

Regulation of Fiduciaries

a perspective on global trends

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Investment Stewards

Searching For Opportunities!

fi360[®]
global
fiduciary insights

**TRUSTED
ROLE**

OBJECTIVES



RISK



RESULTS



CAPACITY > PROCESSES > ACCOUNTABILITY

Agenda



- Fiduciary governance – the playing field is changing
- The provider team – rules and contracts
- The steward team – principles and frameworks
- The importance of assessment

The Playing Field is changing

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Global



Australian Government
The Treasury
Future of **Financial Advice**



Licensing Application Guide

Discretionary Investment Management Service (DIMS)

In this guide...

| | |
|-----------------|----|
| Introduction | 2 |
| Getting started | 3 |
| FI and proper | 11 |



UNITED STATES DEPARTMENT OF LABOR

Conflict of Interest Proposed Rule
Regulation and Exemptions



LAW COMMISSION
TE AKA MATUA O TE TURE

2002, Wellington, New Zealand / 2002E PAPER 11

REVIEW OF THE LAW OF TRUSTS

PREFERRED APPROACH

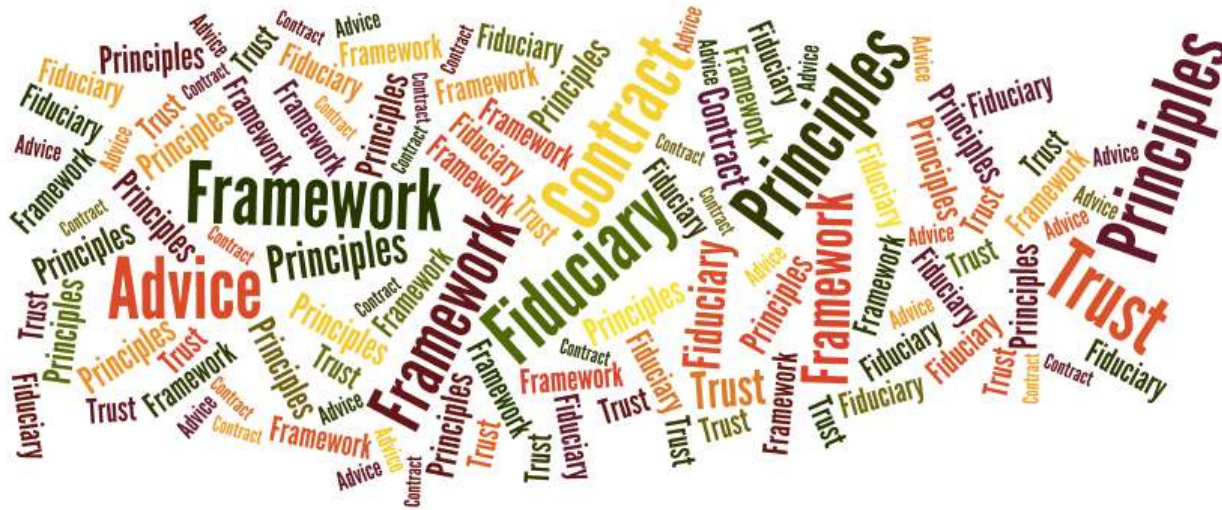
Sovereign Wealth Funds

Generally Accepted Principles and Practices
“Santiago Principles”



Australian Government
The Treasury
Stronger Super

Understanding each team's focus



Investment Stewards

Trusted Role
Governance

Principles
Frameworks

Investment Providers

Delegated responsibilities
Advice

Rules
Contracts

Investment Providers - *playing rules*

NZ Financial Markets Conduct Act



Discretionary Investment Management Services (DIMS)

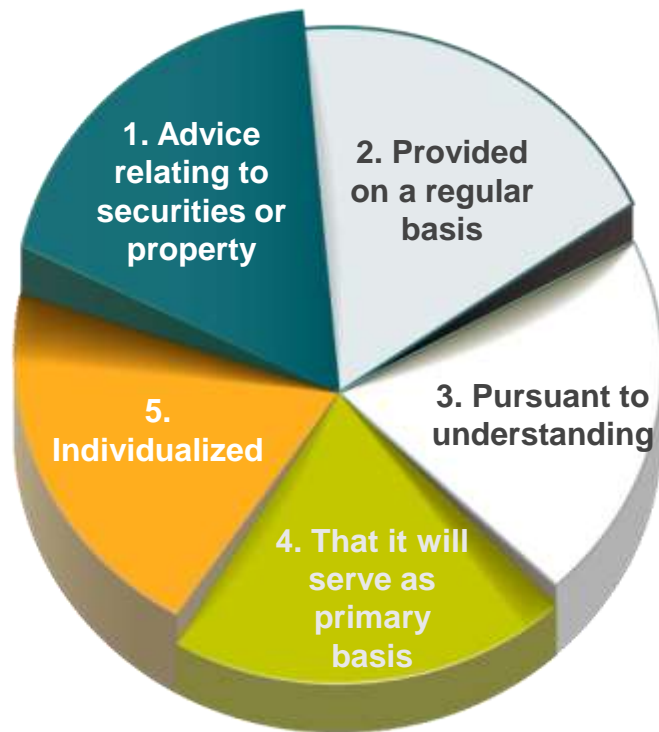
- December 2015, Licence must be in place
 - Contingent on fiduciary level of processes and procedures
 - New contracts are required with clients
 - Detailed Disclosure requirements
-
- Making it clear who is making the decisions
 - Asset allocation; Investment product selection; Rebalancing
 - Trustees likely to prefer this fiduciary level advice
 - Otherwise will themselves be held to 'expert standard'
 - Would need to receive and evaluate all information = RISK

Investment Providers - *playing rules*

US DOL proposed 'Fiduciary Rule'

- Would hold all advice-providers accountable as fiduciaries
- However – 'Best Interests Contract Exemption' (BICE)

Current Test



Proposed Test



Best Interest Contract Exemption (BICE)



'BICE' features

- Permits variable and indirect compensation for provider so long as
- subject to contract that will:
 - Acknowledge fiduciary status
 - Commit fiduciary to impartial conduct standards
 - Warrant that policies have been adopted to mitigate conflicts
 - Disclose conflicts and cost of advice
 - Maintain extensive books and records

“Conflicts may exist as long as mitigated and disclosed”

Stewards – expected to make even wiser choices

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CURRENT FORMAT

Nutrition Facts

Serving Size 2/3 cup (55g)
Servings Per Container About 8

| Amount Per Serving | |
|-------------------------------|----------------------|
| Calories 230 | Calories from Fat 40 |
| % Daily Value* | |
| Total Fat 8g | 12% |
| Saturated Fat 1g | 5% |
| Trans Fat 0g | |
| Cholesterol 0mg | 0% |
| Sodium 160mg | 7% |
| Total Carbohydrate 37g | 12% |
| Dietary Fiber 4g | 16% |
| Sugars 1g | |
| Protein 3g | |
| Vitamin A | 10% |
| Vitamin C | 8% |
| Calcium | 20% |

PROPOSED FORMAT

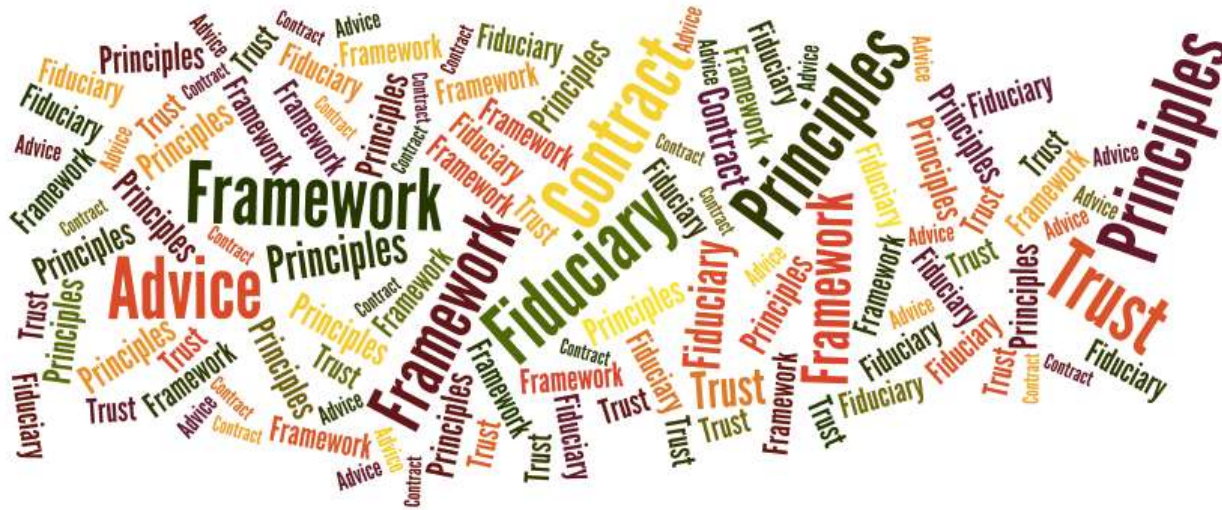
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| Calories | 230 |
| % DV* | |
| 12% | Total Fat 8g |
| 5% | Saturated Fat 1g |
| | Trans Fat 0g |
| 0% | Cholesterol 0mg |
| 7% | Sodium 160mg |
| 12% | Total Carbs 37g |
| 14% | Dietary Fiber 4g |
| | Sugars 1g |
| | Added Sugars 0g |
| | Protein 3g |

Greater disclosure

Understanding each team's focus



Investment Stewards

Trusted Role
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Principles
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Principles more challenging than rules

Santiago Principles and the fi360 Practices



| Santiago Principle (sample only of 24) | fi360 Framework - matching practice |
|---|---|
| <p>GAPP 6. Principle The governance framework for the SWF should be sound and establish a clear and effective division of roles and responsibilities in order to facilitate accountability</p> <p>GAPP 24. Principle A process of regular review of the implementation of the GAPP should be engaged in by or on behalf of the SWF.</p> | <p>Practice 4.5 There is a process to periodically review the Steward's effectiveness in meeting its fiduciary responsibilities.</p> <p>4.5.1 Fiduciary assessments are conducted at planned intervals ...</p> <p>4.5.2 Fiduciary assessments are conducted in a manner that promotes objective analysis and results are documented and reviewed for reasonableness</p> |

Principles more challenging than rules

Santiago Principles and the fi360 Practices



Santiago Principle (sample only of 24)

fi360 Practice

GAPP 18. Principle

The SWF's **investment policy** should be clear and consistent with its defined objectives, risk tolerance, and investment strategy, as set by the owner or the governing body(ies), and be based on sound portfolio management principles..

Practice 1.2

1.2.2 Investments are managed and investment services are provided in accordance with governing documents, including **the investment policy statement**.

1.2.3 Documents pertaining **to the investment management process**, including records of decisions made by fiduciaries, are organized and retained in a centralized location.

Principles more challenging than rules

Australian Superannuation



July
2013

Prudential Standard SPS 530 Investment Governance

Investment governance framework.....

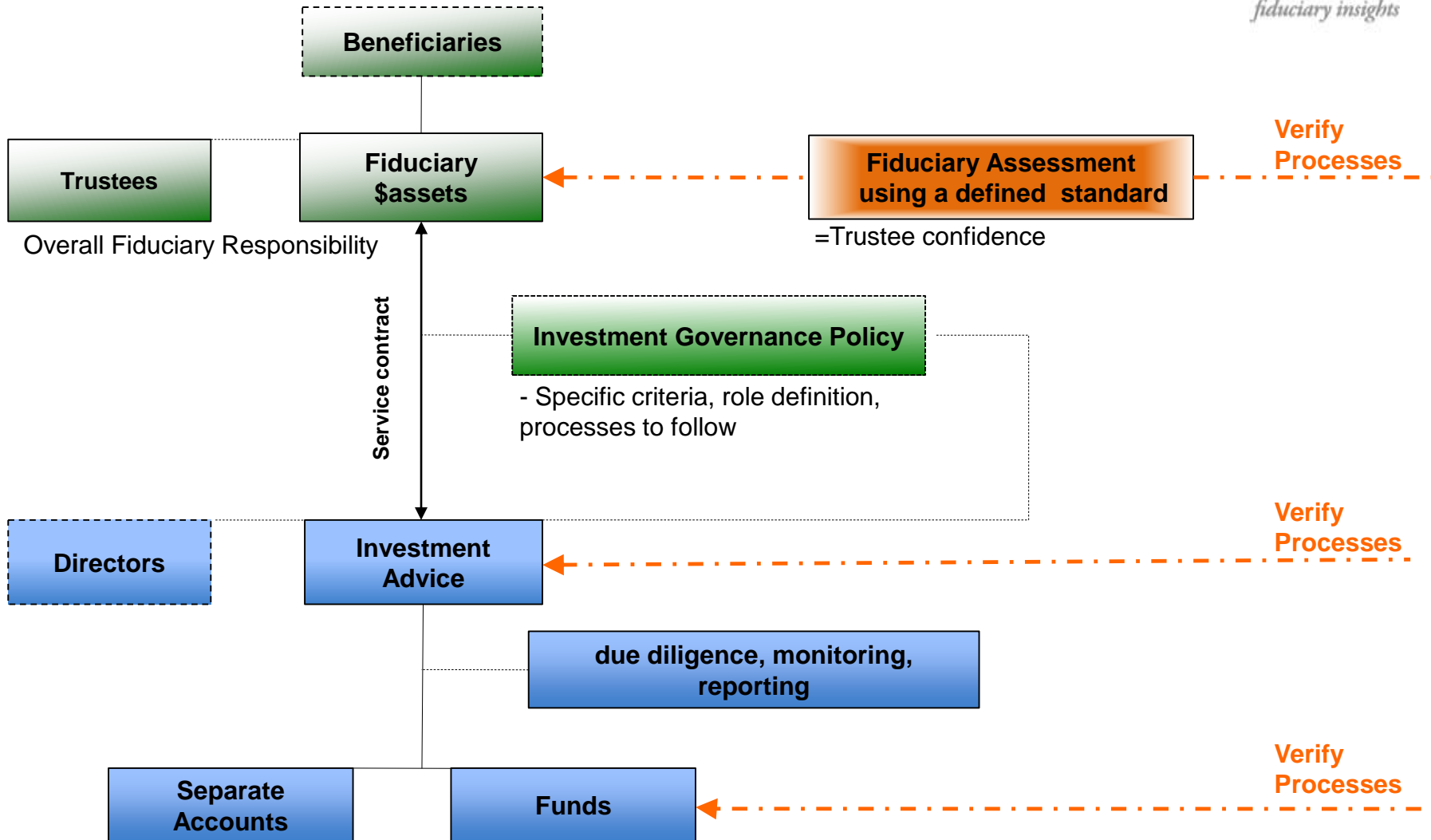
9. **An investment governance framework** is the totality of systems, structures, policies, **processes**

10. **The Board is ultimately responsible for the investment governance framework.**

11. An RSE licensee's investment governance framework must, **at a minimum**, include:

- (a) investment objectives for each investment option offered by the RSE licensee;
- (b) a methodology for determining investment reporting measures;
- (c) the investment strategy for the whole of each RSE and for each investment option ...
- (d) all Board policies relating to investment activities;
- (e) role statements that include the details of each role's responsibilities and reporting structures for all roles...
- (f) structures, policies and processes for investment performance and risk measurement, assessment and reporting; and
- (g) **a review process to ensure that the investment governance framework remains effective.**

Ensuring Your Framework is Effective



Which Stewards need a Fiduciary Framework ?

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Individual Mates

- ✓ relationship driven
- ✓ personal focus

- ✓ close to shore
- ✓ fair weather only
- ✓ trial and error
- ✓ low cost

- ✓ self interest
- ✓ no expectations

Fiduciary Level of Care?



Skipper + 'experts'

- ✓ skipper – a safe boat
- ✓ team plan on the day

- ✓ coastal risk level
- ✓ basic fish finder
- ✓ Only 60% reliability
- ✓ increasing costs

- ✓ shared responsibilities
- ✓ family feed

Fiduciary Level of Care



Captain + crew + clients

- ✓ annual fitness assessment
- ✓ plans and log of activity

- ✓ out-wide risk OK
- ✓ radar, GPS and sounders
- ✓ 90% reliability, repeatable
- ✓ profitability plan

- ✓ legal duty of care
- ✓ reliable results

Stewards and Providers

*two teams needed to play the game,
but their focus usually differs*



Steward can
set the scene



Steward
must be a
clear winner