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Plan Sponsor Guide

What Changes When You Delegate?

A before-and-after guide to understanding what shifts when a discretionary trustee is formally engaged, and what the committee still owns.

FIRST HILL TRUST · PLAN SPONSOR GUIDE

Prepared by First Hill Trust

One of the most common questions plan sponsors ask when considering a discretionary trustee is: **what actually changes?**

Understanding the answer requires looking at two things together: the decisions and responsibilities that can transfer to the trustee, and the duties that generally stay with the plan sponsor and committee regardless.

This guide lays out that contrast directly, category by category, so committees can understand delegation in general terms. It is intended as general education, not as a description of any specific engagement or a commitment to perform particular services. "Delegated scope" means the responsibilities assigned to a trustee in a plan's governing documents; anything outside it remains with the committee. The actual division of responsibilities depends on each plan's documents and the services agreed upon.

The goal of delegation is not to remove the committee from the plan. The goal is to make sure every fiduciary decision has the right owner.

How to Read This Guide

BEFORE DELEGATION

The committee or an internal employee holds the responsibility and makes the determination.

AFTER DELEGATION

A discretionary trustee holds the responsibility and makes the determination within its delegated scope.

Fiduciary Decision-Making

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Hardship withdrawal requests

The committee or plan administrator reviews each request and makes the determination. Inconsistent application creates exposure.

In a discretionary trustee arrangement, the trustee reviews each request and makes the determination, applying plan criteria consistently and with documentation.

Operational plan errors

The committee must identify the error, determine how to correct it, and document the process, often without clear fiduciary expertise.

A discretionary trustee can take responsibility for the fiduciary aspects of determining how the error is corrected, with documentation of the process.

Late contribution deposits

The committee or HR team handles the issue, often without a clear process for determining whether corrective action is required.

A discretionary trustee can monitor for late deposits and help document the corrective process. Timely remittance and funding the correction generally remain the employer's responsibility.

Plan Asset Oversight

Legal title to plan assets

An internal employee or the plan sponsor entity holds legal title, which can blur the line between plan assets and company assets.

A discretionary trustee holds legal title to plan assets in trust, which can provide a clearer separation between plan assets and the sponsoring organization.

Pursuing delinquent contributions

The committee or payroll team must follow up on late or missing contributions, often without a defined process or fiduciary authority.

A trustee generally pursues contributions owed to the plan from other sources as part of its trustee obligations under ERISA, while the employer remains responsible for timely remitting its own contributions.

Investment oversight

The committee makes investment decisions or relies on a 3(21) adviser whose recommendations still require committee approval.

Depending on how the plan is structured, a discretionary trustee with investment authority, or a 3(38) investment manager, may exercise discretionary authority over investment decisions within its delegated scope, generally without requiring committee approval each time.

Documentation and Accountability

Who owns fiduciary decisions

Responsibility is diffuse, spread across committee members, HR, and external advisers without a clear single owner for each type of decision.

In a delegated arrangement, fiduciary decisions within scope have a clear, documented owner, the trustee, with written authority and accountability.

Documentation of decisions

The committee is responsible for documenting fiduciary decisions, a burden that often falls behind when time and expertise are limited.

A trustee documents the decisions it makes as part of its fiduciary process, which can create a clearer record that supports plan oversight.

Conflict of interest risk

Internal committee members may face pressure from business priorities that can influence, or appear to influence, fiduciary decisions.

A professional fiduciary whose role is defined by the plan documents generally evaluates plan situations without the internal business pressures that can complicate committee decisions.

What the Committee Still Owns: Before and After

Delegation does not eliminate the committee's fiduciary role. ERISA Section 405(c)(2) makes clear that the delegating fiduciary retains a continuing duty to monitor. The following responsibilities remain with the plan sponsor and committee regardless of what has been delegated.

Selecting the discretionary trustee

No formal selection process in place, or trustee selected without documented evaluation criteria.

The committee conducts a prudent selection process, documents the evaluation, and formally appoints the trustee in the governing documents.

Monitoring trustee performance

No structured monitoring process; performance review happens informally or not at all.

The committee reviews trustee performance periodically and confirms the arrangement continues to serve the plan and its participants.

Replacing the trustee if needed

No defined process for replacing a fiduciary, creating potential delay if performance becomes inadequate.

The committee retains the obligation and authority to replace the trustee if performance falls short, and must act on that obligation.

Plan design and amendments

Plan design decisions and amendments sit with whoever manages the plan internally, often without clear fiduciary review.

Plan design decisions and amendments remain with the plan sponsor. The trustee operates within the plan structure as defined.

Important reminder

Delegation changes who makes certain decisions. When responsibilities are properly delegated in the plan documents, liability for those decisions generally shifts to the trustee under ERISA, while the committee remains responsible for prudently selecting and monitoring the trustee. The specifics depend on each plan's governing documents.

About First Hill Trust

First Hill Trust is a retirement plan solution provider that delivers a comprehensive employee benefits back office for plan sponsors who want clearer accountability, stronger governance, and fewer operational handoffs. Our work is grounded in fiduciary oversight. We focus on helping sponsors understand where responsibility sits, how decisions are executed, and how oversight functions in practice, not just on paper.

We work behind the scenes to support plans that value clarity, consistency, and confidence in how they are managed. If you'd like more information or a high-level review of how your retirement plan is governed today, click the link to schedule a brief review, or contact us (206)-625-1800.



[Schedule a Brief Review](#)

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