



## Comparing 3(21) and 3(38) Investment Fiduciaries

At White Horse Advisors, we have the capacity to assist our retirement plan sponsor clients in either of two capacities, either as a 3(21) or 3(38) fiduciary. Some plan sponsors want assistance with their fiduciary responsibilities, but want to maintain discretion and control of their plan's investments. Other sponsors want to shift the fiduciary responsibilities to a third party due to their lack of expertise, time, and fear of exposure to liability. Ultimately the needs and desires of the plan sponsor typically dictate the specific arrangements.

The chart below compares the two fiduciary types in several important areas:

| 3(21) Fiduciary   | 3(38) Fiduciary   |
|---|---|
| States in writing co-fiduciary status   | States in writing co-fiduciary status   |
| Assists in drafting the Investment Policy Statement (IPS)   | Drafts and maintains the Investment Policy Statement (IPS)  |
| Helps design initial investment fund menu   | Selects initial investment fund menu  |
| Reports on ongoing investment monitoring  | Responsible for ongoing investment monitoring   |
| Recommends investment changes   | Makes investment changes  |
| Recommends investment mapping strategies  | Determines investment mapping strategies  |
| Provides documentation  | Provides documentation  |
| May be any individual who engages in any of the following actions: exercises authority or control over the management of the plan or its assets, renders investment advice for a fee, OR has discretionary responsibility in the administration of the retirement plan. | May only be a bank, insurance company, or registered investment advisor (RIA) subject to the Investment Advisors Act of 1940. |

Both 3(21) and 3(38) advisors accept fiduciary responsibility and adhere to ERISA 404(a)'s duty to serve solely in the interest of plan participants. Both also have to meet the "prudent man" standard of care.

Plan sponsors retain the responsibility to select and monitor the advisor, regardless of their advisor's fiduciary status. Plan sponsors should consider the advisor's experience, skill and level of expertise, in addition to their desire to take on exposure to potential liability. Remember, anyone can call themselves a fiduciary, but a fiduciary is determined by actions, not by title.

For more information about our retirement plan services, please visit our website at [www.whitehorseadvisors.com](http://www.whitehorseadvisors.com).

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