LiFT Retirement

NEWS AND INFORMATION FOR EMPLOYERS Q1 2020

- THINKING ABOUT CHANGING 401(K) PROVIDERS? FIVE THINGS YOU SHOULD KNOW
- 10 STEPS TO HELP YOU HANDLE A DOL INVESTIGATION
- MANAGING RISK: DO'S AND DON'TS FOR YOUR COMPANY'S RETIREMENT PLAN COMMITTEE

Thinking About Changing 401(k) Providers? Five Things You Should Know

Thinking about changing 401(k) providers? Here are five things every employer should know before making the switch.

#plansponsor #retirementplan #401(k)

Offering a competitive benefits package, including a top-notch 401(k) plan, is essential for your company to recruit and retain top talent. Today's workers highly value employer-sponsored retirement plans: 88% of them say that an employee-funded retirement plan is important to them.[1] In addition, eight out of ten new hire candidates consider retirement savings programs offered by prospective employers a major factor in their job search decisions.[2]

As a result, you should evaluate your 401(k) plan regularly — at least once a year — to ensure that it continues to be the right fit for your business and employees. For example, if you find during your review that you're not satisfied with your current 401(k) provider due to high fees, poor investment performance or a lack of service and support, it may be time to consider changing providers. In addition, with many 401(k) providers offering new technology and features, now may be a good time to see if it makes sense to update your existing 401(k) offering by switching to a new provider.

If you're considering making a change, here are five tips to help you evaluate your current provider. If you decide to switch, we can help make the transition to your new one as smooth as possible:

1 Transamerica Center for Retirement Studies. 17th Annual Transamerica Retirement Survey. "A Compendium of Findings About American Workers." December 2016.

2 Transamerica Center for Retirement Studies. 19th Annual Transamerica Retirement Survey. "Employers: The Retirement Security Challenge." October 2019.

1. Before considering new 401(k) providers, carefully review your existing one. Clearly identify why you're unhappy with your current plan provider and services, then determine the improvements you'd like to see going forward. While your cons list for your existing provider may include "fees are too high," don't let that be the only reason for switching. Comparing plan providers based on fees alone doesn't usually reflect the value you're getting for what you're paying.

Instead of focusing solely on fees, weigh your current provider — and any prospective ones in the running — based on factors such as:

- Services and design features
- Fees and structure
- Employer and employee customer service and support
- Investment options
- Fiduciary support
- Financial advisor support

2. Get familiar with the conversion process. Let's say you decide to change plan providers. After you choose one, what's next? An experienced provider should do most of the heavy lifting when transitioning your plan to their platform — called a conversion. To start, you'll need to review and complete paperwork for your current plan to share with your old and new providers.

You can also expect[3]:

- Your new provider to review your previous plan
- Preparation and testing to confirm a clean data transfer between providers, including participant account balances and contribution rates
- Communication to employees about the new plan
- Updates to legal and recordkeeping documents to reflect plan changes
- A blackout period, when participants won't be able to make changes to their retirement accounts
- Final statements issued from your former 401(k) provider
- Creation and activation of participants' new accounts

3. Take note of applicable fees. Your current provider may charge you a termination and/or surrender fee when you switch to a new one. These fees can range from a few hundred to a few thousand dollars. Call your existing provider to determine their termination and/or surrender fees in advance to avoid any surprises. Your new provider may also charge you to establish the new plan.

4. You don't have to stick to your old plan design. Plan sponsors often update their plan designs when switching providers. Most plan documents allow changes to be made at any time, but keep in mind that there may be amendment, regulatory or notice requirements you must meet before these changes become effective. Also, be aware of any timing concerns — for example, investment changes must be aligned with notice and blackout period requirements. Be sure to touch base with your old and new providers to address any potential issues.

5. Communicate plan changes to your participants. When you make changes to your 401(k), including switching providers, you're legally required to provide participants with a blackout notice that includes information about:

- key dates — like the last date they can make contribution changes or rollover requests (since they won't be able to make these changes during the blackout),
- how long the blackout will last
- restrictions on investment and allocation changes and
- who to contact if they need additional information

You should also provide employees with information regarding any fund or plan design changes.

It may take some time to review your current plan and switch to a new provider, if beneficial. Getting the support, and features and investment options that are best for your plan and participants will make the effort well worth it.

Need assistance? We can help you create an innovative and competitive 401(k) offering to give you an edge when it comes to recruiting and retaining talented employees.

Contact us today to receive more information!

3 Human Interest blog. "How to Change Your 401(k) Provider." April 2017.

10 Steps to Help You Handle a DOL Investigation

Help! What do you do when you receive a request from the Department of Labor to provide documents about your retirement plan? Here are a few important steps for getting prepared for a DOL investigation.

#DOL #401kbestpractices #fiduciary

Hot breath, fear, sweaty palms - You've received a request from the Department of Labor ("DOL") to provide documents about your retirement plan. You are being investigated.

Your first thought may be, how did this happen? Why does the DOL care about my company's retirement plan?

Whether it was a complaint from a plan participant, a referral from another agency, an error on your Form 5500, or simply the luck of the draw, you could spend the next 12 to 24 months becoming familiar with the DOL's concern over how your plan's fiduciaries carry out their responsibilities.

BEFORE THE REQUEST: 5 TIPS YOU SHOULD KNOW

If you knew in advance that your plan was going to be investigated, how would you have prepared? As a best practice, all plan fiduciaries should take the following five steps:

1. **Know who the plan's fiduciaries are.** This will be one of the first questions asked by the DOL, and they will be looking to understand the knowledge level of these fiduciaries.
2. **Document your decision making.** The DOL looks for written documentation showing how the plan's fiduciaries carried out their responsibilities. The documentation should demonstrate the process that results in the decisions made in the best interests of the plan participants.
3. **Get fiduciary training.** Trying to learn as you go during an investigation can be problematic. Understanding ERISA's fiduciary duties and how to properly administer plans ahead of time can make the investigative process much smoother.

4. **Have good insurance.** It's a best practice to get fiduciary liability insurance related to your plan. You can even pay the premiums from the plan under certain conditions. Notably, some policies will cover the costs of investigations after the deductible has been reached.
5. **Keep plan related documents organized.** Having your plan-related documents organized and accessible prior to the investigation will make responding to the DOL much smoother.

DURING THE INVESTIGATION: 5 HASSLE-SAVING SUGGESTIONS

Once you receive the notice of investigation requesting plan-related documents, how can you prepare for the process? The following steps should be taken:

1. **Choose a primary contact.** It is best to have only one person communicate with the DOL investigator throughout the process to eliminate confusion. All communications should be kind, respectful and courteous. Consider ERISA counsel as the primary contact as they can act as a translator to eliminate misunderstandings and often look for ways to streamline the process.
2. **Negotiate the scope of the requests.** The DOL intends to be reasonable in their requests for documents. If a request seems overly burdensome, explain the situation and the DOL might modify their request in an appropriate fashion.
3. **Perform a review of the documents prior to production.** Documents should never blindly be provided to the DOL. You (or your ERISA counsel) should review the documents to fully understand what is in them and to ensure that collections of documents are complete. If a negative is found (such as earning contributions have been late), it may make sense to report them to the DOL voluntarily.
4. **Present the documents in a neat and organized fashion.** When documents are provided to the DOL in a neat and orderly fashion, either on paper or electronically as requested by the DOL investigator, you are demonstrating that as fiduciaries you are organized. When documents are presented haphazardly, it may cause the DOL concern about how the plan's fiduciaries carry out their responsibilities.
5. **Always be truthful.** The DOL will request interviews with the plan's fiduciaries. The interviews will feel similar to a deposition with the DOL asking questions about the plan and how the fiduciaries administer it. It is always key to be truthful in answering, even if it may be uncomfortable when you have noted an error such as late contributions (a favorite area of investigation by the DOL). Being truthful about errors commonly results in the DOL allowing voluntary efforts to fix them. The DOL is more likely to seek to penalize or enter into settlement agreements in the most egregious cases.

DOL investigations happen. Take the time now to clearly document your plan actions, explain why they were taken, and always remember to act in the best interest of plan participants. This way, if the DOL comes knocking at your door, you will be prepared.

Managing Risk: Do’s and don’ts for your company’s retirement plan committee

401(k) lawsuits are happening; would your retirement plan committee be prepared? Here are 5 ways to strengthen your fiduciary process and help reduce litigious exposure.

#401kbestpractices #Fiduciary #401kCommittee

Scan the business news and you will likely find an article detailing the latest 401(k) litigation against a company accused of a fiduciary breach. The litigious trend started with corporate behemoths but has been trickling down to small and mid-size plans.

Adding to this, a survey found that 43% of company fiduciaries don’t actually think they are fiduciaries.[1]

“We see this regularly and stress that plan sponsors need to understand their fiduciary responsibility and all that it entails,” said Roger Levy, AIFA, an Analyst for the Centre for Fiduciary Excellence (CEFEX). CEFEX is an independent certification organization that works closely with industry experts to provide comprehensive assessment programs to improve the fiduciary practices of investment stewards, advisors, recordkeepers, administrators and support services firms.

“Even if a company outsources their fiduciary oversight for some aspects of their retirement plan, they still have certain obligations under the law,” says Levy. As a plan sponsor, you are still responsible for adhering to the Department of Labor’s Employee Retirement Income Security Act of 1974 (ERISA) guidelines, which govern and

1 “Let’s be clear about fiduciary status.” J.P. Morgan. 10 Oct 2017. https://am.jpmorgan.com/us/institutional/library/lets-be-clear-about-fiduciary-status

enforce the administration of 401(k) plans and their assets. Here are five ways that plan sponsors can aim to lower fiduciary risk and stay in accordance with ERISA. If you have questions about the complexities of plan management, contact us for support.

1. **Plan Committee, IPS and Governing Documents**
   Establishing a plan committee is the first step in guiding the fiduciary oversight process. The committee should be a reasonable size and include experienced members of finance, HR and operations. In turn, members will be responsible for numerous aspects of plan management, often in conjunction with your retirement plan advisor.
   Next, the investment policy statement (IPS) is a roadmap for investment oversight because it determines the prudent processes and criteria for selecting and monitoring plan investments. When the plan committee meets, it uses the IPS to benchmark and review funds, fees and whether the investment strategy is meeting its stated goals and objectives, among other things.
   Additional governing documents include the plan document, trust statement and charter statements that should be read, reviewed, understood and followed by all committee members.

2. **Document the Investment Process**
   Documentation of process is critical in establishing fiduciary compliance. This includes recording minutes every time plan fiduciaries or investment committees meet to discuss investment changes or decisions. The documentation must show that due diligence has been taken in advance of a decision. "One of the biggest mistakes plan sponsors make is failing to properly document their investment decisions," says Levy.

3. **Conduct oversight meetings**
   Investment committees should have regularly scheduled meetings (either annually, biannually or quarterly, depending on the size of the plan) to monitor the performance, evaluate service provider agreements and ensure that costs and fees remain reasonable.
   Be careful of the tempting "set it and forget it" mindset that leads to infrequent monitoring and lack of process, which can result in a failure of fiduciary duties.

4. **Fund Choices**
   Offering numerous funds (i.e., "a fund for everyone") does not reduce fiduciary risk. Rather, plan sponsors should conduct prudent due diligence to ensure that fund selection aligns with the IPS and corresponding investment strategies are appropriate.
   The investment choices should not favor a particular asset class over another nor be overtly correlated to each other; however, the fund menu should provide a spectrum of risk and reward.
   Underperforming funds should be monitored closely and replaced if necessary. Simply adding funds to counteract low performers increases fiduciary risk and can be interpreted as not fulfilling ERISA responsibilities.

5. **Fee transparency and reasonableness**
   Since the 2012 Department of Labor rule, the transparency of retirement plan fees has significantly improved. Each year, plan sponsors are provided with a disclosure and information detailing their retirement plan's fees.

As a plan sponsor, it is your responsibility to verify the accuracy and reasonableness of all plan fees and document the benchmarking process.

While plan sponsors bear significant responsibility and oversight for the company's 401(k) plan, the burden can be eased by working closely with financial advisors and staying abreast of fiduciary obligations.

The result?

A win-win-win for the plan sponsor, advisor and participants!

ABOUT US

We provide 401(k) Plan management, education, and wealth management services that provide each individual with a way toward financial success. Our personal approach to the way we work with our clients is rooted in the belief that treating others right and striving for excellence will lead to positive results for all.

CONTACT US TODAY TO LEARN MORE.

Vision401k®

Bill Franca AIF®
Al Smith

205 Powell Place, Suite 357
Brentwood, TN 37027
615-807-2951
wmfranca@vision401k.com
www.vision401k.com

Employee benefit consulting offered through Vision401K. Securities offered through Silver Oak Securities, Inc. Member FINRA/SIPC. Advisory Services offered through Vision Asset Management, a Registered Investment. Advisor not affiliated with Silver Oak Securities.

This information was developed as a general guide to educate plan sponsors and is not intended as authoritative guidance or tax/legal advice. Each plan has unique requirements and you should consult your attorney or tax advisor for guidance on your specific situation.