Retirement Plan Services

Best Practices for Your 401(k) Plan Committee

In recent years, the activities of retirement plan committees and fiduciaries have been highly scrutinized. Plan sponsors and plan committees find themselves in litigation with plan participants over excessive administrative fees, the use of inappropriate mutual fund share classes for the size of the plan assets, fund menus that limit investment options to proprietary funds with poorer performing funds than their peer group and lack of service provider oversight, just to name a few.

Given this legal scrutiny, reviewing the best practices of a 401k plan committee to ensure fiduciaries are meeting their fiduciary obligation and protecting the best interests of the plan participants should be a priority for plan sponsors. The following best practices are not intended to be all inclusive, however they may help lay the groundwork or serve as a reminder:

- **Review Fees Periodically** – With the recent focus on plan expenses, it is extremely important to review the costs being charged by all of your service providers. If a service provider is charging basis points based on plan assets, it is prudent to review those fees as assets grow. Record keepers generally are more amenable to a per participant fee when assets exceed a certain level. Advisory fees, recordkeeping fees, fund expenses, and trustee services should be reviewed every three years. There are independent benchmarking tools that can help assess the reasonableness of your specific plan fees.
- **Monitor Your Investment Manager** – You may have hired an investment advisor to fulfill the role of either an ERISA §3(21) or ERISA §3(38) investment fiduciary to the plan. However, the committee still has the responsibility to oversee the advisor to ensure the individual or advisory team is monitoring the investments at least quarterly, recommending changes to the lineup as appropriate, providing periodic reporting on fund performance and benchmarks, adhering to the Investment Policy Statement, and provide supporting documentation for all investment decisions made on behalf of the plan. Your advisor should meet with you at least annually to discuss the “financial health” of the plan.
- **Review the Fund Offering(s) of the Plan -** You may already have an investment advisor that is monitoring fund offerings on a quarterly basis, but it’s also important to create a fund lineup that allows participants differing choices for appropriate diversification. In addition to regularly reviewing fund performance, include a review of the investment categories in the plan, the cost of the funds in relation to others in the same category, alignment of the fund offering with the Investment Policy Statement approved by your committee, and the number of funds in the offering. Too little or too many funds can create fiduciary issues for the committee.
- **Diversity and Impartiality** – Your retirement committee will usually be made up of a small group of executives and employees, ideally from different areas of the organization. The committee members should consider the diversity of the workforce in the organization and make plan decisions that are in the best interests of the plan participants as a whole. The committees must be careful when they elect to make a change that may have adverse effects

on certain employees but not others or if the change is based solely on limited employee feedback. These types of changes should be thoroughly discussed before anything is implemented.

- **Documentation** – This may be one of the most important best practices to adopt. All decisions the committee makes should be well documented, particularly when changes are being made, including rational for the changes. It is also important to retain and archive these meeting minutes for at least 7 years, preferably indefinitely. Recent court cases, including the United States Supreme Court, have successfully challenged the statute of limitations on plan decisions; calling into question committee decisions made 7, 8, 10 or more years ago. Committee Members will come and go but your minutes should remain as permanent records.

The Corporate Retirement Plan Services Group at CIBC can assist your plan committee in establishing or reviewing best practices that will aid in meeting the committee's fiduciary obligations. For a detail description of our services or for more information, please contact us at 312.564.3806 or visit our website at https://us.cibc.com/en/commercial/corporate-retirement.html.

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