FORTIFIED DECISION-MAKING

Structure your plan committee meetings for success.

AGENDA CHECKLIST

Q1
- Review minutes of last committee meeting and report on action items
- Quarterly and annual investment reviews
- Annual review of service provider operations and issues
- Annual review of investment policy statement (IPS)
- Annual report to board of directors
- Open items

Q2
- Review minutes of last committee meeting and report on action items
- Quarterly investment review
- Review of participant-related issues
- Review of participant disclosures and notices
- Open items

Q3
- Review minutes of last committee meeting and report on action items
- Quarterly investment review
- Report on legal changes
- Report on industry trends
- Plan design review
- Review of plan policies
- Review of participant issues and complaints
- Review of insurance and bonding
- Open items

Q4
- Review minutes of last committee meeting and report on action items
- Quarterly investment review
- Review of costs and compensation for service providers and plan operation
- Review of mutual fund share classes
- Report on revenue sharing
- Open items
DC plan committees face increasing scrutiny on the myriad of decisions they make for their respective plans. During quarterly committee meetings, it’s no longer enough to run through an agenda of basic responsibilities; now, more than ever, leading plan committees recognize that they need to address all of the issues that they are responsible for, including emerging issues. As such, committee decision-makers need to strategically plan meeting agendas that cover both the micro job of looking closely at each issue affecting the plan today, and the macro job of ensuring emerging issues that may impact the plan in the future are considered over the course of the year.

With the help of the plan’s advisor/consultant and an ERISA attorney, committees should develop holistic meeting agendas that keep them informed and compliant. Since most committee members do not spend the majority of their time in the DC marketplace, they should regularly ask experts to describe new and emerging issues, and/or older issues that they may not have addressed, but should.

To begin the discussion, the checklist found on the opposite page covers current and emerging agenda items that plan committees should consider over four quarterly meetings, covered in detail below.

Q1 The First Quarterly Meeting of the Year
Ordinarily, the purpose of this meeting would primarily be to review the prior year and to make decisions based on events that have occurred during the prior year and the prior quarter.

Review Minutes of Last Quarterly Committee Meeting and Report on “Action Items”
Committee minutes usually cover “action items” and “information items.” An information item is one that educates the committee, but does not require a decision (e.g., it could be a report about the performance of the stock market). An action item is one that requires a decision. An obvious example is the repeated underperformance of an investment and a recommendation by the plan’s consultant that the investment be removed and replaced. Some action items require follow-up. For example, if one of the plan’s investments is placed on the watch list at a meeting, a report is needed at subsequent meetings about the investigation into that investment. And, at some point, a decision to either remove the investment from the plan or to take it off the watch list is also needed.

Conduct Quarterly and Annual Investment Reviews
Most committees are familiar with their responsibilities for monitoring their plan’s investments, especially for investments that have been put on a watch list. When an investment is placed on a watch list, committee members have decided, for one reason or another, to more closely investigate the investment. But that means that someone — a committee member or the investment consultant — is doing an investigation, perhaps talking to the investment manager or looking into the reason for the underperformance. The results of that investigation should be reported at each meeting, when the investments are discussed.

Annual Review of Investment Policy Statement (IPS)
Unfortunately, some plan committees don’t periodically review their IPS and, as a result, they may make decisions that are inconsistent with it. To avoid that problem, the committee should go through the IPS once a year, just to re-familiarize themselves with its provisions. Keep in mind that the IPS is “owned” by the committee. If it says something that is no longer appropriate, or that could be improved, the committee should amend the document.

Annual Review of Service Provider Operations and Issues
Plan committees have a responsibility to oversee the operations of their service providers. The first meeting of each year is a good time to review those operations in terms of quality and adequacy. For example, is the service provider doing a good job for the company and are they performing the services that are needed for the plan? A good approach would be to have someone from the human resources or benefits staff report on the services of the recordkeeper during the preceding year.

Annual Report to Board of Directors
Plan committees are usually appointed by the board of directors of the company. Even if they aren’t formally appointed by the board, the responsibility for the prudent selection and monitoring of committee members usually belongs to the board of directors (or, perhaps, to the board’s compensation committee). Committees can help the board of directors satisfy their duty to prudently monitor the committee’s operation by providing an
fiduciary responsibility, and the committee needs to have a basis for knowing that they are fulfilling their responsibilities. However, not every committee member needs to be an expert on those requirements.

Q3 Quarterly Meeting Agenda

REPORT ON LEGAL CHANGES, INCLUDING ISSUES OF FOCUS FOR IRS AND DOL GUIDANCE AND AUDITS, AND FIDUCIARY LITIGATION ISSUES

The committee should have its benefits attorney report on legal changes during the preceding year (and perhaps on anticipated legal developments). Every year seems to bring new court decisions, legislative changes, regulations and other guidance. Committees should keep abreast of those changes, with a focus on how the changes impact the committee’s responsibilities.

REPORT ON INDUSTRY TRENDS

Representatives from the investment consultant and the recordkeeper should report industry trends to the committee. In particular, the report should focus on new developments. As a part of that report, committee members should be asking whether they should be considering those new developments for their plan. An example of a new trend is the projection of retirement income. Some plans are providing their participants with projections of the retirement income that will be provided by their account balances and future deferrals. In some cases, those plans are also providing benchmarks for retirement readiness for a typical participant and estimates of the deferral levels that would be needed to reach that goal.

REVIEW OF PLAN DESIGN

While it may not be necessary for the committee to review the design of its plan every year, it is a good practice to occasionally step back and ask if the design is aligned with the company’s objectives. For example, in recent years many plan sponsors have added auto-enrollment and auto-deferral increases to their plan design, and some have also added Roth deferrals.

REVIEW OF PLAN POLICIES, INCLUDING QDRO AND LOAN POLICIES

While committees are not responsible for the hands-on administration of participant activities, such as qualified domestic relations orders (QDROs) or participant loans or hardship withdrawals, committee members are responsible for ensuring that those activities are being properly administered. As a result, it’s helpful to have benefits staff and/or providers report to the committee each year about those operations. The report should include any changes that are being made to adapt to new requirements.

REVIEW OF PARTICIPANT ISSUES AND COMPLAINTS

From a risk management perspective, committees should have a procedure for handling participant concerns and complaints. Ordinarily, those issues are resolved at the staff level and committee members do not need to be involved. However, if the matter is not fully resolved at the staff level, it should be brought to the attention of the committee at the next meeting (or, depending on the seriousness of the issue, possibly before the next meeting). Participant complaints are an early warning sign for possible problems with plan operations: they are valuable if the committee is aware of them and takes actions to respond appropriately, yet can be threatening if the committee is not informed of the issue.

REVIEW OF INSURANCE AND BONDING

Every plan needs to have an ERISA bond; it’s the committee’s responsibility to make sure a compliant bond is in place. Unfortunately, some committees aren’t aware of that duty. As a result, some plans aren’t bonded or, if they are, the bond doesn’t satisfy ERISA’s requirements.
**Q4 Quarterly Meeting Agenda**

**REVIEW MINUTES OF LAST QUARTERLY COMMITTEE MEETING AND REPORT ON “ACTION ITEMS”**

**QUARTERLY INVESTMENT REVIEW**

**REVIEW OF COSTS AND COMPENSATION FOR SERVICE PROVIDERS AND PLAN OPERATION**

Committees are required to review the costs for plan services and to determine that they are no more than reasonable. Committees must also review the compensation of service providers and determine that it is reasonable. The difference between “cost” and “compensation” is that the latter includes payments from third parties. For example, a recordkeeper may receive payments from mutual funds in addition to its direct charges. To evaluate costs and compensation, committees need to obtain market data about the charges and compensation for similar services for similar plans.

**REVIEW OF MUTUAL FUND SHARE CLASSES**

As a result of recent court decisions, plan committees need to know which mutual fund share classes they are using, why they have selected those share classes and whether they appropriately reflect the plan's purchasing power. Because of the importance of this issue, it's a good practice to have the plan's investment consultant prepare a written report about the share classes used by the plan (and the other share classes of the same mutual funds that might be available) and to deliver that report to the plan committee with a recommendation to keep the same share classes or to make changes. The report should be attached to the minutes and retained in the plan committee's due diligence file.

**REPORT ON REVENUE SHARING**

Plan committees must decide whether to select mutual funds or other investments that pay revenue sharing. Typically, investments that pay revenue sharing are more expensive than those that don’t. It is legally permissible to select investments that pay revenue sharing and use the revenue sharing to pay for plan expenses; however, those decisions cannot be made without the committee examining specific information. For example, which investments pay revenue sharing? How much? How does that affect participants? What is the total dollar amount of revenue sharing paid to the recordkeeper and is that reasonable? Some plan committees have adopted fee and expense policy statements to help them address the revenue-sharing issues for their plans.

**Q1-Q4 Unscheduled Items**

There are other issues that require a committee’s attention. However, not all matters need to be reviewed every year, and in other cases the issues are driven by events, including provider changes, 404(c) compliance, required plan amendments and amendments to service provider agreements.

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