

STATE OF DELAWARE

Best Practices for Retirement Plan Fiduciary Oversight



EXECUTIVE SUMMARY

Best Practices for Discussion	Completed	To Be Addressed
Establish Ongoing Due Diligence Process	✓	
Establish & Maintain Investment Policy Statements	✓	
Streamline the Investment Array	✓	
Retain Only One Plan Recordkeeper	✓	
Monitor Service Provider	✓	
Regularly Benchmark of Plan Fees	✓	
Conduct Periodic Fiduciary Training	✓	
Conduct Regular Provider RFP		✓
Confirm Operations Adhere to Governing Documents		✓

CONDUCT REGULAR PROVIDER RFP

Description

A process to compare current plan providers with alternative options via thorough vetting procedure. Private institutions are encouraged to conduct a recordkeeper RFP every 3-5 years.

Concerns if not in place

A regular RFP requires current providers to continue to pay attention and earn the ongoing business. It also alerts plan fiduciaries to other services and capabilities in the marketplace.

State of Delaware Practices

The State conducts regular RFPs for its service providers. It maintains contracts that typically last for 5 years with the potential for 2 or 3 one-year renewals.

Comments

Lawsuits against private institutions claim that recordkeeper RFPs should be conducted every 3 years. There is no requirement to ever conduct an RFP, as long as the plan sponsor can show that the plan remains competitive through direct negotiations with the provider. Given the extra amount of time required for public RFPs and implementations, the 3-5 year timeframe is onerous. Fee benchmarking helps confirm competitiveness of the plan.

CONFIRM OPERATIONS ADHERE TO GOVERNING DOCUMENTS

Description

A process to periodically review governing documents (e.g. plan document, investment policy statement), to confirm that the internal operational procedures are aligned with what is stated in the document.

Concerns if not in place

Governing documents set an expectation for what will occur with the retirement plans. If the stated processes are not followed, (e.g. a member receives the incorrect employer contribution amount), correction steps must be taken to ensure that no members were “harmed” by the error.

State of Delaware Practices

The State periodically reviews these documents and discusses any concerns within the regular quarterly committee meetings. If any operations do not align with the documents, the committee determines whether to adjust the internal procedures or to amend the document.

OTHER BEST PRACTICES

Make fees transparent – Administer fees in a way that informs the member as to how much they are paying for the plan recordkeeping services.

Review meeting minutes – Have committee members review minutes from the most recent meeting to ensure correct recapture of what transpired in the meeting and for long-term record retention.

Conduct annual audit – Have an outside auditor review financial operations of the plans to ensure proper completion of transactions and maintenance of plans' accounting integrity.

Ensure members and beneficiaries have access to education – Offer different channels and media for communicating plan information and benefits to members to foster better usage and long-term results.

APPENDIX

ESTABLISH ONGOING DUE DILIGENCE PROCESS

Description

A process to regularly review plan related characteristics, including investments, fees, compliance, communication, plan design, and others to identify any potential problems and help ensure that the plans remains competitive and compliant with all requirements.

Concerns if not in place

Plan fiduciaries may be unaware of potential problems with various plan components leaving members with less effective plan provisions and leaving the plans and fiduciaries vulnerable to claims of inadequate oversight.

State of Delaware Practices

Separate committees covering different functions of the retirement plans meet quarterly to review the latest plan information, investment performance, and any concerns that have been raised, while also discussing trend and regulatory updates.

ESTABLISH AND MAINTAIN INVESTMENT POLICY STATEMENTS

Description

An investment policy statement (IPS) defines the process by which the plan fiduciaries will establish and monitor the plan investment options. It typically provides broad guidelines for the types investments that the fiduciaries believe are appropriate for the plan, as well as performance characteristics that will be reviewed and the process by which investments may be added, removed and replaced.

Concerns if not in place

Plan fiduciaries may be unclear as to exactly how they should be completing their investment oversight responsibilities. Plan members could raise concerns about a lack of consistency in the development and maintenance of the investment lineup.

State of Delaware Practices

The State has implemented an investment policy statement for the deferred compensation plans. The committee works with the plans' adviser to confirm the investments adhere to the IPS provisions, and that the investments remain appropriate for plan members.

STREAMLINE THE INVESTMENT ARRAY

Description

A process to limit the number of investments offered in the plans. Typically, a streamlined investment array would include one option per asset class, or potentially two in certain asset classes, if one investment is active and one is passive.

Concerns if not in place

Plan investment lineups that include many investment options per asset class tend to overwhelm the plan members with choice. This has been shown to lead to lower participation rates.

State of Delaware Practices

The State undertook a deliberative process to develop a streamlined investment array during the process of consolidating recordkeepers. The State also developed tiers of investments to help members make investment decisions.

RETAIN ONLY ONE PLAN RECORDKEEPER

Description

Limit the number of recordkeepers offered in the plan to a single provider.

Concerns if not in place

Using multiple providers frequently leads to offering an excessive amount of investments for member choice. It also tends to increase the fees paid by plan members, as services are delivered less efficiently. There is typically more internal administrative work as well.

State of Delaware Practices

The State consolidated to one recordkeeper enabling a dramatic reduction in plan fees benefiting plan members significantly.

MONITOR SERVICE PROVIDERS

Description

A process for ongoing review of the services provided to the plans by third parties, including recordkeepers, advisors and others, to ensure that each provider is delivering services consistent with its contract and that add value to the plans and the members.

Concerns if not in place

Without ongoing monitoring of the work delivered by plan service providers, the plans could lose competitiveness not offering the latest opportunities to their members.

State of Delaware Practices

Separate committees covering different functions of the retirement plans meet quarterly with the service providers to hear updates on their work with the plans and their members. Committee members question the service providers on how to improve the plans and enable better long-term outcomes for the members.

Comments

It is important that the committees consider the information provided and reach their own conclusions about any recommendations, as opposed to automatically accepting all advice.

REGULARLY BENCHMARK PLAN FEES

Description

A process to review both administrative and investment fees comparing them with those of similarly sized plans of similar entities.

Concerns if not in place

Plan members may end up paying more for their investments or plan recordkeeping services. This could be challenged by plan members claiming that plan fiduciaries did not conduct sufficient oversight nor negotiate better arrangements on the members' behalf.

State of Delaware Practices

Each quarterly report reviewed by the Investment Committee contains information about the current administration and investment fees as compared with similar fees for similarly sized plans from the most recent NAGDCA survey.

Comments

Ultimately, the plans needs to receive value for the fees being charged. It is not necessary that the administration or investment fees are the lowest of the comparative group.

CONDUCT PERIODIC FIDUCIARY TRAINING

Description

A process to annually review the responsibilities of plan fiduciaries, and how to fulfill them to best benefit the members of the plans. This training typically consists of a description of legal responsibilities, identification of conflicts of interest and other potential concerns with plan oversight.

Concerns if not in place

Plan fiduciaries may be unaware of their responsibilities, their potential liability and the common best practices for providing oversight to a retirement plan.

State of Delaware Practices

The State uses its attorneys and investment advisor to provide committee members with the appropriate training on fiduciary oversight responsibilities and best practices.