Plan Sponsor

Outlook

A Current Issues Resource for Plan Sponsors and Administrators 3rd Quarter 2008

DOL Clarifies QDIA Rules

Sponsors of participant-directed defined contribution plans welcomed the Department of Labor's (DOL) recently issued corrections and clarifications of the Qualified Default Investment Alternative (QDIA) rules. The final rules were issued in October, 2007 and were effective in December, 2007.

By meeting the requirements of a QDIA, fiduciary liability can be limited when a participant doesn't give investment directions and the plan invests his or her contributions in a default fund.

Three provisions were corrected

First, the final rules prohibited a plan from imposing restrictions or fees on a participant who transfers or withdraws from a QDIA during the 90-day period following his or her first QDIA investment. The DOL's correction stated that a restriction on reinvesting in the QDIA can be applied as long as it does not affect the participant's ability to liquidate or exchange amounts from the QDIA.

Second, regarding permissible QDIA managers, the definition of plan sponsor was expanded to include a committee of employees of the sponsor, as long as the committee's role is stated in the plan document.

The third amendment of the final rules eliminated the requirement that stable value products be guaranteed by a state- or federally-regulated financial institution. In place of a guarantee, the fund can now be "backed by" such an institution.

Bulletin provides further guidance

The DOL also issued Field Assistance Bulletin 2008-03 (FAB) to respond to questions raised about the final QDIA regulations. It consists of questions and answers that reflect the DOL's interpretation of the final rules. One well-received interpretation is that fiduciary relief is extended to all assets invested in the QDIA, regardless of whether the investment was through a default or an affirmative choice. Plan sponsors are thus relieved of maintaining records regarding whether the investments were made by default or specific election.

The FAB also notes that a plan may have more than one QDIA. For example, one could be used for automatic contributions and another for rollovers.

Details about the scope of the regulations, notice requirements, asset allocation and other topics related to the final rules are included in the FAB, which can be viewed at http://tinyurl.com/5ocj9b.

The DOL also made available a helpful Fact Sheet. It provides background information about the regulations, an overview of the final rules, and specific QDIA provisions. The April, 2008 Fact Sheet is at http://tinyurl.com/2y7zls. ■

401(k) plans held $3.0 trillion in assets at the end of 2007, of which $1.7 trillion of plan assets were invested in mutual funds.

Source: 2008 Fact Book, Investment Company Institute

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Pension Plan Limitations for 2008

401(k) Maximum Participant Deferral *(*$20,500 for those age 50 or over, if plan permits)*	$15,500*
Defined Contribution Maximum Annual Addition	$46,000
Highly Compensated Employee Threshold	$105,000
Annual Compensation Limit	$230,000

Survey Reveals 2008 Priorities

Plan sponsors responding to a recent Hewitt Associates survey indicated that getting employees to accept responsibility for their retirement is a high priority (56%), and about half intend to assist employees in more fully understanding their retirement benefits.

About two-thirds said they are very likely to work on communications related to 401(k) participation, and an equal number expect to communicate to employees about fund diversification.

Almost 44% of respondents already offer automatic enrollment, compared to 36% in 2007, and another 30% said they are very likely to introduce it this year.

In plans featuring auto enrollment, 72% of sponsors plan to change their default investment choice to a pre-mixed portfolio fund. And 44% have a contribution escalation feature, up from 31% last year.

More than half (51%) of plans offer automatic rebalancing, an increase from 39% in 2007. Another 12% of sponsors are very likely to make this available in 2008.

Hewitt's press release regarding the survey results is at http://tinyurl.com/35t2fh.

Interested in plan fee issues? See the American Benefits Council's *Myths and Facts Regarding 401(k) Plan Fees* at http://tinyurl.com/53l49m.

Retirement Confidence Falls

Amounts saved are modest

The percentage of workers who are very confident about having sufficient financial resources for a comfortable retirement fell from 27% in 2007 to 18% this year, according to the latest Retirement Confidence Survey* conducted by the Employee Benefit Research Institute (EBRI). EBRI noted that this is the biggest decline in the survey's 18-year history.

Calculation efforts increased

The results show that about half of workers responding (47%) said they have tried to calculate how much money they will need for retirement. As in past surveys, this one found that performing a calculation is effective in changing behavior: 44% who had calculated their financial need had actually changed their retirement planning. Of those, nearly two-thirds (59%) had begun saving more.

Saving results are mixed

About 72% of workers stated that they and/or their spouse have saved money for retirement. That result has remained around 70% in recent years, after reaching a high of 78% in 2000.

But, savings amounts are modest. Almost half (49%) of workers said they had less than $25,000 in total savings and investments. Only 12% had retirement savings of $250,000 or more.

Amount needed varies widely

To live comfortably in retirement, 42% or workers said they need at least $500,000 in savings by the rime they retire. Of concern are the 16% who feel they need only $250,000 to $500,000 and the 25% who said that less than $250,000 would be adequate for a comfortable retirement.

The 2008 RCS Fact Sheet, which summarizes key survey findings, is available at http://tinyurl.com/6y3hre. EBRI's full report is at http://tinyurl.com/5ubsly.

**2008 Retirement Confidence Survey*®, © 2008, Employee Benefit Research Institute and Mathew Greenwald & Associates.

Plan Sponsors Ask…

Q: We're looking at 401(k) plan communication ideas for next year. What are other employers doing about participant education?

A: According to a survey by the International Foundation of Employee Benefit Plans (IFEBP), retirement planning is offered by 77% of respondents, 60% make investment education available and almost 40% offer financial planning.

About two-thirds conduct group meetings with a plan provider (investment firm or recordkeeper). Internet access is available from 55% of respondents, 30% offer Web-based tools and 21% provide computer software.

Of those providing formal retirement planning programs or workshops, 72% offer them during normal work hours. About half use a combination of their own staff and outside providers, and one-third use only outside providers. Only 15% rely on their own employees.

Information about the IFEBP's survey is at http://tinyurl.com/428sj7.

Q: Has the DOL's new safe harbor rule for depositing participant contributions in small plans become effective?

A: While this safe harbor is still a proposal, the Department of Labor (DOL) has said that it would not claim an ERISA violation against a plan that complies with the proposed rule before it becomes official.

The proposed safe harbor would allow small plans (those with fewer than 100 participants at the beginning of the plan year) a period of seven business days to deposit participant contributions and loan repayments in the plan. The effect would be that deposits made within the seven-business-day period would be treated as satisfying the existing rule defining when contributions become plan assets. That rule requires deposit into the plan's trust as soon as they can reasonably be segregated from the employer's general assets.

To satisfy the safe harbor, amounts must be deposited in an account of the plan. It would not be necessary to complete allocations to individual participants or investments in this time frame.

The seven business days would be counted from when the amounts are withheld by the employer from a participant's pay or when a participant's contribution is received by the employer.

If the DOL proceeds with finalizing the safe harbor, it is expected to be effective upon publication of the final regulation.

Q: Is there research available regarding what retirement plan distribution options participants commonly choose?

A: Yes. The Investment Company Institute (ICI) surveyed recent retirees who had participated in defined contribution plans. Over 70% reported having more than one choice as to distribution of their account balance upon retirement.

Of those who had multiple options:

- 57% chose a lump-sum distribution,
- 20% elected to delay receiving some or all of their account balance,
- 22% chose guaranteed annuity payments, and
- 11% opted for installment payments.

(The percentages total more than 100% because some participants chose more than one option.)

Of those who elected a lump-sum payout, only 14% spent the entire amount. The balance rolled over some or all of the payment to an IRA or invested the proceeds.

The ICI's 2008 Fact Book has more information about retirement savings and mutual funds. It is available at http://tinyurl.com/4xblbp. The section on defined contribution plans begins on page 91. ■

Web Resources for Plan Sponsors

Internal Revenue Service, Employee Plans
www.irs.gov/ep

Department of Labor,
Employee Benefits Security Administration
www.dol.gov/ebsa

401(k) Help Center
www.401khelpcenter.com

Plan Sponsor Magazine
www.plansponsor.com

BenefitNews
www.benefitnews.com

Profit Sharing/401(k) Council of America
www.psca.org

Employee Benefits Institute of America, Inc.
www.ebia.com

Employee Benefit Research Institute
www.ebri.org

Sponsors Focus On Investment Decisions

Plan sponsors appear to be devoting more attention to investment decision-making and monitoring, according to a recent survey. An Investment Policy Statement (IPS) is seen as a critically important tool in making decisions by a retirement plan's investment or administrative committee. The majority of sponsors responding (82%) reported having an IPS in place.

About half said their IPS was created by a third-party consultant or advisor. Forty percent of sponsors reported that they continually review their IPS to ensure that the investment strategy and guidelines are reflected in decision-making.

About three-quarters of sponsors concluded that they do well in clearly documenting how decisions are reached regarding selection and monitoring of investment options.

The press release regarding the survey results is at http://tinyurl.com/6c3elc. ■

Meeting Your Fiduciary Responsibilities, the Department of Labor's excellent overview of fiduciary obligations, is at http://tinyurl.com/4klqvu.

Plan Sponsor's Quarterly Calendar

Consult your plan's counsel or tax advisor regarding these and other items that may apply to your plan.

OCTOBER

- Audit third quarter payroll and plan deposit dates to ensure compliance with the Department of Labor's rule regarding timely deposit of participant contributions and loan repayments.
- For calendar year safe harbor 401(k) plans, issue the required notice to employees during October or November (within 30 to 90 days of the beginning of the plan year to which the safe harbor is to apply). Also, within the same time frame, issue the appropriate notice if the plan features an EACA (Eligible Automatic Contribution Arrangement), QACA (Qualified Automatic Contribution Arrangement, and/or QDIA (Qualified Default Investment Alternative).
- Verify that employees who became eligible for the plan between July 1st and September 30th received and returned an enrollment form.

NOVEMBER

- Conduct a campaign to encourage participants to review and, if necessary, update their mailing addresses to ensure receipt of Form 1099-R to be mailed in January for reportable plan transactions in 2008.
- Check current editions of enrollment materials, fund prospectuses and other plan information available to employees to ensure that they are up-to-date.
- Prepare to issue a payroll stuffer or other announcement to employees to publicize the plan's advantages and benefits, and any plan changes becoming effective in January.

DECEMBER

- Prepare to send year-end payroll and updated census data to the plan's recordkeeper in January for year-end compliance testing. (Calendar year plans)
- Verify that participants who terminated employment during the second half of the year selected a distribution option for their account balance and returned the proper form.
- Review plan operations to determine if any ERISA or tax-qualification violations occurred during this year and if using an IRS or DOL self-correction program would be appropriate.

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