


ReSource Pro

SUMMIT26

Capture the Shift

By the end of this session...





**A
PERFECT
STORM**

A “perfect storm” is a situation where several independent factors converge to create an exceptionally bad or intense outcome, worse than any of the factors would cause alone.

Many of the contributing risks can be seen in advance, but leaders often fail to:

Connect them

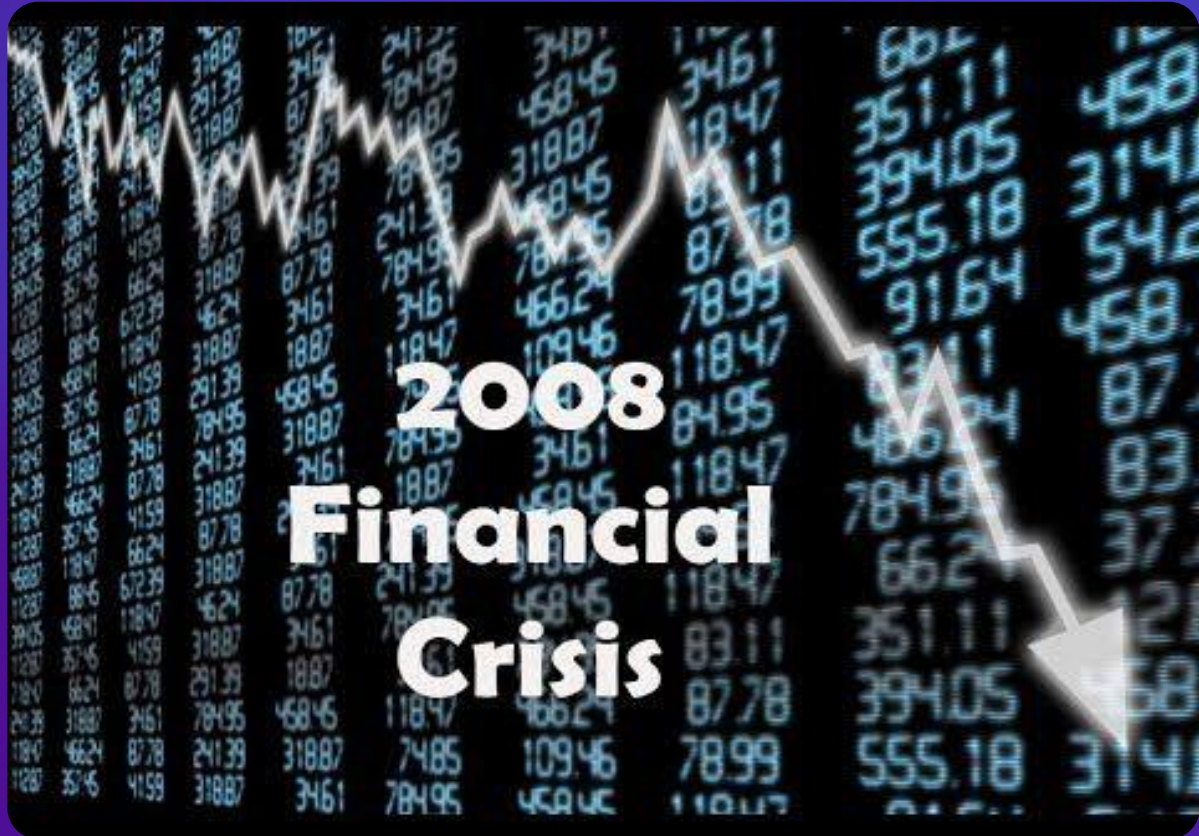


Act early



Allocate ownership

“Perfect Storm Example”

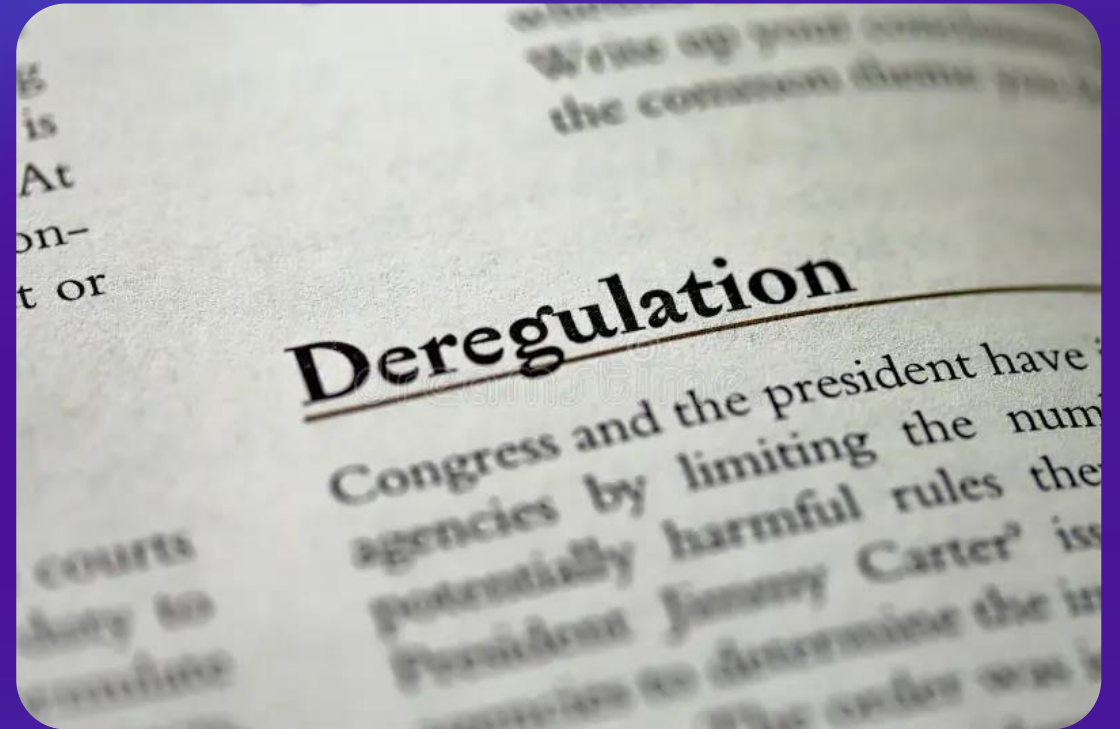


The 2008 financial crisis is probably the most well-documented perfect storm in modern economic history.

Think about what had to be true at the same time for that crisis to reach the scale it did.



Deregulation had allowed banks to take on leverage ratios that would have been illegal a decade earlier.



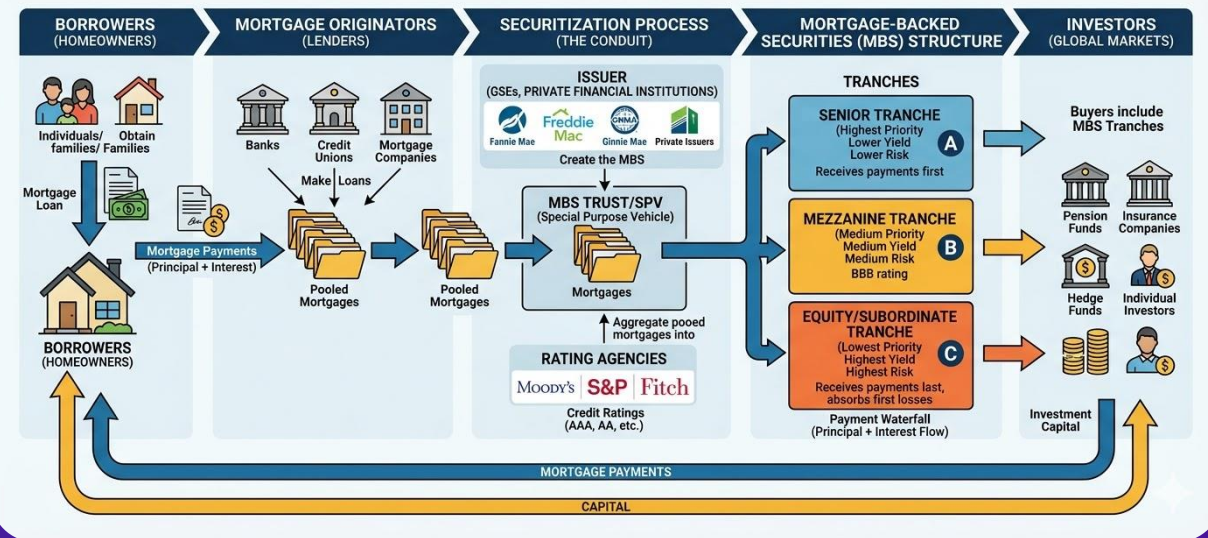
Mortgage originators were writing loans they knew borrowers could not repay, then immediately selling them off so they had no skin in the game.



Investment banks were packaging those loans into instruments so complex that even the people selling them did not fully understand what was inside.

UNDERSTANDING MORTGAGE-BACKED SECURITIES (MBS): A STRUCTURED FLOW FLOW DIAGRAM

MBS Definition: Understanding Mortgage-Backed Securities (MBS) and flows.
Securitization: Mortgages and investment products.



Rating agencies were giving those instruments AAA ratings they did not deserve because the agencies were being paid by the same institutions they were rating.



And regulators were either asleep or actively looking the other way.





Each element alone might
have caused a correction.

Together, they nearly
collapsed the global
economic system.



WARNING
CRITICAL FINANCIAL UPDATE

STOCKS CRASH. GLOBAL RECESSION LIKELY. ALL ASSETS AT RISK.

Alert


MARKET VOLATILITY ALERT: HIGH-RISK EXPOSURE

ACTION REQUIRED:
IMMEDIATE RISK MITIGATION. SECURE LIQUIDITY.





But there was no one in the room with the authority, the knowledge, and the courage to say:



*“We have a problem,
and here is what we
are going to do about it.”*

LEHMAN BROTHERS

Risk Management Department

2008

“The ERISA Fiduciary
Perfect Storm” ...
Same Pattern, Different Industry



The Insurance Industry's Silo Problem

Two worlds that rarely connect — leaving employers exposed

EMPLOYEE BENEFITS

Agents & Brokers

- Group Health Insurance
- Self-Funded Plans
- Dental & Vision
- 401(k) Plans
- Life and Disability Coverage

PROPERTY & CASUALTY

Agents & Brokers

- Commercial Property
- General Liability
- Workers' Compensation
- Commercial Auto
- Professional Liability
- Cyber Insurance
- D&O / E&O Coverage
- Fiduciary Liability
- Employment Practices Liability









INSURANCE AGENCY



INSURANCE AGENCY

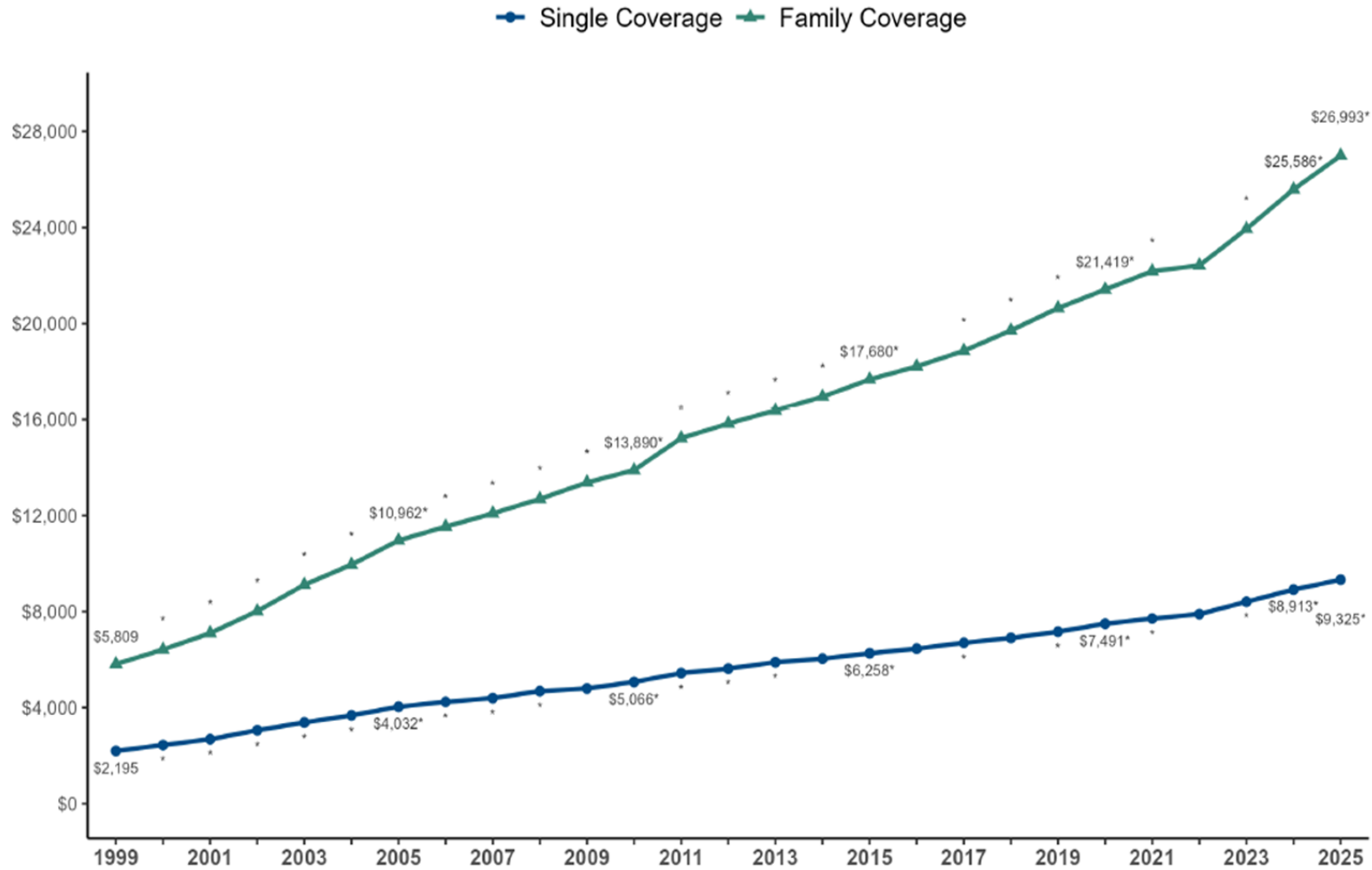


Employer Health Benefits

2025
ANNUAL SURVEY

KFF

Average Annual Premiums for Single and Family Coverage, 1999-2025

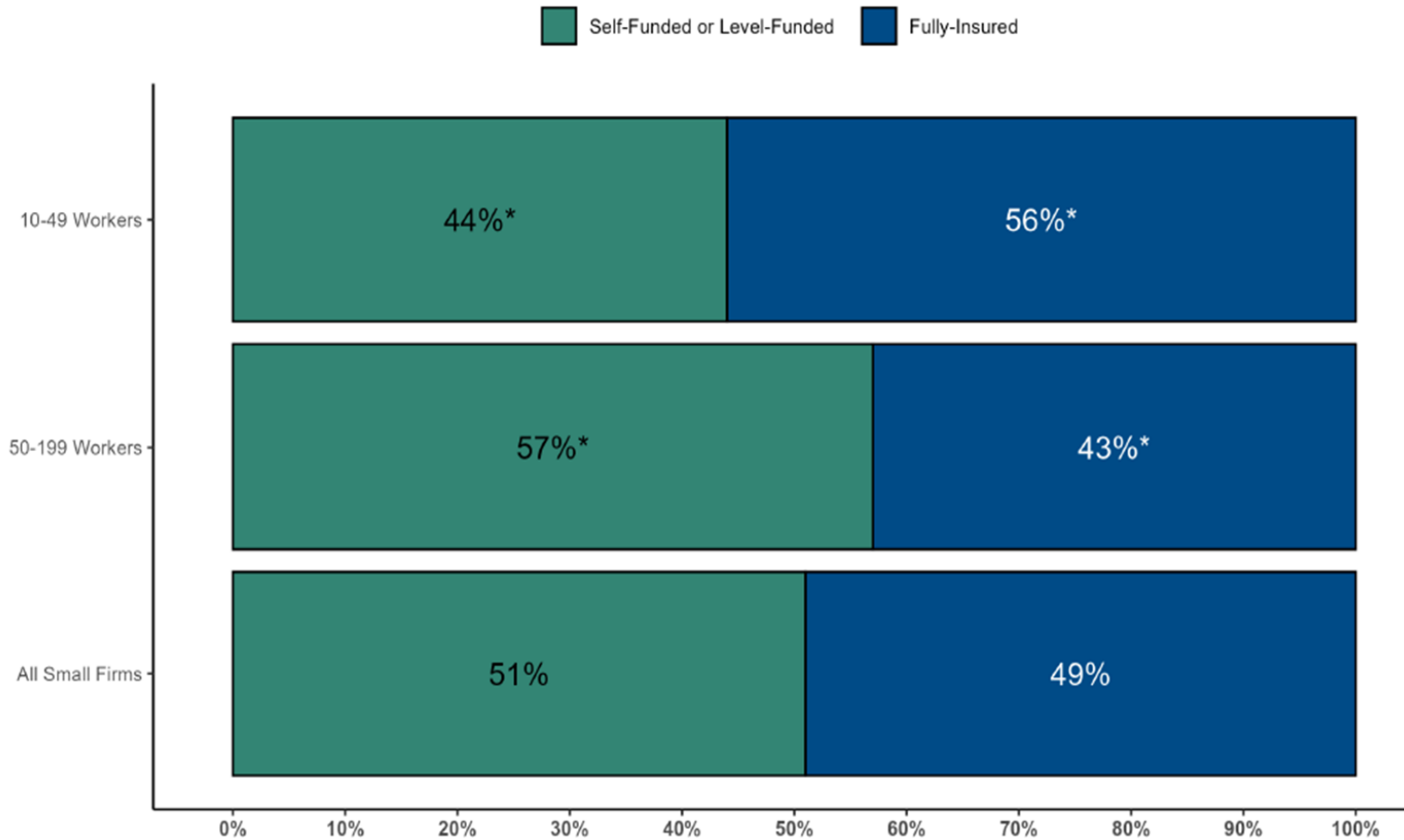


* Estimate is statistically different from estimate for the previous year shown ($p < .05$).

SOURCE: KFF Employer Health Benefits Survey, 2018-2025; Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2017

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Among Covered Workers at Small Firms, Percentage Enrolled in a Level-Funded or Self-Insured Plan, by Firm Size, 2025



* Estimate is statistically different from estimate for all other firms not in the indicated size category ($p < .05$).

NOTE: See end of Section 10 for definitions of self-funded, fully-insured, and level-funded premium plans. Small Firms have 10-199 workers.

SOURCE: KFF Employer Health Benefits Survey, 2025

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“Because of step loss

INCORRECT

- Source Redacted



“Level-Funded Plans combine the

p
p
o

INCORRECT

“

a
re

lower than expected.

- Source Redacted





What You Need to Know Before Self-Funding-The Brokers Perspective

- Self-funding offers employers tremendous advantages in managing their benefit plans
- ERISA regulations provide a flexible framework for self-funded plans to operate in
- Self-funded plans carry greater liability and fiduciary responsibility than insured plans
- The complexity of self-funded plans and regulations drive many brokers away & subsequently their clients



Positively SIIA...Positively Connected
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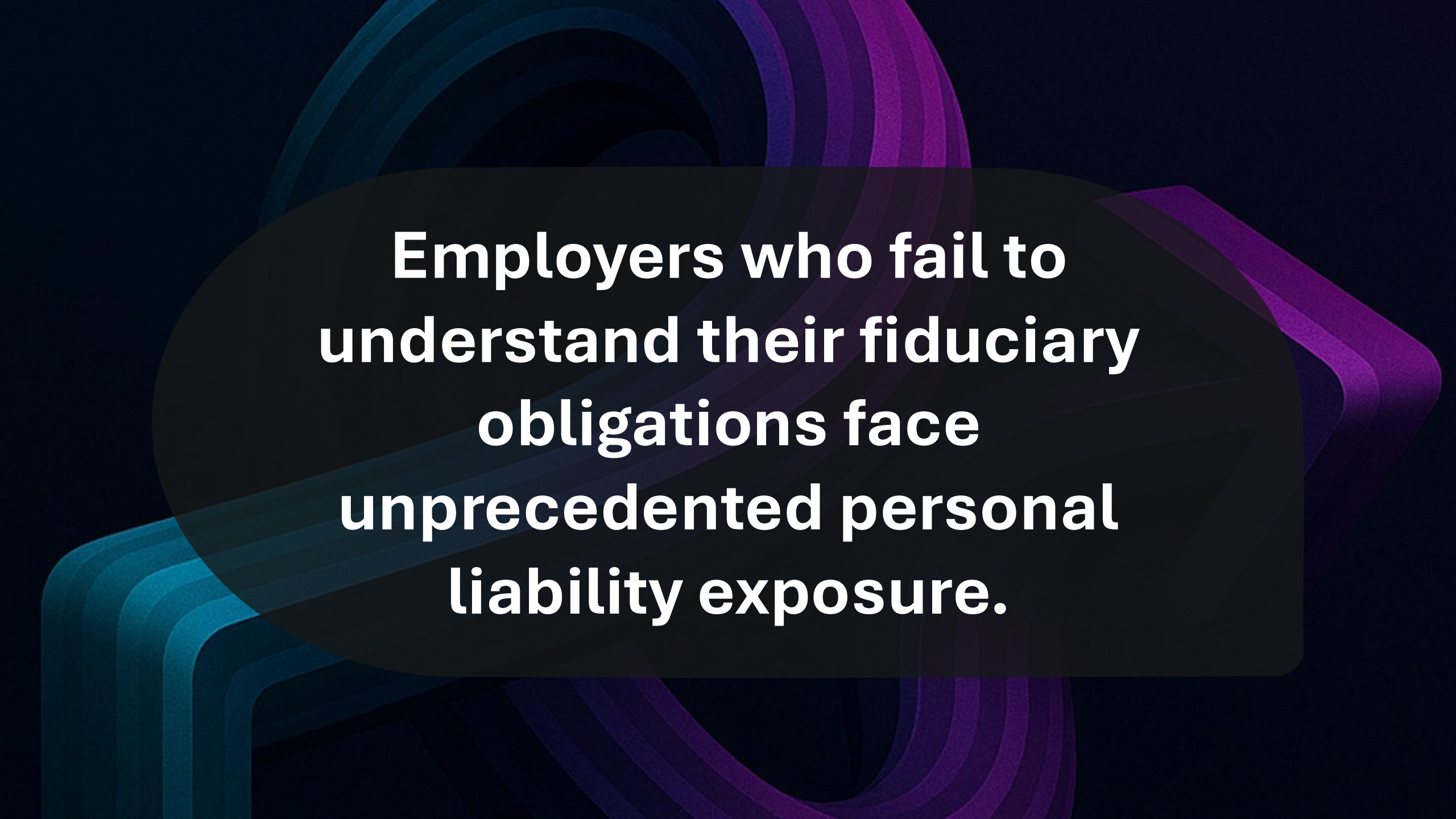
The image features a warm, golden-hour sunset background. On the left, the dome of the United States Capitol building is visible, with its iconic statue on top. On the right, a portion of a classical column is shown. The text is overlaid on the right side of the image.

Consolidated Appropriations Act

2022 & 2026



**The Consolidated
Appropriations Act created
a fundamental shift in fiduciary
responsibility for group
health plan sponsors.**



**Employers who fail to
understand their fiduciary
obligations face
unprecedented personal
liability exposure.**



ERISA

**The Employee Retirement
Income Security Act**

CAA Did Not Sit Next to ERISA...

- 01** The Consolidated Appropriations Act didn't tweak ERISA — it rewired it.
- 02** It transformed the rules governing prohibited transactions, fiduciary prudence, transparency, and regulatory enforcement.

New Obligations

01

Personal Fiduciary Liability Extends

Under ERISA, liability now explicitly covers vendor selection and fee reasonableness

New Obligations

02

Mandatory Compensation Review

Must obtain and review
broker/consultant compensation
disclosures before contract renewal

New Obligations

Document the "Prudent Process"

- 03** Required to demonstrate a prudent process in selecting and monitoring service providers
-

Gag Clause Attestation

- 04** Annual attestation requirements for gag clause prohibition compliance
-



How many P&C Agents are aware of these exponentially increasing fiduciary risks arising from ERISA and the CAA?



How many Employee Benefits Agents are aware of how to mitigate and transfer these exponentially increasing fiduciary risks arising from ERISA and the CAA?

EMPLOYEE BENEFITS

Agents & Brokers

- Group Health Insurance
- **Self-Funded Plans**
- Dental & Vision
- 401(k) Plans
- Life and Disability Coverage



**UNADDRESSED
FIDUCIARY RISK**



EMPLOYER

PROPERTY & CASUALTY

Agents & Brokers

- Commercial Property
- General Liability
- Workers' Compensation
- Commercial Auto
- Professional Liability
- Cyber Insurance
- D&O / E&O Coverage
- **Fiduciary Liability**
- Employment Practices Liability



Both Audiences Need to Hear This Together

PC Professionals: What they don't know

Personal Liability Blind Spot – CFOs and risk managers are often named ERISA fiduciaries without knowing it

Untouched Liability – PC advisors rarely raise fiduciary risks from group health plans

D&O Coverage Gap – Most mid-market D&O policies carve out ERISA fiduciary claims

Benefits Professionals: Where exposure is hiding

CAA Compensation Disclosure – Section 202 requires ALL direct and indirect compensation disclosure

TPA Oversight Failure – Hiring a TPA does not transfer fiduciary duty

Benefits Professionals: Where exposure is hiding

PBM Opacity – Spread pricing and rebate retention create breach exposure

No Prudent Process – ERISA demands documented vendor decision processes

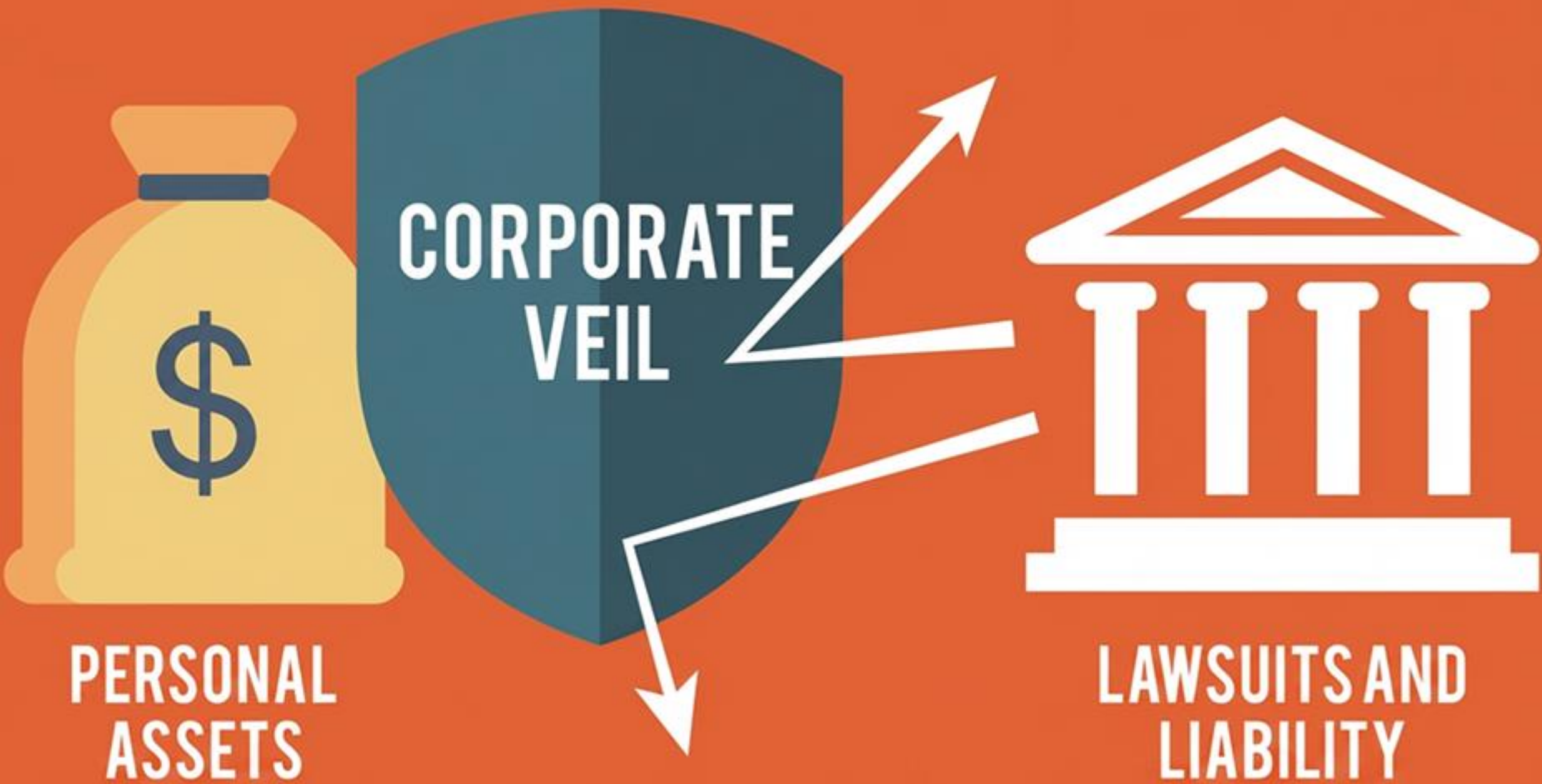
The real cost to clients

WHAT'S AT STAKE

**Personal, Not Just
Entity Liability**

**DOL Enforcement Is
Accelerating**

Undisclosed & Uninsured



Why this moment is different

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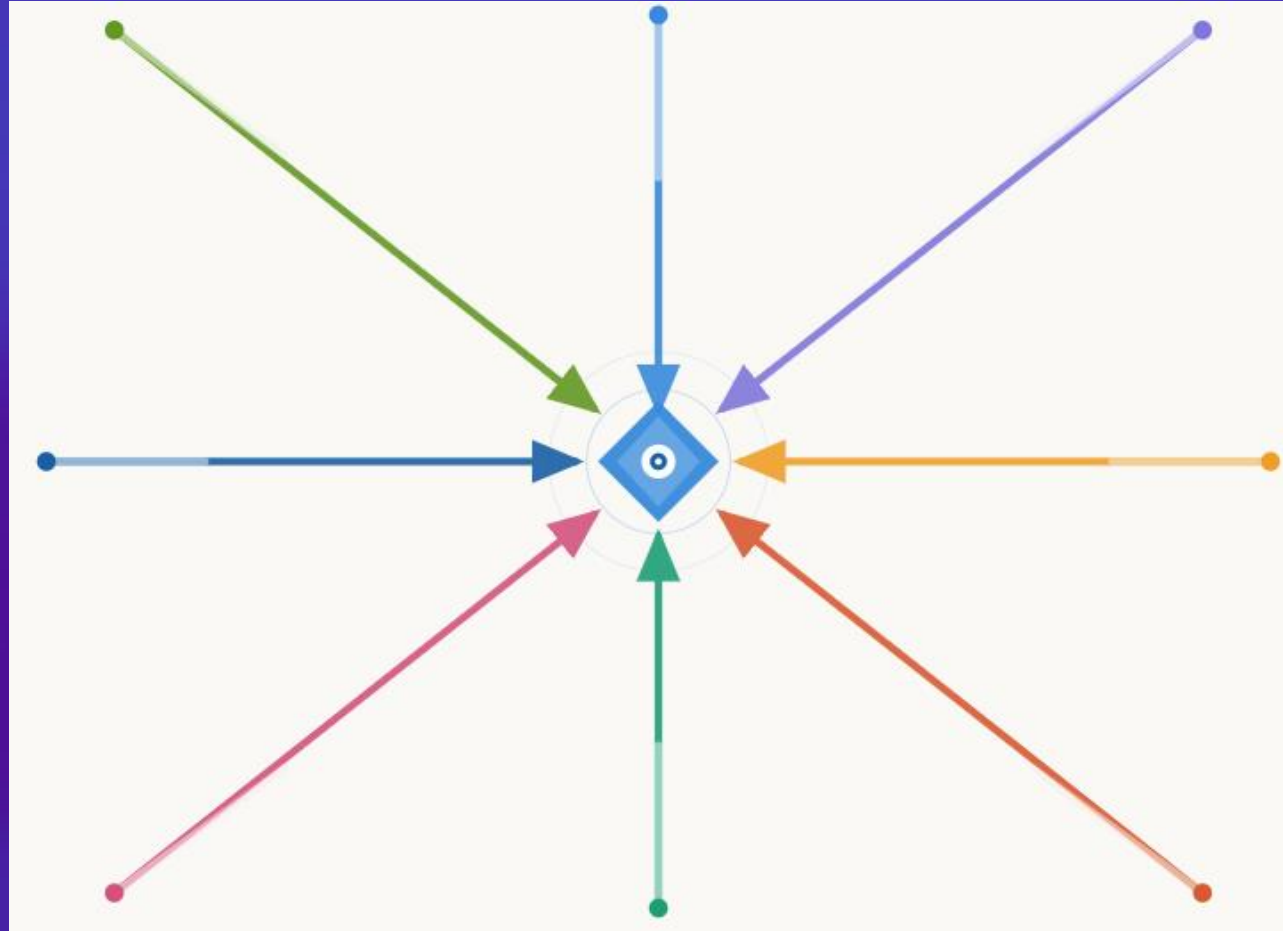
I am not up here to tell you that disaster is inevitable.

I am here to tell you that the window to get ahead of this is closing.



The forces converging right now

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The forces converging right now

Let's recap and
add more...

RECAP

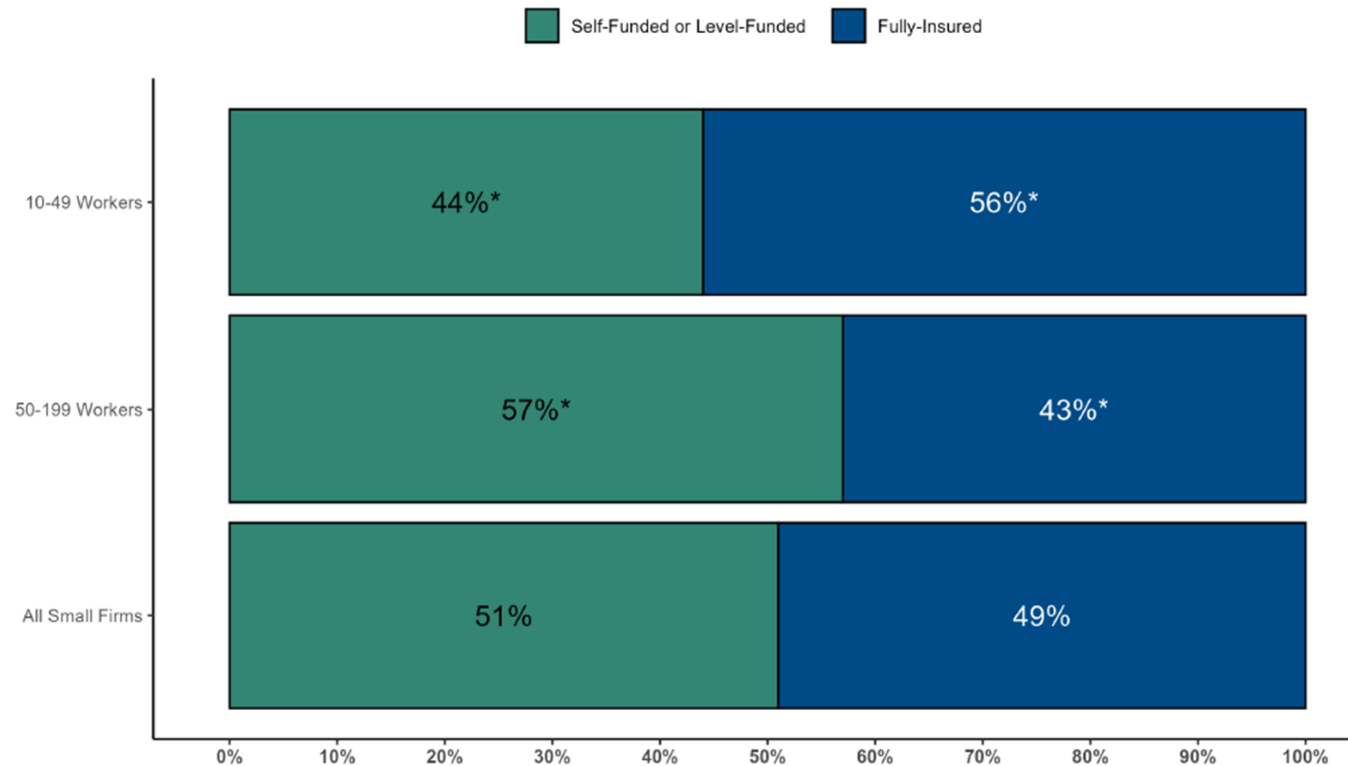
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The forces converging right now



The forces converging right now

Among Covered Workers at Small Firms, Percentage Enrolled in a Level-Funded or Self-Insured Plan, by Firm Size, 2025



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SOURCE: KFF Employer Health Benefits Survey, 2025

The forces converging right now

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The CAA imposed sweeping new fiduciary obligations on self-funded health plan sponsors.



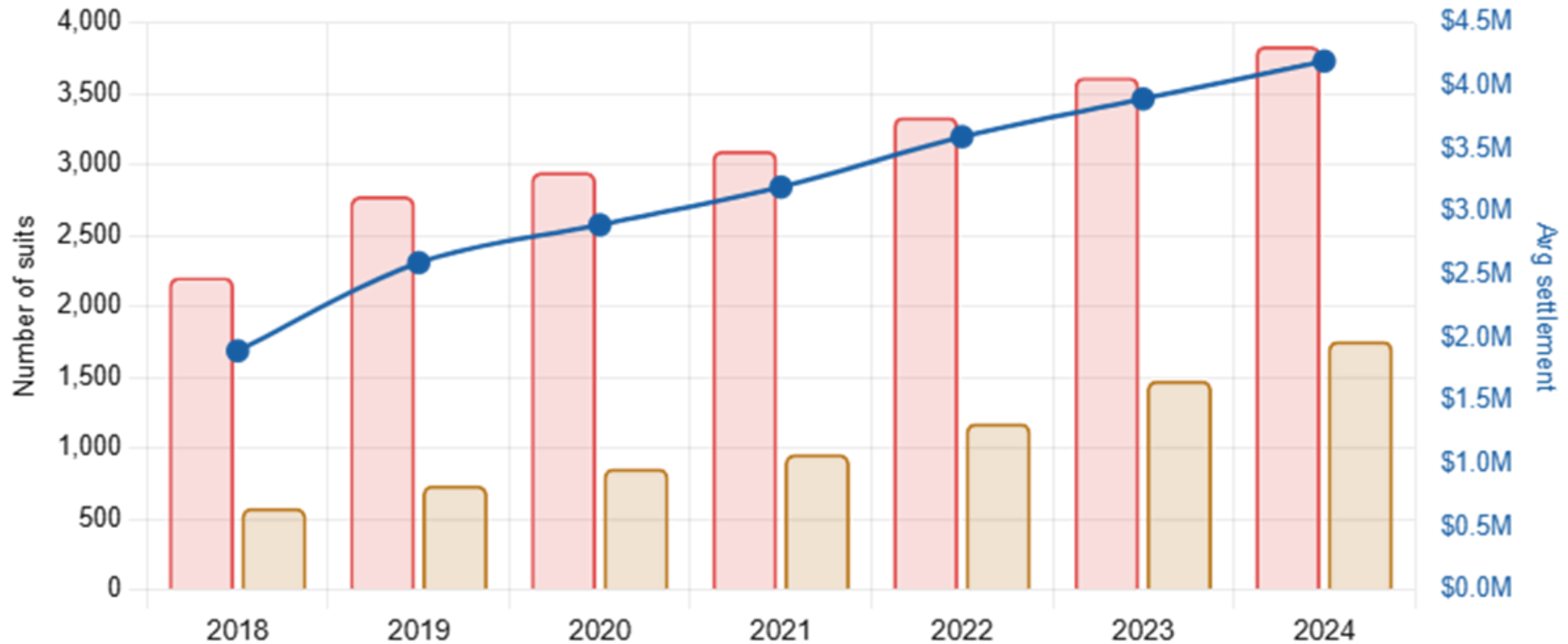
The forces converging right now

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DOL Enforcement is accelerating



The forces converging right now



Litigation is increasing

The forces converging right now

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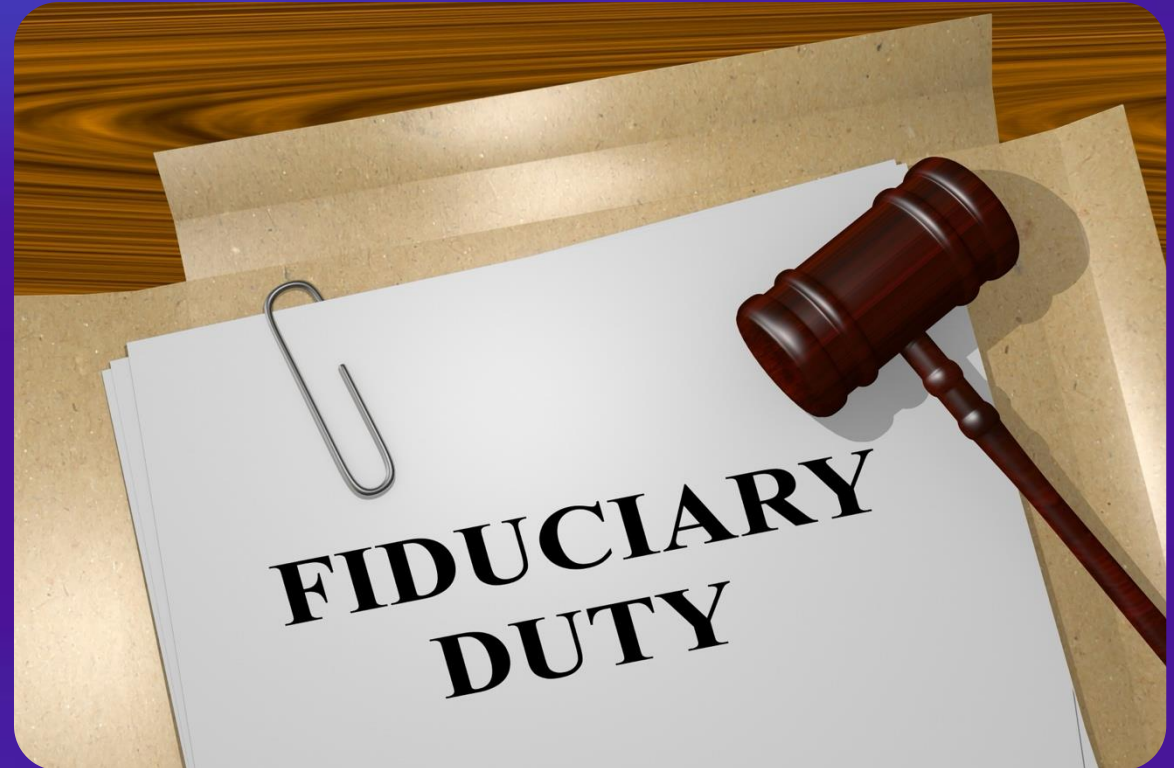
The advisor
community that
has not kept up



The forces converging right now

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A market of
unknowing plan
sponsors



The forces converging right now

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Which means that when enforcement comes, no one in the room has been managing this proactively.



The perfect storm I described earlier had people inside it who understood what was happening. They saw the forces converging And, made billions of dollars as a result



2015

What you do next

You can be that advisor.

In fact, you may be the only one your clients have access to who is even paying attention to this.

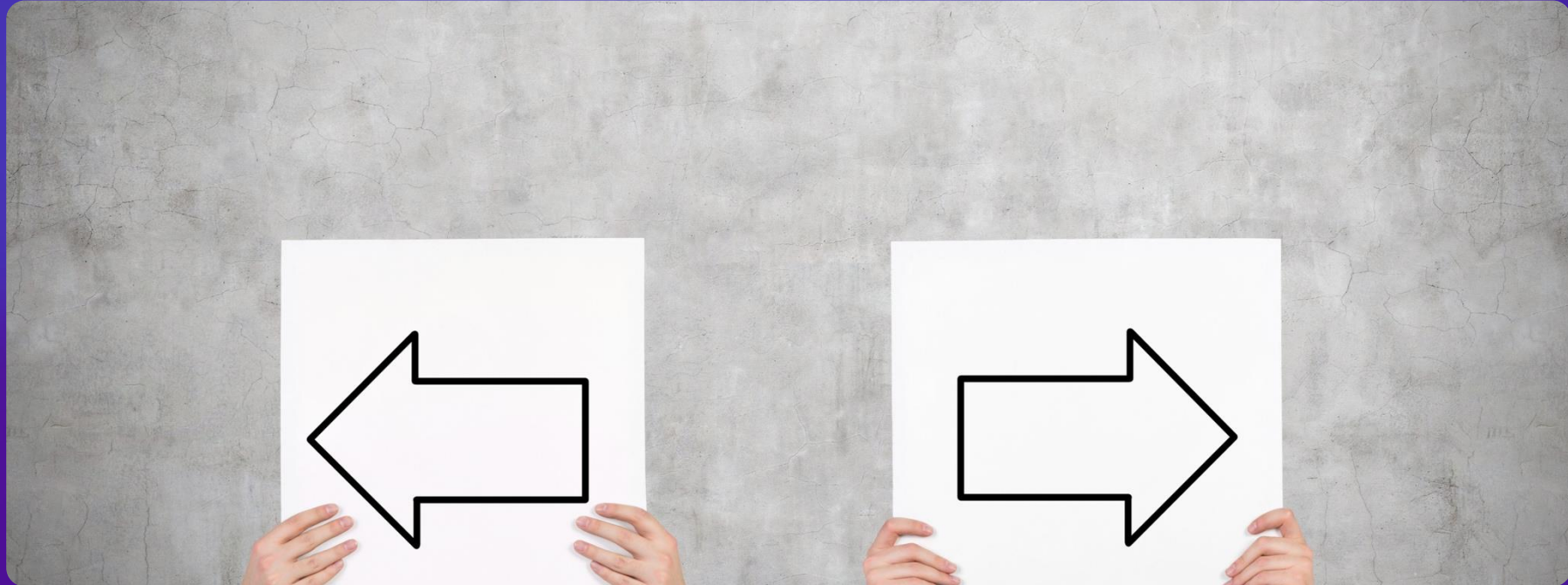
The question is not
whether this storm
is forming.

It is.



The question is whether you will be the person who helps your clients navigate it.





That is your choice to make.

And I would argue
that you do not have
much time to make
that choice.



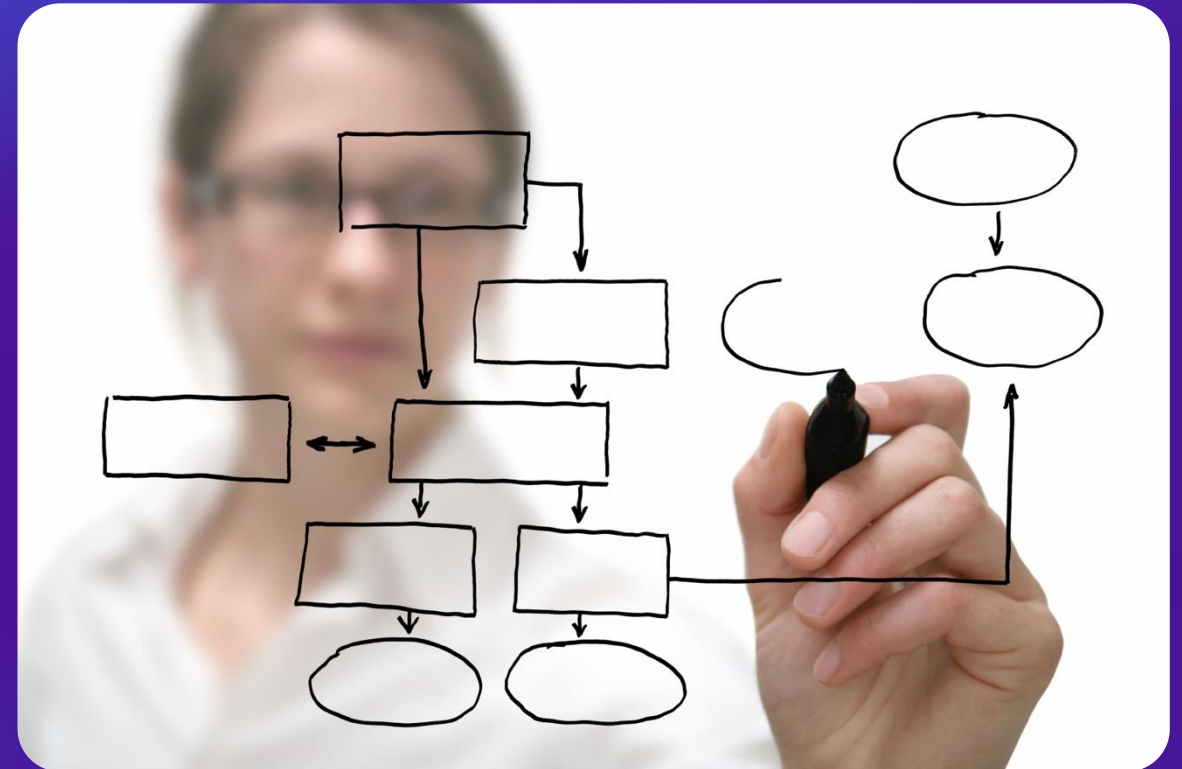
What urgency and opportunity look like

Urgency does
not mean panic



What urgency and opportunity look like

It means sequencing.



What urgency and opportunity look like

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Every business with a self-funded health plan needs a fiduciary risk assessment.

Right now.

Not eventually.

Now.



What urgency and opportunity look like

Every TPA agreement, stop-loss policy, and vendor contract needs to be reviewed against ERISA fiduciary standards.

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What urgency and opportunity look like

Every plan sponsor you work with needs to understand, in plain language, their personal liability exposure.

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What Urgency and Opportunity Look Like

And every prospect you are pursuing, whether as a P&C or Employee Benefits agent who has self-funded their health plan...

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What urgency and opportunity look like

...needs to understand that their current advisor has most likely not addressed this.





“Who's gonna do it? You? You, Lt. Weinberg? “

In every perfect storm,
there is a period when
people realize they are
in trouble.



The advisor as the navigator

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And in that moment,
the thing they want
more than anything...

The advisor as the navigator

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...is someone who has been through this before, who understands the tempest, and who has a plan.

That is the role you can
play right now...

Not a product broker



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That is the role you can play right now...

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A fiduciary risk navigator.



That is the role you can play right now...

Someone who helps employers understand what they are exposed to

Builds the systems to document their compliance

Holds their vendors accountable

This is a different kind of advisor relationship

It is stickier.

It is harder to commoditize.

And it is exactly what this market needs right now.

The advisory opportunity

01

Diagnose

Conduct a fiduciary risk assessment, document gaps in governance, vendor oversight, compensation disclosure, and coverage.

02

Disclose

Disclose these risks. Disclosure is both ethical and strategic.

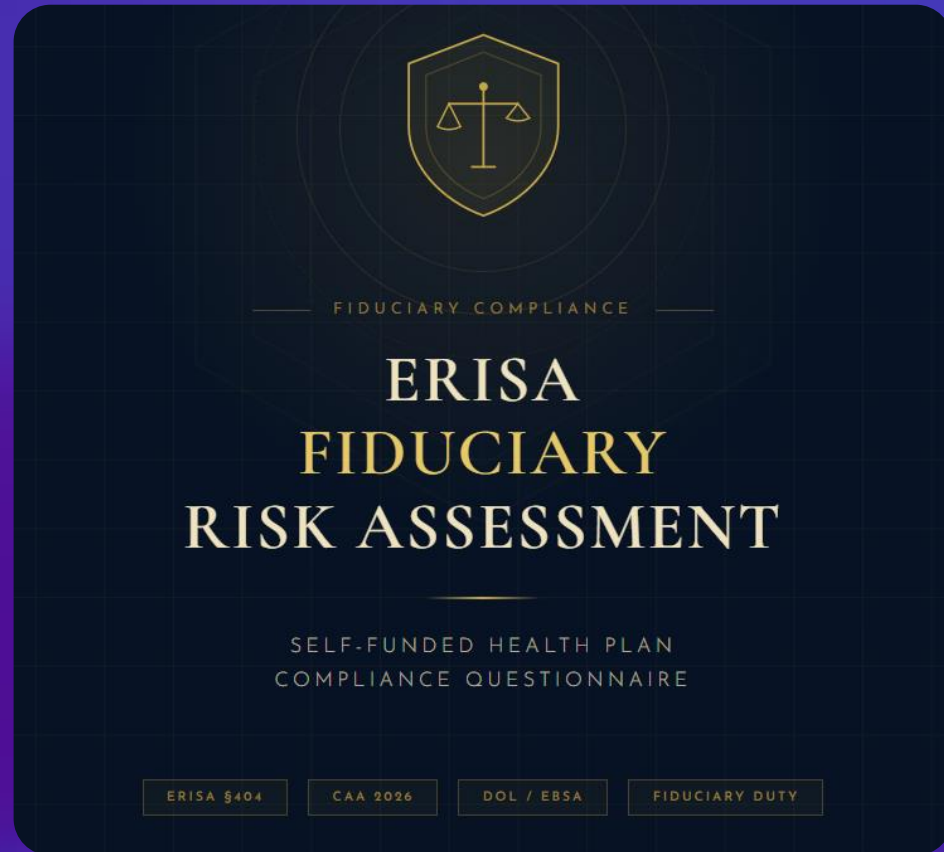
03

Design

Build a structured remediation plan.
Help the client implement governance processes.
Introduce fiduciary liability coverage.

The opportunity embedded
in all of this:

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Diagnose

They are delivering a service that almost no one else in this industry is currently positioned to deliver.

Your Logo Here

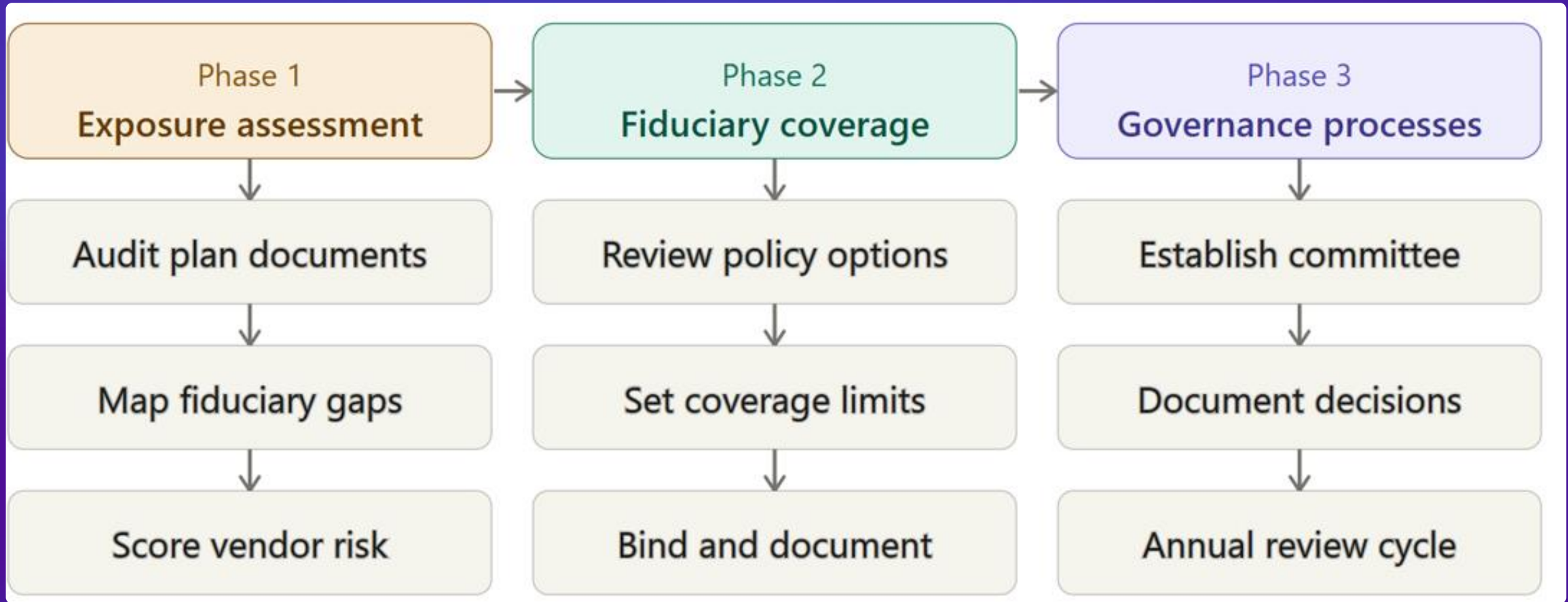
Disclosure of Fiduciary Risks Arising from Your Self-Funded Health Plan

Prepared for: [Client Name]

Prepared by: [Firm Name]

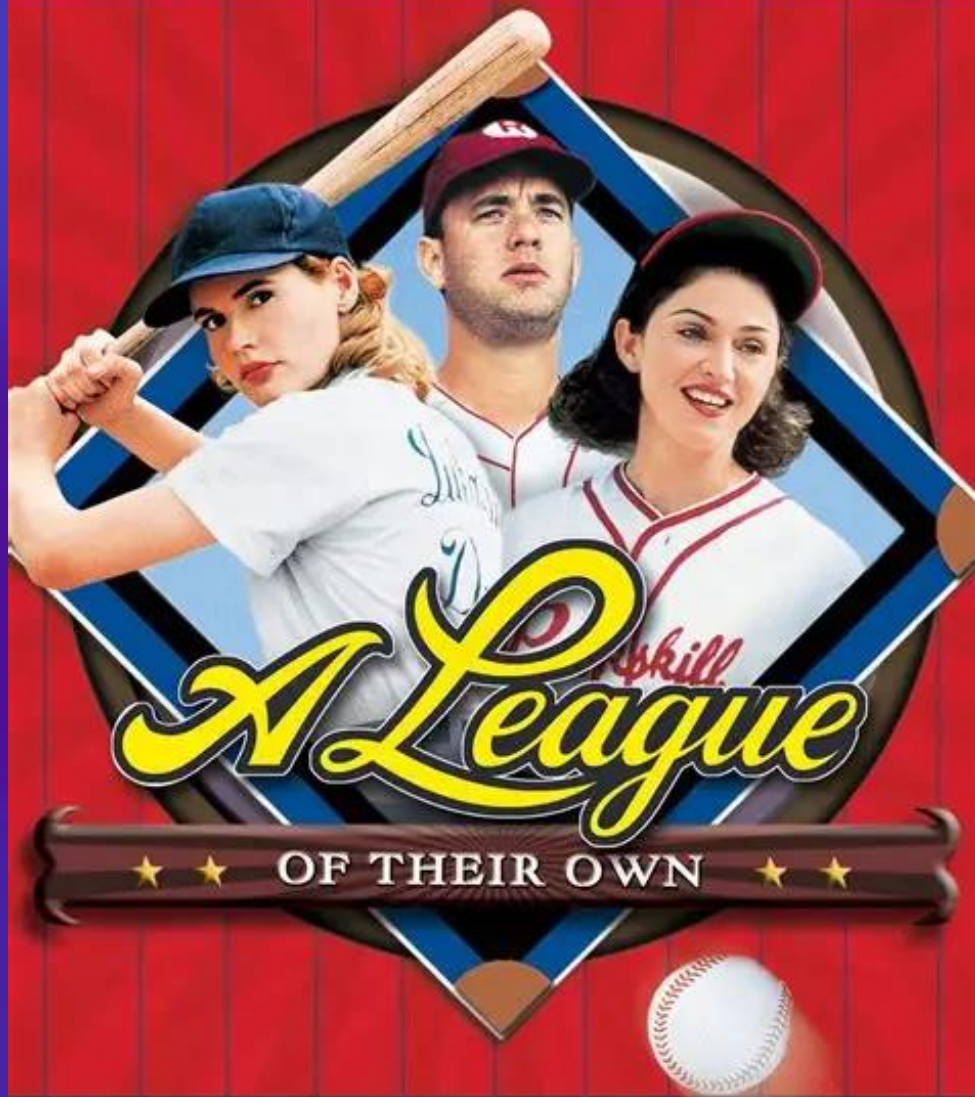
Disclose

Design: A fiduciary remediation plan



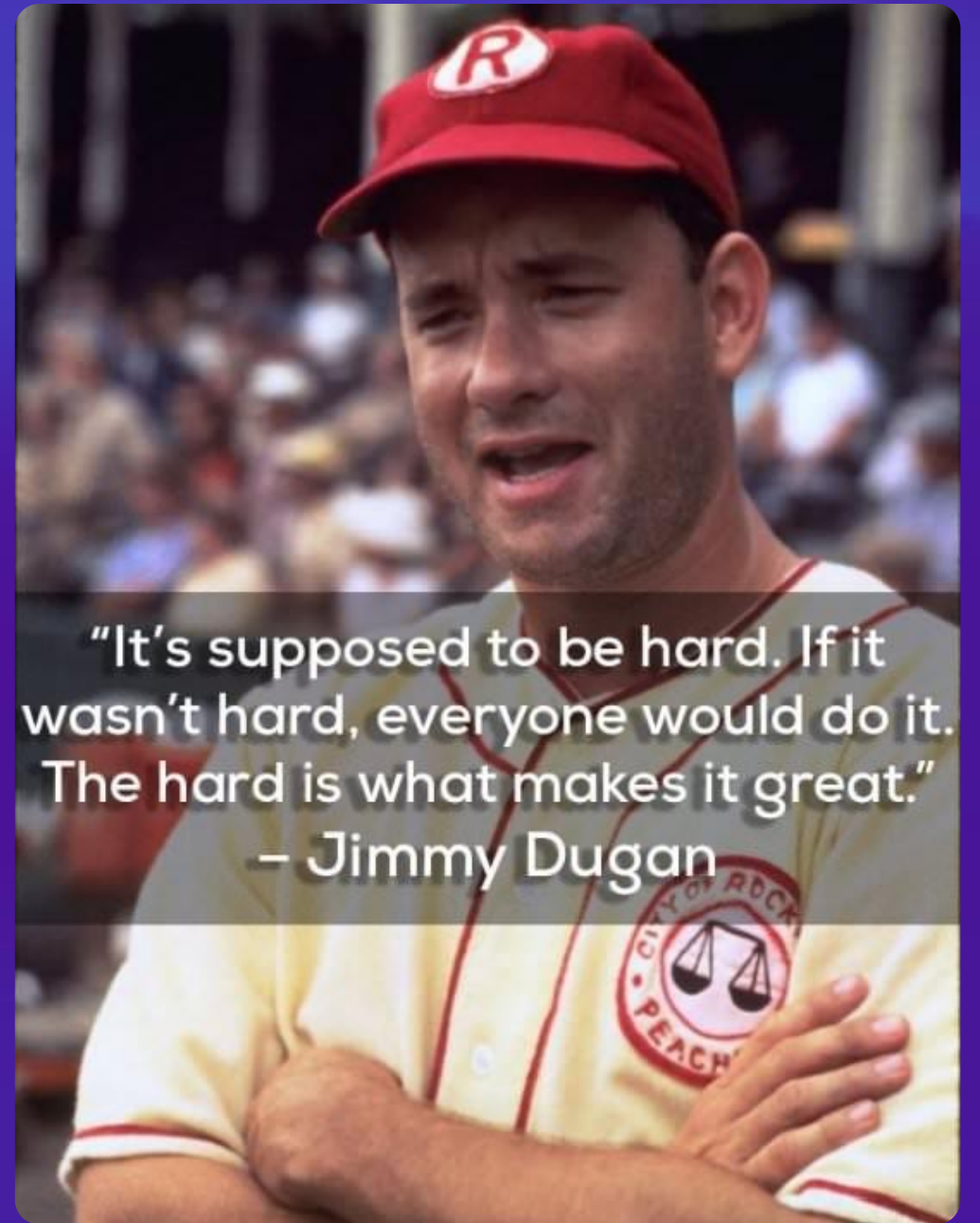
This is Hard

Tom Hanks Madonna Geena Davis



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"It's supposed to be hard. If it wasn't hard, everyone would do it. The hard is what makes it great."
– Jimmy Dugan

RECAP: Navigating the ERISA fiduciary storm

A perfect storm is forming

CAA rewired ERISA fiduciary obligations

Personal liability is expanding

DOL enforcement & litigation accelerating

Advisors and sponsors are unprepared

RECAP: Navigating the ERISA fiduciary storm

The core risk

Undisclosed compensation = prohibited transaction

Vendor oversight failures = fiduciary breach

No documented process = no defense

Insurance gaps for ERISA exposure

RECAP: Navigating the ERISA fiduciary storm

The advisory opportunity

Diagnose → Risk assessment

Disclose → Surface hidden risks

Design → Governance & remediation

Bottom Line: This is happening now — act before the window closes

The competitive moat

Your clients are sitting on fiduciary exposure
they don't know they have

Most of their advisors are either unaware or unwilling
to raise it

The professionals who own this conversation
become indispensable

Your next move

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Assess

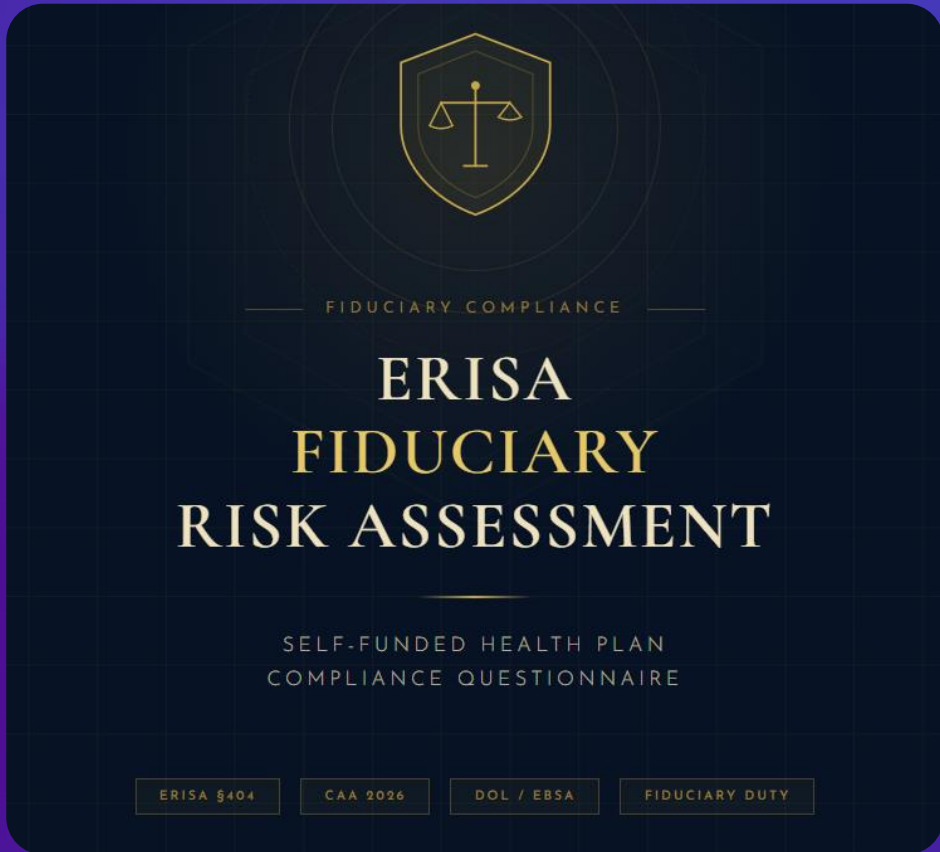
Download our ERISA
Fiduciary Risk Diagnostic
(free assessment tool)



www.thesilentdanger.com/fiduciaryedge

Schedule a fiduciary
risk assessment, now

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Frank Pennachio

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