Out Of The Box Thinking For Retirement Plan Providers

By Ary Rosenbaum, Esq.

I've been very lucky in life that I never had tunnel vision, I had peripheral vision. I could see things that others couldn't see and I came up with out-of-the-box ideas that benefited my practice and my experiences in life. When I was working for a producing third-party administrator (TPA), I knew their time was up because I knew fee disclosure was inevitable five years before it became regulated. When I was at that semi-prestigious law firm, I knew social media was a great way to get clients and. with law firm partners with an average age of 67, they were going to die. When I was Vice President of a synagogue, I tried new fundraising events such as a Sal The Stockbroker comedy show instead of tired journal dance dinners. This article is about some out-of-the-box ideas that can help you as a plan provider.

Try Virtual Events

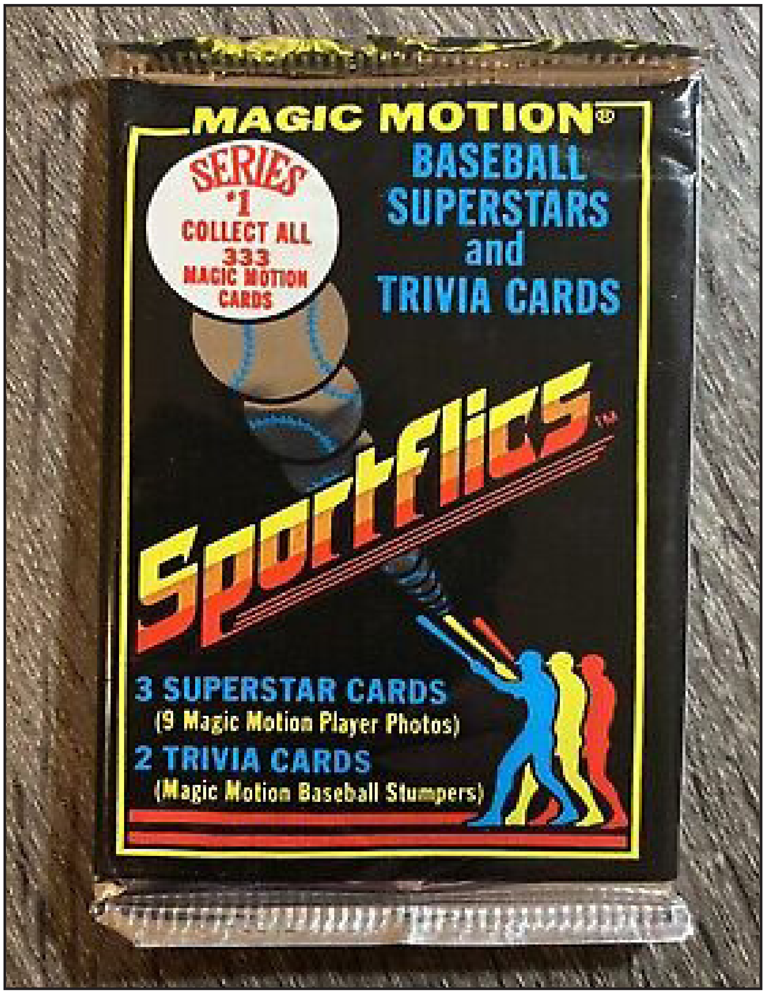
Getting plan sponsors and other plan providers to attend live events was difficult before COVID. It's been even more impossible since. I started That 401(k) Conference in 2018 for retirement plan advisors, we would top 50 advisors for New York events and more than 25 advisors in cities far away from my home base. I'm. the type of person. I wasn't happy with those numbers because I always wanted more. After returning to live events in late 2021, I would have been happy with 25 advisors to attend. It also didn't help that plan providers also slashed their budgets for having these events. With difficulty in getting sponsors and attendees, I made the difficult decision to essentially eliminate live events and focus on virtual events. With virtual events, the Zoom account costs $150 a month and an annual subscription is less that the catering order for a live event. While I think most people have gotten over the fear of attending in-person events, I think that just don't feel they have the time for live events when virtual events work so well. It's no different than when people balked at returning to their workplace when working from home worked so well. While it's great to see people in public, it's such an easier use of time and expenses to run virtual events.

It doesn't have to be de minimis

The contingent benefit rule is one of those quirky rules that most people don't know about. The contingent benefit rule prohibits conditioning other employer-provided benefits on whether an employee makes elective deferral contributions or not. The sole exception to this rule is for employer-matching contributions. SECURE 2.0 made a change to that rule. Under SECURE 2.0, plan sponsors can now offer "de minimis financial incentives," such as gift cards, t-shirts, or other tchotchkes. It has to be de minimis, so no New York Rangers tickets or graded trading cards (sorry, thinking about incentives for me). I think this is certainly one area where out-of-the-box thinking goes a long way. I've always joked that most enrollment meetings are more somber and boring than funerals. Working with plan sponsors on exciting ways to get people more involved in a 401(k) plan will go a long way. It could be tchotchkes, it could be free food, it could be something else. I would imagine most plan providers won't be creative and will just hand out pens, but this is one area where you can be creative to stand out.

Focus on SIMPLE IRAs with the 2024 rule change

Under current law, an eligible employer generally can't terminate a SIMPLE IRA plan mid-year. It was always a quirk that the SIMPLE IRA had to be the exclusive plan for the employer for the year. The employer would have to wait until the next year to start a 401(k) plan. Pretty soon, the law will change. SECURE 2.0 will permit an eligible employer to terminate a SIMPLE IRA plan mid-year if the employer replaces the SIMPLE IRA plan with a SIMPLE 401(k) plan, a safe harbor 401(k) plan, a 401(k) plan with a qualified automatic contribution arrangement, or that new "starter" 401(k) plan. This provision is effective for plan years beginning after December 31, 2023. While many plan providers will scoff at trying to switch SIMPLE IRAs to



401(k) plans because they don't have many assets but how many good-sized plans started with zero assets? 401(k) plan may have compliance testing and an annual 5500 to deal with, they also have higher salary deferral limits, new comparability allocations, and actual financial guidance where most custodians left SIMPLE IRA plan sponsors to "die" with zero help. Not only can SIMPLE IRA plans be replaced with a 401(k) plan, but they can also be a part of a Pooled Employer Plan (PEP). While many SIMPLE IRA plan. Sponsors will scoff at some of the compliance testing and a Form 5500, a PEP can certainly alleviate the 5500 and fiduciary concerns of having a 401(k) plan.

State Mandated Programs is a room to grow

A lot of people in the retirement plan business hate anything that is mandated. They hate SECURE 2.0's rule that will require almost all 401(k) plans to offer automatic enrollment in 2025. They also don't like any states or localities that will require employers to offer a retirement plan of their own or join the government's mandated IRA program. I'm for anything that will expand retirement plan coverage because it allows more people to save for retirement and it certainly helps grow the retirement plan business. In the end, I think most employers and employees would want a 401(k) plan to participate in, rather than some government-run IRA program that will likely offer zero financial help for plan participants. Employers that will be forced to offer a retirement plan of their own will be a great opportunity for plan providers to sell a 401(k) plan or sell a PEP. While PEPs are a difficult thing to grow, having employers forced to have a plan will be a great avenue to prospect and grow a PEP. Another choice when dealing with these state-mandated employers is. the Starter 401(k) plan, which just reminds me of a SIMPLE IRA. Starting in 2024, the starter plan provision would allow employers in states that require auto-IRAs to satisfy the auto-IRA requirement via a private-sector 401(k) or 403(b) plan. Starter plans are deferral-only safe harbor plans that permit participants to contribute up to $6,000 per year—with a $1,000 catch-up contribution—without the administrative burden or expense of traditional 401(k) or 403(b) plans. Starter plans don't require employer contributions or certain testing. Whatever the path, I think states that will mandate retirement plan coverage are a place to focus on.

Don't focus on fads

As a kid, I remember all the fads. There were Garbage Pail Kids cards, Beanie Babies, stickers, and a whole host of sports-collecting fads like coins, pins, and Sportflics. While I always feel that plan providers need to find their niche in the marketplace, that niche shouldn't be focused on the latest fads in the retirement plan business. There are two in particular that I would avoid focusing too much attention on 1) crypto and 2) ESG investing. Until Bitcoin becomes a regulated investment, I don't see it becoming a major thing in the retirement plan space. Sure, a Republican Congress and White House could approve crypto 401(k) investments through the law, but that would be at least 2 years away. The Department of Labor (DOL) was pretty clear that they would look at plans and plan providers that were pushing for crypto investments. Cutting-edge works in technology don't work in the retirement space that is heavily regulated by the government, so I wouldn't push for crypto until the DOL says it's OK. As far as ESG (environmental, social, and governance) funds, that is an OK investment under the Biden White House, but I suggest a change in politics will have a chance on whether ESG funds are proper investments. In all my years of working with plan sponsors, only a handful was interested in ESG funds, and less than that adopted and added them. I understand the allure of ESG funds, but I'm a bigger fan of a 401(k) plan lineup that is dedicated to the best investment returns. Until ESG funds show that they're all about total return, I'm not sold on them. To me, ESG is a sector fund and I find very few sector funds worthy of being on a 401(k) investment lineup. I drive a 2012 Toyota Prius V and if I want to support environmental concerns, I should do it on my own time and my dollar. I don't think ESG funds help the people that need the most help, which are participants saving for retirement.