

AN EDUCATIONAL PAPER FOR CATHOLIC INSTITUTIONAL LEADERS

FAITH, FIDUCIARY AND FUND SELECTION

Asset Management for Church Organizations in an
Era of Faith-Consistent Momentum and Rising Fiduciary Risk



Prepared by

Mary E. Brunson

Co-Founder & Senior Vice President

Investing for Catholics, a division of Index Fund Advisors, Inc.



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Disclosure: This publication is educational in nature but reflects the views and investment philosophy of the author and Investing for Catholics. References to fiduciary practices, OCIO structures, indexing, faith-based screening, and related investment approaches should not be interpreted as independent third-party research or as a recommendation for any specific organization.

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Executive Summary

Catholic institutional investors face a defining paradox. On one side is a rising and welcome call to invest faithfully—a momentum accelerated by *Mensuram Bonam* (2022), issued by the Pontifical Academy of Social Sciences (PASS), and the longstanding USCCB Socially Responsible Investment Guidelines.¹ On the other side is a sobering wave of litigation risk, potential personal liability, and significant financial losses reportedly affecting bishops, dioceses, and tens of thousands of Catholic employees. Together these forces make decisions about asset management and investment selection more consequential—and more scrutinized—than in the past.

This paper argues that the two realities are not in tension. The path through both is the same: a disciplined fiduciary process, expressed first in policy and only then in product. In our view, a good Catholic investment strategy should begin with a good investment strategy—prudent, diversified, cost-conscious, transparent, and defensible. We contend that a capable Outsourced Chief Investment Officer (OCIO) may help address certain risks illustrated by the failures documented here—but only to the extent the fiduciary understands precisely how it operates. An OCIO is only as good as its process, and the committee must understand and own that process.

What this paper covers

- The momentum toward faith-consistent investing—and the product proliferation it has produced.
- The fiduciary duties of Catholic decision-makers and why “exemption is not immunity.”
- The stakes, in depth and with data: the Scharfenberger / Diocese of Albany judgment and the Christian Brothers plan’s funding shortfall—real people caught up in real problems.
- What the evidence (including new CFA Institute endowment research) says about selection and monitoring.
- Why investment process and policy must drive product selection—not the reverse.
- The role of a good OCIO: understanding exactly how it operates, and why a transparent, justifiable, defensible, and repeatable process is the point.

¹ Pontifical Academy of Social Sciences, *Mensuram Bonam—Faith-Based Measures for Catholic Investors: A Starting Point and Call to Action* (Vatican City: Pontifical Academy of Social Sciences, 2022); United States Conference of Catholic Bishops, *Socially Responsible Investment Guidelines* (Washington, DC: USCCB, 2003; updated 2021).

1. A Moment of Convergence

1.1 A rising call to invest faithfully

On November 25, 2022, the Pontifical Academy of Social Sciences (PASS) published *Mensuram Bonam—Faith-Based Measures for Catholic Investors: A Starting Point and Call to Action*, introduced with a foreword by Cardinal Peter K.A. Turkson. Drawing on Catholic Social Teaching and definitive Church pronouncements, it lists 24 topics—from abortion to water—that Catholic investors should weigh, and calls bishops’ conferences and institutions to develop investment criteria consistent with the faith. It is important to note that PASS is a scholarly advisory academy; Cardinal Turkson expressly noted the document carries no “prescriptive power or force,” and that decisions are made locally, weighing both investment possibilities and the investor’s financial needs.² It is a *starting point and invitation*—not a rulebook, a binding directive, or a product mandate.

Mensuram Bonam did not arrive in a vacuum. It joined the USCCB’s Socially Responsible Investment Guidelines (2003; updated 2021), which hold together two responsibilities the Conference itself names: religious mandate *and* fiscal responsibility. The Guidelines are explicit that the Church depends on a reasonable return and must operate in a “fiscally sound, responsible, and accountable manner.” Faithful investing does not relax the obligation to invest prudently. It deepens it.³

The USCCB Guidelines: The United States’ framework

What they are. The *Socially Responsible Investment Guidelines* are issued by the United States Conference of Catholic Bishops (USCCB)—the assembly of all the Catholic bishops of the United States. First adopted in 2003 and updated in 2021, they govern the Conference’s own investments and have become a model adopted or adapted by many U.S. dioceses and Catholic institutions for their own policies. This is a crucial distinction. Where *Mensuram Bonam* is a PASS “starting point” that Cardinal Turkson said carries no prescriptive force, the USCCB Guidelines carry the authority of the U.S. bishops themselves—making them, in the author’s view, a particularly relevant U.S. framework for diocesan consideration.

Structurally, the Guidelines apply a threefold moral strategy—do no harm (avoidance and exclusionary screening), active corporate participation (shareholder resolutions and proxy voting), and promote the common good (for example, community investment)—across five major categories the bishops name: protecting human life; promoting human dignity; enhancing the common good; pursuing economic justice; and saving our global common home.⁴

Why they matter—especially to dioceses. For a diocese, the Guidelines offer more than a moral compass; they may offer a documented framework that can support a defensible process that can be written directly into an Investment Policy Statement (IPS)—screening criteria, proxy-voting policy, and community-investment goals, all traceable to a recognized standard rather than to any single provider’s

² PASS, *Mensuram Bonam*; as characterized by Cardinal Peter K. A. Turkson, the document carries no “prescriptive power or force.”

³ USCCB, *Socially Responsible Investment Guidelines*, cited for the religious-mandate and fiscal-responsibility framework.

⁴ USCCB, *Socially Responsible Investment Guidelines* (updated 2021).

sales material. And because the Guidelines bind the religious mandate to fiscal responsibility in the same breath, they close the door on a false choice. A diocese need not decide between investing faithfully and investing prudently: the USCCB framework insists on both, and fiduciary obligations under applicable law may make aspects of that prudential responsibility legally enforceable.

1.2 Momentum—and a marketplace response

The response to *Mensuram Bonam* has been striking. A crowded marketplace of new funds, screens, scorecards, and “verification” services has emerged, each promising a purer expression of Catholic identity than the last. Much of this work is genuinely valuable—screening matters, proxy voting matters, stewardship matters. But this swift and wide proliferation also introduces significant potential hazards for fiduciaries: a rising layer of costs, complexity, and potentially paralyzing debate that can crowd out the more basic question of whether the underlying strategy is inherently sound.

Such hazards travel alongside a potential authority-inflation misconception: providers whose marketing invokes “*Mensuram Bonam*” or “the Vatican’s guidance” as if the reference alone settles the fiduciary’s conundrum. It does not. A PASS document is a starting point for discernment, not a proxy for prudence. Neither the Pontifical Academy of Social Sciences nor *Mensuram Bonam* endorses any investment product or confers doctrinal force—as the academy’s chancellor, Cardinal Peter Turkson, characterized it, the document carries no “prescriptive power or force.”⁵

A Catholic label is not enough. A provider’s good intentions are not enough. A fund’s marketing language is not enough.

1.3 The other side of the ledger

At the very moment Catholic investors are being called to act, the cost of acting imprudently has become substantial. Recent years have produced landmark court decisions and significant financial harm for bishops, dioceses, and roughly 40,000 employees of Catholic organizations. A jury verdict imposed individual liability on a bishop, followed by a personal bankruptcy filing. A pension plan serving more than 180 Catholic institutions is an estimated \$800 million short. These are not abstractions; they are the present operating environment, and they are the subject of Section 3.

⁵ Cindy Wooden, “Vatican Offers Guidelines for Investing in a Way Consistent with Faith,” Catholic News Service, November 28, 2022 (quoting Cardinal Peter Turkson, PASS chancellor, that *Mensuram Bonam* “does not have ‘prescriptive power or force’”); see also PASS, *Mensuram Bonam*. No PASS document endorses any specific investment product, fund, or provider. On the distinction between PASS/*Mensuram Bonam* and financial-institution benchmarks, see Institute for the Works of Religion and Morningstar Indexes, “Catholic Principles” equity-index launch, February 10, 2026 (Morningstar IOR U.S. Catholic Principles Index and Morningstar IOR Eurozone Catholic Principles Index, 50 companies each); Reuters and CNBC, February 10, 2026; Catholic World Report/EWTN, February 11, 2026; and Statute of the Institute for the Works of Religion, arts. 1–2. These are benchmarks issued by a financial institution—“at the service of the Roman Curia, but... not part of it”—not magisterial teaching or an endorsement of any fund or provider. A provider’s claim of “Vatican backing” for a specific fund should be treated as a marketing red flag.

2. The Fiduciary Responsibilities of Catholic Decision-Makers

Anyone who exercises discretionary authority over a plan’s assets or administration—or who selects and monitors those who do—is a fiduciary. Bishops, finance council members, investment and retirement committee members, and senior administrators frequently occupy this role, sometimes without even realizing it. Fiduciary status attaches to *function*, not title.

2.1 The core duties

Duty	What it requires
Loyalty	Act solely in the interest of participants and beneficiaries—for the exclusive purpose of providing benefits at reasonable expense.
Prudence	Act with the care, skill, and diligence of a knowledgeable professional who is a “prudent expert,” not merely a prudent layperson.
Diversification	Diversify investments to minimize the risk of large losses, unless clearly imprudent to do so.
Follow the documents	Adhere to the governing plan and policy documents, to the extent consistent with law—and keep them current.
Reasonable cost	Ensure fees paid are reasonable for the services received; control and monitor expenses.

Process, not outcomes

Fiduciary liability is determined by the prudence of the process, not by investment results. A committee that follows a documented, prudent process may be better positioned to defend its decisions when markets disappoint; a committee that earns a good return through a careless process remains exposed. The corollary is decisive: a committee that lacks relevant expertise should consult qualified professionals as appropriate under the circumstances.

2.2 Exemption is not immunity

Most Catholic retirement plans are church plans exempt from the Employee Retirement Income Security Act (ERISA). Many decision-makers assume this exemption removes fiduciary duty. It does not necessarily eliminate fiduciary obligations under other applicable laws. Church-plan status may remove certain federal *filings and protections for participants*—minimum funding standards, Form 5500 reporting, and Pension Benefit Guaranty Corporation (PBGC) insurance—while fiduciary obligations may remain under applicable state trust law, including a jurisdiction’s version of the Uniform Prudent Investor Act; those obligations are not necessarily identical to ERISA.

Protection	ERISA Plan	Church Plan (Exempt)
Minimum funding standards	Required	Not required
Annual reporting (Form 5500)	Required	Not required
PBGC pension insurance	Available	Not available (unless affirmatively elected)
Fiduciary conduct standard	Federal (ERISA)	State law / UPIA
Participant legal remedy	Federal courts	Potential remedies depend on applicable law and jurisdiction

The practical lesson is that church-plan status may remove certain participant protections, including PBGC insurance, while fiduciary obligations may remain under applicable state law. Participants may have fewer protections, and fiduciaries may still face claims under applicable state law, as Section 3 illustrates.⁶

⁶ Uniform Prudent Investor Act §§ 2–7 (1994); ERISA § 404(a), 29 U.S.C. § 1104(a); Internal Revenue Code § 414(e) (church-plan definition); ERISA § 4(b)(2) (church-plan treatment of minimum-funding, Form 5500, and PBGC provisions).

3. The Stakes: Real People, Real Problems

Two contemporaneous cases have transformed fiduciary risk for Catholic organizations from an abstraction into a documented reality. The first establishes that personal liability is real. The second demonstrates the scale of devastation possible when a church plan's funding fails. Behind every figure below is a person who trusted a promise.

3.1 Personal liability is a reality: Bishop Scharfenberger and the Diocese of Albany

How a pension quietly collapsed

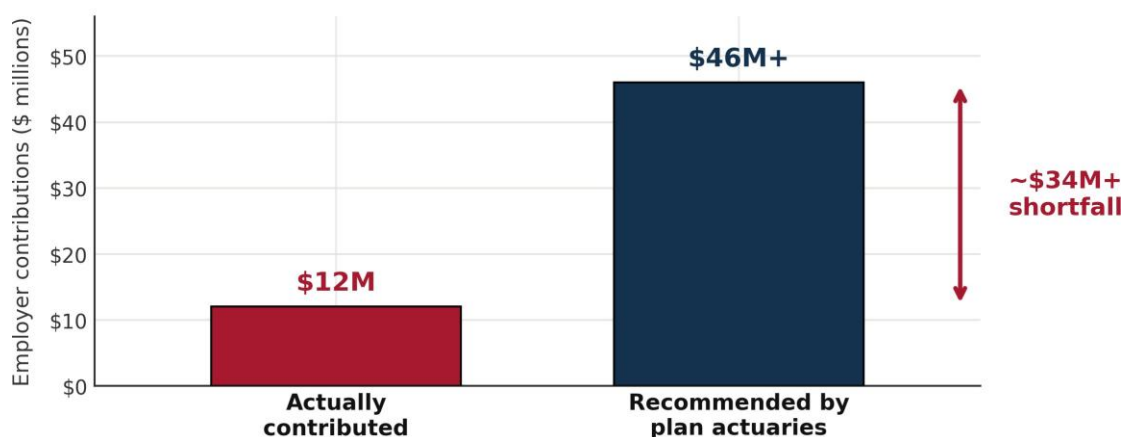
St. Clare's Hospital in Schenectady, New York—established in 1945 and co-sponsored by the Franciscan Sisters of the Poor and the Diocese of Albany—operated a defined-benefit pension plan (established in 1959) that ultimately covered 1,124 employees. In 1992, the IRS granted the plan church-plan status (retroactive to 1974), removing ERISA guardrails and PBGC insurance requirements. What followed is a case study in a steady decline in funding: the plan received employer contributions in only 3 of the 19 years from 2001 to 2019—about \$12 million in total, against the more than \$46 million its own actuaries recommended through 2017.⁷ The unfunded liability grew without being addressed. After a state-mandated merger closed the hospital in 2008, a \$28.5 million New York State Department of Health grant to the pension fund proved insufficient, and the plan was terminated with its shortfall intact.⁸

⁷ Office of the New York Attorney General, "Attorney General James Wins Trial for St. Clare's Pensioners," press release, December 12, 2025; complaint, *People v. Roman Catholic Diocese of Albany* (Sup. Ct., Schenectady County) (employer contributions in only three of the nineteen years, 2001 to 2019); *People v. Roman Catholic Diocese of Albany*, 2025 N.Y. Slip Op. 25117 (approximately \$12 million contributed against more than \$46 million in actuary-recommended contributions through 2017).

⁸ *Hartshorne v. Roman Catholic Diocese of Albany*, 2020 N.Y. Slip Op. 20174 (July 2008 New York State Department of Health grant of \$28.5 million); *People v. Roman Catholic Diocese of Albany*, 2025 N.Y. Slip Op. 25117; and NY Attorney General, "James Wins Trial for St. Clare's Pensioners."

Only \$12M contributed of the \$46M+ advised through 2017

St. Clare's employer pension contributions; funded in only 3 of the 19 years, 2001–2019



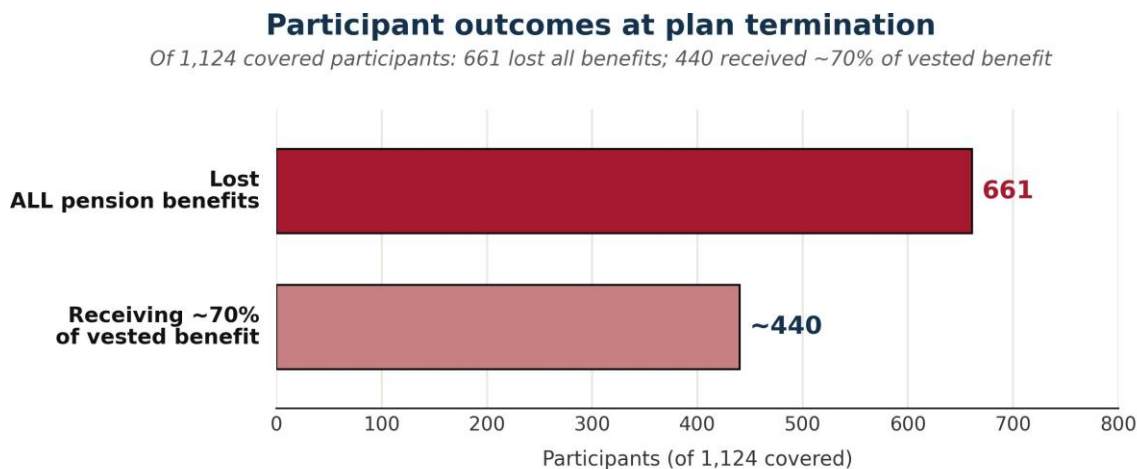
Source: People v. Roman Catholic Diocese of Albany, 2025 N.Y. Slip Op. 25117; N.Y. Attorney General.

Figure 1. *St. Clare's employer pension contributions. The plan received contributions in only three of the nineteen years from 2001 to 2019—about \$12 million in total, against the more than \$46 million its actuaries recommended through 2017.*

The governance record is the heart of the case. In 2017, the board voted to rejoin ERISA and purchase PBGC insurance—precisely the protection that would have safeguarded participants—then reversed that vote.⁹ When the plan terminated, 661 participants lost their pension benefits entirely, while 440 participants received 70% of their promised benefit.¹⁰

⁹ NY Attorney General, “James Wins Trial for St. Clare’s Pensioners”; and the trial record in *People v. Roman Catholic Diocese of Albany* (N.Y. Sup. Ct. 2025), for the 2017 board vote to rejoin ERISA and its reversal.

¹⁰ *Hartshorne v. Diocese of Albany*, 2020 N.Y. Slip Op. 20174, n.3 (approximately 440 participants receiving 70% of their vested benefits and approximately 661 receiving none); accord *People v. Roman Catholic Diocese of Albany*, 2025 N.Y. Slip Op. 25117 (440 pensioners, including 40 *Hartshorne* plaintiffs; 661 pensioners, including 135 *Hartshorne* plaintiffs). The covered-participant census is stated as 1,124 in the trial damages exhibit (PX923) and as 1,126 in the 2025 decision’s text.



Source: *Hartshorne v. Diocese of Albany*, 2020 N.Y. Slip Op. 20174, n.3 (Scharfenberger case record).

Figure 2. Participant outcomes at plan termination. 661 vested pensioners lost their benefits entirely; 440 received 70% of their vested benefit.

The landmark finding

On December 12, 2025, a Schenectady County jury—after a six-week trial in *Hartshorne et al. v. Roman Catholic Diocese of Albany*—found the individual and corporate defendants at fault and the Diocese vicariously liable, awarding \$54.2 million in compensatory damages and finding that punitive damages were warranted. The individual defendants—former bishops Howard Hubbard (deceased; liability against the estate) and Edward Scharfenberger, St. Clare’s presidents Joseph Pofit and Robert Perry, and Rev. David LeFort (deceased; liability against the estate)—were each found to have breached their fiduciary duties. The case was brought by New York Attorney General Letitia James, with the AARP Foundation representing pensioners.¹¹

Real people behind the numbers

These losses were not spread evenly across faceless strangers; they fell on colleagues, neighbors, and caregivers. One pensioner, Anne Hotaling, worked at the Schenectady hospital for 29 years before it closed. After losing her pension she was forced to sell her home of 32 years. “It does not account for the eight-and-a-half years of pain and suffering,” she said of the verdict. Mary Hartshorne, who chaired the St. Clare’s Pension Recovery Alliance, also had to sell her home. “Losing our time, our livelihood, our dreams, our time with our family, what we wanted to do with our retirement—it’s all gone,” she said. Their fight lasted for the better part of a decade.¹²

The mechanism of liability deserves emphasis. The jury found the Diocese *0% directly* responsible—yet, under the doctrine of respondeat superior (vicarious liability), the Diocese is financially responsible for the judgment because its leaders acted on its behalf—a conclusion the Diocese disputes and has appealed.

¹¹ NY Attorney General, “James Wins Trial for St. Clare’s Pensioners”; see also post-verdict coverage of *Hartshorne v. Diocese of Albany* (note below).

¹² For participant accounts (Anne Hotaling, Mary Hartshorne), see WRGB/CBS6, Spectrum News, and Tully Rinckey coverage of *Hartshorne v. Roman Catholic Diocese of Albany* (December 2025).

The safety many assumed—that the institution, or the individual, would somehow be shielded—did not exist.¹³

The jury’s allocation of direct fault, reported by *The Evangelist*, is as follows: Joseph Pofit 25%, former Bishop Howard Hubbard 20%, St. Clare’s Corporation 20%, Robert Perry 20%, former Bishop Edward Scharfenberger 10%, and Rev. David LeFort 5%—summing to 100%. The Diocese of Albany was 0% directly at fault but is financially responsible for the full judgment under respondeat superior. Notably, St. Clare’s Corporation itself was found 20% at fault, a reminder that corporate entities, not only the individuals within them, can be held accountable for governance failures.¹⁴

Within four days of the verdict, two individual defendants filed personal bankruptcy. Joseph Pofit filed Chapter 7 in the U.S. Bankruptcy Court for the District of Colorado on December 15, 2025, and Bishop Edward Scharfenberger filed Chapter 13 in the U.S. Bankruptcy Court for the Northern District of New York on December 16, 2025—reported by the cited sources as the first known personal bankruptcy filing by a recently retired U.S. Catholic bishop in modern history¹⁵ (Bishop Scharfenberger retired as bishop of Albany in October 2025, and his successor, Bishop Mark O’Connell, was installed on December 5, 2025). Those filings paused the punitive-damages hearing. On December 18, 2025, the plaintiffs stipulated to forgo punitive damages so the compensatory judgment could proceed. On March 25, 2026, Judge Vincent Versaci denied all post-trial motions and upheld the \$54.2 million verdict in full (an appeal is pending).¹⁶

3.2 The scale of devastation: the Christian Brothers Employee Retirement Plan (CBERP)

If St. Clare’s illustrates personal liability, the Christian Brothers Employee Retirement Plan (CBERP) illustrates the scale of the issue. Sponsored by the Christian Brothers Major Superiors (the leadership of the De La Salle Christian Brothers) and administered by Christian Brothers Services (CBS), CBERP is a multiple-employer church plan serving more than 180 Catholic institutions and roughly 40,000 participants nationwide—schools, dioceses, universities, and ministries.¹⁷

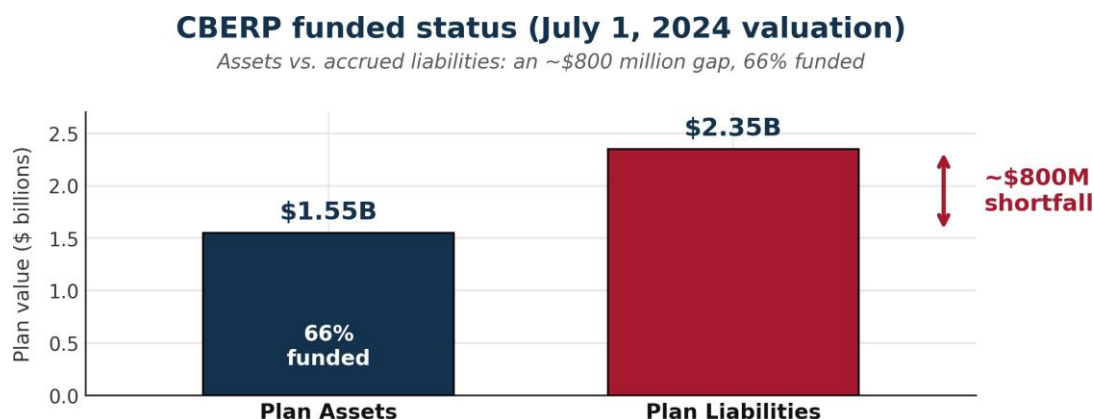
¹³ WRGB/CBS6, Spectrum News, and Tully Rinckey coverage of *Hartshorne v. Diocese of Albany* (December 2025), cited for the respondeat superior analysis.

¹⁴ *The Evangelist*, December 12, 2025, cited for the jury’s fault apportionment.

¹⁵ On the personal-bankruptcy filings of Joseph Pofit (Chapter 7, D. Colo., December 15, 2025) and Bishop Edward Scharfenberger (Chapter 13, N.D.N.Y., December 16, 2025), see National Catholic Register and Catholic World Report, December 19, 2025.

¹⁶ Spectrum News, March 25, 2026, and NEWS10, March 31, 2026, on the denial of post-trial motions and the \$54.2 million verdict.

¹⁷ Christian Brothers Employee Retirement Plan, *The New Path Forward: Contribution/Design Changes for 2026* (Christian Brothers Services, 2025) (multiple-employer church plan, commenced 1964; 40,072 participants as of the July 1, 2024 valuation); see also “Catholic Dioceses and Schools Confront \$800 Million Pension Fund Shortfall,” National Catholic Register, December 4, 2025 (more than 180 member organizations; about 40,000 participants); and Mike Hughlett, “Pension Fund Covering Scores of Minnesota Catholic Schools Has \$800M Shortfall,” Minnesota Star Tribune, November 18, 2025 (the plan “is sponsored by Christian Brothers Major Superiors”).



Source: Christian Brothers Employee Retirement Plan, “The New Path Forward” (July 1, 2024 valuation).

Figure 3. CBERP funded status, July 1, 2024, valuation. Assets of \$1.55 billion stand against \$2.35 billion in accrued liabilities—an \$800 million gap, leaving the plan 66% funded.¹⁸

CBERP by the numbers (July 1, 2024 valuation)	Figure
Unfunded liability	\$800 million
Funded status	66% funded
Plan assets (market value)	\$1.55 billion
Plan liabilities (accrued)	\$2.35 billion
Active share of participants	38% (was 66% in 2000)
Annual contribution	~\$60M paid vs. \$120.2M needed

The plan was over-funded as recently as 1999—142% of liabilities—and remained above 100% funded until the 2008 financial crisis, which drove its funded status into the mid-70s. According to CBERP’s own account in “The New Path Forward,” the gap since then reflects those 2008 losses together with demographic pressure and rising longevity: the active share of participants fell from 66% in 2000 to 38% in 2024, the ratio of inactive to active participants flipped from roughly one-per-two to nearly two-per-one, and the plan’s assumed investment return was lowered from 8% (2002) to 6.75% (2022), which raised measured liabilities. Notably, the plan states that this decline is “not a function of poor long-term investment performance,” which it reports has met or exceeded its assumptions. To close the gap, CBERP told employers that fully funding the plan over 25 years would require roughly \$120.2 million a year—\$48.6 million for benefits earned in the year plus \$71.6 million to amortize the \$800 million unfunded liability—against the roughly \$60 million a year employers were then contributing; current contributions covered new accruals plus only about 20% of the amortization needed. A separate, documented

¹⁸ Christian Brothers Employee Retirement Plan, *The New Path Forward* (2025), “Where the Plan Stands Today” (July 1, 2024, valuation: accrued liability \$2.35 billion; market value of assets \$1.55 billion; unfunded liability \$800 million; 66% funded; roughly \$120.2 million in annual contributions needed to reach 100% funding over 25 years, against about \$60 million then contributed).

episode—which CBERP does not cite as a driver of the current shortfall—nonetheless illustrates the paper’s central caution: in early 2020 the plan lost approximately \$149 million in Allianz’s Structured Alpha strategy. The Christian Brothers Employee Retirement Plan (through its Pension Board) is the plaintiff in the resulting litigation (voluntarily dismissed with prejudice in 2022, terms undisclosed), which alleged that Allianz mismanaged the strategy and abandoned the risk controls it was required to maintain. The broader episode was later addressed in a landmark enforcement action: in 2022, Allianz Global Investors U.S. pleaded guilty to criminal securities fraud arising from the Structured Alpha funds, and Allianz paid more than \$5 billion in restitution to investors as part of a resolution exceeding \$6 billion, after U.S. authorities found that the firm had understated the funds’ risks and had failed to implement certain risk controls it had represented were in place. The funds—marketed to pension plans, including those of religious organizations, as rigorously hedged and risk-managed—underscore, as a general matter, why any fiduciary should seek to understand the strategies an external manager actually employs.¹⁹ According to cited reports, some employers have been asked to contribute two to three times current levels for up to 25 years. For the Diocese of New Ulm, that meant a required contribution the diocese described as “over \$2 million annually for the next 25 years—an amount that is not feasible.” For the Diocese of St. Cloud—whose unfunded share Bishop Patrick Neary later put at roughly \$34 million—fully funding through continued participation would have required contributions the diocese initially described as more than \$80 million over 25 years, while withdrawing outright would have cost about \$50 million; the diocese chose to freeze its plan on December 31, 2025 and spin off from CBERP.²⁰

Years in the making—and a question of accountability

CBERP’s account has not gone unchallenged. Multiple dioceses report receiving little timely warning: the Diocese of St. Cloud told members there were “no prior communications from Christian Brothers regarding the underfunding,” and the Diocese of New Ulm cited “no prior notification” of the shortfall. Bishop Chad Zielinski of New Ulm said plainly, “I do not think that Christian Brothers has been completely

¹⁹ On the causes of the funding gap, see Christian Brothers Employee Retirement Plan, *The New Path Forward* (2025) (“How Did We Get Here?” and “Demographic Trends”): the 2008 Great Recession, rising longevity, an active-participant share falling from 66% (2000) to 38% (2024), and a reduction in the assumed investment return from 8% (2002) to 6.75% (2022); the plan states the decline is “not a function of poor long-term investment performance.” On the separate Allianz Structured Alpha episode, which CBERP does not cite as a cause of the current shortfall, see *Christian Brothers Employee Retirement Plan v. Allianz Global Investors U.S. LLC*, No. 1:21-cv-07388 (S.D.N.Y.) (voluntarily dismissed with prejudice, 2022; terms undisclosed); and the related Structured Alpha resolution, U.S. Department of Justice, S.D.N.Y., May 17, 2022, and U.S. Securities and Exchange Commission, Press Release 2022-84, May 17, 2022.

²⁰ Diocese of New Ulm, statement on withdrawal from CBERP, November 12, 2025 (“over \$2 million annually for the next 25 years”), and letters to plan participants, October 23 and December 1, 2025 (approximately \$42 million over 25 years; the “over \$2 million annually” and “approximately \$42 million” figures come from separate diocesan communications on different measurement bases and are not directly additive); “Catholic Dioceses and Schools Confront \$800 Million Pension Fund Shortfall,” National Catholic Register, December 4, 2025. Diocese of St. Cloud, “Memo to CB Members,” October 17, 2025 (increased contributions “greater than \$80 million over 25 years”); Diocese of St. Cloud, Christian Brothers Pension Webinar Q&A, November 20, 2025 (diocesan portion of the \$800 million shortfall approximately \$80 million; about 1,400 affected participants); and the diocese’s memorandum on the decision to freeze, December 2025 (approximately \$50 million to withdraw; plan frozen December 31, 2025); St. Cloud’s unfunded share was later stated by Bishop Patrick Neary to be approximately \$34 million (AM 1240 WJON, May 22, 2026).

transparent along the way,” and called the episode “a really grave injustice.” Bishop Andrew Cozzens of Crookston observed that “there wasn’t over the years the kind of steady raising of the rates that you would’ve expected if the pension was in trouble,” adding that it seemed “negligent that [Christian Brothers] didn’t keep us informed all the way along.” Sam Hartmann, a pension actuary advising several affected schools, disputed the plan’s demographic explanation—“you can’t just blame it on demographics ... this issue has not just emerged overnight”—and noted that the plan’s funded status barely moved, from 67% to 66%, between 2022 and 2024 even as the S&P 500 rose more than 40%, a result he called “staggering.”²¹

Church leaders have said the same in sharper terms. Bishop Patrick Neary of St. Cloud said the news “caught us off guard,” with “no reason to believe up to that point there were serious issues with the retirement plan,” and described receiving “a lot of letters from people in the diocese who are understandably concerned because they’re struggling to afford medicine or put food on the table.” In an extraordinary step, Neary and six fellow bishops—joined by Cardinal Blase Cupich of Chicago—“insisted on a meeting with Christian Brothers’ leadership in Illinois on Feb. 4, 2026, where,” Neary said, “we expressed our dismay, our concerns and our questions.” The diocese’s own chief financial officer, Joe Spaniol, was blunter still, telling the diocesan newspaper: “Christian Brothers is responsible for the situation. They are the plan sponsor. It is their responsibility to make sure there’s adequate funding into the plan. It is they and their board who are responsible for proper investments for the plan.” That characterization is broadly fair but imprecise on one point of law: the plan’s sponsor is the Christian Brothers Major Superiors—the order’s leadership—not Christian Brothers Services, and Spaniol acknowledged as much earlier in the same interview, noting that the diocese “is not the sponsor of the plan.” By CBS’s own account, the plan’s named fiduciary is a Pension Board “elected by the participating employers” that “acts as the fiduciary for the Plan,” while CBS provides administrative services and the plan’s investment strategy has been overseen by its Pension Board with the assistance of an independent investment consultant (Marquette Associates). The diocesan officials’ essential point stands: the decisions that governed funding, investment, and disclosure sat with the plan’s managers and its board—not with the individual parishes, schools, and dioceses now asked to close the gap.²²

²¹ *The Pillar*, “‘A Really Grave Injustice’—Dioceses Face ‘Devastating’ Christian Brothers Pension Crisis,” November 20, 2025 (Bishop Chad Zielinski: “I do not think that Christian Brothers has been completely transparent along the way”; Bishop Andrew Cozzens on the absence, over the years, of the steady rate increases expected of a plan in trouble, and that it seemed “negligent” not to keep dioceses informed); “Catholic Dioceses and Schools Confront \$800 Million Pension Fund Shortfall,” *National Catholic Register*, December 4, 2025 (pension actuary Sam Hartmann disputing the demographic explanation; the plan’s funded status moving only from 67% to 66% between 2022 and 2024 despite a rise of more than 40% in the S&P 500); Diocese of St. Cloud, “Memo to CB Members,” October 17, 2025 (“no prior communications ... regarding the underfunding”); Diocese of New Ulm, letters to plan participants, October 23 and December 1, 2025 (“no prior notification”).

²² *The Central Minnesota Catholic*, “Task Force Details Efforts to Address Pension Plan Underfunding,” April 16, 2026 (Bishop Patrick Neary: the news “caught us off guard”; letters from participants “struggling to afford medicine or put food on the table”; the February 4, 2026 meeting at which affected bishops and Cardinal Blase Cupich “expressed our dismay, our concerns and our questions”; and diocesan CFO Joe Spaniol: “Christian Brothers is responsible for the situation ... they and their board ... are responsible for proper investments for the plan”); Jay Caldwell, *St. Cloud Diocese Addresses \$34 Million Pension Shortfall*, AM 1240 WJON, May 22, 2026 (Bishop Neary: the diocese was “blindsided”; St. Cloud’s deficit approximately \$34 million). On the plan’s governance structure,

CBERP's own disclosures deepen the concern. Its "New Path Forward" brochure concedes that current contributions had been covering "only 20%" of the amount needed to amortize the unfunded liability, and that in earlier, well-funded years it had been "common practice ... to 'spend' surpluses in the form of benefit improvements"—with benefit increases granted in 2000 and 2008, when the plan was overfunded. In our view, that pattern is difficult to reconcile with the disciplined, proactive stewardship a prudent fiduciary process demands: a plan that granted benefit improvements when it was overfunded, then—by its own account—collected contributions sufficient to cover only about 20% of what was needed to amortize the resulting shortfall, illustrates the very gap between process and outcome this paper warns against. It is a gap the plan's own member dioceses say should have prompted steadier increases in employer rates far sooner. And because CBERP is a church plan, the ordinary accountability mechanisms are largely absent—participants were told that the plan documents "state that there is no recourse if there is a shortfall"—leaving dioceses that, in their own account, "had no input or decision making in how funds were invested or managed" to shoulder a bill they did not create.²³

"I about fell on the floor": the human toll in St. Cloud

The consequences are hitting real people who spent their lives in service of the Church. Mary Goenner taught music to Catholic elementary students in the St. Cloud area for more than three decades, at a fraction of a public-school salary, comforted by the thought, "I've got that retirement plan." In October 2025, she received a letter saying the plan was significantly underfunded. "I about fell on the floor," she recalled. "I was just so shocked and terrified, not knowing how I was going to afford to keep on living as a single person."

She is one of about 1,400 St. Cloud participants—teachers, youth ministers, and administrators—whose plan was roughly 58% funded (a diocese-specific figure the diocese reported on a more conservative basis than the plan-wide 66%) and whose diocese faced more than \$80 million in added contributions over 25 years to make it whole, with reductions to promised benefits a live possibility. As retired principal Elmer Kobberman observed, current employees nearing retirement are "going to be even in worse shape than we will be ... and that's not right."²⁴ The plan froze on December 31, 2025, with assets to transfer to a new

see Christian Brothers Services, "Defined Benefit Plan (Christian Brothers Employee Retirement Plan)," cbservices.org (the Pension Board is "elected by the participating employers," "administers the Plan," and "acts as the fiduciary for the Plan"); and Christian Brothers Employee Retirement Plan, *The New Path Forward* (2025), "Investment Governance" (independent investment consultant, Marquette Associates). Spaniol likewise stated, in the same interview, that "the sponsor of the plan is the Major Superiors of the Christian Brothers" and that the St. Cloud diocesan corporation "is not the sponsor of the plan."

²³ Christian Brothers Employee Retirement Plan, *The New Path Forward* (Christian Brothers Services, 2025) (current contributions covering only about 20% of the amount needed to amortize the unfunded liability; the brochure's reference to the church-plan practice of "spend[ing]" surpluses through benefit improvements, with benefit increases in 2000 and 2008); Diocese of St. Cloud, Christian Brothers Pension Webinar Q&A, November 20, 2025 ("[t]he plan documents state that there is no recourse if there is a shortfall"); Diocese of New Ulm, participant FAQ, December 1, 2025 (diocese and parishes "had no input or decision making in how funds were invested or managed").

²⁴ Rena Sarigianopoulos, "Pension Shortfall Leaves Current and Retired Employees of the St. Cloud Diocese Concerned about Their Future," *KARE 11*, May 12, 2026 (Elmer Kobberman, a retired principal in the diocese); see also Mike Hughlett, "St. Cloud Catholic Diocese Pension Fiasco Breeds Mistrust," *Minnesota Star Tribune*, March

diocesan trust in 2026 (anticipated by mid-year). Because CBERP is not covered by ERISA, there is *no federal oversight and no pension insurance*; benefits depend entirely on available assets and continued employer contributions.²⁵

Two cases, one lesson

Neither story is, at its core, a failure of faith, and the two are different in kind. St. Clare's produced an adjudicated jury finding of fiduciary breach against specific individuals and the corporation. No court has adjudicated the CBERP shortfall, and Christian Brothers Services attributes it to the 2008 downturn, longevity, and demographics while maintaining that the plan's long-term investment returns have met or exceeded its assumptions. But the public record already documents what the plan's own member dioceses describe as inadequate warning, alongside facts CBERP itself discloses: contributions that covered only a fraction of the plan's amortization need, benefit improvements granted while the plan was overfunded, and a plan structure that, participants were told, leaves "no recourse if there is a shortfall." In our view, those facts raise serious questions of fiduciary prudence, transparency, and accountability—whether or not they are ever tested in court. What the two cases share is a single lesson for every Catholic fiduciary: the retirement security of tens of thousands of employees can turn on disciplined funding, prudent governance, and clear communication sustained over decades. That is the argument for the disciplined governance this paper describes.

20, 2026 (independently quoting the same retiree—there rendered "Kobbermann"—a former principal at St. Mary's Catholic School, Alexandria).

²⁵ Diocese of St. Cloud, memorandum on the decision to freeze and participant message, December 2025—January 2026 (plan frozen December 31, 2025; spin-off anticipated by mid-2026); Christian Brothers Pension Webinar Q&A, November 20, 2025 (church plan not covered by the PBGC or ERISA).

4. Process and Policy Must Drive Product Selection

The convergence of faith-consistent momentum and fiduciary risk lands on a single question: how should Catholic fiduciaries select and monitor investments? The answer begins with an ordering principle that reverses the industry’s usual sales sequence.

A good Catholic investment strategy must begin with a good investment strategy.

Product should be the *last* decision, not the first. A values screen is applied *to* an underlying strategy; if that strategy is expensive, concentrated, poorly diversified, or built around a sales story, a Catholic label does not fix the problem—the portfolio may be Catholic in name but weak in design. Sound sequence runs from **purpose → policy → process → product**: define objectives and constraints; write them into an Investment Policy Statement (IPS); apply a documented selection and monitoring process; and only then choose the specific vehicles that satisfy the policy. Prudence must come before the product.

The prudent-investor rule: judging the portfolio as a whole

This sequence is consistent with principles reflected in the legal framework described below. The modern prudent-investor rule—codified in the Uniform Prudent Investor Act (UPIA, 1994), adopted in nearly every state, and mirrored by ERISA § 404²⁶—made a decisive shift away from judging investments individually, but rather in the context of the overall portfolio. Under the rule, no investment is prudent or imprudent in isolation. Each holding is evaluated by its risk and its role within the portfolio as a whole. A once-forbidden asset can be prudent as part of a well-diversified whole; a superficially “safe” one can be imprudent if it distorts the portfolio’s overall risk. In effect, the rule reflects certain portfolio-level principles also associated with Modern Portfolio Theory: the committee’s task is to build a sensible total portfolio, with risk-and-return objectives reasonably suited to the institution’s purpose, horizon, and need for liquidity.

A fiduciary’s selection duties under UPIA and ERISA

Within that framework, the prudent-investor standard imposes a set of concrete, testable duties—the ones a court examines when a selection is challenged:

Duty	What UPIA and ERISA require
Diversify	Spread investments to minimize the risk of large losses, unless it is clearly prudent not to do so. (UPIA § 3; ERISA § 404(a)(1)(C).) ²⁷
Weigh risk and role	Judge each investment by its risk and its role within the portfolio as a whole—never in isolation. (UPIA § 2(b).)

²⁶ Uniform Prudent Investor Act (1994); ERISA § 404(a); *Restatement (Third) of Trusts* (2007).

²⁷ Uniform Prudent Investor Act § 3 (1994); ERISA § 404(a)(1)(C), 29 U.S.C. § 1104(a)(1)(C).

Duty	What UPIA and ERISA require
Suit risk to purpose	Set risk and return objectives reasonably suited to the plan or fund’s purpose, time horizon, and liquidity needs. (<i>UPIA § 2(a)–(b).</i>)
Pay only reasonable fees	Incur only costs that are appropriate and reasonable for the services actually received. (<i>UPIA § 7; ERISA § 404(a)(1)(A).</i>) ²⁸
Monitor and remove	A continuing duty to monitor holdings and remove those that become imprudent or excessively costly. (<i>Tibble v. Edison, 2015—see Section 5.</i>) ²⁹

These duties are not aspirational. They are the working checklist against which a court—or a bishop—will later ask whether a selection was prudent. The evidence that follows may help inform fiduciaries in evaluating their duties.

4.1 Clarity before commitment—and the “detective layer” problem

As the faith-consistent marketplace expands, a growing number of providers offer to verify a fund’s “Catholicity”—examining holdings, proxy voting, controversies, and revenue thresholds. We call this the “detective layer”: successive outside reviewers, each promising to dig deeper than the last. Some of this work is enormously valuable. But if every provider claims to dig deeper than the last, an institution can be buried in competing methodologies and custom exclusions, adding cost and complexity without adding prudence. A policy-first approach resolves this by making the IPS the referee: each proposed screen or service must earn its place against a written standard, not a sales pitch. Before hiring another layer of review, a prudent committee should ask:

- What specific question are we trying to answer—and is it already addressed by the fund’s published methodology?
- Does the provider’s work align with our chosen framework (USCCB Guidelines, *Mensuram Bonam*, or our own policy)?
- What does the service cost, how will its findings be used, and is this priority written into our IPS?
- Is there a concrete, documented benefit to adding this layer—weighing its potential investment impact, positive or negative—and, if so, is that decision recorded in the IPS?

Catholic investing can and should be done well—but it should be *bought through clarity and discernment, not sold on emotion*.

4.2 What the evidence rewards—and what it punishes

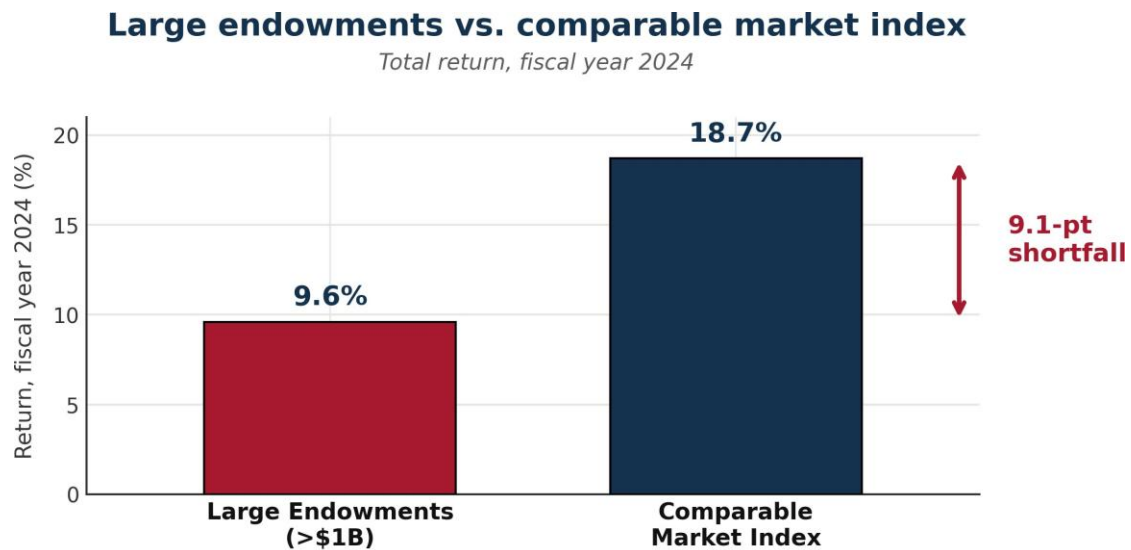
In the author’s view, the cited evidence may support consideration of broadly diversified, low-cost market investments among other approaches depending on an institution’s objectives and circumstances; it may also support attention to costs, diversification, disciplined rebalancing, and reserving complexity for circumstances in which it clearly serves the portfolio. Recent data makes the case—and cautions against higher-cost alternatives that often accompany a compelling narrative.

²⁸ Uniform Prudent Investor Act § 7 (1994); ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A).

²⁹ *Tibble v. Edison International*, 575 U.S. 523 (2015).

A deeper look at the endowment playbook

The prestige of the “endowment model,” heavy in alternatives, was not matched by the results reported in the cited analysis. In *“Big Funds, Small Gains,”* CFA Institute’s Richard M. Ennis analyzed the NACUBO survey and found that the largest U.S. endowments (those over \$1 billion—among them Harvard, Yale, Stanford, Princeton, and the University of Texas System), the cohort most heavily invested in alternatives, returned 9.6% in fiscal 2024, while a comparable index—built to match those same endowments’ market exposures and risk—returned 18.7%, a shortfall of 9.1 percentage points in a single year.³⁰



Source: R. M. Ennis, “Big Funds, Small Gains,” CFA Institute (2025); NACUBO FY2024.

Figure 4. Large endowments vs. a comparable market index, fiscal 2024 (Ennis / NACUBO). A 9.1-percentage-point shortfall in one year.

Ennis cautions that any single year can be distorted by return smoothing—the lagged valuation of private assets, whose marks trail the market by one or more quarters, which dampened reported 2022 losses and muted 2023–24 gains before, in his account, largely running its course in 2024. The longer-term record, he stresses, is unaffected by those valuation issues and is the more telling measure: over the 16 years since the global financial crisis (GFC), the typical large endowment underperformed by about 2.4% per year, leaving it worth roughly 70% of what a comparable index fund would have produced. Ennis projects

³⁰ Richard M. Ennis, “Big Funds, Small Gains: Rethinking the Endowment Playbook,” CFA Institute *Enterprising Investor* (blog), April 9, 2025. “Large endowments” are the NACUBO composite of U.S. college and university funds exceeding \$1 billion in assets (roughly 144 institutions in the FY2024 NACUBO–Commonfund Study of Endowments, among them Harvard, Yale, Stanford, Princeton, and the University of Texas System), the cohort most heavily allocated to alternatives. The “comparable index” is not an off-the-shelf benchmark but a passive blend of broad market indexes—the Russell 3000 (U.S. stocks), MSCI ACWI ex-U.S. (international stocks), and the Bloomberg U.S. Aggregate (bonds)—fitted by returns-based style analysis to match those endowments’ own market exposures and risk (standard deviation of return), so that the comparison reflects results rather than differences in risk-taking. For the benchmark methodology, see Richard M. Ennis, “Unexceptional Endowment Performance” (2024).

that, at that same rate of underperformance, these funds would be worth only about half of an indexed portfolio within another 12 to 15 years.³¹

Cumulative wealth since the 2008 financial crisis: endowments end at ~70% of index

Illustrative; end value reflects ≈2.4%/yr underperformance, with the 2022–24 return-smoothing swing Ennis notes



Source: Adapted from R. M. Ennis, "Big Funds, Small Gains," CFA Institute (2025). Illustrative.

Figure 5. Cumulative wealth since the GFC (index = 100). Persistent 2.4%/yr underperformance has left the typical large endowment worth about 70% of an indexed portfolio.

Why? Ennis parses the returns and reaches “a pretty simple story.” Stock-bond allocation explains 90–99% of the variation in total return—larger funds hold more equities and earn more, as expected. But every cohort’s *excess* return (above its own allocation-matched index) is negative, and the gap widens with size and exposure to alternatives. Each additional percentage point allocated to “alts” is associated with a decline of about 28 basis points in excess return—and, statistically, that single variable accounts for roughly 92% of the variation in the cohort shortfalls (an R^2 of about 0.92), meaning almost nothing beyond a fund’s alternatives exposure is needed to explain how far it trailed its own risk-matched benchmark (its negative “alpha”).³² Ennis identifies cost as a significant contributor in the cited analysis—Ennis estimates the largest funds incur 2.0%–2.5% of asset value in annual costs, the vast majority attributable to alternatives.³³

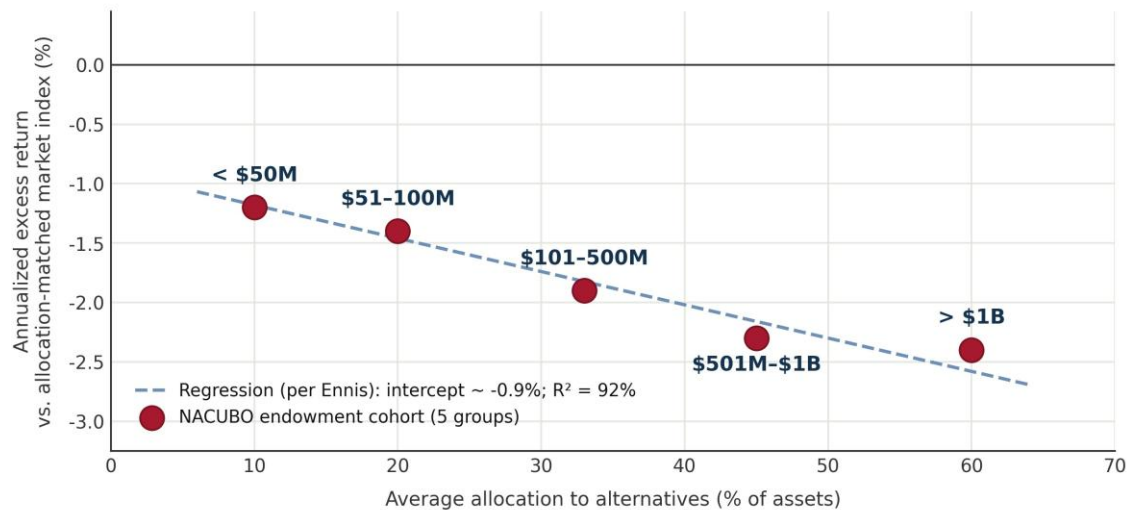
³¹ Ennis, “Big Funds, Small Gains” (historical endowment underperformance and cumulative-wealth comparison since the global financial crisis).

³² Ennis, “Big Funds, Small Gains” (negative cohort excess returns and the alternatives relationship; regression R -squared of approximately 92%, Figure 6).

³³ Ennis, “Big Funds, Small Gains” (estimated 2.0%–2.5% annual costs at the largest funds, the majority attributable to alternatives).

Every cohort's excess return is negative, and worsens with alternatives

By asset-size cohort, fiscal years 2009–2024



Source: Adapted from R. M. Ennis, "Big Funds, Small Gains," CFA Institute (2025). Illustrative cohort trend.

Figure 6. By asset-size cohort, excess returns are uniformly negative and worsen as allocations to alternatives rise (2009–2024, illustrative alts trend).

The lesson for church investors

Because the cited analysis reports that many large, well-resourced institutions underperformed their comparison indexes while using expensive and less-liquid strategies, a parish, school, or diocesan committee should be appropriately cautious when the same products are repackaged and marketed to them—sometimes with a faith-based label attached. Historical evidence cited herein suggests that complexity is not necessarily beneficial, and higher cost does not necessarily indicate higher quality. As Ennis distills it, allocating to equities “pays off over time,” while “allocating to alts... has been a losing proposition since the GFC. And the more you own, the worse you do.”

Private equity for the masses in 401(k) plans: the “wrong asset for the wrong investor”

The same caution described above applies to private equity now being marketed to smaller institutions and even 401(k) plans. The cited research reports that a historical premium was not evident for the period and universe studied: Oxford economist Ludovic Phalippou finds buyout funds have returned about the same as public-equity indexes, net of fees, since roughly 2006. These funds collected some \$230 billion in fees over one ten-year stretch—compensation that accrued to managers regardless of investor outcomes.³⁴ For a church plan or fund needing liquidity, transparency, and defensibility, illiquid and opaque strategies may be less suitable depending on the institution’s objectives and circumstances.

³⁴ Ludovic Phalippou, “An Inconvenient Fact: Private Equity Returns and the Billionaire Factory,” *Journal of Investing* 30, no. 1 (2020): 11–39; summarized in “The Wrong Asset for the Wrong Investor” (Investing for Catholics). The IFC summary is not an independent third-party publication.

CBERP's reported \$149 million Allianz Structured Alpha loss—a complex options-trading strategy, not private equity—is one example cited in discussions regarding such risks.³⁵

The cited study did not find that consultants' recommendations reliably outperformed

Committees often lean on consultants for a sense of security. Yet Jenkinson, Jones and Martinez's peer-reviewed study of consultants representing approximately 90% of the U.S. consulting market found no evidence their manager recommendations outperformed; equally weighted, the recommended products trailed by about 1% per year. Crucially, a consultant selling advice for a fee typically bears no fiduciary liability—so the degree of fiduciary protection many committees believe they are obtaining may be more limited than they expect. This distinction between *advice and accountability* is exactly why the form of engagement—and, ultimately, the OCIO question in Section 6—matters so much.³⁶

The SPIVA verdict: active versus passive, and the prudence of indexing

The endowment and consultant evidence shows what has failed; the SPIVA Scorecard shows the affirmative case. SPIVA—S&P Indices Versus Active, published semi-annually by S&P Dow Jones Indices—is a widely cited measurement of active-manager performance, and it corrects for survivorship bias by including funds that merged or liquidated during each period—a discipline that makes it considerably more reliable than studies tracking only the funds that survived.³⁷ Its central finding is remarkably stable across decades: after costs, the majority of active managers underperform the index, and the underperformance rate is generally higher over longer horizons.

In the Year-End 2025 Scorecard, 79% of large-cap U.S. equity funds underperformed the S&P 500 over one year³⁸—up sharply from 65% a year earlier, and the fourth-worst showing for active large-cap managers in the twenty-five-year history of the Scorecard. The multi-year record is worse still: roughly 89% underperformed over five years, 86% over ten, 90% over fifteen, and 93% over twenty.³⁹ And over

³⁵ U.S. Securities and Exchange Commission, "SEC Charges Allianz Global Investors and Three Former Senior Portfolio Managers with Multibillion Dollar Securities Fraud," Press Release 2022-84, May 17, 2022 (describing Structured Alpha as "a complex options trading strategy"); Tom Sims, Alexander Hübner, and Jonathan Stempel, "Allianz to Pay \$6 bln in U.S. Fraud Case, Fund Managers Charged," Reuters, May 17, 2022 (the funds "employed options that included hedges... but... failed to buy those hedges"). The strategy was "sponsored and exclusively managed by Allianz" (Christian Brothers Services letter to employers, September 2, 2021).

³⁶ Tim Jenkinson, Howard Jones, and Jose Vicente Martinez, "Picking Winners? Investment Consultants' Recommendations of Fund Managers," *Journal of Finance* 71, no. 5 (2016): 2333–70; summarized in "Do Investment Committees Pick Winners?" (Investing for Catholics). The IFC summary is not independent third-party research.

³⁷ S&P Dow Jones Indices, *SPIVA U.S. Scorecard: Year-End 2025* (New York: S&P Dow Jones Indices, 2026).

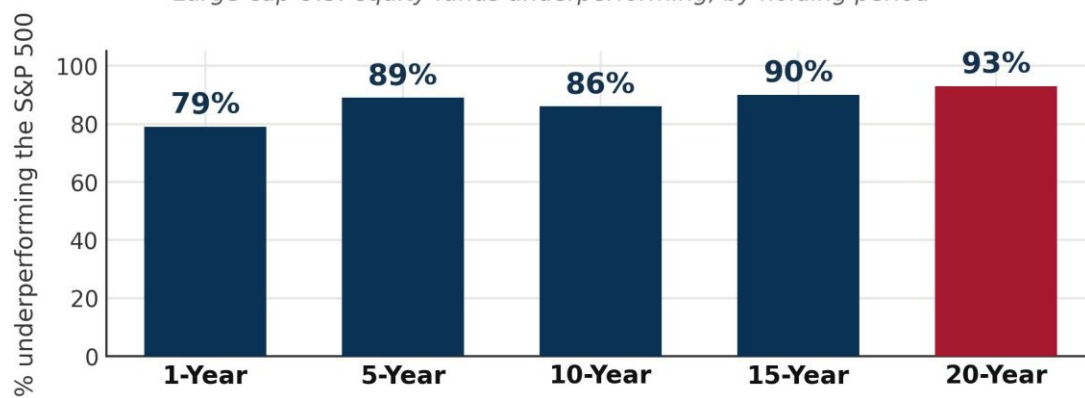
³⁸ S&P Dow Jones Indices, *SPIVA U.S. Year-End 2025* (78.78% of large-cap funds underperformed the S&P 500 over one year, reported as 79%—up from 65% in 2024 and, per S&P Dow Jones Indices, the fourth-worst showing for active large-cap managers in the Scorecard's 25-year history).

³⁹ S&P Dow Jones Indices, *SPIVA U.S. Year-End 2025* (per Report 1a, absolute return, All Large-Cap Funds vs. the S&P 500: 78.78% underperformed over 1 year, 88.96% over 5 years, 85.59% over 10, 89.93% over 15, and 92.89% over 20—stated in the text as roughly 89%, 86%, 90%, and 93%; results include merged and liquidated funds. For completeness, the corresponding 3-year figure is 66.84%; Figure 7 plots the 1-, 5-, 10-, 15-, and 20-year horizons, and the rates do not increase strictly monotonically with horizon).

that fifteen-year horizon, no U.S. equity fund category had a majority of active managers beat its benchmark.

Most active funds trail the S&P 500 across every horizon

Large-cap U.S. equity funds underperforming, by holding period



Source: S&P Dow Jones Indices, SPIVA U.S. Year-End 2025 Scorecard.

Figure 7. Percentage of large-cap U.S. equity funds underperforming the S&P 500, by horizon. A large majority underperform across every multi-year horizon. Source: S&P Dow Jones Indices, SPIVA U.S. Year-End 2025 (Report 1a).

Why this may not be an accident. Nobel laureate William F. Sharpe explained the result in 1991 with what he called “The Arithmetic of Active Management”: because active and passive investors together hold the whole market, before costs the average actively managed dollar must earn the same return as the average passively managed dollar—and *after* costs it must earn less.⁴⁰ This is a matter of arithmetic, not opinion. The SPIVA Scorecard documents this dynamic year after year; its Year-End 2025 edition, led by S&P Dow Jones Indices’ Anu Ganti, attributes that year’s especially high underperformance rate to the steep hurdle set by unrelenting large-cap outperformance and the resulting scarcity of stock-picking opportunities. Ennis’s endowment findings are the same drag—costs compounding against the benchmark—seen from another angle.

The prudential conclusion. For a fiduciary bound by the prudent-investor rule, this evidence may be relevant when evaluating investment approaches. Because costs reduce net returns and many active managers in the cited data historically underperformed their benchmarks after costs, a low-cost, broadly diversified, largely passive implementation may be one defensible approach for many institutions, depending on their objectives and circumstances. This does not forbid active management; it reframes the burden of proof. In the author’s view, the cited historical evidence can support consideration of indexing for a portfolio’s core allocation, while the committee that departs from it should be able to document a specific, evidence-based reason. In our view, prudence and passive investing may align for some institutions depending on their circumstances and objectives.

⁴⁰ William F. Sharpe, “The Arithmetic of Active Management,” *Financial Analysts Journal* 47, no. 1 (1991): 7–9.

4.3 Fees and monitoring: reasonableness, proven not assumed

For a church fund or retirement plan, every dollar paid in fees is a dollar that stops compounding for the fund's ministries or the people the plan serves. Fee reasonableness sits at the heart of fiduciary duty, and excessive-fee litigation is one of the most persistent features of the modern landscape. The standard is reasonableness, not cheapness: it is not necessary to use the lowest-cost provider, but a fiduciary must be able to demonstrate that fees are appropriate for the services delivered.

Fee benchmarking: the clearest expression of prudence

A periodic, documented, independent fee-benchmarking process is one of the most defensible actions a committee can take. In retirement plans, it protects participant outcomes and creates documented evidence that the committee reviewed fees against the market and acted deliberately: "a question that may be relevant in regulatory examinations and litigation." Benchmarking is how the balance between cost and service is *proven rather than assumed*.

Monitoring is a continuous process, not ad hoc or occasional. A prudent process reviews performance against relevant benchmarks (with risk considered), revisits fees and share classes, evaluates recordkeeper and advisor performance, and—increasingly—addresses cybersecurity. A failure to conduct required ongoing monitoring may create fiduciary-breach risk.

4.4 Implementing faith-consistent screening: a process, not a label

Everything argued so far applies with equal force to the faith screen itself. A Catholic-values overlay is only as sound as the process behind it—and that process must be as documented, objective, and defensible as the selection of any other investment. The governing question is never simply "Is it Catholic?" but "Can we explain, verify, and stand behind how we know?" Before implementation, the committee should be able to answer each of the following, in writing.

Choose the vehicle deliberately. The first implementation decision is the investment vehicle, and it is a trade-off, not a matter of prestige. A screened mutual fund or ETF delivers the screen at the fund level—low cost, broad diversification, and daily transparency—but the exclusions are the manager's, not the institutions. A separately managed account (SMA) permits custom, institution-specific exclusions and direct proxy voting, but typically at higher cost, higher minimums, and greater operational complexity. Neither is inherently more prudent; the vehicle must fit the plan's size, purpose, and the specificity of its screening needs—and the reasoning should be recorded in the IPS.

Define the exclusions objectively—and against a recognized standard. The screen must be defined by a written, external standard—for most U.S. institutions, the USCCB Guidelines—not a provider's proprietary label. That means clearly enumerated categories, such as abortion, abortifacients, embryonic stem-cell research, and contraception, alongside the other USCCB policy areas, applied through objective, disclosed revenue thresholds and data rules, so that two analysts using the same methodology would arrive at the same holdings list. A screen that cannot be stated as a rule is not objective; it is an opinion.

Demand transparency, repeatability, and verification. A sound screen is published, rules-based, and reproducible: the exclusion criteria, the data source, the revenue thresholds, and the review cadence are all documented and available on request. The committee should be able to obtain the current holdings and the exclusion list and confirm conformity against reliable third-party data. An unverifiable screen may create fiduciary and compliance risk.

Benchmark the cost. Screening is not free, and its cost must be identified and benchmarked like any other fee (see § 4.3). The relevant questions are whether the incremental cost of the screen is reasonable for the value delivered, and whether a lower-cost vehicle achieves substantially the same alignment.

Anchor the screen in UPIA and ERISA prudence. The screen is subject to the same selection duties set out above: diversify, weigh each holding's risk and role in the portfolio as a whole, pay only reasonable fees, suit risk to purpose, and monitor and remove. A screen that concentrates the portfolio, distorts its risk, or raises costs without justification does not become prudent merely because it is faithful. Prudence and faithfulness must be satisfied together, not traded against each other.

Justify the result on diversification, fee, risk, and performance—including against peers. This is answerable with evidence, and it should be answered before adoption and monitored afterward. Confirm that the screened portfolio retains comparable diversification, reasonable fees, and matched risk exposures, and benchmark its performance against relevant peer funds and indexes. A substantial body of independent, peer-reviewed research indicates that applying values-based screens need not, on average, reduce risk-adjusted returns; the most comprehensive review to date, which aggregated roughly 2,200 empirical studies, reported that about 90% found a non-negative relationship between environmental, social, and governance criteria and financial performance, an association the authors describe as broadly stable over time. A more recent review of over 1,000 studies published between 2015 and 2020 reached a broadly consistent conclusion. The committee should nonetheless verify this in its own holdings rather than assume it.⁴¹

In practice, a committee implementing a values screen should be able to answer, in writing:

- Which vehicle—mutual fund, ETF, or SMA—are we using, and why does it fit our size and needs?
- Against which written standard are we screening, and what exactly is excluded?
- Is the screen objective, rules-based, and reproducible—and verified against reliable data?
- Is the methodology transparent, repeatable, and available for audit on demand?
- What does the screen cost, and is that cost reasonable and independently benchmarked?

⁴¹ Gunnar Friede, Timo Busch, and Alexander Bassen, “ESG and Financial Performance: Aggregated Evidence from More than 2,000 Empirical Studies,” *Journal of Sustainable Finance & Investment* 5, no. 4 (2015): 210–33; and Tensie Whelan, Ulrich Atz, Tracy Van Holt, and Casey Clark, “ESG and Financial Performance: Uncovering the Relationship by Aggregating Evidence from 1,000 Plus Studies Published between 2015–2020” (NYU Stern Center for Sustainable Business and Rockefeller Asset Management, 2021). Both are independent of Investing for Catholics and are not specific to any Catholic screen or product; committees should verify results in their own holdings.

- How does the screened portfolio compare on diversification, fee, risk, and performance against peers?
- Does the implementation satisfy the UPIA and ERISA duties of prudence—or quietly trade them away?

The conclusion is the one that governs the rest of this paper: process is the point. A sound, repeatable, documented process for Catholic-values alignment—vehicle chosen deliberately, exclusions defined objectively, costs benchmarked, and results monitored—is what turns a faith “label” into a defensible fiduciary act.

5. The Fee-Litigation Landscape: Schlichter and the 403(b) Cases

The duties described in Section 4 are not theoretical. Over the past two decades they have been enforced—forcefully—through a wave of excessive-fee litigation that began with 401(k) plans and has now reached the 403(b) plans that Catholic schools, universities, hospitals, and dioceses depend on. Understanding that landscape is essential, because it defines the standard of care to which fiduciaries are held.

5.1 The Schlichter revolution and the duty to monitor

Beginning in 2006, attorney Jerome “Jerry” Schlichter of Schlichter Bogard (St. Louis) is described by the cited sources as an early private attorney to bring excessive-fee cases in 401(k) and 403(b) plans—bringing lawsuits other firms would not and ultimately recovering more than \$1.5 billion for plan participants. His work reshaped fiduciary practice nationwide and has been repeatedly highlighted by federal judges.⁴²

The landmark is *Tibble v. Edison* (2015), a unanimous 9–0 decision—the first excessive-fee case the U.S. Supreme Court ever heard. It established that a fiduciary’s duty of prudence includes a continuing duty to monitor plan investments and to remove those that are imprudent or too expensive. The practical import is that fiduciaries cannot simply set a plan in place and leave it unmonitored. The firm has since won two more unanimous Supreme Court victories—*Hughes v. Northwestern* (8–0, 2022) and *Cunningham v. Cornell* (2025)—alongside landmark trial results including a \$62 million settlement in *Abbott v. Lockheed Martin* (the largest 401(k) excessive-fee settlement) and a \$38.8 million jury verdict in *Khan v. Pentegra* (the largest ERISA fiduciary-breach jury verdict).⁴³

5.2 The 403(b) lawsuits—why they reach the Church

In 2016, Schlichter opened a new front, filing the first university retirement-plan fee cases—against Yale and NYU (403(b) plans) and MIT (a 401(k)). This matters directly to Catholic institutions because the 403(b) is the retirement vehicle for nonprofits, universities, hospitals, and church and religious organizations—precisely the plans that Catholic schools, universities, hospitals, and many dioceses operate. Since 2015, more than twenty university cases have been filed, with settlements to date totaling roughly \$140 million.⁴⁴

The allegations are strikingly consistent, and they read like a catalogue of the selection duties in Section 4: too many, duplicative investment options; a failure to remove expensive, underperforming funds; above-market recordkeeping fees (often from maintaining multiple recordkeepers without competitive bidding); and the use of costly retail share classes where institutional classes were available. The 403(b) world was

⁴² Schlichter Bogard LLP excessive-fee case results (more than \$1.5 billion recovered for plan participants).

⁴³ *Tibble v. Edison International*, 575 U.S. 523 (2015); *Hughes v. Northwestern University*, 595 U.S. 170 (2022); *Cunningham v. Cornell University* (U.S. 2025); *Abbott v. Lockheed Martin Corp.*; and *Khan v. Board of Trustees, Pentegra DB Plan*.

⁴⁴ Willis Towers Watson, “Higher Education and 403(b) Plan Litigation” (2024) (first university cases filed 2016—Yale, NYU, MIT; 20+ cases since 2015; settlements totaling roughly \$140 million).

simply slower to adopt the fiduciary discipline that had become standard in 401(k) plans—and the litigation has closed that gap.

The lesson for Catholic fiduciaries. Two threads of this paper converge here. *Tibble*'s continuing duty to monitor applies to 403(b) plans, and *Cunningham* arose from a 403(b) plan itself. A church-plan exemption may remove a Catholic institution from ERISA's reach—but, as Section 2 showed, it does not remove the underlying duty of prudence under UPIA, nor the state-court exposure that the St. Clare's judgment made vivid. The prudent posture is not to ask whether these cases can be brought against a church plan, but to consider applying comparably rigorous governance practices, subject to advice from qualified counsel regarding the applicable standard of care.

6. The OCIO: How a Good One Helps—and Why You Must Understand Its Process

The failures in Section 3 share a common shape: capable, well-meaning people were asked to govern complex retirement assets without the time, expertise, or disciplined process the task demands.

One governance model designed to address some of these challenges is an Outsourced Chief Investment Officer (OCIO). A good OCIO may help reduce certain governance and investment-management risks associated with these types of events. But an OCIO is only as good as its process—and delegation is prudent only when the fiduciary understands precisely how that process works. Hiring an OCIO does not end the committee’s duty. It simply changes.

6.1 What an OCIO is—what it offers and how it differs from advice and the consultant model

An OCIO is a delegated investment provider that takes on discretionary responsibility for implementing an institution’s investment policy—acting, in effect, as the institution’s investment department. In the language of Section 4, an OCIO typically serves as a 3(38)-investment manager⁴⁵ (or its trust-law equivalent), accepting specified fiduciary responsibility in writing for selecting, monitoring, and replacing investments within the agreed scope—rather than a 3(21) adviser who merely recommends. This is the difference between *advice and accountability*. The board sets mission, objectives, risk tolerance, and—critically for Catholic institutions—the faith-consistent framework; the OCIO executes within those guardrails and is answerable for the execution.

Dimension	Advice-only (3(21))	OCIO / discretionary (3(38))
Investment decisions	Committee decides	OCIO decides within IPS
Fiduciary accountability	Stays with committee	Specified responsibilities accepted by the OCIO in writing; appointing fiduciaries retain selection and monitoring duties
Speed of execution	Meeting-paced	Timely, discretionary
Committee’s remaining duty	Select & monitor adviser and all funds	Select & monitor the OCIO

Had St. Clare’s honored—rather than reversed—its own prudent 2017 decision, and a disciplined process for funding, diversification, and monitoring might have addressed certain risks identified in the case; different outcomes cannot be assumed. An OCIO does not guarantee good outcomes, but it may institutionalize the type of process that could help mitigate risks associated with the failures discussed above.

⁴⁵ ERISA § 3(38), 29 U.S.C. § 1002(38) (investment-manager definition), and § 3(21) (fiduciary-adviser definition); the 3(38)/3(21) characterization should be confirmed by counsel for each engagement.

6.2 An OCIO is defined by process and prudence

The value of an OCIO is not its brand or its sales deck; it is the rigor and repeatability of its process. Fi360's *Prudent Practices for Investment Stewards*⁴⁶ organizes that process into a continuous, auditable cycle—the same “procedural prudence” a court examines after the fact:

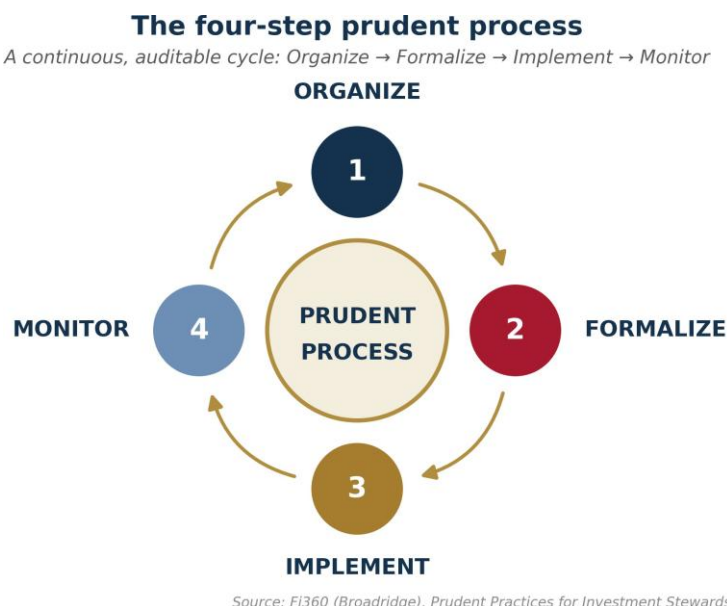


Figure 8. The four-step prudent process an OCIO should operate and document continuously.

1. **Organize.** Identify the governing laws, trust documents, and guidance; define fiduciary roles; and establish the committee-OCIO division of labor in writing.
2. **Formalize.** Set investment objectives and constraints, formulate the asset allocation, and adopt the IPS—including the faith-consistent framework, proxy-voting policy, and any exclusions.
3. **Implement.** Conduct investment and service-provider due diligence, select investments consistent with the IPS, and apply available safe harbors (e.g., QDIA designation).
4. **Monitor.** Review performance, fees, and screens on a defined schedule; benchmark independently; document every decision and its rationale; then return to step one.

6.3 Understand exactly how your OCIO operates—before you delegate

Delegation is an act of fiduciary judgment, not an abdication of it. A fiduciary should understand an OCIO’s role, scope, process, risks, and fees before engagement. Before signing, and continually thereafter, the committee must be able to explain—in plain language—precisely how the OCIO operates, what the OCIO needs from the institution, and how its process supports the mission, assists fiduciary oversight, and stands up to scrutiny. A capable OCIO welcomes this examination; an unwilling or opaque one is itself the warning sign. Concretely, the committee should be able to answer:

⁴⁶ Fi360 (a Broadridge company), *Prudent Practices for Investment Stewards*, U.S. ed.

- **How do you operate?** What is your documented investment process, who makes each decision, and what discretion have we granted versus retained?
- **What do you need from us?** What information, policy inputs, and governance decisions must the committee supply your process to function—starting with a clear IPS and faith-consistent framework?
- **How does this advance our mission?** How does the process serve our participants and ministry—and how are our Catholic values operationalized, screened, and proxy-voted?
- **How does this protect us?** Where, in writing, do you accept fiduciary responsibility, and how does your process support compliance with applicable fiduciary standards?
- **Can you prove it?** How is every decision documented, benchmarked, and reported so that it is verifiable on demand?

The four tests of a sound OCIO process

A fiduciary's goal is to select and monitor an OCIO whose process is, at every step, transparent, justifiable, defensible, and repeatable.

Transparent. You can see exactly what is owned, what it costs, how it is voted, and why each decision was made—no black boxes, no self-serving benchmarks.

Justifiable. Every decision has a written, evidence-based rationale tied to the Investment Policy Statement (IPS) and incorporates the institution's mission—not a sales story or a market forecast.

Defensible. The process, and its documentation, would satisfy a court, a regulator, or a bishop asking, "On what basis was this prudent?"

Repeatable. It is a disciplined cycle, applied consistently across market conditions and surviving turnover on the committee and in the chancery—not an ad hoc reaction.

These four tests are not aspirational language; in our view, they are practical safeguards that address many of the governance issues highlighted by St. Clare's and CBERP. Such a process may support prudent delegation and oversight but does not eliminate the fiduciary's retained responsibilities or guarantee legal protection. And running beneath all four is a single discipline: if it isn't documented, for fiduciary purposes it didn't happen—documentation and continuous monitoring are what make transparency provable and defensibility real.

6.4 The caveat: the committee must still monitor the OCIO

Prudent delegation may allocate specified duties, but the appointing fiduciary retains applicable selection, scoping, and monitoring responsibilities. Applicable state law based on the UPIA may limit a trustee's liability for an agent's decisions when statutory delegation requirements are satisfied in **(1) selecting** the agent, **(2) scoping** the delegation, and **(3) periodically monitoring** it—but that protection is *conditional on the monitoring actually happening*. Ironically, oversight can become harder after delegation: the committee is no longer in the room for each decision, and the OCIO is both "player and scorekeeper,"

often crafting the very benchmarks by which its performance is judged. Prudent committees therefore insist on:⁴⁷

- **Independent benchmarking of the OCIO's results** against fair, unbiased indexes—not self-selected ones that flatter performance.
- **A written OCIO scorecard and service agreement** specifying discretion, guidelines, reporting cadence, and fees—reviewed at least annually.
- **Regular fee and value reviews** will help in confirming the OCIO's all-in cost remains reasonable for the services delivered.
- **Confirmation of faith-alignment**, verifying screens and proxy voting continue to match the IPS as holdings change.

An OCIO is only as good as its process

The right OCIO brings expertise, speed, scale, and—above all transparent, justifiable, defensible, and repeatable process that a volunteer committee cannot easily replicate. The wrong one simply relocates the risk while adding a layer of cost and opacity. The committee's job is to understand the difference precisely, insist on it in writing, and keep verifying it. Choose the OCIO for its process, documentation, and monitoring discipline—the very things whose absence produced St. Clare's and CBERP—and then hold it to them.

⁴⁷ Uniform Prudent Investor Act § 9 (1994) (delegation); consult qualified counsel regarding state-specific application.

7. Fiduciary Protections: A Practical Checklist

The Scharfenberger precedent and the CBERP shortfall are not counsels of despair; they are arguments for structure. Fiduciary risk cannot be eliminated; disciplined governance may help manage certain risks. The practices below may contribute to a prudent governance process, whether operated internally or with assistance from an OCIO.

Protection	What it does	Who operates it
Investment Policy Statement (IPS)	A written methodology that may support a defensible process; makes policy drive product.	Committee + OCIO
Prudent delegation (3(38)/OCIO)	Allocates specified investment-selection authority and responsibility to an investment manager that accepts fiduciary status in writing, while the appointing fiduciary retains applicable selection and monitoring duties.	Committee selects; OCIO accepts
Four-step prudent process	Organize–Formalize–Implement–Monitor, continuously.	OCIO, overseen by committee
Independent fee benchmarking	Helps document the committee’s evaluation of fee reasonableness, a recurring issue in fiduciary litigation.	Independent provider
Documentation & minutes	Creates an audit trail supporting the committee’s record of its process and decisions.	Committee + OCIO
Monitoring the OCIO	May help satisfy applicable monitoring requirements under state law; helps guard against player-scorekeeper bias.	Committee (independent monitor)
Safe harbors & insurance	QDIA protection; review fiduciary-liability (D&O) coverage.	Committee + counsel

Note the through-line: nearly every protection is a form of documented process. That is not a coincidence. Because liability is determined by relative prudence through process rather than outcomes, the record of *how* decisions were made—and monitored—is the single most valuable defense a fiduciary can hold.

8. Conclusion: Lead with the Head, Then the Heart

Catholic institutions today are asked to do two things at once: to invest in a manner worthy of their faith, and to steward assets on which employees, retirees, students, and ministries depend. The proliferation of faith-consistent products—and the frequent, well-intentioned misattribution of PASS documents as “Vatican teaching” that accompanies it—has made the first task feel urgent; the Scharfenberger judgment and the Christian Brothers shortfall have made the second unforgiving. The temptation is to treat these as competing pressures. They are not.

In the author’s view, an important part of the response is a disciplined fiduciary process—prudent, diversified, low-cost, transparent, documented, and monitored—in which policy drives product, and onto which faith-consistent screening is thoughtfully and verifiably applied. A capable OCIO may assist with specified elements of that process, provided the committee understands exactly how its process works and continues to monitor it. Behind every number in this paper—the 1,124 workers of St. Clare’s, the 40,000 of Christian Brothers, Mary Goenner and others facing reduced benefits—is a promise made in the Church’s name. Protecting that promise is the whole point.

Faithfulness to prudence is not cold. It is charity made careful—the discipline that protects entrusted assets so they can serve human dignity, retirement security, and mission.

For Catholic institutional leaders and their advisors, this paper supports a clear path. Fiduciary governance is not a document to be filed; it is a discipline to be practiced—defined, justified, documented, and sustained. It is a sound way to honor both the call to invest faithfully and the responsibility to protect the people the Church serves.

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