401(k) Topics For Plan Providers Today

By Ary Rosenbaum, Esq.

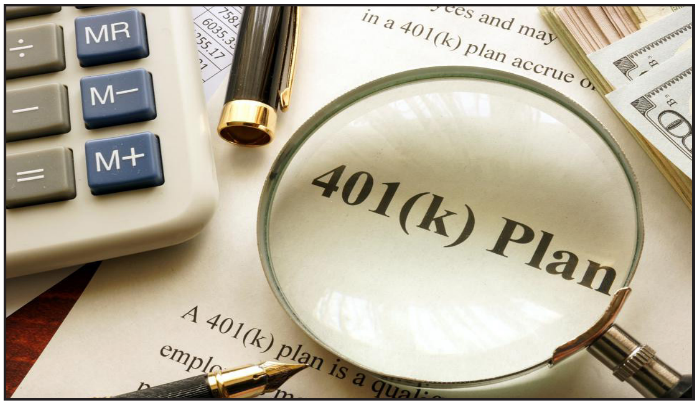
When I first started my law practices almost 11 years ago, I knew I wanted to be different than other ERISA attorneys. One of the hallmarks of my practice besides my articles and flat fee billing is the open door policy of answering questions from retirement plan providers. I don't charge for questions or to talk because the retirement plan business is all about building relationships. A lot of the questions and discussions cover the same areas, so I thought that this discussion would certainly help a lot of plan providers who have some questions in their head as to what is going on in the retirement plan business.

The micro plan market

The micro plan can be very rewarding, but it will always amount to a lot of work for very little pecuniary gain in the get-go. Whether you're a financial advisor or a third-party administrator (TPA), the first question is whether getting involved in the micro plan market in the first place. I know many providers that don't want to be involved in it and there is no harm, they're being honest that this is a marketplace that they can't service. I remember the head of a TPA who told me he had zero interest in the multiple employer plan (MEP) business because he "wanted clients that pay." That didn't mean MEP adopting employers don't pay bills, it means he wanted steadiness in his billing and small plans can't guarantee that. The biggest struggle with micro plans is pricing. Plan providers referring micro plans to other plan providers sometimes reminds me of the old New York Lotto commercial: "all you need is a dollar and a dream." These plan providers tout these micro plan opportunities like an old WWF wrestler touting his next match at the monthly Madison Square Garden card. While many medium-sized plans and even some large plans were formerly micro plans, most opportunities in the micro plan market don't pan out after years of servicing them. The point here is that you shouldn't ignore the micro plan market, but be very cautious in pricing. With caution, don't price plans too low or too high. Like how Goldilocks liked things, it's got to be just right. Too many plan providers cannibalize their business by pricing micro plans so low that it negatively impacts the rest of their business. Other plan providers price these micro plan opportunities too high. I was on a call with a financial advisor a few weeks back and they asked about flat fee billing for small plans. I warned them that too high of a minimum could be an issue especially if the minimum was more than 100 basis points of the inflow for the first year of the plan. There is nothing guaranteed in the micro plan market, it's an inherent risk and that is a risk you're going to have to take by being involved in it. You get paid less for working the same (or more) as you would with medium-sized plans, but that's the market.

The pipeline only drips a little

Being in the retirement plan business is all about relationships and all about connections, but it has to be the right relationships and connections. While I was an associate at that semi-prestigious law firm, I did a lot of small business networking with many small businesses. It was a bad fit because most almost all of the small businesses in that group were sole proprietors and most sole proprietors don't have money for retirement plans. To build your practice, you need to find the pipelines of business, which are pipelines of referrals. When I started, I tried everything. Advisors and TPAs were great pipelines, accountants and attorneys not so much. The problem with pipelines is that it will not only take time to drip, but it will drip very little. How many people over the years where an advisor or TPA would tell me about this giant pipelines of business such as a payroll provider or association that provide access to thousands and thousands of plan sponsor. Pipelines are great, but you need a dose of reality. I had one client with a MEP and the pipeline they had with the payroll provider had 3,000 potential clients and after two years, they netted three. Pipelines are great, but the sales process is a slow grind.



The future after COVID

When I was a kid, I always imagined what life would be like as an adult, as if the 21st century would be what life was like in the 1980s. I never imagined as a kid or as an adult that living a year in semi-quarantine was in the cards. While there seems to be light at the end of the tunnel with a vaccine that works, one issue is that COVID will have a continued and permanent impact on the retirement plan business. When I first started working in the late 1990s and continued through the first decade of the 21st century, most employees couldn't work from home. I didn't have home access to my work email until I started my law firm in 2000. What we learned is that almost all of us could work from home. We also learned that Zoom and Google Meets and Microsoft Teams were an effective method of meeting clients, conducting enrollment meetings, holding meetings, and hosting conferences (That 401(k) Virtual Conference). I believe the permanent effect of COVID is that many of these meetings will be moved permanently to these online meeting rooms. It's cost-effective for plan providers and most importantly, it saves time. When I stopped traveling to Manhattan for work, I realized how much more time I had by no longer traveling time on the Long Island Railroad. Whether it's air travel, car, or train, that is time that is lost. I think so many plan providers are going to consider whether all that travel for sales and enrollment meetings are worth it if they could accomplish most of those meetings through Zoom. I also believe that attendance at mid-major 401(k) conferences will be curtailed as well. I doubt that I will hold an in-person National conference when a virtual one is a great replacement that costs less and doesn't demand as much time and money from both sponsors and attendees. We're not out of the COVID tunnel, but we're close to getting out and most of us are considering the permanent impact on our business.

Consolidation in the business

For a few years, it seemed that every week, a TPA was being purchased. Now it seems that the purchasing has shifted towards registered investment advisors. Consolidation in this business cuts down on competition and it cuts down on the number of people employed in this business because of consolidation and the elimination of positions that are deemed to be redundant. While some providers are going larger, that may be an opportunity if you're a small provider. Larger providers don't act as quickly and are quicker to cut certain lines of business if it's not as profitable because of their costs or concern of bringing more value to shareholders. With a loss of jobs, that may open up opportunities to hire solid retirement plan professionals who were laid off simply because of consolidation. The point here is that consolidation creates opportunity and there is no reason you should pass up an opportunity.

PEPs will be a niche, that's it

As that January 1, 2021 implementation date was getting closer, there was more and more hype about Pooled Employer Plans (PEPs). You would think it would be the greatest thing since sliced bread. While it's a great idea that was a long time coming, I believe that PEPs will just be a niche and a solid situation for the limited plans where it will be a great fit. The reason why I think it's a niche is that most PEPs will fail, they will fail to get the traction they need in size and scope to deliver actual savings to employers that become part of one. So many plan sponsors will be wary to join a PEP because of the hesitancy of giving up control, as well as limited cost savings in joining a PEP. The best way to market a PEP is the fiduciary delegation play because most PEPs will fail to deliver the cost savings because it didn't achieve the critical mass size it needed to effectuate those savings. Retirement sales is a long and tedious process, it's going to take a long time for any PEP to be large enough, except for the MEPs who converted to PEPs. As a plan provider, the PEP won't be the magic pill for your practice, avoid the temptation that will make it cannibalize your single employer business.

Biden administration will have an impact

A new administration in the White House will always bring change to the retirement plan business through the Department of Labor and the Internal Revenue Service. What these changes will be is up for debate. There may be changes to the fiduciary rule and there may be changes in how 401(k) plans. It's always impossible to guess what changes will be made because it's dependent on the political realities that are in play. I doubt with such slim majorities in Congress for the Democrats that there will be such substantive changes in the way that retirement plans and this industry are regulated.

The business is only getting better

When I first started my practice in 2010, I was very vocal about some of the abuses I saw in the retirement plan business. The abuses I saw were because of a lack of transparency and anyone critical of the industry was labeled a hater by one of the industry-backed groups. Thanks to fee disclosure regulations, plan sponsors can know what the fees that the plan is paying and make an educated decision on whether those fees are reasonable or not. Fee transparency and technology have helped lower fees, which have helped 401(k) plan participants in paying less in fees. Technology and changes in the law such as automatic enrollment and investment advice have helped increase retirement savings. We have come so far in improving this business and IO believe that further changes down the line will only make things better.

THE ROSENBAUM LAW FIRM P.C.

The Rosenbaum Law Firm P.C.
734 Franklin Avenue, Suite 302
Garden City, New York 11530
(516) 594-1557

http://www.therosenbaumlawfirm.com
Follow us on Twitter @rosenbaumlaw