

**Publication:** Business Ledger

**Date:** December 14, 2006 **By:** Jo Ann Favia

## What to look for when reviewing and shopping your 401(k) Plan

A recent study shows that 69% of small businesses review their 401(k) plan at least once a year and more than a quarter, or 26%, of small companies will likely look for a new 401(k) plan provider within the year. \*Here's a quick summary of things to look for to help you find the best possible 401(k) Plan for your company. The components of a 401(k) can be broken down into five decisive areas: Design, Administration, Investment Offerings, Communication/Education and Cost.

**1. Design:** The first thing you have to ask yourself is "Who should benefit from the plan and to what extent?" Is your goal to provide a salary deferral plan that allows the employees to defer some of their income or to provide benefits to three or four key management personnel along with the maximum contribution allowable to yourself? In the latter case, 401(k) would probably not fit. There are a variety of options available to a business owner through a qualified plan. The first priority is to decide how much you want to save, who should benefit, what kind of commitment can be made on an annual basis, and to what extent you want to include all of the employees.

**2. Administration:** Your Plan design will determine what type of ongoing administration has to be preformed. Typically, the more complex the design, the more you will pay for administration. You will also find that not all 401(k) providers can perform the needed testing on more sophisticated plan designs. Administration involves preparation of the annual report required by the Department of Labor (Form 5500 series) and related schedules, including any administrative forms. It involves

determining eligibility and the highly compensated group; monitoring compliance and testing as required under the Internal Revenue Code; performing ADP/ACP testing; maintaining all account records, including employee and employer contributions, forfeitures and investment gains and losses. It also involves consulting and monitoring of the plan design and operations, legislative and regulatory developments.

**3. Investments Offerings:** Do you offer a single or multi manager approach? Do you look at providing retail, institutional, sub-advised mutual funds or those provided under a group annuity contract?

Another option is to look to the latest trend, which is an "open architecture" platform. This plan can provide a choice of over 15,000 mutual funds, exchange traded funds (ETF's) or brokerage accounts so the employees can trade individual stocks and bonds. As a plan sponsor, there is a level of fiduciary liability that applies to the trustees. Regardless of the "type" of investments offered, it is recommended that a plan sponsor should maintain an Investment Policy Statement that clearly outlines the procedures for choosing, monitoring and reviewing the investment offerings.

**4. Communication/Education:** Not only is the plan sometimes difficult to understand but the choice of investments, as well as the idea of "planning for retirement," can be overwhelming to a participant. *How much should I be saving? What is a large cap fund vs. a small cap? What is asset allocation? How often should I rebalance my account? How much risk should I take? What is the best way to take money out of the plan? I'm retiring in 2 years, where should I put my money?*

*How can I structure my funds so I won't outlive them once I start taking distributions?* These are all questions that employees have, that sometimes can't be addressed by an HR person. Your employees want to participate in a plan that is easy to comprehend, has a variety of investment choices, distributes quarterly statements indicating their personal rate of return and have 24 hour access to their accounts. Only a qualified financial advisor should be communicating your plan to your employees. They can also offer personal investment advice that encompasses all of your assets.

**5. Cost:** An employer must not look only at the hard dollar costs in a plan but also the soft dollar costs. The hard costs are considered the billable expenses charged to the employer and/or employee. These charges might include administration and/or record keeping fees, loan administration, distribution costs, design and consulting fees, and plan amendment expense. The soft dollars that will apply to the investments utilized may include expense ratios, management fees, 12b-1 fees, sales charges or loads, group annuity or wrap fees. All of these expenses must be considered to evaluate the full cost of the plan.

Finally, and perhaps most importantly, you must be aware of the potential liability you have as a plan sponsor. Trustees have a fiduciary duty to prudently select and monitor plan providers, including investment managers and consultants. As the DOL has stated: "A responsible plan fiduciary must engage in an objective process designed to elicit information necessary to assess the qualifications of responsible provider,

**Publication:** Business Ledger

**Date:** December 11, 2006 **By:** Jo Ann Favia

## What to look for when reviewing and shopping your 401(k) Plan

the quality of services offered, and the reasonableness of the fees charged in light of the services provided." (Federal Register, Jan. 7, 2003, p. 992.) To protect yourself with regard to fiduciary liability, your plan must comply with more than 20 detailed requirements. They include allowing a reasonable opportunity to exercise independent control of investments, offering a broad range of investment alternatives, and various disclosures. In addition, the trustees continue to be obligated to prudently select, monitor and replace investment choices offered by the plan. Protection from liability could be your single most important reason to be sure you are working with a qualified professional.

Reviewing and shopping a 401(k) plan is not as easy as it seems. By focusing on the five critical areas outlined here, and with the help of an advisor specializing in qualified plans, you will find the best possible 401(k) solution for you and your employees and protect yourself from potential liability.

*Registered Representative and Financial Advisor of Park Avenue Securities LLC (PAS), 1901 Butterfield Rd., Suite 500, Downers Grove, IL 60515, 630-964-6700. Securities products/services and advisory services are offered through PAS, a registered broker/dealer and investment advisor. O'Malley & Associates is not an affiliate or subsidiary of PAS. PAS is a member NASD, SIPC.*

*Material discussed is meant for general illustration and/or informational purposes only and it is not to be construed as tax, legal or investment advice. Although the information has been gathered from sources believed reliable, please note that individual situations can vary, therefore the information should be relied upon when coordinated with individual professional advice.*

*\*Fidelity Investments® research*