When done correctly, benchmarking your retirement plan can be a very rewarding and insightful process. Unfortunately, many employers associate benchmarking with replacing their existing record-keeper. That doesn’t have to be the case. Benchmarking and overall plan assessment activities can provide the information needed to identify areas of improvement with the existing record-keeper or within the employer’s operation of the retirement plan. Taking this approach could save everyone time and cost while avoiding a full-blown conversion and black-out period.

**What is Benchmarking:** It is the process whereby the employer (the plan sponsor) measures the competitiveness and effectiveness of their retirement plan against their goals and industry benchmarks. It includes, among other things, analyzing the plan’s investments and fees, calculating the compensation paid to service providers, and evaluating the design and operations of the plan. This is done so the employer is able to determine the overall performance and effectiveness of the plan and the reasonableness of compensation paid to the service providers.

**Why Benchmark:** Per ERISA, a plan sponsor is required to follow an evaluation and monitoring process while considering the “facts and circumstances then prevailing” — an independent and comprehensive benchmark of the plan helps fulfill this requirement while providing documented evidence that may be kept in a plan sponsor’s fiduciary file for future reference. The benchmarking process also helps plan sponsors see how their plan compares to other retirement plans that may be of similar size.

**Background:** The climate in the benefits world has grown increasingly litigious and has left plan sponsors, who are fiduciaries of retirement plans, facing more scrutiny than ever before. The flood of litigation began with large employers but has made its way down to smaller employers in recent years. The recent court cases are related to plan fiduciaries that breached their fiduciary duties in one (or more) of the following ways:

- Entering into agreements with third parties that allowed the plan to pay unreasonable or excessive fees;
- Failing to monitor plan fees and investments;
- Failing to inform themselves of, and understand, the various methods by which service providers collect payments and other revenue; or
- Not operating the plan in accordance with the plan document.

ERISA doesn’t spell out how plan sponsors must fulfill their fiduciary duties; however, through advisory opinions and regulations, the Department of Labor explains these duties in more detail. In DoL Advisory Opinions 97-15A and 97-16A, the DoL says that the plan fiduciary has a legal obligation to reach “informed” decisions. The DoL describes the investment duties of fiduciaries as follows:

“With regard to an investment or investment course of action taken by a fiduciary of an employee benefit plan pursuant to his investment duties, the requirements of section 404(a)(1)(B) of the Act...are satisfied if the fiduciary (A) has given appropriate consideration to those facts and circumstances that...the fiduciary knows or should know are relevant...”
Use an Independent Expert: Plan sponsors are not expected to be experts. ERISA and the DoL allow them to utilize independent experts familiar with such matters. This helps ensure the integrity and thoroughness of benchmarking and assessment activities. Unfortunately, the Department of Labor may not consider ignorance of the items related to a plan benchmark to be a basis for relief from ERISA’s prohibited transaction rules.

Independent experts may be most beneficial to the employer. Being independent means that the consultant or advisor performing the benchmark is not receiving any compensation from the service providers and is not limited to working with certain investments or service providers. In other words, they’re obligated to act in their client’s best interests.

Data Gathering: It is important to receive complete and accurate data from the retirement plan record-keeper, TPA, and investment managers to enable a thorough and successful benchmark. Some sources of data include:

/ Recently received 408(b)(2) fee disclosures;
/ Service providers’ service agreements;
/ Trust statements (lists assets by investments used in the plan, number of participants, etc.);
/ Plan adoption agreement (describes plan’s design);
/ An investment’s prospectus; and
/ Mutual funds’ statement of additional information.

Evaluating and Comparing Data: Once all of the necessary plan data has been gathered, it should be entered in to a system that enables it to be evaluated and compared. It is important to utilize a reputable system, benchmarks, and a comprehensive set of data samples that can produce a thorough report whereby an assessment of all aspects of a plan can be reviewed and benchmarked.

Discuss the Results: At this point in the process, if the benchmark was done correctly, the plan sponsor has the information it needs to make some informed decisions. Upon receiving the results of the benchmark and assessment of the plan, schedule a meeting or conference call with internal stakeholders with the plan’s consultant/advisor to discuss the report. Some questions to ask regarding the benchmarking results may include:

/ What are the goals of the plan today?
/ Is the plan meeting those goals?
/ What areas of the plan can be improved?
/ Are the fees paid to service providers reasonable?
/ Is the plan designed and being administered in the best interest of our participants and beneficiaries as required by ERISA?

Implement Improvements: Once a benchmarking report has been evaluated, the plan sponsor and its consultant can determine what improvements need to be made to the plan. This starts with working with the existing record-keeper or TPA to explore ways to implement such improvements in a timely manner. Remember to consider the overall value of the services while reviewing the fees—there is usually a cost to a low-cost approach. The decisions made as a result of benchmarking should be documented in your fiduciary file.
Contact us to schedule a one-hour consultation.

In an initial meeting, we strive to provide valuable industry updates and insights, as well as a unique perspective on how you may improve your retirement plan without moving to a new service provider.

Services Overview

- Fee analysis and benchmarking
- Investment due diligence
- Plan design and compliance consulting
- Fiduciary oversight and governance
- Employee education and advice strategies

Benefits for Your Organization’s Retirement Plan

- Reduce fiduciary risk and overall plan cost
- Improve overall plan success based upon your unique goals
- Maximize the services you receive from your service providers
- Implement best practices to help modernize your plan

DISCLOSURE

Objectives: The primary objective of this newsletter is to help the Plan Sponsor and its Retirement Plan Committee become more aware of issues related to fulfilling their fiduciary duties. Past performance does not guarantee future returns and retirement plan fiduciaries should consult their advisors and consider additional information before making any decisions. This newsletter should not be considered legal or tax advice.

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