Running the Show

December 18, 2012

Six essential responsibilities of a plan administrative committee

"It's a tremendous task," says Ary Rosenbaum, managing attorney at The Rosenbaum Law Firm, P.C., Garden City, New York, of retirement plan administration. "There is approving trustees, recordkeepers, custodians, third-party advisers, financial advisers, auditors and ERISA [Employee Retirement Income Security Act] attorneys." And that is just for starters.

To deal with their many responsibilities, retirement plan experts believe having a separate administrative committee—or at least outlining and assigning responsibility for its duties—is prudent to ensuring that a retirement plan runs smoothly. This entails monitoring a host of service providers, including the recordkeeper, payroll provider and trustee, and may include, in partnership with the investment committee, acting as the plan's fiduciary. While Fortune 500 and Fortune 1000 firms typically form distinct and separate investment and administrative committees, small to midsize plans with fewer than 1,000 employees tend to roll up both retirement plan responsibilities into a single committee.

The administrative committee—sometimes called the fiduciary committee or retirement plan committee—also needs to determine plan expenses and fees, benchmark them against industry standards and now, due to 408(b)(2) and 404(a)(5), says sure that plan providers clearly disclose fees, Rosenbaum says.

In fact, the new fee disclosure rules are prompting some plan sponsors to, for the first time, form a bona fide administrative committee. "Fee disclosure is really a game-changer," Rosenbaum says. "Having to understand the fees associated with their plan is making sponsors more sophisticated and responsible, [in search of] formalized policies and procedures."

Says Larry Karle, vice president at Longfellow Advisors in Boston: "An administrative committee is considered 'nice' to have, but it is *key*. A lot of advisers are missing the boat on guiding their plans to form an administrative committee, which oversees the entire operation of the plan, starting with contributions and loans being submitted accurately and on time [and] oversee[ing] the vendors and third-party administrator to make sure they are doing their job to the standards of ERISA," he says.

"We have seen a lot of plans without formal committees. Those days are over," agrees Tim Slavin, senior vice president of defined contribution (DC) at Broadridge Financial Solutions, Lake Success, New York. "That casual approach will not insulate you from participant complaints or lawsuits."

Here follow six critical responsibilities of a retirement plan's administrative committee.

1) Agenda and Oversight. While the investment committee focuses on the investment menu, the administrative committee is tasked with the nuts and bolts underpinning the plan, according to Roger J. Rovell, president of Fiduciary Partners Retirement Group of Clearwater, Florida. (For more about investment committee responsibilities, see "Leading the Way," *PLANADVISER*, September/October 2012).

Administrative committee meeting agendas generally start with reviewing service providers, Rovell says, which includes vendor performance, cost analysis and fee benchmarking. Next up, he says, are accounting questions, concerning, for example, the timely and accurate investment of contributions, hardship loans, required minimum distributions, qualified domestic relations orders (QDROs) and the allocation of administrative costs to participants in a revenue-sharing agreement.

Then, on an ongoing basis over the course of the year, there is the matter of plan design, including automatic enrollment, automatic increase, in-plan Roth conversion, and matches, Rovell continues. As to the effectiveness of the plan, the committee needs to address participant database analysis, retirement-readiness assessment, and participant education and/or investment advice. Last but not least, Rovell notes, are the legal issues, including: fiduciary governance and training, legislative developments, plan audits and filing the plan's annual Form 5500 with the Department of Labor (DOL).

2) Reviewing Recordkeepers and Third-Party Administrators. To fulfill all of these tasks, the administrative committee needs to make sure the plan's vendors and third-party administrators (TPAs) are doing their jobs.

"What we bring to the table is oversight, organization and plan expertise," Karle says. "At least on a semiannual basis, sometimes quarterly, we do fiduciary monitoring of the plan, keeping an eye on plan design to make sure it is up to date. Plans are getting more and more complex. Advisers can assist plan sponsors and administrative committees and help them work more cost-effectively with vendors by bringing their knowledge of the retirement plan business and how these plans work, are structured and are priced."

The DOL, in a February white paper titled "Meeting Your Fiduciary Responsibilities," suggests an administrative committee and advisers properly vet the plan vendors, asking TPAs about their financial condition and retirement plan history, along with the identity, experience and qualifications of the executives who will be handling the plan's account. Ask which services are bundled and which are charged separately, as well as who pays the fees—the employer, the plan or the participant—says the DOL.

In the past, plan sponsors would hire service providers and retain them without question for years. That is now changing, especially in light of the new fee disclosure rules, says Robert J. Gordon, senior financial adviser with Investor Solutions in Miami. Administrative committees must continuously monitor service providers, vet requests for proposals (RFPs) and document these assessments, Gordon says. "The responsibility of reviewing proposals from competitive recordkeepers and third-party administrators falls to the administrative committee, which must assess their quotes and service offerings to fulfill this fiduciary objective."

Once a service provider is hired, the administrative committee and adviser must ensure "their pricing is correct, service is being delivered and there are no ERISA conflicts of interest or self-dealing," Gordon says. The committee might even go so far as to "hire a third-party accounting firm to vet the service providers, including the firm that does an independent audit," he says.

Bonnie Fawcett, senior vice president and director at PNC Institutional Investments in Pittsburgh, agrees that the new fee disclosure requirements have prompted plan sponsors to ask more questions about efficiency and transparency. Fawcett predicts this new concern will prompt many plans over the next two to three years to move away from bundled plans to those offering institutional share classes and competitively priced á-la-carte services.

3) Membership. The administrative committee should consist of three to seven people, who meet every quarter, experts agree. Typically, a member of human resources or employee benefits sits on the committee, along with the chief financial officer, the chief compliance officer or general counsel, a member of the investment committee and, to represent the company's rank and file, one or two department managers or leading employees. The administrative committee also needs a secretary, who will take minutes of its meetings and keep these on file for seven years, experts say. At some companies, the makeup of the administrative committee is the same as the investment committee. When the committees are separate, coordination and communication are vital, Karle says. For instance, if the investment committee selects a target-date fund (TDF) as a qualified default investment alternative (QDIA), the administrative committee needs to know since it oversees education.

In larger companies with boards of directors, the board often selects administrative committee members. In some cases, advisers themselves sit on or monitor administrative committee meetings, notes Slavin. The board monitors the administrative committee on an ongoing basis to make sure members are doing their job and meeting their fiduciary responsibilities. At the beginning of the year, the committee provides a 401(k) status report to the board.

4) Fiduciary Responsibilities. Hiring a bundled recordkeeper or TPA does not absolve the administrative committee of its fiduciary responsibility, stresses Karle. "People commonly think outsourcing equals redemption of liability." That is not true, which is why the expertise of an adviser is crucial for a sponsor and its administrative committee, he says.

"The administrative committee has ultimate fiduciary responsibility for the plan, even

if they hire service providers," notes Sarah Simoneaux, founding partner of Simoneaux & Stroud Consulting Services in Marco Island, Florida.

Advisers should make administrative committee members aware of their fiduciary responsibility and provide ongoing fiduciary training, according to Joshua Itzoe, partner and managing director of Greenspring Institutional Client Group in Towson, Maryland.

L. Scott Austin, a partner with Hunton & Williams, based in Dallas and Atlanta, advises working with an ERISA attorney to help the committee and its adviser "understand their fiduciary obligations under ERISA," he says.

"The big, big thing that the administrative committee wants to make sure of is that the plan remains qualified, such as with discrimination testing and making the required minimum distributions for those age 70 and a half," Fawcett says.

5) Plan Benchmarking and Best Practices. Increasingly, plan sponsors and advisers are interested in how closely they are running a plan in line with industry best practices, says Gordon. There are many resources for advisers and plan sponsors to use for fiduciary training and benchmarking their plans, some available through recordkeeper relationships and some separately.

"We report on plan health metrics, plan design and the expected results from automatic enrollment and escalation," says Blake A. Thiebault, senior vice president at Heffernan Financial Services in San Francisco. "Offering an optimal plan to boost retirement readiness has become increasingly important to sponsors."

Diversified, headquartered in Harrison, New York, equips plan sponsors and their administrative committees with quarterly report cards on how well their plan is operating, says Senior Vice President and General Counsel Marc Cahn. This includes detailed data and analysis on participation rates, deferral rates, loans and hardship withdrawals, he says.

An effective administrative committee and adviser have it within their power to "take a good 401(k) plan and turn it into a great 401(k) plan," says Don Healey, president of The Healey Group of Harrisburg, Pennsylvania. "It might mean going out and doing an RFP to make sure you have the right vendors, the right plan benefits, the right investment options—and that participants are making the best use of the plan to maximize their retirement growth years," Healey says.

6) Information and Education. The administrative committee is responsible for making sure participants receive information about investments, fees and expenses. The plan has the additional option of offering education and advice, according to the DOL. The information starts with a summary plan description that the department calls "a plain-language explanation of participant rights and responsibilities," including:

when and how employees become eligible to participate; the source of contributions and contribution levels, such as employer matches, automatic enrollment and default investments; the vesting period; and how to file a claim for those benefits.

Then, every quarter, the plan must provide participants with an individual benefit statement showing their account and vested balances, the DOL says.

In sum, plans with a dedicated administrative committee have more robust plans, higher participation rates and better protection, Gordon says. "I absolutely recommend having an administrative committee," he says. "If the DOL ever audits the plan, they are not looking for results as much as they are processes and prudent practices, because they know that no one can promise results."

Administrative Timetable

The following are a handful of the compliance deadlines that administrative committees must meet in 2013.

February 15 Quarterly Benefit/Disclosure Statement for participant-directed defined contribution (DC) plans. Good Faith Compliance due 45 days after the end of the quarter.

March 15 Employer contributions due for December 31 fiscal year-ends in order to take deduction with no corporate tax extension.

April 1 Initial required minimum distribution (RMD) due to participants who turned 70.5 in 2012.

May 15 Quarterly Benefit/Disclosure Statement for participant-directed DC plans. Good Faith Compliance due 45 days after the end of the quarter.

July 31 Form 5500 due to Internal Revenue Service (IRS) for plans with December 31 plan year-end (due seven months after year-end).

August 15 Quarterly Benefit/Disclosure Statement for participant-directed DC plans. Good Faith Compliance due 45 days after the end of the quarter.

October 1 Annual notices, including 401(k) safe harbor, automatic contribution arrangement (ACA), qualified automatic contribution arrangement (QACA), safe harbor and qualified default investment alternative (QDIA), due 30 to 90 days prior to plan year-end.

November 15 Quarterly Benefit/Disclosure Statement for participant-directed DC plans. Good Faith Compliance due 45 days after the end of the quarter.

December 31 Age 70.5 RMD due to participants who turned 70.5 prior to 2013.

Lee Barney

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