Part II: Taking Investment Advice with a Grain of Salt: The DOL Fiduciary Rules May Help Your 401(k) Plan Participation

If you have a 401(k) plan and are trying to increase participation, you are aware of this frustrating trend: a participant comes to you when she turns 59.5 or is about to retire, and wants to withdraw everything and roll it into an IRA, on the recommendation of her investment adviser. By the time the paperwork hits your desk, the decision has been made, and there is very little you can do.

Or is there? The new fiduciary rules might help to reverse this trend in your favor.

The U.S. Department of Labor ("DOL") published its much-anticipated final fiduciary rules last week, set to go into effect on April 10, 2017. These rules create a heightened standard of conduct for investment advisers.

How does that impact your participation problem? Currently, your participants might not realize that they can leave their money in your plan post-retirement. They also may be unaware that, while your 401(k) plan is subject to ERISA fiduciary rules, the privately-managed options recommended by their investment adviser may offer less fiduciary protection, higher fees, or increased commissions than other comparable (or even superior) products. And they certainly may not know that their investment advisers are not legally bound by common sense rules: that they make investment recommendations that are in the best interest of their clients, that they charge reasonable fees for their advice, and that they disclose any conflicts of interest. Without this information, it makes sense that participants would rollover their 401(k) assets to privately-managed IRAs or accounts.

So what should plan sponsors do? Consider a communication to folks at or near retirement age about the new rules, and suggesting that they consider leaving their money in the plan after retirement. When the rollover paperwork comes in, have a conversation with the participant about their options, make sure they have all the information they need to make an informed choice. Finally, with regard to the plan's own investment adviser/consultant, there is no reason to wait for the new rules to go into effect to begin drafting contract language that complies with the new rules. As contracts between your plan and any investment adviser/consultant are set to renew, plan administrators should ensure that the new contract language complies with the new rules, especially the rule that investment advisers disclose fees, conflicts, and acknowledge their role as fiduciaries.

The retirement community is still figuring out the impact of the new DOL fiduciary rules. In the long run, however, everyone – investment advisers, participants/retirees, and pension plans – should benefit from this rule change, because the new rules create a market for competition amongst investment advisers based on quality of advice, instead of price.

Part I: For investors/participants:

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Date Created
April 13, 2016