Do What The Other 401(k) Plan Providers Are Not Doing

By Ary Rosenbaum, Esq.

When I started my practice 13 years ago, I knew that I wanted to be different. I looked at what the competition was doing and decided to do things differently. If the other law firms were charging by the hour, I was going to charge a flat fee, so clients had cost certainty. Law firms charge for every phone call or email, I would have an open-door policy for other plan providers and plan sponsors. I was also going to draft articles that other plan providers could use to recruit and retain clients to build goodwill for possible referrals. I think to get ahead, you need to be creative and ahead of the curve. Do what the competition isn't doing, this is what the article is all about.

Be clear on fees

Yes, fee disclosure for 401(k) plan sponsors and participants has been around since 2012. Many forward-thinking plan providers were ahead of the curve in 2010 when they went fully transparent on fees and didn't need regulations to make them release them. I will say that the 2010-2012 march to fee disclosure is very amusing to me in retrospect because of how many naysayers to fee disclosure, claim that plan sponsors would terminate their 401(k) plans, rather than deal with the fiduciary requirements of benchmarking fees. Sunshine, they were always supposed to benchmark fees. That being said, there are need to improve the fee disclosure world. I think the biggest mistake the Department of Labor (DOL) made was not creating a template for one standard on fees, the way the Food and Drug Administration requires a template for food product information. In my mind, a true fee disclosure means a disclosure forum that doesn't require a forensic accountant to figure it out. The one thing I liked about buying a car (honestly, it's just one thing) was the fact that there was a one-page sticker price that fully listed the price and features of the vehicle. Of course, financing or leasing the car would make things less transparent, but I did like the uniformity of the sticker invoice. By the way, speaking of invoices, I will never understand why people would buy a car and keep the sticker invoice on the window. Were they bragging or thinking they could return the car? Just wanted that out there. I think as a plan provider, do what the other guys and gals aren't doing. I would prepare a fee disclosure that can be produced in just a couple of lines. In most of my plan provider agreements, the one-page addendum can double as the fee disclosure. Less is more and breaking down fees like Earl Scheib (if you understand the reference), goes a long way. Consider a fee disclosure form so small (not so they can't read), that it can easily be read and understood by anyone.

Focus on the fiduciary process

I think everyone talks too much about fees. We have been designed to do it, since 2012. Fee disclosure was a game changer. The chicken littles of our industry claimed that plan sponsors would terminate their plans because of fee disclosure. They also claimed that there would be a race to zero. Fees have been more competitive because of compression, but the cheapest providers didn't get the most business. I think too many providers focus on costs, that they're cheaper than the competition, and I don't know it's the greatest selling point. I don't mind paying more if I'm getting better service and that's why I've used the same mechanics (Ralph) for 25 years. There might be cheaper mechanics, but there aren't more honest mechanics than him. People aren't going to switch financial advisors or third-party Administrators (TPA) to save a nickel. If your fees are exorbitantly high, you may get clipped. From a marketing standpoint, I think too many plan providers provide short shrift to the fiduciary component of the plan. I have been in the 401(k) business for 25 years

and the one area that still needs improvement is the fiduciary component of the plan. Sure, there are far more advisors who know what they're doing, as compared to the past, and they understand the need for meeting with the client and developing an investment policy statement (IPS). I think the part of the fiduciary component, that is being neglected is the participant direction of investments. Not only do plan sponsors need a process with an IPS used to select and replace plan investments, but there needs to be help for participants. I always joke about my old law firm that didn't have an advisor and didn't change their lineup for 10 years, that was a lawsuit ready to happen. In addition, as a participant, I got Morningstar profiles for these old funds. I can read a fund profile, but most participants can't, especially the fellow employee who said he had the best investing strategy, by investing 100% in mid-cap funds because he claimed it was the average of the market (it's not, it just invests in mid-cap companies). If I was a TPA or financial advisor, I would focus on the fiduciary process and participant engagement. Most enrollment/education meetings are like funerals, so a way to educate participants through positive engagement goes a long way. Increasing engagement and participation is a metric you can show plan sponsors, and help them mitigate their liability.

Social media

I've been on LinkedIn since it first started and I actually couldn't post when I was a lowly associate at that law firm because a partner (who drew no business) said it was advertising. Social media, if done correctly, isn't advertising. I have to say my biggest peeve operating my business is the constant bombardment of commercial selling. It's either the unsolicited emails (without a safe unsubscribe option) or the LinkedIn invitations from people who just want to sell me, something. I send out newsletters and information about my events, I have a read-through rate of 20%. If I was selling stuff directly, I'd average a lot less. The folks who want to connect with me on LinkedIn don't understand the whole point of LinkedIn: business networking. Some of my best friends in this industry came through a LinkedIn connection, that was built over trust, respect, and no selling. Emails from people selling services to law firms who can't understand I'm not a negligence lawyer are a waste of time. My greatest business cards are the articles I have written over the past 13 years. They were done, as a way to be a conversation starter and to build my reputation. I figured that this retirement plan business is built on connections. What better way to connect with other plan providers than by writing engaging content that these plan providers could use to get business? The articles, written in English, not in ERISAese are what allowed me to become a success in my own right. Content, that is written in a language that people can understand, goes a long way in promoting your business. It also has to be eye-catching and easy to read, so my InDesign training when the program was called Pagemaker in college, went a long way. You can catch more flies with honey and you can draw more business with social media.

Zoom webinars and meetings

I got a Zoom subscription like everyone else seemed to do after the pandemic broke in Spring 2020. The pandemic broke right around my first and last That 401(k) National Conference. With events in St. Louis, Houston, and Minnesota on hold, I look into hosting virtual conferences. I was surprised to see how little a Zoom subscription was, about the size of the potential audience. I hosted my first That 401(k) Virtual Conference in April 2020 and drew 300 advisors. Later editions had lower attendance, but they still drew a great audience. As someone who has hosted That 401(k) Conference at various Major League Baseball and National Football League stadiums (cheap plug; Arlington in May and The Bronx in June), I will say virtual events are so much cheaper to host. Bring a couple of interesting topics, invite plan sponsors and other plan providers, and you don't have to be sorry if attendance is low because you're not making any deals with event catering. Frequent Zoom webinars and meetings are cost-effective and a better way to get business than those cheesy mass emails that go nowhere.

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