

Retirement Report

News and Updates for Plan Sponsors and Fiduciaries of Defined Contribution Plans

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Complying With ERISA 404(c)

According to ERISA, plans intending to comply with 404(c) must provide that participants: Have the opportunity to choose from a broad range of investment alternatives (which are adequately diversified); may direct the investment of their accounts with a frequency which is appropriate; and can obtain sufficient information to make informed investment decisions. The plan sponsor must provide annual written notification to participants with its intent to comply with 404(c), and be able to provide the following:

- Information about investment instructions (including contact information of the fiduciary responsible for carrying out participant investment instructions);
- Notification of voting and tender rights;
- Information about each investment alternative; and
- A description of transaction fees and investment expenses.

Compliance with section 404(c) of ERISA protects plan fiduciaries from liability for losses that result from the investment decisions made by participants. Conversely, failure to comply with 404(c) could result in liability for losses due to poor investment decisions made by plan participants. To comply with some of the important requirements of 404(c), your consultant encourages its clients to review and execute a formal 404(c) Policy Statement and Employee Notice and send the Notice at least annually to all employees. We assist you by providing you with a boiler plate template you can use for your plan. Please contact your plan consultant or email bwright@twgservices.com for assistance.

What To Do With Missing Participants?

Many employers discover that finding missing participants can be very difficult. However, plan sponsors are required to take reasonable means to locate them. One option available is using the IRS's Letter Forwarding Program. For requests with fewer than 50 missing participants, the IRS's Disclosure Office can forward letters from you to missing individuals if you provide a cover letter describing the request and the missing participant names, social security numbers and last known addresses.

For requests involving less than 50 recipients there is no charge. Each request should be sent to the attention of the Disclosure Officer at the IRS's district office nearest you. Additional instructions are on the IRS website.

Requests involving 50 or more missing participants are processed separately. There is a charge for this service and the mailing address is:

Internal Revenue Service
Director, Office of Governmental Liaison & Disclosure
CL:GLD, Room 1603
ATTN: Disclosure Officer
1111 Constitution Ave., NW
Washington, DC 20224

Another option to locate missing participants is The National Registry. This is a website where you can register the names of missing plan participants who have unclaimed retirement funds. You can find out more at www.unclaimedretirementbenefits.com.

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Communication Strategies to Boost Participation

Effective employee communication is critical to the success of any retirement plan. Your consultant suggests offering regular 401(k) meetings to promote participation and understanding of investments and asset allocation. Below are five methods to make the most of those meetings.

1. *Make meetings mandatory.* This is particularly important from a fiduciary perspective. With everyone in attendance, you are meeting part of your fiduciary responsibility to offer ongoing education regarding the retirement plan. Make sure there is a sign in sheet.
2. *Make it personal.* Every employee has two questions when they join a plan: "How will this impact my paycheck?" and "Where should I invest?" A paycheck calculator is a great way to show a real life example of how their take home pay will be impacted by participation. Also, explaining how lifestyle funds such as target date portfolios can provide a convenient "do it for me" type of solution, should help address the where-to-invest question.
3. *Use props.* Show participants the holdings of some of the funds so they can better associate with the fund. Most enrollment kits contain fund fact sheets that do this. Also showing them a sample account statement will provide some assurance of how they will learn about their account in the future.
4. *Get management buy-in.* Having a Senior Manager speak at meetings just to illustrate how important the plan is will have employees taking notice. It's also helpful for Management to express the importance of any employer contributions to the plan.
5. *Measure it.* Compare your plan to industry benchmarks. Remember your retirement plan is a recruitment tool and it's important to know how your plan stacks up.

For more ideas on improving the effectiveness of your employee communication program please contact your plan consultant or email bwright@twgservices.com.

Process, Process, Process

Investment monitoring is one of the fiduciary's most important responsibilities. Having the expertise and tools in place to help fulfill these responsibilities is a great place to start, but there are three more: *process, process, process*. Many times Committees (fiduciaries) labor over investment decisions: "What if the new fund we are considering does not perform to our expectations? What if this fund we are about to remove from our menu improves its performance in the near future?" Your consultant acknowledges these as valid questions and reminds our clients that the answer, from a fiduciary perspective, is the same. As long as you routinely follow a sound investment monitoring and review process of analyzing investments, and your decisions follow the results of this process (also documented in your Investment Policy Statement), it is the process that not only helps ensure sound investment options for participants, but also help limit adverse fiduciary liability consequences as a result of those actions. For further guidance on this topic please contact your plan consultant or email bwright@twgservices.com.

Communication Corner: Borrowing Against Your 401(k)

This month's sample participant communication memo outlines a few important (and costly) drawbacks of borrowing money against your retirement savings. Email bwright@twgservices.com for a copy that you can print and distribute to employees.

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