

Raymond James 401(k) Monthly Newsletter

January 2011

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

[Ten Reasons to Give Thanks for U.S. Retirement System](#)

Summary: Fewer Americans are retiring with traditional pensions. Half of working Americans don't have an employer-sponsored retirement plan. And the percentage of folks who are "very confident" about having the same standard of living in retirement as during their working years is roughly one in four. Then again, retirement experts say there's also plenty for which to be thankful. Here is ten reasons to give thanks for U.S. retirement system. Source: Marketwatch.com.

[Troubled Firms Looting 401k's](#)

Summary: The Department of Labor says the recession is financially stressing business owners, and in a few cases they're pilfering employee contributions to 401k and health benefits accounts. Source: Fort Wayne Journal Gazette.

["Beyond the Control of the Participant" Is Key in Emergency Distribution Requests](#)

Summary: An unforeseeable emergency distribution can be made to a participant of an IRC Sec. 457 or Sec. 409A deferred compensation plan as long as the unforeseen emergency arose as a result from events beyond the control of the participant, says the Internal Revenue Service. Source: CCH.

[Plan Sponsors Misunderstand Target Date Funds](#)

Summary: Sponsors of 401k and other defined contribution retirement plans are unaware of or unsure about many key aspects of target date funds, despite the fact that more plans are offering these funds as an investment option. Source: Society for Human Resource Management.

[Making the Case for Unbiased Education](#)

Summary: Employers are recognizing the need for in-depth retirement education to help employees get back on track for retirement, but CFOs are not convinced they should pay a financial education provider to deliver education. Is there a case that unbiased education is worth paying for? Source: 401khelpcenter.com.

[The Role of Roth in Defined Contribution Plans](#)

Summary: Among early adopters, participant usage of Roth has been robust, especially among newly enrolling employees. With recent legislative enhancements and proven success among participants, Roth is expected to be a standard part of defined contribution plans in the coming years, including among 457(b) plans. Given its relatively short history, a Roth option has proved beneficial to a meaningful segment of plan participants within the 401k marketplace. Source: NAGDCA.

[Avoid Fiduciary Liability When Choosing the Class of 401k Funds](#)

Summary: OK, you finally have the 401k plan running smoothly. You allow the participants to direct their own investments from a menu of mutual funds – some of the best funds on the market. In fact, you even hired an investment consultant to help you pick the funds. Your committee meets with the consultant periodically to be sure the menu is still good, and once in awhile you replace a low-performing fund with one promising a better performance. Nothing else for the committee to worry about, right? WRONG! Source: Warner Norcross & Judd LLP.

[HR's Role in New 401k ERISA Regulation](#)

Summary: New regulations have been handed down from the U.S. Department of Labor related to fiduciary requirements for fee disclosures in retirement accounts, including 401k's. HR can play a key role in compliance by effectively getting the new information out to employees, experts say. Source: HREonline.com.

[Risk Management for Plan Service Providers](#)

Summary: There are numerous ways in which errors can occur and spawn lawsuits. But one very common theme is this: TPAs sometimes fail to anticipate what their clients expect them to do. This occurs, in part, because TPAs' service agreements often fail to adequately describe what the TPA will and will not do for the client. It also occurs because TPAs sometimes fail to consider what their client might expect them to do. Source: Reish & Reicher.

[Complexity and Confusion Cause Americans to Ignore Old 401k's](#)

Summary: In today's economy, changing jobs every few years is as American as apple pie. So too is leaving behind a large amount in retirement savings at previous jobs. According to a new survey, Americans are unsure about the process to roll over a 401k into an Individual Retirement Account or where to transfer their money. Source: 401khelpcenter.com.

[Dusting Off 401k Educational Campaigns](#)

Summary: The economy eventually will get back into full swing, so employers should use this downtime to give their 401k educational campaigns a fall cleaning - reevaluating the program to ensure its fresh and up to date. Source: Employee Benefit News.

403(b) Plan Items

[403\(b\) Plan Compliance Issues Unearthed](#)

Summary: 2010 is the year that is illuminating retirement plan problems plaguing 403(b) plan sponsors. Listed in this article are the most common problems seen thus far. The astute plan adviser will anticipate and resolve these issues for his or her 403(b) plan. Source: Employee Benefit News.

Studies and Research

[Study Identifies Key 401k Plan Features That Help Drive Participation and Savings Rates](#)

Summary: The study shows that while professional advice plays a critical and direct role in positively impacting the behavior of 401k plan participants, additional 401k plan features including the employer match, automatic enrollment and automatic savings increases can have a significant impact as well. Source: 401khelpcenter.com.

[New Study Explains Why the 401k Match Fails to Boost Participation](#)

Summary: It's the dilemma of every 401k plan sponsor: How can I boost my 401k participation rate in order to satisfy IRS non-discrimination rules? Many feel offering an employee match and/or employee education represent no-brainer answers to this oft-heard question. But a new study from Yale and Harvard researchers suggests this stunning answer: People will walk right past free money – knowingly. Source: Fiduciarynews.com.

[PLANSPONSOR Releases Summary of 2010 DC Plan Survey](#)

Summary: According to the just-released annual PLANSPONSOR defined contribution survey, 401k participation rates this year were basically flat and plan sponsors remained unsure about target-date asset allocations and retirement-income offerings. Source: 401khelpcenter.com.

[Fidelity Reports Pre-Retirees Doubled 401k Account Balance Over Past 10 Years](#)

Summary: Fidelity Investments released 401k data showing that pre-retiree participants who continuously held a 401k plan with Fidelity for the past 10 years more than doubled their account balances. Source: 401khelpcenter.com.

[Study: Americans Missing Opportunity to Maximize the Value of Workplace Retirement Plans](#)

Summary: The study, commissioned by the ING Retirement Research Institute, confirmed that employer-sponsored retirement plans are incredibly important to the workers who participate in them, but most are not maximizing the savings power of these plans to their full potential. The research found that plan investors often fail to recognize the potential long-term benefits that even a small contribution rate increase can produce in helping them successfully reach their retirement goals. Source: 401khelpcenter.com.

Court and Legislative Items

[Supermarket Chain Agrees to Restore \\$8M to 401k Plan](#)

Summary: C&K Market Inc. agreed to restore \$3 million in cash plus interest and to sell property in order to make restitution for a series of imprudent loans made with plan assets. Source: Planadviser.com.

[Ex-Wife Entitled to 401k Account Balance](#)

Summary: Even though an ex-wife waived her right to her now-deceased ex-husband's 401k plan savings, she is still entitled to the money, a federal judge in New Jersey has ruled. Source: Planadviser.com.

[Proposed \\$43 Million Settlement in ERISA 401k Plan Class Action](#)

Summary: Participants in an ERISA plan associated with National City Corporation will benefit from a proposed \$43 million settlement in a class action lawsuit alleging those defendants responsible for administering the National City Savings and Investment Plan breached their fiduciary duties under ERISA by making imprudent investments not in the best interests of Plan holders. Source: Lawyersandsettlements.com.

Commentary and Opinion

[It's Time to Focus on What Really Drives 401k Success](#)

Summary: The 401k industry has become too distracted by issues that do not directly impact what truly matters – driving successful retirement savings behavior and outcomes for American workers. Source: Employee Benefit News.

Regulatory Items

[IRS: No Mandatory Withholding for In-plan Roth Rollovers](#)

Summary: Plan sponsors who are allowing direct Roth rollovers from 401k and 403(b) plans don't have to worry about mandatory withholding for those distributions." Source: Plansponsor.com.

[DOL on Furnishing SPDs to Participants](#)

Summary: Question: Can SPDs be furnished by mailing a letter or postcard to all participants to let them know a new SPD is available and they can obtain a free copy by calling a telephone number and requesting one? Here is DOL's answer. Source: Benefitslink.com.

[DOL Cracking Down on 401k Fraud](#)

Summary: The Department of Labor is cracking down on employers who fail to deposit workers' retirement or health plan contributions and using the money for their own purposes. Source: Employee Benefit News.

[New Rules Regarding Fee Disclosures to Participants in 401k & 403\(b\) Plans](#)

Summary: The new DOL regulations are a big deal. They impose significant new requirements on plan administrators. Along with the other new DOL regulations requiring more disclosure of plan fees by service providers to plan administrators, these new requirements continue to promote more transparency in fees relating to retirement plans. Source: Miller Johnson.

[Proposed Regulation on ERISA Definition of Fiduciary; Part One](#)

Summary: The most notable omissions from the existing 5-part test are that such advice no longer needs to be provided on a regular basis nor does it have to be the primary basis for making investment decisions. The removal of those conditions may result in certain individuals who previously did not meet the 5-part test to meet the definition of a fiduciary. Further, the regulation would extend fiduciary status to plan-specific appraisals and fairness opinions, also broadening the exposure to a finding of fiduciary status. Source: McKay Hochman.

[IRS Will Contact Plans That Fail to Respond to 401k Compliance Questionnaire](#)

Summary: Plan sponsors that received the IRS' 401k compliance check questionnaire must complete it or they will be contacted by the Service, Employee Plans Director Monica Templeman said on October 21, 2010 during an IRS webinar. Templeman reiterated that the 401k compliance questionnaire that was sent to 1,200 plan sponsors earlier this year is not an audit but, nonetheless, should be used by companies as an internal audit to fix any problems. Source: CCH.

[New DOL 401k Fee Disclosure to Include Indirect Providers](#)

Summary: The Department of Labor's new 401k fee disclosure requirements that will take effect Jan. 1, 2012 go far beyond disclosing mutual fund expense ratios to cover every nook and cranny of expenses in plans, right down to indirect service providers. Source: Employee Benefit News.

[IRS Announces Pension Plan Limits for 2011](#)

Summary: The Internal Revenue Service announced on October 28, 2010, cost of living adjustments affecting dollar limitations for pension plans and other retirement-related items for tax year 2011. In general, these limits will either remain unchanged, or the inflation adjustments for 2011 will be small. Complete details provided. Source: 401khelpcenter.com.

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