

**Worcester Business Journal**

## LABOR POOL

# Keeping 401(k)s In Check

## The hottest trend in retirement accounts comes with some strings

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For many workers who are counting on their 401(k) retirement accounts, the biggest concern on the horizon might be the health of their investments in a rocky economy. But for some employers, the nuts and bolts of how their plans are run could be equally troubling.

Clark Rattet, a partner at Framingham accounting firm Gray, Gray & Gray LLP, is now in the midst of auditing his clients' plans, a process that needs to be complete by the end of July. He says the federal Department of Labor, which monitors 401(k)s, is now "much more aggressive than they have been in the past," and companies need to make sure they're complying with the legal requirements.

That's especially important as more and more employers adopt the plans. Rattet said 401(k)s are increasingly popular not just with companies dropping traditional pensions but with those that previously didn't have any retirement benefits at all.

### Growing Concern

"It's the hottest thing out there, without a doubt," he said. "As far as participant benefits it's as important as health insurance."

Of course, 401(k)s are important to employers as a way to attract and retain qualified people precisely because employees need them. And the workers tend to get annoyed if their bosses aren't handling them appropriately.

Rattet said the biggest issue with employers' 401(k) policies is that many don't put the money into the accounts promptly. By law, he said, the cash has to go into the employees' accounts within three days of coming out of their paychecks. He said many companies simply don't have an efficient system for making the transactions. Some actually abuse the contributions by withholding them from employees' paychecks and then essentially borrowing the money to use for other expenses.

Even employers who aren't out to take advantage of their employees can get in trouble for their management of retirement accounts. This February, the Supreme Court ruled that workers can sue over mismanagement of their 401(k)s. In the case, an employee sued his

former employer for not following his instructions to shift his account from stocks to cash.

For employers, just making sure all the i's are dotted and t's are crossed can be a major responsibility. Rattet said companies with more than 100 employees need to have an audit attached to their plans. For Gray, Gray & Gray, he said, it can take 70 to 100 hours to properly audit a plan.

"It's pretty substantial," he said.

## No Free Lunch

Rattet cautions employers against using small firms with little experience in the audits, even though they often provide them free to their clients. (It's a warning that's clearly in his best financial interest to give, but it's not necessarily unreasonable.) Gray, Gray & Gray does about 40 of the audits each year, and Rattet said accountants that only do a few are apt to miss important things.

"I can never understand how an accounting firm can do one plan," he said.

The logistics aren't the only thing that companies and their workers have to worry about when it comes to 401(k)s. A recent study by consulting firm Watson Wyatt Worldwide says that, while the funds outperformed traditional pension plans in the late 1990s bull market, they've done worse since then no matter whether the market was up or down.

Still, it seems clear that the plans aren't going anywhere. So employers and employees are both going to be well served by making sure they function the way they're supposed to. n