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NEWS AND UPDATES FOR PLAN SPONSORS AND FIDUCIARIES OF DEFINED CONTRIBUTION PLANS

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What to Expect When Transitioning Providers

The thought of moving from one service provider to another may be intimidating and overwhelming. It doesn't have to be. If you work with an experienced conversion team, the process should be seamless.

If a plan sponsor is unhappy with its current provider's services and technology, it may very likely want to switch providers. Furthermore, if the plan sponsor feels it or its participants are not receiving sufficient value for the fees being charged, it may explore the idea of moving to a different provider.

To ensure the transition from the incumbent provider to the new provider happens smoothly, and with as little disruption to you and your staff, it is important to keep the following in mind:

- Conversions are typically a 90-day process.
- You will most likely be working with a conversion team of members from your advisor's firm, your provider or both.
- Creating and adhering to a conversion timeline is crucial.
- Constant communication is key. Be sure to set aside time in your schedule for a multitude of both regularly scheduled as well as impromptu phone calls and emails.
- Gather important plan documents that will be requested of you – signed Plan Document, Summary Plan Description (SPD), most current 5500, Adoption Agreement and all amendments.
- Your payroll department will play an important role in the conversion. Be sure to keep them in the loop throughout the process.

Although the conversion process is cumbersome and time consuming, it encompasses a relatively brief time in the life of your retirement plan. Look forward to the enhancements a new provider brings to you and your participants.

The Future of Retirement Plans

It is estimated that by 2017, 59% of plan sponsors will have received a plan-level retirement readiness report. Thirty-nine percent will have changed the design of their plan to enhance the readiness of their participant population, 55% will have implemented automatic enrollment, and 45% of those will have adopted default deferral rates 6% or higher. Most retirement plan service providers will be showing employees if they are on track to achieve a successful retirement and telling them how much they need to save to be on track.

Going beyond accumulation in their quest to help participants achieve retirement success, one quarter of plan sponsors will have conducted a search for an in-plan retirement income solution, and 10% will have implemented such a solution. Providers will be working furiously to develop solutions that meet the need of highly compensated employees imperfectly served by 401(k), 403(b), 457 and 409A nonqualified deferred compensation plans.

Evolving attitudes of regulators will do their part to contribute to the move toward an outcome philosophy of retirement benefits: lifting limits to maximum default deferral levels, expanding the scope of IB 96-1 to cover in-plan annuities and

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other retirement income guarantees, changing safe harbor employer contribution formulas to models more likely to help workers to achieve a successful retirement.

Experts also anticipate the Department of Labor will issue revised rules defining the term “Fiduciary,” applying them to IRAs to eliminate the regulatory competitive advantage retail advisors enjoy over plan advisors when meeting with a participant eligible for a distribution of plan assets. Federal government budget constraints will result in cutbacks of pre-tax contribution limits; we can’t expect that tax credit for low and middle income earners will be expanded either. As an alternative to reduced 402(g) and 415(c)(1)(A) limits (experts predict those will not be changed), the Obama administration has proposed a lifetime cap on contributions that would be hard to implement. In the end, some other option may win such as a review of required minimum distribution rules that encourage employees to stay in the workforce past age 70½, regardless of account balance, earnings, or hours worked.

Greater reliance on mobile technology for communication changes the frequency, purpose, effectiveness, and tone of messages. The success of the gaming industry with mobile technology will inspire retirement plan service providers to conceive fun, engaging, even playful retirement learning paths. Frequent retirement readiness alerts, short and to the point, with a specific point-and-click call for action will prove more effective than anything we have seen to date.

Equity markets were up in 2013, and sponsors will be looking for fixed income products incorporating a guarantee, seeking protection from a reversal in long-term interest rate trends. The retirement investing industry will develop new QDIAs featuring a retirement income distribution option, ultimate convenience for participants through their lifecycle. One quarter of plan sponsors will have adopted fee equalization to distribute the cost of recordkeeping among participants in a fair and equitable manner.

The market presence of Professional Retirement Plan Advisors will continue to grow. By year-end 2017, a number of plan advisor practices will have combined in larger, national teams. Fee compression will lead advisor teams to reduce their involvement in less lucrative activities such as provider due diligence searches and group education meetings to focus on emerging specialties more valuable to plan sponsors such as searches for retirement transition counseling services, and defined benefit plan consulting.

The retirement readiness movement will lead to a widespread adoption of the outcome philosophy of retirement plans, reminiscent of the income benefit philosophy of yesteryears, with the benefit of participant choice. Employers’ adoption of a retirement system combining plan design, investment options incorporating income options, and retirement readiness reporting brings us to the cusp of a new era.

This article was written by Transamerica Retirement Solutions and published in RPAG’s Spring Summit Magazine, *Impact*. It is based on Transamerica’s survey *Prescience 2017: Expert Opinions on the Future of Retirement Plans.* Minor edits were made for compatibility purposes.

ERISA 3(21) vs. 3(38) Fiduciary

Recently there have been articles written regarding the potential benefits of hiring an investment advisor who agrees to act in the capacity of an ERISA section 3(38) investment manager (or “3(38) fiduciary”) as opposed to an ERISA section 3(21) fiduciary for a qualified retirement plan. The information presented in these articles may be confusing and even sometimes misleading.

One definition of an **ERISA section 3(21)** fiduciary is an advisor who renders investment advice for a fee with respect to any monies, investments, or other property of a plan, or has responsibility to do so. Such an advisor serves in a co-fiduciary capacity to the plan and thus shares fiduciary responsibility and liability with other plan fiduciaries (i.e., investment committee members, board members). Hiring an ERISA section 3(21) fiduciary may help to mitigate the potential liability of the other plan co-fiduciaries, as the advisor would provide the necessary investment expertise and process to assist in the required investment decision-making process.

ERISA section 3(38) defines the term “investment manager” as a fiduciary who also is responsible for providing investment advisory services, but with the important distinction of possessing discretionary control over the investment decisions for the plan. In hiring a 3(38) fiduciary advisor plan fiduciaries (again, investment committees, board members, etc.) remove themselves from the ongoing investment decision-making process. However they cannot eliminate all of their fiduciary responsibility, as some articles would suggest. Procedural prudence remains necessary for all fiduciary decision making.

This includes the process for hiring not only an ERISA section 3(21) fiduciary advisor, but potentially even more so for the process for hiring an ERISA 3(38) advisor (because the fiduciaries are turning over control of all investment decisions to the ERISA 3(38) advisor).

In brief, plan fiduciaries seeking to reduce their liability for investment decisions by hiring an ERISA 3(38) fiduciary advisor must understand that it requires giving up the control over plan investments and that some, but not all, fiduciary liability can be shifted. Advisors can serve as either (or even both) a 3(21) or 3(38) fiduciary advisor.

A Quick Look at Gap Analysis

Participant-directed retirement plans put onus on the employee to make important decisions regarding their financial future. The obvious (and most important step) an employee can take when it comes to his or her retirement plan is to *participate* in the plan. But what is the next important step?

Choose from the multiple choice below:

A. Asset Allocation and Diversification. While this is a critical determiner in the return a participant will earn, it is not the most important step he or she can take.

B. Pick the fund(s) with the best returns from last year. This is probably the least recommended way to choose an investment, although it is commonly employed by many participants.

C. Setting an appropriate deferral savings rate. Yes!!! *Correct Answer*. Reality is, if the participant's deferral rate isn't set at the appropriate level, the investment selection (e.g., asset allocation and diversification) plays a minimal role in reaching retirement readiness.

Until recently, the service provider community had yet to uncover a simple way of helping participants determine how much they should be saving to reach a sufficient post-retirement income. Nowadays you may have already heard about an approach called "Gap Analysis." This technique uses a participant's current deferral rate, account balance and salary, together with estimated Social Security payments and sponsor matching contributions, to determine whether the participant's income at retirement will be sufficient to meet a user specified replacement percentage (typically 80%-90%; source: ebri.org). If a gap exists, the Gap Analysis proposes a deferral percentage that will close or eliminate the gap. It also demonstrates the impact of working longer and making do with a lower replacement income assumption.

We all know that we can be saving a bit more for a worthy cause: our future financial security. Gap Analysis provides a bias for action among participants to help themselves become financially secure at retirement. To learn more about Gap Analysis, check with your retirement plan provider.

Communication Corner: Save Early, Reach Your Goal

This month's employee memo is titled, "Save Early, Reach Your Goal." The memo reminds participants of the importance of accumulating retirement savings early on to reach their goals.

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