newealth
advisors

Retirement Plan Advisory Practice
November 2010

IN THIS ISSUE:

2011 Plan Limits: Unchanged From 2010 1

New Participant Disclosure Rules 1

Participant Disclosure Rules ..2

Vanguard Survey Reveals "How America Saves" 3

Back to the Future Part II: Return of the GIC (in the form of a Lifetime Annuity)3

Communication Corner: 2011 Plan Limits................3

2011 Plan Limits: Unchanged From 2010

On October 28, 2010, the IRS announced cost of living adjustments applicable to retirement plan contribution limits for 2011. As a result of low inflation over the previous 12 months, the contribution limits remain unchanged. The table below shows the 2010 and 2011 contribution limits for 401(k) plans. For more information about retirement plan limits, please contact your RPAG plan consultant, or visit www.irs.gov/retirement.

401(k) Plan Limits for Plan Year	2011	2010
401(k) Elective Deferrals	$16,500	$16,500
Annual Defined Contribution Limit	$49,000	$49,000
Annual Compensation Limit	$245,000	$245,000
Catch-Up Contribution Limit	$5,500	$5,500
Definition of Highly Compensated Employee	$110,000	$110,000
Social Security Wage Base	$106,800	$106,800

New Participant Disclosure Rules

On October 20, 2010, the Employee Benefits Security Administration ("EBSA"), a division of the Department of Labor, issued new regulations governing fiduciary requirements for disclosures in participant-directed individual account plans. The new regulations significantly expand the information that will be provided to participants and beneficiaries, effective for plan years beginning on or after November 1, 2011 (for calendar year plans that would be January 1, 2012).

One of the primary dictates of ERISA is that fiduciaries take steps to ensure that participants are regularly made aware of their rights and responsibilities when investing in a retirement plan. The goal is to provide enough information regarding the plan, fees, and investments so that participants may make informed decisions. The responsibility of providing all of the information prescribed in the new regulations ultimately falls upon the plan administrator; however, we fully expect that most service providers will be essential in preparing the required disclosures. The disclosures are generally divided into two categories: plan-related information and investment-related information.

The following article provides further details on these new regulations.

Participant Disclosure Rules

On October 20, 2010, the Employee Benefits Security Administration ("EBSA"), a division of the Department of Labor (DOL), issued new regulations governing fiduciary requirements for disclosures in participant-directed individual account plans. The new regulations significantly expand the information that will be provided to participants and beneficiaries, effective for plan years beginning on or after November 1, 2011 (for calendar year plans that would be January 1, 2012).

One of the primary dictates of ERISA is that fiduciaries take steps to ensure that participants are regularly made aware of their rights and responsibilities when investing in a retirement plan. **The goal is to provide enough information regarding the plan, fees, and investments so that participants may make informed decisions.** The responsibility of providing all of the information prescribed in the new regulations ultimately falls upon the plan administrator; however, we fully expect that most service providers will be essential in preparing the required disclosures.

The disclosures are generally divided into two categories: plan-related information and investment related information.

Plan-Related Information

Fiduciaries must provide general plan information, including how participants may provide investment instruction, restrictions on same, rules regarding exercise of voting/tender rights (if passed through), identification of all designated investments, and a description of brokerage windows (if applicable).

Fiduciaries must also provide information regarding plan administrative expenses including legal, accounting, recordkeeping, etc., and the fees imposed for such services that are chargeable against a participant's account. The disclosure must also indicate the impact of such fees on a participant's account. On a quarterly basis the plan must disclose the dollar amount of these fees that were actually charged against the participant's account in the previous quarter. Also, if administrative fees are offset by the plan's investment expense ratios, a statement explaining that fact must be disclosed.

In addition to the general plan administrative expenses, fiduciaries must disclose "individual" expenses (commonly referred to as "transactional" expenses). Participants must receive descriptions of any transactional fees that may be charged against their account if they take certain actions (plan loan, QDRO, engage individual advice, etc.). Again, these charges must be generally disclosed annually and specific fees actually charged must be disclosed on a quarterly basis.

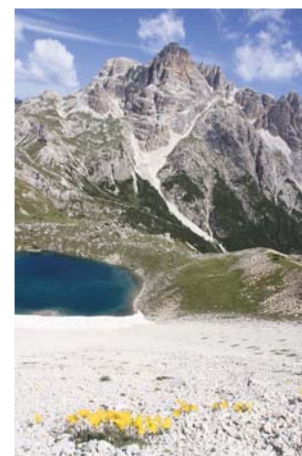
Investment-Related Information

The DOL requires that fiduciaries disclose identifying information (name and the type or category: e.g., money market, bonds, large cap), performance data for each investment (different rules for fixed-return and non-fixed-return type investments), benchmark data, transfer restrictions, and fee information for each designated investment offered by the plan. In addition, the fiduciary needs to disclose a website address on which participants may access additional supplemental information.

In particular, the amount and description of fees charged directly against a participant's account need to be disclosed as well as the investment's expense ratio. However, the expense ratio must be disclosed as a dollar amount for a one-year period of $1,000 (e.g., $1,000 invested in Fund A with an expense ratio of 0.89% would be expressed as "$8.90").

Additionally, a number of statements meant to educate participants must be included in the disclosures. These statements include the fact that the cumulative effect of fees can substantially reduce the growth of a participant's retirement account, that additional information is available on the EBSA website, and that fees should only be one factor in making investment decisions.

Requested Information



Upon the participant's request, the fiduciary must be prepared to provide copies of prospectuses, financial statements, statements of investment valuations, and lists of assets comprising portfolios of investments. Virtually all of this information is available from service providers, and fiduciaries are allowed to rely in good faith upon them.

Timing and Form

Generally, most of the disclosures must be provided on or before a participant becomes capable of directing their investments in the plan. Also, many of the disclosures must be made on an annual basis. In addition, as previously mentioned, quarterly disclosures will also be required. And in regards to voting, tender, and similar rights, some disclosures may be required subsequent to a participant's investment in a designated option.

These disclosures may be provided in the summary plan description, in required benefit statements, or electronically. If a fiduciary decides to provide disclosures electronically, they should be careful to understand and comply with the rules regarding same.

Finally, the DOL states that the disclosures must be provided in a comparative format. In other words, the format should be designed to help participants compare available investments. To assist plan sponsors the DOL has provided a model comparative chart for use in disclosure.

Special Considerations

There are a few additional rules for plans that provide annuity options or employer stock within their plan. Fiduciaries should make certain they are well•versed with the changes to the

previously•discussed requirements in the event their plans provide annuities or employer stock.

Please bear in mind that close to a year (or more) exists for implementation of these new disclosures. If you have any questions regarding this legislation, or wish to discuss making changes to your plan, please contact your retirement plan consultant at New Wealth Advisors.

Vanguard Survey Reveals "How America Saves"

Vanguard recently released a report entitled "How America Saves 2010" based on trends they are experiencing from their clients through the 2009 plan year. Vanguard serves approximately 1,700 plan sponsors and 3 million participants. Below are a few excerpts from the report.

- 25% of participants use an asset allocation fund (including target date, risk based, and balanced portfolios) as their single investment option. About 75% of all plans use target date options in their plan, versus only about 30% in 2005.
- Use of automatic enrollment has remained largely unchanged at about 43% of all plans.
- About 1/3 of plans offer a Roth feature with only about 8% of participants using it for their own account.
- Average account balances rose about 23% in 2009. Interestingly enough, balances at the end of 2009 had risen higher than in September 2007, which was just prior to the October 2007 market peak. Some of this was attributed to contributions as well as market growth
- Through 2009, in-service withdrawals, such as plan hardships, were up slightly, but still only utilized by less than 2% of participants.
- In 2009 about 92% of assets eligible for distribution were "preserved" (kept in some type of retirement vehicle), while only 8% were distributed in cash.

Back to the Future Part II: Return of the GIC (in the form of a Lifetime Annuity)

One of the latest developments in the 401(k) industry is the development of an annuity option for participants, allowing them to receive a steady income stream in retirement, typically called a Lifetime Annuity. Much like the Guaranteed Investment Contract (GIC) of old, these products are backed by large financial institutions, typically an insurance company that backs the guarantee with the company's assets and general account to satisfy the promises. The essential difference is that GICs are contracts to pay a set amount today, while Lifetime Annuities are contracts to pay a set amount at sometime in the future.

Interestingly enough, the same issues with GICs – such as portability and lack of transparency – are also found with Lifetime Annuities, taking us "back to the future." As with the advent of target date funds, it is the investment structure that has been of particular interest. Specifically, Lifetime Annuities suffer from the proprietary bias in addition to the other issues previously raised with GICs. GICs have typically not been portable across 401(k) platforms, which is one reason these options have lost some of their luster. Another reason plan sponsors have moved away from GICs is the credit crunch of 2008 saw many short-term "cash-like" options suffer, and many sponsors were concerned that the financial institution supporting the GIC would go under. Additionally, with short-term investment alternatives such as stable value funds and money market funds, many sponsors have felt more comfortable having funds or accounts where participants are investing in real assets, rather than just a "promise" from some insurance company. Last, but not least, is the level of due diligence and monitoring fiduciaries have engaged in to ensure they have the best possible options for participants. With GICs, the lack of transparency has been another issue for fiduciaries, as there really is no fund or account that is being monitored, but rather the entire financial institution, making this a complex task (even for the most skilled financial analyst).

As the industry continues to develop the next generation of vehicles for the next generation of retirees, it may in fact be helpful to look back and review the lessons learned, and if participant utilization of these products will translate into them achieving their desired outcome: a comfortable retirement.

The September Retirement Report featured Part I of this article series, commenting on the proprietary fund requirements of service providers' target date fund offerings.

COMMUNICATION CORNER

This month's sample participant communication memo outlines the 2011 plan dollar limits (which remain unchanged from 2010). Email Scott Tuxbury at stuxbury@newwealthadvisors.net for a copy that you can print and distribute to employees.

This material is intended for informational purposes only and should not be construed as legal advice and is not intended to replace the advice of a qualified attorney, tax adviser, investment professional or insurance agent.

New Wealth Advisors, LLC ("New Wealth Advisors") is an SEC registered investment adviser with its principal place of business in the State of Massachusetts. New Wealth Advisors and its representatives are in compliance with the current notice filing requirements imposed upon registered investment advisers by those states in which New Wealth Advisors maintains clients. New Wealth Advisors may only transact business in those states in which it is notice filed or qualifies for an exemption or exclusion from notice filing requirements. Any subsequent, direct communication by New Wealth Advisors with a prospective client shall be conducted by a representative that is either registered or qualifies for an exemption or exclusion from registration in the state where the prospective client resides.

For information pertaining to the registration status of New Wealth, please contact New Wealth or refer to the Investment Adviser Public Disclosure web site (www.adviserinfo.sec.gov). For additional information about New Wealth, including fees and services, send for our disclosure statement as set forth on Form ADV from New Wealth using the contact information herein. Please read the disclosure statement carefully before you invest or send money.

About New Wealth Advisors' Retirement Plan Advisory Practice

New Wealth Advisors has an extensive practice that offers a full scope of fee based retirement plan advisory solutions designed to assist plan sponsors in understanding and effectively managing their complex retirement plan, including issues concerning plan investments and strategies to mitigate fiduciary liability. As independent advisors with a thorough knowledge of fiduciary responsibility, New Wealth's main objective is assist plan sponsors and other fiduciaries with the definition, implementation and ongoing monitoring of a clear and prudent process that maximizes plan efficiency, ensures compliance with ERISA's rigorous standards and allows for the delivery of a best-in-class retirement plan for their employees.