Taking Stock: 'Windows' could bring breath of fresh air to 401(k)

by Malcolm Berko

Dear Mr. Berko: I've been working at the same job for 20 years. I'm 57 and, like the other employees here, I am really unhappy with the 401(k) plan offered by the boss and managed by his poker playing/drinking buddy. It's just a fixed annuity that pays at 3.1 percent and the company doesn't contribute a penny to our plan that covers almost 63 of us. Can you give us any advice on how to improve our return? At this rate and at my age, this annuity doesn't give me and others enough growth to retire. Many of us are waiting anxiously for your answer. And do you think you can help my daughter with her 403(b) plan, which is invested in a variable annuity. She's a teacher and has invested $33,000 of her own money and after 12 years it's only worth $38,000. I know the stock market has done better. Can you give her good advice, too?

W.T.

Oklahoma City

Dear W.T.: Your 401(k) plan is the sorriest annuity I've seen since Ion Iliescu was president of Romania. And your daughter's annuity with an embarrassingly poor choice of mutual funds contains annual fees high enough to pay her medical insurance premiums for the next three decades.

Because I don't have a copy of the plan I can't advise you on your daughter's 403(b) but I've posted you the e-mail address of an attorney who is a 403(b)-457 consultant. I suspect that your daughter's 403(b) plan is a product of a corrupt teacher's union and an "I don't care" school board. This lawyer/consultant whom I've recommended will suggest that the "unions have so much raw power that it is dangerous to bark at them too loudly." Bad as it is, and sad as it is, unions and school boards together are more powerful and influential than the infamous boss Tweed and the Tammany Hall Machine. And in some cases more dangerous, too.

But I can give you some worthwhile advice that can improve the performance of your 401(k). Your plan's 3.1 percent average annual return certainly begs for improvement. Because the broker who manages your company plan is the boss' drinking/poker buddy, I have two suggestions for your consideration. Your boss must know that the company 401(k) plan needs some zippity-do-da and sizzle. Heck, even Mickey Mouse, with a carrot in his left ear could do better than 3.2 percent. So ask your boss to add "windows" - better known as self-directed brokerage accounts (SDBA) - to the company 401(k)?

Windows opens to a personal 401(k) brokerage account at Charles Schwab, Moors & Cabot, Smith Barney, Fidelity, etc. and provides you access to more than 6,500 mutual funds, common stocks that trade on the New York, American and over the counter, as well as bonds, convertible issues, exchange traded funds, options, unit trusts, etc. These firms can match you with a professional who can help you make investment choices.

If you elect this method, I strongly recommend - if you are not extremely market knowledgeable - that you keep it simple and purchase only no-load mutual funds. So Bruce, Mairs & Power Growth, Delafield, Third Avenue, Stratton Small-Cap Value, Fidelity Balanced, Fidelity Value, Fidelity Low Price Stock and T. Rowe Price Capital Appreciation are a few funds for which I care. Don't trade these funds; rather keep them for at least 10 years and allow them to work for you.

Now if the boss refuses to provide you and other participants with a SDBA, then your remaining recourse might be to sue your employer. Your boss might not realize that he has a responsibility under ERISA (Employee Retirement Income Security Act) to comply with 404Â© as described in a Department of Labor bulletin (96.1) or 29 CFR 2550.404c-1-ERISA section 404Â© plans. (And I thought the Dewy Decimal System was tough!)

Anyhow, my daughter Hilary, who gave me this ERISA code, told me that you need an ERISA attorney to proceed. She believes that you have such an open-and-shut case that the ERISA attorney should pay you for the privilege of accepting the case. However I suspect, if you show this column to the boss, that he will, with alacrity, allow you and other participants to have an SDBA. But that won't solve your problem because it's now your responsibility to make sure that your 401(k) meets your objectives.

While you couldn't make much money with that "stinky" annuity you couldn't loose anything either except the 9 percent early exit fee. However, while you might be able to earn a 10 percent plus annual return on those funds, it's also possible that your losses in a bad market could exceed the potential return. But if you're a long-term investor (at least 10 years) I believe you and your work buddies will be well ahead of the curve.

Please address your financial questions to malber@adelphia.net.

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