

## **401k FIDUCIARY RESPONSIBILITY** APPROPRIATE SERVICING AND INFORMATION FOR YOUR EMPLOYEES

[Go to SHRM Article – March 2009](#)

[Go to Business Week Article:  
“Ruined by 401k Predators”](#)

### **FIDUCIARY RESPONSIBILITY**

Every company, in my experience, has set up their employee 401k Plans responsibly, as far as ERISA and all government regulations.

Conforming to those legal rules and regulations is just the beginning of the process.

We have found that the following areas have not been given as thorough an examination as they deserve.

### **VETTING THE SERVICE PROVIDER**

At least three organizations should be considered.

What unique benefits do they bring to you and your employees?

In addition to their contractual charges, what other financial benefits do they get?

For instance:

- Are all Mutual Funds bought at Net Asset Value? They should be.
- If their own Mutual Funds are included, what are the Fund’s annual charges? Compare these annual charges to others.
- Are cash balances put into Money Market Funds that pay competitive interest rates or into Bank Deposit Programs that currently pay as little as 1/10 of MMFs? For instance, .2% vs 2.3%.

Bank Deposit Programs, created 6-7 years ago (!) have been one of the most outrageous rip-offs of investors and have stealthily transferred **billions** of dollars from investors to the brokerage houses! They are now improperly justifying this by the banking crisis – with no attention being paid to the current investments of Money Market Funds.

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- If your employees are charged annual fees, commissions or markups/ markdowns on principal transactions, describe them in detail.  
Additional fees/markups/markdowns should be compared to the usual competitive practices.

## **THE SERVICE PROVIDER'S CONTACT PERSON**

Is there someone who will help your employees change their 401k investments, and answer any questions your employee has regarding the actual investments.

- Exactly who are these contacts? How are they compensated? What is their financial experience? Are these contacts assigned to your company or part of a general pool? What are their qualifications and experience?
- What financial information does the Service Provider send your employees and how often?
- Are there ever situations where the contact person would be calling your employee?

## **THE PLAN'S INVESTMENT ALTERNATIVES**

Each of the investment options that are presented should be described in easily understood English. No financial jargon. This description should include:

- Advising employees of the importance of having a more conservative portfolio as they approach retirement which means a larger percentage in fixed income/bonds and a lower percentage of stocks.
- Investment options should always include an index fund (based on the S&P 500 index), Balanced Funds (30%-40% bonds and 60%-70% stocks), an intermediate term fixed income fund, and a Money Market Fund (not a Bank Deposit Program). Annuities, Sector Funds, Speculative funds and leveraged securities should not be included.
- Results of the Index and Mutual Funds over the last 10 years should be shown. This should include the average annual change and the best and worst individual year increase/decrease.

## **MONITORING ACTIVITY FOR CURRENT EMPLOYEES**

This section contains a very pro-active posture. It is not something that is being done by many companies. The system suggested can be structured so that it requires a minimum amount of time. (An AutoPilot Plan avoids this.)

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When an employee opens a 401k account, they fill out, and sign, a New Account Form. This form is a written record of their investment objectives and risk tolerance. In addition to this general statement, the Service Provider should be asked to include the percentage of the portfolio that will be invested in Cash (MMF), Fixed Income (bonds), an index fund (specified) and Blue Chip/Value stocks and anything else.

Every brokerage house has computer programs that automatically monitor portfolio changes for every client identifying transactions that change those percentages. The Service Provider should set up this system for your 401k Plan and send these same alerts to a designated person at your company. Alerts should only be generated for 10-15% changes.

These alerts should then be forwarded to the employee asking him/her to affirm, or not, that they fully understand that the change alters the potential future results of the 401k. Someone at the Service Provider or your company should be available for discussion.

This will help protect your employees and at the same time let your Service Provider know where you stand.

## **NEXT STEPS**

The following are links to materials detailing other information that will be valuable for you and your employees.

- **COMPANY GUIDANCE:**
  - [VETTING SPEAKERS INVITED TO ADDRESS YOUR RETIRING EMPLOYEES](#)
  - [SCAM ALERTS](#)
  - [AUTOPILOT](#)
  
- **EMPLOYEE GUIDANCE:**
  - [IDENTIFY YOUR OBJECTIVES](#)
  - [VETTING BROKERS AND ADVISORS](#)
  - [BUILD YOUR PORTFOLIO](#)
  - [SCAM ALERTS](#)