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Stepping into Retirement Committee Education

With growing demand for practical insights, taking a proactive role in training plan sponsors can set you apart with clients.

Organizations have serious responsibilities with respect to their defined contribution (DC) plans. As you know, the regulatory landscape governing plan fiduciaries continues to get broader and more complicated. Because many plan sponsors have responsibilities in addition to managing DC plans and may have little or no formal plan or investment training, they often welcome the expertise and help of plan advisors.

This creates a major opportunity for plan advisors to provide simple yet comprehensive fiduciary training for DC plan sponsors. The plan advisors who are unbiased, organized and knowledgeable educators may be perceived as most valuable to plan sponsors and ultimately win new mandates.

Below, we provide a few steps/ideas to help shape your approach:

1. Recommend that plan sponsors create a retirement committee.

For plans without a formal committee, the company's owner or board of directors becomes the de facto fiduciary. Further, without a documented prudent process, which is more likely to be completed under a committee structure, liability can increase. Finally, group decision-making may have more value than that of an individual who may lack proper experience or time to make effective decisions.

2. The name of the committee matters.

Among the possibilities are:

- Investment Committee
- Administrative Committee
- Retirement Committee
- Benefits Committee
- Fiduciary Committee

Of these, we believe "retirement committee" makes sense if the group's main purpose is to manage the organization's retirement plan holistically. That could include selecting investments, enacting auto-enrollment, auto-deferrals and implementing financial wellness programs. The most commonly chosen name is "investment committee," which can be problematic if it leads the group to spend too much time reviewing investments at the expense of other important needs. In any case, the name should reflect the main purpose of the committee, which should be clearly defined.

3. Be thoughtful about the makeup of the committee.

Members are often drawn from among the following areas:

- Human resources/benefits
- Finance/chief financial officer
- Management/operations
- Chief executive/chief operating officer/board members
- Employee leaders
- Outsiders

It can sometimes be controversial to include the CEO or outsiders such as advisors, third-party administrators (TPAs) or recordkeepers. Having the CEO on board can have the effect of stifling more robust discussions, as others tend to defer to "the boss." It also removes a level of review from the process, as there will only be one level of decision-making, rather than the standard recommendation/final decision approach preferred by many executives.

Outside members provide an additional set of challenges. Such individuals are key to helping the committee make prudent decisions as well as running meetings effectively, but the attendance of the plan's recordkeeper or advisor, for example, could present a conflict of interest when discussing the reasonableness of their fees or whether they should be replaced.

The choice of personnel is often driven by the functions of the plan committee, which may include:

- Creating a prudent documented process
- Being mindful of the exclusive benefit rule
- Determining reasonable expenses (plan assets)
- Monitoring operations
- Formulating plan design
- Ensuring a menu of diversified investments
- Creating and following plan documents
- Distinguishing settlor versus fiduciary functions
- Providing for plan termination

4. Get hiring/firing decisions right.

Among all the tasks before a plan committee, the most important are probably decisions to hire or fire vendors such as advisors, recordkeepers, TPAs, auditors and money managers. At the outset, it is essential to find out whether any of them will be acting as a fiduciary—something that must be confirmed in writing. Even if plan sponsors outsource investment decision-making under Section 3(38) of ERISA, for example, they still have the duty to determine if the providers are qualified and are performing duties in a prudent manner.

5. Establish committee best practices.

They may include:

- Adopting progressive plan design using auto features
- Distributing agenda and documents before meeting
- Creating written minutes
  - Distributed
  - Voted on for approval
  - Stored in document vault
- Following checklists
- Providing ongoing training and education for members, especially new ones
- Preparing updates on new laws and best practices
- Delegating signing authority to one person
- Handling growth including mergers and acquisitions
- Documenting the process for outsourcing

Keep a Process Document for Yourself

Just like the most important advice to a committee—create a prudent, documented process—you as the advisor educating retirement committees should have a written process that covers all that is needed to limit liability and maximize the benefit of the retirement plan for the organization, the committee members and the employees.

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Fred Barstein is founder and CEO of The Retirement Advisor University (TRAU), a collaboration with UCLA Anderson School of Management Executive Education and The Plan Sponsor University (TPSU). Founded in 2010, TRAU has quickly become the industry's leading training and designation program for focused Defined Contribution (DC) advisors and professionals dedicated to helping them build a sound and sustainable practice while improving plan outcomes for clients. TPSU trains and certifies employers managing their retirement plans, leveraging a standardized curriculum and highly qualified local advisors to deliver on-site programs. In addition, Fred is the founder and Editor in Chief of NAPA Net, the daily newsletter and NAPA Net Magazine, all part of the National Association of Plan Advisors (NAPA), where he served on the initial force and founding Leadership Committee and currently serves as Industry Ambassador. He is founder and Editor in Chief of 401kTV. Prior to founding TRAU, Fred was president, chief executive officer and founder of 401kExchange before he left in 2010. Founded in 1996, 401kExchange was a leading business development and market intelligence provider for the 401(k) and retirement industry. His previous experience includes publisher of Bancroft-Whitney, California's official legal publisher, a division of Thomson/West, and Barclays Law Publishers, where, as editor in chief, he led the company to Inc. magazine's list of 500 fastest-growing private companies before it was sold to Thomson/West. Fred received his BA degree from Boston College and his law degree from Cardozo School of Law, Yeshiva University. He is the NAPA Net Liaison to NAPA's Leadership Council, and a member of the NAPA Net and Membership Committees. He was a member of the New York Bar, held Series 6, 26, 28 and 63 licenses and was named 28th "Most Influential Person in the 401(k) Industry" in 2012 by the 401kWire. He has been ranked in the top 50 since the inception of the list in 2007. Fred is a regular speaker before various retirement industry and other conferences around the country and internationally.

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