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**EBSA Releases Final 401(k) Fee Disclosure Rule**

October 14, 2010 (PLANSPONSOR.com) – The U.S. Department of Labor (DoL) on Thursday released its long-awaited final rule governing a wide variety of investment option disclosures, including fees to workers in participant-directed individual account plans.

Participants now have to get enough information to allow cost comparisons with other investment choices, as well as a Web site with additional details that participants can also consult, regulators said.

"This rule provides uniform disclosure to workers about what they pay for investment options in their retirement plans," said Secretary of Labor Hilda L. Solis. "For the first time, workers will have at their fingertips important and accessible investment-related information to comparison shop among the plan options available to them."

Under the rule, participants must be provided, on or before the date they can first direct their investments and then again annually after that,

- general plan information that consists of information about the structure and mechanics of the plan, such as an explanation of how to give investment instructions under the plan, a current list of the plan's investment options, and a description of any "brokerage windows";
- an explanation of any fees and expenses for general plan administrative services that may be charged to or deducted from all individual accounts. Examples include fees and expenses for legal, accounting, and recordkeeping services;
- an explanation of any fees and expenses that may be charged to or deducted from the individual account of a specific participant or beneficiary based on the actions taken by that person. Examples include fees and expenses for plan loans and for processing qualified

*401(k) Fee Disclosure Rule Cont'd.*

domestic relations orders. Participants also must receive statements, at least quarterly, showing the dollar amount of the plan-related fees and expenses (whether administrative or individual) actually charged to or deducted from their individual accounts, along with a description of the services for which the charge or deduction was made.

**401(k) Plan Roth Conversions**

October 15, 2010 (Transamerica Retirement Services) – On September 27, 2010, President Obama signed into law the Small Business Jobs and Credit Act of 2010 ("Small Business Jobs Act"). One provision of this new law, "In-Plan" Roth Conversions, will have an impact on 401(k) plans.

*"In-Plan" Roth Conversions*

This provision of the new law allows participants in 401(k) plans to convert non-Roth plan amounts that are distributable as an eligible rollover distribution to Roth amounts within the plan. Amounts become distributable as an eligible rollover distribution following the occurrence of one of several statutorily defined events, including the termination, disability, or death of the participant and the participant's attainment of age 59½. Certain distributions, including hardship distributions and required minimum distributions, are not eligible rollover distributions, and are thus not eligible for conversion under the new law. 401(k) plan sponsors will be able to adopt the conversion option in 2010. As with any new law, there are a number of unanswered questions concerning the implementation of these provisions. However, here is what we do know about the in-plan conversion feature:

- The conversion provision is optional; there is no requirement for plan sponsors to add it to their Roth plans.
- Plan sponsors must offer a Roth feature as part of the plan (for ongoing Roth contributions) in order to permit Roth conversions within the plan.



### *In-Plan Roth Conversions Cont'd.*

- The conversion election is only available to participants who have a distributable event that would allow them to withdraw the conversion amounts from the plan.
- The conversion election can only apply to amounts that are treated as eligible rollover distributions. This means that distributions such as hardship withdrawals, required minimum distribution payments, corrective distributions and other such payments would not qualify for the in-plan Roth conversion.
- It appears that all vested amounts available to the participant as an eligible rollover distribution can be converted to Roth amounts within the plan (e.g., pre-tax deferral, after-tax employee contribution and certain vested employer contribution amounts).
- Any taxable amounts that are converted to Roth amounts as part of the in-plan conversion will be taxable to the participant in the tax year in which the conversion takes place. However, there is a special rule for 2010 conversions: if the in-plan conversion is completed by December 31, 2010, the participant will be able to defer the taxes due for 2010 ratably over two years - in 2011 and 2012. According to IRS guidance, once a conversion election is made for 2010, it may not be revoked after the due date, including extensions, for filing the 2010 federal tax return.
- The conversion election is available for participants and spousal beneficiaries.
- The IRS has not issued guidance regarding plan amendment requirements to implement in-plan Roth conversions, but we anticipate that the IRS will provide sufficient time for plan sponsors to timely adopt the provision.

### *Impact on Plan Sponsors*

The new law enables 401(k) plan sponsors to allow Roth conversions within the plan without forcing the participants to distribute the funds from the employer's retirement plan.

### *Transamerica Retirement Service's Response*

Transamerica is undertaking an in-depth and thorough analysis of the new law and

### *In-Plan Roth Conversions Cont'd.*

its expected impact on its recordkeeping system for Roth plans. Once this analysis is completed, they will determine the earliest date on which they will be in a position to administratively support these new optional plan provisions without eroding the quality of their services. They will issue an announcement to their clients once they have made the necessary decisions.

For more information about the Small Business Jobs Act, please read this analysis prepared by the Transamerica Center for Retirement Studies ("The Center"). The Center is a non-profit corporation dedicated to educating the American public on trends, issues, and opportunities related to saving and planning for retirement and achieving financial security in retirement.

### **Morningstar Update - Target-Date Funds**

As a result of a 3rd Quarter 2010 turnaround in equity returns, as well as continued positive performance in the fixed-income market, target maturity funds strolled into the fourth quarter on a positive note, according to a Morningstar report.

For the quarter, the average target maturity fund returned just over 10%, slightly less than the 11.3% of the S&P 500 Index but significantly above the 2.5% of the BarCap U.S. Aggregate Bond Index. The weighted average return of the 13 indexes that collectively form the Morningstar Lifetime Moderate Index family fell between the target maturity fund average and the S&P 500 index with a 10.8% return.

These strong returns were especially welcome after the second quarter when the funds and indexes declined more than 7% on average, Morningstar said. For the 12-month period ending September 30, 2010, performance for each metric was similarly strong, falling between 9.3% and 10.4%.

Although all asset class returns were positive during this period, those funds with higher allocations to equities, particularly to non-U.S. developed equities, commodities, and real estate tended to be the top performers.

The returns for all of the indexes in the



### *Target Date Funds Cont'd.*

Morningstar Lifetime Allocation Index family were positive over the past three months, with even the most conservative indexes having returns above 4% while the most aggressive topped a 13% return, Morningstar said.

Over the past year, the range of returns was tighter with the most conservative indexes returning just less than 8% and the most aggressive indexes returning just over 11%. The top two performing equity asset classes this quarter were emerging markets equity and non-U.S. developed equity as the dollar weakened, supporting non-dollar denominated assets. Within fixed income, all asset classes were positive as well (both the third quarter return and 12-month standard deviation were slightly higher than 0% for cash but show as 0.0% due to rounding).

The 12-month returns for all asset classes were also in positive territory. REITs continued to be the biggest winner over this period with a stellar 30% return, while emerging markets equity was also a top performer with more than a 20% gain.

Within the United States, growth outperformed value and small cap outperformed large cap during this time. High-yield bonds continue to perform similar to equities.

### **And the Survey Says Longevity #1 Risk**

There are many risks to consider when saving for retirement. The retirement risk advisers think is most important for them to address with clients is longevity.

In fact, in a recent survey, 79% of advisers said the area of risk most important for them to focus on is longevity, according to the Cerulli Edge Retirement Edition, Third Quarter 2010. Sixteen percent of advisers thought this was somewhat important and only 6% thought it was least important.

The next most important area of risk is improper asset allocation; 77% chose that as the most important risk area to manage, 17% thought it was somewhat important, and 6% thought it was least important.

From these findings – that longevity and improper asset allocation are the most

### *Retirement Risk Cont'd.*

important areas of risk that advisers feel they help manage – Cerulli drew the conclusion that advisers will continue to have a growing interest in guaranteed income options as possible solutions.

Other areas of risk that advisers see as being important to tackle are:

- Maintaining desire lifestyle, 70%
- Inflation/purchasing power, 69%
- Healthcare costs, 65%
- Sequence of market returns, 50%
- Taxes, 48%
- Estate considerations, 35%

### **Off Point - Speeding Ticket?**

*--- A study released this month provides evidence to what many drivers already suspected—the model of your car likely impacts your chances of getting a speeding ticket. ---*

The dreaded speeding ticket—it happens to everyone—but if you think it happens to some people more than others, you're right. In a study analyzing auto insurance claims, researchers found that the model of your car may be a factor when police decide to pull you over.

The car that gets the most speeding tickets is the Mercedes-Benz SL class. Whether it's out of curiosity on the part of the police officer wanting to take a closer look, or the driver who can't help but to enjoy the car's 382 horsepower, V-8 engine on a car with a purchase price of approximately \$100,000...drivers of these cars get four times as many tickets as everyone else.

These other cars are also more likely to earn their owners a ticket:

- Toyota Camry-Solara
- Scion TC
- Hummer H3 or H2
- Scion XB
- Mercedes-Benz CLS
- Acura Integra
- Pontiac Grand Prix
- Mercedes-Benz CLK
- Volkswagen GTI

One note-worthy aspect of this list – only



### *Speeding Ticket Cont'd.*

two of these cars are made in Detroit and both have been discontinued!

The least-ticketed cars include SUVs and more economically-friendly cars, such as the Buick Lacrosse, Mazda Tribute, Hyundai Tucson, and Oldsmobile Silhouette.

This was the second annual study done by Quality Planning, a Verisk Analytics company that validates policyholder information for auto insurers. The study looks at vehicle types, their driver profiles, and the frequency of traffic violations.

### **What's the Difference?**

#### 401(k) and Profit-Sharing Plans

- Participant's retirement benefits based on participant's account balance
- May allow employees to contribute through salary deferrals
- Depending on the type of plan, employer may be required to make annual minimum contributions
- Contribution limits of up to \$49,001 or more if catch-up contributions
- Must meet minimum coverage tests but can exclude some employees
- More complex to set up and operate
- Annual return usually required
- May require annual nondiscrimination testing
- Greater design flexibility
- Loans and hardship withdrawals allowed
- May delay vesting of some employer contributions

#### Defined Benefit Plan

- Participant's annual retirement benefit determined by the plan's benefit formula

### *What's the Difference Cont'd.*

- Higher annual retirement benefits possible, up to \$195,001 per year
- Actuary required to determine employer's annual contributions
- Must meet minimum coverage tests but can exclude some employees
- Most complex to set up and operate
- Annual return required
- Annual nondiscrimination testing required
- Greater design flexibility
- Plan may allow loans
- May delay vesting of participants' accrued benefit

The tax code does not place limits on the number of plans a company may sponsor. For many small businesses it may make sense to sponsor both types of plans in order to maximize retirement savings.

Defined Benefit Pension plans have traditionally formed the backbone of our retirement plan system. They offer guaranteed retirement benefits with limited risk to employees, making them an ideal way to help your employees build a secure future. In recent years, defined benefit plans have proved a useful small business tool in helping high net worth individuals achieve their strategic retirement goals as well.

Executive Benefit Plans, Inc. offers a full array of fund options for Defined Contribution and Defined Benefit plans through our contractual relationships with leading financial institutions. Spanning the risk/return spectrum, your retirement program is designed to appeal to the needs of every type of plan participant, providing choices in every major asset category.

-- EBP

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