Enriching Lives through
Smarter Investing

FIDUCIARY BRIEF

Why Benchmark Your Plan? Because “We've Always Used Them” Isn't a Defense

ERISA doesn't require you to have the cheapest plan, but it requires you to be able to prove, in writing, that you are monitoring your fees.

WHY IT MATTERS NOW

Under ERISA §404(a), fiduciaries must ensure plan expenses are reasonable — but “reasonable” only means something in comparison to the market. Without a documented comparison to similar plans, a sponsor has no basis for calling their fees appropriate beyond having agreed to them. Courts have been explicit on this point: in Anderson v. Intel, the Ninth Circuit noted that plaintiffs failed to provide a “meaningful benchmark” for their claims — the same standard cuts both ways, and sponsors without their own benchmark are in a weaker position to defend their fees at all.

WHAT BENCHMARKING ACTUALLY CHECKS

Category	What It Reveals
Advisory & recordkeeping fees	Whether you're paying market rate for your plan's asset size, or an outdated rate that never adjusted as assets grew
Investment expense ratios	Whether fund lineup costs are competitive with institutional share classes available at your plan's size
Revenue sharing (Schedule A/C)	Whether hidden compensation is flowing to service providers in ways that aren't transparent to your committee
Service levels	Whether you're overpaying for services you don't use, or underpaying for support your plan actually needs

WHAT THIS MEANS FOR YOUR PLAN

- Regulators and plaintiffs' attorneys both look for benchmarking documentation first — plans that can't produce it are in a weaker defensive position, regardless of whether the underlying fees were actually reasonable.
- Prudence is judged on process, not outcomes. A committee that benchmarks regularly and documents the review is treated very differently than one that simply renewed the same contract again.
- Industry practice recommends benchmarking at minimum every three years — letting more time pass without a documented review widens the gap between your process and what a prudent fiduciary standard expects.

CWM'S TAKE

Most sponsors we talk to haven't benchmarked in years, not because they don't care, but because no one on the committee owns it. And be careful what passes for a benchmark: having your advisor show you a few other plans they could offer isn't an independent comparison — it's a sales conversation. Too many plans let this stand in for a real benchmarking process without ever getting an objective, documented review. A genuine benchmarking study isn't a verdict on your current advisor — it's simply the documentation that ERISA already expects you to have.

Not sure when your plan was last benchmarked? A complimentary CWM Fiduciary Benchmarking Study will tell you where you stand.

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