Should Your 401(k) Advisor Do More for You?

Most people believe that all 401(k) advisors serve the same role in a 401(k) plan. Sadly, this is far from the truth. When picking a financial advisor on your 401(k) it is important to understand the role they will play and how it will impact you as the plan sponsor. Because, if an employee were to be unsatisfied with their options or fees, you could end up with two wildly different realities, depending which type of advisor you pick. The role of financial advisor may be one of the most important HR choices you will make, so do not make it lightly.

There have been over 85,000 401(k) ERISA lawsuits since 2009. Most, of these lawsuits are regarding investment options, investment returns, and/or fees. If you are running a business, trying to make a profit, trying to make sure all your employees are taken care of, do you have time to fight a 401(k) lawsuit?

The good news is you don't have to manage the 401(k) decisions alone. There are some advisors out there who can take this burden off your shoulders. These are 3(38) Investment Managers. The term 3(38) manger/advisor comes from the section in ERISA that defines what the Investment Manager should do. But remember, not all financial advisors are 3(38) Investment Managers. Having the right type of advisor will save you time, money, and headache.

RESPONSIBILITIES OF A PLAN FIDUCIARY

First, let's understand what a plan fiduciary is and what their role entails. In a 401(k), ERISA categorizes a fiduciary as anyone involved with plan administration, a person with management or control over investments, or a person who gives investment advice regarding plan assets. According to JP Morgan, "43% of fiduciaries don't know they are a fiduciary on the plan". Typical fiduciaries on a plan are the owners, and executives who oversee the plan, often in Human Resources. It is possible you could be a plan fiduciary on your 401(k) and not even know it. In other words, if you are responsible for any level of management or oversight of a 401(k) you would likely be classified as a fiduciary on that plan. Fiduciaries have a legal obligation to act in the best interest of participants. This legal obligation can leave a business or employees vulnerable if they do not spend enough time focusing on the 401(k) and documenting decisions and meetings.

The plan fiduciaries are charged with ensuring the plan has an investment line up that is optimized for the best interest of participants. Often this means that funds are diversified, low cost, and perform well. Some of these responsibilities are listed below.

1. Creating a diversified investment line up for the plan.
2. Choosing the most appropriate QDIA (Qualified Default Investment Alternative).
3. Monitor the investment performance of each fund, compared to its peers.
4. Placing funds that are not performing on a watch list.
5. Remove funds that have underperformed compared to their peers.
6. Benchmarking the plan to make sure fees are reasonable.
7. Having regular meetings to discuss the plan and make decisions that are in the best interest of the participants.

A 3(38) Investment Manager is an investment advisor that you can delegate most of your fiduciary responsibility on the plan regarding the investments and fees, often times these advisors refer to themselves as fiduciaries. Hiring a 3(38) Investment Manager means that for a large portion of the plan, the most litigated portion, you can have a 3rd partly listed as a fiduciary and allow them to spend the time and energy documenting and making decisions on behalf of the company. This gives the business owner and other plan fiduciaries peace of mind, and time to focus on the things that create revenue.

CONCLUSION

As you can tell, managing the assets of a 401(k) plan is not an easy task. So most plans have an advisor. The key here is to have a 3(38) Investment Manager as the advisor on the plan. Why? A 3(38) Investment Manager will take the liability and burden of doing everything described above, while the average advisor would only be an “advisor” to the fiduciaries and not share in the liability, so you are still on the hook. On the other hand, a 3(38) Investment Advisor makes the decisions and share them with you. This would still give the company input and say in the matter, but the business now shares this responsibility rather than doing it all on their own.

The cost to have a 3(38) fiduciary doesn’t mean it has to be much more expensive. Most 3(38) fiduciaries’ fees are comparable to other advisors cost for a 401k. However, for their fee you won’t be stuck in an ERISA litigation on your own. Granted, the likelihood of your 401k having a lawsuit is low, it is still important to be prepared. The best way to be prepared for that is to hire a 3(38) Investment Manager as the Advisor on your 401(k).