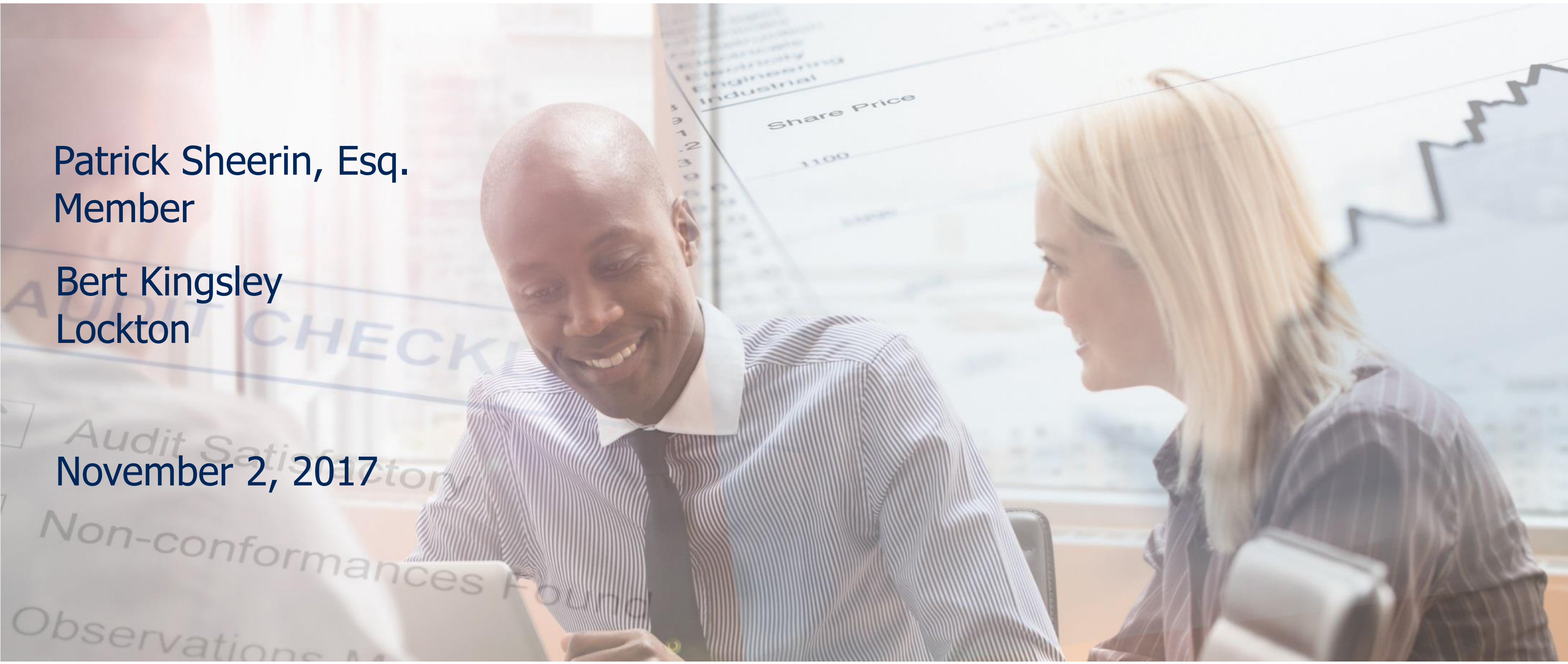
2017 Basics: Get The 411 On Your 401(k)



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LOCKTON RETIREMENT SERVICES

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Agenda

Topic	Session Time
Overview & Key Requirements	8:45 - 900am
DC Plan Fundamentals & Plan Design Options	9:00 – 9:45am
Understanding and Managing Your Role as Fiduciary	9:45am – 10:15am
Break	10:15am – 10:30am
Breakout Session 1 - Plan Governance	10:30 – 10:45am
Actionable Steps to Audit Proof your Plan Best Practices in 401(k) Administration	10:45am – 11:15am
Breakout Session 2 - Fixing Operational Issues	11:15am – 11:30am
Latest Trends	11:30am - noon

Overview & Key Requirements

Overview

- **A defined contribution (DC) plan is a plan where the a contribution is defined**
  - The amount of retirement income – is not guaranteed or promised
- **The amount or income upon retirement is a function of a number of variables:**
  - How much is contributed and when
  - Period over which contributions are made
  - How the contributions are invested
  - Investment markets during the accumulation and draw down periods
  - Drawdown approach and amount. For example:
    - Withdrawals vs. purchase of guaranteed income
    - How/when/if guaranteed income purchase is made
- **DC Plan can have**
  - Employee contributions, employer contributions or combination
- **Employer contributions can be:**
  - Automatic (requiring no employee action)
  - Matching (contingent on employee contributions)
  - Discretionary (usually based on employer profits)
  - Combinations of the above

Overview: Tax incentives

- **Employers: Qualified defined contribution plans provide significant advantages for tax-paying employers**
  - Tax deduction *now* for contributions made by both the employer and its employees
    - Even though the IRS may not collect taxes until later – when $ is distributed from the account
  - Talent attractor/retention device

- **Employees: No current income taxation to employee**
  - Taxes on contributions and investment income are deferred until account is paid out
    - Exception: Roth and other after-tax contributions where the contributions are taxed before going into the plan
  - Tax deferral opportunities continue if distributions are rolled over to an IRA or another employer's plan
  - Employee's pre-tax contributions reduce current <u>income</u> taxes but not Social Security/Medicare taxes

Legal Environment

- Primarily governed by two federal statutes
  1. Employee Retirement Income Security Act of 1974 (“ERISA”)
     - Regulated by
       - DOL (Department of Labor) through the Employee Benefits Security Administration (EBSA), and
       - PBGC (Pension Benefit Guaranty Corporation) – Defined Benefit Plans
  2. Internal Revenue Code (“IRC” or the “Code”)
     - Regulated by the Internal Revenue Service (“IRS”)
- State laws generally apply to employee benefit plans in only limited contexts

Some Key Requirements

Requirement	Summary Description
Eligibility	Usually cannot require more than age 21 and 1 year of service to be eligible • Some exceptions apply for immediate vesting plans and plans of tax exempt employers • 'Entry date' can postpone participation even after initial eligibility but usually not by more than 6 additional months
Funding	Contributions must be made currently and set aside in a protected entity such as a trust, insurance contract or custodial account
Vesting	• Employee contributions: always 100% immediately vested • Employer contributions: must vest within prescribed, limited time period
Nondiscrimination	Plan coverage and contribution levels must not discriminate in favor of highly compensated employees (HCEs)
Distribution requirements / restrictions	• Some plans required to provide "qualified joint & survivor annuities" unless participant and spouse waive • Access to account is restricted during employment • Type and severity of restrictions depends on source of contribution (employee vs. employer), type of contribution and type of plan

Note: Above requirements apply to tax-qualified 401(a) and 403(b) plans. Some exceptions apply to governmental DC plans.

Some Key Requirements- Limits

Limitations	2014	2015	2016	2017	2018
Employee pre-tax or Roth contributions	$17,500	$18,000	$18,000	$18,000	$18,500
Additional 'catch-up' contribution allowed for those 50+	5,500	6,000	6,000	6,000	6,000
Combination of employer and employee contributions	Lesser of 100% of pay and:				
	52,000	53,000	53,000	54,000	55,000
Maximum covered pay*	260,000	265,000	265,000	270,000	275,000
Highly compensated employee pay threshold	115,000	120,000	120,000	120,000	120,000

****Pay over this amount cannot be considered when making plan contributions***

DC Plan Fundamentals & Plan Design Options

Key factors that distinguish DC plans

- Type of plan sponsor
- Employee vs. employer contributions
- Nature of employee and employer contributions
- Vesting and eligibility requirements
- Employee investment discretion and risk
- “Integration” with Social Security
- Pre-retirement access to accounts
- Administrative requirements
- ERISA coverage/government reporting requirements
- Investment direction
- Qualified vs. non-qualified

Types of Employee Contributions

- Employee before-tax (pre-tax) contributions:
  - Contributions reduce current taxable income
    - Contributions and investment income taxed-deferred until distributed
    - Available under 401(k), 403(b), 457(b) and nonqualified DC plans
- Employee after-tax (post-tax) contributions:
  - Contributions taxed before submitted to plan
  - Roth:
    - All investment earnings received *tax-free* if certain conditions met
    - Available under 401(k), 403(b) plans and 457(b) plans
  - Traditional:
    - Investment earnings taxed when distributions made from plan
    - Available under 401(a) thrift/savings plans and 403(b) plans (but rarely used)

Types of Employer Contributions

- Discretionary:
  - Employer decides year to year if, and how much, to contribute
  - Profit sharing plans
    - Including some Employee Stock Ownership Plans (ESOP)
  - Employer’s match to a 401(k) plan

- Automatic: Employer must contribute each year
  - Money Purchase Pension Plan
  - Employer match to a 401(k) or 403(b) plan
  - 403(b) Plan with non-matching employer contributions
  - Employee Stock Ownership Plans (most)
  - Target Benefit Plan
    - Automatic employer contributions based on a formula that ‘targets’ a specific outcome

Specifics: 401(k) Savings Plans*

- Most popular of all qualified defined contribution plans, they account for over 75% of all DC plans
  - Most US workers have this kind of plan
- Average plan participation rate is about 70%
  - Lower without an employer match
  - Higher at large employers with match
- Most large employer plans have an employer matching contribution
  - Typically a simple matching percentage
    - e.g., 50% of first 6% of pay
- Matches may be profit-related or 'guaranteed/automatic'
- Some matches are 'front-loaded' to attract lower-paid
  - e.g., 100% on first 2%; 50% on next 4%
- Age-or service-weighting less common but allowed

> - 75% offer a match,
> - 48% offer a non-elective contribution
> - 21% have match = 50% on 6%
> - 23% are less than 50% on 6%
> - 47% have match greater than 50% on 6%

* Note: All survey statistics in this section are from 2016 Plan Sponsor Survey (All Industries)

Specifics: 401(k) Savings Plans

Nondiscrimination Requirements

- Contribution levels may not discriminate in favor of Highly Compensated Employees (HCEs)
  - <u>Actual Deferral % (ADP)Test</u>:

    Annual average contributions made by HCEs are subject to limits based on how much NHCEs ("lower-paid") employees contribute <u>on average</u>

    - Generally HCE average contribution can be no more than 2% greater than average made by non-HCEs
  - <u>Actual Contribution % (ACP) Test</u>:

    Annual average matching contributions for HCEs can't exceed the average for other employees by more than permitted margin

  - Consequences of failure

    If plan fails these tests, contributions must be returned to HCEs or employer must make additional contributions for non-HCEs
  - Avoidance: Safe-harbor designs can be used to avoid these tests

Safe Harbor Plan

49% are Traditional Match,
26% are Non-Elective
5% are Auto Enroll
20% are "Other"*

	Auto Enroll Safe Harbor (QACA)	Traditional Safe Harbor	Comments
Auto enrollment	Graded 3% to 6% auto deferrals	No requirement	Auto-enrollment may increase match cost [1]
Matching option [2]	**3.5% of pay max match** on 6% of pay (100% of first 1%; 50% on 2%–6%)	**4% of pay max match** on 5% of pay (100% on first 3%; 50% on 4%–5%)	Auto safe harbor requires a half percent less total match (at 6% level)
Non-elective option[1]	3% non-elective		
Vesting [3]	Two-year cliff	Immediate	Vesting could recoup some auto-enrollment cost
Eligible pay	Non-discriminatory definition under IRC Section 414(s)		Could pose problems for certain pay definitions, such as base pay
Delayed match eligibility	Can restrict match eligibility to age 21 with 1 year of service		Can mitigate impact of vesting requirement[4]

Notes:
[1] Must automatically enroll all eligible employees who have not made an "affirmative election" to contribute or not to contribute
[2] Can provide higher matching contributions on up to 6% of pay and maintain safe harbor
[3] May be able to apply more restrictive vesting requirements on matching contributions above the safe harbor amount
[4] It does not appear that a 2 year waiting period is permitted under safe harbor

* 2016 Plan Sponsor Survey (All Industries)

Specifics: 401(k) Savings Plans

- 81% of plans offer loans,
- 14% of participants have open loans,
- average balance of $8,860

In-service access to funds

- Loans and withdrawals are almost universal
- Withdrawals during employment:
  - Employee pre-tax contributions (but not investment earnings) may be withdrawn only for "financial hardship" before age 59 1/2
  - Allowable financial hardship conditions set by IRS
  - Employer contributions sometimes withdrawable
- Loans for any reason, up to lesser of 50% of vested account balance or $50,000 are very typical
  - Loans must bear market rates of interest and be limited to 5 years (longer for home purchase)

* 2016 Plan Sponsor Survey (All Industries)

Specifics: 401(k) Savings Plans

Investments

- Employee contributions: participant investment direction is almost universal
- Employer contributions sometimes go automatically into employer stock
  - Less and less common since Enron
  - PPA requires diversification opportunity for publicly traded stock; applies to those with 3 years of vesting
- Number and variety of investment options has grown rapidly (12-13 funds is now the norm) but more is not necessarily better
  - Pre-mixed funds (life style, target date or life cycle funds) growing in popularity because sanctioned as a safe harbor 'default' fund for auto-enrollment plans
    - Qualified Default Investment Alternative (QDIA)

- Average # of investments is 21 (target date funds are 1 option),
- of which 5 are index options
- Average number of funds held by participants is 5

* 2016 Plan Sponsor Survey (All Industries)

Specifics: 401(k) / Thrift / Savings Plans

- Daily account valuation, call centers, voice response systems, and internet portals are almost universal for large employer plans

- Personalized, web-based retirement planning is gaining in popularity (e.g., Financial Engines)

- "Automatic enrollment" and "auto escalation" are becoming the norm
  - Statutory/regulatory/DOL guidance and fiduciary protections encourage these trends

- 41% of plan sponsors have adopted auto enrollment
- 86% for new hires only
- 45% applied a 3% of pay default rate
- 17% have adopted an auto-escalation feature

* 2016 Plan Sponsor Survey (All Industries)

Specifics: Roth 401(k)'s

62% offer Roth feature

- Available to all 401(k) plans and participants
  - Plan sponsor must include in plan provisions
- Income taxes paid on employee contributions as $ is deposited into plan
  - Post-tax employee contributions only - no employer contribution equivalent
- All investment earnings are received tax-free after 5 years in plan and attainment of age 59-1/2, death or disability
- Treated as a pre-tax employee contributions for purposes of:
  - Annual contribution limits
  - Annual ADP discrimination test (unless safe harbor design)
  - Withdrawal restrictions - "financial hardship" availability only before age 59 1/2

* 2016 Plan Sponsor Survey (All Industries)

Specifics: Roth 401(k)'s (Cont'd): Comparison of Contribution Types

	TYPE OF CONTRIBUTION		
	401(k) Pre-Tax Contribution	Roth 401(k) Contribution	After-Tax Contribution
Taxation of Contributions	Not taxed	Taxed	Taxed
Taxation of Distributions	Entire distribution is taxable	No tax upon distribution if "qualified" (contributions taxed when contributed)	Tax on earnings upon distribution (contributions taxed when contributed)
Vesting	100% immediate	100% immediate	100% immediate
Availability	Must be available to a nondiscriminatory group	Must be available to a nondiscriminatory group	Must be available to a nondiscriminatory group
Subject to 402(g) Limitations	Aggregated with Roth 401(k)	Aggregated with 401(k)	No
Nondiscrimination Testing	ADP: aggregated with Roth 401(k)	ADP: aggregated with 401(k)	ACP
Loans and Hardship Withdrawals	Yes	Yes	Yes
Other In-service Distributions	Not before 59.5	Not before 59.5	Yes
Distributions at Separation from Service	Yes	Yes, but tax advantage lost unless after 59.5	Yes
10% Early Distribution Penalty	Yes	Yes, to the extent taxable	Yes, to the extent taxable
Eligibility for Rollover	Yes	Yes, to Roth IRA or another Roth account	Yes

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Specifics: Roth 401(k)'s (Cont'd): Key factors to consider

- Potential demand from employees
- Confirm impact on administrative services
- Impact on ADP/ACP tests, if applicable
- Communication to employees
- Implementation considerations:
  - Readiness to administer Roth 401(k) contributions (e.g., separate accounting of money and 5-year tracking)
  - Assess impact on HR, systems and other administration
  - Prepare plan amendments implementing the Roth 401(k) feature
  - Prepare new election forms, communications, SPDs, etc. and plan initial communications/education campaign

Specifics: Vesting in 401(k) Savings Plans

- **Vesting = ownership**
- **Employee contributions**
  - Always 100% immediately vested
- **Employer matching and non-matching employer contributions:**
  - 2-6 year graded schedule (20% per year) or
  - 3-year cliff schedule (or better)
    - "Cliff" means 0 vesting before 3 years is reached
  - More rapid vesting for 401(k) 'safe harbor' plan designs
    - Immediate to 2 years max depending on safe harbor

- 34% vest immediately
- 21% vest within 3 years
- 26% vest within 5 years
- 19% vest in 5+ years

* 2016 Plan Sponsor Survey (All Industries)

* 2016 Plan Sponsor Survey (All Industries)

Specifics: Profit Sharing/Discretionary Plans

- Contributions are discretionary
  - Employer decides amount of contribution each year
  - Usually cash contributions but also can be employer stock
- Common contribution allocation formula:
  - Uniform percentage of pay to all eligible employees. For example, 5% of pay
  - Discretionary end-of-year matching contribution
  - Contribution "integrated" with Social Security
    - Example: 3% on pay up to Social Security Wage Base (SSWB)
      + 6% on pay > SSWB
  - Age and/or service weighted contribution formula (subject to nondiscrimination testing)
    - < 5 years of service: 2% of pay
    - 5 + years of service: 5% of pay
- In-service loans and withdrawals are also common

Other types of qualified plans

- Employee Stock Ownership Plans
  - Employer contributions are made exclusively or mostly in plan sponsor's stock (at least 51%)
  - Can be leveraged whereby loan is used to purchase employer stock
  - Subject to special rules (e.g., diversification rights at age 55, put option)
- Money Purchase Pension Plan
  - Contribution is not discretionary, must be made regardless of profits
  - Subject to rules similar to defined benefit pension plans: e.g., withdrawal restrictions, qualified joint and survivor annuity requirements

403(b) Plans

- Similar to 401(k) plans in many ways….

  Investments
  - Employee investment discretion over both employee and employer contributions is typical

  In-service Access to $
  - Financial hardship withdrawals usually available on employee $
  - Loans typically available on employee $

- Primary distinctions between 401(k) and 403(b) are as follows:
  - No discrimination testing for employee pre-tax or Roth after-tax contributions
    - Nondiscrimination testing does apply to employer matching/other contributions that do not meet safe harbor designs and non-Roth employee after-tax contributions
  - No 'trust' requirement for 403(b) plan assets
    - Assets are held by insurance company (annuity contracts) or in 'custodial accounts' offered by mutual fund providers

403(b) Plans

- Not subject to ERISA if certain conditions met:
  - No employer contributions
  - No employer "control"
- Effective in 2009, the IRS issued new regulations for all 403(b) plans which dramatically increase compliance requirements:
  - Plan documents, SPDs, increased government reporting etc. similar to 401(k) plans
  - Full annual disclosure (Form 5500) for plans subject to ERISA
- Private, non-profit organizations also have right to choose 401(k)
  - But 401(k) not commonly used because 403(b) plan is entrenched and greater compliance requirements for 401(k) (primarily ADP test)
- Participation rates in 403(b) plans without employer contributions are often very low (25% to 40%) compared to 401(k) plans 77%*

* 2016 Plan Sponsor Survey (All Industries)

* 2016 Plan Sponsor Survey (All Industries)

Nonqualified Defined Contribution Plans

- **Typical objectives:**
  - Allow highly paid to defer pay and bonus above contribution and pay limits that apply to 'qualified', broad-based defined contribution plans (e.g 401(k))
  - Restore/make-up employer match or other company contribution that cannot be made to qualified plan because of contribution or pay limits
- **Code Section 409A enacted in 2004 imposes strict deferral and distribution requirements:**
  - Voluntary deferral elections must generally be made in year before pay is earned
  - Distribution form and timing must also be elected before pay is earned

- 10% overall offer Non-Qualified Plans,
- More prevalent in larger organizations, 45% of "Mega" plan sponsors offer this type of plan

Nonqualified Defined Contribution Plans

- Limited participation:
  - Only a ‘select group’ of highly compensated and/or management may participate
  - Usually less than 10% of total population but no bright line guidance ever issued
- No protected funding permitted:
  - Participants are ‘general creditors’ in the event of bankruptcy or insolvency
  - Any funds set aside for this liability must be property of company otherwise immediate taxation to employee
- Taxation:
  - No income tax deduction to company when ‘contributions’ are made
    - Income tax deduction occurs when participant is taxed/paid out
  - No income tax to participant until account is paid out
  - FICA tax due when amounts become ‘vested’

Nonqualified Defined Contribution Plans

- **Sponsoring entities for NQDC:**
  - Usually tax-paying corporations

  - Special rules make it almost impossible for tax-exempt entities to provide tax-deferred compensation
    - Risk of forfeiture must be very substantive because no real risk of entity becoming bankrupt or insolvent

  - In addition, "Intermediate Sanctions" require that compensation paid by a tax-exempt entity must be 'reasonable'
    - Sanctions apply if it is not
    - All compensation considered in this analysis including pay, fringe benefits, cars, housing allowances, special retirement arrangements etc.

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Understanding and Managing Your Role as Fiduciary

Overview of Fiduciary Responsibilities – Background

- ERISA applies fiduciary responsibility rules to employee benefit plans to protect plan participants and beneficiaries
- These rules accomplish this by
  - Defining plan fiduciaries
  - Imposing standards of behavior and accountability
- ERISA fiduciary rules apply primarily to qualified retirement plans and to health and welfare plans
- Rules interpreted and enforced by
  - Department of Labor (Employee Benefit Security Administration)
  - Federal courts
- Entire area is strongly dependent on specific facts and circumstances and, ultimately, case law

Who is a Fiduciary?

Ways you could be a fiduciary:

- Named fiduciary under the plan document
- "Trustee" or ERISA "administrator" of the plan
- Exercise discretionary authority or control over plan administration
- Exercise authority or control over management or disposition of plan assets
- Appoint plan fiduciaries
- Provide investment advice or distribution counseling to plan fiduciaries or participants for a fee

Anyone can be a fiduciary by:

Fulfilling a function or taking action for the plan that is fiduciary in nature

Who is a Fiduciary?

Fiduciary status depends on role being performed:

- A ***"fiduciary hat"*** when exercising plan discretion
- An ***"employer hat"*** for non-fiduciary roles

Examples of fiduciary roles:

- Exercising administrative discretion for the plan; exercising control over assets
- Selecting plan service providers (including investment managers)
- Plan interpretation
- Appointing fiduciary committee members
- Select or monitor investment vehicles
- Make decision on review of denied claims
- Determination/approval of expenses to be paid from plan assets

Who is a Fiduciary?
Importance of knowing which "hat" to wear!

- Examples of the ***non-fiduciary*** role of ***employer*** or ***plan sponsor***:
  - Adopting or terminating a plan
  - Altering the plan design
  - Hiring or terminating employees, reducing workforce
  - Reassigning an employee to another job or business unit
- But even when taking non-fiduciary role:
  - Must act lawfully by avoiding
    - Technical violation of ERISA or the Code
    - Discrimination by age, gender, etc.

Who is Not a Fiduciary?

- Performing purely “ministerial” functions does not result in fiduciary status:
  - Calculating service or credits
  - Maintaining participant records
  - Preparing reports concerning participant benefits
  - Processing claims
  - Making recommendations to others for decisions on administration

Performing tasks within a framework of policies, rules, practices and procedures developed by others should not give rise to fiduciary status

Contract disclaimers do not control the determination of fiduciary status

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The Five Key Duties of a Fiduciary

LOYALTY/ EXCLUSIVE BENEFIT

- All actions must be in best interest of participants/ beneficiaries
- Act solely to provide benefits and defray reasonable expenses

PRUDENCE

- Assume responsibility for monitoring decisions and actions
- Prudent expert standard

ABIDE BY PLAN DOCUMENTATION

- Act in accordance with document (unless inconsistent with ERISA)

DIVERSIFICATION

- Ensure that plan investments minimize the risk of large losses

AVOID NON-EXEMPT PROHIBITED TRANSACTIONS

- Ensure legal and appropriate transactions
- Avoid IRS excise tax and DOL penalty

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Exclusive Benefit Rule

Fiduciaries must act solely in the interest of plan participants and beneficiaries for the exclusive purpose of:

- ***Providing plan benefits or***
- ***Defraying reasonable administrative expenses of the plan***

- Fiduciaries have a strict duty of loyalty to plan participants and beneficiaries
- Examples
  - Selection of plan investment options must be made without regard to sponsor's needs
  - Don't participate in fiduciary decision in which you have a personal interest
  - Don't charge "settlor" function expenses to plan (e.g., plan design)

Exclusive Benefit Rule – Example
Charging expenses to plan assets

Fiduciary checklist

- ☑ Does plan document provide that plan expenses may be paid from plan assets?
- ☑ Is expense necessary for the operation of the plan, and primarily for the benefit of participants and beneficiaries (i.e., not a settlor expense)?
- ☑ Is expense reasonable in amount, based on services provided?
- ☑ Is service performed under a reasonable contract or arrangement that permits a reasonable opportunity to terminate the arrangement?
- ☑ Does expense relate to the particular plan for which the assets are being charged?
- ☑ Is allocation of expense fair, rational and prudent?
- ☑ Has fiduciary process regarding expenses been documented?
- ☑ Has expense and allocation method been properly disclosed to participants?

Prudent Expert Standard

Fiduciaries must make decisions with the level of care and skill a prudent person knowledgeable and experienced in the management of pension assets would use under like circumstances

- Process is critical:
  - Prudence is determined by evaluating the process, not just the final decision or outcome
- When lacking expertise, seek out experts or delegate (e.g., committee retains consultant for ongoing monitoring)
  - Must prudently monitor delegated responsibilities
- Examples:
  - Care and skill in overseeing accurate administration of plan
  - Prudent selection of investment options
  - Loyalty and care in examining fees charged to participants or the trust; close examination of fee sharing arrangements

Diversification Rule

Fiduciaries must diversify plan investments "so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so"

- Elements to consider:
  - Nature and purpose of the plan
  - Amount of plan assets
  - General economic conditions
  - Particular characteristics of each type of investment within the overall portfolio

Plan Document Rule

Fiduciaries must operate the plan according to the plan's written documents – Unless the documents are inconsistent with ERISA or other governing laws

- Fiduciaries may interpret ambiguous plan provisions if the plan document provides that authority
  - Decisions may not be arbitrary or capricious
  - Must treat similarly situated participants in the same manner
- Consistency of documentation is critical
  - If SPD is inconsistent with plan document, court may conclude that the SPD governs
  - US Supreme Court ruled that participants need not show detrimental reliance or prejudice in order to assert claims based on inconsistencies between SPD and formal plan document – Only that they suffered harm (CIGNA Corp. et al. v. Amara et. al.)

Prohibited Transaction Rules

- Fiduciaries may not enter into direct or indirect economic transactions involving plan assets with parties-in-interest:
  - Includes sales, leases, loans, or furnishing of goods, services, or facilities
  - Parties-in-interest includes other fiduciaries, the employer, service providers, legal counsel, employees, directors or related persons
- Self-dealing transactions are also prohibited
- Examples
  - Fiduciaries cannot deal with plan assets in their own interest
  - Fiduciaries must transmit employee deferrals and loan repayments to the trust as soon as administratively feasible

Additional Requirements

- Title to plan assets must be maintained within jurisdiction of US courts
  - Does not prohibit foreign investments
- Fiduciaries must be bonded for at least 10% of plan assets, up to $500,000
  - Fiduciary bond protects plan assets – Does not protect fiduciaries from personal liability

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Fiduciary Liability for Breach of Duties

- Fiduciaries who breach their fiduciary duty have personal liability to restore:
  - Plan losses resulting from the breach
  - Profits acquired through use of plan assets
- Courts can require additional relief, including removal of the fiduciary
- Co-fiduciaries may be liable for "knowing participation"
  - Enabling another fiduciary to commit a breach, or
  - Knowledge of a breach without making efforts to remedy the breach
- ERISA imposes a civil penalty of 20% of amount recovered by the DOL under a settlement agreement or court decision
- Potential criminal liability
  - For "willful violation" of reporting/disclosure requirements
  - Penalties and/or imprisonment for theft, embezzlement, fraud

Managing Exposure – Participant Directed 401(k)& 403(b) Plans

- Compliance with ERISA 404(c)
  - May protect committee from investment losses resulting from participants' exercise of control
  - ERISA 404(c) ***does not*** protect from liability for imprudent fund selection
- To comply must offer sufficient breadth and number of investment choices, and meet rigorous participant disclosures requirements
- Protection is "transactional" – Applies separately for each participant allocation decision
- Plan fiduciaries remain responsible for prudent selection/retention of investment options

Managing Exposure – Participant Directed 401(k) & 403(b) Plans

- Qualified default investment alternatives (QDIA)
  - Relief from certain fiduciary responsibilities for investments made on behalf of participants who fail to direct their own investments
  - Includes certain target date funds, balanced funds and managed accounts
  - Particularly important with auto enrollment plans
- Fund mapping
  - Covers reallocation of accounts to new funds with "reasonably similar" risk/return characteristics

Exculpatory Provisions and Insurance

- ERISA prohibits plan sponsors from relieving fiduciaries from responsibility or liability
- Exculpatory plan document provisions relieving fiduciaries from liability for breaches have no effect under ERISA
- Plan sponsors typically purchase fiduciary liability insurance to cover liability or loss caused by a fiduciary breach
- If insurance allows recourse by the insurer against the fiduciary, premium may be paid from plan assets – but this is NOT common
- Fiduciaries may purchase their own liability coverage
- Many D&O policies exclude ERISA fiduciary issues
- Most companies provide indemnifications for officers, directors and employees who perform fiduciary functions

Actionable Steps to Audit Proof Your Plan
Best Practices in 401(k) Administration

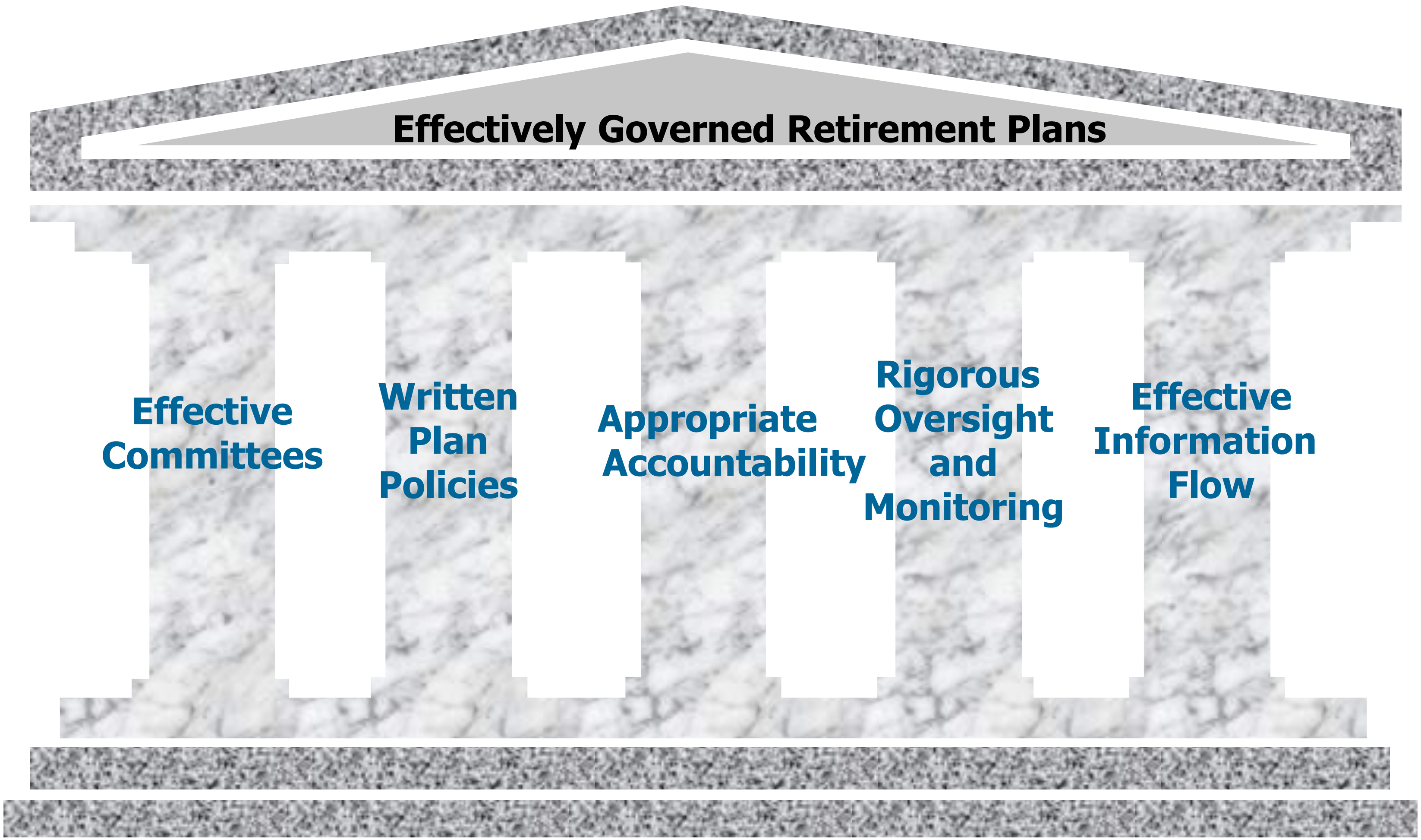
Fiduciary Best Practices

- Plan Documentation
  - Follow the terms of the plan documents
  - Establish written investment policy
- Plan Governance and Procedural Due Diligence
  - Formalize plan governance
  - Follow diligent, prudent processes
  - Select competent individuals as plan fiduciaries
  - Avoid conflicts of interest
  - Hold regular committee meetings
  - Document meetings and decisions
- Investment Oversight
  - Determine appropriate number of plan investment options
  - Monitor performance of investments, investment managers (e.g. quarterly) and other service providers
  - Periodic review of investment policy
- Fiduciary training
- Consider periodic operational audit to ensure ongoing compliance

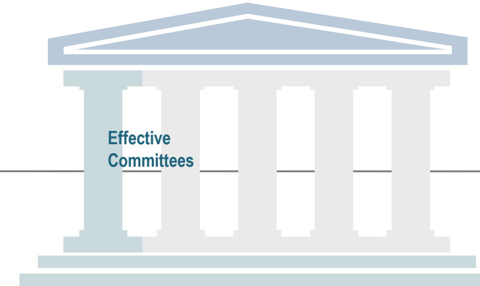
Key Fiduciary Governance Risks

1. Failure to ensure fees paid are reasonable and properly applied
2. Inadequate written policies (e.g., missing, incomplete, ambiguous, or inconsistent committee charters, plan documents, procedural rules, etc.)
3. Inadequate fiduciary orientation and education
4. Deficiencies in committee process
5. Inadequate separation of fiduciary and settlor functions performed by the same body, e.g., conflicts of interest and "two hat" problems
6. Failure to define and communicate roles so that everyone (including the Board) understands and fulfills his/her responsibilities, e.g., who is the administrator
7. Failure to monitor fiduciaries and service providers diligently
8. Failure to identify fiduciaries to plan participants
9. Failure to review DC plan's ERISA Section 404(c) compliance
10. Failure to perform periodic compliance reviews of documents/operations

Principles of Effective Governance
Fiduciary Risk Management



Effective Committees



- Conduct regular meetings, scheduled in advance
- Circulate agenda and materials in advance of meetings
- Train all members on fiduciary duties, plan operation and ERISA
- Stay current on changes in laws, regulations, litigation trends and industry practices
- Hold productive meetings with unbiased, fair and objective deliberations
- Maintain minutes that document rationale for decisions
- Obtain expert advice and legal counsel

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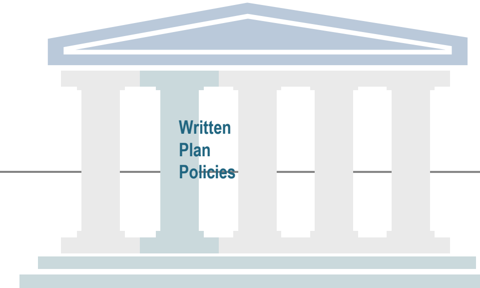
Written Plan Policies



- Develop written policies that create a framework for resolving issues
- Consider policies for:
  - Investments: strategy, objectives, benchmarks
  - Payment of expenses from plan assets, and allocation methodology
  - Communications to participants
  - Governance, compliance and conflicts of interest
- Set regular schedule for review and update of policies and documents
- Ensure policies strike balance in detail to be useful as risk-management tools, while not being overly prescriptive

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Appropriate Accountability

Important to ensure that:

- Appropriate governance structure is in place and each party understands their roles and responsibilities:
  - Board or compensation committee
  - Plan committee
  - Staff
  - Third-party providers
- Committee charter is up to date and properly executed by delegating authority
- Authority to make plan amendments is clear and consistently followed
- Delegation of responsibilities is properly authorized, clearly communicated, and appropriately monitored
- Performance standards are meaningful, measurable and captured in contract

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Rigorous Oversight & Monitoring

Rigorous Oversight & Monitoring

- Areas to monitor:
  - Performance of appointed fiduciaries
  - Investment suitability and performance
  - Plan expenses
  - Operational compliance
  - Participant materials, web sites and scripts, especially relating to investments and distribution counselling
  - Responsibilities delegated to staff or vendors
- Best-practice guidelines:
  - Benchmark administrative fees every 2 to 3 years
    - Or more frequently due to organizational or market changes
  - Review investments and benchmark investment fees quarterly
  - Review operational compliance every 3 or 4 years
    - Or more frequently due to personnel turnover, merger/acquisition, or operational failure
  - Committee should report to board or governing body at least annually

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Effective Information Flow

- Ensure the plan’s decision-makers have timely access to accurate information to make informed decisions
- Ensure issues are briefed, with supporting data and rationales, and delivered to decision-makers prior to meetings
- Develop reporting protocols among internal parties
- Provide staff, outside vendors and consultants timely and accurate information to effectively do their jobs
- Ensure third-party contracts spell out reporting protocols, including the timing and content of required reports

Common compliance errors

- Eligibility requirements applied incorrectly
- Vesting service calculated incorrectly
- Distributions from plan processed incorrectly
- Contributions/benefits incorrectly calculated
- Required notices not given timely or properly
- Incorrect pay calculations
- Required nondiscrimination testing performed incorrectly
- IRS limits exceeded
- Benefit accrual service incorrectly calculated
- Failure to timely deposit employee contributions

IRS' Employee Plans Compliance Resolution System (EPCRS)

- EPCRS is a voluntary correction program instituted by the IRS, most recently codified in Revenue Procedure 2016-51
- Consists of three correction programs
  1. Self Correction Program
  2. Voluntary Correction Program (VCP)
  3. Audit Closing Program (Audit CAP)
- EPCRS is available for:
  - Qualified plans (IRC 401(a))
  - Section 403(b) plans
  - SEPs and SARSEPs (IRC 408(k))
  - SIMPLE IRAs (IRC 403(p))Codifies the non-recognition of same-sex marriages for all federal purposes (Section 3)
- Correction principles
  - Full correction
  - Restore plan participants to the position they would have been had failure not occurred
  - Reasonable and appropriate correction of the failure

IRS' Employee Plans Compliance Resolution System (cont'd)

- SCP is generally available for only operational defects
  - With few exceptions, document defects must use VCP
  - Could be under audit and use SCP
  - Significant failures must have occurred within last 2 years (insignificant failures may be older)
    - EPCRS guidance describes several factors that are considered to determine whether issue is "significant" (e.g. % of assets involved, # of participants affected relative to total)
  - No filing with IRS required, and thus, correction could be challenged upon audit
- VCP requires filing application with the IRS
  - May not be under audit
  - Correction by plan amendment may also require determination letter application filing
  - User fees vary
    - In general, graded based on number of participants
    - Various exceptions to general fee schedule (e.g. fee for failure to adopt good faith or interim amendment is $375)
    - For more details see: https://www.irs.gov/retirement-plans/voluntary-correction-program-fees
- Audit CAP
  - Rules regarding sanctions for failures discovered upon audit
  - Includes rules for discovering nonamender issues upon determination letter review
    - Fee schedule based on number of participants – significantly higher than VCP schedule

IRS' Employee Plans Compliance Resolution System (cont'd)

- Common issues
  - Missed deferral opportunity
  - Eligibility issues
  - Automatic enrollment failure
  - Misapplication of compensation definition
  - Plan document issues
- See also the IRS Top Ten Failures Found in Voluntary Correction Program Filings: https://www.irs.gov/retirement-plans/top-ten-failures-found-in-voluntary-correction-program

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DOL Voluntary Correction Programs

- Voluntary Fiduciary Correction Program (VFCP)
  - Encourages sponsors and plan fiduciaries to voluntarily correct specific fiduciary violations
  - Must apply to the DOL; receive a "no action letter" from EBSA
  - Most common issue is failing to timely remit elective deferrals
  - Correction is to contribute lost earnings plus interest
    - DOL online calculator is used to determine amounts
    - Excise tax may also apply (IRS Form 5330)
  - There is no "self-correction" (i.e. without filing) under VFCP
    - If discovered upon audit, may need to correct based on plan investment with highest rate of return (DOL Regulation section 2510.3-102(d)(3))
- Delinquent Filer Voluntary Compliance (DFVC) Program
  - The DFVC Program was established in 1995 and encourages plan sponsors to file overdue, incomplete or incorrect Form 5500 annual reports with reduced penalties

IRS 409A Correction Program for Nonqualified Deferred Compensation Plans

- IRS Notice 2010-6: Document Correction Program
  - 409A rules relate to nonqualified deferred compensation. Notice provides guidance on six types of inadvertent document failures. Corrections during the "transition period" (ending 12/31/2010) may be penalty-free
- IRS Notice 2008-113: Operational Correction Program
  - Provides relief for specific 409A operation failures under deferred compensation plan
  - Requirements for eligibility and the correction methods are very specific and vary for different types of errors

Latest Trends

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2017 Top Defined Contribution (DC) and Financial Wellness Stories

1 **Continued scrutiny of defined contribution plan sponsors**
High profile law suits impacting both large and small employers, suits are becoming more sophisticated including revenue sharing and fee allocation claims

2 **Financial technology explosion**
+$200 Billion invested in "FinTech" industry, niche players and traditional DC plan industry players are entering market.

3 **Financial Wellness has become a focus of employers**
Specific programs (i.e. Student loan) and holistic wellness programs integrated into benefit offering

4 **Expanding the fiduciary definition**
New DOL regulations effective April 2017 will impact the financial advisory community and the DC recordkeeping industry

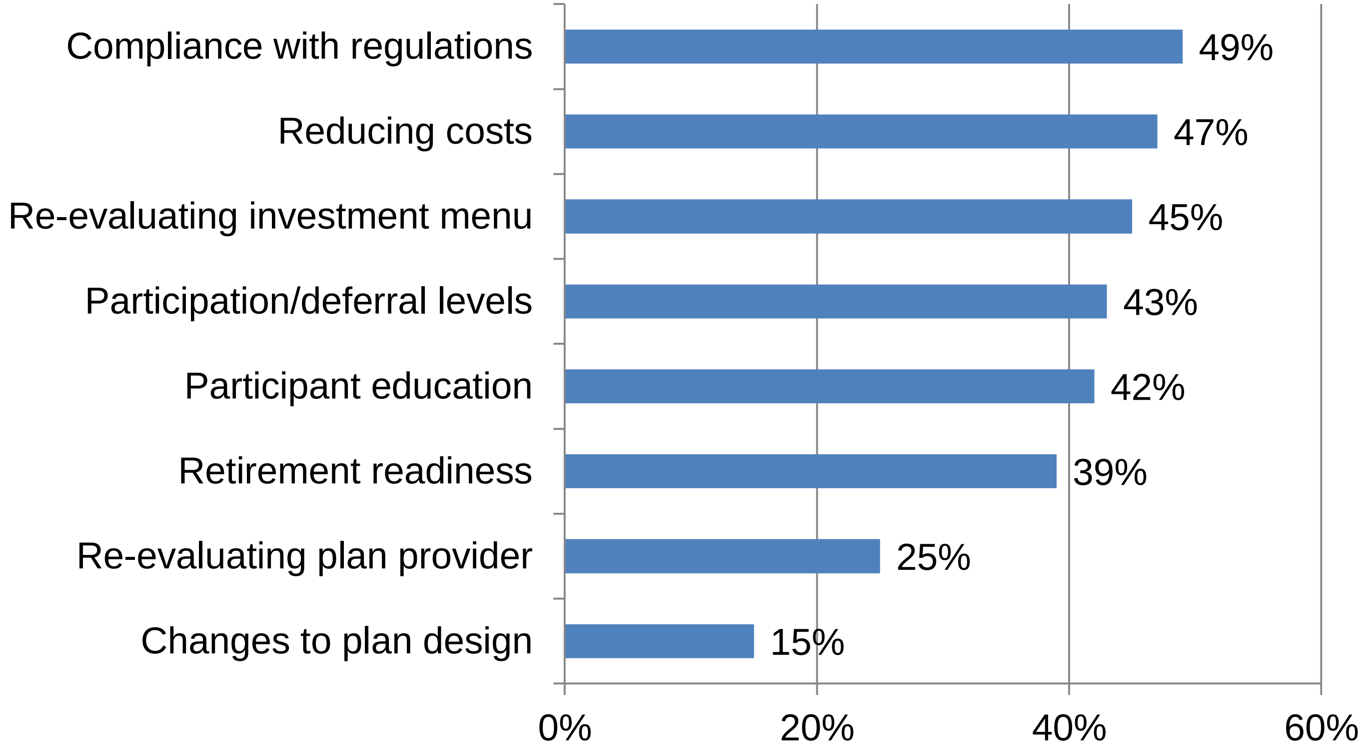
5 **Employers are looking to further delegate Plan oversight and administration while improving outcomes**
Outsourcing investment monitoring and selection, innovative investment structures,

6 **Tax reform impact on retirement system**
"Rothification" of traditionally a pre-tax retirement savings system, plan coverage gap, credits for lower income households

8 **Cyber Security**
Not a question of if, but when you will have a cyber attack

What Keeps Sponsors Awake at Night?

Primary concerns of plan sponsors:



Cogent Wealth Reports; plan sponsor survey conducted February – April 2015

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Trends DC litigation becomes growth industry

- Explosion in DC litigation heightens risk for plan fiduciaries
  - More law firms are pursuing DC litigation
  - Litigation is moving down stream to smaller plans
  - Solicitation of plan participants has increased

- Recent lawsuits expand areas of litigation, including
  - Fee sharing arrangements between managed-account provider and recordkeeper
  - Offering, and (paradoxically) not offering a stable value fund
  - Offering inappropriate investment class (e.g., sector fund)
  - Excessive fees related to custom target-date funds
  - Higher-priced share classes for proprietary funds accessed though brokerage window
  - Delaying implementation of investment fee reductions

Committees should ensure that process, oversight, training, execution and documentation are all functioning at the highest level

Retirement Plan Fee Lawsuits

FROM 2009 UNTIL 2016[1]

Total Fines/Penalties/Settlements:	$698 million
Total Amount Paid to Plaintiffs' Attorneys:	$204 million
Average Participant Award:	$216

[1]Fiduciary Benchmarks, 2016

401(k) & 403(b) "Excessive Fee" Litigation

- Significant increase in 401(k) and 403(b) plan class action lawsuits emphasize need to increase awareness of litigation risk and understand key issues
- Plan participants filed first-of-their-kind class action lawsuits in August 2016 against 12 large private universities
  - Participants allege ERISA fiduciary breaches resulted in excessive investment/ administrative fees and investment line-ups with paralyzing number of choices under universities' 403(b) and 401(k) plans
  - In May 2017, class actions filed against Princeton and University of Chicago
- Other notable cases:
  - Excessive fees (Tussey v. ABB): 401(k) plan fiduciaries accepted excessive recordkeeping fees top subsidize non-plan related corporate services
    - Should have leveraged plan size to negotiate lower recordkeeping fees
  - Share classes (Tibble v. Edison): Plan fiduciaries invested in retail share classes and did not consider less expensive institutional shares
  - Revenue sharing (Renfro v. Unisys Corp): Revenue sharing arrangement should be adequately disclosed under ERISA

401(k) & 403(b) "Excessive Fee" Litigation (cont'd)

- Recommendations to minimize risk of fiduciary liability:
  - Understand fee structure of provider(s) and periodically benchmark fees
  - Monitor fees on a regular basis; monitor share classes for which the plan qualifies
  - Ensure fees are independent from other services received by the Plan Sponsor
  - Ensure fees are appropriately disclosed
  - Exercise due diligence process for selecting and monitoring providers
  - Document discussions and decisions

DC Investment Vehicle Evolution

LATE 1990s

- Mutual Funds dominated DC plans
- CITs mostly used for stable value and passive strategies

2000s

- Product and technology improvements helped erode advantages held by mutual funds
  - E.g., CIT's began trading on the NSCC's Fund/SERV® platform

MARKET TRENDS

- Increased focus on fees, transparency, and lowest-cost investment vehicles
- Decreased asset minimums for separate accounts and CITs
- Increased availability of CITs for DC Plans

Focus On Fees - What's Out There?

MUTUAL FUNDS

- Ready-made solutions
- Highest level of regulation
- Name recognition
- Participant can track in the news media
- Little transparency into underlying holdings
- Plan has no control over investment guidelines
- Available in IRA's, 403(b)'s and non-qualified accounts

COLLECTIVE TRUSTS

- Pooled investment vehicles
- Organized as trusts maintained by bank or trust company
- Fees typically more competitive than mutual funds
- Greater transparency into underlying holdings
- Plan has no control over investment guidelines
- Only available in certain qualified accounts

SEPARATE ACCOUNTS

- Individual portfolio under the management of investment manager
- High asset minimums
- Greatest transparency into underlying holdings
- Plan has control over investment guidelines
- Available in certain qualified and non-qualified accounts

THE FOCUS ON FEES, TRANSPARENCY, AND LOW COST VEHICLES HAS MADE THIS A VERY IMPORTANT TOPIC FOR PLAN SPONSORS.

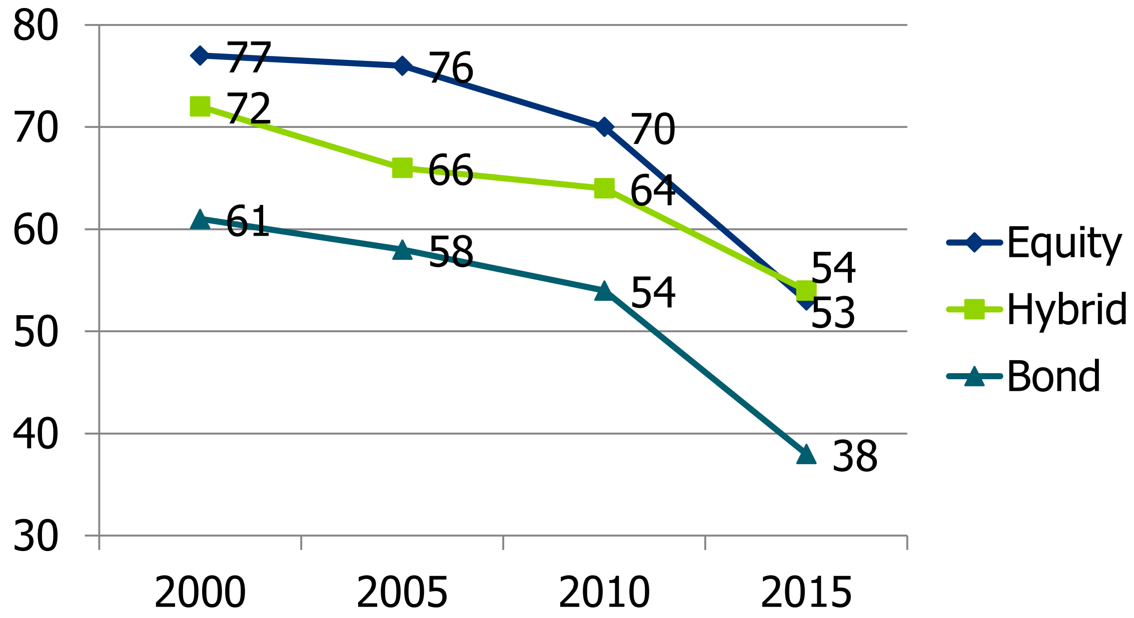
Trend - Investments Costs are Falling, Requiring Constant Vigilance

Investment fees decline

- Over time
- As assets grow, and
- As markets evolve

Fiduciaries must constantly monitor for opportunities to reduce fees

Average 401(k) mutual fund investment cost (in basis points)



Average 401(k) domestic equity mutual fund investment cost (in basis points)

Plan size	$1-10M	$10-50M	$50-100M	$100-250M	$250-500M	$500M-$1B	$1B+
Ave. fee	81	70	61	57	53	51	44

ICI Research Perspective, July 2016

Financial Wellness - Why Should Employers Care?

7 OUT OF **10**
AMERICAN WORKERS say financial stress is their most common cause of stress.[1]

[1] American Psychology Association, *Stress in America: Are Teens Adopting Adults' Stress Habits?* (2014)

80%
OF EMPLOYEES report an increase in their health care costs in the past two years, and **56%** are saving less for retirement as a direct result of more health care costs.[2]

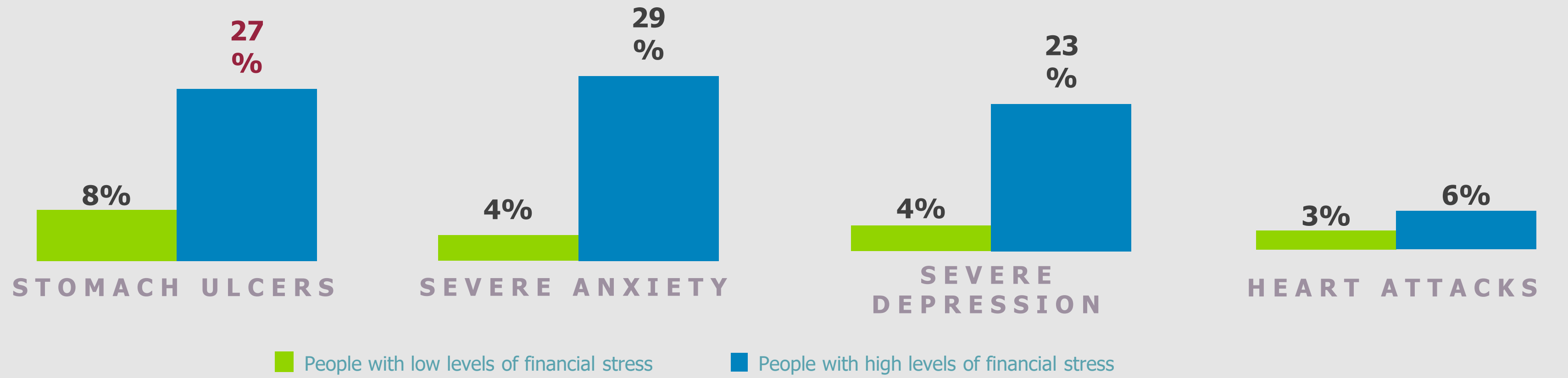
[2] Bank of America/Merrill Lynch, *Workplace Benefits Report* (2013)

22%
OF US EMPLOYEES admit to missing at least one day of work in the past year to deal with a financial problem.[3]

[3] MetLife, Inc., *10th Annual Study of Employee Benefits Trends: Seeing Opportunity in Shifting Tides* (2012)

$40,000
IS THE MEDIAN retirement plan account balance for working-age families.[4]

[4] National Institute for Retirement Security, *The Retirement Savings Crisis: Is It Worse Than We Think?* (2013)



Source: Associated Press-AOL health poll, Debt Stress: The Toll Owing Money Takes on the Body

What is Financial Wellness?
A lifelong journey

CONSUMER FINANCE PROTECTION BUREAU'S (CFPB) FOUR ELEMENTS OF INDIVIDUAL FINANCIAL WELLNESS

Have control over day-to-day, month-to-month finances → Have the capacity to absorb a financial shock → Are on track to meet financial goals → Have financial freedom to make choices to enjoy life

FINANCIAL WELLNESS NEEDS

- Participant enters workforce
- Life event occurs and an intervention is needed
- Phase of employment changes (e.g., nearing retirement, leaving company)
- Participant enters retirement, drawdown phase

COMPREHENSIVE EMPLOYER FINANCIAL WELLNESS PROGRAMS HELP EMPLOYEES WITH:

ASSETS | LIABILITIES | INCOME / EXPENSES | INSURANCE / PROTECTION

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The Complex Financial Wellness Marketplace

	Topic	Ayco	Best Money Moves	BrightDime	DoubleNet Pay	Edukate	Financial Engines	Financial Finesse	Financial Soundings	iGrad	LearnVest	RetireMap	Smart Dollar	Social Security Solutions	Student Loan Genius	Sum180	Workplace Options
FINANCIAL LITERACY	Budget Planning	Education	Education	Education	Advice	Education	Education	Education		Education	Education	Advice	Education			Advice	Education
	Debt Reduction	Education	Education	Education	Advice	Education	Education	Education		Education	Education	Advice	Education			Advice	Education
	Mortgage Management	Education	Education	Education	Advice	Education	Education	Education		Education	Education	Advice	Education			Advice	Education
	Student Loans	Education	Education	Education	Advice	Education	Education	Education		Education	Education	Advice	Education		Education	Advice	Education
RETIREMENT READINESS	Savings/ Contribution Amount Readiness	Education	Education	Education		Education	Advice	Education	Advice	Education	Education	Advice	Education	Education		Advice	Education
	Asset Allocation	Education	Education	Education		Education	Advice	Education	Advice	Education		Education	Education	Education		Advice	Education
	Outside Account Integration	Education		Education			Advice	Education	Education	Education	Education		Education	Education		Education	Education
	Retirement Income Planning	Education	Education	Education		Education	Advice	Education	Education	Education	Education	Advice	Education	Education		Advice	Education
	Defined Benefit Plan Integration	Education		Education			Advice	Education	Education	Education	Education	Advice		Education			Education
	Non-qualified Plan Integration	Education		Education			Advice	Education	Education	Education	Education	Advice	Education	Education		Advice	Education
	Social Security	Education	Education	Education		Education	Advice	Education	Education	Education	Education	Advice		Education		Advice	Education
	Medicare Planning	Education		Education		Education	Education	Education		Education	Education	Education		Education			Education
OVERALL FINANCIAL PLANNING	Tax Optimization	Education	Education	Education		Education	Education	Education		Education	Education	Advice	Education	Education		Advice	Education
	Health Savings Accounts, etc.	Education	Education	Education		Education	Education	Education	Education	Education	Education	Advice		Education			Education
	Insurance Options (Life, Health, Disability, Homeowners, Vehicle, etc.)	Education	Education	Education		Education	Education	Education		Education	Education	Advice	Education				Education
	College Savings	Education	Education	Education		Education	Education	Education		Education	Education	Advice	Education			Advice	Education
	Child/Eldercare Planning	Education	Education	Education		Education	Education	Education		Education	Education		Education	Education		Advice	Education
	Equity Compensation (Stock Options, Restricted Stock, etc.)	Education		Education		Education	Advice	Education		Education	Education						Education

EDUCATION ADVICE NOT OFFERED

Appendix: Legal & Regulatory Developments

IRS Determination Letter Program Ends for Individually-Designed Plans

- Revenue Procedure 2016-37 (6/29/2016) significantly curtails the IRS's determination letter (DL) program for individually-designed retirement plans:
  - Five-year DL cycle ended on 1/31/2017
  - Effective 1/1/2017, ongoing plans may not make DL filings except in IRS-announced specified circumstances (e.g., significant law changes)
    - New or terminating plans may continue to file DL applications
- Changes the deadlines for adopting "required amendments" for plan document compliance:
  - Required amendments to comply with IRS's new annual Required Amendments List (RAL) must be adopted by the end of second calendar year beginning after the RAL's issue date, e.g., if RAL is issued 10/1/2016, adopt required amendments by 12/31/2018.
  - Required amendments to comply with IRS requirements *not* on the RAL must also be adopted by the end of the second calendar after the plan's disqualifying provision was adopted or became effective, whichever is later.
  - "Discretionary amendments" must still be adopted by the end of the plan year in which the change is effective.

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Determination Letter Program Ends for Individually-Designed Plans (cont'd)

- IRS will give plan sponsors tools to keep their individually-designed plans qualified:
  - Required Amendments List (RAL): IRS will publish the RAL annually, so plan sponsors may timely adopt "required amendments" necessary to keep plan documents qualified.
    - Each RAL will list annual changes in plan document qualification requirements.
  - Operational Compliance List (OCL): IRS also will publish the OCL annually, so plan sponsors may keep plan operations qualified.
    - Each OCL will list annual changes in plan operational compliance requirements.
- Effective date: 1/1/2017

Fiduciary Investment Advice - New Rules At a Glance

New rules expand and clarify fiduciary coverage

Education (not fiduciary advice)

Not addressed

Fiduciary advice

Activities

- General information – Plan features, investment basics
- General information – Retirement income/spend-down
- Valuations/appraisals
- Product marketing
- Advice on plan distribution options (rollovers), other transactions
- Investment advice – One-time, or not primary source for decision
- Investment advice – Ongoing advice

New fiduciary structure

- Fiduciary advice
- Updated prohibited transaction exemptions and carve-outs

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New DOL Fiduciary Rules
Impact on Plan Sponsors – Communications

Action	Evaluate whether existing communications create exposure under new rules
Why?	Plan sponsors may have broader co-fiduciary exposure under new rules if communications provide recommendations or advice
Suggested steps	• Review participant communications and tools relating to investments, products or distributions, including: – Relevant sections of call center scripts from recordkeeper and/or managed account provider – Materials created by plan sponsors, recordkeeper, managed account provider, other third parties – Websites and mobile apps, particularly relating to investments, distributions or managed accounts – Training and instructions for third-party plan representatives • Train plan fiduciaries and HR staff regarding plan communications • Consider drafting communications policy to document actions and decisions regarding philosophy, content, methodology and ownership of plan communications

New DOL Fiduciary Rules
Impact on Plan Sponsors – Distributions

Action	Address expanded coverage of advice related to distributions, rollovers, and annuity products
Why?	Distribution counseling may be treated as investment advice under new rules and could enhance co-fiduciary exposure
Suggested steps	• Develop philosophy and messaging relating to post termination • Consider pros/cons of encouraging assets to remain in plan • Consider plan design changes that support post-termination philosophy (e.g., distribution options, spend-down services) • Identify distribution programs and related communications/touch points – oral or written – that could be considered advice under the new rules • Examples: – Counseling an employee whether to start benefit payments now versus deferring to retirement age – Benefit election form that displays a default IRA or automatic rollover to an IRA with a designated vendor • Confirm each provider's intention as fiduciary or falling under exemption/ carve-out • Confirm consistent messaging and compliance at each touch point

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New DOL Fiduciary Rules
Plan Sponsor Actions – Vendor Management

Action	Proactively address changes in vendor marketplace
Why?	• Plan sponsor should understand impact of new rules as part of fiduciary duty to select and monitor vendors • Sponsors have increased exposure to co-fiduciary liability since vendors may now become fiduciaries
Suggested steps	• Conduct enhanced fee review to quantify revenue streams contemplated by the new rules – Include rollovers, outside financial services, brokerage fees and managed account fees • Stay informed on developments and trends in the vendor marketplace – Determine whether your current recordkeeper has a sustainable business model and commitment to the business – If not, consider your options – Transition to new vendor on your time frame, not due to sudden vendor termination – Clients transitioning to new vendor during market consolidation may experience less leverage on pricing • Review contracts for potential service gaps, compensation concerns, information security/data privacy, indemnification and limits of liability

New DOL Fiduciary Rules
Plan Sponsors Actions – Fiduciary Training

Action	Address internal understanding/compliance
Why?	Plan fiduciaries have personal liability; Ensure committee members and benefits staff understand their roles and the impact of the new rules
Suggested steps	• Conduct fiduciary training on impact of the new rules on plan, service providers and participants • Understand role of vendors – fiduciary or non-fiduciary • Update fiduciary checklist and documentation of roles and responsibilities • Review employer and committee fiduciary insurance to ensure appropriate coverage under the new rules

Questions

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