2018 PENTEGRA

SURVEY

Advisors and 3(16) Fiduciary Outsourcing

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In August, 2018, Pentegra conducted a survey of retirement plan advisors and their attitudes toward a growing trend in the industry today— ERISA 3(16) Fiduciary Outsourcing.

Today, retirement plan administration has become increasingly complex and laden with compliance burdens. For many employers, the commitment of time and energy is overwhelming and too often distracts from the more critical responsibility of running a business. As an advisor, it is a distraction from your business as well.

When it comes to the fiduciary oversight of a retirement plan, while most plan sponsors are the Named Fiduciary of their plan, the reality is that they aren't aware of the myriad of responsibilities that come with that role, or that these responsibilities involve significant risk.

Understanding and handling these responsibilities is time away from their business and yours. Time that could be better spent focusing on growth and profitability. For both you and your clients, time is money.

There's an easier way. **Outsourcing.**

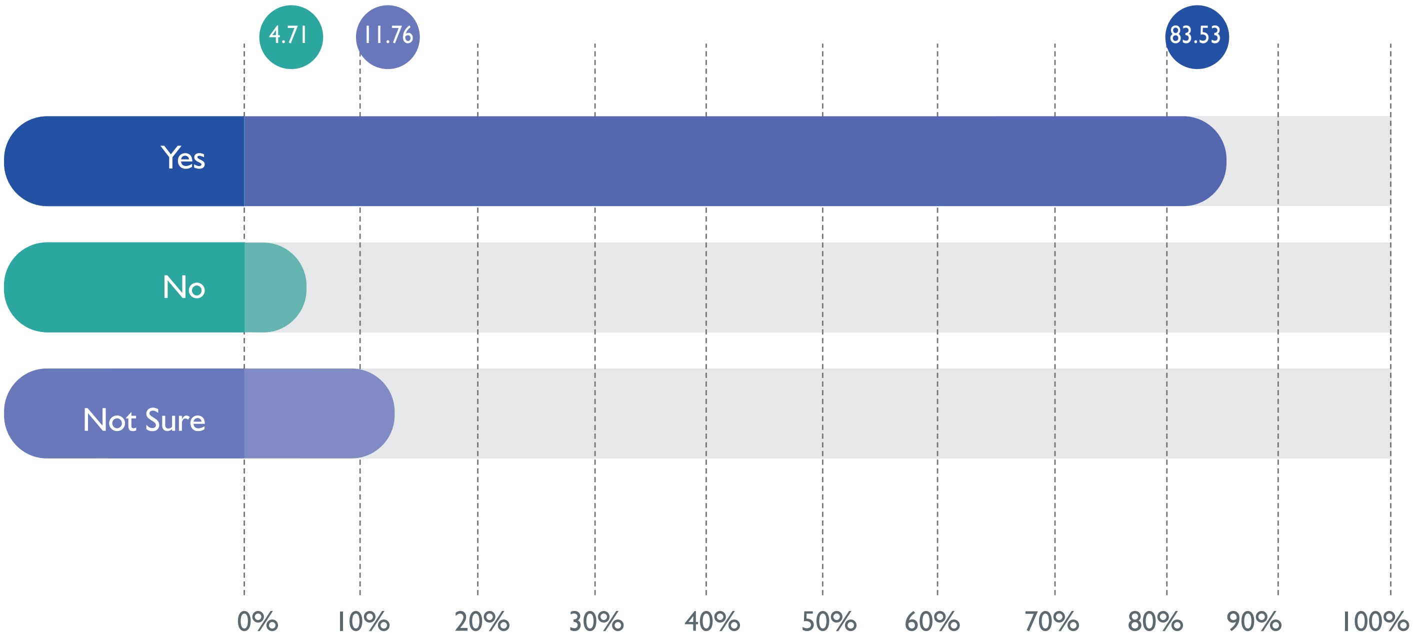
What makes an ERISA 3(16) fiduciary so important?

Contrary to common belief, most plan mistakes that occur have little or nothing to do with the investments or the investment manager, but instead, involve plan administration issues. Some of the top mistakes that occur include:

- Plan document not updated to reflect law changes
- Failure to follow plan terms
- Not using the plan's definition of compensation for deferrals and allocations correctly
- Employer matching contribution errors
- Not satisfying non-discrimination tests (ADP & ACP)
- Not notifying all eligible employees of their opportunity to defer
- Not complying with IRC Section 402(g)
- Not depositing employee elective deferrals in a timely fashion
- Hardship distribution issues
- Not making required minimum contributions for top-heavy plans
- Not filing a Form 5500 series return and not distributing a Summary Annual Report to all participants.

Fiduciary outsourcing involves the transfer of legal responsibility for a retirement plan from an employer to an institutional fiduciary. By hiring a competent ERISA 3(16) fiduciary, plan sponsors are insulating themselves against these errors to a greater level than a typical third-party administrator TPA arrangement provides.

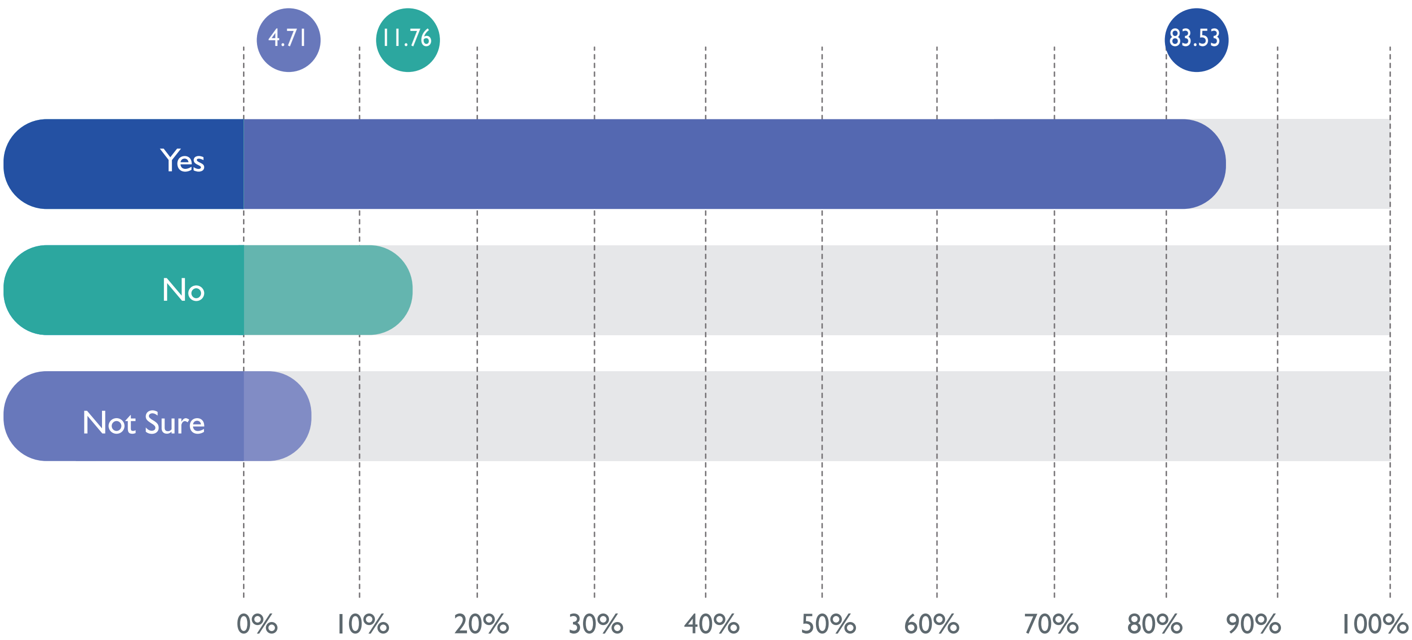
Are you familiar with ERISA 3(16) Fiduciary Outsourcing services?



Nearly all advisors surveyed are familiar with 3(16) outsourcing.

A 3(16) Plan Administrator assumes **full responsibility** for managing the day-to-day operations of the plan, and shifts the legal and operational **burdens** of the Plan Administrator role **from the client** to the 3(16) Plan Administrator.

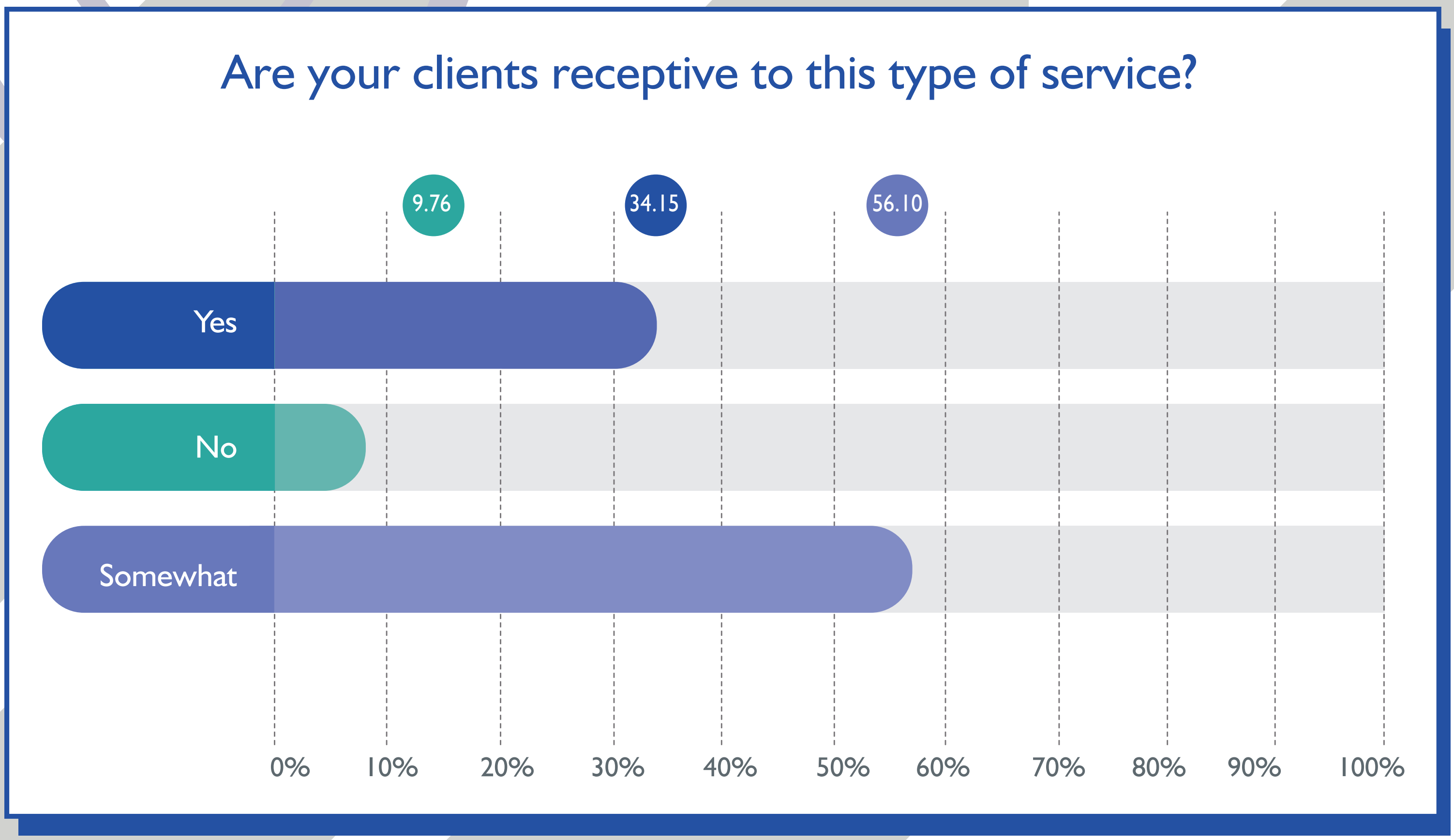
Have you considered recommending outsourced 3(16) administrator services to your clients?



Nearly 84% of advisors surveyed are considering **recommending** 3(16) administrative services.

The 50 Responsibilities of the Plan Administrator that Can be Outsourced with 3(16) Services

1. Overall operational compliance
2. Document compliance, mandatory interim amendments, restatements
3. Form 5500
4. Annual plan audit, if applicable
5. New hire processing
6. ERISA bond
7. ACA (automatic enrollment) administration
8. ACI (automatic contribution increases) administration
9. Default investment administration
10. Determination of vesting and amount of distribution
11. ERISA section 105 employee benefit statements
12. Reasonableness of fees
13. Prudent selection and monitoring of service providers
14. Benefit determinations and disputes
15. Administration of beneficiary rules
16. Worker classification
17. Nondiscrimination testing
18. Summary Annual Report (SAR)
19. Definition of compensation
20. Allocation of unallocated monies by plan year- end
21. IRC section 72(p) loan administration
22. Contribution calculations and limitations
23. Protected benefits
24. Acceptance or rejection of rollovers or transfers
25. Annual notices
26. Segregation of assets by source
27. Coverage testing and corrections
28. Involuntary distributions
29. Episodic notices
30. Distributions
31. Hardship withdrawals
32. Qualified Domestic Relations Orders (QDRO)
33. Lost/missing participants and unclaimed benefits
34. Grandfathered plan provisions
35. Plan termination and partial termination
36. Spousal consents
37. Survivor benefits, (QJSA and QPSA)
38. Summary Plan Descriptions and Summaries of Material Modifications (SPD and SMM)
39. Timely remission of deferrals and loan repayments
40. Timeliness of other required contributions
41. Diversification requirements for plans with employer securities
42. Blackout procedures
43. Defined benefit plan duties
44. Participant fee disclosure (404a-5)
45. Fiduciary fee disclosure (408b-2)
46. Records retention under ERISA Sections 107 and 209
47. Responding to participant inquiries
48. Top-heavy minimum benefit
49. Overpayments
50. Personal liability under ERISA



Most clients are receptive to

3(16) outsourcing services.

Which Employers are a Good Fit for 3(16) Outsourcing?

Which types of employers are most likely to be good candidates for 3(16) outsourcing? It is less about the size of the plan than the needs of the plan.

There are employers on the smaller end of the spectrum that run a tight ship and have tenured, experienced staff, responsible for the daily administration of their retirement plan. Even in this scenario, outsourcing still frees up staff time that can be reallocated elsewhere, plus, there is a substantial reduction in liability for the employer. However, it may or may not be enough of a pain point for that particular employer to consider outsourcing these responsibilities.

On the other end of the spectrum, there are large plans where outsourcing makes perfect sense. High turnover, ill-advised plan design that increases retirement plan burdens, inexperienced staff or understaffed employers all contribute to plan level issues. These are the plans with loan issues, control group issues, the ones that don't follow the terms of the plan document, or worse, can't even locate the document. These are the plans where a DOL/IRS audit nightmare is in the waiting.

Inexperienced staff or understaffed employers all contribute to plan level issues.

While there isn't a set-in-stone answer as to which employers are a good fit, there are a few things to look for:

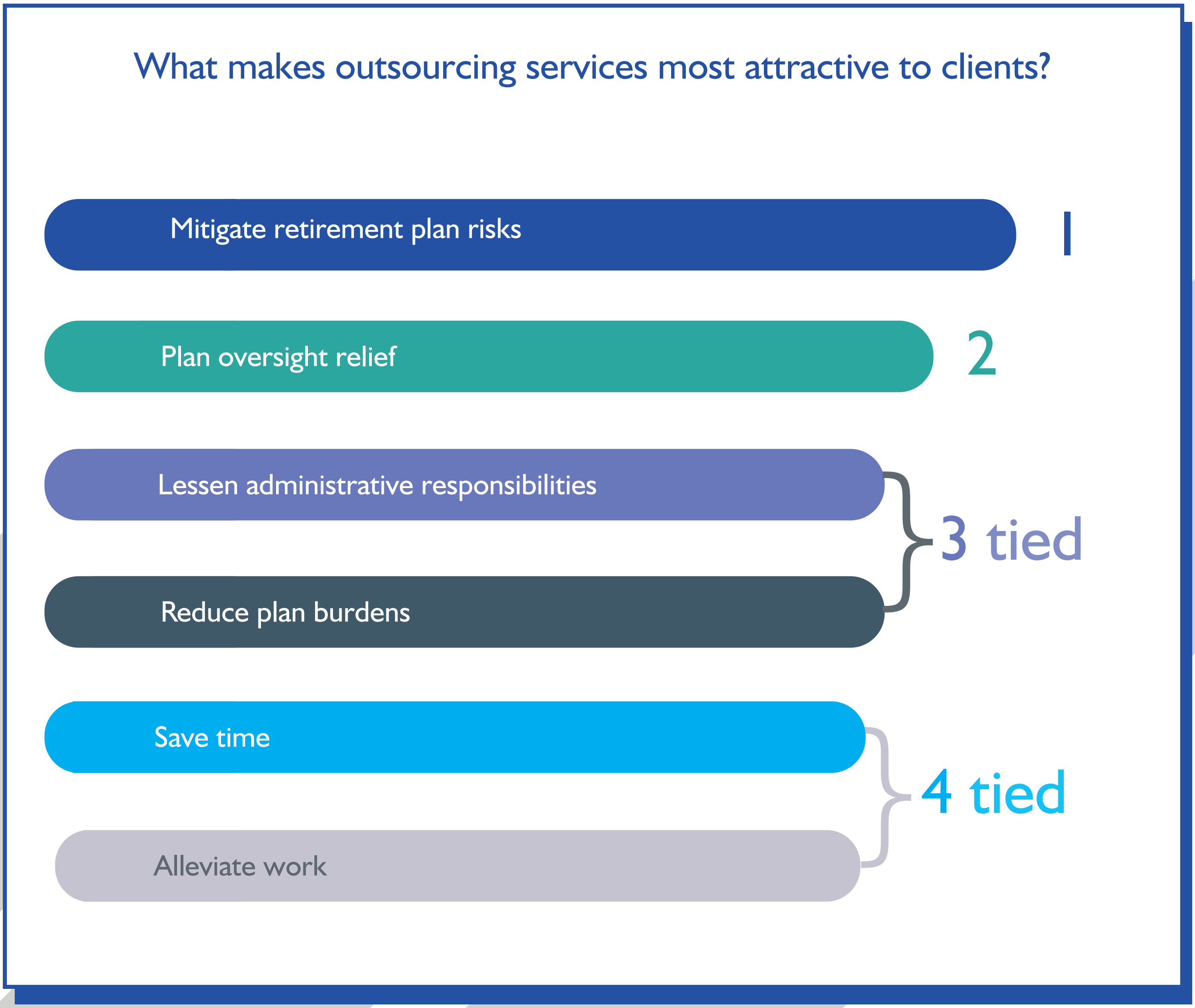
- That there are enough participants for it to matter. More participants equal more plan activity, more things for employer's staff to do.
- That things are being done correctly is important to the employer. There's only one way to run a retirement plan—the right way. If the employer isn't one to cut corners and expects things to be done the right way, then getting the Plan Administrator duties right will mean something.
- That the employer has limited resources and/or sees the value in not having employees spending time on plan minutiae. As important as human resource functions are, many companies do not have a dedicated staff. That means employees are wearing many hats.
- For the employer who values someone else assuming these responsibilities, outsourcing duties that carry substantial legal liability would make good sense. It's not just about having someone else do it for you, it's also having the other party take responsibility for it. The employer who gets the value of not being responsible—of limiting liability—will appreciate the value of Plan Administrator duties being outsourced.

When an employer responds **positively** to any one or combination of these factors, **3(16) outsourcing** makes sense

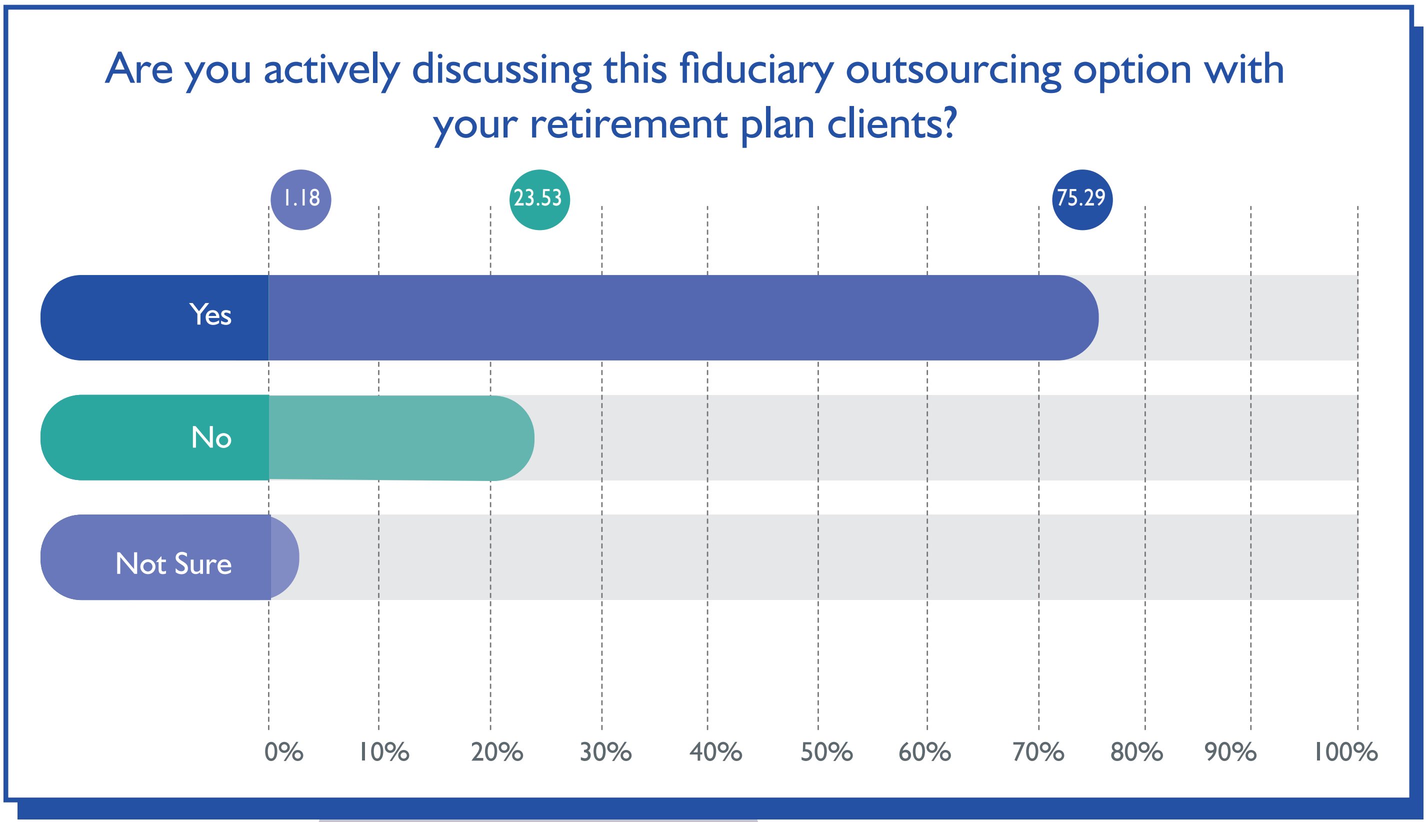
How Do You Start the 3(16) Outsourcing Discussion with an Employer?

The Advisor needs to believe in the value of the employer outsourcing the Plan Administrator duties—and have a genuine desire to solve client problems by seeing their plan run with less risk, and more efficiency than they're experiencing today. A discussion might start with a statement such as, "Our retirement plan advisory practice has been built upon a **genuine desire** to see plans run with less risk and more efficiency for the employer and with participants having **better outcomes** than they're getting today. We're doing things that many employers like you are finding to be **great** solutions and **big improvements** for them personally, for their business, and their employees."

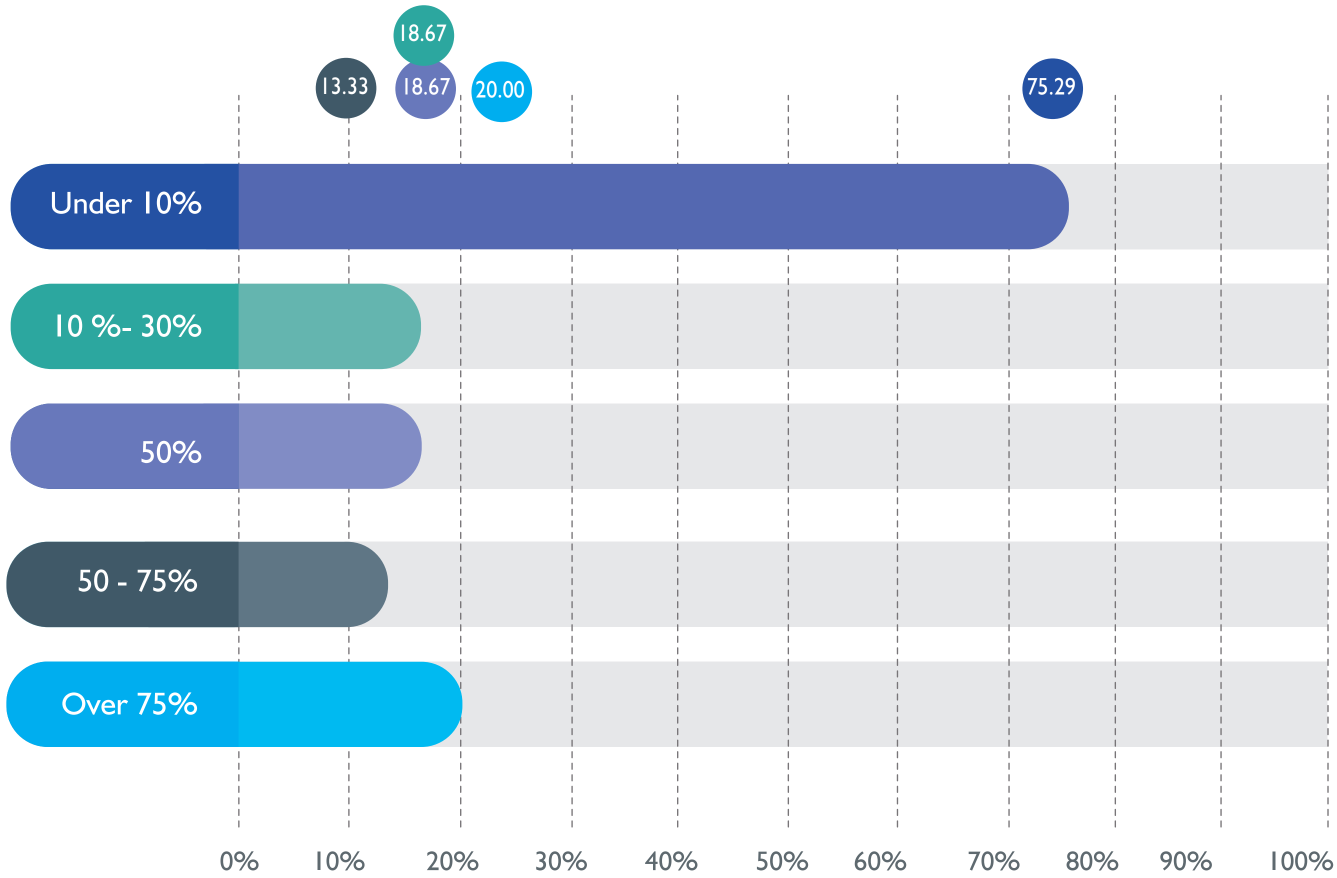
It is also quite possible that the business owner is insulated from the day-to-day tasks involved in the operation of their qualified plan, which may require some education on the part of the advisor. In that case, the conversation might sound like, "Today your staff is **responsible for required** notices to new employees and **existing participants,** loans, reviewing/approving/documenting hardships, tracking down—and keeping track of—terminated employees, **keeping documents updated,** and making sure these are done correctly and on time—to name just a few of the **50+ chores** associated with the operation of your plan."



The Advisor needs to **believe in the value** of the employer **outsourcing** the Plan Administrator duties.


Are you actively discussing this fiduciary outsourcing option with your retirement plan clients?
1.18
23.53
75.29
Yes
No
Not Sure
0%
10%
20%
30%
40%
50%
60%
70%
80%
90%
100%

If so, what percentage of your clients are you in conversations with?



75% of advisors surveyed are actively discussing **3(16) fiduciary outsourcing** with clients.

A Common Misconception

Many employers likely believe they've already "outsourced" these duties to their third party administrator (TPA) when, in reality, they've only obtained clerical help from a non-fiduciary service provider who leaves a wide range of responsibilities on the employer's plate. This isn't to suggest the work of a traditional TPA isn't meaningful—it is. However, from a workload and liability standpoint, it is not the same thing as outsourcing 3(16) duties to a professional fiduciary.

It is also worth noting that most employers don't realize **they have a choice** to not be the responsible fiduciary for the Plan Administrator duties. In that case, the conversation might also include, "Today you've **delegated the operation** of your 401(k) to your staff. Tomorrow a **professional fiduciary** would be responsible. Your name comes off the 90+ page legal document. While retaining a limited number of responsibilities as the plan sponsor, the professional fiduciary is responsible for operating your plan, making sure it's complying with all of the Federal regulations governing employer-sponsored retirement plans. Wouldn't you rather outsource these tasks to someone else who will own them and take responsibility? In addition, you would be shielding your staff from personal liability which they are subject to today. Your employees are free to apply that time and effort to other much needed work - healthcare, wellness programs and other employee benefits; workers compensation issues, sales and marketing, the running of your business. How would that sound to you?"

And the preferred response would be, "That's a no brainer."

Do your clients understand the difference between a Third Party Administrator (TPA) and 3(16) Administrator?

The TPA as 3(16) Fiduciary Administrator A "First" Party Administrator	The TPA and/or recordkeeper—is appointed as the named fiduciary and/or 3(16) administrator. The key advantage of this approach is the ability to outsource these responsibilities because under a true 3(16) arrangement, the party doing the work is also the party accepting responsibility for doing it properly.
TPA & Separate Fiduciary	An independent fiduciary is appointed as named fiduciary and/or 3(16) administrator as an added layer in the plan document and other governing documents and contracts. The fiduciary is not the TPA or recordkeeper, but becomes the party responsible for prudently selecting and monitoring the TPA and/or recordkeeper. Under this approach, the TPA—the party doing the actual work—is still not a fiduciary.
Non-Fiduciary TPA	The non-fiduciary TPA offers supplemental services such as document mailings or hands-free distribution processing, but does so as a non-fiduciary or accepts very limited fiduciary responsibility for certain tasks only. While this is often a low cost approach, the employer retains the bulk of the legal responsibility and therefore much of the labor and all of the fiduciary responsibility.

Most employers don't realize they have a **choice** to not be the responsible **fiduciary** for the Plan Administrator duties.

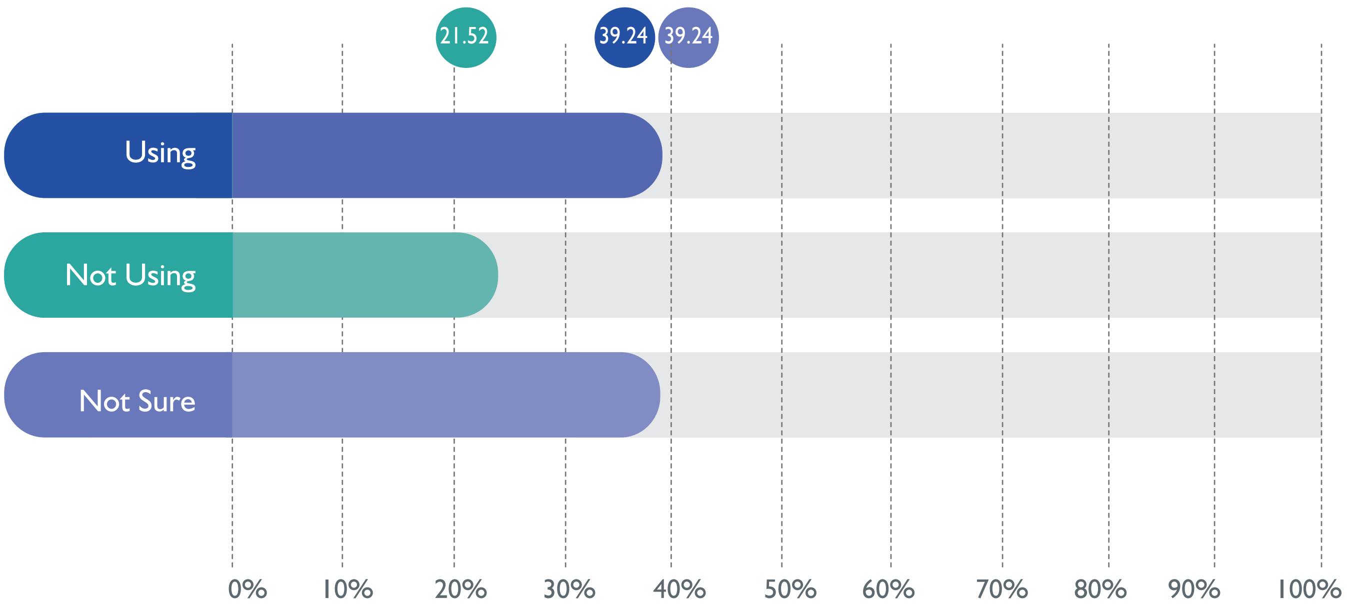
How Can You Minimize Plan Related Decisions For Your Client And Make Their Day Job Easier?

It is estimated that the average adult makes nearly 35,000 remotely conscious decisions each day. In fact, researchers at Cornell University estimate we make 226.7 decisions each day on food alone. As your level of responsibility increases, so do the multitude of choices you have to make each day.

How many remotely conscious decisions about the company retirement plan do your clients make each week? More importantly, are they aware that there is liability attached with every decision that they make as the Named Plan Administrator? What if we could remove those **plan related decisions** so the employer can **focus on other aspects** of running their business? **Wouldn't that be a no brainer?**

Outsource decisions. Reduce liability. Simplify.

What percentage of your clients are currently utilizing 3(16) fiduciary outsourcing services?



The survey results included in this material were obtained from Pentegra's 2018 Survey of Retirement Advisors. The survey sample is comprised of the responses of eighty-five respondents of retirement advisors nationwide in August, 2018.

Advisors tell us that **more clients** are utilizing **3(16) fiduciary outsourcing** than not.

Deliver Added Value for Your Clients

As a retirement plan advisor, too often you spend time solving plan administrative issues for your clients. With the addition of 3(16) plan administration services, you can partner with a professional fiduciary to reduce your clients' responsibilities, duties and liabilities, while saving you time, money and burdens, so you can spend your time growing your practice.

- Relieve plan sponsors of real work, time and liability; sponsors want to offer a plan, they don't want added administrative responsibilities
- Showcase a way to streamline plan management and save time and money
- Offer a new solution that's different than the usual talk about investment funds and fees
- Focus more of your time on participant retirement readiness and growing your business

Make **our expertise your expertise** by partnering with one of the most experienced 3(16) Administrators in the nation. Pentegra offers the platform flexibility to bring your **solution** together **seamlessly.**

Pentegra's 3(16) Fiduciary Administrator services shifts these burdens from your client's organization to ours. Many providers say they provide 3(16) services. Some take responsibility for a handful of tasks. At Pentegra, we,not only perform these tasks, but also accept responsibility for them. We are a 'first'party administrator—we provide TPA services and serve as a true 3(16) administrator.

Our 3(16) Fiduciary Administrator services allow you to reduce your administrative burdens by not only handing off these tasks to us, but also handing off the responsibility for ensuring that they are handled well.

With a 75-year legacy built serving as an institutional fiduciary, Pentegra offers a level of fiduciary protection that is unmatched in the industry. We deliver an unrivaled level of oversight and accept a higher level of responsibility.

Key advantages to advisors who are able to offer clients 3(16) outsourcing services.

Grow Your Retirement Practice with **Pentegra.**

Let us help you **achieve your goals.**

The Path to Simpler, Safer, Easier Plan Management

For more information on our fiduciary outsourcing, retirement plan or multiple employer plan (MEP) solutions, contact the Pentegra Solutions Center at solutions@pentegra.com or 855.549.6689 or visit us at www.pentegra.com

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