Defined Contribution Insights
The Solution Source for Plan Sponsors

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PSCA
Plan Sponsor Council of America
Part of the American Retirement Association

New Members

Corporate Member

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Melbourne, FL
Industry: Healthcare
Contact: Holly Carothers

Certified Plan Sponsor Professionals

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United Material Handling, Inc.

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Janus Henderson Investors

Marcy Aviles
Alarm.com Incorporated

Patricia Barbosa
Kobelco Compressors America, Inc.

Kaye Benker
CSG Systems, Inc.

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BPA Services, LLC

Valerie Burns
Iowa Fluid Power

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Karen Corbett
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Jacqueline Corless
Major League Baseball

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Babs Harmon
Nextep Inc

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Leidos, Inc.

Kristin Heasley
La Salle University

Stephanie Heintz
AnaptusBio

David Holden
PBS

Listing of new CPSP members continued on inside back cover

Changes in member contacts should be faxed to PSCA at (703) 516-9308 or sent to psca@psca.org.

PSCA publishes articles by its members in Defined Contribution Insights magazine. If you have an idea for an article of 1,000 to 3,000 words in length, please contact hattie@psca.org.

Subscriptions to Defined Contribution Insights magazine are part of PSCA membership, and are also available to non-members for $75.00 per year. Contact PSCA at 703-516-9300 for subscription or membership questions.

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Leadership Letter

A Year of (Virtual) Change

Though 2020 was a challenging year, there were some notable successes.

By Will Hansen

2020 It was an interesting year. Many of us were challenged in new ways, whether it was due to work or personal changes in our daily routine. At PSCA, we quickly adapted to the new virtual world and continued to provide quality learning materials to our members. In particular, I want to highlight the Certified Plan Sponsor Professional (CPSP) credential program.

Throughout the course of 2020, PSCA provided a Virtual Classroom program for plan sponsors that wanted to enhance their knowledge about implementing and operating a retirement plan. As of late December, more than 525 individuals have received the CPSP credential! These individuals represent more than 430 different companies based in the United States and Canada. The sizes of the plans that these individuals work on range from as small as five participants to plans that have tens of thousands of participants. The CPSP program was designed to assist those with just a few years of experience to seasoned professionals; from those employed at a small company to those working for a Fortune 100 company.

In 2021, we will continue to provide the Virtual Classroom program with start dates scattered throughout the year. Each program is a 9-week course that blends webinar, online self-study, and live instruction to make this unique curriculum even more accessible, while improving knowledge retention. You will have the opportunity to engage directly with the educators as well as your fellow learners throughout the course of the program.

If you are interested in advancing your career, head to www.psca.org/cpsp to learn more information about the program. Plus, you can sign up on the interest form to be placed into a Virtual Classroom program in 2021.

While 2020 was difficult for many, we are entering what will potentially also be a difficult 2021 with social distancing and other measures still in effect to limit the spread of COVID. Since we don't know when these measures will no longer be necessary, the PSCA National Conference will be offered virtually in 2021. On April 19–20, 2021 will we gather (virtually) to experience two days of enriching content geared towards the plan sponsor.

If you are a plan sponsor member of PSCA, whether through a corporate membership or receiving the CPSP credential, attendance at the National Conference is complimentary. You can register for the conference at www.psca.org/2021nc. Plus, the first 300 plan sponsors to register will receive a complimentary book authored by the keynote, Erin Lowry, a personal finance expert, entitled "Broke Millennial Takes on Investing: A Beginner's Guide to Leveling Up Your Money."

2020 brought a number of interesting changes to retirement plans, from a new rule on ESG investment funds to the many changes under the SECURE Act. All signs point to an active year in new retirement policies being implemented by Congress and the Federal Agencies that have oversight on new regulations. The National Conference will dive into the weeds on all of the changes that have occurred and are forthcoming in the retirement sector.

I look forward to seeing you (virtually) at the 2021 PSCA National Conference. I hope you had a restful and peaceful holiday season.

Will Hansen is PSCA's Executive Director and the Chief Government Affairs Officer for the American Retirement Association.

DC Menus, Choice Architecture, and Best Practices

Answers to common investment lineup construction questions.

By Rose Murtaugh and Kevin Vandolder for PSCA's Investment Committee

Since the creation of the modern Defined Contribution (DC) plan more than 40 years ago, plan participant investment lineups or "menus" have come a long way. From just a few funds to hundreds of funds and back again to numbers that allow plans to conduct proper due diligence, the recipe of what "right" looks like is still evolving. The topic of menu creation (and monitoring over time) is potentially one of the most important set of decisions a plan can make in terms of participant outcomes. PSCA's investment committee members Rose Murtaugh and Kevin Vandolder discussed the challenges and best practices when presenting a set of investment funds to participants and developed the following list of questions and responses to help members evaluate their investment lineup and how it is positioned to participants.

What is the thinking behind presenting a fund lineup in something other than a list?

Plan sponsors and consultants continue to see the merits of delivering a lineup of investment alternatives from a position of guidance rather than just a list with names of investment strategies that may or may not effectively communicate its risk and return profile. Avoiding the practice of just delivering a fund lineup as a list — in particular, in alphabetical order — is something that should be avoided in favor of a more thoughtful approach such as a "tiered" one.

What are the "tiers" named and is there an optimal number of "tiers" for a plan?

The top investment consultants and service providers continue to observe an efficient number of tiers to be between three and five that span an engagement profile from "do-it-for-me" or "delegate" to "I want to do it myself" or "empower me" and somewhere in between[1]. An example of a traditional tiered investment option structure follows below.

Tier I — "Do-it-for me" is a professionally managed solution in the form of target-date funds.
These are typically simple packaged solutions that have an asset allocation methodology that becomes more conservative from an investment perspective as a participant gets closer to retirement.

Tier II — "Empower me" while being cost aware.
This is the tier where a participant can build their most diversified portfolio by utilizing 100 percent low cost, passive investment strategies.

Tier III — "Empower me" while looking for increased return potential.
In this tier the participant can select from a series of compelling investment alternatives that are attempting to outperform relative to index fund equivalents.

Tier IV — "Empower me" with an ability to fully customize approach.
This last tier opens up a self-directed brokerage window that provides the full landscape of investment alternatives to allow a participant to fully customize their investment strategy for their unique needs.

Where would a plan's default investment (QDIA) live in a tiered menu?

Tier 1 ("Do-it-for-me") is where the QDIA should reside. All robust QDIAs should have a well-conceived name

[1] For additional perspective, several years ago, well developed research supported the theory that about only one-third of plan participants believed that they prefer "do it for me" while the remaining wanted to be more active and be provided freedom to choose. See Quantitative Analysis of Investor Behavior (QAIB) for additional insight. These numbers, however, may be a bit lower than reality as many DC plan sponsors who automatically enroll and/or re-enroll their participants experience greater than two-thirds of their participant base defaulting to the QDIA on average.

that communicates in plain language its investment strategy relative to time horizon and risk (e.g., a targeted year for retirement).

Interestingly enough, an increasing number of plan sponsors are now re-considering just offering a series of target date funds as the QDIA versus a managed account solution. These managed account solutions consider factors beyond just the use of age to determine appropriate investment risk levels and diversification. These additional factors include considerations such as the number of children, outside assets, cost of living where the participant plans to retire, etc.

"Quite simply, too much choice leads to confusion and participants creating less efficient investment portfolios. As a result, we are increasingly seeing DC plan sponsors moving to further streamline their investment options and avoid the technical investment jargon…"

Why is it important to have a passively-managed tier and an actively-managed tier?

Separating out passive investment alternatives from actively managed ones is critical in taking some sizeable confusion out of the participant's decision set when faced with a list of investment alternatives to select from. It further focuses the investment decision points around the most critical issue of cost and value…something that most participants, on average, will most readily understand.

How does behavioral finance (sometimes called the science of communications) play a role in how we present funds to participants?

Most participants do not form their most efficient portfolio over time. This is as a result of the fact that the vast majority of DC participants do not have the investment knowledge, interest, or time to be successful in delivering optimal results for themselves.[2]

Does presenting funds in a tiered format create any fiduciary concerns?

When tiering the investment option structure of DC plans was discussed and adopted in great numbers well more than a decade ago, a sizeable group of legal counselors for plan sponsors thought that this type of tiering could lead to additional fiduciary obligation. In short, these legal advisors reinforced how critical it was to ensure that the tiers were thoughtfully created and communicated to participants to avoid adverse legal challenges. As time progressed and the DC service providers and recordkeepers perfected their communication and delivery of tiers, legal advisors today generally share with their clients that positioning the investment program in tiers enhances participants' engagement and understanding of their decision set. It can be argued that outcomes are improved and there is a decrease potential for adverse legal challenges when adopting tiers for investment option design.

"There is a lot of exciting innovation happening in the marketplace today and most of it revolves around the adoption of a fifth tier. Some refer to it as the 'final frontier tier,' but most call this added tier a 'retirement tier'."

What are some of the most innovative menus we have seen?

Quite simply, too much choice leads to confusion and participants creating less efficient investment portfolios. As a result, we are increasingly seeing DC plan sponsors moving to further streamline their investment options and avoid the technical investment jargon (i.e., "equity-income", "diversified dividend growth") by replacing their core active options (e.g., "tier III") with "objective-based" investment alternatives.

Examples follow below.

"Inflation Protection"
Preserves the real value of capital with limited downside risk.

"Capital Preservation"
Preserves capital on a nominal basis with little to no downside potential.

"Income"
Delivers strong income with limited downside risk potential.

"Growth"
Attempts to deliver a strong total rate of return far in excess of capital preservation and inflation protection over the long term with some potential for adverse risk of loss over the short and intermediate periods.

[2] Refer to "Improving DC Plan Investment Governance: A Call to Action", p.9., for an example of how a DC plan study illustrates how participants do not form their most efficient portfolio. Microsoft Word - 2015_Custom_DC_Investments_WP_USIC_Approved_080315_FINAL.docx (aon.com)

Many plans have brokerage of mutual fund windows — are there any special considerations when presenting this service?

There are typically a small proportion of participants who are unhappy with streamlined and broadly diversified investment choices. As a result, the fourth tier, a self-directed brokerage, has a lot of merit. The top three considerations in adding and monitoring such a window are:

1. Follow a prudent process when selecting and retaining a self-directed brokerage window.
2. Ensure that the service provider appropriately communicates the risks and challenges including that participants may not be able to take advantage of the institutionally-priced investment alternatives available in the core lineup, and that the quality of the investment options may vary.
3. Consider offering a mutual fund window only where single-issuer stock or bonds, limited partnerships, and ETFs are excluded to minimize the chance of severe adverse participant financial outcome.

What is on the horizon in terms of innovation for DC investment menus?

There is a lot of exciting innovation happening in the marketplace today and most of it revolves around the adoption of a fifth tier. Some refer to it as the "final frontier tier," but most call this added tier a "retirement tier." This tier enables plan sponsors to help their participants near or in retirement to invest and withdraw their savings in the most efficient manner possible

Simple adjustments to set up and deliver a retirement tier can include:

- amending plan documents so that participants can stay in the plan after retirement,
- considering offering participants more flexible access to their savings through evaluating and adding retirement-income options in-plan, as well as,
- providing access to options outside of the plan, such as institutionally-priced annuities or other insurance-based strategies.

Finally, plan sponsors can also deliver enhanced education and communications to help participants through this tier. Education might include the risks and opportunities of investing while nearing, and in, retirement, including the key decision point of when to start social security benefits.

Rose Murtaugh is Associate Director, Pensions, Navistar Inc., and a member of PSCA's Investment Committee.

Kevin Vandolder, CFA, previously a Regional Director, Senior Institutional Consultant, for DiMeo Schneider & Associates, L.L.C. and a member of PSCA's Investment Committee.

Plan Sponsor Perspectives

PSCA Members and COVID-19

Two organizations tell us how they have responded to the current pandemic and economic environment.

By Tobi Davis

PSCA has created this new column to appear in each issue of the magazine to provide the plan sponsor perspective on a topic or two of interest to our members. Similar to the "person-on-the-street" interviews on TV, we chose the topic then asked some of our plan sponsor members their thoughts.

The question posed to members for this issue was: *2020 has been a particularly challenging year in numerous ways — we would like to know the impact of COVID-19 on your company and plan participants, the impact of the CARES act provisions if you adopted them, and any other challenges or successes related to the coronavirus pandemic and resulting economic conditions.*

One PSCA member — a national news organization — noted that they have navigated the challenges with COVID well, and without layoffs or furloughs. However, merit increases were postponed and senior management and the board elected to reduce their base salaries for the remainder of 2020. As the plan sponsor explained, "The company transitioned to a 'work-at-home' status fairly seamlessly without interruption in our news coverage. To some of our viewers, it was nice for them to see the personal side of our various news personnel." The specific provisions of the CARES Act that were adopted were the suspended loans provision (4.7 percent of those with loans took advantage of this), allowed COVID withdrawals (around $1.7M was taken), RMDs (no one chose to take one), and the maximum loan amount allowed was increased to 100 percent of the account balance or $100,000.

The second PSCA member response is from Tracy Tillery CPSP®, Senior Director of Total Rewards, Westchester Medical Center Health Network.

"The Westchester Medical Center Health Network (WMCHealth) is a 1,700-bed healthcare system headquartered in Valhalla, New York with a workforce of more than 13,000 people. It is stating the obvious to say that COVID-19 has impacted our employees in almost every aspect of their professional and personal lives. While WMCHealth pledged early on during the pandemic that it would keep everyone employed, many employees still faced unprecedented challenges, including childcare challenges, health challenges, and financial challenges. WMCHealth offered education assistance with unexpected needs to help reduce the stress that has come with the pandemic.

"WMCHealth adopted of all of the CARES Act provisions and the Total Rewards team understood that many of the workforce members might want to take advantage of distributions (and that this was their absolute right), but we also knew that taking such distributions or loans could negatively impact their retirement plans. Accordingly, we immediately took steps to help employees understand everything about taking a CARES Act distribution, including moving our education platform online and requiring an on-the-spot meeting with an advisor over a designated helpline.

"There were numerous in-person events planned for 2020 across all of Total Rewards offerings but the Team had to be flexible and adapt. We quickly shifted many of these in-person events to virtual offerings and quickly communicated to the entire workforce about these changes. One of these events, 'WMCHealth Retirement Week,' was offered virtually for the first time. Typically the Total Rewards Team travels to all of our campuses to educate about the retirement plan offerings and talk to plan participants about their individual accounts. Although this was a virtual event, it was more successful than under the prior format. Providing this support is critically important during times of market volatility and will remain important for the foreseeable future."

Plan Sponsor Perspectives will be a recurring column in *Defined Contribution Insights*. If you have a topic you would like us to ask, or would like to participate (responses can be anonymous), please send me an email at tdavis@usaretirement.org.

Tobi Davis is Director of Operations for the Plan Sponsor Council of America.

Best Ways to Pay for College (Part 1)

Both 529 plans and 409A plans can be used to pay for college.

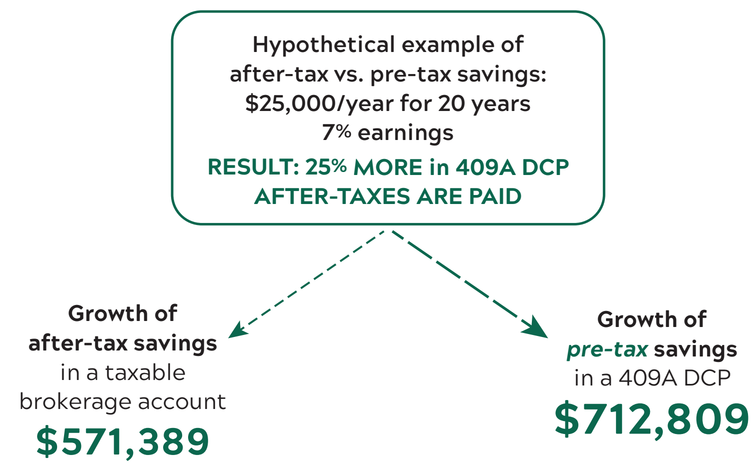
By Timothy Drake and John Sanford for PSCA's NQDC Committee

There are many articles comparing various ways to effectively save for college education (or any other educational pursuits). This article, in two parts, compares the top educational savings plan, the 529 plan, to the nonqualified deferred compensation plan, the 409A plan. Part 1 will focus on 409A plans and how they may be used to pay for college, and Part 2 (to be published in the Spring 2021 edition of *Defined Contribution Insights*) will focus on 529 plans. Plan sponsors may consider their plan design and communication material to stress the advantages of using a 409A to allow plan participants to fund college education for their children.

What is a 409A Nonqualified Deferred Compensation Plan (409A DCP)?

A 409A DCP is a company-sponsored program that allows key employees to defer pre-tax cash compensation, have the money grow tax-deferred, and then receive the taxed balance at a defined later date. There are no dollar limits on the amount that can be deferred. These plans are designed to provide tax-advantaged, supplemental retirement savings opportunities. Employees are limited to what they can save in qualified 401(k) plans, so a 409A DCP provides additional pre-tax deferral opportunities for key employees.

Exhibit 1: Advantages of Pre-Tax Contributions and Tax-Deferred Growth



Other assumptions: 27% blended tax (income/capital) for taxable brokerage account, 35% income tax (federal, state, local) on 409A DCP distributions.

The compounding concept is hypothetical and for illustrative purposes only and is not intended to represent performance of any specific investment, which may fluctuate. It is possible to lose money by investing in securities.

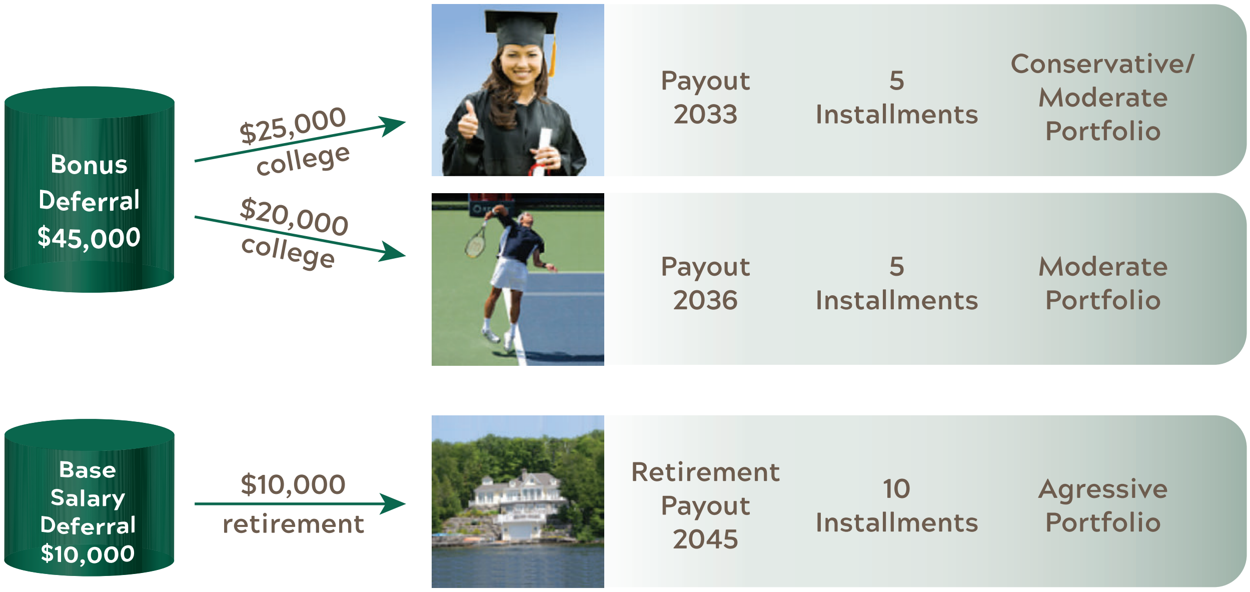
There are significant tax-advantages of a 409A DCP. Exhibit 1 illustrates the advantages of pre-tax savings and tax-deferred compounding.

How can a 409A DCP be used to fund college education?

409A DCPs are not just for retirement. They can meet both short-term and mid-term future cash needs as well. There is no minimum deferral period in the regulations, but typical plan designs require a minimum of two to three years after the year of deferral. However, payment commencing at a specified future date, like the year after a child's high school graduation, and paid over a 5-year period is allowed.

For example, a 40-year-old eligible executive employee earning $150,000 in salary and $50,000 in bonus could elect to defer $10,000 of salary and $30,000 of bonus. Distribution can be set up for a future year, like 2030, and be paid over 5 years; or a future event, like termination of employment, and be paid over 15 years. As a comparison, the key employee's maximum 401(k) contribu-

Exhibit 2: Example of How 409A DCP Distributions Work



tion would be limited to $19,500 in 2020 and could be further restricted due to qualified plan rules. Because 401(k) account balances are generally only available without penalty starting at age 59.5, they are rarely advertised as college education savings vehicles.

How does a 409A DCP work?

An enrollment takes place each year, usually around October/November, for calendar year plans. The election to defer salary and/or bonus is generally made prior to the compensation being earned. During enrollment, the key employee decides how much to defer and for how long. Deferral periods range from two years to 30 or more years. Distributions are usually paid in a lump sum or in annual installments of up to 15 years.

Each annual enrollment can have a different election and may allocate deferrals to different distribution events, or "accounts."

For example, the same key employee from the above example has two kids, a five-year-old daughter and a two-year-old son. This employee decides to set up an account/distribution event for each child. The daughter's account will start payments in 13 years (age 18 is a typical college entry age), and the son's account will start payments in 16 years. Both accounts will be paid over a five-year period, as elected.

Each year, the key employee can redetermine how much to defer into each account. Since the daughter's account has fewer years to grow, the employee may allocate an additional amount into that account.

For example, a few years later, the key employee is now earning $160,000 and expecting a $60,000 bonus. Bonus deferral elections can be $25,000 into the daughter's account and $20,000 into the son's account. See Exhibit 2 for a visual example of how this 409A DCP distribution would work.

Each year, a decision can be made as to how much is needed to go into each account to meet the goal. The employee may also establish additional accounts, like a retirement account or accounts for a future trip or second home purchase.

Continuing with the previous example, let's say that this employee is doing well and elects to defer $10,000 of next year's salary into a retirement account. Now there are three accounts: daughter's college account, son's college account, and employee's retirement account. Because there are different time periods, each account can have its own investment allocation. The retirement account is longer term and may have a portfolio mix of a higher percentage of equities versus fixed income. Investment changes are usually available on a daily basis in most 409A DCPs. Investment changes are not taxable because the account grows tax-deferred. So rebalancing, dollar-cost averaging, and adjusting the portfolio mix as the event gets closer are simple processes.

Deferrals into a 409A DCP can also lower current income taxes. The employee in our example is now earning $220,000 ($160k salary plus a $60k bonus). After deferrals into all three accounts and maximizing the 401(k), the employee's taxable income is only $145,500 [$220k (salary + bonus) – $19.5 (401k) – $25k (daughter's college account) – $20k (son's college account) – $10k (employee's retirement account)].

In this example, the key employee reduced current federal and state income tax and saved for future events

Exhibit 3: 2020 Federal Income Tax Brackets* Married Filing Jointly

Purpose	Percentage
10%	$0 – 19,750
12%	$19,751 – $80,250
22%	$80,251 – $171,050
24%	$171,051 – $326,600
32%	$326,601 – $414,700
35%	$414,701 – $622,050
37%	$622,051 or more

*Add State Income Tax Rates as applicable

on a pre-tax basis. This is very efficient savings for future needs. Deferring current income can also help with your future college student qualifying for financial aid, since current income plays an important role in determining financial aid eligibility. Financial aid applications usually request retirement/savings account information, but those accounts may be less important than current income.

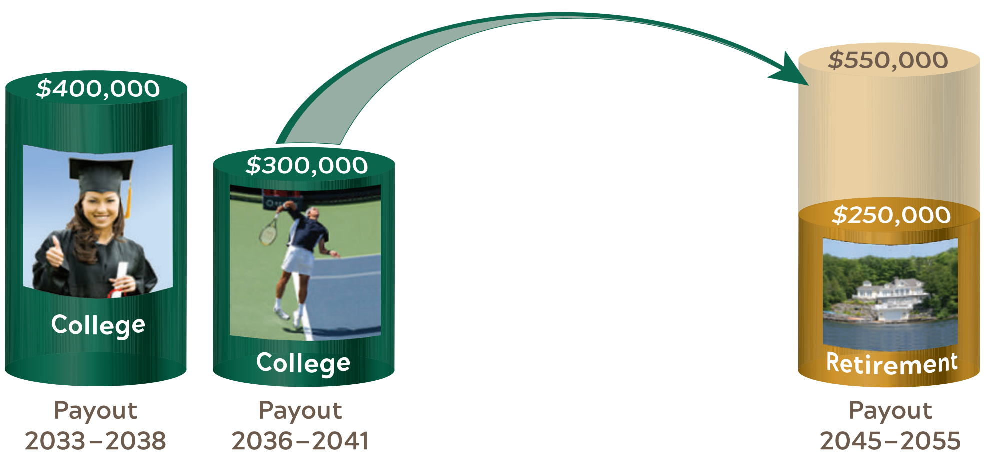
Contingencies! What happens if plans change?

Let's talk about flexibility and contingencies. You are going to hear a lot about qualified and nonqualified educational expenses under the 529 plan. None of that applies here. The future distributions of a 409A DCP can be used however is needed — there are no restrictions. The money can be used to pay for tuition at any college or educational system anywhere in the world. It can be used for room and board, or to pay for expenses associated with commuting, grocery shopping, technology, vocational education, gap year travel, starting a new business, or buying a car. And, there is much less paperwork. With a 409A DCP, there is no need to track receipts to prove that the expenses "qualify" as deductible and penalty free expenses as you will see in 529 Plan regulations.

Let's fast forward in our example: the key employee has been deferring, the balance has been invested and earning tax-deferred gains, and now all three accounts have the following balances: $400k (daughter's college), $300k (son's college), and $250k (retirement). The daughter is now 18 and ready to attend college this fall. The account has grown to $400k and distributions of about $80k per year have begun. Remember, none of this money has been taxed — yet. It was deferred pre-tax and has grown tax-deferred. But now, ordinary income tax will become due upon receipt of each payment. So, in a 35 percent tax bracket (combined federal and state tax rates), the key employee will have an additional $56k after-tax to supplement income and help with college expenses ($80k (distribution) – $28k (taxes @35 percent) = $52k).

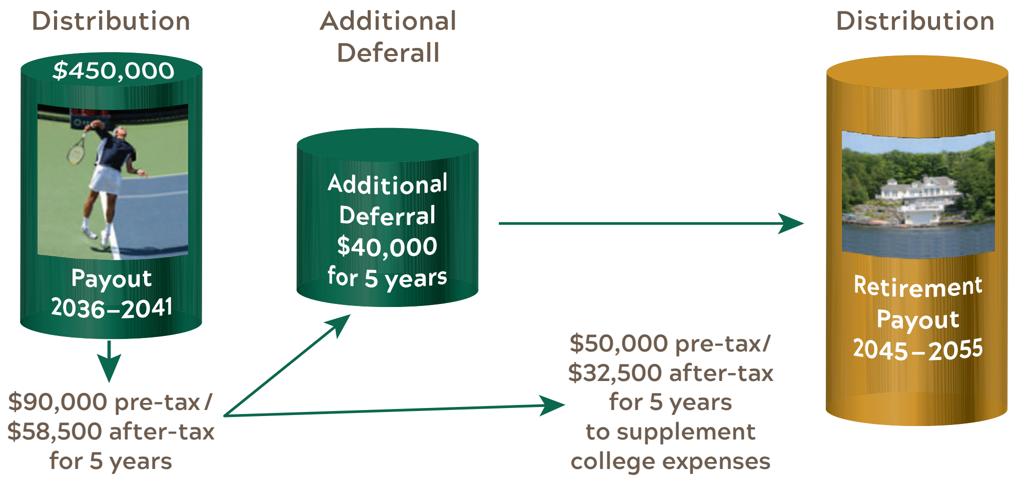
In the same year, the son is now 15 and is a nationally-ranked tennis player. The son's account has grown to $300k. Colleges are already making overtures, and a scholarship seems to be on the horizon. In this case, the distributions may not be needed. The account distribution date can be changed to a later future date, or the account be combined with the retirement account.

Exhibit 4: 409A DCP Flexibility: Changing Distribution Elections(s) and/or Increasing Deferrals in the Year of Payout



Changing distribution election(s):
- Request: at least 12 months in advance of original scheduled payment date
- Delay: at least 5 years after original scheduled payment

Exhibit 5: 409A DCP Flexibility: Increasing Deferrals in the Year of Payout To Offset Schedule Distributions That Are No Longer Needed



The $300k from the son's account can be added to the retirement account of $250k, enhancing that account balance to $550k, as seen in Exhibit 4. Simple and easy. There is no reason to find another relative to use the leftover balance. Instead, redeploying the balance towards retirement provides ultimate flexibility. However, there is a rule here that must be mentioned. The distribution has to be changed at least one year prior to payments commencing in that account. If not combining with the retirement account, the payment has to be pushed out at least 5 years. But the employee can decide to postpone the scheduled distribution now (3 years until the son reaches 18), or wait a couple more years to see what transpires with the tennis career. Even if things change last minute and the one-year advanced notice is not achieved, the employee may be able to just increase deferrals to offset the additional income that is not needed, as Exhibit 5 illustrates.

The employee distributions are scheduled to start in 6 months — which is too late to postpone. The son waited for his preferred college, and now, at last, has a 75 percent scholarship offer. At this time, the son's account is now worth $450k and five annual distributions of about $90k pre-tax will commence. But, what if only $50k pre-tax is needed to supplement what the scholarship doesn't cover? The key employee can increase deferrals by $40k for each of the next five years and apply that money to the retirement account.

$90k pre-tax distribution — $50k ($32.5k after-tax at a 35 percent combined tax rate) = $40k additional deferral out of salary/ bonus to offset the income taxes on some of the distribution — leaving only what is needed and redeferring the rest.

409A DCPs are usually described as supplemental retirement plans, and only groups of highly compensated employees or a select group of management are eligible. Your employer has to offer such a plan, but 409A DCPs are usually considered to be shareholder/ owner friendly. Since the plan balance is subject to general creditor status during an employer bankruptcy, a shorter timeframe may be a wise choice. If the plan is managed correctly and has assets set aside to pay the benefits down the road, adverse consequences can be mitigated but not eliminated.

These plans sometimes offer minimum rates of return ranging from one percent to four percent; check with your employer for a list of available fund options.

Conclusion

Planning and saving for college expenses as early as possible is key to meeting future needs. A 409A DCP is a pre-tax contribution with tax-deferred growth and ordinary income taxes being paid upon distribution, so there is more focus on future income tax rates.

The 409A DCP has no restriction on contributions and total flexibility over how distributions are used. And if needs change, the distribution can be postponed and/or redirected into another account. This flexibility can facilitate saving for retirement with unused college education accounts.

There are other benefits of 409A DCPs such as attracting, retaining, and motivating key employees. Additional benefits include aligning participant incentives with meeting specific goals and the ability for participants to arrange distributions in order to reduce or avoid paying state income tax.

John Sanford is Principal at Mullin Barens Sanford Financial & Insurance Services and a member of PSCA's Nonqualified Deferred Compensation Committee.

Timothy Drake is Director of Wealth Management at Chamberlin Group.

The Top 5 Retirement Adages That May Not Be Helpful

It's time to reframe some common retirement plan phrases.

By Michael Webb

A recent Forbes article indicated that the new retirement income annuity projections mandated by the SECURE Act, which are intended to encourage retirement savings, might have the opposite effect. For example, if a participant realizes that their $125,000 retirement account balance can only purchase an annuity benefit of, say, $625 per month, it is quite possible that rather than using this knowledge to save more, the participant may react by saying, "What's the point of saving for retirement at all, if so much money generates so little in retirement income?"

This got me to thinking about other phrases commonly used in retirement plans and/or financial wellness communications that, while they may be true, might actually scare people away from saving. So, here is my top-five list of retirement/financial wellness adages that may not be helpful:

1. You need to save at least 10 percent for a secure retirement.

While this may be true for many employees, particularly older ones, it sets such a high bar that it can serve as a barrier for some. If they can't (or believe they can't) afford to save 10 percent, they save nothing at all, out of frustration. What should the message be instead? Save what you can, as early as you can, and increase that amount each time you receive a raise. Oh, and work on your finances so that you can afford to save more.

2. You should have six months of emergency savings.

Again, while this is likely a true statement for most (in fact, it might even be a longer time period for some), it is not a strong motivator. Six months of emergency savings is a lot of money for most folks, creating a savings goal that many may dismiss. And, even worse, some people might forgo saving for retirement, in their futile quest to fully fund their emergency savings accounts. A better message might be that saving for retirement and emergency savings are equally important, so save what you can to both and don't become fixated on having emergency savings to cover a particular time frame.

3. Debt is a destroyer of wealth and should be eliminated.

Recognizing that some types of debt (such as credit card debt) are worse than others (like mortgage debt) may be useful, as well as illustrating that the more debt a person has, the more someone else is making money off of them. However, emphasizing this can be counterproductive.

Having zero debt is unattainable for many people and debt is also not an easy thing to tackle without wholesale changes to spending patterns. For example, there are many well-intentioned people who buy into the narrative that debt is to be eliminated, and thus, borrow or withdraw from their retirement plan to eliminate it. A few short years later, they are back in debt and their retirement account is smaller, because they did not address the underlying financial wellness issues that led to the debt in the first place!

An alternative message is that yes, while debt is not ideal, do not allow yourself to be a slave to it at the expense of saving for retirement and other purposes. Try to address what is causing you to go into debt, while still meeting your retirement and other savings goals. And do not borrow or withdraw from your retirement plan to pay off debt!

4. You need to sacrifice that $5 latte in order to save for retirement.

I can't think of a better way to deter retirement plan participants from saving than by telling them that they have to give up something they like now, in order to enjoy retirement down the road. There are many ways to translate spending into saving that involve little, if any, lifestyle changes. And yet, countless retirement plan communications use that $5 latte example. A far better message would be to provide some of the countless examples of how people can reduce spending without sacrificing something they care about (e.g., cutting the cord on their cable/satellite provider, using cashback rebate websites/apps, decluttering, etc.)

5. Retirement is a three-legged stool.

"Wow!" you must be saying to yourself. "Is Mike Webb really attacking the tried and true three-legged stool analogy, which has engaged retirement plan participants for decades?" Well, yes — I am! Not only is this one a bit tough for participants to grasp, but it is also outdated, as one leg of the stool — traditional pensions — is no longer a reality for most employees (particularly at non-public employers). Add to the fact that nowadays, most people do not have a favorable view of Social Security (another component of the stool) and that the adage is actually incorrect for some (for example, low-income individuals who remain low-income at retirement age likely do not require much more than the Social Security leg of the stool), and I think it is easy to see how this analogy that is supposed to explain the need for savings is probably not the best to use.

Instead of the stool analogy, turning retirement into a "game," where the winners are the ones who start saving the earliest, is a nice alternative to communicating the concept that a strong foundation of savings is needed in order to have an enjoyable retirement.

Conclusion

Retirement plan sponsors may wish to review their participant communications with respect to these adages and to review the overall effectiveness, in general. Is the messaging positive or negative? Actionable or confusing? Entertaining to read or boring? Removing a tired adage or even changing a few words (e.g., financial *independence* instead of financial *wellness*) may have a tremendous impact!

Michael A. Webb, CEBS, is Vice President at Cammack Retirement Group.

To Save or to Spend — That Is the Question

My recent hospital stay illustrates some key HSA decision points.

Austin Rosenthal for PSCA's HSA Committee

My Story

In light of the current pandemic, I have been working from home and quarantining since mid-March 2020. In July 2020, I became extremely unwell; I was experiencing significant abdominal pain which kept me bedridden for several days. After searching Google, I found that I had certain symptoms which may be COVID. My parents, who are doctors, strongly encouraged me to see my General Practitioner (GP).

I am fortunate that Dimensional has a health clinic located on its premises, and that the clinic offers services to employees like me as part of our company benefit package. Although the physical location was closed, I was able to procure a 30-minute telehealth appointment with a physician. While on the video, the doctor considered my symptoms and recommended blood work.

The following afternoon, my doctor told me that I needed to rush to the emergency room. The doctors ran every diagnostic test available — blood work, COVID, CT scan, sonogram. My one night in the ER was billed at almost $23,000; although, thanks to my great HSA HDHP coverage at work, I only owed $675.

I worked with my HR department to investigate short-term disability, which was provided as part of my benefits package and was able to sign up for medical leave and FMLA. This benefit was invaluable, as I was out of vacation days, and these benefits allowed me the time off for an adequate recovery.

> *"Whether you are a spender, saver, or investor, an HSA can save you money."*

As my medical bills piled up (I have had almost 50 medical claims with my insurance company YTD), I needed to decide whether to use my existing HSA account balance or to pay out of pocket.

The Save or Spend Decision

Fortunately, my high deductible health plan (HDHP) qualified me for an accompanying health savings account (HSA). This means I have been able to build a medical nest egg over time. Health savings accounts are powerful savings vehicles. You can think of an HSA as a medical IRA that can be used to save tax-free funds for you and your family's medical expenses. You and/or your employer contribute funds that can be used to spend on qualified medical expenses, saved to earn interest, or invested for growth.

Deposits to a health savings account can be taken as a pre-tax payroll deduction or deducted from taxable income later. Contribution limits are adjusted annually by the IRS — 2020 limits are $3,550 for individuals and $7,100 for family coverage. And unlike flexible spending accounts (FSAs) and health reimbursement accounts (HRAs), a health savings account is your property. It stays with you even if you change employers or insurance providers. Also, any growth from investment returns won't be taxed unless you use the money for non-medical expenses. Plus, there is no cap on how much can be accumulated in a health savings account.

Whether you are a spender, saver, or investor, an HSA can save you money. There is a wide range of medical expenses you can use your HSA funds to pay for tax-free such as doctor bills, prescriptions, hospital visits, lab tests, eyeglasses, dental care, and more. If you can cover these expenses out-of-pocket, then you can let your balances grow over time and reimburse yourself at a later date. Some account holders let their balances accumulate over many years and reimburse themselves all at once when they turn 65. As long as you are reimbursing yourself for qualified medical expenses, the money will not be taxed and you can then use it for anything you choose.

A health savings account should provide the option for qualifying health plan participants to invest all their health benefit dollars in low-expense mutual funds so they can invest tax-free and plan for their financial goals for a happy, healthy future. By choosing an option that offers no investment threshold and no trading fees, HSA account holders can save up to five times more compared to industry averages calculated in Devenir's 2019 mid-year HSA report, so they'll be ready to manage healthcare costs incurred in the last one-third of life.

My company is generous enough to contribute towards individual and family HSAs. Contributions go in monthly whether the employee is contributing or not, just as long as they're enrolled in our qualified high deductible health plan, since the company's money is a contribution, not a match. Employees can deposit these funds in a cash account with our HSA carrier, or invest, or both.

My Decision

My goal for the account has been to fund my retirement healthcare expenses, and I have been saving and investing towards that goal. Up until I got sick, my healthcare expenses had been minimal.

My account balance at the time of my illness was $11,500; this compares to the average account balance of $5,627 according to PSCA's *2020 HSA Survey*. Industry data does show that HSAs which offer and emphasize investing tend to have larger balances than those that do not. Due to the education from my employer about the benefits of paying my medical expenses out of pocket and the fact that my personal situation allows for me to pay these expenses out of pocket, I have not paid for these using my HSA in the past. A hundred percent of my account balance is invested in target date funds, which tend to be well-diversified investment vehicles whose asset allocation grows more conservative as my retirement date approaches.

In the end, I decided to leave my HSA account balance untouched, as my plan offers me first-dollar, low cost investment options. Since my hospitalization, my investments have earned positive returns, and my account balance as of October 19th was $13,442. You can see that without my employer-provided insurance, my HSA balance would have been completely exhausted, and I would have needed additional financial resources to pay my bills. Furthermore, the amount of my company's contributions to my account represents more than 40 percent of my total balance, illustrating the value that companies can play in helping employees grow their HSA account balances.

I have kept all my medical expense receipts for future tax purposes as I can take money from my HSA tax-free in the amount of what I paid out of pocket at any time, just in case I have another financial emergency which needs to be funded.

I can honestly say that without my employer health and disability benefits, and HSA, this event could have had catastrophic effects on my financial situation irrespective of how serious it was to my health. I am eternally grateful for professionals who are the guardian angels of their workforces. Thank you.

Austin Rosenthal is Vice President at Dimensional Fund Advisors, and a member of PSCA's HSA Committee.

Thank you to the staff at HealthSavings Administrators, who provided commentary and verbiage to this article.

COVID-19 Impact on 401(k) Plans

Most companies have not made plan changes, though smaller companies are more likely to have suspended contributions.

By Nevin Adams and Hattie Greenan

Despite the turbulent economic conditions in 2020, and speculation that, as a result, companies would stop making contributions to retirement plans, more than 90 percent still plan to make their retirement plan contributions this year, according to PSCA's most recent snapshot survey. And, though eight months into the pandemic we are beginning to see an uptick in plan loans and withdrawals, the majority of plan participants are also continuing to make retirement plan contributions. As things stand today, most responding companies still seem optimistic that the financial impact of the COVID-19 pandemic will be short-lived — though it bears noting that the economic impact varies widely by industry and by region.

Employer Response

Though most companies are not making changes to plan contributions this year, smaller organizations have clearly been more impacted by current conditions and are thus more likely to have suspended or reduced plan contributions — more than one-in-ten (11.5 percent) plans with fewer than 50 participants have made changes to the matching contribution — three times the number of organizations with 5,000 or more participants. (*See Exhibit 1.)*

Most organizations implemented at least one of the optional provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, designed to help relieve the economic impact felt by participants as a result of the COVID-19 pandemic. More than half the responding plans are allowing coronavirus-related distributions (CRDs), and nearly a third are allowing increased plan loan amounts. Half of plans are allowing participants to pause the paydown of existing loans that are due through December 1, 2020 and defer payments for up to a year, though this is significantly more common at large companies (73.3 percent of plans) versus smaller ones (23.1 percent).

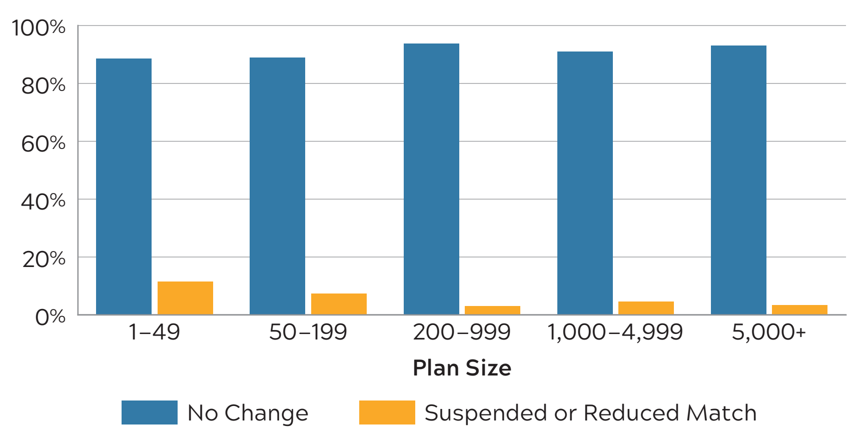
Most organizations (94.9 percent) are not considering any other plan design changes at this time, though more than half are providing education about the impact of plan loans and distributions on retirement savings to participants.

Participant Response

While thus far most responding organizations have still not noted an increase in plan loans or withdrawals, more are noting an increase now than in June, as the economic impact of the pandemic continues, and the Payroll Protection Program and unemployment benefits lapse. A quarter of plan sponsors now indicate an increase in plan loans, up from 13 percent five months ago, while nearly 40 percent of plans noted an increase in withdrawals. *(See Exhibit 2.)*

Among plans offering a CRD, a plurality (38.7 percent) still state that only an average of 1–5 percent of participants are availing themselves of that option, though more are doing so now than was the case in June. *(See Exhibit 3.)*

Exhibit 1: Changes to Employer Contributions as a Result of the COVID-19 Pandemic



Comparison With 2008–09 Financial Crisis

Comparisons with responses during the wake of the 2008 financial crisis are inevitable, and in some ways instructive. In hindsight, the impact of the financial crisis seemed more dramatic, and more targeted in its impact than the current pandemic, which many viewed, certainly at the outset, as being of a more limited duration. Moreover, the government assistance in recent months has been considerably broader-based than the "bailouts" that accompanied the efforts to reassure financial markets in 2008. Perhaps as a result, the response by employers in 2008 was more severe, and more sudden than the more measured response to the current pandemic. Indeed, a snapshot survey conducted by PSCA in 2009 found that four times as many employers moved to suspend matching contributions than have done so thus far in 2020, and more than a quarter of plans suspended or reduced non-matching contributions, compared to only 2.3 percent of plans so far this year. *(See Exhibit 4.)* Interestingly, larger employers were noticeably more likely to suspend contributions in the aftermath of the financial crisis, while the pattern has been just the opposite in the wake of the pandemic.

While not surprising, as a note of caution for the future, it is worth noting that in 2008 companies that suspended their matching contributions experienced a decrease in plan participation to a much greater degree (72.9 percent of companies) than those that did not change their matching contribution (14.4 percent of companies), as well as a decrease in participant deferral rates.

Exhibit 2: Changes in Plan Loan and Withdrawals Since the Onset of COVID-19

	Percentage of Plans	
Change	**Loans**	**Withdrawals**
None	58.1%	48.8%
Increase	25.6%	37.2%
Decrease	12.0%	9.3%
Unsure	4.3%	4.7%
	100.0%	100.0%

Exhibit 3: Percentage of Participants Taking a Coronavirus-Related Distribution, When Permitted

	Survey Date	
Percentage	**November 2020**	**June 2020**
None	18.4%	14.7%
Less than 1%	34.5%	10.7%
1–5%	37.9%	38.7%
6–10%	4.6%	14.7%
11–15%	0.0%	5.3%
16–20%	1.1%	0.0%
21–25%	1.1%	2.7%
More than 25%	0.0%	4.0%
Unsure	2.3%	9.3%
	99.9%	100.1%

Conclusion

Despite the economic strains of the COVID-19 pandemic, most organizations still remain committed to providing retirement plans and plan contributions for employees. That said, if only 10 percent of the roughly 600,000 employers that currently offer workplace retirement plans suspended or reduced their contributions, the long-term impact on retirement security would be significant. Fortunately, employers are appreciative of this impact. As one respondent noted, "We feel COVID will affect business for a small period of time. Good retirement plans for our employees is a forever need." What this means for 2021 and beyond remains to be seen.

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Hattie Greenan is the Director of Research and Communications for PSCA.

Exhibit 4: Changes to Employer Contributions in 2008–2009 as a Result of Economic Conditions.

	Plan Size by Number of Participants					
Contribution Change	**1–49**	**50–199**	**200–999**	**1,000–4,999**	**5,000+**	**All Plans**
Suspend Matching Contributions	6.1%	11.3%	18.4%%	16.8%	16.0%	14.8%
Reduce Matching Contributions	0.0%	6.5%	6.6%	2.1%%	3.2%%	3.7%
Suspend or Reduce Non-Matching Contributions	26.1%	27.7%	28.0%	20.6%	34.0%	26.8%

Best Practices for ERISA Plan Fiduciary Governance

Answers to some common fiduciary governance questions.

By Nancy Gerrie and Joanna Kerpen

Plaintiffs' class action lawyers in fiduciary breach lawsuits, the US Department of Labor in ERISA plan audits, courts, and insurers have focused increased attention on how well ERISA plan fiduciaries follow procedural due process. Actions (or inactions) of committees and individual fiduciaries are scrutinized and judged in increasing detail, causing fiduciaries to wonder if they are up to date on all best practices for plan governance.

Following are some questions and answers that ERISA plan fiduciaries should keep in mind when considering whether they are following a prudent governance process in running their ERISA plans.

Are my delegations of authority accurate and up to date?

ERISA fiduciary authority originates with the owners/decision-makers at the sponsoring employer of the plan — which generally is the board of directors for most corporations, or a committee thereof. In most cases, the board will delegate almost all of its fiduciary authority to individuals or committees to run the ERISA plans (the board generally must retain the ERISA fiduciary duty of monitoring the activities of the individuals to whom it has delegated authority).

Fiduciary delegations of authority should be done in writing. You should make sure that your delegations of authority from the board to the next level of fiduciaries are accurate and up to date. If they need to be refreshed, it should be done via a written board resolution. Has there been a corporate reorganization, which would cause your old delegations to reflect outdated boards or information? Were individuals delegated specific authorities who are no longer in those positions, or no longer at the employer? Have position names changed? Inaccurate or outdated delegations of authority can be used by plaintiffs' attorneys in an attempt to demonstrate that the employer is asleep at the wheel.

At a larger company, there may be subcommittees or individuals who have been delegated fiduciary authority from a fiduciary committee to act on its behalf. Make sure those delegations of authority are in writing and up to date as well.

Do I need a committee charter for my ERISA fiduciary committee?

A well-crafted committee charter can be an invaluable trove of information for committee members and can protect ERISA fiduciaries from accusatory probes about how or why a committee acted the way it did in a given situation. It is a best practice for every fiduciary committee to have a charter that contains at least the following information:

- **Description of plans.** A good charter will describe the plans over which the fiduciaries have authority, which is a matter that is called into question surprisingly often, even by the fiduciaries themselves. The charter does not have to list every plan by name, although some do, but it should at least list the types of plans (e.g., retirement plans, health and welfare plans, stock plans, etc.), and in which countries the committee has jurisdiction. For a large employer with many entities, the charter should also indicate whether the committee has jurisdiction over all entities or select entities.
- **Types of duties.** The charter should describe the types of duties reserved to that committee. In most cases, plan committee duties will include both fiduciary and nonfiduciary (or "settlor") duties. Some committees want their charter to separately identify fiduciary and nonfiduciary duties, although frequently a particular duty will have both fiduciary and nonfiduciary characteristics.
- **Allocation of duties among committees.** If there is more than one fiduciary committee at the employer, it is advisable for the charter to reference the other committee(s) and generally describe the allocation of duties among them, for avoidance of doubt.
- **Committee members.** It is helpful to describe the types of members that will be on the committee and how they will be appointed or removed. How many members will be on

the committee? We generally see anywhere from 3 to as many as 15 or 20 members, although we think most employers designate between 3–5 members, and the number should be spelled out in the charter. Are retired employees allowed to serve on a committee? What characteristics should a committee member have? Describing appropriate characteristics in the charter is helpful in guiding the committee on how to choose new members, and in defending against plaintiff lawyers' complaints that members were chosen negligently or haphazardly. Will members be designated by title? If so, it would be helpful for the charter to explain in a few words why persons holding that title would be considered valuable for the committee.

- **Committee actions.** The charter should describe how often the committee is expected to meet, whether votes are required to be unanimous or majority (and what percentage constitutes a majority), how many members constitute a quorum, whether proxies can be given, if actions can be taken only at a meeting or if written consents can be submitted without a formal meeting, etc. Have the delegations of authority from the board allowed committees to appoint/remove their own members? If so, that should be documented, and the mechanism for how that is done should be described.
- **Delegation of authority.** It is important for the charter to describe how the committee can delegate its authority for various actions. Many committees will delegate a variety of lower level tasks (such as executing service provider agreements, authorizing payments, or signing plan amendments) to an individual committee member or subcommittee. In many cases materiality or dollar thresholds are established to identify actions that would materially change the cost to the employer or would cost the employer a pre-designated dollar amount as outside the individual delegate's sphere of authority. This information should be contained in the charter.

Do I have to have a committee? How many committees do I need?

There is no requirement in ERISA to have a particular number of committees. There is no requirement in ERISA to have a committee at all, although most employers find the fiduciary duties of running a plan to be too onerous to be taken on by one individual. Having a committee can also bring diversity of opinions and backgrounds that can help ensure that thoughtful decisions are made to provide the best protections for plan participants, the employer, and the fiduciaries themselves.

The answer to how many committees are needed depends largely on the size of the employer and the amount and types of benefits offered. A smaller company may only have one committee, whereas larger employers often will have two or three committees — usually an administrative committee, a plan investment committee, and a benefit appeals committee. Each committee has different roles, and typically different individuals are best suited to serve on different committees. Typically, the investment committee deals almost exclusively with retirement plans, as they generally are the plans that have assets that need to be invested and monitored. A separate plan administrative committee may oversee the majority of the health and welfare plan matters that an employer faces, in addition to non-investment retirement plan questions. In these cases, the membership of both committees is often not identical.

How often should my committee meet?

Committees that oversee plan investments, particularly for plans that contain employee contributions such as 401(k) plans, must meet often enough to keep a close watch on the investment options in the plan. Most investment committees meet quarterly, although some meet twice per year. Plaintiffs' lawyers may allege that investment committees who meet less frequently than quarterly are not tracking market practices, so those who do meet less frequently should be ready to explain how they are able to closely monitor market changes between meetings.

Committees that oversee health and welfare plan benefits typically meet quarterly — they review the claims experience of the plans and monitor the performance of plan vendors and third party administrators. In addition, at these meetings the committee would prepare for, and make decisions regarding, benefit offerings for the upcoming plan year.

Should I have minutes of the committee meetings? If so, what should they contain?

Meeting minutes are very important to document significant decisions taken by the ERISA plan fiduciaries, and to demonstrate to government regulators that the committee thoughtfully carried out its deliberations and fiduciary duties. However, it is difficult to prepare good meeting minutes that highlight procedural prudence, while avoiding falling into various traps for the unwary.

Minutes can be scrutinized in great detail, by the government or a judge, possibly many years later. Drafters of minutes should make sure that no open-ended questions are asked in the minutes that are not answered in the minutes (such as, "the committee asked the investment consultant if there were alternative funds that could be considered" — without including the corresponding response from the consultant). Similarly, the drafter should check the minutes of the previous meeting to see if any issues were raised in that previous meeting that were supposed to be addressed in the subsequent meeting. If so, and if that issue was not addressed in the subsequent meeting, the drafter should note it and indicate that it will be addressed in a later meeting.

Minutes should describe votes taken by the committee overall, but each individual member's vote is not required to be documented (although some committees prefer individual vote-counting). Generally, meeting minutes should be succinct — a "he said, she said" log of every comment made is tedious and difficult to read and can sometimes get individual committee members into unnecessary trouble. However, minutes should be descriptive enough to serve as a resource for members to recall what was discussed and decided at each meeting.

Materials circulated to committee members in connection with the meeting, such as reports from third-party service providers, should be retained, and incorporated by reference into the minutes.

What is the function of an ERISA appeals committee (or subcommittee), and how should one operate?

Larger employers may have a separate committee, or subcommittee, whose sole function is to consider and decide ERISA benefit appeals. In most cases, the original ERISA benefit claim will be decided by a third-party service provider, or by benefits staff. If the claim is denied and the claimant appeals, the appeal then goes up to the appeals committee.

The appeals committee should not consist of low-level employees who are answerable to the decision-maker of the original claim. This will help avoid any allegation that the appeals committee "rubber-stamped" the decision of the original benefit decider so as to avoid adverse employment action. Similarly, if there is no appeals committee, the fiduciaries should be careful that the individual or individuals who decide the appeal are not subordinate to the individual making the original benefit claim decision.

It is also helpful to have the identity of the claimant be unknown to the appeals committee, by using a code name for the individual and redacting the file to remove identifying information. This also avoids any allegation of preferential treatment.

Similarly, if a health or welfare benefit plan is structured to offer a voluntary third level of appeal decided by the employer or its delegate, any voluntary appeals committee or decision-maker should not be subordinate to those making the initial claim determination or determination on appeal.

How does my employer's board fulfill its ERISA fiduciary duty to monitor the activities of the committees?

As mentioned above, the board of directors of an employer that sponsors an ERISA plan generally cannot avoid the fiduciary duty under ERISA to monitor the activities of the individuals or entities to which it has delegated the majority of its fiduciary duties. Consequently, it is important for those individuals or committees to report periodically back to the board or board committee on their activities.

To fulfill this duty, employers may prepare an annual report to their boards of directors summarizing the activities of the fiduciary committees. Those reports generally should contain a description of the major activities relating to the plan or plans during the year, such as any significant changes in funding options, plan mergers, terminations, spin-offs, annuitizations, or other similar activities, changes in offered health and welfare plan benefits, changes in third-party service providers or contemplated RFPs for new service providers, government audits, determinations on the tax-deferred status of the plan, etc. It may also be helpful to attach minutes of the committee meetings to the board report, so that board members can access greater detail if they wish to do so.

Should committee members get training on fiduciary duties?

Yes, absolutely, fiduciaries should receive periodic training on their fiduciary duties, at least every two or three years. New fiduciaries should receive fiduciary training prior to or shortly after assuming their role. Training not only protects the plan participants, the employer, and the fiduciaries themselves, but it also may be required by the plans' fiduciary insurer.

At a minimum, fiduciaries should understand what laws pertain to ERISA plans, what their primary fiduciary duties are (loyalty, prudence, diversification, etc.) and how those duties should impact their fiduciary decision-making. They should understand the difference between fiduciary and nonfiduciary duties, and why that difference is important.

In addition to the basic ERISA legal concepts, fiduciaries should be familiar with their charter, understand what plans fall under their jurisdiction, know who their plans' service providers are, and where to access plan documents.

Conclusion

Following best practices in delegating fiduciary authority, forming fiduciary committees, training fiduciaries, running and documenting meetings, and reporting back up to the plan sponsor's board, can provide significant protections for ERISA plan participants, plan sponsors, and the ERISA fiduciaries themselves. Reviewing and updating plan governance documents and fiduciary training every few years will provide important protections for ERISA plan fiduciaries.

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5 Steps to Cyber Security

There are a few important steps participants should take to ensure their retirement accounts are secure.

By Nevin Adams

Recent reports of 401(k) thefts and an ongoing concern about cybersecurity (should) have everybody on the alert. Here's some things your plan participants, and you, should check out — now.

Find Your Account(s)

It may have been a while since you checked out your 401(k) balance — indeed, many may not have ever checked it out online. Start by tracking down the website, your user id, your password. If you haven't done so in a while, you may have lost those credentials — or your access may have been disabled. Even if those credentials are still valid, it's probably a good time to change them. Make sure you remember those account(s) at previous employers' 401(k)s that you may have left behind.

Oh, and it will be less frustrating if you don't do this on the weekend. In my experience, few companies offer customer service support then, and if you need help getting on, you'll need some help.

Make Sure "They" Can Find You, Too

Addresses change, phone numbers too. You'll want to make sure that your contact information is up to date. That old work email address probably doesn't work anymore either — make sure those "old" 401(k) accounts know where you are.

Change the "Locks"

Chances are the last time you logged into your 401(k) account, you were told to come up with a password that was a combination of so many letters and characters you lost count. You may have been prompted to come up with answers to a handful of seemingly random "security" questions, and perhaps asked if you wanted something called "multi-factor" authentication.

Frustrating as that series of hurdles can be if you are in a hurry, they're all designed to stop, or at least slow, someone hacking your account. So, change your password regularly, use a password manager to help you keep up with passwords no human brain could possibly be expected to retain, and definitely go with multi-factor — when someone who isn't you accesses your account, you want to know it before they get in.

Check Your Beneficiaries

One of the most common areas overlooked is that of beneficiaries — the folks that you want to receive your account balance if you're no longer "here" the receive them. This is so critical that the Plan Sponsor Council of America focused its recent 401(k) Day campaign on the topic.

The default assumption if you're married is your spouse (if you want to designate someone else you'll need their acquiescence), but like addresses, spouses have been known to change, children have been known to come along, children have been known to marry individuals that wouldn't be your first choice, and life situations change. I actually had a situation where my beneficiary designation was (apparently) "lost" during a provider change.

You'll want to make sure that who is on record as your beneficiary is current because things change — and the plan administrator will almost certainly distribute benefits to the person(s) you've designated — regardless of "circumstances."

Get a "Ready" Read

Oh, and while you're at it you might want to check out your retirement readiness — how much you'll need to retire comfortably and how close your savings and other assets are to making that a reality.

That might, in turn, not only provide you with good insights as to how much you need to be setting aside, but also provide a sense of comfort as you work with your advisor/investment professional.

It's important that your savings be secure, after all — but ultimately you need them to be … enough.

Nevin E. Adams, JD, is the Chief Content Officer for the American Retirement Association.

Congress Lays Groundwork for Action on Retirement in 2021

An overview of provisions affecting plan sponsors in 2021.

By Andy Remo

A week before the general election in November, Congress took a major step forward in the process of enacting the next round of reforms to the workplace-based retirement system. Building off the political momentum after Congress approved the Setting Up Every Community for Retirement Enhancement (SECURE) Act of 2019 at the end of last year, House Ways and Means Committee Chairman Richie Neal (D-MA, 1st) and Ranking Member Kevin Brady (R-TX, 8th) introduced the *Securing a Strong Retirement Act of 2020* (H.R. 8696). The bill consists of 36 separate retirement policy provisions primarily addressing retirement plan coverage, simplification, and income preservation issues.

Key Provisions for Plan Sponsors

The *Securing a Strong Retirement Act* has a handful of provisions of interest to plan sponsors.

- Section 110 creates a student loan program that gives employees matching contributions into the 401(k) plan based on the amount an employee is paying in student loans. PSCA supports improving this Section to allow employers to disaggregate participants receiving this type of matching contribution from the rest of the employee population for the purposes of the average deferral percentage (ADP) test.
- Section 114 allows for a grace period to correct, without penalty, reasonable errors in administering retirement plans with automatic enrollment and automatic escalation features. The errors must be corrected prior to nine and a half months after the end of the plan year in which the mistakes were made.
- Section 115 reduces the period of service requirement for long-term, part-time workers from three years of service where the employee completes at least 500 hours of service to two years. PSCA supports a statutory clarification to Section 115 so that the exclusion of periods of service prior to the effective date that applies for the counting of eligibility service also applies for the purpose of the counting of vesting service.
- Section 301 would allow retirement plan fiduciaries the latitude to decide not to recoup overpayments that were mistakenly made to retirees. Plan sponsors would be prohibited from reclaiming overpayments after three years if the beneficiary did not cause the overpayment.
- Section 306 would require the Pension Benefit Guaranty Corporation (PBCG) to expand its existing online database of lost accounts to include the unclaimed defined contribution plan accounts of all former plan participants worth $6,000 or less. The provision would also allow plan sponsors to transfer small balance (less than $1,000) unclaimed defined contribution plan accounts directly to the PBGC. Those accounts would then be invested in U.S. Treasury securities.

The *Securing a Strong Retirement Act* was introduced as a so-called "marker bill" meant to start a discussion and solicit feedback of its provisions. In its current form, it also only contains provisions that cost money, which makes the total legislative package considerably less controversial. With the current Congress ending in days, there will not be further action on this bill in 2020.

When the 117th Congress convenes in January 2021, Chairman Neal and Ranking Member Brady will have to reintroduce the legislation. Changes to the current legislation are likely based upon stakeholder reaction and certain if Congress chooses to pay for the legislation. While political challenges remain, PSCA expects further action on this bipartisan legislative package in the early months of next year.

Andy Remo is Director of Legislative Affairs for the American Retirement Association.

Certified Plan Sponsor Professionals *(continued from inside front cover)*

Misi Holmberg
Panera, LLC

Jane Jacobs
PBF Energy

Kathy Janzen
Enerplus

Michael Kaas
Iowa Fluid Power

Diane Kaiser
Public Employee Retirement System of Idaho

Madeline Kaneshiro
Accuity LLP

Maura Keenan
Salus University

Joseph Kevin Law
Step Up For Students

Randy Machare

Randee Manley
Market Enginuity

Bridget McCarthy
Certified HR Professionals

Christopher McNulty
GNY Insurance Companies

Prashant Mehta
Intertape Polymer Group

Brooke Miles
RGC Resources, Inc.

Lindsey Moe
Town Pump Inc.

Catherine Montano
Entech Engineering, Inc.

Kelli Monteforte-Magnum
Soleo Health

Heike Morley
American Society for Radiation Oncology

Jacquelyn Mosby
Wiley & Wilson, Inc.

Colleen Nerius
SAFE Credit Union

Alice Ng
O'Melveny & Myers LLP

Jaime Olsen
Kemp West, Inc.

Brittany Passer
HighPoint Resources

Beth Pattillo
Leidos

Laura Patton
Rawlings Sporting Goods Company, Inc.

Ta'Cora Polite
Veritas Collaborative LLC

Rachel Prewer
National Lutheran Communities & Services

Jamelle Reeves
Occidental Petroleum Corporation

Joseph Rhoads
H.A. Thomson Co.

Fernando Rincon
Methodist Health System

Caitlin Ritchey
Shady Canyon Golf Club

Rose Rivera
Johnson & Johnson

Melina Rodriguez
Baylor College of Medicine

David Rogers
Enterprise Florida

Lurdes Roman

Thomas Rozendaal
Stellis Health, P.A.

John Schiller
State of Michigan

Robin Schmidt
MRG Tool and Die

Krista Schulte
BayernLB New York

Kristen Sesso
Illinois Health and Hospital Association

Akiko Shiratsuchi
Kobelco Compressors America, Inc.

Ann Skud
Nordstrom, Inc.

Jaime Smalley
Alaska Airlines

Fabian Solorio
Forterra

Jennifer Stamm
DWK Life Sciences

Pamela Stevens
Klein Buendel, Inc.

Brandy Stoeckle
Swartz Campbell LLC

Michael Traficanti
One Nevada Credit Union

Steven Treperinas
Archdiocese of Seattle

Teresa Truelove
Sonepar USA

Paul Valdez
Global Medical Response

Shannon Verucchi
Pinnacle Trust

Kimberly Vo
J.R. Simplot Company

Judy Walter
The First Church of Christ, Scientist

Tracy Ward
FDS Inc

Polly Whitaker
Burns & McDonnell

Anne White
Step Up For Students

Agata Williams
Raley's

Carolyn Wood
University of Pittsburgh Medical Center (UPMC)

Jenifer Zbiegien
Aludyne

Upcoming Dates & Events

PSCA's 2021 National Conference (To be held virtually)
April 19–20, 2021

PSCA Member Benefits and Resources

Conferences and Training
National and regional conferences designed for defined contribution plan administrators and sponsors.
Our must-attend events provide education from industry leaders and peer networking.

Signature Awards
Peer and industry recognition for employee communication and education.
Recognizing outstanding defined contribution programs implemented by plan sponsors, administrators, and service providers.

Research and Benchmarking
PSCA surveys: Most comprehensive and unbiased source of plan benchmarking data in the industry.
Annual surveys of profit sharing, 401(k), 403(b), and NQDC plans, as well as HSAs, created by and for members. Current trend and other surveys available throughout the year. Free to members that participate. Surveys currently available include:

- *2020 403(b) Plan Survey*
- *2020 HSA Survey*
- *2020 Plan Investment Trends*
- *63rd Annual Survey of Profit Sharing and 401(k) Plans*
- *2019 NQDC Plan Survey*

Executive Report
A monthly electronic legislative newsletter.
Providing concise, current information on Washington's most recent events and developments.

Media Outreach
PSCA works to ensure fair coverage of the DC system in the media.
PSCA continually speaks to reporters to provide and promote accurate, concise, and balanced coverage DC plans and responds to negative press with editorials and letters to the editors. PSCA is also active on social media—follow us on twitter at @psca401k and on LinkedIn.

Washington Representation
Your direct connection to Washington DC events and developments affecting DC plans.
PSCA works in Washington to advocate in the best interests of our members and bring you the latest developments that will impact your plan. PSCA is a founding board member of the Save Our Savings Coalition that is currently working in Washington to preserve plan limits amongst tax reform.

Quarterly Magazine, *Defined Contribution Insights*
An award-winning and essential 401(k) and profit sharing plan resource.
Featuring nationally-respected columnists, case studies, the latest research, and more. Providing practical and constructive solutions for sponsors.

Professional Growth—Join a Committee!
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Many opportunities for PSCA members to serve on committees, speak at regional and national conferences, and write articles for *Defined Contribution Insights*.