

THE EXCELLENT FIDUCIARY

Principled Performance Drives Fiduciary Excellence

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Principled Performance is an approach to the fiduciary role by which managers reliably achieve objectives, address uncertainty, and act with integrity on behalf of the employees and their beneficiaries who participate in employee benefit plans.

INTRODUCTION

Not that long ago, advocacy groups for employee benefit plan (EBP) service providers began promoting the notion that “fiduciary excellence” related only to investment decision-making in pension and retirement plans. Revelations of rampant overcharging for vital services like record-keeping and investment advice, consolidation of vendors, new regulatory initiatives tar-

geting EBP fiduciaries, and an explosion of data security breaches by recordkeepers, investment firms, and health-care providers forced a change in how EBP fiduciary duty is understood. Savvy human resources (HR) and finance leaders have realized that the dimensions of their EBP oversight responsibilities also require skills in governance, administration, and controls. They have learned—some the hard way—that those skill sets are equally, if not more, critical than the aforementioned investment discipline and must include health and welfare programs. This modern way of thinking is essential for achieving fiduciary excellence and *Principled Performance*.

WHY FIDUCIARIES FAIL

Many EBP sponsors fail to set objectives and strategies that are appropriate for them, based on a complete understanding of performance, risk, and related compliance issues, because of an inauthentic knowledge of the scope of their legal responsibilities. Many also fail to execute their strategies, monitor performance, and adjust their policies and practices as necessary. Many fail to comply with regulatory requirements or even stay on top of what requirements apply to them. Even those that do a somewhat adequate job very often fail to demand or confirm the same for third parties they employ. In such cases, we find there usually is a lack of ongoing, meaningful oversight from

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the committee assigned to regulate the EBP complex. In short, the status quo for many organizations is neither sustainable nor acceptable.

THE GOAL OF PRINCIPLED PERFORMANCE

To address this growing web of issues, forward-thinking organizations have adopted a vision of *Principled Performance*—a point of view and approach to management introduced by the Open Compliance and Ethics Group (OCEG). Applied to the EBP fiduciary environment, Principled Performance enables prudent decision-making across all fiduciary disciplines (that is, governance, administration, investments, and controls) while considering threats and opportunities and honoring mandatory commitments, including legal compliance and voluntary promises found in mission, vision and values statements, contracts, and employee agreements. The focus of Principled Performance is ideally matched to the fiduciary role because it emphasizes the priority of *process* over *outcomes*.

THE FIDUCIARY AGENDA IS LENGTHY

Functional priorities and systematic change drivers are vying for space on EBP committees' agendas as the rate of

change quickens, and the volatility in investment markets, workforce distribution, and data security rises.

On one side of the ledger, HR leaders must deal with expanding talent difficulties as well as increased vendor consolidation, the emergence of new regulations, empowered employees, and increased cybersecurity considerations.

To transform and future-proof the fiduciary role for EBPs, we see five overarching priorities against this backdrop: digital transformation, the future of work, cybersecurity, trust, and resilience. Call them the "new basics."

Making linkages between them, dismantling organizational silos, developing new skill sets, and promoting operational models that value collaboration inside and outside the enterprise are, in our opinion, the key to sustaining stability. Some organizations miss the significant strategic benefits of a more comprehensive strategy because interdependent units frequently operate individually.

For instance, the adoption of new working methods made possible by digital transformation can help EBP committees adapt to and mitigate cybersecurity threats to personally identifiable information (PII)

and personal health information (PHI). At the same time, they are bringing coherence and transparency to service providers and their fees. Organizations may evolve, push through change, and take required risks while establishing credibility with a changing workforce by developing and exploiting trust equity with internal and external stakeholders. Learning committee resilience also fosters a climate of readiness by recognizing the opportunities that may arise from the uncertainty ahead.

Digital Transformation is Not a Technical Issue

Digital transformation, formerly seen as a technical necessity to stay current, is now seen as a strategic imperative that can fundamentally change how fiduciaries govern and enhance the participants' EBP experience. It can act as a catalyst and enabler for other strategic imperatives and as an essential building block for a more stable and disruption-resistant EBP administration model. However, the conversation topics must change to keep this promise.

Here is an example of a needed change in thinking. Bryan Smith, the section chief for the FBI's Cyber Division, illustrated that need when he warned that the security of

digitized data is more a business challenge than an information technology (IT) issue. Recently he said, “The value of information is dependent on the degree to which it affects the viability of an enterprise. The more critical the data, the more emphasis is needed on securing it. An IT department is not the best-equipped office to prioritize the value of all corporate information.”

Instead of concentrating on strategic objectives, digital transformation in the employee benefits space has been more about pursuing the newest disruptive technologies. Reorienting technology is essential to support the strategic shift, emphasizing the “why” and the “how.” Set aside the bits and bytes long enough to consider the crucial issues: What is the mission of an EBP committee? How can oversight of the plan’s assets and data be enhanced by involving IT leadership at the fiduciary committee level?

To get there, HR managers, EBP committee members, and IT executives need a common language to talk about and plan for how operations and workforce changes, along with digitally driven capabilities, may revolutionize fiduciary practices. At its core, a digitally progressive enterprise is a future-ready organization that can pivot, scale up or down

and maintain stability in the face of volatility. This work is never-ending. Digital transformation is about continual adaptation to match the pace of innovation because going digital is not the ultimate goal; it is the context within which a 21st-century organization operates.

Talent Acquisition and Management are in Turmoil

HR executives and teams that manage an organization’s so-called “human capital” perform tasks essential to Principled Performance. An organization’s culture is set in how it hires, compensates, incentivizes, recognizes, and disciplines its employees—a task managed or overseen by HR managers. Establishing a “speak up culture” is a critical proactive approach to ensuring Principled Performance. Promoting and encouraging the organization’s mission, vision, and values, set by the governing authority, often falls into the tactical hands of the HR team. Whether establishing clearly defined job descriptions, training about values and decision-making criteria, encouraging a robust control environment, reinforcing culture, supervising EBP operations, or complying with the myriad of labor-related regulations imposed upon organizations, HR directly affects the outcomes. Not surprisingly, fiduciary responsibilities for

EBP plans revolve around HR leadership.

With digital tools, services, and processes as enablers, work, employees, and workplaces are accelerating in how they are defined. Jobs are changing, and workforces are rebalancing and redistributing as organizations develop new models for hiring in-house versus outsourced talent. Workplace strategies are more in flux than ever, with investments in barista-staffed espresso bars giving way to reimbursements that equip employees working at their kitchen tables.

An overarching task of employers is forging closer bonds with their workforce amid all the change so that workers have a genuine voice and are motivated to take action. Many observers think that employees will have more autonomy and control over their employers in the future. How can EBP fiduciaries differentiate your enterprise in order to draw in and keep the talent you need in light of the dwindling availability of talent?

Steps that enterprises pursuing fiduciary excellence take to energize Principled Performance include redesigning work, adapting workplace strategies around the inherently human aspects of work, giving the tasks at hand purpose and meaning, and adopting a more

inclusive perspective of success that takes into account employees' financial planning needs.

Reduce Risk and Adapt to Cybersecurity Threats

Many departments within an enterprise—IT, finance, HR, and more—hold pieces of EBP information. Unfortunately, many enterprises cannot put the complete risk picture together. Organizations, both employers and their EBP vendors, have reacted to external threats by spending billions on technology solutions without addressing common root-cause governance issues, such as employee and vendor password policies.

It is essential to recognize that the governance of EBP data and assets is a tenet of risk management and is most effective when implemented with a holistic, cross-functional approach. Operationalizing cybersecurity with risk-based governance is not just a technology issue anymore.

Too often, EBP committees operate under the misconception that operationalizing cybersecurity is the responsibility of the IT department alone when, in reality, finance and HR control significant pieces of protected information. Unfortunately, few organizations have joined those departments in a

collaborative effort. Taking a holistic, cross-functional approach to cybersecurity is the needed level of engagement. This approach simplifies the HR/IT audit process by ensuring effective and adequately implemented controls designed to protect EBPs.

The Importance of Trust Equity

The success of data security initiatives, digital transformations, and workplace makeovers depends on the degree of trust that an HR organization has established with its board of directors, employees, and service providers. The global pandemic, breach of fiduciary class action lawsuits by employees alleging excessive fees for EBP services, and the rise of data privacy and protection concerns have all contributed to a severe lack of trust. Considering the significant, pervasive challenge in achieving and sustaining trust is an inherent component of Principled Performance.

Trust in EBP management is influenced by various factors, including a plan's cyber posture, its position and actions regarding environmental, social, and governance issues, regulatory compliance, and responsiveness to adequate training in EBP tools. In order to build trust into an organization's fiduciary DNA, trust lev-

els must be regularly and routinely diagnosed, evaluated, quantified, and appraised throughout this multidimensional matrix of stakeholders and behaviors.

Building Organizational Resilience

Resilience, or the capacity to flourish in the face of persistent disturbance, quickly develops into an "always-on" imperative for EBP fiduciaries. In order to increase collective agility, improve responsive decision-making, and ensure an ecosystem-wide perspective that benefits all stakeholders, resilience requires "whole-system" cooperation and strategic vision. As a result, cross-functional collaboration is at the core of a resilient EBP management system.

Additionally, this resilience helps gain employee confidence in an organization's ability to withstand disruptions and assure the success of digital and workforce reforms. Prioritizing these challenges will take focus, creativity, and some risk-taking. Tackling them together will increase an HR organization's resilience and relevance. There will be many dependencies along the way—a fluency in digital systems, a resilient organizational culture, collaboration with information technology, and improved knowledge of fiduciary

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best practices at the committee level, to name just a few—but one thing is clear: yesterday’s fiduciary doctrines are insufficient. Principled Performance is the backbone of a fiduciary management approach that enables excellence across

all disciplines. (Ask Roland Criss for a review of how it integrates with the pursuit of fiduciary excellence.)

Accept the “new basics.” Discover the links between them. As they balance short-term priorities with your re-

sponse to the existential drivers of change, push your teams to undermine conventional systems. Future-ready organizations are already mining opportunities. Avoid falling behind.