

Fiduciary Insights

March 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

[Why Plan Sponsors Fail](#)

Summary: Research in the past several years has illuminated how behavioral economics affects participants, but employers understand a lot less about how it has an impact on employers themselves. Plan sponsors make most of their decisions in groups and committees, so they are vulnerable to both group and individual biases.

Source: Plansponsor.com.

[Marketing HR Messages](#)

Summary: Should HR leaders turn over their internal communications and engagement efforts to marketing professionals? No, say HR experts, but their organizations sure could benefit by HR learning more about the marketing mind-set.

Source: HREonline.com.

[Employers Offering Workers More Help to Meet Retirement Goals](#)

Summary: According to a report released by Aon Hewitt companies have little confidence that workers are taking the actions necessary to meet their retirement savings needs. Some are taking steps to help.

Source: 401khelpcenter.com.

[Making Sense of Minimum Distribution Rules](#)

Summary: If you're approaching retirement, you'll eventually need to make serious decisions about when to begin taking withdrawals from your retirement accounts, how to receive the money, and how to calculate the taxes you'll owe.

Source: U.S. News & World Report.

[Do Surviving Spouses Have a Right to a 401k or an IRA?](#)

Summary: When choosing a beneficiary for a retirement plan, it is important to understand how your spouse will be treated under the plan. Surviving spouses are treated differently under 401ks and individual retirement accounts (IRAs). While a 401k provides protections for a surviving spouse, an IRA does not.

Source: Elderlawanswers.com.

Fiduciary Issues

[Complying With Participant Disclosures Regulations](#)

Summary: Some of the disclosures required by new regulations include information that plan fiduciaries typically do not track, such as the total annual operating expenses of the plan's investment options. However, some employers are finding that their third-party administrators intend to prepare and provide this information to plan participants. This is a good start. But is it enough?

Source: Wang Kobayashi Austin, LLC (PDF File).

[Plan Administrators Should Prepare Now to Comply with New Participant Disclosure Requirements](#)

Summary: A sweeping new set of participant disclosure requirements will take effect for most 401k and 403(b) plans later this year. The regulation creates a new ERISA fiduciary duty for administrators of all retirement plans that provide for participant investment direction. Plan administrators of covered plans will need to give participants an expanded array of information that meets specific content, formatting and frequency requirements.

Source: McGuireWoods LLP.

[When Revenue Sharing Exceeds Reasonable Costs](#)

Summary: Since fiduciaries have a legal duty to pay no more than reasonable compensation, and since there is a duty to ask, the failure to take any steps may be found to be a fiduciary breach, subjecting plan sponsors and committee members to liability for the excess payments.

Source: Reish & Reicher.

[The Importance of Procedures and Controls](#)

Summary: The importance of internal controls was mentioned at a recent Mid-Atlantic IRS liaison meeting and the existence and use of procedures and controls will go a long way in helping you survive a government audit.

Source: ERISAdiagnostics (PDF File).

Studies and Research

[Retirement Advice Along Gender Lines](#)

Summary: Men and women have distinct approaches to financial management, according to a new survey from Charles Schwab. The firm found that in investors 50 and older, 47% of men trust only themselves to make the right financial decisions, compared to 32% of women.

Source: Employee Benefit News.

[Survey: Trends Swing Positive for Defined Contribution Plans](#)

Summary: Callan Associates' "2011 Defined Contribution Trends Survey: Positioning the DC Plan for the Future" finds that plan sponsors will revive efforts to move their plans forward after enduring a severe market collapse and several years of economic challenges.

Source: 401khelpcenter.com.

[Court and Legislative Items](#)

[Comcast Stock Drop Case \\$5M Settlement Gets Court OK](#)

Summary: The pact okayed by Judge of the U.S. District Court for the Eastern District of Pennsylvania not only includes a cash settlement to be paid out to about 36,000 Comcast workers involved in the suit, but calls for the company to make changes in its 401k program.

Source: Plansponsor.com.

[Case Highlights the Perils of Revenue Sharing](#)

Summary: Much commentary has been generated about Tibble v. Edison International, the first 401k excessive investment fee case to go to trial that resulted in a judgment. The case brings some interesting issues to light.

Source: Morningstar Advisor Magazine.

[Wilmington Trust Targeted in 401k Investigation](#)

Summary: The law firm of Stull, Stull & Brody announced that it has commenced an investigation relating to the 401k defined contribution retirement plan of Wilmington Trust Corporation. Looks like the New Year is going to kick off on a litigious note.

Source: Plansponsor.com.

[Lehman Sued by Its Retirement Plan Participants](#)

Summary: Lehman Brothers' 401k retirement plan and its participants sued ex-Chief Executive Officer Richard Fuld and other former executives of the defunct firm for failing to disclose Repo 105, a financing method allegedly used to conceal billions of dollars of debt.

Source: Advisorone.com.

[Commentary and Opinion](#)

[401ks Have Assisted Millions of Retirees](#)

Summary: Are 401k plans a failure? Any attempt to answer that must address three basic questions: What were they created to do? How have they performed? What's the alternative?

Source: Cincinnati Enquirer.

[Regulatory Items](#)

[SEC's Fiduciary Study Released](#)

Summary: The Securities and Exchange Commission submitted to Congress a staff study recommending a uniform fiduciary standard of conduct for broker-dealers and investment advisers -- no less stringent than currently applied to investment advisers under the Advisers Act -- when those financial professionals provide personalized investment advice about securities to retail investors.

Source: SEC.

[EBSA Regulatory Agenda Focuses on Fees](#)

Summary: In a live Web chat discussing the Department of Labor's Employee Benefits Security Administration's Semiannual Regulatory Agenda, Assistant Secretary of Labor Phyllis C. Borzi said the Agency will focus on its fee transparency initiatives.

Source: Planadviser.com.

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