



401(k) Disclosure

ARE YOU PREPARED?

NEW 401(k) PARTICIPANT DISCLOSURE REQUIREMENTS

Plan Sponsors can no longer ignore their retirement plan costs and monitoring procedures. Beginning November 2011, ERISA Regulation 404(a)(5) will now require participants to receive information that has never been provided before...how much they are paying for their 401(k) plan. The first response of many participants will be "I didn't know that I was being charged to have my 401(k) plan!"

In an AARP survey released in March 2011, participants were asked whether they pay fees for their 401(k) plan, 71 percent reported that they paid no fees (at a minimum their investment funds have annual expense charges). Conversely, a 2011 study performed by Transamerica indicated 78 percent of employers are likely to believe their employees have a clear understanding of the fees associated with their retirement plan. Obviously, there is a major disconnect between these two groups' views on fees.

In the months ahead, fees paid to run the retirement plan, pay mutual fund expenses, or compensate the retirement plan advisor will no longer be hidden inside a prospectus or in the fine print. They will now be disclosed directly to all 72 million participants that hold 401(k) assets. These fees will be presented in dollars and cents, similar to how participants see other costs such as car payment, utility bill, or home mortgage. ERISA does not require a plan have the lowest cost, but they need to be in line with the services rendered.

Priority Number One

The goal of these new rules developed by Congress and regulated by the Department of Labor (DoL) is to reduce fees and expenses paid under 401(k) plans. As a result, regulators are preparing to hire upwards of 17,000 auditors to check every plan's disclosures. Non-compliance with properly reporting the fees and ensuring the plan costs are reasonable will fall personally on the fiduciaries of the plan. It is clear from these regulations that more than ever, Plan Sponsors have more responsibility and therefore more personal liability to run an effective retirement plan on behalf of their employees.

Three Factors of Transformation

1. More Accountability to Plan Sponsors

In years past, Plan Sponsors have delegated these responsibilities to the plan's service providers, but these new regulations require the Plan Sponsors to take the lead. They are required to not only know what their participants are paying, but confirm that the fees are reasonable. If they do not, it is a breach of their fiduciary duty and thus opens them up to extensive liability.

2. Transparency of all Plan Costs

There is no such thing as a free plan. All service providers (i.e. Recordkeepers, Administrators, and Investment Advisors) will be required to provide Plan Sponsors with all direct and indirect compensation paid by the plan.

3. Informed Participants

By educating participants of the true costs of their plan, it will create a more competitive environment for the plan's participants, in terms of cost and services offered. If these fees are unreasonable, it will create an environment of animosity and distrust.

Consequences – Service, Money and Time

This is information that Plan Sponsors need to hear and act upon immediately. These changes will affect everyone affiliated with the 401(k) industry, especially Plan Sponsors. Here are some elements to consider.

1. Service - Plan providers (Recordkeepers, Administrators, and Investment Advisors) can reduce their fees, but what compromises will be made to service? By lowering costs, plan providers will need to make the difficult decision of what service levels they will need to reduce or eliminate. This will have a direct affect to the education provided to participants as well as the day-to-day operations in servicing their requests.
2. Potential Fines – Plan Sponsors will have until June of 2012 to get all the fee and investment information from plan providers. The penalty for failing to itemize fees will be substantial: 15% of the plan's assets and up to 100% if the Plan Sponsor takes longer than a calendar year to correct the issue. Even a plan with assets of \$500,000 can see a fine of \$75,000!
3. Time - The consequences are not only fine related, but also time related. Let's think about what participants experienced in 2008 with the decline of their accounts. Now add to the decline in their account value an explanation to the fees that they actually paid from their 401(k) and we can agree that concerned participants will begin to knock on the door of the plan administrator. If Plan Sponsors do not have a way to address these concerns, many plans will be in crisis mode.

Time to Take Action

It is best to get ahead of the curve and benchmarking your plan every three years is a good best practice. For those plan administrators that have high plan costs, the knocking on the door is coming; will you be prepared to answer these questions with certainty?

If a plan sponsor has not addressed these costs and made the determination of their reasonableness, the first logical step will be for them to inquire to their current service provider about their fee structure. Although a viable option, we see two dilemmas with this practice. First, what if the current provider does not offer a low-cost solution. Second, if they do have a lower cost solution, why was it not offered to the Plan Sponsor before the participants were knocking at the door?

If you are contemplating your current design/pricing structure or if you want to avoid the potential headaches, the best solution is to complete a Plan Review™ by our independent retirement plan advisors. A Plan Review™ is an easy and inexpensive way to help meet your fiduciary obligations and give you confidence that you have laid the framework for an effective retirement plan.

Here are a few of the outcomes that you will find from undergoing Plan Review™:

1. Insulate company officers and owners and reduce their personal liability
2. Ascertain a total cost summary
3. Score Service Providers
4. Score Plan Investments
5. Review of the employee education curriculum