

September 2010

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.

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General Items

The 10 Most Common Retirement Benefits

Summary: Retirement benefits vary considerably by employer. Most large employers now provide a 401k or similar type of retirement account, but other valuable retirement perks including retiree health insurance and traditional pensions are declining. Here's a look at the most common retirement benefits. Located at: U.S. News & World Report.

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Can We Feel Good About Retirement?

Summary: A lot has changed in the past 25 years when it comes to company-sponsored retirement programs. In this column, the author explores the roots of the current shift from defined benefit to defined contribution plans. Located at: Human Resource Executive Online.

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Fiduciary Items

Fiduciary Fears Make Finding Pension Committee Members a Challenge

Summary: Attraction and retention of qualified people to serve on DB and DC committees has always been a challenge for plan sponsors. Many times, companies can't find enough people with the necessary expertise to serve on the committee. Or, potential committee members are scared off when they're told they can be held personally liable if they breach their fiduciary responsibilities. Located at: Employee Benefit News (free registration may be required).

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Hands Out of the Cookie Jar: Expenses Paid With 401k Plan Assets

Summary: The decision to pay fees from the plan is a fiduciary decision subject to ERISA's fiduciary rules. That is, the plan must be established and maintained by the employer for the "exclusive benefit" of the employees and beneficiaries. That means that the plan cannot pay for expenses that are considered to be the responsibility of the employer. Located at: Employee Benefit News (free registration may be required).

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ERISA Fidelity Bonds – What to Think About, What to Look For

Summary: Plan fiduciaries rarely have an idea of what losses their ERISA bond covers or whether the persons who caused the loss are covered by the terms of the bond. Fiduciaries who take such a hands off approach are making a mistake, because one of the functions of a fiduciary is to be sure that the plan is properly bonded. Located at: Reish & Reicher.

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Research

Retirement Benefits Declined 19% between 1998 and 2008

Summary: U.S. workers saw the value of their employer-sponsored retirement benefits -- as measured by percentage of pay -- decline by double-digit levels over a 10-year period ending in 2008, according to an analysis conducted by Towers Watson. Located at: 401khelpcenter.com.

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Plan Participants Make Retirement Savings a Priority, but Many Remain Confused

Summary: BlackRock's second annual Survey of 401k Participant Attitudes and Behaviors indicates that employers have a significant opportunity now to improve the effectiveness of their DC plan by focusing on key plan features that are instrumental in strengthening retirement preparedness. Located at: 401khelpcenter.com.

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Court and Legislative Items

Blackout Notice Suit Allowed to Move Forward

Summary: A federal judge in Ohio ruled that a 401k profit-sharing plan and two participants can press forward with their lawsuit alleging that Principal Life Insurance Co. breached its duty to make a timely notice of a plan blackout period. Located at: Plansponsor.com.

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Fiduciaries Breached Duty by Investing in Retail Share Classes

Summary: A recent federal District Court ruling should make fiduciaries of self-directed retirement plans think twice before offering retail share classes as investment options when less expensive institutional share classes are available. Located at: Nixon Peabody LLP.

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Small Plan Litigation

Summary: Flying largely below the media radar are an increasing number of small plan ERISA lawsuits. Of course, most people have heard of the Supreme Court decision in LaRue, but many may not realize that it involved a small plan. Located at: Reish & Reicher.

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Commentary and Opinion

Retirees Have Choices and Need Flexibility, Not Mandates, in Retirement Planning

Summary: Author suggests that, "government policy should not constrict or distort the market through mandates or incentives that favor one product or approach over others. The government can best help Americans saving for retirement by providing quality education and information about retirement asset distribution at and through retirement." Located at: Investment Company Institute.

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Regulatory Items

SEC Plans to Cap 12(b)-1 Fees

Summary: The Securities and Exchange Commission voted unanimously to propose measures aimed to improve the regulation of 12(b)-1 fees, capping them at 25 bp and provide better disclosure for investors. Located at: SEC.

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DOL Releases Final Fee Disclosure Regulation

Summary: Covered service providers will need to comply with the regulation by July 16, 2011, for all contracts or arrangements, regardless of whether they were entered into before the effective date. The new rule finalizes the regulation originally proposed in 2007, and differs from the proposed rule in a number of respects, some of which are fairly significant. Located at: Reish & Reicher, PC (PDF File).

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