

B E N E F I T S B R I E F

June 2004

The Goose That Laid the Golden Egg

Away from the spotlight an interesting battle may be shaping up in financial services. In the wake of the mutual fund trading scandals, the Securities and Exchange Commission has begun to review 12b-1 fees paid to brokers. The premise of 12b-1 fees was to allow mutual fund companies to charge current shareholders a marketing expense to attract new shareholders with the hope that more assets in the fund would drive down expenses for all shareholders. The logic was weak from the outset. The brokerage and mutual fund industries quickly translated these 12b-1 fees into trailing commissions that could be paid to brokers in perpetuity. The SEC recently commissioned a paper to test whether these economies have been realized. The SEC paper concluded that while funds with 12b-1 fees do grow more quickly than true no-loads, there is no evidence that this growth has led to greater benefits for mutual fund shareholders. Of further note, the paper concluded that fund flows may be more volatile and gross returns may be lower for funds with 12b-1 plans. [Click here for the entire paper.](#)

Brokerage Industry Opposes Reform

Despite the evidence that 12b-1 programs do not provide benefits to investors and that the potential for conflicts of interest are high, the brokerage industry has organized significant opposition to any modification to this outdated compensation system. [Click here for more information on their opposition to mutual fund reform.](#)

SEC Focused Like a Laser Beam on Directed Brokerage

The SEC is currently in the midst of audits of many of the largest broker-sold fund companies to determine if they directed trading commissions towards brokerage houses in exchange for the brokers selling their funds. This practice, known as directed brokerage, can be detrimental to shareholders if funds pay more in commissions and receive less than optimal execution on stock trades compared to other brokerage firms in the marketplace. Investment committees should be asking questions about the trading practices of the mutual funds they make available to their participants.

Consultants Called Upon to Help Structure and Negotiate Competitive Fee Agreements for ERISA Plan Sponsors

In the most recent CFO Magazine survey of finance professionals, more than 90% thought the aggregate fees charged them to maintain a qualified plan were too high. Consultants who are able to identify and negotiate fee arrangements with vendors are enhancing returns by saving participant expenses. [Click here for the full story on fee structures.](#)

Online Tools Still Not Utilized

You may well have a bunch of spiffy online tools for your 401k participants, but the reality is that few participants use them. [Click here to learn whether online advice is the way of the future... or the past.](#)



IRS Provides Audit Triggers for Retirement Plans

Catherine Jones, the IRS Employee Plans Mid-Atlantic Manager, Tax Exempt/Government Entities provided information on the top five things that triggered audits of retirement plans. [Click here for a full list of the plan types and business types most frequently audited.](#)

Bank Owned Mutual Funds Accused Suspected of Impropriety

The Chairman of the Senate Banking Committee has asked the SEC to review allegations that mutual funds owned by companies that also have investment banking divisions have an abnormally high level of assets allocated to the stocks of their investment banking clients. [Click here for the full story from Bloomberg.](#)

Department of Labor Continues to Focus on the Responsibilities of Fiduciaries

To meet their responsibilities as plan sponsors, employers need to understand the basic rules, outlined in the Employee Retirement Income Security Act (ERISA). ERISA sets standards of conduct for those who manage an employee benefit plan and its assets. [Click here for an overview from the Department of Labor on the basic fiduciary responsibilities applicable to retirement plans under the law.](#)

Just When You Thought it Was Safe to Leave Your Desk

Currently there are more than two dozen bills in various stages of the legislative process that would have an impact on qualified plan sponsors. They range from as elegant as allowing deployed reservists to take penalty-free distributions from their retirement plans, to the Executive Stock Option Profit Recapture Act which mandates a refund of stock option grants to executives if the stock price declines after the grant is cashed. [Click here for a list of all current bills pending and their status.](#)

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