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Understanding 401(k) Fees:

What's Fact, Fallacy and Fiduciary Responsibility?

ABA Retirement Funds Program

For plan sponsor use only. Not for use with participants.
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Meet the presenters



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Jess Danner is a Regional Vice President for the ABA Retirement Funds Program. She has 25 years of financial services experience working with plan sponsors, participants, and consultants. Jess' industry experience, tenure with the Program, understanding of the unique needs of the legal community and a passion for connecting with and helping others enables her to effectively consult on the importance of having a retirement plan that is the right fit for organizations.



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Igor Fedosenko is Vice President of Sales for the ABA Retirement Funds Program with over 20 years of financial services and ERISA retirement plan experience working with plan sponsors, participants, investment professionals and advisors. Igor has been with the Program for 18 years working with the legal community to help meet their retirement goals and objectives.

Registered representative of Voya Financial Partners, LLC (member SIPC).

Agenda

01

Overview of various types of fees

Review of common firm fees, participant fees, and investment expenses, and their impact

02

Your fiduciary role

Understanding a fiduciary's role when it comes to fees' reasonableness and appropriate disclosures

Poll Questions



Fact

- ① The law requires the fees charged to a 401(k) plan be “reasonable” rather than setting a specific level of fees that are permissible.
- ② While the law requires fees to be “reasonable,” the competitive market determines what providers can charge.
- ③ Smaller plans have additional options.

or



Fallacy

- ① ERISA says fiduciaries must choose the lowest-price provider.
- ② ERISA determines how much plan providers can charge.
- ③ Smaller plans are limited to using retail fund share classes.



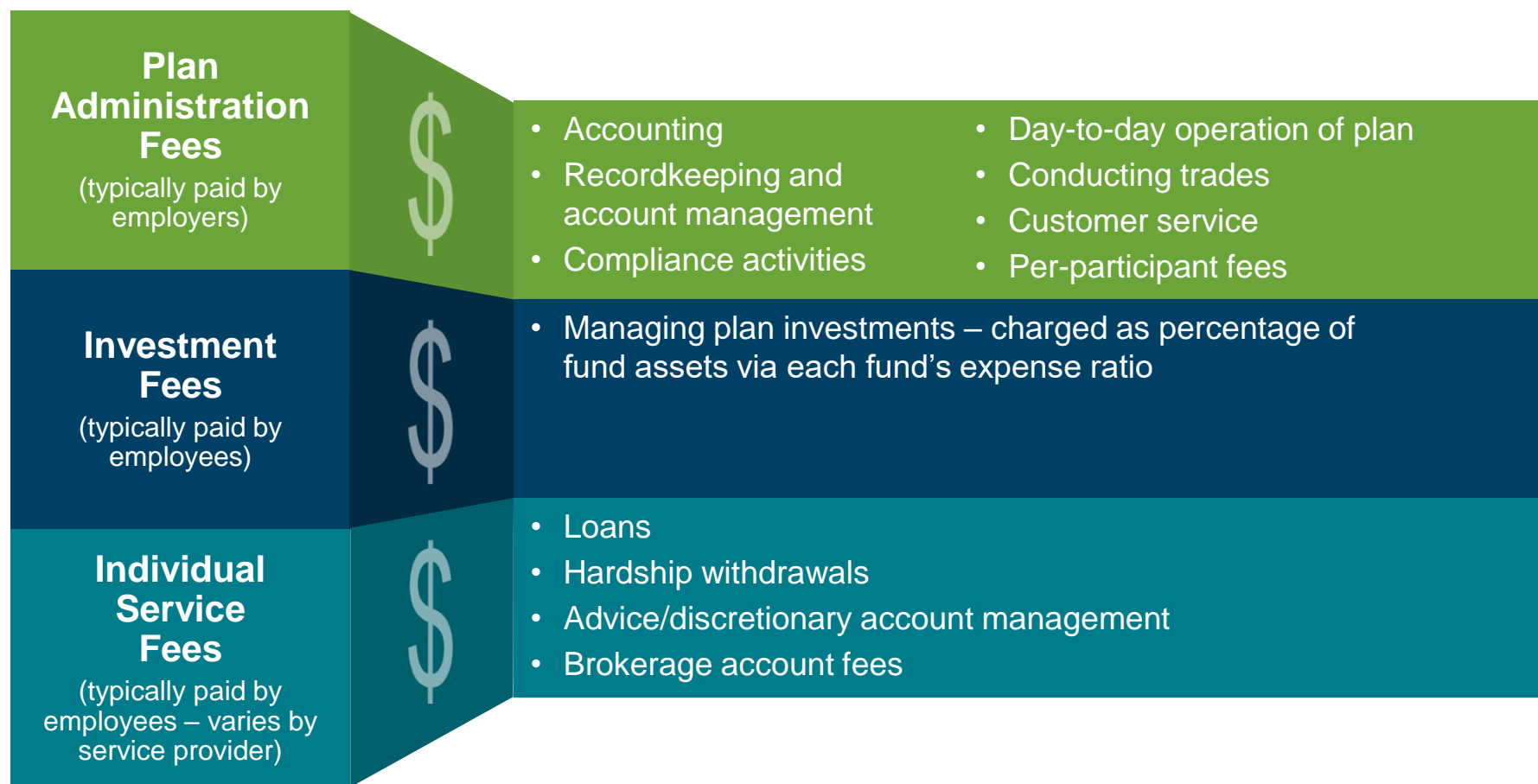
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01

Overview of various types of fees



Three categories of plan fees



Source: U.S. Department of Labor, <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/401k-plan-fees.pdf>

Know what's included in your plan

Many providers use a variety of ways to collect revenue from retirement plans – some are more transparent than others.

Here is a short list of possible ways your retirement plan may be paying fees today.
All of these can quickly add up to thousands of dollars which can erode the profits of your law firm and negatively impact an employee's retirement savings.

1. Recordkeeping and general administration fees
2. Investment advisory fees
3. Trust fees
4. Fees that apply to certain transactions
5. Other fees may be charged for year-end and other miscellaneous processes
6. Investment fees, also known as the funds' expense ratio

**SECURE 2.0
Act of 2022**

A deeper look at investment expense ratios



Actively Managed Funds

- Portfolio manager actively researches, monitors and trades the holdings attempting to achieve a higher return than the market as a whole
- Fees are typically higher – due to costs associated with more active management and sales charges due to high level of trading activity
- Active management doesn't necessarily guarantee higher returns



Passively Managed Funds

- Portfolio manager seeks to mimic the investment results of a market index – e.g., Standard and Poor's 500
- Fees are typically lower – due to less manager research and trading activity
- Passive management doesn't necessarily guarantee higher returns

Most 401(k) plans offer a mix of actively and passively managed funds

A few examples



Actively Managed Fund

2060 Retirement Date Fund*
Expense ratio: 0.907%
\$100,000 investment

$$\begin{array}{r} \$100,000 \\ \times 0.00907 \\ \hline \$907 \text{ per year} \end{array}$$



Passively Managed Fund

Large Cap Equity Index Fund*
Expense ratio: 0.767%
\$100,000 investment

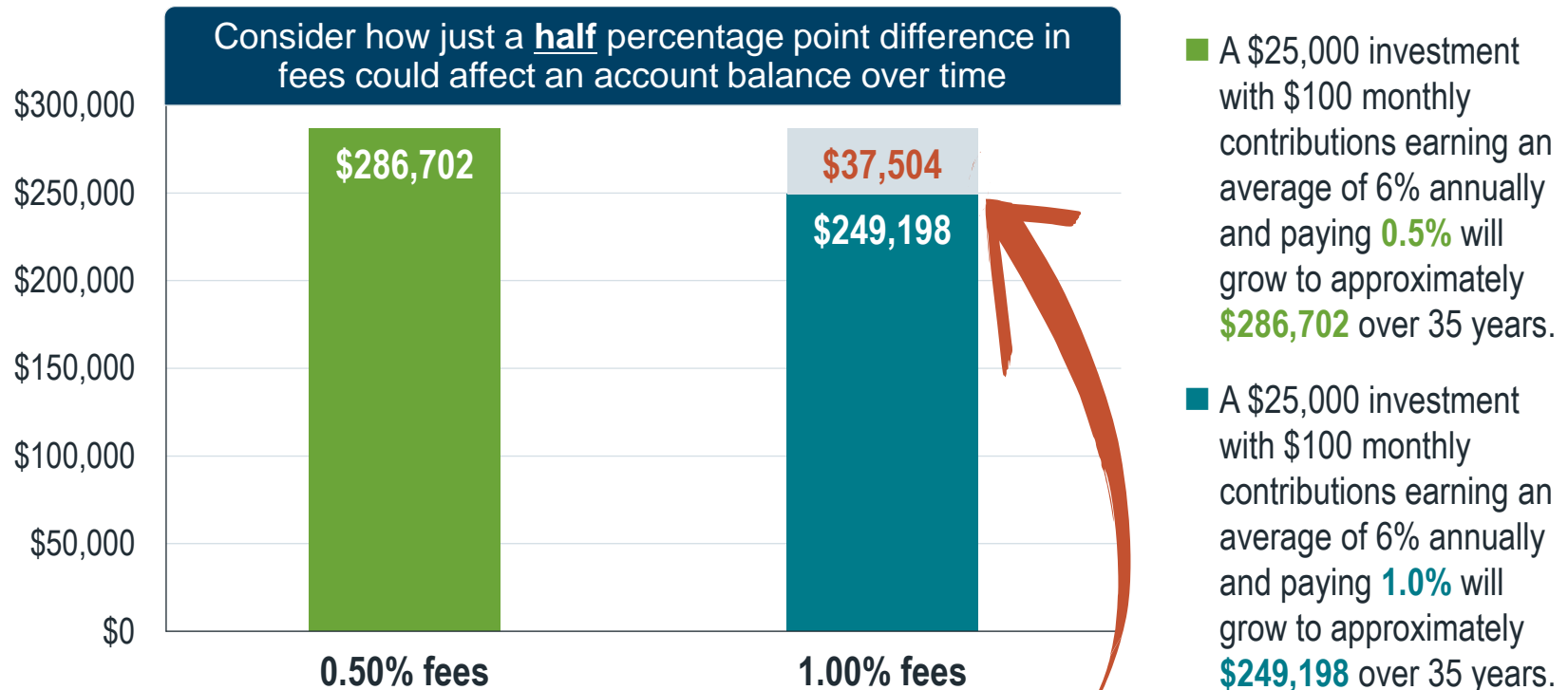
$$\begin{array}{r} \$100,000 \\ \times 0.00767 \\ \hline \$767 \text{ per year} \end{array}$$

* Examples are for funds included in the ABA Retirement Funds Program, R1 share class (for plans with assets <\$3M)

Impact of fees

Fees can erode your savings

You should have a thorough understanding of your plan's cost, which can include costs to your firm as well as costs to your participating employees.



That 0.50% higher expense can equate to a **13% lower** account balance.

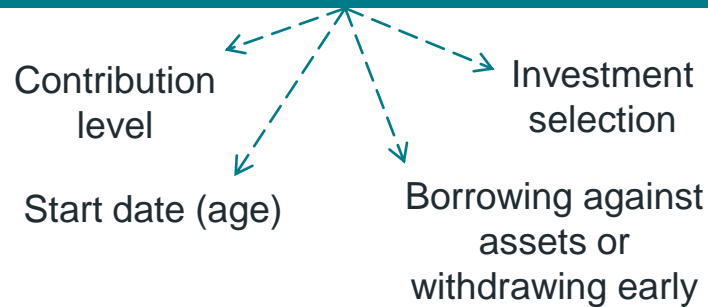
For illustrative purposes only. No specific investment product is reflected and no fees, charges or taxes have been taken into account in the charts above. Investment results will vary. Systematic investing does not ensure a profit or guarantee against loss.

Impact of fees

Critical retirement readiness elements and who controls them

There are few factors impacting an employee's retirement savings outcome that the employer controls – cost is one of them.

Factors¹ of retirement readiness primarily controlled by the **participant**

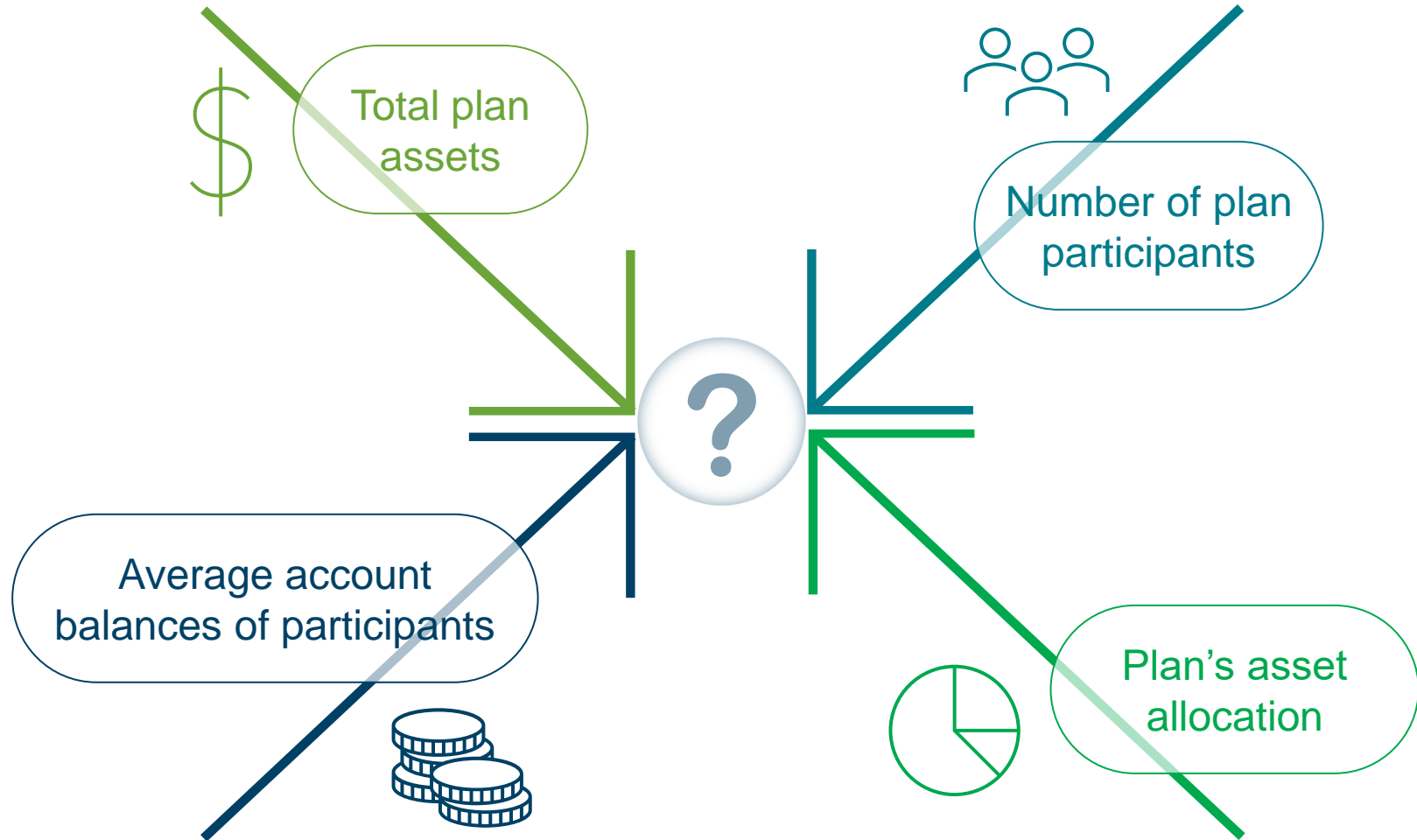


Factors of retirement readiness primarily controlled by the **employer**



¹ Note that the employer can also play a role in some of these factors. For example, the employer could limit the maximum contribution level, or eliminate the ability to take loans.

Primary variables affecting 401(k) price points



Source: [The 401\(k\) Averages Book, 25th edition](#), 2024

Impact of variables for two \$5,000,000 plans

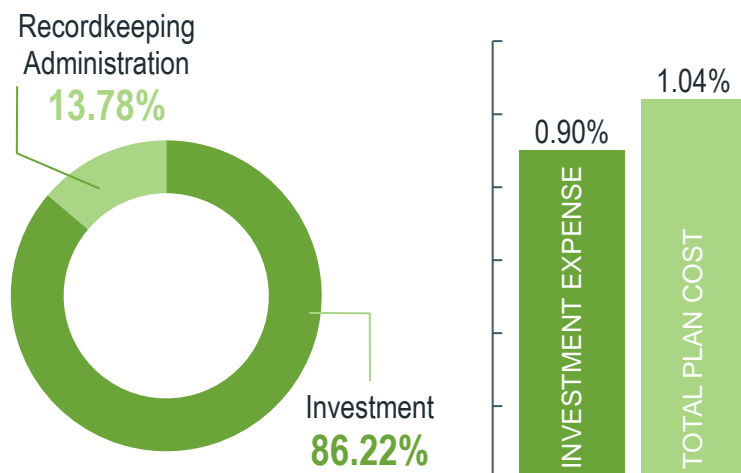
Plan ABC



Participants **50**



Average Participant Balance **\$100K**



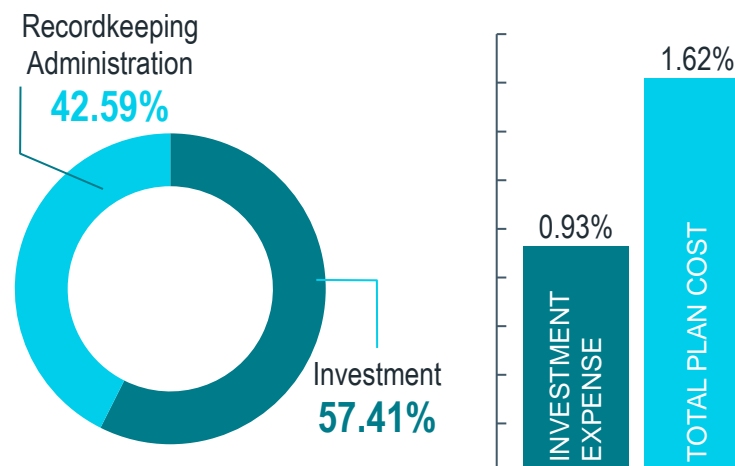
Plan XYZ



Participants **500**



Average Participant Balance **\$10K**



Averages exclude fees for participant-initiated transactions such as loans, withdrawals or other forms of distributions.

Source: [The 401\(k\) Averages Book, 25th edition](#), 2024



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02

Your fiduciary role



Your fiduciary role

Who is a fiduciary?

Many of the actions involved in maintaining a retirement plan make the person or entity performing them a fiduciary under ERISA.¹

Fiduciary status is based on the **functions performed** for the plan, not just a person's title.

1

A plan must have **at least one** fiduciary

2

The extent of fiduciary responsibility is determined by **discretion in plan management** or **control of plan assets**

3

A plan's fiduciaries will ordinarily **include**:

- Trustee
- Investment Advisers
- All individuals exercising discretion in the administration of the plan
- All members of a plan's administrative committee
- Those who select committee officials

4

Attorneys, accountants, and actuaries generally are **not fiduciaries** when acting solely in their professional capacities

5

Some decisions are generally **not fiduciary actions** but rather are business decisions:

- Establish a plan
- Amend a plan
- Determine the benefit package
- Decision to terminate a plan
- Include certain features in a plan

¹ The Employee Retirement Income Security Act ("ERISA") sets standards of conduct for those who have discretion over management or administration of an employee benefit plan or control over its assets (called fiduciaries).

Your fiduciary role

What is the significance of being a fiduciary?

Fiduciaries have important responsibilities and are subject to standards of conduct because they act on behalf of participants in a retirement plan and their beneficiaries.



Acting solely **in the interest of** plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them



Carrying out their duties **prudently**

Prudence focuses on the process for making fiduciary decisions. Therefore, it is wise to **document** decisions and the basis for those decisions.



Following the **plan documents** (unless inconsistent with ERISA)









Diversifying plan **investments**



Paying only **reasonable** plan expenses

These fiduciary responsibilities under ERISA can require expertise in a variety of areas, such as investments. Lacking that expertise, a fiduciary will want to hire someone with that professional knowledge to carry out the investment and other functions.

The bottom line about fiduciary responsibility

	Typical Plan Trustee	Directed Trustee		Discretionary Trustee
	No Outside Fiduciary	Section 3(21) Fiduciary	Section 3(38) Fiduciary	ABA Retirement Funds Program
Red = Fiduciary Liability to Your Firm				
FIDUCIARY ACTS AND DECISIONS	RESPONSIBLE FIDUCIARY			
Adoption and continued use of a Plan Provider	Your Firm	Your Firm	Your Firm	Your Firm
Selection and periodic monitoring of trustee, investment manager, and recordkeeper	Your Firm	Your Firm	Your Firm	 ABA Retirement Funds
Selection and monitoring of all service providers, including the investment advice service provider to participants	Your Firm	Your Firm	Your Firm	 ABA Retirement Funds
Development and maintenance of Investment Policy ¹	Your Firm	Your Firm	Your Firm	 Mercer
Selection, termination, and monitoring of all fund managers, and investment options consistent with the Investment Policy ¹	Your Firm	Your Firm	Investment Manager	 Mercer
Monitoring of all investment advisor purchase/sale activity for compliance with investment guidelines	Your Firm	Your Firm / Investment Advisor	Investment Manager	 Mercer
Determining applicability and compliance of fund investment line-up for certain ERISA requirements	Your Firm	Your Firm / Investment Advisor	Investment Manager	 Mercer

¹ Subject to acceptance by ABA Retirement Funds

Benchmarking value for fees

Beyond the basics – what matters most?



The Basics:

- ✓ Recordkeeping and administration
- ✓ Participant transactions
- ✓ Administrator support
- ✓ Trust and custody support

Basics plus:

- ✓ Management of core fund investment menu
- ✓ Investment menu with options for all investor types

Extra added value:

- ✓ Brokerage services
- ✓ In-plan participant advice and guidance
- ✓ Participant education and communication
- ✓ Fiduciary support – 3(16), 3(21), 3(38)
- ✓ Plan design flexibility
- ✓ Holistic financial plan for participants
- ✓ Participant support via phone and/or in person
- ✓ Digital retirement planning tools
- ✓ Other?

Sample prospective client

ABA Retirement Funds Program

Does your current provider(s) assess fees for the following services?

	Acme Law Firm Current fees as reflected in your disclosure document(s) (e.g., 408(b)(2)) as of 3/31/24	ABA Retirement Funds Current fees as reflected in the Program's Annual Disclosure Document ("ADD") (April 2024) ¹
Charges Billed to Plan Sponsor/Firm	Amount \$ / %	Amount \$ / %
Plan Set-up / Installation / Conversion	Unknown	Included or None*
Recordkeeping	Unknown	Included or None
Trustee	Unknown	Included or None
Investment Fiduciary Services (e.g., 3(21) or 3(38))	Unknown	Included or None
Compliance / Testing ²	Unknown	Included or None
Plan Deconversion / Termination	Unknown	Included or None
Participant Education / Advisor Commissions	Unknown	Included or None
Plan Restatements / Amendments	Unknown	Included or None
Other Charges Billed to Plan Sponsor	Unknown	Included or None
Charges Deducted from Participant Accounts ³	Amount \$ / %	Amount \$ / %
Distribution Fees	\$50 per transaction	Included or None
Loan Fees	\$75 per transaction	Included or None
Qualified Domestic Relations Order ("QDRO")	\$300 per transaction	Included or None
Recordkeeping Fees	Unknown	Included or None
Other charges deducted from Participant Accounts	Unknown	Included or None
Charges Deducted from Plan Investments ⁴	Amount \$ / %	Amount \$ / %
Average Expense Ratio (weighted)	1.00%	0.42% Range from 0.31% to 1.26%
Other charges deducted from Plan Investments	Unknown	Included or None
Charges for Optional Participant Services	Amount \$ / %	Amount \$ / %
Professional Management ⁵	0.80%	Optional: Range from 0.20% to 0.35%
Financial Planning ⁶	Unknown	Optional: Range from \$0 to \$1,500
Brokerage Fees ⁷ (Brokerage services offered through the Personal Choice Retirement Account® ("PCRA") by Schwab.)	NA	Included or None
TOTAL	\$50,000	\$21,000

Sample Law Firm:

Total participants: ~50

Current assets: \$5M

Current dissatisfaction: cost, fiduciary oversight and service

For illustrative purposes only.

- Ideally for cost comparisons you should have the 404(a)(5) and 408(b)(2) participant and plan sponsor disclosures.
- For this Plan Sponsor, **significant savings** flow to its participants when switching to the Program.

**Approximate
Cost Savings:
\$29,000, or 58%**

* Included or None means that any fees associated with the stated service, which the Program's providers would normally incur or charge, is either "included" in the Average Expense Ratio or there are "none" under the Program.

Important: Please see next two slides for explanatory information about table.

Glossary of cost comparison terms

Plan Setup / Installation / Conversion: Fees to establish a firm's plan and individual participant accounts on a provider's record keeping system as well as transfer and allocation of any existing assets from a previous service provider.

Recordkeeping: Fees to cover day-to-day operational expenses including but not limited to recordkeeping and accounting services associated with administering a plan.

Trustee: Fees charged to serve as trustee and/or maintain custody of plan assets.

Investment Fiduciary Service (e.g., 3(21), 3(38), Trustee): There are various levels of fiduciary services available which are broadly intended to assist a plan sponsor in selecting and monitoring the investment platform to ensure they comply with the fiduciary responsibility provisions of ERISA. Each level of fiduciary service varies with respect to how much oversight and coverage a service provider offers plan sponsors and that should be considered carefully when evaluating fees.

Compliance / Testing: Fees to perform the various compliance tests required by ERISA and the Internal Revenue Service Code ("Code") including, but not limited to, ADP/ACP testing (IRC §401(k) and (m)) and Top Heavy testing (IRC §416).

Plan Deconversion / Termination: Fees to cover the expenses of transferring plan operations to a successor service provider.

Participant Education Fees: Fees for providing participants with education on a plan's fund offerings and features.

Advisor Commissions: Fees for professional services delivered by a knowledgeable intermediary such as a broker or advisor.

Fees can be assessed as a finder's fee, for ongoing plan consulting services, or to facilitate affairs among providers.

Plan Restatements / Amendments: Fees charged to update the plan document so that it remains compliant with ERISA, Code and regulatory changes.

Other Charges Billed to Plan Sponsor: Any other billable fees related to the plan that are billed to the sponsor.

Distribution Fees: Fees charged when a Participant requests a distribution from plan assets. Typically, the distribution is reduced by the amount of the fee.

Loan Fees: Fees charged when a Participant requests a loan distribution. Typically, the amount of the loan is reduced by the amount of the fee.

Qualified Domestic Relations Order ("QDRO"): Fees assessed to collect, determine qualified status and/or process domestic relations orders which generally create or recognize the existence of an alternate payee's right to receive all or a portion of the benefits payable with respect to a participant under a retirement plan.

Other Charges Deducted from Participant Accounts: Any other fee assessed to individual participants on a transactional basis.

Average Expense Ratio: An expense ratio is a measure of what it costs a fund provider to operate a fund (e.g., a mutual fund or collective investment fund), expressed as a percentage of the fund's assets. These expenses are charged

against the fund's assets and lower its return to investors. A fund's expense ratio may include such things as: investment management, unit recordkeeping, custodial services, taxes, legal expenses, accounting fees, auditing fees, and marketing costs. These fees are usually expressed in basis points (bps). One hundred bps is equal to 1%. On occasion expense ratios may include certain expenses such as wrap fees and participant account recordkeeping fees.

The individual expense ratios of a group of funds available through a plan may be averaged to give a general estimate of the cost of investing through the plan. This average can either be a straight average or it can be weighted based on the amount invested in each individual fund.

Other charges deducted from plan investments: Any other charges netted against performance of the underlying investments.

Professional Management:⁵ Fees charged for investment advisory services by a team of investment professionals.

Financial Planning:⁶ A service offered to employees of a firm to get holistic financial planning that extends its scope beyond in-plan investment advice.

Brokerage Fees:⁷ Charged to access brokerage services by an agent, or agent's company, to serve as a knowledgeable intermediary and facilitate transactions between buyers and sellers. These fees are usually based on either a percentage of the transaction or a flat fee, and can include trading fees, redemption fees, commissions, front and back end loads, and 12b-1 fees.

See next slide for footnotes.

Important information about cost comparison

¹ This worksheet and the fee descriptions applicable to the ABA Retirement Funds Program herein are subject to change at any time. Please see the Program Annual Disclosure Document (April 2024) for a complete disclosure of all associated fees and expenses, which is available from the Program's Regional Vice President. Fee information provided for existing plan(s) is derived from disclosure documents – such as Service Provider Disclosure 408(b)(2). Plan Sponsor is responsible for providing accurate, complete, and timely information used for fee comparison.

² If your plan requires a more complex profit-sharing calculation or includes certain features such as cross-tested or age-weighted designs, and an actuary is required, there may be an annual fee to cover the cost of the actuary.

³ Charges deducted from participant accounts generally show as a line-item expense on participant statements and in their account history. Participant charges that are deducted from accounts are not considered a taxable event. In some cases, plan sponsors are allowed to reimburse participant accounts for these charges if they choose.

⁴ “Charges Deducted from Plan Investments” refers to charges that reduce the Net Asset Value and performance of a fund. In the case of the Program, this includes Investment Manager Fees, Acquired Fund Fees, Trust, Management, Recordkeeping and Plan Administration Fees, Other Fund Fees and Program Expense Fee found in the 2024 Annual Disclosure Document on pages 42-43.

⁵ **Advisory Services provided by Voya Retirement Advisors, LLC (“VRA”).** VRA is a member of the Voya Financial (“Voya”) family of companies. For more information, request the Voya Retirement Advisors Disclosure Statement, Advisory Services Agreement and the ABA Retirement Funds Program’s (“Program’s”) Fact Sheet from the Regional Vice President. Financial Engines Advisors L.L.C. (“FEA”) acts as a sub advisor for VRA. FEA is a federally registered investment advisor. Neither VRA nor FEA provides tax or legal advice. If you need tax advice, consult your accountant, or if you need legal advice, consult your lawyer. Future results are not guaranteed by VRA, FEA or any other party, and past performance is no guarantee of future results. Edelman Financial Engines® is a registered trademark of Edelman Financial Engines, LLC. All other marks are the exclusive property of their respective owners. FEA and Edelman Financial Engines, L.L.C. are not members of the Voya family of companies. ©2025 Edelman Financial Engines, LLC. Used with permission.

⁶ The Program includes a Financial Snapshot for employees of Program plans for no additional fee. For employees that would prefer to have a more extensive financial plan, those participants are charged a financial planning fee of up to \$1,500 through Voya Financial Advisors, Inc. (VFA), member SIPC. This is an optional service available to all employees of Program plans.

⁷ Optional brokerage services, which may incur fees. Schwab Personal Choice Retirement Account (“PCRA”) is offered through Charles Schwab & Co., Inc. (Member SIPC), the registered broker/dealer, which also provides other brokerage and custody services to its customers.

Case study

ABA Retirement Funds Program

Breaking down the Program's fees

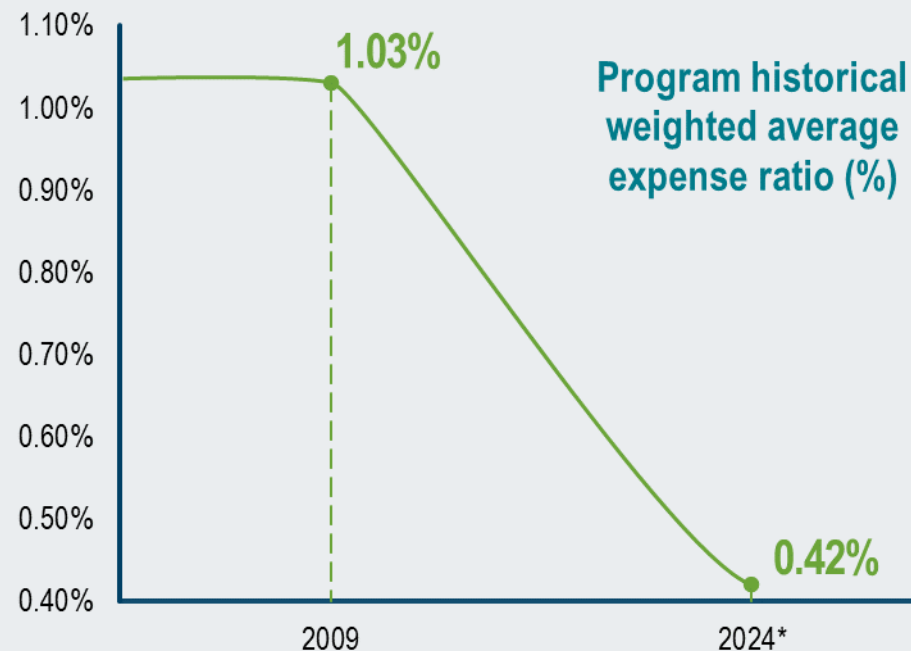
The Program is committed to providing full fee transparency. For illustrative purposes, the table to the right breaks down Program fees based on averages across all Core Funds available through the Program.

- Recordkeeping
- Compliance testing
- Custom participant communication and education services

3(38) Fiduciary / Trustee	0.09%	<ul style="list-style-type: none">• Trustee• Fiduciary services
Administration and Recordkeeping	0.18%	<ul style="list-style-type: none">• Participant distribution (loans, withdrawals)• Plan set-up/conversion/installation• Termination
Investment expense	0.15%	<ul style="list-style-type: none">• Tax reporting• Investment management
Total average fees¹	0.42%	

¹ Fees are displayed as weighted averages across all core Funds available through the Program. These averages were calculated by taking the investment expense ratio of each Program fund as of April 30, 2024, and multiplying it by its weight percentage based on the amount of assets held in each fund as of 12/31/2023. Each investment has its own expense ratio and a participant will bear the cost of the expense ratios of the funds they choose in their accounts.

Impact of purchasing power



For over 60 years, the Program has leveraged the collective purchasing power of its membership to offer services typically only available to the largest retirement plans.

Because of this structure, the Program has been able to reduce the average investment expense over the past 15 years.**

* For plans over \$3 million in core fund assets.

** Expense ratios are displayed as weighted averages across all core Funds available through the Program. These averages were calculated by taking the investment expense ratio of each Program fund and multiplying it by its weight percentage based on the amount of assets held in each fund as of 12/31 of each year. Each investment has its own expense ratio and a participant will bear the cost of the expense ratios of the funds they choose in their accounts.

Program presence across the nation

With nearly 3,900 law firm retirement plans across the U.S., the Program may already know someone in your neighborhood.

Sample distribution of Program Members in the United States





Thank You

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Important information

Please read the Program Disclosure Document (April 2024) carefully before investing. The Program Disclosure Document contains important information about the Program and investment options. For email inquiries contact joinus@abaretirement.com.

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This report is for educational purposes only. Each plan must consider the appropriateness of the investments and plan services offered to its participants.

All investing involves risk, including the loss or principal. There is no guarantee an investment, investment strategy, or managed portfolio will meet its stated objective.