Establishing a New Retirement Plan from A to Z

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Establishing A New Retirement Plan from A-Z

- Overview of the Process
  - Who does what?
  - Timing
- Break it Down:
  - Vendor Selection
  - Plan Documentation
  - Investment Selection
  - Employee/Participant Communications
  - Operations
  - Internal (Plan Sponsor) Governance/Oversight
- On-Going Maintenance
## 401(k) Structure & Concept

### ABC, INC. Plan Sponsor

### ABC, INC. 401(k) PLAN

<table>
<thead>
<tr>
<th>INVESTMENTS</th>
<th>ASSET CUSTODIAN</th>
<th>RECORDKEEPING</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Mutual Funds</td>
<td>• Holds assets</td>
<td>• Account balances</td>
<td>• Plan documents</td>
</tr>
<tr>
<td>• Separate Accounts</td>
<td>• May or may not include institutional trustee</td>
<td>• Remittance &amp; distributions</td>
<td>• IRS LOD or term, Filing</td>
</tr>
<tr>
<td>• Pooled Account</td>
<td>services</td>
<td>• 800#web/statements</td>
<td>• Discrimination testing</td>
</tr>
<tr>
<td>• Stable Value/GIC</td>
<td></td>
<td></td>
<td>• Loans &amp; distributions</td>
</tr>
</tbody>
</table>

### ADMINISTRATION

- INVESTMENTS
  - Mutual Funds
  - Separate Accounts
  - Pooled Account
  - Stable Value/GIC

- ASSET CUSTODIAN
  - Holds assets
  - May or may not include institutional trustee services

- RECORDKEEPING
  - Account balances
  - Remittance & distributions
  - 800#web/statements
  - Trust reconciliation

- COMPLIANCE
  - Plan documents
  - IRS LOD or term, Filing
  - Discrimination testing
  - Loans & distributions
  - 5500

### Process Overview

<table>
<thead>
<tr>
<th>Task</th>
<th>Who</th>
<th>Time-table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendor Selection</td>
<td>Consultant with HR/plan fiduciaries (&quot;PF&quot;)</td>
<td>1-6 weeks: 2-3 week prep &amp; meeting to decide</td>
</tr>
<tr>
<td>Plan Design &amp; Plan Document Drafting</td>
<td>Determine plan design &amp; draft PD</td>
<td>2-3 weeks: 1-3 hr. meeting with HR/TPF + drafting time: Execute prior to Eff. date.</td>
</tr>
<tr>
<td>Investment Selection</td>
<td>Determine Plan Funds/ QDIA</td>
<td>1-3 hr. meeting with HR/TPF</td>
</tr>
<tr>
<td>Plan Operations &amp; Training</td>
<td>Payroll remittance/ad min training</td>
<td>1-3 meetings: 1-3 hrs each in person or phone/WebEx</td>
</tr>
<tr>
<td>Employee Communication &amp; Presentations</td>
<td>Communicate plan to eligible participants</td>
<td>Written Notices: 30-60 days in Person Meetings 1-2 days</td>
</tr>
<tr>
<td>Plan Sponsor Governance/ Oversight</td>
<td>Plan Adoption Inv. Policy, Committee Charter</td>
<td>Prior to First Payroll Remittance</td>
</tr>
</tbody>
</table>

### "GO LIVE" On-going Admin

- Plan Enrollment/ Web access
- First payroll remittance
- On-going admin: Loans/ Distributions
- HR/Finance Oversight

Plan implementation is generally a 60-90 day process from date of vendor selection.
Vendor Selection

- Vendor selection can be complex or simple depending upon size of the plan
  - Brand new plans ("Start-Up" plans) with no assets to transfer have limited service provider access
  - Setting up a new plan is less complex than a change of service-provider for an existing plan
  - Types of service providers for 401(k) Plans include:
    - Insurance companies
    - Group Variable Annuity platform
    - Limited mutual fund platform ("open architecture" mutual fund platforms typically available if transferred assets are greater than $1M)
    - Payroll company platform
    - Independent record-keepers
    - Mutual Fund Partnership Programs

401(k) Service Provider Search & Comparison Request for Proposal “RFP” Process

Selection of a new 401(k) service provider can be a 4-Part Process:

1. RFP comparison of services & price
2. Finalist presentations to the benefits committee
3. Site visits and/or reference checks (final due diligence)
4. Determination of new Service Provider

Determination of new 401(k) Service Provider
Selecting Finalists

- Evaluate RFP responses based on common criteria:
  - Organizational Fit
  - Recordkeeping Platform & Administration
  - Investment Flexibility
  - Technology/Web sites
  - Participant Communications & Education Resources
  - Service model/structure
  - Cost
- Criteria should align with committee goals
- Determine 2-4 Finalists
  - Decide if you wish to have Finalists do an in-person presentation to decision makers
    - Finalist presentations typically 60-90 minutes; sales & service members present

Site Visits

- A Site Visit is rarely done when implementing a brand new plan: recommendation by consultant more common
- If plan is large, on-site due diligence is common:
  - Plan sponsors visit the service location(s) for 2 to 3 finalists
  - Typical topics addressed include:
    - Business overview
    - Executive interaction
    - Service team interaction
    - Operations
    - Tour of call center
    - Conversion process
    - Technology demonstrations
    - Employee Education and Communication
  - Site visits typically require 2 full days per provider, including travel and time on location
Selecting Provider-Final Decision

- Quantitative and Qualitative measures may be considered:
  - Vendor RFP responses/services offering
  - Cost
  - Investment platform (mutual fund vs. group variable annuity)
- Determine which provider is the “best fit”
- Consider company culture, employer & employee needs
- Will the Plan Sponsor pay for services or will cost be paid by participants
- Role of a 401(k) Advisor/Consultant/Broker

Plan Implementation

- Once a service provider is selected, the next step is a meeting with the service provider or TPA partner to determine the implementation time-line and who will be accountable for each part of the process:
  - Employee communication & enrollment
  - Initial and on-going administrative processes

<table>
<thead>
<tr>
<th>TPA/Compliance Team</th>
<th>Advisor/Consultant/RK</th>
<th>TPA/RK/Advisor/HR</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Plan design</td>
<td>• Investment Selection</td>
<td>• Employee Communication/Enrollment</td>
</tr>
<tr>
<td>• Drafting of the plan documents &amp; participant notices</td>
<td>• Determine Funds</td>
<td>• Online or via paper</td>
</tr>
<tr>
<td>• Execution of the plan documents, including board resolution to adopt the plan and trust</td>
<td>• Special Documentation e.g. SVF participation agmt</td>
<td>• Face to face meetings</td>
</tr>
<tr>
<td>• 408(b)(2) Disclosures</td>
<td>• Fund set-up with trading platform &amp; custodian</td>
<td>• Participant Fund/Inv Info:</td>
</tr>
<tr>
<td></td>
<td>• Execute trust documents</td>
<td>• 404(a)(5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Beneficiary designation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Clarify who is drafting &amp; who distributes</td>
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Plan Design Considerations

- Who is eligible; when do they enter?
  - Date of hire or hours of service requirement
  - Semi-annual; quarterly, monthly, any pay-period
- Automatic enrollment/auto-escalate
- Definition of compensation
- Pre-tax; catch up; Roth contributions; after-tax
- Match or employer contribution
  - Vesting schedule
- Loans
- Distribution options
- Safe harbor plan design

New Plans Have Greatest Design Flexibility—Can you Change the Culture?

<table>
<thead>
<tr>
<th>Traditional High-Tech Start Up</th>
<th>New Thinking...</th>
</tr>
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<tr>
<td>Date of hire eligibility</td>
<td>Auto-enroll; Date of hire eligibility &amp; any pay-period entry</td>
</tr>
<tr>
<td>Monthly or per-pay-period eligibility</td>
<td>Non-elective contribution that is considered part of compensation</td>
</tr>
<tr>
<td>Discretionary match</td>
<td>Qualifies for Safe-Harbor</td>
</tr>
<tr>
<td>3-4 year vesting</td>
<td>100% immediate vesting</td>
</tr>
<tr>
<td>Loans</td>
<td>Loans</td>
</tr>
<tr>
<td>Hardships</td>
<td>Hardships</td>
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<tr>
<td>Pre-tax, catch up and Roth deferrals</td>
<td>Pre-tax, catch up and Roth deferrals</td>
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<tr>
<td>May or may not auto-enroll</td>
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New Thinking...
Co ordination Between Plan Design & Plan Operations

• Determine the objective of the plan sponsor for the Plan
  • Tax-benefits for Owners
  • Employee benefit for recruiting & retention
• Trade-off between plan design complexity and ease/simplicity of recordkeeping and plan operations
  • Is a proto-type plan flexible enough to accomplish the plan design goals?
  • Once there is turnover among the HR team, will anyone actually read a custom plan document and understand the plan’s design?
• Are the plan design features, recordkeeping capabilities and plan sponsor expectations in alignment?

Coordination Between Plan Design & Plan Operations-Manage Expectations

• Plan Set-up is the ideal time to manage expectations
  • Not just roles at set up, but on-going
  • Be explicit; For example, many plan sponsors will think that:
    • a third party administrator = Plan Administrator
• Who will be the Plan Trustee/Designated Fiduciary
  • Are they aware of what these roles require?
• Does the Plan Sponsor want to outsource as much as possible, or do they want to retain control.
  • What is the cost, or is it not a part of the service offering?
• Internal Documentation & Filing processes
  • Who, how and where will plan documentation be kept?
Investment Selection

- Investment Due Diligence
- Basic asset classes:
  - Money market/stable value
  - Bond/income
  - US equity
  - Foreign/international
- Asset allocation
  - Target retirement funds
  - Risk-based funds
  - Qualified default investment alternative
- Broker/Advisor typically assists with Investment Selection, but recordkeeper may furnish data
- Be aware of share classes and revenue sharing requirements
  - Small plans may have a smaller universe of funds to consider because of revenue sharing requirements and desire to streamline selection process
- Clarify who is responsible to draft and distribute any fund related notices/disclosure

Investment Policy Statement

- Outlines criteria used to select and monitor investments
  - Selection criteria
  - Monitoring criteria
  - Watch status
  - Timing for change once a fund has been on watch for a certain period of time or the committee makes a decision to change
- Will the IPS include policy on revenue sharing?
- Documents procedural prudence
- Helps to manage plan sponsor fiduciary liability
Investment Notices & Disclosure

• Once investments are determined, required notices for the plan sponsor and participants must be drafted and distributed
  • Plan Sponsor: 408(b)(2) will be impacted by investment selection if any revenue sharing is collected by the service provider from the plan’s investments and used to pay for plan expenses
  • Plan Participants:
    • 404(a)(5): Fund information & fee disclosure
    • QDIA Notice
    • SOX-black-out notice if there will be rollover assets/conversion
• Determine who will draft, or if only a template is provided, will plan sponsor be able to execute?

Participant Education & Communication

Education Plan
• Will participants enroll electronically or via paper?
• Will website training be available
• Will education/communication happen face to face or via technology or written memo
• Who will answer participant questions
• Who will draft participant communications
• Who will distribute notices/discl.

Required Notices
• Summary Plan Description
  • Safe Harbor Notice if applicable
  • Auto-enrollment notice/lang.
• Enrollment Form
• Beneficiary Form
• Investment Related Notices/Disclosure
  • 404(a)(5)
  • Sox Notice if black out
Plan Operations-Establish Administrative Processes & Training

- Payroll processing
  - Accurate and complete ("full") participant information being electronically remitted to the recordkeeper is key for a high performing plan
    - Include all employees with indicative data: (e.g. name, address, date of hire, date of termination, compensation, hours worked)
    - Recordkeeping systems can track eligibility, vesting, etc. with proper data feeds
    - Year-End Compliance testing is easier
    - Plan Performance metrics are more accurate and can be determined through out the year, not just at year-end
  - Work with payroll vendor and recordkeeper for file specs/format
    - Spend the time to determine proper pay-codes for plan compensation
    - Determine how information will flow from the recordkeeping system to payroll system

Don’t Forget… Bonding/Insurance

- ERISA Bond
  - Reimburses participants/plan losses if trust is depleted due to fraud
  - 10% of plan assets (assuming qualified plan assets) up to a maximum bond amount of $500,000
  - if the plan invests in employer securities, such as company shares, the maximum bond amount is $1,000,000.

- Fiduciary Liability Insurance
  - Not required but a good idea
  - Typically reimburses attorneys fees if there is a suit brought against the plan or plan fiduciaries
  - May provide some “deep pockets” for claims reimbursement
Plan Governance - Fiduciary Oversight

- Plan Governance
  - Establish a Plan oversight committee
    - Board of Directors or Compensation Committee
      - Board Resolution or unanimous written consent
      - Charter or Oversight Policy
  - If too small, or non-corporate structure, determine who (which company level fiduciaries) will meet regularly to review the Plan
    - Trustee, if plan will be self-trusteed, or designated fiduciary
  - Who will prepare/compile plan materials for the plan review
  - How frequently will review meetings be held
    - Annual, semi-annual, quarterly
  - Who will document the meeting

Fiduciary/Trustee Review Meetings

- Fiduciary/Trustee Plan review meetings should happen at least once a year
  - Review meetings should cover:
    - Plan design review & document any funding change or safe-harbor intention
    - Non-discrimination testing results
    - Audit recommendations if applicable
    - Investment review—
      - what funds are on “watch” or require action
      - Target Date Fund/QDIA due-diligence
    - Plan Costs & Revenue sharing
      - Benchmarking of plan costs-Third party source or RFI
    - Plan Metrics: how is plan performing/how are employees engaged with the plan
    - Fiduciary Training
  - Be sure to document meeting with minutes & materials
Your Plan is “Live,” What Now? On-Going HR Responsibilities

- Handle the routine and non-routine
- Lifecycle of the employee:
  - How will you provide plan information to new hires
  - How will service providers get participant information
  - How will loans be administered
  - How will hardships/QDROs be administered
  - Participant Terminations
- Payroll Remittance
  - Have a back up plan when normal payroll administrator is absent
  - Participant contributions must be remitted to the 401(k) trust as soon as possible (5 day rule for small plans)
- Annual Compliance

New Hires

- Provide new hire/eligible employee with enrollment materials, including 404a-5, Plan specific notices & SPD
  - Plan Sponsors may wish to outsource distribution of plan materials to employees
  - Is this a service you offer (be specific during implementation and have it in your services agreement)
  - How will you coordinate with RK partner for admin. processes
- Enrollment process (if no auto-enrollment)
  - Determine a contribution amount
  - Select investments
  - Name beneficiary
- Ensure money is taken from paycheck and sent to the trust timely
  - more robust file feeds from payroll systems to RK are increasingly common
  - Desire to synch payroll & recordkeeping systems
Terminating Employees

- Include 401k distribution information in exit packet
- Cash out de-minimus balances
  - Authorize roll-over to automatic IRA, if applicable
- Notify recordkeeper of termination date
  - Enter Termination code/date in payroll file to import to recordkeeping system
- Some recordkeepers will notify terminated participants on behalf of the plan sponsor
- Some recordkeepers will allow automation of rollover/distribution requests for terminated participants
  - Trade-off between convenience & managing more complex plan design

On Going Administration: Plan Compliance

Say what you are going to do; Do what you said you would do...

- Plan Documentation
  - Plan Document
  - Participant Notices/SPD
- Non-discrimination Testing
- Form 5500 Reporting
  - Simplified Form For <100 Participants
  - Long Form + Independent Audit: 100+ Participants
  - Must File Electronically
  - Summary Annual Report To Participants
Non-Routine Administration

- Audits By IRS Or DOL
- Plan Violations Or Defects
- Changing Plan Providers
- Corporate Merger Or Acquisition
- Plan Terminations
- Non-routine Administration

Consult your TPA ERISA Attorney and/or Investment Advisor!

Plan Set Up—Final Thoughts

- Checklists are your friend!
- A conference call with all parties to establish roles and timetable will facilitate this detailed process
  - Look at a calendar and back into key/deadline dates
    - Realize that required notice periods mean implementation is at least 45 days; most set ups are 3 months.
  - Who will act as the lead project coordinator?
    - Advisor
    - Recordkeeper
    - TPA
    - Plan Sponsor
  - Ongoing (e.g. weekly) conference calls or emails are a good idea to keep the process on track
  - Help the plan sponsor to understand and manage on-going responsibilities by setting proper expectations as part of the set up process
Questions?
Establishing A New Retirement Plan from A-Z

New Relationships, New Ideas, New Look. A New Way to Look at NIPA