

## 2011 Best Practices Report for 401(k) Plans

A retirement plan offered through work is almost universally regarded as the most important employee benefit after health insurance. In a competitive market and economic climate, it is more important than ever to attract and retain quality employees. A competitive 401(k) plan should be considered a key component of any retention strategy.

But what makes a competitive 401(k) plan and what are the secrets of an excellent plan design? What are the key issues to address from the standpoint of fiduciary liability? To answer these questions, The O'Neill Company has compiled the "2011 Best Practices Report for 401(k) Plans".

We have segmented our Best Practices Report into two components: Plan Design and Fiduciary Liability Management. After reviewing our 2011 Best Practices report, please contact our firm for a free consultation during which we will conduct a free plan audit and evaluation. If necessary, we may recommend modifications to your plan in order to help you improve this most important employee benefit.

The O'Neill Company is a leader in retirement plan design, funding and administration.

## Best Practices: Plan Design

When it comes time to design a 401(k) plan for your enterprise, we always recommend that the plan be customized to fit your needs. Nevertheless, it is important to start with a framework of what constitutes a good plan design. After all, a poorly designed plan will not prove to be attractive to your employees and will therefore not serve your overall objective, which is to attract and retain employees.

### **Plan Design Components**

Eligibility:	Participation in the plan should be allowed within the first year of service; we advocate making it six months or less
Employer Matching:	A company match is key to maximizing plan participation; we would advocate either a fixed match or a discretionary profit sharing formula
Loans/Withdrawals:	The plan should allow for both loans and hardships withdrawals
Contributions:	The plan should be designed to maximize benefit for all employees, including owners and top executives
Investment Statement:	The plan should have a written investment policy statement
Investment Options:	A minimum of 10 and a maximum of 20 investment options should be offered, not including company stock; we would advocate investment choices encompassing different investment styles and asset classes. In addition, one account should be a fixed account with a guaranteed rate of return
Fund Management:	Money management for the available investment options should be a multi-manager platform; we would not advocate a single money manager plan
Asset Allocation:	The plan should provided asset allocation models and/or asset allocation portfolios for those with little investment experience
Investment Education:	Participants should have access to educational information and investment choices from a variety of sources; materials should be available in print, from the Internet, from an 800 number and in person; included in investment education should be information and materials for departing and retiring employees as to their distribution options

## Best Practices: Fiduciary Liability Management

Establishing, maintaining and continually improving a 401(k) plan is an essential aspect for any enterprise. It is a particularly important process as 401(k) plans are governed by a set of regulations known as ERISA enacted by the Department of Labor. Fiduciaries and trustees of a company 401(k) have personal exposure for any ERISA violations, making it all the more important to implement Best Practices in performing all required fiduciary obligations, thereby minimizing or eliminating plan exposure.

### **Fiduciary Liability Components**

Plan documents:	Only IRS-approved documents should be used and all documents should reflect any and all tax law changes since the plan was adopted
Plan Description:	A Summary Plan Description should be prepared and be distributed whenever requested or required
Plan Committee:	A formally designated Plan Committee should be established and charged with all responsibilities for the plan; the Plan Committee should meet at least once per year
Fiduciaries:	All plan committee members, trustees, officers and owners are notified of their fiduciary responsibilities under ERISA
Participants:	Plan documents discuss eligible participants while excluding independent contractors, temporary and union employees
Common Group:	The plan needs to specifically include all other businesses having majority common ownership
Investments / Fees:	The Plan Committee and/or plan fiduciaries review all plan investments annually and compare investments against appropriate benchmarks in accordance with the Investment Statement of the plan; investment options that are either underperforming or that have failed the investment statement are placed on watch or removed; plan expenses and fees are also reviewed annually
ERISA 404(c):	The plan should comply with ERISA 404(c) and the fiduciary protections available and should be noted on Form 5500
Filings:	Form 5500 should be prepared accurately and timely each year, if required
Fidelity Bond:	A fidelity bond covering all fiduciaries for 10% of plan assets should be in place