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The Educated 3(16) Fiduciary

Many financial organizations tout the benefits of their ERISA 3(16) fiduciary services and, frankly, many of these messages can sound irresistibly compelling. But buyer beware; not all 3(16) fiduciary services are created equal. In today's increasingly litigious environment, it is imperative for plan sponsors to be educated consumers of 3(16) fiduciary services.

Running a qualified retirement plan for employees is like running a business for clients. Just as with a business, the administrative responsibilities and liabilities of operating a plan are significant. The Department of Labor (DOL) views all business owners who sponsor retirement plans for employees as "3(16)" fiduciaries under federal law [ERISA Section 3(16)]. A 3(16) fiduciary is responsible for ensuring the plan is operated in compliance with the rules of ERISA day in and day out. One can say, the ERISA "buck stops here" on the 3(16) plan administrator's desk.

As fiduciaries, plan sponsors are held to the highest standard of care and must operate their plans in the best interest of participants. That means their actions with respect to their plans will be judged against the "Prudent Person" rule, which says that all decisions and acts must be carried out "… with the care, skill, prudence, and diligence…" of a knowledgeable person. The DOL assumes plan sponsors know what they are doing when it comes to running a plan—and if they don't—they should seek out competent support or be at risk of a fiduciary breach. From an ERISA standpoint, a plan's "Jack of all trades," must be master of all—not none.

The DOL can hold plan sponsors personally liable for failing to fulfill their fiduciary obligations to their plan participants. Plan fiduciaries who fail in their duties can face costly civil and criminal penalties, too. Perhaps even jail time! All of this makes a strong argument for seeking expert help in running a qualified retirement plan. Thank goodness ERISA allows plan sponsors to outsource some of their 3(16) fiduciary responsibilities by formally appointing another entity to assume some of their plans' administrative functions.

By engaging a 3(16)-plan administrator, the plan sponsor shifts fiduciary responsibility to the provider for the services specifically contracted (e.g., plan reporting, participant disclosures, distribution authorization, plan testing, etc.). It is important to note that a plan sponsor may never fully eliminate its fiduciary oversight responsibilities for the plan, and remains "on the hook" for the prudent selection and monitoring of the 3(16) plan administrator.

There are lots of organizations out there that offer outsourced 3(16) fiduciary services (e.g., TPAs, trust companies, RIAs, etc.). The process of selecting a 3(16) outsourced solution must be carried out in a prudent manner and solely in the interest of the plan participants.

The DOL requires the plan sponsor to engage in an objective process designed to elicit information necessary to evaluate candidates considering, but not limited to, the following:

- Qualifications of the service provider,
- Whether it has a consistent track record of service,
- Its professional "bench-strength" and tenure of staff,
- The quality of services provided and
- Reasonableness of the provider's fees in light of the services provided.

In addition, such process should be designed to avoid self-dealing, conflicts of interest or other improper influence.

In the delicate area of plan administration, it's prudent to go with an experienced professional. Pentegra is a "fiduciary first" and has been for over 75 years. Pentegra's 3(16) Fiduciary Solutions are comprehensive, proven and flexible. Join us as we celebrate 3(16) Day on March 16th. Learn more about our 3(16) Day at 316fiduciaryday.com.

An Easy Way To Reduce Employee Financial Stress

According to the "2021 Workplace Wellness Survey," conducted by the Employee Benefit Research Institute and independent research firm Greenwald Research, not having savings in case of an emergency is one of the top cited sources of financial stress. More than half (54%) of employees report their retirement savings are the only significant emergency savings they have.

You can help them by providing a simple flyer that focuses on the following key points (your plan advisor and recordkeeper should be able to help with this):

- Create an automatic savings account and aim to build up to 3–6 months of living expenses
- Keep separate from your checking account
- Ensure there are no (or low) transaction fees; no penalties for withdrawals
- Verify interest earnings on the balance (a little something is better than nothing)

Benefits That Attract and Retain Employees As We Emerge From The Pandemic

Although the worst of the pandemic is hopefully behind us, the lifestyle disruption it caused has created a monumental shift in how people work. This disruption has affected nearly every industry and has caused many individuals to take a step back and reevaluate what their career means to them. According to the Bureau of Labor Statistics, a record 4.4 million people quit their jobs in September of 2021 alone.

It is no surprise then that many employers are facing the challenge of attracting and retaining talent brought on by the pandemic. This issue is likely to continue through 2022 and beyond. Talented employees enhance productivity and provide leadership and are often a company's greatest asset. In a recent study of 205 retirement plan sponsors, 81% said they are concerned about the increased competition for talent and 73% are struggling to find qualified employees to fill positions[1] . With job candidates scarce, companies will be vying for the same top-tier employees.

As a result, many companies are utilizing their retirement and benefit packages and placing an emphasis on improving their employees' financial wellness and wellbeing to help differentiate themselves as the employer of choice. Below are a few ways employers are now positioning themselves for success:

Offer Employer Retirement Plan Matching Contributions
An employer retirement plan match is an attractive employee benefit that can help an employer set themselves apart. A recent study showed that more than 45% of respondents considered an employer 401(k) match to be a major factor when deciding to accept a job[2] . Many employers are now considering increasing their matches and shortening their vesting schedules. Even if employers had to suspend their matches due to the pandemic, reinstating a match is a positive message to communicate to employees. Offering a match also boosts employee enrollment into the plan.

Add A Profit-sharing Arrangement
Some employers are adding a profit-sharing arrangement to their 401(k) plans. This provides employees with a personal interest in a company's success, which can potentially limit employee turnover through rewarding ongoing service. For employers, a primary benefit is flexibility whereby no contributions are required if there are no profits in a particular year.

Offer Additional Benefits
Some plan sponsors are adding other non-retirement plan related benefits such as emergency savings accounts (ESAs) and/or health savings accounts (HSAs). An ESA can be funded through automatic deposits setup through payroll deductions, similar to how employees fund their 401(k) plans. The money deducted into an ESA is taxed as income and is available to employees who have financial needs that are immediate.

HSAs allow employees to set aside money on a pre-tax basis to pay for qualified medical expenses. If your company offers an HSA program, now may be a good time to remind employees of this benefit and how to enroll into the account. HSAs can be an effective and tax efficient way to save for healthcare costs in retirement.

Offer Greater Flexibility
Many employees settled into working from home and all the flexibility that went along with that. Some were able to achieve a healthy work/life balance with no longer having to contend with a long commute or set office hours. But workplace flexibility goes beyond just working from home. Some other benefits include providing caregiver leave and rethinking paid time off (PTO) policies.

We Can Help

These are just some of the ways employers can help recruit and retain the high-quality employees that their companies depend upon. Pentegra is here to help.

Contact us at 800-872-3473 to learn more about plan redesign and benefit enhancement options.

[1] Principal Financial Group, https://www.pionline.com/retirement-plans/firms-beef-retirement-benefits-attract-and-retain-employees
[2] https://www.betterment.com/401k/resources/employer-match

A Window Into Wellness

A recent survey sheds light on the state of financial wellness since the pandemic

According to the TIAA 2022 Financial Wellness Survey, Americans currently define financial wellness as simply feeling comfortable with their financial situation. Over 50% believe wellness is defined as having the means to take care of family, not worrying about money or debt, and feeling protected financially from life's unexpected events. In fact, 51% of Americans are now more aware of their overall financial wellness since the pandemic.

Over the past two years:

- Thirty-seven percent say their financial wellness increased
- Forty-two percent say it stayed the same
- Twenty-one percent say it decreased

However, when it comes to actually achieving overall financial wellness during the pandemic, many people still feel challenged in a number of ways including:

- While 7 in 10 people say they have a budget, only 25% of them actually follow it
- Six in ten people report some or a great deal of stress regarding their finances
- Only 38% have a written financial plan; only 16% have one created by a professional
- Seventy-eight percent say they have an emergency fund; less than half say they can cover six months of expenses.

It's probably no surprise that workers who have participated in a financial wellness program are twice as likely to have a high financial wellness rating than those who are not offered resources or who do not participate (32% vs. 15%).

The survey indicates that higher financial wellness ratings can translate into improved engagement with their retirement plan.

Implications for improving retirement outcomes

Ninety-two percent of those with high financial wellness scores report understanding their retirement plan extremely or very well. Conversely, 39% with low financial wellness scores report understanding their plan extremely or very well.

Of those employees who have participated in a financial wellness program:

- Fifty-four percent are confident they will retire when they want
- Fifty-four percent are confident they will afford the retirement lifestyle they want
- Fifty percent are confident they will not run out of money.

In addition, people with higher financial wellness scores are willing to put more money toward retirement. If given an additional $200 a month, nonretired Americans would put an average of 60% toward their retirement savings.

This increases to 71% among those who rate their financial wellness higher (vs. 45% of those with low financial wellness). Those with higher financial wellness are also already more likely to have retirement savings and to be contributing to an employer retirement plan.

The TIAA "Financial Wellness Survey" was conducted online from October 22 to November 3, 2021, surveying 3,008 Americans ages 18 and older on a broad range of financial management issues and topics. It can be viewed at: https://tinyurl.com/5e2vpvbm.

Look For Us At These Upcoming Events	
April 3–5 NAPA 401(k) Summit Tampa Bay Convention Center Tampa, FL	April 22-26 Western Bankers Association Annual Conference Grand Hyatt Kauai Resort & Spa, Island Of Kauai Kauai, HI
May 9-11 Indiana Bankers MEGA Conference Indiana Convention Center Indianapolis IN	May 11-13 NAFCU CEOs and Senior Executives Conference Opal Key Resort & Marina Key West, FL
May 18-20 122nd Annual LBA Convention & Exposition	May 18-20 Texas Bankers Association -136th Annual Convention

The Ritz-Carlton New Orleans, LA	Kalahari Resorts & Conventions Round Rock, TX
May 18-22 New Jersey Bankers Association - 116th Annual Convention The Ritz-Carlton Amelia Island, FL	

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