

## **B E N E F I T S   B R I E F**

September 2004

### **IRS Audit Activity to Increase in 2005**

The Internal Revenue Service has expressed their intention to increase the number of qualified plan audits they conduct in 2005. Some IRS personnel have been diverted from audit work to support the restatement process and review of plan documents. Particular attention will be paid to:

- Failure of Plan Sponsors to properly follow the plan document
- Improper exclusion of employees from participation
- Contribution and allocation errors
- Failure to make required top-heavy contributions
- Proper identification of highly compensated employees for testing

Sponsors wishing to conduct an internal review of their plan's operational, cost, and performance status should consider conducting a comprehensive [8 Point Fiduciary Review](#).

### **The Catch-22 of Investment Returns**

Undue focus is being paid by investment practitioners and their clients on past performance. These return numbers, without reference to asset allocation, short-term volatility, and structural integrity, create a deeply flawed investment selection and review process that expose plan sponsors to heightened fiduciary risks. [Click here to read an article on the fiduciary perils of historical performance analysis.](#)

### **Selecting a Default Fund for Participant Directed Plans**

Plan sponsors dramatically increase their fiduciary liability any time that they temporarily make investment directions on behalf of the participants in their plan. The two most common examples of this discretion are during blackout periods in a conversion and in selecting a default investment option for participants that have failed to make an investment direction for themselves. While money market defaults continue to be the most frequently used default fund, careful considerations should be given to whether these default options truly meet Prudent Investor standards. [Click here for a paper by Vanguard on selecting default investment options in participant directed plans.](#)

### **Fundamental Problems in Mutual Fund Industry Persist**

The Securities and Exchange Commission (SEC) recently published on their website an article by James Bicksler of Rutgers University on many of the fundamental agency flaws in the mutual fund industry as well as suggested methods to reduce these conflicts of interest. While these changes do not reference qualified plans independently, the conflicts addressed here represent a very strong framework with which to review investment vehicles within a plan from a fiduciary framework. It is also likely that the debate about mutual fund reform will center on the proposals made within. [Click here to read the SEC published article.](#)

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