

A close-up photograph of a brown leather baseball glove and a red leather glove, both showing signs of wear. The background is dark and out of focus, with some light reflecting off the leather. The text is overlaid on the left side of the image.

TIME FOR SPRING TRAINING

Revisit, Review and Renew Your Benefit Plans

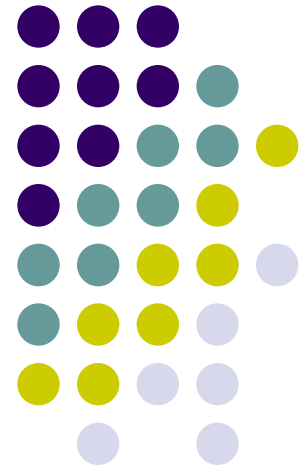
March 7, 2014

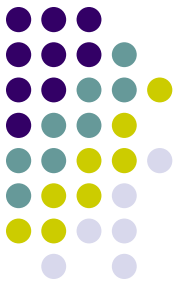


General Overview of ERISA Fiduciary Rules

March 7, 2014

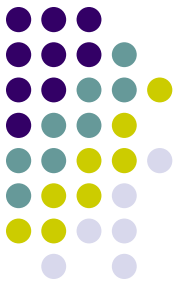
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Overview

- I. Who is a Fiduciary?
- II. General Fiduciary Duties
- III. Prohibited Transactions
- IV. Fiduciary Liability



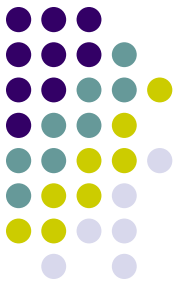
I. Who is a Fiduciary?

A. ERISA Definition

1. Section 3(21)(A) of ERISA states that a person is a plan fiduciary "to the extent" he:
 - a. exercises discretionary authority or control over plan management or any authority or control over the management or disposition of plan assets;
 - b. renders investment advice regarding plan assets for a fee or other compensation or has authority or responsibility to do so (unless they are an investment company registered under the Investment Company Act of 1940); or
 - c. has any discretionary authority or responsibility in plan administration.



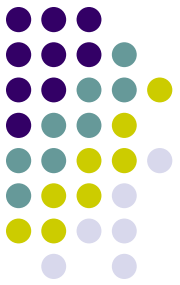
Who is a Fiduciary? (Cont.)



B. Fiduciary Positions

1. Under ERISA Section 402(a), a "named fiduciary" must be appointed with overall fiduciary responsibility for the plan. In addition, a plan can name a fiduciary for only a particular function.
2. The Department of Labor ("DOL") has determined that certain positions like plan trustee or plan administrator are "by their very nature" fiduciary positions and carry fiduciary status.

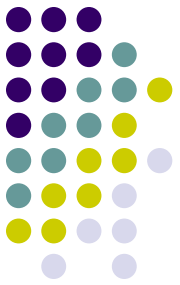




Who is a Fiduciary? (Cont.)

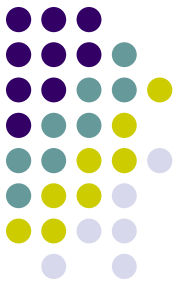
C. Fiduciary Functions

1. Notwithstanding ERISA's definition of a fiduciary and the fact that certain positions almost automatically assume fiduciary status, courts often have to determine fiduciary status by looking at the person's functions ("functional test")(i.e., do they exercise any of the fiduciary functions described above).
2. As a result, people exercising basic fiduciary functions with respect to asset management, plan administration or investment advice for a fee are routinely held to be fiduciaries.



Who is a Fiduciary? (Cont.)

3. The appointment of plan fiduciaries is itself a fiduciary function.
4. Because of the "functional test", even people with no position with a plan can be considered fiduciaries if they exercise de facto control over a fiduciary function.
5. A few courts, using the "functional test" have even imposed fiduciary liability on individuals within a corporation if they actually perform the functions which make the entity a plan fiduciary.

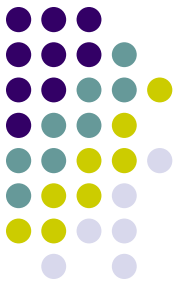


Who is a Fiduciary? (Cont.)

D. Limits to Fiduciary Status

1. Significantly, under Section 3(21)(A), a person is a fiduciary only "to the extent" he performs one of the defined fiduciary functions. This has come to mean that someone who takes on limited fiduciary duties is not a fiduciary for all purposes.
2. As a result, some functions which affect plans (e.g., amending a plan) have been labeled by courts as "employer" or "settlor" functions (non-fiduciary functions) which carry no fiduciary liability. Employers are therefore generally free under ERISA to adopt, modify or terminate an ERISA plan at any time and for any reason without acting as fiduciary because such actions are more analogous to the actions of a settlor of a trust than that of a fiduciary.



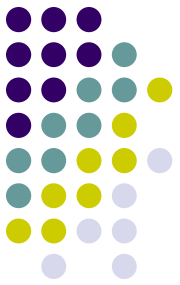


Who is a Fiduciary? (Cont.)

E. Starting and Stopping as a Fiduciary

1. Under Section 409(b) of ERISA, a fiduciary is not liable for a breach of duty if it is committed either before he was a fiduciary or after he ceased being a fiduciary.
2. Fiduciary duties begin immediately on assumption of fiduciary status and it does not depend on whether a person realized he was a fiduciary.
3. However, just because a plan transaction began before a person became a fiduciary does not necessarily mean that they have no fiduciary liability regarding the transaction.

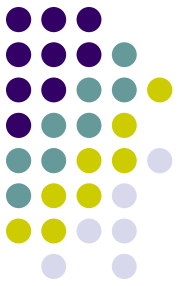




II. General Fiduciary Duties

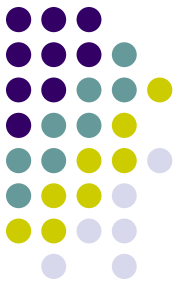
- A. "Solely in the Interest" of Participants. Section 404(a)(1)(A): Plan fiduciaries must act "solely in the interest" of the participants and must also act for the "exclusive purpose" of providing plan benefits and defraying reasonable expenses of plan administration.
1. this duty is most clearly and typically violated when a fiduciary acts in his own personal interest.
 2. it is also violated when a fiduciary favors the interests of a third party and his own personal interest is not directly involved.

General Fiduciary Duties (Cont.)



3. however, a fiduciary can act to benefit the interests of a corporation or, even themselves, if the fiduciaries conduct a prudent inquiry and reasonably conclude that such action is also in the best interests of the plan.
4. although, establishing, amending or terminating a plan are "settlor" functions, misstatements about material facts concerning a plan are considered a breach of fiduciary duty whether the misrepresentation is affirmative or by omission. A misrepresentation is generally considered "material" if it would induce a reasonable person to rely upon them.

General Fiduciary Duties (Cont.)

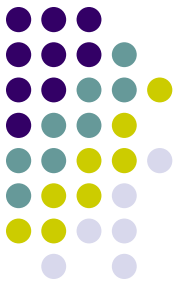


B. Prudence

1. Section 404(a)(1)(B): Plan fiduciaries must act with the care, skill, prudence and diligence under the circumstances that a prudent man acting in similar circumstances and familiar with such matters would use.
2. Most of the leading ERISA prudence cases deal with plan investment decisions.
3. In the investment context, most courts use the prudence test to determine whether the individual trustees, at the time they engaged in the challenged transaction, employed the appropriate methods to investigate the merits of the investment and to structure the investment.



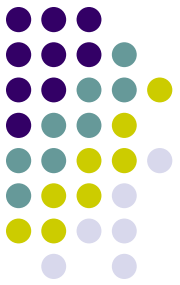
General Fiduciary Duties (Cont.)



C. Diversification

1. Section 404(a)(1)(C): Plan fiduciaries must "diversify the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so."
2. There is no fixed percentage which cannot be invested in one investment; instead, the courts look at the facts and circumstances of each case (e.g., 90% of a plan's assets invested in three stocks did not violate the diversification requirement because all three stocks were found to be clearly prudent). However, in general, fiduciaries should not invest a large proportion of plan assets in a single investment.



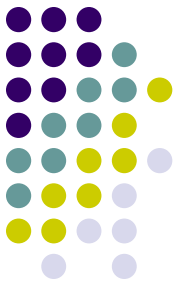


General Fiduciary Duties (Cont.)

3. If a failure to diversify is proven, a fiduciary bears the heavy burden of showing that his decision not to diversify was clearly prudent and that the plan was not in significant risk of large losses based on the failure to diversify.
4. Courts typically find a violation of the diversification requirement in three types of situations:
 - a. where close to all of a plan's assets are loaned to the sponsoring employer (especially where there are numerous other ERISA violations involved).
 - b. where a large percentage of plan assets is placed in a single investment which is also considered an imprudent investment under 404(a)(1)(B).
 - c. where investments, although individually prudent, are concentrated in a limited geographic area.



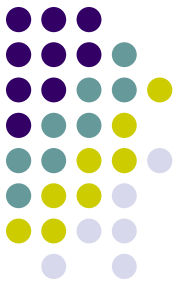
General Fiduciary Duties (Cont.)



D. Acting in Accordance with Plan Documents

1. Section 404(a)(1(D): Plan fiduciaries must act "in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of Title I or Title IV.
2. Usually, this duty is involved where a plan fails to follow procedures set forth in a plan document.
3. However, there has not been significant guidance from the courts with respect to what constitutes a "governing" plan document.
4. Note that the plan document must be followed only to the extent it is consistent with Title I and Title IV of ERISA.

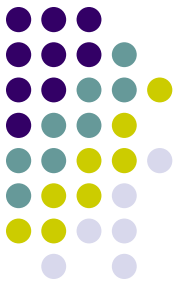




III. Prohibited Transactions

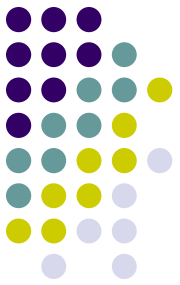
A. Party in Interest Transactions

1. Section 406(a) of ERISA prohibits a fiduciary from entering into certain "prohibited transactions" which he knows, or should know, is with a "party in interest." The purpose of this prohibition is to prevent plans from benefitting other parties at the expense of the plan's participants and beneficiaries.
2. A "Party in Interest" is generally defined to include the following:
 - a. Any fiduciary including an administrator, trustee, officer or custodian, and any counsel to or employee of the plan;



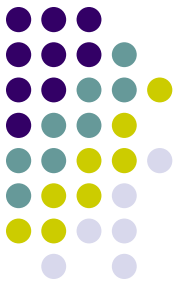
Prohibited Transactions (Cont.)

- b. Any person providing services to the plan;
- c. An employer any of whose employees are covered by the plan and any owner of 50% of such employer; and
- d. A "relative" (i.e., spouse ancestor, lineal descendants) of any "party in interest" and any organization 50% controlled by such relative (including any highly compensated employees, directors, officers or 10% shareholders of such organization).



Prohibited Transactions (Cont.)

3. "Prohibited Transaction" has been held to include the following transactions:
 - a. the sale, exchange or lease of property to or from a plan;
 - b. the lending of money or other extension of credit to or from a plan;
 - c. the furnishing of goods, services or facilities to or from a plan; or
 - d. the transfer or use of plan assets ;
 - e. and other indirect transactions.
4. Notwithstanding the above, several cases have carved out certain exemptions from the prohibited transactions so that a plan may engage in these types of transactions even though they seemingly violate the prohibited transactions enumerated by ERISA.

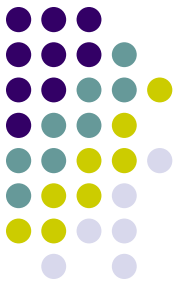


Prohibited Transactions (Cont.)

B. Prohibitions on Fiduciary Conduct ("Self Dealing")

1. In addition to prohibiting certain transactions with parties in interest, Section 406(b)(1) of ERISA prohibits a fiduciary from dealing with plan assets in his own interest or for his own account.
2. And Section 406(b)(2) of ERISA prohibits a fiduciary from acting in a transaction involving a plan on behalf of a party with interests adverse to the plan.



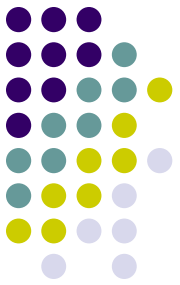


IV. Fiduciary Liability

A. Causes of Action

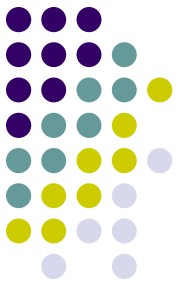
1. Claims for breach of fiduciary duty under ERISA are brought under two different causes of action and the remedy available will vary depending on the cause of action and other variables:
2. 502(a)(2) claims may only be brought by the Secretary of Labor, a participant, beneficiary or other fiduciary to obtain "appropriate relief." Only the plan may benefit from such a claim so that relief does not flow to the claimant, who brings such a claim on behalf of the plan.
3. 502(a)(3) claims may only be brought by a participant, beneficiary or fiduciary to enjoin any act or practice which violates Title I of ERISA or the terms of the plan. It may also be brought to obtain any other appropriate equitable relief to redress such violation.





Fiduciary Liability (Cont.)

- B. Co-Fiduciary Liability. Section 405(a) imposes co-fiduciary liability on any fiduciary who:
1. participates "knowingly in, or knowingly undertakes to conceal ... [a breach] knowing it is a breach";
 2. fails to comply with his own duties under Section 404 and thus enables another fiduciary to commit a breach; or
 3. knows that a breach has occurred but fails to make reasonable efforts to remedy the breach.



Contact Information

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Time for Spring Training - Revisit, Review and Renew Your Benefit Plans

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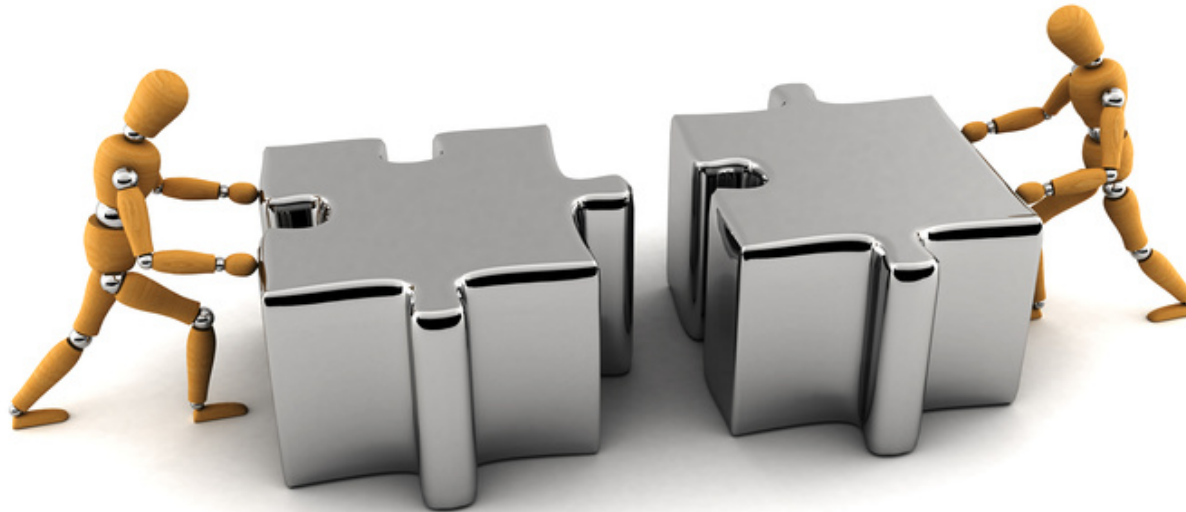
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AGENDA

- Plan Operational and Audit Issues
- Terminating a Pension Plan
- Ways to Reduce Stress!
- IRS Audits

Plan Operational and Audit Issues



Plan Operational and Audit Issues

- Universal availability for 403(b) plans
 - Elective salary deferrals must be available to any employee
 - There are exceptions!
 - Does not apply to employer match or discretionary or mandatory employer contributions
- Automatic Enrollment and Automatic Escalation
- Excludable employees

Plan Operational and Audit Issues (continued)

- Definition of compensation
 - #1 issue detected by auditors
 - Improper exclusion of bonuses, overtime, commissions, etc.
 - Correction: Employer contributes 50% of missed deferral, plus lost earnings
- Late Remittances
 - Most common issue noted during DOL audits
 - Calculation of the lost earnings
 - DOL current guidance
 - No Form 5330 required for 403(b) Plans

Plan Operational and Audit Issues (continued)

- Errors in calculation:
 - Contributions;
 - Benefits, including vesting;
 - Items to consider: special events, grandfathering, lump sums
 - Discrimination testing
- Bad Plan Documentation and Administration
 - Compliance with current regulations
 - Loans and Hardship Distributions

Terminating a Pension Plan



Terminating a Pension Plan

- 2013 Survey Results

- Conducted by Prudential Financial Inc. and CFO Research Services
- Nearly 60% of companies
 - Frozen accruals for all participants
 - Closed the defined benefit (DB) plan to new entrants
- Results are expected to continue over the next 2 years

Pre-termination checklist

- Plan Ahead
 - Standard termination: 4 to 6 months
 - Larger plans: 6 to 18 months
 - Applying to the IRS for a determination letter
 - DBs - notify the Pension Benefit Guarantee Corporation (PBGC)
- Build a Good Team
 - ERISA Attorney
 - Financial Advisor
 - Actuary
 - Accountant

Pre-termination checklist (continued)

- Paperwork – Who needs to know?
 - IRS
 - Pension Benefit Guaranty Corp (PBGC)
 - DOL
 - Unions
- Know your Funding Level
 - Fully funded, underfunded or overfunded
 - Impacts termination timeline
- Do the math
- Re-examine your investment strategy

Pre-termination checklist (continued)

- PBGC's plan termination timeline
- Replacement Plan?
 - 401(k) Plan or other option
- Retain the paperwork
 - For at least 2 years
 - Valuations, trust reports, participant distribution documentation
 - PBGC audit
 - Up to 2 years after the termination
 - More than 300 participants - will trigger an audit
 - Less than 300 participants - audit at random

Ways to Reduce Stress!

What you can do to enter the stress free zone



What Should You Do?

▶ DOCUMENT, DOCUMENT & DOCUMENT!!!

▶ Memorialize all decisions

- In working through procedures, use checklists;
- Retain minutes from meetings of committees;
- Maintain an investment file to retain material from reviews of investments.



What Should You Do? (continued)

► Retain plan records

- Quarterly participant allocation reports;
- Annual compliance testing results;
- Actuarial reports;
- Benefit calculations and requests, loan forms, QDROs, etc;
- Form 5500 with confirmation of the electronic signature and a manually signed form 5500

► Address recommendations from your independent auditors

Be Knowledgeable

- Understand your plan's history
- Be able to discuss internal controls and how you operate the plan
- Know how to access your service providers' websites or obtain their reports
- Obtain the Prepared By Client (PBC) list early and discuss
- Plan your timing wisely
- Ask questions
- Stay informed!



10 Steps To Take Now

1. Understand how the DOL's new financial reporting and audit requirements will affect the plan
2. Establish responsibility for the plan's financial reporting function
3. Get the plan's books and records in shape (assess adequacy of internal resources)
4. Communicate with the vendor(s) on the plan's information needs
5. Make sure plan participant records are complete and accurate

10 Steps To Take Now (continued)

6. Select an external audit firm (if you haven't already)
 - Each firm may have differences in what they require relating to opening balances
7. Put a project timeline together and get buy in from external audit firm
8. Communicate with vendor(s) on the plan's information needs — build into the project timeline
9. Have a kick-off meeting with vendor and audit firm
10. Follow up and monitor progress

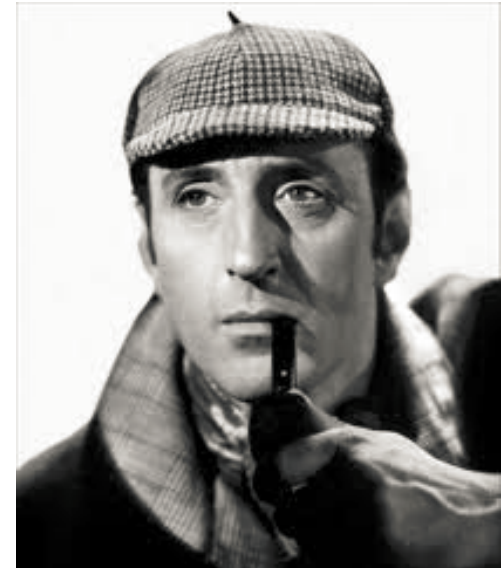
IRS Audits



IRS

Sources of Cases

- Participant complaints
- Form 5500 Reviews
- Referrals from other agencies
- Media
- Other



Regulatory / Compliance Matters

Current Regulatory Environment

- ▶ Internal Revenue Service (IRS)
 - Employee Plans Examination Program Audits
 - 401(k) Questionnaire



IRS Employee Plans Examination Program

Goal → To promote voluntary compliance by reviewing the operation of retirement plans for consistency with plan terms and pension law

Defined contribution or benefit plan

Sample of Case selection criteria:

Emerging Issues

SEC / Governmental Filings

Field Input

Impact on Plan Participants

Market Segment Impact

Referral Information

Media Attention

Withdrawn VCP Request

IRS Employee Plans Examination Program

Substantial increase in enforcement activities

- ▶ Significant increase in number of audits in the last several years.
- ▶ IRS audits exceeded 11,000 plans.
- ▶ IRS examination activities increase importance of annual self-audit of internal control procedures to qualify for self-correction.

IRS Employee Plans Examination Program

Common areas of review

- ▶ Eligibility, participation, and coverage
 - Are eligible employees properly participating?
- ▶ Vesting
 - Have service and vesting been properly credited?
- ▶ Discrimination
 - Do contributions, benefits, rights or features favor highly compensated employees?
- ▶ Top heavy requirements
 - Have minimum contributions, benefits and accelerated vesting been provided?
- ▶ Contribution and benefit limits
 - Are contributions and benefits within applicable limits?

IRS Employee Plans Examination Program

Common areas of review

- ▶ Funding and deductions
 - Are contributions sufficient and timely and deductions within applicable limits?
- ▶ Distributions
 - Are distributions proper, timely and accurately reported?
- ▶ Trust activities
 - Is the trust operated for the exclusive benefit of participants and in accordance with fiduciary standards?
- ▶ Plan and trust documents
 - Does the form of the plan and trust meet applicable tax law and amended timely for changes?
- ▶ Returns and reports
 - Were federal returns and reports timely and accurately filed?

IRS Employee Plans Examination Program

Change in Focus

IRS has modified its auditing procedures to focus on the employer's **Internal Controls**.



Until the mid-2000's, the IRS plan audit focus was **Plan Compliance**.



Today, the IRS audit initiative is **Enforcement Driven**

IRS Employee Plans Examination Program

IRS imposes monetary sanctions on employer plan sponsors for:

- **Failure** to operate 401(k)/retirement plans in accordance with IRS qualification requirements.
- **Failure** to follow the terms of the plan documents, even if plan operation is within compliance with IRS qualification requirements

**ATTENTION:
PLAN
SPONSORS!**

**EMPLOYEE PLANS
COMPLIANCE RESOLUTION
SYSTEM**

The EPCRS Menu

What's Your Choice?

The impact of
non-compliance left unchecked
can be costly.

**Preventive Maintenance –
Fix Mistakes Immediately!!**

	Audit CAP	Voluntary Correction	Self- Correction
Cost of Correction			
IRS Fees			\$0
Time Involved			
Result			

The IRS 401(k) Questionnaire The Final Report

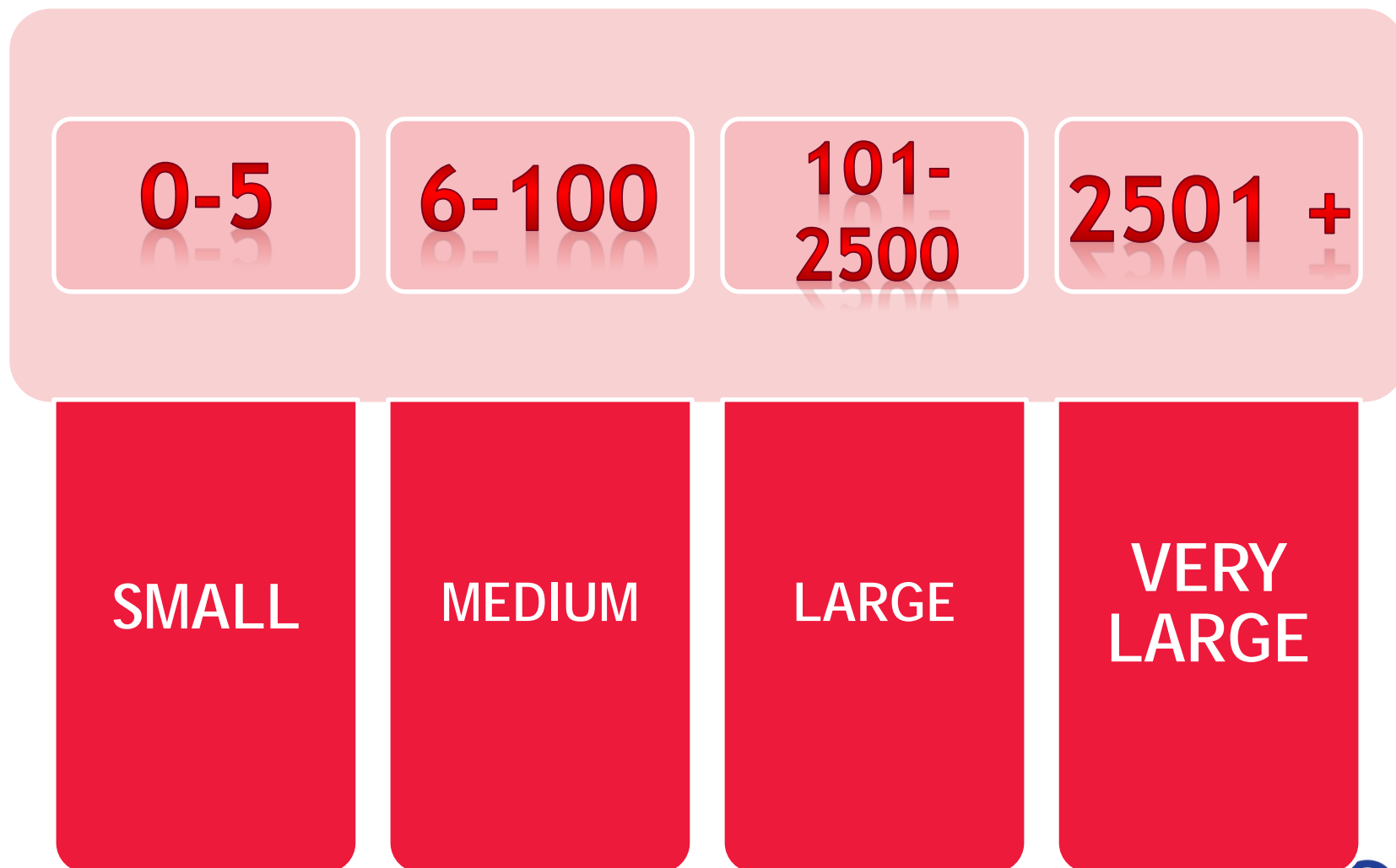
401(k) Facts

- Section 401(k) type plans are the most popular plans in the United States
 - More than 500,000 401(k) plans
 - Cover about 60 million participants
 - Average account balance = over \$84,000
 - Age 55 and over = over \$269,000

Background

- Compliance Check performed by Employee Plans Compliance Unit (EPCU)
- First Tax Exempt/Governmental Entity (TEGE) on-line compliance check
- Statistical sample of 1,200 randomly selected plan sponsors
 - Stratified based on plan size
 - Number of participants

Four Strata - Participants



Background

- 98% of the plan sponsors responded
 - Initiated examinations on the 2% non-responders
- Questionnaire data analyzed to
 - Identify potential compliance problems
 - Design future compliance efforts
 - Improve case selection models
- Published interim report on Feb. 3, 2012

Questionnaire Categories

- Demographics
- Plan Participation
- Contributions
- Nondiscrimination
- Distributions/Plan Loans
- Automatic Contributions
- Other Operations
- Roth Features
- Voluntary Compliance
- Plan Administration

Coming Soon: New 401(k) Self-Audit Tool

- **Good News!** IRS has added new internal control questions and repackaged the 401(k) Questionnaire as the QSAT (Questionnaire Self Audit Tool)
- Was scheduled for release in December 2013
- The QSAT will help plan sponsors to find, fix and avoid costly mistakes

More Information

www.irs.gov/retirement



Use the search engine

Info

401(k) Final Report



Forms & Pubs

Help & Resources

f

DOL Referrals

- IRS Coordination Agreement and Statute requires:
 - referral of prohibited transactions to IRS
 - IRC § 4975 excise tax
(tax qualified pension plans)
 - referral of potential issues affecting tax qualified status

QUESTIONS?

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Identifying Fees and Understanding the “Revenue Sharing” Model & the trend toward Fee Levelization



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Introduction & Background

- Participants finance the cost of retirement plan administration and recordkeeping through “Revenue Sharing”
- Revenue sharing is a component of the mutual fund expense ratio.
- Revenue sharing fees are collected as a percentage of plan assets (known as “basis points”).
- Most participants and many Plan Committees do not understand revenue sharing and its long term **NEGATIVE** impact to participant account balances

Understanding the True Cost of Revenue Sharing!



Participant Understanding of Plan Fees

“When plan participants were asked whether they pay fees for their 401(k) plan, seven in ten (71%) reported that they did not pay any fees while less than a quarter (23%) said that they do pay fees. Less than one in ten (6%) stated that they did not know whether or not they pay any fees.”

AARP Survey February 2011:

401(k) Participants' Awareness and Understanding of Fees

Participant Understanding of Plan Fees

“401(k) participants may not have a clear understanding that there are fees associated with their plans. About three in five (62%) are unaware of how much they are paying in fees for their plans, and almost one-third (32%) report that they do not feel knowledgeable about the impact that fees could have on their retirement savings. However, about four in five (81%) believe that the fees charged for investments are very important or somewhat important in decisions about their 401(k) investments.”

AARP Survey February 2011:

401(k) Participants' Awareness and Understanding of Fees

Participant Fees

Participants pay both explicit and implicit plan expenses for their 401(k) Plan

- Investment Management Fees
- Plan Administration Fees
- Individual Service Fees
- Investment Management Fee
 - Revenue Sharing Fees
 - Sub TA Fees
 - Shareholder Servicing Fees
 - 12b-1 Fees
 - Finders Fees
 - Wrap Fees
 - Market Adjustment Fees (GICs)

DOL Initiative

- Under ERISA and the Internal Revenue Code, contracts or arrangements between plans and service providers are prohibited unless the arrangement and compensation paid are both “reasonable”
- This exemption was never previously defined
- These new regulations provide guidance on what is “reasonable” to the fiduciary by requiring service providers to disclose important information and terms of the arrangement

What type of retirement plans are covered?

- All plans subject to ERISA (i.e. 401(k), Profit Sharing, ERISA 403(b) and Defined Benefit Plans)
- SEPS, Church 403(b)'s and SIMPLE IRA's are **not covered**
- Welfare plans are not covered (DOL is going to address fee disclosure under separate regulations)

Mutual Fund Share Classes, Expense Ratios and Fees

- Most Mutual Funds have multiple Share Classes.
- Each Share Class is accompanied by its corresponding ticker symbol and expense ratio.
- Mutual Funds may be identical, in every way, with the exception of the ticker symbol and expense ratio.

Share Class Options

American Funds EuroPacific Fund

Share Class	Ticker Symbol	Expense Ratio	12b-1 Fee	5 Year Growth of \$10,000
R1	RERAX	1.61%	1.00%	\$21,271
R2	RERBX	1.60%	.75%	\$21,280
R3	RERCX	1.14%	.50%	\$21,791
R4	REREX	.85%	.25%	\$22,101
R5	RERFX	.55%	- 0 -	\$22,439
R6	RERGX	.50%	- 0 -	\$22,464

Share Class Options

T. Rowe Price Target Date Retirement 2020

Share Class	Ticker Symbol	Expense Ratio	12b-1 Fee	3 Year Average Return
Retail	TRRBX	.69%	- 0 -	9.38%
Advisor	PARBX	.94%	.25%	9.12%
R Share	RRTBX	1.19%	.50%	8.83%

Share Class Options

Vanguard S&P 500

Share Class	Ticker	Expense Ratio	12b-1 Fee	3 Year Average Return
Investor	VFINX	0.17%	-0-	14.18%
Admiral	VFIAX	0.05%	-0-	14.31%

Fiduciary Implications

- According to DOL Rule 408(b)(2), plan sponsors, as fiduciaries, can enter into a service agreement only if:
- Fee arrangements or contracts with service providers are reasonable.
- Only reasonable compensation is paid for services provided.
- Certain disclosures are made by the service provider, including conflicts of interest that may compromise the delivery of the services provided.

Fiduciary Implications

- Participants in a plan generally have access to the same set of services – platform, investment menu, administrative services, education, web site, etc. – those paying higher fees could consider their fees unreasonable and therefore not in their own best interest.
- A participant's account balance or the choice of a particular investment can impact a participant's administration fees which creates an inherent conflict of interest.

Fee Impact of Share Class & Account Balances

EuroPacific Growth Fund – Class R2

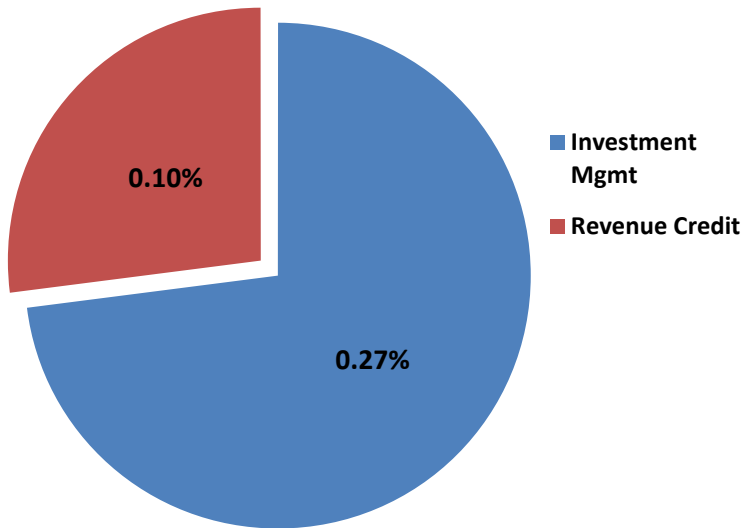
Participant	Balance	Investment	Expense Ratio	Rev. Share 12b-1 Fee	Fees in \$
A	\$100,000	RERBX	1.60%	.75%	\$750
B	\$50,000	RERBX	1.60%	.75%	\$375
C	\$10,000	RERBX	1.60%	.75%	\$75

Participants with the same account balance, invested in different funds

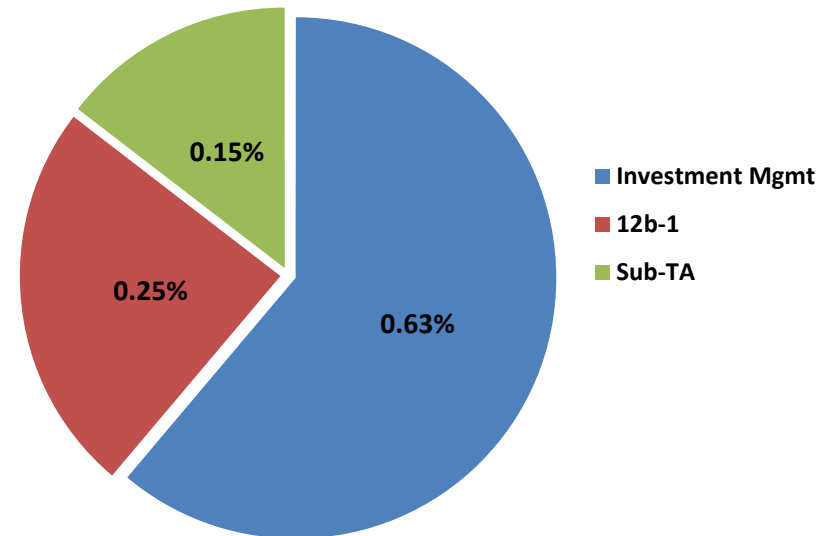
Participant	Balance	Investment	Expense Ratio	Rev. Share 12b-1 Fee	Admin. Fees Paid
A	\$50,000	EuroPacific Growth R2	1.60%	0.75%	\$375
B	\$50,000	T. Rowe Price 2020 Advisor	0.94%	0.25%	\$125
C	\$50,000	Vanguard S&P 500 Investor	0.17%	-0-	-0-

Revenue Sharing Components

Vanguard Windsor Fund



T. Rowe Price Target Ret 2040



The Vanguard Fund has a total expense ratio of 0.37%, while the T. Rowe Price 1.03%.

REVENUE SHARING varies from investment to investment

Current Investment	Plan Assets	Expense Ratio (%)	Revenue Sharing (%)	"Instl" Class Expense Ratio (%)	Revenue Sharing (%)
Fidelity Contrafund	\$8,000,00	0.79%	\$0.35%	0.44%	0.00%
T. Rowe Price Retirement 2040 R	\$5,000,000	1.03%	0.40%	0.78%	0.15%
Vanguard S&P 500 Index	\$9,000,000	0.17%	0.00%	0.06%	0.00%
Company Stock	\$14,000,000	0.00%	0.08%	N/A	N/A
Guaranteed Income Fund	\$30,000,000	0.00%	0.10%** (1.30% actual GIC spread)	0.00%	0.10%

Impact of Participant Fee Inequality utilizing Revenue Sharing:

Category	Participant 1	Participant 2	Participant 3	Participant 4
Starting Salary (age 22)	\$30,000	\$30,000	\$30,000	\$30,000
Annual Salary Increase	2%	2%	2%	2%
Annualized Return	7%	7%	7%	7%
Annual Contribution Rate	5% (Age 22-69)	10% (Age 22-69)	10% (Age 22-69)	10% (Age 22-34) Max Allowable (Age 35-69) ¹
Investment Revenue Sharing	0.35%	0.35%	0.00%	0.35%
Ending Account Balance by Age 70	\$772,421	\$1,541,280	\$1,541,280	\$5,346,427
Total Plan Admin Fees by Age 70	\$32,860	\$65,547	\$0	\$204,648

Issues with Revenue Sharing

- Participants with higher account balances and/or invested in higher cost investment options (higher revenue share) are subsidizing the plan costs of participants with lower account balances and/or lower cost investment options (lower revenue share).
- But the inverse may occur as well...
- Higher fees have a direct impact on account balances and the practice of revenue sharing may be considered an inequitable way to allocate plan costs across the participant base.
- Given that plan sponsors have a fiduciary duty to act in the best interest and manage decisions for the exclusive benefit of plan participants – all plan participants – this fee inequality may increase a fiduciary's liability exposure.

How are your plan fees being charged to your participants?

Distribution of the Cost of Plan Administration Services

- A) Should all participants pay the same fee (in dollar terms) for plan administration services?
- B) Should all participants pay for plan administration services based on their account balance?
- C) Should participants pay for plan administration services based on their account balance and investment allocation?
- D) Company pays all fees associated with plan administration?

Would you answer? A show of hands please!

“A” ?

“B” ?

“C”?

“D”?

The most common plan financing strategy is...

Alternative Plan Financing Strategies

	Direct Per Participant Fee (\$)		Through Plan Investments – Revenue Sharing (bps)	Direct Plan Sponsor Fee (\$)
	(A)	(B)	(C)	(D)
Subsidization -Type (if any)	Evenly distributed (each participant pays same dollar amount for recordkeeping)	Pro-rata distributed (individual participant recordkeeping fee based on asset balance)	Revenue share (bps) varies between investments Proprietary record kept investments can create additional investment management fee revenue for record-keeper (ING)	N/A
Plan Administration Cost Distribution	All participants pay the same dollar amount (no subsidization)	Pro-Rated: Participants with higher account balances pay more than those with lower account balances	Participants in higher revenue share investments and/or with higher account balances pay more than those in lower revenue sharing investments and/or with lower account balances	Plan sponsor pays all service provider expenses
Investment Vehicles / Share Classes Utilized	Lowest cost available	Lowest cost available	Higher cost (includes revenue sharing component)	Lowest cost available
Participant Plan Administration Fee Transparency	Full fee transparency	Full fee transparency	Lacking fee transparency	Full fee transparency
Additional Costs Required	N/A	N/A	Implicit costs	N/A
Considerations	Fee as a % of account balance can be significant for participants with very small account balances	Participant subsidization	<ul style="list-style-type: none"> •Participant subsidization •Transparency •Implicit costs 	Corporate earnings

Recent Trends in Plan Financing

- A growing number of plan sponsors have transitioned their plan financing strategy from a revenue sharing model to direct participant fees.
- Plan administration and advisory fees are charged directly to participant account balances, usually in an evenly allocated manner.
- Since revenue sharing is not required, the plan can therefore use the lowest cost investment share class.
- This strategy fairly allocates the costs across the participant base, minimizes or eliminates participant subsidies, provides full plan fee transparency, mitigates fiduciary liabilities and allows for more effective performance monitoring

Fee Levelization

- If participants in the same plan access
 - the same investment menu
 - the same administrative services
 - the same education
 - the same website
- Should ALL participants pay the same fee, in actual dollars, for the same services?

Fee Levelization Alternative Financing

- Have Consultant negotiate a Fee Levelization alternative to current Revenue Sharing model
- 1,000 participants with balances.
- Vendor requires \$88/participant/year (\$88,000 annually).
- Investment Consultant requires \$50/participant/year (\$50,000 annually).
- Total participant fee \$138/year for administrative & advisory services.

Example of Fee Levelization

Participant	Balance	Investment	Exp. Ratio	Rev Share 12b-1 Fee	Admin./ RK Fee	Inv. Advisory Fee
A	\$40,000	EuroPacific R6	0.50%	-0-	\$88	\$50
B	\$80,000	T. Rowe Price 2020	0.69%	-0-	\$88	\$50
C	\$100,000	Vanguard 500 Index	0.05%	-0-	\$88	\$50

Fee Levelization Conclusions

- Fee Levelization enables plan sponsors to create a completely fee transparent retirement plan.
- Each participant pays the same amount for administrative, record keeping and advisory services.
- Provides plan sponsors with the opportunity to negotiate fees with service providers rather than being provided with an investment menu designed to generate revenue sharing through the investments.
- Mitigates plan sponsor fiduciary liability through participant fee “equality” and eliminating “excess” revenue payments through the utilization of lower cost share classes.



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