

# Government to make 401(k) offerings less risky for business

BY SUSAN PAFF

In the next month or so, the U.S. Department of Labor expects to make offering 401(k) plans less risky for employers.

The recent Pension Protection Act allows employers to automatically enroll workers in 401(k) plans. Doing so increases plan participation, but it also can open up employers to lawsuits from workers who later are unhappy with their rate of return.

Soon, the Department of Labor plans to identify a list of default investment options that employers can use without fear of liability.

However, many employers aren't aware of the pending guidelines, or even that they have a fiduciary responsibility to their employees to offer solid investment options.

**Rich Lynch,**  
COO, F360

A recent survey of 100 area companies by the Downtown Benefits consulting firm Cowden Associates Inc. found that 73 percent of employers are using internal investment committees to make decisions about what investment options to offer as part of their 401(k) plans rather than opting for investment advisors. Two-thirds of the employers told Cowden they knew nothing or very little about the rules governing employer responsibility in 401(k)

plan offerings.

This concerned Rich Lynch, COO of F360, whose nonprofit training and research arm, the Center for Fiduciary Studies, educates the industry on new regulations.

Lynch said the Pension Protection Act encourages employers to provide adequate choices and have a fiduciary advisor or risk being held responsible if an employee feels that the plan did not reap adequate returns. So coming up with options in-house or with one broker may cause legal issues for employers, he said.

"The general feeling is that there are

going to be issues down the road," Lynch said. "Participants will be looking to blame anyone but themselves."

Jim Bartoszewicz, an executive vice president with Cowden and one of the lead researchers of its recent study, said he hopes when the firm revisits the survey next year the answers will be different, and companies will take advantage of the new provisions coming from the DOL.

"Moving forward, (companies) will have to understand that it is their responsibility," he said.

David Brogan, Pittsburgh branch

manager of Bristol Environmental Inc., said the firm's 401(k) options were picked by the controller and president at its Philadelphia headquarters. While they did use an outside advisor, Brogan said he still doesn't think the president understood all the options when he made the decision.

"For the typical person, you have to sit there and explain that to them three or four times before they understand," Brogan said. "The first time I had to digest it, it just kind of blew me away."

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