401(k) Plan Sponsor Quarterly Newsletter

July 2022

WHY HIRE AN ADVISOR?

Plan Fiduciaries must act as prudent experts under ERISA, and are therefore held to a high standard of care with respect to plan-related decisions regarding investment choices, service providers, plan administration and general ERISA compliance. Most prudent plan sponsors hire an advisor to help them adhere to ERISA's rigorous standards and to meet their objective of offering a high quality retirement plan to their employees. ERISA rules are clear - every decision you make as a fiduciary must be in the best interest of your plan participants or their beneficiaries.

A fiduciary can hire an outside service provider, such as an advisor, to help handle their fiduciary functions, thereby lessening their potential liabilities. If an employer appoints an investment manager that is a bank, insurance company or registered investment advisor (RIA), the employer is responsible for the selection of the service provider, but is not liable for the investment decisions of that manager. However, care must still be taken to monitor those service providers to assure that they are fulfilling the duties and responsibilities of their service agreements.

An employer should be sure to document the service provider selection and monitoring process. For a service contract or arrangement to be reasonable, the service providers must provide certain information to you about the services they will render and the compensation they will receive for rendering of those services. Service providers should document their compensation for services and provide this information in writing to you.

Attributes of a Good Advisor	Why You Should Hire One
Independence	Ability to help evaluate funds and providers objectively and without conflict of interest
Familiarity with ERISA	Ability to keep the committee updated on litigation, legislation and regulations impacting plans and fiduciaries
Prudent Expert	ERISA section 404(a) requires fiduciaries to act with the skill, knowledge and expertise of a prudent expert
Expertise with Plan Design	Ability to help plans maintain qualified status while continuing to meet the goals and objectives of our organization
Knowledge of the Provider Marketplace	Ability to ensure that our plan is being administered in the most efficient manner and for a reasonable price
Qualified Plan Investment Expertise	Ability to evaluate, select and monitor fund performance
Documentation Skills	Ability to demonstrate procedural prudence in a well-documented manner
Communication Skills	Ability to educate employees regarding plan highlights and how to create an appropriate investment strategy
Acceptance of Role as a Co-Fiduciary	Willingness to acknowledge in writing that they're a co-fiduciary to our plan with respect to the investment advice being delivered
Full and Open Disclosure	Fully and openly discloses all sources of fees being received on a direct and/or indirect basis

Upcoming Seminars

Roth Versus Pre-Tax Contributions — July 2022

Your retirement plan offers Roth, or after-tax, contributions in addition to traditional pre-tax contribution options. But which one should you use? This webinar focuses on the similarities and differences between each option and goes through some of the decision-making process that should be used to decide.

529 Savings Plans — August 2022

529 Savings plans have become a popular way for people to save for their dependents' future education expenses. Join us to learn more about the different types of plans and advantages to having a savings plan in place.

John Hancock Participant Website — September 2022

Learn how to set up your online account, request paper statements, build your retirement goal, determine your risk tolerance and much more! Join us to see all the participant website has to offer participants!

Budgeting & Healthy Habits — October 2022

One of the first steps in financial planning and preparing for retirement is getting a clear picture of your full financial situation. It's a fact of life: most of us take on debt at some point. It may not be possible to avoid, but it is possible to manage. Setting up a budget and having a sound plan in place can not only reduce stress, but can increase your overall wellness. Join us for some budgeting strategies and tips on how to get your budget started so you can feel strong and confident about your ability to retire successfully.

Retirement Readiness/ Distribution Strategies — November 2022

As you near retirement, financial planning and determining your distribution strategy for your retirement assets is more important than ever. The methodology to plan one's retirement is not a single model, but a combination of a few different models that are checked and double checked against each other. Join us as we talk through some strategies and financial planning items that you should keep in mind as your retirement deadline approaches.

CYBERSECURITY & QUALIFIED PLANS

In April 2021, the Department of Labor issued its first guidance on cybersecurity for plan sponsors, service providers and participants. It did so at the behest of the Government Office of Accountability (the GAO). That agency has been pushing the Department to identify minimum standards for mitigating cyber security risks in benefit plans.

Although cyber threats are a relatively new phenomenon, these threats throw a new wrinkle into the longstanding obligation of plan fiduciaries and service providers to keep plan assets safe. Cybersecurity has been a priority in the financial service industry for some time and measures to prevent cyber breaches come on top of many long standing security protocols in place to protect customer accounts. The recommended steps in this guidance are obvious and are things the industry, by and large, is already doing. However, this guidance is worthwhile as it clarifies what the Department of Labor expects from fiduciaries with regard to cybersecurity.

While this guidance is framed as "tips" and "best practices", it should view as setting the minimum standards for plan fiduciaries and service providers in mitigating cyber threats. In future litigations concerning cyber breaches, there is no doubt the courts will look to this guidance in deciding if plan fiduciaries acted prudently and to determine the responsibilities of the respective parties. The practical consequences of this guidance is it makes clear (if there was ever a question about this..) that plan fiduciaries must do due diligence around and be informed about the measures service providers are taking to prevent cyber breaches of their systems. while many sponsors have already done some due diligence around the cybersecurity of their plans, the majority will now need to do a deeper dive to ensure they are complying with this guidance. Plan Sponsors must now be prepared in a Department of Labor (DOL) audit to establish that they have done the necessary due diligence arouund cybersecurity and recordkeepers must be prepared to show there are effective programs in place to prevent cyber breaches.

The guidance itself consists of 3 separate documents:

- Tips for Hiring a Service Provider with Strong Cybersecurity Practices - these tips include:
  - The service provider's security measures and that they are consistent with industry standards
  - Service provider's track record for breaches
  - Reviewing the contract to ensure that it explicitly states the service provider is fully responsible for cyber breaches
- Cybersecurity Program Best Practices - these are 12 points that recordkeepers and other service providers should follow
- Online Security Tips - These tips are directed at participants and stress the obvious importance of strong passwords, regular monitoring of accounts and acknowledgment that they have some responsibility in keeping their accounts secure.

TERMINATED EMPLOYEE ACCOUNTS

As part of our initiative that began in late 2020/early 2021, we continue to monitor your participant list to see if we can assist employees who are no longer employed with your company with the options available for their account. Employees have the option to roll their account to another retirement account or take a cash distribution. The IRS allows employees with an account balance of over $5,000 to remain on the plan indefinitely until they willingly move their funds, but anyone with a balance under $5,000, if the plan allows, can be forced out into an IRA or sent a cash distribution of their funds if under $1,000.

We feel it is important that these terminated employees move their accounts off of the plan for a plethora of reasons: 1) you are required to send them plan notices for as long as they remain on the plan and may be paying fees associated with these employee accounts, 2) the longer it has been since an employee has worked for the company, the more of a chance of them losing sight of the account which makes it all the much harder to find them later and 3) these terminated balances count towards your participant count for large plan filers so for plans that may be close to the 100 participant threshold (or 120 in cases of the 80/120 rule) these terminated employees could push you into an audit requirement.

As soon as you notify us of any terminations at your monthly check-in, we reach out to these participants to review their options with them and assist them with doing the required paperwork to take a distribution or work with the third party administrator to ensure that they have been contacted about their accounts and options.

PLAN BENCHMARKING

Simply stated, benchmarking is the process of reviewing and evaluating your company's retirement plan. It involves reviewing what you are currently offering your employees and deciding if it is appropriate to make any changes.

The four main areas to review when benchmarking your plan are: *plan design*, *service providers*, *funds offered* and *plan fees*. We have the opportunity to review all of these things each year at the Annual Plan Review meeting and we take all of our plans to market every 3 years to ensure that you are, not only paying the lowest fees, but receiving the best level of service for those fees.

Benchmarking is important because one of the primary responsibilities of a plan fiduciary is to ensure that the plan fees their participants are paying are reasonable.

There is a lot of game playing in the industry so it is extremely important to review not only what you are receiving for the price you are paying but also any potential liabilities, stated or unstated, that might come with that price.

That being said, the lowest cost might not really be the lowest cost once any potential liabilities are uncovered. It is our job to help you navigate through this benchmarking process in order to ensure that you don't fall victim to this game-playing.