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Fiduciary responsibility: Hot potato or hot topic?

BY NATHAN SOLHEIM

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The economic downturn, sometimes called the Great Recession, has caused a lot of people to ask a lot of hard questions. If I get laid off, will I be able to get another job? Should I let my home go back to the bank? Have I been living beyond my means?

Tough questions, and tough answers.

But another side effect of 2008 filtered over into retirement planning. Millions of American workers saw their retirement plans decline because of a nose-diving economy. Some rode it out. Others panicked. Now that the country is several years removed from the worst (though it might not seem like it), there are serious questions circulating over who's responsible for retirement planning. Obviously, everyone in the work force should plan for retirement. But employers that offer retirement plans also are partially responsible for an employee's retirement planning, and they have to do so with the employees' best interest in mind at all times.

Welcome to fiduciary responsibility.
"From a fiduciary standpoint, the only legal requirement is they act in the best interest of participants," says Marcy Supovitz, a principal with Boulay, Donnelly & Supovitz Consulting Group in Worcester, Mass. "There's no legal requirement they offer anything at all. If they do, there's no requirement under the law they do anything specific to affect the outcome. From the philosophical side, obviously there's a growing body of support for paying a lot more attention to outcomes in these plans. And that's become a much more talked about issue in the past couple of years."
Over the past few decades, there's been a shift away from defined benefits plans to defined contribution plans.

Getting help

At least one company will help organizations with fiduciary responsibility.

The Standard of Oregon, based in Portland, Ore., on March 1 will launch an enhanced fiduciary offering through a subsidiary called Standard Retirement Services, Inc. The crux of the offering is that The Standard agrees to take on fiduciary responsibility from the plan sponsor. While executives with the company say the relationship isn't new to the industry, they are among the first to formalize it in writing.
That means The Standard will take on many of the actions required of plan sponsors including determining eligibility, approving distributions and loans, adjudicating hardship withdrawals and distributing required communications to participants.

"As a sales guy, I see it as a great opportunity," says Dan Hall, vice president of retirement plan sales at The Standard. "I've met with some brokers and they're excited … with the whole litigation tendency of retirement plans, there's a lot of room there for 401(k) sponsors to protect themselves," Hall says.

From a broker or vendor perspective, the largest challenge is getting employees to become participants in their organization's retirement plan. Sometimes, that's hard. Some younger employees aren't thinking about retirement. Other employees are simply spenders, not savers. Still others may feel a bit of concern about investing their money in a volatile market. In fact, there's a growing field of study called behavioral finance dedicated to understanding why people make economic decisions.

All these factors can play into participant apathy toward retirement planning, and that leads to inaction, which is probably why millions of American workers aren't going to have enough to maintain their standard of living when they decide to retire. But the industry has developed a few key strategies to help participants.

Automatic enrollment

Over the past few years, automatic enrollments have grown in the marketplace. In an automatic enrollment situation, a participant is automatically enrolled in the organization's retirement plan. That means participants start off paying into their defined contribution plan or their pension. Automatic enrollment means the employee then has the responsibility to opt out.

Pete Welsh of OneAmerica of Indianapolis, says automatic enrollments have evolved to include more elaborate features, such as auto-escalation, which automatically increases a participant's contribution over a period of time.
But Welsh also said most plan sponsors would still prefer to go with an effective communications strategy to drive enrollment.

"Many plan sponsors recognize they don't have a fiduciary responsibility to get people to retirement, but they would at least like to," Welsh says. "We'll tell the plan sponsor to do a gap analysis and we'll provide the web tools and the calculators. And, if the employer will give us e-mail addresses—fabulous."

Engaging participants

Beyond automatic enrollments, getting participants and keeping participants engaged reverts back to tried and true methods, where there's still room to get creative.

Matt Larmann, president of Larmann Financial Corp. of Cincinnati, mixes low-tech and high-tech solutions to communicate with employees and participants. Larmann's company stands by the break-room meeting, where employees interested in participating in the retirement plan can have a face-to-face meeting with someone from his firm and talk over the products offered.
But Larmann also emails video clips to participants once they've enrolled. The roughly two-minute clips allow participants to learn more about their retirement planning options in a way that's not intrusive and in a manner that's conducive to their schedules.

Larmann also discloses all of his fees to plan sponsors and participants so they see they're flat and there's no reason for him push one investment over another. In fact, everyone knows how much money's he's making when he's selling retirement plans.

"Bottom line, these planned sponsor employers are doing this because they're trying to help their employees and feel a sense of responsibility to their employees," Larmann says. "It's hard to generate interest. That's our largest challenge—to keep them engaged and focused."

In terms of engagement, Joel Mee of The Standard points to their Mainspring Managed product, which relies on studies of behavioral finance to get people to start planning for retirement. Within this product, Mee says, participants can get customized advice for their retirement plans.
For instance, Mainspring Managed will tell participants how much they should save at what age. His company crunches the numbers so participants can see what they have to do.

“For a lot of people it’s an aha moment,” Mee says. “It’s the first time real numbers have been put in front of them.”

Ultimate responsibility

In the end, however, the ultimate responsibility for retirement planning lies with the participant. Fiduciary responsibility only extends to the plan sponsor and vendors who make investments available. The participant has the final authority over where the money goes in a defined contribution plan. While leaders in Congress are tinkering with how to fund retirements, the power is still in the hands of the individual. Any financial planner and most advisers will tell participants some basic rules for retirement planning.

Contribute to your retirement plan. In defined contribution plans, employers often match a percentage of the employee’s contributions. Failure to contribute enough to qualify for the match is like leaving money—and part of your compensation—on the table.

Start early. The earlier participants start saving for retirement the easier it will be later in life. Participants are often concerned with maintaining their standard of living after they retire. Starting early helps make that easier.

Get involved. Talk to your plan sponsor, broker or representative. They really are there to educate. In fact, it’s the law.

“A lot of people have not seen from prior generations what can happen if they don’t start saving early for retirement,” Supovitz says. “It was never viewed as personal responsibility in past generations. In the next generation, it will be far more prevalent that the responsibility lies with them.”

[Read "Does retirement income even exist anymore?"]
Nathan Solheim is a Denver-area writer. He can be reached at nsolheim@yahoo.com.