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Fiduciary Considerations for Defined Contribution Retirement Plans

There has been a recent increase in the number of lawsuits filed against the fiduciaries of defined contribution retirement plans. The following checklist can help fiduciaries evaluate and correct some of the issues that were addressed in these lawsuits.

Evaluate the balance of active and passive investment options

Actively managed funds are associated with higher fees due to the research and analysis required to outperform the benchmark. Passive funds will not have the additional fees associated with the actively managed funds but the tradeoff is the performance in comparison with the benchmark. ERISA does not require fiduciaries to offer one type of fund over the other; however, plan fiduciaries should discuss and document the reasoning behind the final options that are offered to plan participants

Analyze fee structure

Recordkeepers may charge asset-based fees or per-participant fees. Both methods are commonly used. Many participants argue that the cost for recordkeeping should not vary based on the dollar amount of the investment. Plan fiduciaries should consider the options and how each option will impact their plan's participants and document the findings that support their final decision.

Assess the number of investments options being offered

A common concern is the confusion caused for participants by offering an overwhelming number of investment options. In some cases, the confusion may ultimately cause the participant to make no option at all. In other cases, the over-diversification amongst the various investments could dilute some price breaks that investment managers may offer if more assets were allocated to their investments. Further, participants may select too many investments in an effort to diversify, and end up not as diversified as they intended because of overlapping underlying industry sectors.

Simplify recordkeeping

If a retirement plan offers multiple recordkeepers, each recordkeeper will typically charge higher fees than would be charged for a single recordkeeper plan. Since these fees are incurred by the participant, this ultimately results in lower accumulations in participant retirement accounts. The additional decision-making requirements on which recordkeeper to elect is further borne on the participants, which may cause confusion and even deter some participants from making any election at all. Plan fiduciaries should determine if there is a benefit to participants to offer multiple recordkeepers and document their decision for doing so.

Do regular checkups

Conducting a Request for Proposal (RFP) will allow plan fiduciaries to provide investment options to participants that offer competitive fees and investment options. Regular evaluation of the investment options, fee structures, and recordkeeping options provided to plan participants will ensure fiduciaries are looking out for their participants' best interest. While ERISA does not opine on how often an RFP should be conducted, the courts generally acknowledge that a competitive bidding process allows for prudent benchmarking.

If you would like help performing a fiduciary check-up or in submitting an RFP for your defined contribution retirement plan, please feel free to reach out to Mike Beczkowski at 443-573-3901 or Jim Ritchie at 443-573-3924.