

Plan Fees and Due Diligence

Considerations to Help You Manage Your Fiduciary Duties

As 401(k) plans become an increasingly important source of retirement income for employees, the fees charged to such plans are becoming the subject of growing scrutiny. Excessive plan fees can hamper participants' efforts to save for retirement, and litigation, legislation and regulation concerning plan fees are all on the rise.

It's therefore more important than ever for you, as a plan sponsor, to review your plan carefully and understand its fees. This guide provides a brief overview of some of the key issues surrounding plan fees, and suggests ways for you to help ensure you're managing your fiduciary duties more effectively.

Plan Fees

As with any investment-related product, 401(k) plans generally incur a certain level of fees and expenses. However, excessive fees can prove to be a real impediment to saving for participants—and a legal and regulatory concern for plan sponsors.

Lessons from recent fee litigation

Several recent lawsuits regarding 401(k) plan fees center around allegations of breach of fiduciary duty. Some of these lawsuits allege that the applicable plan fiduciaries failed to

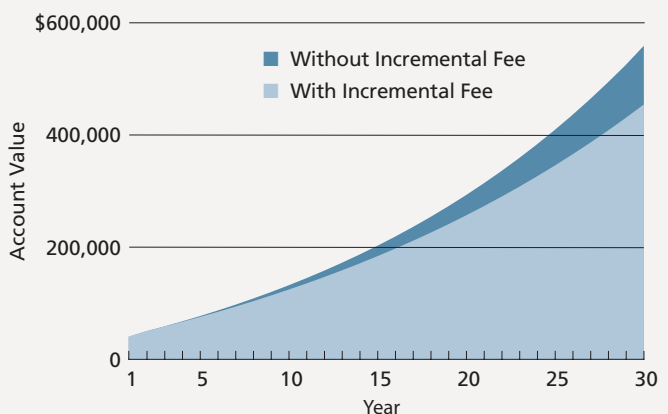
1. Monitor the fees and expenses paid by plans, resulting in plans paying unreasonable fees, and fees for services that weren't solely for the benefit of plan participants and beneficiaries.
2. Understand the different ways vendors (e.g., recordkeepers, administrators, asset managers and financial advisors) in the retirement industry are paid for performing services to 401(k) plans.
3. Establish, implement and follow procedures to properly determine whether the fees and expenses a plan pays are reasonable and incurred solely for the benefit of plan participants and beneficiaries.

The Long-term Impact of Excessive Fees

Even relatively incremental fees can potentially make a big difference to a 401(k) account's performance over the long term. Take the example of Paul,¹ a 30-year-old currently earning \$60,000 a year. So far, he has managed to save \$30,000 in his 401(k) savings plan. The chart shows how much less Paul would have accumulated over the next 30 years, assuming annual contributions of \$6,000 and annual 5% return, if his 401(k) account incurred a hypothetical additional fee equivalent to just 1% of his account balance annually. Without this additional fee, Paul's account would grow to close to \$552,000. However, when the additional fee of 1% is included, Paul's account would only grow to about \$447,000—a difference of about \$105,000.

What a Difference 1% Can Make

Additional fees can potentially put a big dent in savings



1. This hypothetical example illustrates the projected growth of a tax-deferred retirement account with an assumed annual return rate of 5% with dividends and distributions reinvested, as well as the effect of an additional fee of 1% of the annual account balance. These assumptions are for illustrative purposes only, and do not reflect actual returns. This hypothetical example is not intended to depict any Oppenheimer fund for any period of time, or fluctuation in principal value or investment returns. Withdrawals prior to age 59½ are subject to taxes and penalties. The person portrayed in this example is fictional. This material does not constitute a recommendation as to the suitability of any pricing structure having circumstances similar to those portrayed, and a financial advisor should be consulted.

While each case is different, in essence the lawsuits allege that such failures ultimately diminished the value of the 401(k) plan's assets.

Though many of those cases (including appeals) are ongoing, one of the general lessons from these lawsuits is that prudent plan fiduciaries should be able to clearly document their

- Comprehension of all plan fees and expenses
- Review and consideration of other fee and expense alternatives available to them

As fee-related litigation continues to make progress in the judicial system, legislators and regulators are addressing the issues.

Managing your Fiduciary Responsibilities

The Employee Retirement Income Security Act of 1974, as amended (ERISA) is a federal law that sets legal standards for many employer-sponsored retirement savings plans and provides protection to individuals participating in these plans. ERISA's fiduciary requirements include, but are not limited to, the duty to

- Act prudently and solely in the interest of the plan's participants and beneficiaries
- Obtain sufficient information on services, costs and service providers in order to make prudent, informed decisions

How can you help ensure you are meeting your fiduciary responsibilities with respect to plan fees and expenses? To begin, it's important to understand and evaluate your plan's expenses by gathering information on your plan's costs, investments and compensation to service providers.

These fees and expenses generally fall into four categories:

- Investment-related Expenses
- Plan Administration and Servicing Fees
- Start-up/Conversion Fees
- Termination Fees

Tips for Evaluating Fees and Expenses

- Document a reasonable basis for all decisions
- Compare all services received with their total cost
- Ask providers which services the fees cover, and which they do not
- Look at the full value of *all* services received—not just expenses related to the plan investment options
- Consider investment-related fees in the context of each investment's performance over time
- Investment performance should be evaluated against the fund's objectives
- Remember that lower fees don't necessarily translate into better performance
- Keep in mind that some investments, due to their nature, may involve higher fees

Determining "reasonableness"

When reviewing these costs with the plan's financial advisor, evaluate whether they are "reasonable" according to ERISA standards. While "reasonableness" is a fact-specific inquiry, you can help satisfy applicable ERISA standards by reviewing fees and expenses against those of other plans with similar characteristics and features.

Keep in mind that ERISA does not require that plan fiduciaries use the lowest cost provider for a given service. Instead, fiduciaries must show that they have compared the cost of the services with the value provided, and determined that the fees are reasonable by that measure.

Also, because some plan fees may not be explicitly stated, it's crucial to scrutinize them closely with the plan's financial advisor. Once a plan is established, you and the plan's financial advisor should continue to monitor plan fees to help ensure they remain reasonable.

Evaluating your plan's fees and expenses

As you work with the plan's financial advisor, use the following worksheet to help identify your plan's fees and expenses and evaluate investment-related fees within the context of performance to help you determine the full value of services received. This will help you document your due diligence efforts, compare your plan's costs to those of similar plans and determine whether your plan's fees are reasonable.

Evaluating Fees and Expenses Worksheet

- ERISA requires that fees and expenses charged to a plan and plan participants be “reasonable”
- “Reasonable” must be determined for each plan
- Ongoing due diligence is critical

When Evaluating Fees and Expenses:

- Did you make informed decisions? Have you gathered the necessary materials to aid in your decision-making process?
Be sure to document your due diligence efforts

- Assess the plan’s performance over time for each investment option

- What is the full value of services received?

- What are your plan’s fees? Remember to look at the full value of all services

- What services do the fees cover?

One-time fees

Recordkeeping

Investments

Administration

Trustee

Individual fees to participants

Other fees

NEXT STEPS >>

As ERISA fee-related regulation and legislation developments occur, OppenheimerFunds and your plan's financial advisor can assist you in helping to understand them and how they can affect your plan.

- Contact your plan's financial advisor to discuss industry developments and evaluate your plan's fees
 - Review your plan documents, Investment Policy Statement and related materials and service agreements to ensure their provisions accurately reflect what expenses are charged to the plan, and how expenses are allocated among participant accounts (as applicable)
 - Periodically evaluate the plan's fees against fees paid by similar plans to ensure it continues to provide value to your plan
 - Review procedures for allocating expenses to the plan
 - Review how fees are disclosed to participants
- Visit us online at **oppenheimerfunds.com** and download a copy of our *Managing Your Fiduciary Responsibility* brochure (RE0001.642) by entering the title or literature code in the search box

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