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Welcome to Fiduciary Insights, the monthly newsletter that keeps you in touch with issues, trends, events, and insights of significance to individuals connected with the retirement plan industry. The articles have been carefully selected from a variety of high quality sources.

In this issue

General Items

- [Investors Tap Into 401k Money Tax-Free for Business Startups](#)
- [Shift Away From Traditional Pension Plans Continues](#)
- [An Employer Checklist of 401k Plan Responsibilities Under ERISA](#)
- [Measuring the Impact of 401k Fee Disclosures](#)
- [In Volatile Times, It Pays To Revisit the IPS](#)
- [The Six Biggest 401k Mistakes](#)
- [401k Annuities: An Idea Whose Time Has Come?](#)
- [DC Deferral Amount What Participants Can Afford](#)
- [Ten Things 401k Providers Won't Tell You](#)

Fiduciary Items

- [Outsourcing Does Not Make a Fiduciary Bullet Proof](#)
- [Liability Reducing Strategies for Today's 401k Plan Sponsor](#)

403(b) Plan Items

- [Weigh the Cost Without Paying the 403\(b\) Piper!](#)

Research

- [Study: Most Roadblocks To Successful Retirement Savings Self-Imposed](#)
- [Advice Trumps Performance for Small Plan Sponsors](#)
- [Participants Are Saving More to Make Up for Market Downturn](#)
- [Participant Account Balance Size Influences 401k Plan Fees](#)

Court and Legislative Items

- [House 401k Plan 'Slap in the Face' To Obama Administration](#)

Commentary and Opinion

- [Yale/Harvard Study Reveals Disturbing 401k Fee Paradox](#)
- [Will 401k World Change by Fall?](#)
- [QDIA Essentials](#)

Regulatory Items

- [A New IRS Initiative - The 401k Plan Compliance Check](#)
- [The IRS Scrutinizes 401k Cash for Small Business](#)
- [Nine On-Line DOL Resources for 401k Plan Sponsors](#)
- [DOL Issues Final Rule on QDROs](#)
- [The Spark Institute Comments on IRS 401k Compliance Questionnaire](#)
- [IRS Rulings Breathe New Life Into PTO-401k Transfer](#)

General Items

Investors Tap Into 401k Money Tax-Free for Business Startups

Summary: An investor sets up a corporation, establishes a new 401k plan there, rolls over his or her existing 401k or IRA, and then uses part or all of the plan's assets to buy shares of the new

company. This funds the new business, while keeping the tax- advantages of the retirement plan. But the transactions have drawn the scrutiny of the IRS. Located at: Businessweek.com.
[Click here to read article](#)

Shift Away From Traditional Pension Plans Continues

Summary: The number of large U.S. companies that are replacing their traditional defined benefit plans with account-based retirement plans for new salaried employees continues to increase, according to a new analysis by Towers Watson. Account-based plans include defined contribution plans, such as 401k plans, and hybrid pension plans, typically cash balance plans. Located at: Towers Watson.
[Click here to read article](#)

An Employer Checklist of 401k Plan Responsibilities Under ERISA

Summary: As plan sponsor, an employer must ensure that those considered ERISA fiduciaries fulfill their responsibilities. This article is a review of subjects that can assist the employer sponsoring a 401k plan in avoiding or minimizing legal liability related to the plan. Located at: Duane Morris LLP.
[Click here to read article](#)

Measuring the Impact of 401k Fee Disclosures

Summary: Starting soon, 401k plan sponsors will be required to tell employees clearly just how much they pay in fees. In turn, investment firms will have to spell out for plan sponsors what they shell out in charges. How might all this candor about costs change the settled world of 401k plans? Located at: Institutional Investor.
[Click here to read article](#)

In Volatile Times, It Pays To Revisit the IPS

Summary: By laying out the strategy and processes used to manage a portfolio in a manner that best serves the interests of investors, the IPS is essentially a business plan for the portfolio. Unlike a standard business plan, however, the IPS is a governing document that sets directives and constraints. Consequently, stewards and advisers should be careful to amend the IPS if they

intend to depart from its terms. Located at: Investmentnews.com (free registration may be required).

[Click here to read article](#)

The Six Biggest 401k Mistakes

Summary: Like everything else in life, 401ks don't provide absolute retirement security. Here are six mistakes many people are making with their 401k plan. Located at: U.S. News & World Report.

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401k Annuities: An Idea Whose Time Has Come?

Summary: A small but growing number of companies are enhancing their employees' defined contribution plans by offering deferred annuities that provide a guaranteed income stream in retirement. But annuities may not be the right choice for every retiree. Located at: AARP.

[Click here to read article](#)

DC Deferral Amount What Participants Can Afford

Summary: Half of employees participating in a recent survey say they decided on their defined contribution plan contribution because it was the most they could afford. Located at: Plansponsor.com.

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Ten Things 401k Providers Won't Tell You

Summary: We're making money on your 401k — even if you're not; You may not have full disclosure about where all your money is going; You're buying wholesale, but we're charging you retail; and seven other points. Located at: Smartmoney.com.

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Fiduciary Items

Outsourcing Does Not Make a Fiduciary Bullet Proof

Summary: It has come in vogue to advocate hiring an "independent" third-party fiduciary to take responsibility for a plan's investments and other fiduciary functions in order to relieve the plan's sponsor, in-house, or named fiduciaries of liability under ERISA. However, the fact is that a named fiduciary is never completely free from fiduciary responsibility for the plan. Located at: Profit Sharing/401k Council of America (PDF File).

[Click here to read article](#)

Liability Reducing Strategies for Today's 401k Plan Sponsor

Summary: What can the typical 401k fiduciary do to better prepare for the possible consequence of impending regulatory changes? Here's the straight-forward advice: Be aware, or be at risk. Here are four liability reducing strategies for today's 401k Plan Sponsor. Located at: Fiduciarynews.com.

[Click here to read article](#)

403(b) Plan Items

Weigh the Cost Without Paying the 403(b) Piper!

Summary: It is very important to consider cost of administration and regulatory guidance that has matured and appears to be less complicated, but you should take a broad look at the before and after prior to making the decision to terminate your 403(b) plan with the intent to set up a 401k plan. Located at: Businessofbenefits.com.

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Research

Study: Most Roadblocks To Successful Retirement Savings Self-Imposed

Summary: A new survey of financial advisors across the U.S. found that the top three roadblocks to Americans' financial security are living beyond ones means (70 percent), not saving enough (66 percent) and just plain fear (62 percent). Located at: 401khelpcenter.com.

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Advice Trumps Performance for Small Plan Sponsors

Summary: Small plan sponsors are generally satisfied with their 401k providers, but most are not happy with the advice they're getting on fiduciary and regulatory matters, says a new survey. Located at: Employee Benefit News (free registration may be required).

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Participants Are Saving More to Make Up for Market Downturn

Summary: More than one-third (38%) of retirement plan participants have increased the amount they are saving for retirement following the market downturn of recent years. In addition, 20% of participants have moved into more aggressive investment options, reports a just released survey of retirement plan participants conducted by Diversified Investment Advisors. Located at: 401khelpcenter.com.

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Participant Account Balance Size Influences 401k Plan Fees

Summary: According to a report published by the 401k Averages Book titled, "Are All \$5 million 401k Plans Created Equal?," the size of a 401k plan's average participant account balance will influence the amount of fees they pay. Located at: 401khelpcenter.com.

[Click here to read article](#)

Court and Legislative Items

House 401k Plan 'Slap in the Face' To Obama Administration

Summary: A retirement plan fee disclosure provision that was passed in the House last Friday may clash with upcoming rules from the Labor Department. Located at: Investmentnews.com (free registration may be required).

[Click here to read article](#)

Commentary and Opinion

Yale/Harvard Study Reveals Disturbing 401k Fee Paradox

Summary: Will a 401k investor choose a fund with lower fees or a fund with higher returns? The average fiduciary might think this a silly question, but its answer might just reveal a hidden liability should the Department of Labor make good on its proposed advice rule. Located at: Fiduciarynews.com.

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Will 401k World Change by Fall?

Summary: Potential new rules may dramatically change how 401k plan sponsors manage their companies' retirement plans. Failure to understand the implication of these changes can ensnare companies and their ERISA trustees with unexpected liability issues. Author reviews three impending changes. Located at: Fiduciarynews.com.

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QDIA Essentials

Summary: Plansponsor's National Conference last week featured a panel titled "Five Things You Need to Know About QDIA's." Nevin Adams lays out his list in this piece. Located at: Planadviser.com.

[Click here to read article](#)

Regulatory Items

A New IRS Initiative - The 401k Plan Compliance Check

Summary: It is anticipate that the IRS will use the compliance questionnaire to develop a more focused examination program in the future. To better position themselves for enhanced audit activity, companies whose 401k plans have not been selected to complete the compliance questionnaire may want to perform their own compliance check, perhaps using the questionnaire as a guide, and correct any identified errors through the IRS voluntary correction programs. Located at: PricewaterhouseCoopers LLP (PDF File).

[Click here to read article](#)

The IRS Scrutinizes 401k Cash for Small Business

Summary: As the credit crisis has made it tougher for small businesses to get funding, some would-be entrepreneurs have exploited a loophole that lets them finance a startup with 401k retirement funds without facing any taxes or penalties. Now the technique is catching the attention of the IRS. Located at: Businessweek.com.

[Click here to read article](#)

Nine On-Line DOL Resources for 401k Plan Sponsors

Summary: The DOL has put together several free on-line "booklets" and "fact sheets" to assist and inform 401k plan sponsors and fiduciaries. Located at: Fiduciarynews.com.

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DOL Issues Final Rule on QDROs

Summary: A final rule clarifying certain requirements for qualified domestic relations orders (QDROs) was recently published by The U.S. Department of Labor. The rule is designed to give retirement plan administrators additional guidance when deciding whether to turn over money from the plan to someone other than a plan participant to satisfy a domestic relations obligation, such as alimony or child support. Located at: Thompson Publishing.

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The Spark Institute Comments on IRS 401k Compliance Questionnaire

Summary: The SPARK Institute has submitted a letter to the Internal Revenue Service expressing concerns about its recently initiated 401k Compliance Check Questionnaire Project, which requires a random sample of 1,200 employers to complete a lengthy online survey providing details about their 401k plans. Located at: 401khelpcenter.com.

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IRS Rulings Breathe New Life Into PTO-401k Transfer

Summary: In the early 1990s, the Internal Revenue Service issued a technical advice memorandum on how unused vacation or sick pay can be transferred to 401k plans. The IRS also issued a private-letter ruling providing further insight into this concept. The practice, however, has not seen significant use by employers. Located at: Employee Benefit News (free registration may be required).

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