary losses of others.

Under ERISA section 404(c), plan fiduciaries may be relieved of fiduciary liability for investment losses that are the result of an employee's decision-making in a participant-directed plan. At first glance, compliance with 404(c) may sound appealing — implementing 404(c), however, can be tricky since you need to satisfy a number of requirements to obtain 404(c) relief. This article gives you a brief overview of the issues surrounding 404(c) and also outlines the steps you can take to make sure you are in compliance with 404(c) requirements.

## *For Whom is 404(c) Relief Available?*

Keep in mind that 404(c) relief is not available to everyone — the following basic conditions must be met:

- Plan participants must be able to exercise control over their investments. This means that participants can make independent investment choices and give instructions with appropriate frequency (at least quarterly).