

# Fiduciary Insights



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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.

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- General Items
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- [Likely Impact on Retirement Savings of Excluding Contributions From Taxable Income](#)

- Summary: If Congress were to modify the exclusion of employee contributions to retirement savings plans from taxable income, who would most likely cut back on their savings: lower-income workers, or those with higher income? Article provides insight on this question and on other unintended consequences.
- Source: 401khelpcenter.com.

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- [Benchmark Your 401k](#)
- Summary: Many plan sponsors want to know how their 401k plan stacks up to the typical or average plan. This is often the first question asked when attempting to determine whether an effort should be made to upgrade the features and benefits of the plan. To help you answer this question, we have identified some of the common performance characteristics and features offered by many 401k plans and compiled statistics from a variety of sources that will allow you to benchmark your plan.
- Source: 401khelpcenter.com.
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- [The 401k Auditor's Wish List](#)
- Summary: With more than 18 years of experience working with hundreds of defined contribution plans, the author has gone over his past interactions with plan sponsors and created a "wish list" for the things all auditors would like from their plan sponsor clients. These wishes fall into three main categories: Be Prepared. Be Available. Be Proactive.
- Source: Employee Benefit News.
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- [Making Sense of Plan Participant Disclosure Rules](#)
- Summary: Information must be shared with plan participants before their initial participation in the plan, annually and quarterly. So anyone eligible to participate in your 401k plan after Jan. 1, 2012, will need to receive the initial information. The first quarterly information will have to be delivered with your March 31, 2012, participant statements and the first set of annual information will need to be shared with your Dec. 31, 2012, participant statements. Source: Employee Benefit News.
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- [Required Minimum Distribution: The Required Beginning Date](#)

- Summary: The required beginning date (RBD) is the IRS term for the deadline to begin receiving the first required minimum distribution. The date is generally April 1 of the year following the later of two events. The two events are the attainment of age 70½ or, for a non-5% owner, the year the individual retires (if later). However, a plan document may be drafted to impose an RBD based on attainment of age 70½ on all participants.
- Source: McKay Hochman.

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- [Annuities Striking Out Among Employers, Employees](#)

- Summary: Fiduciary concerns, lack of portability, high costs and low participant demand hamper widespread acceptance of annuities within 401k plans.
- Source: Employee Benefit News.

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- [Beneficiary Designations Under Qualified Plans](#)

- Summary: The designation of beneficiaries in qualified plans, both a primary beneficiary and a secondary beneficiary, is an important part of a participant's retirement and estate planning. The rules relating to beneficiary designations for Plans are often complicated and confusing. Employers sponsoring such Plans should ensure that each participant has a current executed beneficiary form on file.
- Source: Foster Swift Collins & Smith PC.

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- [Failure to Withhold Elective Deferrals](#)

- Summary: A common error in plan administration occurs when an employee does not have the correct amount of deferrals withheld from pay because of their employer's misunderstanding of the retirement plan's definition of compensation.
- Source: McKay Hochman.

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- 403(b) Plan Items

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- [Information Sharing 2.0: The Road to the Future for 403\(b\) Plans](#)
- Summary: The final IRS 403(b) regulations introduced a number of new requirements for plan sponsors, the most significant of which clearly designates the plan sponsor as ultimately accountable for the plan's proper administration. To effectively administrate their organization's retirement plan, sponsors need to gather information from their plan's providers and examine and implement procedures for routinely acquiring plan information. Source: Employee Benefit News.
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- Studies and Research
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- [Four in Ten Working Americans Say They'll Never Afford Retirement](#)
- Summary: Almost 40 percent of working Americans say they will never afford retirement, which, for the second year in a row, ranks as the nation's most important financial concern, according to a telephone survey conducted for the American Institute of Certified Public Accountants by Harris Interactive.
- Source: 401khelpcenter.com.
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- Court and Legislative Items
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- [Suit Over Kraft's 401k Plan Boosted for Trial](#)
- Summary: In a 2-1 split, the 7th Circuit voted to revive a class action by Kraft employees alleging that mismanagement of the company's 401k plan caused them to miss out on \$83.7 million in investment gains between 2000 and 2007.
- Source: Courthousenews.com.
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- Commentary and Opinion
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- [Bringing Brokers up to Fiduciary Standards](#)

- Summary: As if people with 401ks didn't have enough on their minds: Not only do they have to worry about heavy losses from the economic downturn, but they have to fret over whether their brokers are benefiting more than they are. Participants in 401k plans likely assume that the professional advising them has their best interests in mind when providing asset allocation advice. But surprisingly, this might not necessarily be the case.
- Source: Washington Post.

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- [Full 401k Disclosure Has Been Long Overdue](#)

- Summary: New disclosure laws will force the vendors of 401k services to disclose what they are being paid and what they are doing for the money, decisions greatly affecting the nation's \$3 trillion worth of 401k money. Better late than never.
- Source: Contra Costa Times.

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- [Writing a New Fiduciary Formula](#)

- Summary: When it comes to providing sound retirement planning education and advice, one retirement professional says the formula to follow is DOL + CYA.
- Source: Employee Benefit News.

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- Regulatory Items

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- [DOL May Allow Expanded Electronic Disclosure by Employee Benefit Plans](#)

- Summary: The DOL's Employee Benefits Security Administration on April 7 announced that it is welcoming comments on whether it should expand, beyond the current safe harbor allowing it, plan administrators' ability to electronically furnish information that ERISA says must be provided to participants about an

employer's benefit plan. This would apply to summary plan descriptions and other documents by which participants are given information about the plan.

- Source: Thompson Publishing Group.
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- [Can 401k Plans be Disqualified? IRS and the Tax Court Remind Us That They Can](#)
- Summary: As a result of the IRS' formal correction program for plan mistakes, plan disqualification has become a very rare event. However, we were recently reminded that disqualification is not a thing of the past by not one, but two cases in which the Tax Court upheld the IRS' retroactive disqualification of plans.
- Source: Pensions & Benefits Law.
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