

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

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SEC Reports on Pension Consultants Conflicts of Interest

The Securities and Exchange Commission's Office of Compliance Inspections and Examinations released the "Staff Report Concerning Examinations of Select Pension Consultants." The Report follows an examination sweep into the practices of pension consultants, particularly focused on any conflicts of interest in their operations. The probe was initiated as part of the SEC's program to identify and investigate risks in the securities industry. The examinations reviewed: (i) the products and services provided by pension consultants, (ii) the method of payment for such services, and (iii) the disclosure provided to their clients.

The Report details the findings, including:

- More than half of the pension consultants or their affiliates provided products and services to both pension plan advisory clients and to money managers and mutual funds on an ongoing basis
- Many pension consultants have affiliates that also provide services to pension plan clients
- Many pension consultants do not adequately disclose material conflicts of interest arising from these practices to their clients

[Click here for the full SEC report.](#)

Comprehensive Coverage of 404(c) Protections

Whether to seek 404(c) protection or not to seek 404(c) protection, that is the question. To assist sponsors in understanding the limits of 404(c) protection and the requirements for meeting the standard, I think this article from Gardner, Carton & Douglas LLP is very good (although a little long). [Click here for the article.](#)

IRS Releases 401(k) Plan Audit Guide

Responding to public requests that the Internal Revenue Service (IRS) disclose more about how it goes about auditing K plans, the IRS has released an online Examination Process Guide to clarify the process. The guide's sections cover:

- The initiation of an examination
- Communications during the examination
- Resolution of issues
- Closing and appealing the examination

[Click here to be directed to the IRS site.](#)

The Cost of Divorce

Recently the Profit Sharing/401(k) Council of America (PSCA) released a survey of retirement plan sponsors to see how they handled (and paid for) Qualified Domestic Relations Orders (QDROs) within the retirement plans they sponsor. As with most retirement plan services, the bigger you are, the less you paid. [Click here for the details.](#)



Securities and Exchange Commission Ruling on Late-Day Trading Scandal? More of the Same

Most of the major violations have been brought to light during the mutual fund trading scandals in 2003 and 2004. While some new revelations break, many of the largest funds have already fessed up and settled with the various state and federal regulation bodies. The SEC for their part, after reviewing the issue, and through numerous public comment periods, has largely left the issue to the funds to implement. Sounds similar to the policy held by the SEC in 2002.

Social Security, Defined Benefit Plans, and Automatic Enrollment?

In looking out on the legislative horizon, much of what will occur will not affect the majority of retirement plan sponsors. Congress will wrestle Social Security. Interest rate assumptions on defined benefit plans will probably change. Employers with stock in their retirement plans will be scrutinized. What is *more* interesting is the House and Senate bills on automatic enrollment features in retirement plans. Assuming the two bills pass and are signed into law, sponsors would be encouraged to adopt automatic enrollment provisions and would be able to adopt safe-harbor provisions protecting them should they choose to do so. [Click here for a list of bills pending in the Congress.](#)

Roth 401(k)s Available in 2006 (Maybe)

We are on the precipice of the age of the Roth 401(k). In theory, the change is simple enough. Employees can choose. Save my money pre-tax or after-tax? There are even dozens of calculators on the web that can help you decide which path is best for you. So if this is so easy, why would any sponsor not adopt the Roth 401(k) provisions for their plan (they are optional). Much like mutual fund performance, past marginal tax rates are not a predictor of future marginal tax rates and unless you know how you will be taxed when you retire your decision will always be incomplete. [Click here for an article reviewing the new Roth 401\(k\) regulations and explaining some of the potential problems with the Roth 401\(k\).](#) Simultaneously, a new bill has been introduced in the House of Representatives that would remove the Roth 401(k) design option before its launch in 2006. [Click here to see the terms of the House Bill and other proposed changes to current retirement plan legislation.](#) [Contact the Multnomah Group](#), with any questions on how or whether to introduce a Roth feature into your current 401(k) Plan.

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