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**ALERT: Employers' retirement plan risks increase with market volatility;
Manage risk with education and accountability**

Recent market volatility highlights the liability and fiduciary responsibility tied to an employer's retirement plan. The attached article, published recently in the Wichita Eagle, highlights some key points in managing your liability if you offer a 401(k) or other type of defined-contribution plan. Following are considerations to be aware of:

- **Employers should not offer investment advice even if asked directly for assistance – even as casual comments or conversation.**
 - Refer all plan participant inquiries about how to manage retirement plan assets to the financial advisor responsible for employee education. Because ultimate fiduciary responsibility for plan participants' funds rests with the employer, any employer comments about investments can increase liability. Directed trustees and recordkeepers help plan sponsors with some tasks involved in managing a plan, but fiduciary responsibility is not transferable.
 - Aside from liability, either you, your plan participants, or both are already paying for education – your employees should receive the benefit of it.
 - Of course, employers or recordkeepers may answer “technical/operational” questions such as how to transfer funds, check fund balances or change contribution amounts. It's the “how should I invest or allocate my retirement plan funds” questions that must be referred to an advisor.
- **Regulatory agencies are encouraging an overall trend toward transparency about retirement plan fees and costs.**
 - Increased market activity causes increased participant interest in – and often worry about – retirement plan costs and returns. The more clearly and effectively your plan fees and costs are outlined for participants, the more likely they are to understand and make good decisions about their plan – and ultimately less likely to blame a plan sponsor on an undesirable result.
- **Managing a retirement plan in the best interests of plan participants (as ERISA mandates) in volatile times may be more time-sensitive and challenging than during periods of steady market growth, but the principles remain the same:**
 - Create, follow and document a process to manage fiduciary responsibility, including annual goal-setting and evaluation meetings with each vendor (for example, recordkeeper/third-party administrator, trustee, asset manager/financial advisor).
 - Maintain and document ongoing employee education sessions, both in group and individual (one-on-one) format.
 - If you have not already done so, learn about and take advantage of the “safe harbor” provisions of ERISA Section 404(c), which outlines a series of steps employers can take to protect themselves and manage potential liability.

If you have questions about this alert or other employee benefit issues, please contact your Allen, Gibbs & Houlik, L.C. professional or Brad Bechtel, AGH vice president of employee benefit services, at (316) 267-7231 or brad.becht@aghlc.com. NOTE: This material is provided as a courtesy, and is not intended as advice specific to your situation. If you have questions or need clarification about how it affects you or your organization, please contact your AGH professional for more information.