

Is Your Retirement Plan Working for Your Workforce? Important Considerations for Plan Sponsors and Fiduciaries



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Plan sponsors and fiduciaries regularly review investment performance, fees, participation and contribution levels, withdrawals, distributions, and other plan metrics. Those reports are an important oversight tool, but they may not by themselves provide the information needed for a complete plan assessment. A retirement plan may be well administered and have strong aggregate participation, and still not be working at an optimum level for all parts of the workforce. A useful question, then, is what do the plan's data and experience reveal about how employees are actually using the plan benefits?

That question has become more relevant as employers manage workforces that differ widely in compensation, tenure, location, job type, and financial circumstances. Some employees are building retirement savings while also paying student loans. Others are supporting children and aging parents at the same time. Still others may be living close enough to the margin that an unexpected expense leads them to reduce plan deferral rates, take a plan loan, or request a hardship distribution. Those pressures can affect different retirement outcomes even when employees are offered the same retirement plan.

For plan sponsors and fiduciaries, differences in participation or savings rates do not, standing alone, indicate a problem with the retirement plan, nor does the Employee Retirement Income Security Act of 1974 ("ERISA") require uniform retirement outcomes. Rather, those differences may provide useful context for evaluating how the retirement plan is functioning across the workforce. The more practical point is that plan sponsors and other plan fiduciaries, acting in their respective capacities, can use information they already receive from recordkeepers, consultants and payroll to evaluate whether longstanding design choices and administrative practices continue to fit the workforce they have currently. When the data suggests that further review is warranted, they can decide whether the appropriate response is better communication, a change in plan design, different administrative processes—or no change at all.

The "Steps" that follow suggest how plan sponsors and fiduciaries can use information they already have to evaluate how their retirement plan is working, identify areas that merit closer review and decide whether changes to plan design, administration, or governance are appropriate. For some organizations, that review may also highlight the need to clarify who is responsible for fiduciary oversight, service-provider monitoring, and follow-up when plan data suggests additional inquiry may be warranted.

Step 1: Start With the Plan Data Already Regularly Available



Most plan sponsors and fiduciaries do not need a new study to begin this analysis. Typically, they regularly receive participation and utilization reports, demographic summaries, benchmarking, and other useful data from their recordkeepers or consultants. The value in that information lies in identifying which metrics warrant closer attention, because they raise questions.

Consider a retirement plan reporting 90% participation. That is a strong headline number. But one might learn more by examining what the aggregate figure may obscure. Is participation substantially lower among employees in their first two years of service? Are lower-paid employees participating but contributing below the level required to receive the full match? Do employees remain at the automatic-enrollment default for years without increasing their rate? Are loans or hardship withdrawals concentrated in one location or job classification? When employees reduce contributions, do they later resume saving at their prior level?

The scope of an appropriate review will vary depending on the plan type and design, the workforce, and the information reasonably available. Without suggesting that every plan sponsor must analyze every metric, useful information may include:

- participation and opt-out rates;
- average and median deferral rates;
- the percentage of participants contributing enough to receive the full employer match;
- the effect of automatic enrollment and automatic escalation;
- loan and hardship-withdrawal activity;
- patterns by compensation level, tenure, location, or job classification; and
- what happens to participant behavior after a loan, hardship withdrawal, leave, or other interruption in saving.

The purpose is not to treat every difference in participation or utilization as a concern requiring action. Rather, the review can help identify patterns that warrant a closer look in light of plan design and the employer's objectives for the plan. For example, if an employer views the retirement plan as an important component of its recruitment and retention strategy, consistently low match utilization, or repeated leakage among a meaningful segment of the workforce likely warrants further inquiry. Taken together, this data can help the employer determine what a particular pattern may reflect and what additional questions, if any, should be asked.

Step 2: Evaluate Whether the Plan is Working as Intended

Once the available data provides a clearer picture of how employees are using the retirement plan, the next step is to consider whether particular plan features may be contributing to the patterns reflected in the data. A provision that works well for one workforce may operate differently as compensation levels, tenure, turnover or other workforce characteristics change. Periodic reviews can help assess whether longstanding design choices continue to serve their intended purpose.

Automatic Enrollment. An auto-enrollment feature can materially increase participation, but participation alone may not tell the full story. A default contribution rate may become a participant's long-term savings rate if the participant never affirmatively increases it. An employer that adopted automatic enrollment years ago may therefore want to review the default percentage and assess whether an automatic-escalation feature is warranted.



The Matching Formula May Warrant Review. Employers can devote comparable resources to matching contributions while creating different incentives for employees to save. A formula that requires employees to defer a relatively high percentage of pay to receive the full employer contribution may work as intended for one section of the workforce but result in lower match utilization in another. If a meaningful number of participants consistently contribute below the level required to earn the maximum match, the employer should consider whether the issue relates to plan design, participant communications, both of those factors, or other issues.

Eligibility and Vesting May Warrant Review, As Workforce Patterns Change. Waiting periods, hours requirements and vesting schedules can have different practical effects where turnover is high, employees frequently move between full-time and part-time status, or the workforce has become more mobile. That review may provide an opportunity to consider whether other eligibility and vesting provisions continue to reflect the employer's current plan objectives.

This Step 2 evaluation can assist in determining whether participant behavior may be related to plan design and, if so, whether the issue may be better addressed through a design change, participant communications, or another approach.

Step 3: Understand What May Be Driving Participant Behavior

Patterns in retirement plan data may not be attributable to plan design alone. Participant behavior can also reflect financial circumstances outside the retirement plan. Employees may be balancing retirement savings with student loan payments, caregiving expenses, housing costs, or unexpected financial needs. Those competing demands may be reflected in the plan by lower deferral rates, loans, hardship withdrawals, or interruptions in saving.

Understanding that context can help a plan sponsor or fiduciary evaluate what the data is showing without assuming that a particular pattern reflects a problem with the plan. For example, an increase in loans or hardship withdrawals may warrant a different inquiry than consistently low participation following automatic enrollment. Similarly, employees who reduce contributions after a financial interruption but do not later restore their prior deferral rate may present a different consideration than employees who never enroll in the plan at all.

Employers cannot—and should not be expected to—address every financial challenge employees face through the retirement plan. But where the data identifies a problematic pattern, an employer should consider whether existing plan features or participant communications are sufficient to appropriately address it. Depending on the circumstances, targeted communications, re-enrollment, the addition of automatic escalation, and/or the inclusion of other optional plan features (such as matching student loan payments, as now authorized under SECURE 2.0) might be appropriate to address the concern.

The relevant question is whether the information available suggests a particular need or opportunity in light of the workforce. As a result, different employers may reasonably reach different conclusions based on the same type of participant behavior.

Step 4: Make the Review a Plan Governance Assessment Opportunity

Identifying patterns in retirement plan data is only part of the process. The next questions are: Who is responsible for the evaluation? In what capacity will decisions be made? What additional information is needed? And who will be responsible for carrying out any resulting action? Those questions bring the analysis



squarely into plan governance.

The capacity in which a decision is made matters because the same people may participate in plan decisions that implicate different roles under ERISA. As a general matter, decisions about whether to establish, amend or terminate a plan, and about the level or form of benefits, are settlor functions made on behalf of the employer and are not subject to ERISA's fiduciary standards. By contrast, individuals may be acting in a fiduciary capacity when exercising discretionary authority over plan administration or management of plan assets.

A review that begins with participant data can touch both. For example, the data may lead the plan sponsor to consider changing an automatic-enrollment feature or matching formula, while questions about plan administration, service-provider performance or implementation may require fiduciary attention. Keeping those roles clear is particularly important when the same committee or internal group discusses both types of issues. Retirement plan meeting materials and minutes should accurately reflect the nature of the discussion and the capacity in which decisions are being considered and made.

The governance structure should also make clear who owns each part of the process. Whether or not a plan sponsor has a formal retirement plan committee, there should be a defined approach to fiduciary oversight, service-provider monitoring, plan-design authority, and implementation. A plan sponsor should know, for example, who reviews information from the plan's recordkeeper and other providers, who follows up when the information raises a question, who has authority to approve a plan amendment, and who confirms that an approved change has been implemented correctly by payroll and the recordkeeper.

For plan sponsors with a retirement plan committee, that may mean periodically reviewing the committee's charter and delegations, meeting practices and allocation of responsibilities to confirm that they continue to reflect how decisions are actually being made. For plan sponsors without a formal retirement plan committee, the same exercise may reveal that responsibilities are dispersed among HR, finance, payroll, and senior management or depend too heavily on informal institutional knowledge. A formal retirement plan committee is not necessarily the answer for every organization, but the governance structure should be deliberate, understood, and documented.

Finally, a decision is only as effective as its implementation. A change to eligibility, matching contributions, vesting, automatic features, or another plan provision may implicate the plan document, participant disclosures, payroll administration, recordkeeper programming, and applicable qualification requirements. Responsibilities should be assigned before implementation, and there should be a clear process for confirming that the plan is operating consistently with the decision that was made.

Bringing the Review Together

Maintaining a retirement plan is a significant investment, and periodic review can help determine whether that investment continues to operate as intended for the workforce the employer has today. The objective is not to achieve uniform participant outcomes or to redesign the plan whenever the data reveals a difference. Rather, it is to understand what the available information is showing, consider whether plan design or other factors may be contributing to the patterns observed, and determine deliberately whether any response is appropriate. In many cases, the review may confirm that the existing design and approach remain appropriate.

Where the review raises questions, a sound governance process can help ensure that those questions are evaluated by the appropriate decision-makers, in the appropriate capacity, and with attention to both legal requirements and implementation. Experienced ERISA counsel can help plan sponsors and fiduciaries



translate plan data into a thoughtful assessment of whether the plan's design, administration and governance continue to serve the employer's objectives and workforce.

If you would like additional guidance on any of the issues discussed in this article, including plan design, governance, or fiduciary oversight, please contact us.

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