The Good Fundamentals of Being a Retirement Plan Financial Advisor

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In 1983, the Chicago White Sox won the American League Western Division under the guidance of future Hall of Fame manager Tony LaRussa. Doug Rader, then-manager of the Texas Rangers, accused the Sox of "winning ugly" for their style of play, which meant they won games through scrappy play rather than strong hitting or pitching. Strong hitting, strong pitching, and strong fielding are the good fundamentals of baseball and good fundamentals usually trump winning ugly (the Sox lost 3-1 in the Championship Series against the Baltimore Orioles). As a retirement plan financial advisor, you don't have the luxury of winning ugly. You need good fundamentals to function in the retirement plan space and this article will help you lead that way. This article will help you learn the good fundamentals of being a retirement plan financial advisor.

1983 A.L. Western Division Champions

It's about a process and not financial results

The bulk of retirement plans out there today are participant directed and not trustee directed, so your rate of return for the money you manage is irrelevant since participants are picking investments based on the fund lineup you set up. Based on the number of mutual funds out there and the constant reports issues about them, picking funds as part of your job is overrated. What you need to understand that your role as a financial advisor is to help minimize the fiduciary liability exposure of the plan sponsor. The way to do that according to the Department of Labor (through their audits) and through participant litigation is by having a good process in place. What's a good process? We'll get to that.

The Investment Policy Statement: The Justice Brennan approach

One of the most important fundamentals for a financial advisor is the drafting of an investment policy statement (IPS). Whether the plan sponsor implements it or the advisor does (if you serve as an ERISA §3(38) fiduciary), it's your role to help draft it. The IPS should list the criteria for selecting and replacing investment options of the plan, as well as the goals and objectives of the plan. While it's necessary to have an IPS to outline that there is a proper fiduciary process in place, that's just one step. Drafting an IPS and never remembering it again is of no use. The IPS has to be followed, it's of no use in mitigating your plan sponsor client's exposure if you don't. An IPS that is not followed is as useful as a seat belt that a driver or car passenger does not wear, it is no protection. Another mistake about an IPS is putting too much effort into it. It is not the Magna Carta, the United States constitution, or the works of Charles Dickens. It's a blueprint, that's all. As far as being a blueprint, it should be written as the way Justice William Brennan interpreted Constitution (rightly or wrongly). It should be drafted with enough flexibility that the IPS serves as a blueprint on when to consider changing investment options and not as a suicide pact. The problem with drafting the IPS too narrowly such as mandating plan investment changes rather than considering investment changes could paint you in a corner if you didn't make the change that your IPS mandated. Sometimes people consider having an IPS that you didn't follow worse than not having an IPS at all. While that's debatable, don't start that debate by not following the parameters you helped set forth. Help make the IPS a recipe for a good fiduciary process and not a recipe for disaster.

Providing Investment Education at the very least

One of the biggest conceptions about retirement plans is the use of participant directed plans. People assume that ERISA §404(c) will shield a plan sponsor for liability from losses incurred by plan participants if they direct their own investments. The problem is that if plan participants don't get enough information to make informed investment decisions, the plan sponsor isn't likely to get much liability protection. What types of information do plan participants need? With all due respect to the human resources director at my old law firm, handing out Morningstar profiles to participants and wishing good luck isn't going to cut it. At the very least, you need to provide plan participants investment education. Investment education isn't like investment advice. Investment education may include providing plan information (such as the benefits of plan participation); providing general financial and investment information (such as diversification, dollar cost averaging, and asset classes); information about asset allocation models and interactive investment materials. Investment advice is about making recommendations to plan participants on what investments to choose. Until a few years ago, you could not provide investment advice because the DOL was concerned that advisors would recommend investments to plan participants that paid the advisor more money. Since plan participants who are not provided investment advice have a worse rate of return (annually 3%) than those who do, the DOL implemented a rule that made it easier for advisors like you to offer investment advice. The problem is that offering investment advice on your own is burdensome. By offering advice, you must serve in a fiduciary capacity (which could be a problem if you are a broker). You also must meet the definition of what is called "an eligible investment advice arrangement" which is providing advice through a computer model certified as unbiased; or if you are compensated on a level-fee basis (that is, fees do not vary based on the investment selected by the participant). Not only must you provide advice in one of those two options, you also must demonstrate through an audit that you complied with the regulation. Since the cost of compliance maybe too burdensome for your practice, you can always have the plan sponsor retain the service of a provider whose only role is to provide investment advice such as rj20.com. At a minimum, investment educations should be provided. If possible, investment advice should be provided. The more information that a plan participant has at their fingertips will get them a better rate of return, which decreases potential liability (since participants who invest wisely are less likely to sue).

Working with other providers

Thanks to increased ERISA litigation and more oversight by the DOL, the days where a retirement plan financial advisor could help set up a plan, collect a quarterly fee, and never see the client again are long

gone. The retirement plan industry is in such a flux that the days where you had financial advisors who dabbled in retirement plans are gone as well. The increased rules and regulations have made the role of being a retirement plan financial advisor a little more specialized with more responsibilities and less money for people like you. While the increased concern about retirement plan doesn't require you to be an ERISA expert, it requires you to set up a team of other retirement plan providers who can help you and your clients. I love Westerns and consider the old days of retirement plans where you can be successful as a lone gunman like The Man With No Name in A Fistful of Dollars. Now with the increased scrutiny on retirement plans, you are better to be a part of a team like The Magnificent Seven or The Wild Bunch. In the film Back to School, Rodney Dangerfield said that if you wanted to look thin, surround yourself with fat people. If you want to look like a financial advisor who is a retirement plan expert, surround yourself with retirement plan experts. Establish relationships with third party administrators (TPAs) and ERISA attorneys (cough, cough) who you could rely on for some help in keeping your current clients happy and getting hired by potential clients. As for TPAs, I support using administrators who have expertise in retirement plan designs because retirement plan design is like playing chess, a good move (plan design change) can help a plan sponsor save money through an efficient use of employer contributions. Bad TPAs don't know the fundamentals of retirement plan design and their poor administration will give you headaches and possibly get you fired if you recommend them. As for ERISA attorneys, I'm of course partial to the attorney who is more interested in developing a relationship you rather than charging you by the minute for any concerns or issues you have. Consider the retirement plan industry like kindergarten, you can do well for yourself if you play well with others. The retirement plan business is a relationship driven business so relationships with some good TPAs and a good ERISA attorney will only increase your business. These relationships may not lead to direct referrals, but they will lead to bigger business. When you talk with a current or future client and you can get an ERISA expert on the phone such as a TPA or ERISA attorney, it only makes you look better.

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