

# THE ERISA CONUNDRUM

COVINGTON & BURLING LLP

BEIJING BRUSSELS LONDON NEW YORK SAN DIEGO SAN FRANCISCO SEOUL SHANGHAI SILICON VALLEY WASHINGTON

# STATUTORY OBJECTIVES

# PROTECT BENEFIT ENTITLEMENTS

# PROMOTE VOLUNTARY PLANS

# CULTIVATION OR REGULATION

# FIDUCIARY STANDARDS

# PRUDENCE

**COMMON LAW**

**VS.**

**ERISA**



# COMMON LAW

HOW PERSONS OF  
PRUDENCE,  
DISCRETION, AND  
INTELLIGENCE

**COMMON LAW**

**MANAGE THEIR OWN  
AFFAIRS**

# ERISA

CARE, SKILL,  
PRUDENCE, AND  
DILIGENCE

# ERISA

USED BY A PRUDENT  
PERSON

# ERISA

IN THE CONDUCT OF  
AN ENTERPRISE OF A  
LIKE CHARACTER AND  
WITH LIKE AIMS