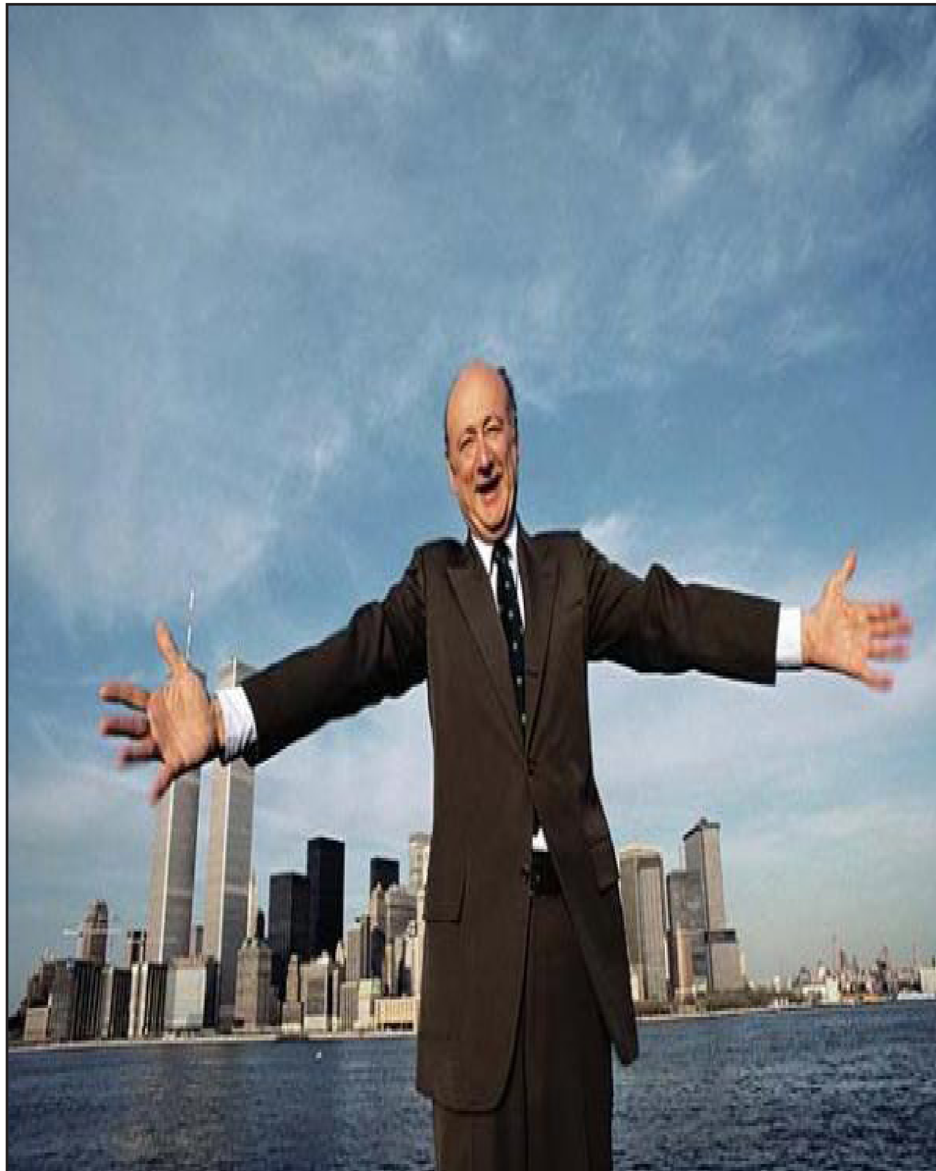
The Signs That Your 401(k) Plan Is In Good Shape

By Ary Rosenbaum, Esq.

Being a 401(k) plan sponsor isn't easy if you're interested in doing a good job as a plan fiducairy and limit your potential liability. Like former New York City Mayor Ed Koch, you feel like asking everyone: "How am I doing?" There is no definite answer if you're doing well, but there are signs out there. This is all about what you're doing right as a plan sponsor, and the signs that show it.



You're doing what needs to be done

The biggest error on 401(k) plans these days are 401(k) plan sponsors depositing salary deferrals late. The problem with the error is plan sponsors never make that error only once. For the last decade, there has been pressure by the government in plan sponsors getting in salary deferrals as soon as possible. The second biggest error is having a definition of Compensation in the plan, but administrating it incorrectly. While plan providers can make errors in testing and allocations, a lot of the nuts and bolts of the plan have to be done by you as 401(k) plan sponsor. If you're depositing salary deferrals timely, making sure you understand the terms of your plan document, understanding your role as a plan fiduciary, and providing information as soon as it requested by your plan provider, you are way ahead of the curve.

Having good plan providers

The most important thing that separate a good 401(k) plan and a bad one are the plan providers. Bad plans have bad providers and good plans have good providers. Third party administrators (TPAs) who know what they're doing mean less likely that a plan will have a compliance issue. Financial advisors who know what they're doing are going to have a fiduciary process for a 401(k) plans that has no bumps in the road, even if the market does. What makes a good plan provider? Well, it's like a smorgasbord or the buffet at Sizzler (I had to be in Oregon to find one), it is a little bit of everything. You need plan providers with experience, that charge a reasonable fee, keep you out of trouble, and can talk to you in a language that you can understand (ERISAese isn't English). Mistakes can happen, even with the. best of providers. But with the best providers, they can find the error relatively quickly, rather than it languish which bad provider do because they can't see their mistakes. How can you tell if your plan providers are doing their job? You can review it yourself or hire someone independent like an ERISA attorney to find out (cough, cough). Good TPAs are knowledgeable on the compliance end, the nuts and bolts on plan design. A bad TPA will focus on synergies that don't matter, like payroll or a funky website. A good financial advisor will understand that

their most important facet of the job isn't picking mutual funds for a fund lineup. A good 401(k) plan has a good process in place for compliance and the fiduciary side of things, and follows the process. Good plan providers understands that the process means everything, trust the process like you're long suffering Philadelphia 76ers fan.

A plan review

You don't know about your plan until you know. One of the earliest big fights that I had with my wife was when I insisted that I had a good credit score. I didn't know that I didn't until I check it and discovered that my mother had a $17,000 balance on a credit card we co-opened when I was in college. So the story is, you don't know until you know. The same can be said of your 401(k) plan. Unless you review your plan regularly, you don't know where you stand. You can take the word from your plan provider that things are going well, but can you take their word? Obviously, their assurance might be valid and perhaps, they're not because they're self-serving comments or they have no idea. A good independent review of your plan will go a long way to seeing if your providers are doing well, but more importantly, that your plan is doing well. For about 15 years now, I have been offering a Retirement Plan Tune-Up, which is an independent review for $750, that can be paid from plan assets. The problem is I've only done about a dozen of them because most 401(k) plan sponsors are reactive, rather than pro-active. They don't do anything until something breaks. If you're proactive and review your plan on a regular basis, it's a sign that your plan could get that gold sticker. Whether it's called a pre-audit or plan review, consider getting one, every now and then.

Benchmarking your plan

There are plenty of inexpensive services and websites that can grade your plan. They can take information from your Form 5500 and make some general observations about your plan. Some times it's not directly on point, but it's usually within the ballpark. That's because Form 5500s are electronically filed these days and the data and forms are posted by the Department of Labor (DOL) pretty quickly. The scoring of your plan, if low, could be a sign that it's too expensive or the average account balances is too low, compared to other plans, and compared to other plans within your industry. The benchmarking of your plan is like your credit score, a high rating is a sign things are going OK. If the grade is a bit low, it's time for a review and a change.

High participation

A sign your plan is doing well is the participation by employees in the salary deferral component of the plan. Obviously, a big part of what helps with participation is what kind of business you're in. A law firm is going to have a higher participation rate than a restaurant because a law firm has a lot more high paid employees, even the associates do well (so I've heard). If you employ many well-paid employees and they don't defer, it's clearly there is a lack of interest in the plan. A 401(k) plan is an employee benefit and if it's not being utilized correctly, that's a sign of a major problem. If people are participating at a good clip, it shows that participants are engaged, and interested in saving for retirement.

Enrollment and education meetings that are alive

If you're offering participant directed investments under your 401(k) plan, you have to follow ERISA §404(c) guidelines, in order to minimize your liability from losses sustained by participants from their investments. That means you need to provide enough information for participants for them to make informed investment decisions. That means providing at the very least, investment education meetings provided by your financial advisor. What really sets up a major difference between the really good plans and everyone else, are the education meetings. You obviously have to have regular investment and education meetings, which should be tied to you 401(k) plan's entry date for new participants. Investment education is about providing information on basic investing concepts. Investment advice is providing specific investment guidance to a participants, based on their current financial standing, and their retirement needs. Participants do better with investment education and even better with investment advice. The problem with most 401(k) education meetings is that they're like funerals. The only difference is people don't cry at 401(k) education meeting, they're just bored. You're doing a great job with the investment component of the plan if you have good attendance and solid attendance from people who are already have been 401(k) participants for some time.

You're properly insured

You can never fully eliminate your liability with running your 401(k) plan. Even if you delegate fiduciary authority to a retirement plan provider, you're still on the hook. So while you can't completely eliminate your liability, you can complete steps to minimize it. That's why insurance is really important. So if you have fiduciary liability insurance and that required ERISA bond to protect against theft by plan fiduciaries, you're way ahead in the game, than many plan sponsors.

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