THE EMPLOYEE BENEFIT
Forum
current issues in retirement benefit planning

The Paragon Alliance Group LLC
Modeling Excellence In Benefits Solutions

Passing the Test

SITUATION: Our 401(k) plan failed the actual deferral percentage (ADP) nondiscrimination test for the 2009 calendar year. To correct the failure, we chose to return the excess contributions made by highly compensated employees to those employees (plus plan income attributable to those contributions), rather than make additional qualified nonelective or matching contributions for nonhighly compensated employees.

QUESTION: What can we do to avoid test failure again this year?

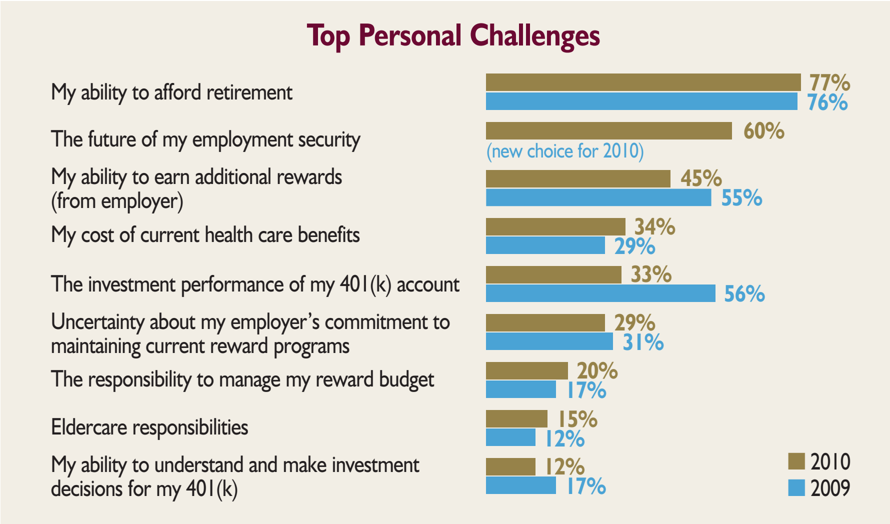
ANSWER: A cost-effective way to help ensure your plan will pass nondiscrimination testing is to increase plan participation by lower paid employees.

DISCUSSION: The ADP test compares the average rate at which highly compensated employees defer salary with the average deferral rate for nonhighly compensated employees. The difference between the highly paid and the lower paid employees must be within certain defined limits. If it isn't, you must correct the excess contributions made by the highly compensated employees — as you did.

To avoid failing the test again this year, look at adding automatic enrollment and automatic contribution escalation features to your plan. Both of these features are proven to increase plan participation by lower paid employees. Alternatively, or in addition to adding these plan features, you may want to ramp up your employee education efforts to reach lower paid and nonparticipating employees.

Studies show that offering matching contributions usually increases plan participation. If you don't currently offer a match or you discontinued your match during the recent economic downturn, consider offering one or bringing your company match back. Lower paid employees are often the ones most influenced by matching dollars. Those who participate frequently contribute up to the employer matching percentage. Changing your match structure from 50% on the first 4% of pay to 25% on the first 8% of pay could increase participant contributions without increasing your monetary outlay.

Another way to avoid failing the nondiscrimination tests in future years is to adopt a safe harbor plan design. If all safe harbor requirements are met, a plan doesn't have to conduct annual nondiscrimination testing.



* Deloitte Development, LLC

Retirement Is #1

The *2010 Top Five Total Rewards Priorities Survey** asked employees to identify the top three challenges that are most important to them as individuals. "The ability to afford retirement, including post-retirement health care" was the challenge cited most often. "The future of my employment security" — a new choice for 2010 — was second, and "my ability to earn additional rewards that allow me to stay on top of inflation and advance in real economic terms" was number three. "The investment performance of my 401(k) or other employer-sponsored savings/profit sharing plan" dropped from number two in 2009 to number five this year.

Plan Automation: One, Two, Three

About a fifth of employees who are eligible to participate in an employer-sponsored retirement savings plan don't contribute. Nor are many of these employees saving for retirement outside of their employers' plans. Workers who don't participate in an employer-sponsored plan are much less likely than those who do to have total savings and investments of at least $50,000 (56% versus 13%).* And among those employees who do participate, a relatively small fraction regularly rebalance their accounts — one reason so many participant accounts were hit hard by the 2008 stock market crash.

What can plan sponsors do to increase plan participation and help participants increase their plan account balances? Automate their plans.

Automatic Enrollment. With automatic enrollment, when an employee becomes eligible to participate in the plan, a set percentage of the employee's compensation is withheld (often 3%) and deposited in a 401(k) plan account for the employee. Some employers apply automatic enrollment only to new employees, but you could choose to automatically enroll all of your eligible employees. All employees must be given the option to decline participation.

Automatic Contribution Escalation. Along with automatic enrollment, consider automatic contribution escalation. You can increase the automatic deferral percentage over time as long as the increases are made in accordance with a specified schedule. You must notify employees of the amount of the deferral increases and when increases will occur. Employees must be given the option to opt out of increases.

Automatic Rebalancing. You may have several options for offering participants automatic rebalancing: Make automatic rebalancing an optional feature of your plan and encourage participants to use it; offer managed accounts; or choose a default investment option for your plan, such as a life-cycle or target-date fund, that automatically rebalances.

* *2010 Retirement Confidence Survey*, Employee Benefit Research Institute, *www.ebri.org*

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Comparing Retirement Plan Choices

Sponsoring a retirement plan offers an employer tax advantages. Maximizing these advantages, while minimizing costs, is largely a matter of having the right retirement plan for your business. Here are some answers to questions you may have if you're thinking about changing your retirement plan or adding a plan.

What are my plan choices? Businesses can offer a variety of plans, including 401(k), profit sharing, savings incentive match plan for employees (SIMPLE), simplified employee pension (SEP), and DB(k) plans — a new type of plan available starting in 2010.

What are the advantages of a 401(k) plan? A 401(k) plan gives employees the opportunity to save more for retirement on a pretax basis than some other types of retirement savings plans. In 2010, they can defer up to $16,500 in salary to the plan, plus another $5,500 catch-up contribution if they're age 50 or older (plan permitting). Employer contributions are optional. But, if your company chooses to make contributions, those contributions are tax deductible (within limits). With a 401(k) plan, retirement benefits are based on the vested balances in participants' individual plan accounts.

Are there any disadvantages? Because 401(k) plans offer a flexible choice of features, they generally are more costly to administer than certain other plan choices. 401(k) plans require annual reporting and, generally, annual testing to ensure that the plan does not discriminate in favor of the highly compensated.

Which plans are easy to administer? SEPs and SIMPLE plans. With a SEP plan, your business contributes to individual retirement accounts established for you and your eligible employees. You can choose each year whether and how much to contribute (within the tax law's limits). SEP plans are easy to set up and maintain. Employer contributions are tax deductible (within limits). Employees cannot contribute to newly established SEP plans.

SIMPLE plans are generally available to businesses with no more than 100 employees that don't have another retirement plan. (Other requirements apply.) They can be structured as a SIMPLE 401(k) plan or as a SIMPLE IRA plan. Unlike a SEP plan, a SIMPLE plan allows employees to contribute — up to $11,500 in 2010, plus a $2,500 catch-up (if eligible). Your company must make a minimum matching contribution *or* contribute a minimum percentage of compensation on behalf of each eligible employee, whether or not the employee contributes. Contributions are tax deductible, and benefits are based on each participating employee's account balance. Plan set-up and administration are simplified. Recordkeeping and reporting requirements are also minimal.

What about profit sharing plans? Profit sharing plans offer employers a great deal of flexibility. Contributions may be made according to a formula written into your plan, or they may be made at your company's discretion. If you wish, the plan may be structured to allow contributions in years with low or no profits. Employees are not permitted to contribute. If employee contributions are desired, a 401(k) option may be added to the plan.

Retirement benefits are based on each participant's vested account balance, which reflects the employee's years of service, your company's contributions, and your plan's investment performance. Since company contributions generally are dependent on profitability, a profit sharing plan can be a strong incentive for employees to perform well.

And DB(k) plans? These plans essentially add a pension-plan-like guaranteed-income element to a 401(k) plan. Employers with no more than 500 employees can sponsor a DB(k) plan.

RECENT DEVELOPMENTS
In Benefit Plans

Retirement Plan Stats. According to the IRS's *Data Book 2009*, the number of defined benefit plans and employees covered by these plans continues to decline. For the fiscal year ending September 30, 2009, employers reported terminating 1,450 defined benefit plans covering 685,815 employees. Nearly as many new defined benefit plans were added during the same period (1,400), but these plans cover only 422,199 employees. Defined contribution plans continued to grow in number, but slowly, with net gain of 84 plans. Profit sharing plans grew by 217 plans and 768,832 participating employees. 401(k) plans saw a net gain in the number of plans (349) but lost 1,398,755 participating employees.

Retirement Assets Make a Recovery. Retirement plan assets made a comeback in 2009, recovering nearly all of the recession-driven losses of the previous year, according to *Retirement Market Insights 2010*, a new report by Spectrem Group. Total U.S. retirement assets — including both defined contribution and defined benefit plans — rose 18% to $9.3 trillion, up from $7.9 trillion in 2008. Assets in 401(k) and other defined contribution plans rose 19% to $4.5 trillion, from $3.8 trillion in 2008. 401(k) assets alone, which account for 71% of all defined contribution assets, grew 20% to $2.3 trillion in 2009, up from $1.9 trillion in 2008. The recovery may not be enough to dispel unease among plan participants. The report also noted that the number of participants seeking advice on how to invest their retirement money has more than doubled since 2008.

Designing retirement plans to meet your business needs…

Combining our knowledge, experience, and integrity with the services of the industry's leading record keepers and investment providers to offer personal, customized plan designs and administration solutions.

401(k), 403(b) & 457 Plans	Consulting	Retirement Plan Audits
Profit Sharing Plans Safe Harbor New Comparability	Employee Communications	Payroll
	Plan Administration	Human Resource Consulting
Prevailing Wage Plans	Compliance Services	
Section 125 Cafeteria Plans	Governmental Filings	Strategic Planning

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