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1ST QUARTER 2009

Participation Rate Remains Steady

How does your plan compare?

The participation rate for all plans was 85.4% at the end of 2007, according to the *51st Annual Survey of Profit Sharing and 401(k) Plans* conducted by the Profit Sharing/401(k) Council of America (PSCA). The survey reflects 2007 experience, and includes responses from over 1,000 plans with 7.4 million participants and $730 billion in assets.

Participant contributions rose

As expected, higher participation rates were found in plans that include employer contributions. The highest participation rate (88%) was in plans featuring a safe harbor match and a discretionary match. In plans with no company contribution of any kind, the average participation rate was, surprisingly, 65%.

Non-highly compensated employees contributed an average of 5.6% of pay, which is the first increase in their deferral rate since 2004. Highly compensated employees contributed at an average of 7.0% of pre-tax pay.

Roth after-tax contributions were permitted in 30% of plans, up from 18% the previous year. Nearly 13% of participants made Roth contributions when given the chance.

Automatic enrollment gained in popularity

As expected, the use of automatic enrollment rose significantly. In 2004, 10% of plans offered this feature. By 2007, nearly 36% did. It was most common in large plans, but usage doubled from the prior year in plans with fewer than 50 participants (11%) and those with 50 to 199 participants (25%).

Half of the responding plan sponsors automatically raise participants' default deferral rate over time.

The most commonly reported default deferral rate was 3%, and target retirement date funds were the default investment option in 49% of plans.

Investment monitoring received attention

Only 54% of plans had an investment policy statement when the PSCA began tracking this topic in 1999. In the current survey, almost 84% of plans reported using such a statement.

Monitoring was reported to be performed quarterly by 60% of respondents. Nearly 22% of plans monitored annually, and 13% did so on a semi-annual basis.

Other survey results include:

- An average of 18 funds were available to participants.
- 49% of plans offered investment advice.
- Hardship withdrawals were permitted in 89% of plans.
- About 24% of participants had outstanding loans, the average balance of which was $7,655.
- Almost 44% of plans offered immediate full vesting for matching contributions.

Highlights of the PSCA's survey are at http://tinyurl.com/3115qt.

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Pension Plan Limitations for 2009

401(k) Maximum Participant Deferral	$16,500*
($22,000 for those age 50 or over, if plan permits)*	
Defined Contribution Maximum Annual Addition	$49,000
Highly Compensated Employee Threshold	$110,000
Annual Compensation Limit	$245,000

Retirees Acted Prudently with Distributions

The Investment Company Institute's (ICI) survey of those who retired between 2002 and 2007 found that only a tiny fraction immediately spent their defined contribution plan distribution. Only about 3% of account assets were spent upon retirement.

Over half of those surveyed received a lump sum distribution, and the majority reinvested all of their proceeds in IRAs with guidance from professional financial advisors. Even those who chose not to reinvest their entire distribution typically reinvested most of it.

The retirees who spent their entire distribution had received small lump sums. The household income of these individuals came largely from defined benefit plans and Social Security benefits, and they appeared to use their distributions wisely, such as to pay down debt.

The ICI's *Defined Contribution Plan Distribution Choices at Retirement* survey is at http://tinyurl.com/6dbf24. ■

Nearly two-thirds of middle-class new retirees are likely to outlive their financial resources if they try to maintain their pre-retirement standard of living. To avoid this, middle-class retirees will have to reduce their standard of living by 24% on average. Find out more about this Ernst & Young study at http://tinyurl.com/58fzzy.

Attitudes Affect Deferral Rates

The Spectrem Group's *Deferral Rate Decision Making* report found that participants' attitudes strongly influence their contribution rates. Among various attitudes tested, four had the most significant impact on contributions:

- Those who viewed themselves as "savers" rather than "spenders" had a mean deferral rate of 8.4% versus 6.2% for those not having that attitude.
- Participants who had a retirement saving strategy contributed at a mean rate of 8.5%, while those not having this belief had a rate of 6.5%.
- Those who worried about current household debt had a mean contribution rate of 5.7%, compared to 7.7% for those not having this attitude.
- Participants who felt they were not saving enough toward their goals had a mean deferral rate of 5.8% versus 7.9% for those who did not feel this way.

Among demographic factors, Spectrem's report notes that marital status had little effect on contribution rates, nor did the presence or absence of a company match. On the other hand, salary and age were major factors. ■

The Congressional Research Service has released a Report for Congress regarding the tax implications of pre-retirement distributions from retirement accounts. *Individual Retirement Accounts and 401(k) Plans: Early Withdrawals and Required Distributions* is an excellent overview, and is available at http://tinyurl.com/5vasbz.

More Workers Have Retirement Plans

Participation trends in employment-based defined benefit and defined contribution plans are upward, according to an Employee Benefit Research Institute (EBRI) analysis. About 55% of full-time, full-year wage and salary workers ages 21 to 64 participated in a retirement plan in 2007. After declines in 2005 and 2006, the participation rate is rising, based on the most recent U.S. Census Bureau data.

EBRI's report, which covers demographic and geographic differences, is at http://tinyurl.com/6hr5l7. ■

Plan Sponsors Ask…

Q: We want to be sure we have proper documentation on how the plan committee sets the interest rate for 401(k) loans to participants. What should we have in the file?

A: Department of Labor (DOL) rules require that a loan's interest rate be commensurate with the rates charged by commercial lenders under similar circumstances if it is to be considered reasonable.

To have confidence that your rate-setting approach complies with the DOL's rules, sponsors should:

- verify that the plan document specifies who is authorized to establish and monitor the interest rate;
- survey banks and other lenders in their area to get their rates for loans of similar amounts and durations for persons with approximately the same creditworthiness;
- review information and conduct new surveys on a regular basis, and
- retain full documentation.

Q: What are target-date funds and how commonly offered are they?

A: Target-date funds are generally based on specific retirement years in the future and are rebalanced gradually over long time periods toward conservative allocations. They're designed for new investors and those who choose not to manage their own investments, and their purpose is to offer full diversification in just one fund.

A study of 1,800 plans and three million participants found that, at the end of 2007, 58% of plans made target-date choices available to participants and 27% of participants offered such choices used them.

These funds are becoming more widely available in 401(k) plans, thanks to the Department of Labor's qualified default investment alternative (QDIA) rules. Among all plans studied, 34% offered a target-date fund. But, among plans adopting a QDIA, 84% make such a fund their default investment vehicle.

About 70% of new participants using a target-date fund have 100% of their account balance in just one such fund. On a broader basis, 43% of all participants who selected a target-date fund had all of their assets in one of those funds.

More information about the survey is at http://tinyurl.com/5oumja.

Q: We're confused by the various safe harbor notices for participants. What are the required safe harbor disclosures?

A: Generally, the "traditional" safe harbor notice describes how the employer will make matching or nonelective contributions to participants' accounts in order to automatically satisfy the ADP and ACP nondiscrimination tests.

The qualified automatic contribution arrangement (QACA) disclosure must include the same information as the traditional notice. It also discloses the automatic deferral percentage that will be used, the employee's right to not have elective contributions made or to change the amount, and how contributions will be invested in the absence of an employee's election.

Another notice is the EACA (eligible automatic contribution arrangement) disclosure, which includes all of the information in the traditional and QACA notices. It also must describe the employee's right to withdraw his or her contributions.

Lastly, the qualified default investment alternative (QDIA) notice describes when contributions will be invested in a QDIA, the right of participants to direct their assets into other choices, and the fees, investment objectives and risk/return features of the QDIA.

The notices must be distributed at least 30 days before the start of a new plan year, and can be combined in a single mailing. Be sure to consult your plan's counsel regarding the applicability and content of these notices.

Web Resources for Plan Sponsors

Internal Revenue Service, Employee Plans
www.irs.gov/ep

Department of Labor,
Employee Benefits Security Administration
www.dol.gov/ebsa

401(k) Help Center
www.401khelpcenter.com

Plan Sponsor Magazine
www.plansponsor.com

BenefitsLink
www.benefitslink.com

Profit Sharing/401(k) Council of America
www.psca.org

Employee Benefits Institute of America, Inc.
www.ebia.com

Employee Benefit Research Institute
www.ebri.org

Replacement Ratio Rises

To continue his or her pre-retirement standard of living after retiring, a worker earning $50,000 at retirement needs to replace 81% of that amount each year. About 51% would come from Social Security, leaving 30% or $15,000 to be from private savings and employer sources, according to the 2008 Replacement Ratio Study conducted by Aon Consulting and Georgia State University.

In terms of making one's retirement funds last, the study found that if a married couple retiring now wants a 75% probability that they will not outlive their assets, they need to prepare for 31 years of retirement.

More about this annual study is at http://tinyurl.com/5us99l.

Unsure of the rules for ERISA bonding? See the Department of Labor's Field Assistance Bulletin 2008-04, which is in a helpful question and answer format, at http://tinyurl.com/5gdfou.

Plan Sponsor's Quarterly Calendar

Consult your plan's counsel or tax advisor regarding these and other items that may apply to your plan.

APRIL

- Conduct a review of first quarter payroll and plan deposit dates to ensure compliance with the Department of Labor's rule regarding timely deposit of participant contributions and loan repayments.
- If a plan audit is required in connection with the Form 5500, make arrangements with an independent accountant/auditor for the review to be completed before the Form 5500 due date. (calendar year plans)
- Verify that employees who became eligible for the plan between January 1st and March 31st received and returned an enrollment form. Follow up on forms that were not returned.

MAY

- Monitor the status of the completion of Form 5500, and, if required, a plan audit. (calendar year plans)
- Perform a thorough annual review of the plan's Summary Plan Description and other enrollment and plan materials to verify that all information is accurate and current, and identify situations in which revisions are necessary.
- Issue a reminder memo or e-mail to all employees to encourage them to review and update, if necessary, their beneficiary designations for all benefit plans.

JUNE

- Confirm that Form 5500, and plan audit if required, will be completed prior to the filing deadline or that an extension of time to file will be necessary. (calendar year plans)
- Begin planning an internal audit of participant loans granted during the first six months of the year. Check for delinquent payments and verify that repayment terms and amounts borrowed do not violate legal limits.
- Review plan operations to determine if any qualification failures or operational violations occurred during the first half of the year. If a failure or violation is found, consider using an Internal Revenue Service or Department of Labor self-correction program to resolve it.

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