

## **B E N E F I T S   B R I E F**

March 2004

### **When More is Less**

The continued improvement of recordkeeping technology and the desire of service providers to give “more” to their clients is continuing to fuel growth in the number of investment options provided to participants. While in many areas variety may indeed be the spice of life, in 401(k) plans variety is just plain confusing. Researchers at the Wharton School at the University of Pennsylvania recently published a working paper addressing the affect of substantial participant choice on investor behavior. The results were surprising. Statistically, there was a negative correlation between the number of investment options afforded participants and the deferral rates of participants. In short, more choice = less contributions. Over time these lower deferral rates have a substantially negative impact on the retirement readiness of the participants studied. [Click here](#) to review the working paper.

### **Who Decides Which Investments You Select From**

As part of the continuing investigation of the mutual fund trading scandal, the New York Attorney General's office is reviewing the practice of mutual funds paying for the privilege of appearing on 401(k) trading platforms. Under this practice mutual funds pay revenue sharing to trust, insurance, and administration companies to appear on the fund availability lists provided to plan sponsors selecting the investment options made available to participants. Revenue sharing has gained in popularity and the Attorney General has concerns that these practices do not carry the necessary disclosures at either the plan sponsor or participant level. [Click here](#) for more information.

### **Fiduciary Review Seminar**

The Multnomah Group is hosting a continuing education luncheon, “The Impact of the Mutual Fund Scandals on Retirement Plan Sponsors” in Bellevue, Washington. The seminar will be Monday, April 5, at The Harbor Club from 12:00 – 1:30. Continuing education credits are available for SHRM, CPA, and CFP designations. Contact [Scott.Cameron@MultnomahGroup.com](mailto:Scott.Cameron@MultnomahGroup.com) to RSVP or for more information.

### **One Take on the Mutual Fund Trading Scandal**

Amidst the legal jargon related to the mutual fund trading scandal it has been difficult to discern criminality from willful negligence and willful negligence from poor management. This [story](#) might be a good place to start.

### **Pension Consulting Firms Next for Review by the SEC**

The Securities and Exchange Commission (SEC) has sought information from a number of national pension consulting practices regarding alleged “pay-to-play” practices wherein, money management firms pay consultants in exchange for preference in the portfolios of their clients. Despite Department of Labor action in the 1990s to define and eradicate “pay-to-play” practices, alleged abuses continue with money management firms paying consulting firms to appear at conferences and other related events. [Click here](#) for the Associated Press article on the topic.

### **Past is Not Prologue**

There is no dispute that participant directed 401(k) plan sponsors have a legal duty to monitor the investment vehicles they make available to plan participants. However, the over-reliance on historical performance as a current measure of suitability is troubling. As volume providers of administration and asset management services scramble to assist sponsors with fiduciary duties such as the development and maintenance of Investment Policy Statements (IPS), there is often no correlation between the IPS language and likelihood of enhanced future returns. The management of fiduciary responsibilities is a process that requires prudence, discipline, and expertise. [Click here](#) to learn more about the successful management of an Investment Policy Statement.

### **Proposals on Major Modifications to Retirement Plan Structures Reemerge**

In early February 2004 the Treasury Department announced the return of the proposed Employer Retirement Savings Accounts (ERSAs), Retirement Savings Accounts (RSAs), and Lifetime Savings Accounts (LSAs). While initially unpopular when the President first proposed these accounts in 2003, the Administration has retooled their proposal based on the feedback of a number of groups to make it more appealing. [Click here](#) for a review of the modifications and their likelihood of becoming law.



### **IRS Clarifies Top-Heavy Exemption for Safe Harbor Plans**

The IRS has issued a ruling clarifying the application of the safe harbor 401(k) plan top-heavy exemption introduced by the Economic Growth Tax Relief and Reconciliation Act (EGTRRA). The ruling addresses four situations in which a safe harbor 401(k) plan permits discretionary profit sharing contributions subject to a vesting schedule:

1. In a plan year in which the employer does not make a discretionary profit sharing contribution and the plan does not allocate any forfeitures, the exemption applies
2. If the employer makes a profit sharing contribution in addition to the safe harbor contributions, the exemption does not apply
3. In a plan year in which the plan allocates forfeitures in the same manner as it allocates profit sharing contributions, the exemption does not apply
4. If the plan permits immediate eligibility to defer, but limits ADP and ACP safe harbor matching contributions to employees with one year of services, the top-heavy exemption does not apply

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