Fees

Chances are that sometime recently you saw an ad for a product or service you had some interest in and it grabbed your attention. Whatever it was, it intrigued you enough to do some research and find out if it really was a good deal. After further investigation, maybe you realized the product or service wasn't as good as you first thought. Others were offering the same product for less, or including more bells and whistles for the same price. Trying to figure out which deal is best can be confusing because no two offers are exactly the same. Furthermore, if it's something you don't need at the moment you may find it easier to set aside and deal with later.

As a plan sponsor, you've likely gone through a very similar experience. With the 408(b)-2 regulations in effect, you've now received information from your providers that shows how much it costs to use their services, and it would be safe to assume that they promised you are getting a great deal. At the same time, their competitors are probably pounding on your door with what they believe are better offers. Sounds interesting, but you're not really in the market for a new provider and there are lots of other things on your plate that are more pressing, so you figure you can set it aside and deal with it later.

The problem is that this may not be a good enough answer for the Department of Labor (DOL). As a plan fiduciary, one of your key responsibilities is to ensure plan fees are reasonable, especially when the plan and/or its participants are absorbing the cost (which is the case for the vast majority of fees in a defined contribution plan). And with having this new information in your hands, the expectations of the DOL are that you will be in a position to do so. But how do you prove the fees for your plan are reasonable?

The only true way to do this is to take your plan to the market and find out what other providers would charge. An important first step in creating a level playing field is to find out exactly what services your current provider is delivering. Once you have this, package it along with demographic information about your plan (number of participants, how your plan's assets are allocated among the funds, cash flow, etc.) in the form of a Request-For-Information (RFI), distribute it to a group of 3-5 providers you believe would be able to service your plan and have them tell you what revenue they would require to deliver the same suite of services to your plan. Your trusted advisor can shoulder most of this load for you.

Having the results in hand puts you in a much better position to determine if your plan's fees are reasonable. If they are, you've satisfied your obligation as a plan fiduciary and done what the DOL is expecting. If not, look for opportunities to bring them in line with the market. This could include lowering or eliminating any out-of-pocket costs, lowering investment-related fees and/or possibly adding services.

In any event, it's important to recognize that this is not something you can put aside for a later date. The sooner you go through this exercise, the sooner your participants will likely benefit from your being a prudent fiduciary who is carrying their responsibility to ensure plan fees are reasonable.

Not only is it your responsibility, it's good business, so do it prudently and make sure you document what you've done.