DEFINED
CONTRIBUTION

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Defined Contribution in Review

A Quarterly Briefing for Plan Sponsors: 1Q18

What's Inside?

Our **Defined Contribution in Review** is designed to help institutional plan sponsors and consultants stay informed on recent events that could have an impact on plans or plan participants. Inside you will find the following information:

Quarterly Highlights: A summary of plans and sponsors making the news

Plan Sponsors' Corner: Timely insights about plan sponsors' retirement readiness

Legislative Review: A summary of new and pending legislation

Regulatory Review: News out of the Department of Labor and other regulatory bodies

Legal Review: An update on high-profile ERISA cases

Global Headlines: A brief synopsis regarding global retirement issues

Defined Contribution Capabilities: Janus Henderson defined contribution capabilities

Quarterly Highlights

Quarterly Highlights

Tax Cuts Lead to Larger 401(k) Employer Contributions

- Following the Tax Cuts and Jobs Act, a number of companies have announced plans to increase their plans' retirement contributions including Cigna, Visa, Honeywell and Aflac
- The interest in larger contributions has not been limited to large plans as Peoples Bancorp increased its 401(k) match from 7% to 8% in its $30.5M plan, and Advance Financial, a Nashville, Tennessee-based provider of open line-of-credit loans and other financial services, announced that it would increase its 401(k) match from 3% on a dollar-for-dollar basis to 5% in its $2.3M plan

Quarterly Highlights

Some Firms Abandoning Company Stock as 401(k) Investment

+ According to a recent study by Fidelity, the number of employers offering company stock as a 401(k) investment fell from 39% in 2005 to 28% in 2016, and the percentage of employees with company stock in their retirement accounts dropped from 41% to 23% over the same period
+ Comcast, Xerox and Discover Financial have completely liquidated their plans' company stock holdings while Costco and UBS have limited the amount of company stock workers can hold by imposing caps ranging between 10% and 50%
+ Chevron, Verizon and Tiffany & Co. have ended their practice of using company stock to make matching 401(k) contributions
+ Target and Microsoft recently announced that employees will not be permitted to acquire new shares within their company's retirement plan

Quarterly Highlights

Hearst Corporation Leverages DB Managers in its 401(k) Plan

+ Officials at the Hearst Corporation redesigned the investment menu of its 401(k) plan by offering a new index target-date fund series and a core lineup of white label options that leverage managers already being used in the company's $2.1B Defined Benefit (DB) plan
  - The DB plan has 18,000 participants and was closed in 2011; the 401(k) plan has 19,000 participants and an 82% participation rate
+ The company estimates that costs were reduced by approximately one-third following the changes, in addition to making the plan options more simplified and adding better performing managers

Quarterly Highlights

Bloomberg Incorporates Environmental, Social and Governance (ESG) Principles into its 401(k) Plan

+ Bloomberg L.P. recently became the first U.S.-domiciled corporate retirement plan sponsor to join the PRI (Principles for Responsible Investment) – an organization supported by the United Nations that encourages its international network of investor signatories to incorporate ESG factors into their investment and ownership decisions
+ In 2015, the company added a manager to its lineup that specifically considered ESG factors; the option currently has 600 active participants and $11.3M in assets
+ The company also updated its Investment Policy Statement (IPS) to contain explicit statements about ESG issues and factors of consideration

Quarterly Highlights

Global Technology Firm Outsources Investment Decisions

+ The fiduciary committee for Teradyne, a Boston-based company with operations in 25 countries, recently decided to hire an outside consultant to act as a 3(38) discretionary manager overseeing the 401(k) investments and 3(21) adviser for setting the fund menu
+ Following the switch, the $737M 401(k) went from 18 core funds with 14 managers to 10 core funds and 40 managers; the newly revamped core lineup offers participants both active and passive options
+ In addition, the company re-enrolled its 401(k) participants, increasing participation in target-date fund strategies from 14% to 57%

Plan Sponsors’ Corner

Plan Sponsors' Corner

Callan Releases its 2018 Defined Contribution Trends Survey

+ 152 organizers participated, of which 90% have assets greater than $100M and 60.5% have more than $1B
+ Key findings include:
  - Reviewing plan fees was the most important step in improving the plan's fiduciary position
  - Four out of five plan sponsors engage an investment consultant, and 62% reported using a 3(21) non-discretionary advisor
  - The three most important factors in measuring plan success were participation, investment performance and contribution rate
  - Financial wellness was the top area of communication focus
  - 71% of plans have a Roth feature
  - One in six plan sponsors intend to conduct a record-keeper search in 2018

Plan Sponsors' Corner

Study Finds Roth Usage Doubles in the Last Decade

- According to the Plan Sponsor Council of America's (PSCA) 60th Annual Survey of Profit Sharing and 401(k) Plans, a Roth was offered in 63.1% of plans in 2016, compared to 30.3% in 2007
- The survey also found that 7.2% of plans added a Roth as an option in 2016, with the largest increase of 11.2% for plans with more than 5,000 participants
- Of eligible employees who made plan contributions in 2016, 18.1% made Roth contributions; however, among plans with one to 49 participants, an average of 29.2% of eligible employees made Roth contributions

Plan Sponsors’ Corner

Workers Want to Save for Retirement, But Find Difficulty Doing So

+ Willis Towers Watson’s 2017 Global Benefits Attitudes Survey shows that almost 80% of workers think retirement security is important – up from 52% in 2013; however, many are experiencing financial stress which is inhibiting savings
+ Approximately 30% of workers report that they’re “struggling” or “worried about their short- and long-term finances.” As a result, 37% anticipate working past age 70, up from 30% in 2015
+ Among males, 60% indicate that retirement savings is their number one priority but only 44% of females agreed, as daily living costs and paying off debt were ranked as most important

Plan Sponsors' Corner

Record-Keepers Report Muted Participant Reaction to Market Volatility

+ Wells Fargo Institutional Retirement Plans and Trust reported participants shifting money from equities to balanced and target-date funds on February 5, 2018, when the Dow Jones Industrial Average (DJIA) fell 1,175 points, and on February 6, 2018, when the index gained 567 points
  - In previous highly volatile trading periods, Wells Fargo has seen 80% of the equity outflows go to cash and 20% to bonds
+ Vanguard Group reported 1% of households made trades in taxable and retirement accounts on February 5; on February 13 when the DJIA gained 406 points, trading was at the lowest level of the year
+ Empower Retirement saw increased call center volume but reported no recognizable trend in allocation to or from a particular strategy

Plan Sponsors' Corner

Hispanic Women Seek Better Information and Savings Options

- Researchers at the University of Notre Dame found that Hispanic women have a strong desire for financial education and saving, but seemed to be alienated by a DC plan's obscure rules, impersonal structure, and overabundance of information, categories and names
  - The researchers also found that a potential tax deduction was not an important feature of DC plans
- Conversely, the study found that Hispanic women are 39% more likely to have an employer-sponsored retirement plan than Hispanic men and the more they are rooted in the United States, the less they expect their children to support them in old age
- Survey participants expressed interest in a regular way to save for retirement that would be guaranteed to be there for them when they can no longer work and do not want to have to make complex decisions about where or how to invest their money

Plan Sponsors' Corner

Debt Burden Improves for Near-Elderly But Rises For Elderly

+ According to the Federal Reserve's Survey of Consumer Finance (SCF), 77.1% of families with a near-elderly head of household ages 55-64 held debt in 2016
  - While this level represents a downward trend from 2007 (81.7%), it remains higher than the proportion in 1992 (71.4%)
+ For families with elderly heads ages 65-74, the percentage holding debt ranged from 51.5% in 1992 to a high of 70.1% in 2016, and for those age 75 and older, the percentage holding debt ranged from 31.9% in 1992 to a high of 49.8% in 2016
+ In 2016, the debt payments as a percentage of income were 9.1% for the 55-64 cohort, 7.9% for the 65-74 cohort and 6.0% for the 75 and older cohort
  - These percentages have trended down for all three cohorts since 2007

Plan Sponsors’ Corner

Financial Education Not Working, Says Recent Study

+ A recent study, “So Many Courses, So Little Progress: Why Financial Education Doesn’t Work – And What Does,” finds that there is no evidence that financial education leads to better financial decision making
    - Instead, the study suggests that financial coaching which focuses on client-centered goals that guide the process, rather than only providing specific expert advice or recommendations, is showing promising evidence of its effectiveness
+ The Consumer Financial Protection Bureau (CFPB) issued a 2017 report that offered five principles of financial education that can lead to greater success, including tailored information, building confidence and creating habits

Plan Sponsors' Corner

Harvard and Yale Professors Offer Surprising Take on Auto-Enrollment

- A new paper authored by professors at Harvard and Yale universities titled "Borrowing to Save? The Impact of Auto Enrollment on Debt" finds that many employees who are auto-enrolled in their employer's retirement program are taking on additional levels of automobile and mortgage debt than would otherwise be the case
- The paper also concludes that auto-enrolled employees are not taking on additional amounts of higher interest debt such as credit-card debt, second mortgages and installment loans that are typically used to purchase consumer goods

Plan Sponsors’ Corner

Stanford Introduces New Retirement Income Strategy

+ The Stanford Center on Longevity recently released a new paper, “How to ‘Pensionize’ Any IRA or 401(k) Plan,” to help middle-income retirees implement a simple strategy that generates sustainable income
+ The premise of the “Spend Safely in Retirement Strategy” is for the primary wage earner to delay receipt of Social Security until age 70 and to use some combination of work and/or savings to meet annual expenses starting at age 65
  - At age 70, retirees would use the after-tax portion of their required minimum distribution for income, leaving the balance of their retirement accounts fully invested
+ The paper compares this strategy to many commonly used annuity products that are available in the marketplace

Plan Sponsors' Corner

Boston College Asks if Millennials Will Be Ready for Retirement

- The Center for Retirement Research at Boston College recently compared the retirement readiness status of millennials across a number of socioeconomic dimensions to those of previous generations at the same age
- The analysis found that a challenging labor market and burdensome student debt have delayed major life milestones such as getting married and owning a home, thus limiting the ability for millennials to accumulate wealth
- Although behind previous generations, the paper points out that retirement is still a long way off and their retirement success will depend, in large part, on future savings patterns, financial market returns and duration of their working career

Plan Sponsors' Corner

Participation in Retirement Plans Leads to More Planning and Savings

+ The Pew Charitable Trusts found that workers with access to an employer-sponsored retirement plan were more likely to report that they had tried to determine how much retirement income they would need (41%), compared to those with no access (16%)
+ Even when accounting for other worker characteristics such as education, race, gender, household income, unemployment history and age, those who have never participated in employer-sponsored plans are less likely to plan for retirement than those who have participated or are currently participating
+ Workers who have never taken part in an employer-sponsored plan were found to be significantly less likely than those who have participated or currently participate to use a financial professional or automated statements from financial providers

Legislative Review

Legislative Review

Two New Rules Regarding Hardship Distributions

+ The Tax Cuts and Jobs Act revised IRC Section 165 to provide that, for tax years 2018 through 2025, a casualty deduction is available only with respect to losses attributable to a federally declared disaster
  - Plans that permit hardship withdrawals under the safe harbor standards should be aware that requests for damages to a primary residence must be caused by events that meet the revised definition of “disaster”
+ The Bipartisan Budget Act of 2018 removes the six-month prohibition on contributions to retirement plans after a hardship withdrawal, the requirement to take a loan before taking a hardship withdrawal and allows Qualified Non-Elective Contributions (QNEC), Qualified Matching Contributions (QMAC) and profit sharing contributions to be included in a hardship withdrawal
  - These provisions become effective for plan years beginning after December 31, 2018

Legislative Review

The Retirement Enhancement and Savings Act Resurfaces in Senate

+ Senators Orrin Hatch (R-UT) and Ron Wyden (D-OR) introduced a new version of the Retirement Enhancement and Savings Act (RESA)
+ Key provisions of the bill include:
  - Make multiple employer plans (MEPs) more accessible
  - Encourage guaranteed lifetime income solutions in DC plans by providing legal protection from lawsuits for plan sponsors that offer annuity products
  - Offer startup and automatic enrollment tax credits for small businesses that establish a 401(k) plan

Legislative Review

State-Run Retirement Program Updates

+ The virtual marketplace was launched in Washington on March 19, 2018, and is a voluntary program designed to offer vetted, low-cost retirement solutions for businesses with fewer than 100 employees
+ A task force was created in Wyoming to explore a state-run program, and a voluntary payroll deduction Roth IRA program is being considered by the Missouri legislature
+ As of December 1, 2017, a total of 1,162 workers had saved $255,722 in the Oregon payroll deduction program, which is mandatory for businesses that do not offer a retirement plan
    - The reported worker opt-out rate was approximately 20% through January 24, 2018

Legislative Review

States Actively Considering Fiduciary Standard Rules

- Legislation has been introduced in New Jersey that would require non-fiduciary investment advisors to disclose to clients that they do not have a fiduciary relationship and "are not required to act in the client's best interest"
- The New York Department of Financial Services proposed new regulations that would adopt a "best interest" standard for sellers of life insurance and annuity products
- Last year, Nevada adopted a fiduciary standard that applies to advice given to both retirement and non-retirement clients

Regulatory Review

Regulatory Review

Reminder: Second Quarter Compliance Calendar

April 1	April 17	June 30
+ Required beginning date for participants age 70½ or retiring after age 70½ in prior year	+ Deadline for processing corrective distribution for IRC Section 402(g) excesses + Deadline for filing individual and/or C-corporation tax returns + Deadline for requesting automatic extension to October 15 for individuals and C-corporation tax returns	+ Deadline for processing corrective distributions for failed 2017 ADP/ACP test from plan with EACA without the 10% excise tax (if applicable)

Regulatory Review

Fifth Circuit Vacates Department of Labor Fiduciary Rule

- On March 15, 2018, the U.S. Court of Appeals for the Fifth Circuit released an opinion concluding that the U.S. Department of Labor's (DOL) fiduciary rule, including its exemptions, should be vacated
- The DOL has 45 days to petition for a rehearing. In the meantime, the fiduciary rule remains in effect until May 7, 2018. At that time, the regulations that were in place prior to the fiduciary rule would be restored

Regulatory Review

The Employee Benefits Security Administration Restores $1.1B to Benefit Plans

+ The Employee Benefits Security Administration (EBSA) reported that for fiscal year 2017, $1.1B was recovered including $692M in enforcement actions and $418M from informal complaint resolutions
  - Of the $692M, EBSA helped terminated, vested participants in defined benefit plans collect benefits of $326M owed to them
  - In obtaining these monetary results, EBSA closed 1,707 civil investigations, with 65% of these cases resulting in monetary recoveries or other corrective actions
+ In 2017, the EBSA received 1,303 applications for its Voluntary Fiduciary Correction Program and 22,139 annual reports for its Delinquent Filer Voluntary Compliance Program

Regulatory Review

IRS Extends RMD Audit Guidelines for Missing Participants to 403(b)s

- In a February 2018 memorandum to its Employee Plan examiners, the IRS National Office extended to 403(b) plans the audit guidelines regarding required minimum distributions for missing participants that were issued for qualified plans in October 2017
- Examiners are instructed not to challenge the tax status of the plan as long as certain action has been taken to locate missing participants:
  - Searched plan, plan sponsor and publicly available records or directories for alternative contact information
  - Used a commercial locator service, a credit reporting agency, or proprietary Internet search tool
  - Attempted contact by U.S. Postal Service certified mail to the last known mailing address and through appropriate means for any address or contact information (including email addresses and telephone numbers)

Regulatory Review

IRS Makes Changes to VCP User Fees

+ The IRS issued Revenue Procedure 2018-4 which provides a simplified user fee structure for plan sponsors who use the Voluntary Correction Program
+ Effective January 2, 2018, the user fee will be based on plan assets as follows:
  - $0-$500,000: $1,500
  - $501,000-$10,000,000: $3,000
  - $10,000,001 or more: $3,500
+ Additionally, the IRS eliminated special reduced user fees for certain common errors such as failures related to minimum distribution requirements or plan loans

Regulatory Review

Massachusetts Files Fiduciary Rule Complaint

- The Massachusetts Securities Division has charged a brokerage firm with “dishonest and unethical activity and failure to supervise” for conducting sales contests that violated the DOL’s impartial conduct standards
- The complaint also reads, “If the Department of Labor will not enforce its own laws and rules, then the states must do what they can to protect retirees from firms who believe they can play with people’s life savings by conducting sophomoric contests”

Legal Review

Legal Review

New Excessive Fee Lawsuit Hits Kentucky Hospital

- The suit (*Disselkamp vs. Norton Healthcare, Inc.*), which seeks class action status to represent more than 13,000 participants in the hospital's $714M 403(b) plan, was filed in the U.S. District Court for the Western District of Kentucky on January 22, 2018
- According to the complaint, the plan fiduciaries breached their responsibilities by offering expensive share classes of a mutual fund when a less expensive share class was available
- The suit claims that the unnecessary, excessive fees amounted to approximately $2M and, had these assets remained in the plan, an additional $500,000 of earnings would have accrued to participants over a six-year period

Legal Review

Three Higher Education Excessive Fee Cases Moving Forward

+ A new lawsuit has been filed against Georgetown University claiming that the defendants failed to adequately evaluate and monitor the plan's expenses and caused participants to incur unreasonable and excessive fees for investment and administrative services
+ On January 5, 2018, a federal judge refused to dismiss a proposed class action lawsuit against Vanderbilt University claiming the school ran a retirement plan with excessive administrative fees, too many service providers and high-fee investment options
+ In the case against New York University, an amended claim has been made that includes the plan's investment advisor as a defendant; the advisor is accused of failing to recommend the removal of two investment options despite high fees and poor performance

Legal Review

Stock Drop Cases Decided in Favor of Defendants

- In the stock drop cases of Hewlett-Packard and Eaton Corp., two different courts issued similar rulings that the plaintiffs failed to show an alternative, legal action that plan fiduciaries could have taken that wouldn't have been seen as causing the plan more harm than good
- In the case regarding RadioShack, the court ruled that the plaintiffs' allegation that the executives were imprudent by failing to respond to public information on the company's financial decline and insider information suggesting the stock was overvalued, was not sufficient to state a claim under ERISA

Global Headlines

Global Headlines

Best Practices Offered to U.S. and UK Plan Sponsors

+ A paper by Eversheds Sutherland, “Lessons from Across the Pond: DC Plans in the U.S. and UK,” suggests employers and policymakers learn from the approaches taken by their U.S./UK counterpart to make DC plans more effective.
+ Specific lessons include:
  - Mandatory auto-enrollment and re-enrollment in the UK has been a huge success, and making these practices more widespread in the U.S. could help address concerns about adequacy of savings
  - Auto-escalation in the U.S. has been very effective and should be considered by employers in the UK
  - Litigation has heightened sensitivity in the U.S. around costs, and employers in the UK should strive for greater fee transparency
  - UK employers may wish to make loans more widely available to attract a younger generation of savers
  - The PensionWise guidance service in the UK may offer the U.S. a model to engage participants and offer them timely and unbiased information

Global Headlines

Australians Rethinking Their Retirement Strategy

- According to a recent report by Roy Morgan, more than one in five are paying more to superannuation than the compulsory 9.5%, compared to one in four in 2010
  - About 45% of people earning more than $150,000 a year are making additional contributions, as are about one-third of those earning between $100,000 and $149,000. Meanwhile, only 24.6% of people earning less than $50,000 make additional contributions
- Meanwhile, the average age of Australians intending to retire in the next 12 months has risen to 61.9 years, up from 58.2 years in 2014

Defined Contribution Capabilities

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Defined Contribution Capabilities

+ 45+ years of industry experience
+ Pioneering investment solutions for retirees and plan sponsors
+ Key DC Offerings:
  - Fixed Income
  - U.S. Equities
  - Global/International Equities
  - Multi-Asset
  - Alternatives

+ $25.4 billion in DC Assets Under Management as of 12/31/17
+ Products utilized by the top 25 DC record-keepers in the industry
+ Availability on over 200 recordkeeping platforms

For more information, please visit **janushenderson.com.**

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C-0418-16761 09-30-19

366-19-29638 04-18