

Best Practices for 401(k) Plans

RetirementDNA

mapping retirement & executive benefits for biotech & life sciences leaders

Best Practices Today Keep The Lawyers Away... and Your Employees Happy

Improving Plan Design and Fiduciary Compliance Through the Implementation of Best Practices

A retirement plan offered through work is almost universally regarded as the most important employee benefit after health insurance. In a competitive market and economic climate, it is more important than ever to attract and retain great employees. A competitive 401(k) plan should be considered a key component of any retention strategy.

But what makes a competitive 401(k) plan and what are the secrets of excellent plan design? What are the key issues to address from the standpoint of fiduciary liability? To answer this question, I am pleased to offer you the "2006 Best Practices Report for 401(k) Plans."

The Best Practices Report is segmented into two components: Plan Design and Fiduciary Liability Management. After reviewing the 2006 Best Practices report, please contact our firm for a free consultation during which my team will conduct a free plan audit and evaluation. If necessary, we may rec-

ommend modifications to your plan in order to help you improve this most important employee benefit.

Thank you for the continued opportunity to deliver top shelf employee benefits to your company.

Best Practices: Plan Design

When it comes to plan design for your company 401(k) plan, we always recommend that the plan be customized to fit your needs. Nevertheless, it is important to start with a framework of what constitutes good plan design. After all, a poorly designed plan will not prove to be attractive to your employees and will therefore not serve your overall objective: to attract and retain great employees.

Plan Design Components

Eligibility

Participation in the plan should be allowed within the first year of service; we advocate making it six months or less

Employer Matching

A company match is key to maximizing plan participation; we would advocate either a fixed match or a discretionary profit-sharing formula

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Loans / Withdrawals

The plan should allow for both loans and hardship withdrawals

Contributions

The plan should be designed to maximize benefit for all employees, including owners and top executives

Investment Statement

The plan should have a written investment policy statement

Investment Options

A minimum of eight investment options should be offered, not including company stock; we would advocate 12 or more investment choices encompassing different investment styles and asset classes

Fund Management

Money management for the available investment options should be a multi-manager platform; we would not advocate a single money manager plan

Asset Allocation

The plan should provide asset allocation models and/or asset allocation portfolios for those with little investment experience

Investment Education

Participants should have access to educational information and investment choices from a variety of sources; materials should be available in print, from the Internet, from an 800 number and in-person; included in investment education should be information and materials for departing and retiring employees as to their distribution options

Best Practices: Fiduciary Liability Management

Establishing, maintaining and continually improving a 401(k) plan is an essential aspect for any business. It is a particularly important process as 401(k) plans are governed by a set of regulations known as ERISA enacted by the Department of Labor. Fiduciaries and trustees of a company 401(k) have personal exposure for any ERISA violations, making it all the more important to implement Best Practices in performing all required fiduciary obligations, thereby minimizing or eliminating plan exposure.

Fiduciary Liability Components

Plan Documents

Only IRS-approved documents should be used and all documents should reflect any and all tax law changes since the plan was adopted

Plan Description

A Summary Plan Description should be prepared and be distributed whenever requested or required

Plan Committee

A formally designated Plan Committee should be established and charged with all responsibilities for the plan; the Plan Committee should meet at least once per year

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Fiduciaries

All plan committee members, trustees, officers and owners are notified of their fiduciary responsibilities under ERISA

Participants

Plan documents discuss eligible participants while excluding independent contractors, temporary and union employees

Common Group

The plan needs to specifically include all other businesses having majority common ownership

Investments / Fees

The Plan Committee and/or plan fiduciaries review all plan investments annually and compare investments against appropriate benchmarks in accordance with the Investment Statement of the plan; investment options that are either underperforming or that have failed the investment statement are placed on watch or removed; plan expenses and fees are also reviewed annually

ERISA 404(c)

The plan should comply with ERISA 404(c) and the fiduciary protections available and should be noted on Form 5500

Filings

Form 5500 should be prepared accurately and timely each year, if required

Fidelity Bond

A fidelity bond covering all fiduciaries for 10% of plan assets should be in place

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