Grant Thornton

Meeting your fiduciary responsibilities

Retirement Plan Survey 2009

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PSA Plan Sponsor Advisors
Retirement Plan Consultants

Contents

Glossary of terms

ERISA
Employee Retirement Income Security Act of 1974. Title I of this Act, which covers vesting, funding and fiduciary standards applicable to employee benefit plans, is enforced by the U.S. Department of Labor.

ERISA credit
An account that captures revenue sharing produced by plan investments that exceed a record keeper's actual cost.

Fiduciary
Any person who has discretionary authority over the administration of a plan or the management of plan assets, or who renders investment advice to a plan for a fee.

403(b) plan
A retirement plan established for employees of public schools, employees of certain tax-exempt organizations (organizations described under IRC section 501(c)(3), and certain ministers and their employees).

404(c)
A section of Title I of ERISA that allows plan fiduciaries to absolve themselves of liability for the results of investment decisions made by participants who have the ability to direct the investment of their own accounts. 404(c) does not relieve fiduciaries of their responsibility to make suitable investment options available to plan participants.

Investment policy
A written policy that is used to guide the investment related decisions of a plan's fiduciaries, provides general instructions or guidelines applicable to investment situations and may address issues such as the identification of acceptable asset classes or types of investments, or limitations on investment categories as a percentage of the plan's portfolio.

Risk-based/lifestyle fund
An investment option featuring an asset mix determined by the level of risk that is appropriate for each individual investor.

SAS 70
Statement on Auditing Standards No. 70: Service Organizations, commonly abbreviated as SAS 70, is an auditing statement issued by the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA), officially titled "Reports on the Processing of Transactions by Service Organizations." SAS 70 defines the professional standards used by a service auditor to assess the internal controls of a service organization and issue a service auditor's report.

Settlor functions
Business functions such as setting up the plan or changing the provisions for business reasons.

Stable value
Funds that offer the promise of guaranteed principal while providing income to participants.

Target date/lifecycle fund
An investment option designed to change the allocation of stocks vs. fixed income securities over time and therefore becomes more conservative as one approaches retirement.

Major findings

Investments

The Pension Protection Act of 2006 (PPA) has caused a substantial shift from money market and stable value investments as default investments to target date or lifecycle funds. PPA has given cause for plan sponsors to revisit which default investments their plans utilize, and the result is that most plan sponsors have implemented changes. Last year, 55% of plan sponsors surveyed were using a money market fund or stable value product as the default investment, while this year only 25% of plan sponsors are using these investments as the default. In contrast, last year 17% of plan sponsors were defaulting participants into a target date or lifecycle fund, compared to 52% of plan sponsors this year.

FASB Statement No. 157 will be effective for benefit plan financial statements issued for fiscal years beginning after November 15, 2007. FAS 157 defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. Since plans generally report all plan investments at fair value in their financial statements and regulatory filings with the DOL, FAS 157 is anticipated to have a significant effect on employee benefit plan financial reporting. Numerous implementation questions continue to exist, yet only a little over half (53%) of the respondents feel that they are ready to comply with the requirements of the standard. Only 23% of the respondents have discussed with their plan's third parties (e.g., custodian) the planned approach of those third party information providers to generate the information that will be required to meet the new disclosures required by FAS 157. This is particularly alarming, as preparing to meet the requirements of FAS 157 will undoubtedly require coordination among plan management, custodians, investment fiduciaries and auditors.

Governance

The sponsor of an ERISA-covered plan has a fiduciary duty to operate the plan for the exclusive benefit of its participants and beneficiaries. It is worrisome that only 58% of plan sponsors said that they maintain minutes of meetings (down from 79% in last year's survey), only 27% use an independent party to analyze plan fees (down from 45% in last year's survey), and only 29% of respondents reported that they had established a clear chain of authority for their plan's governance committee (down from 41% in last year's survey). Sixty-five percent do not require plan management to periodically sign conflict-of-interest statements, which is especially alarming given the importance that the DOL places on the "exclusive benefit" rule.

Proxy voting procedures or policies continue to be an area of uncertainty for plan sponsors, as the majority reported they do not have a proxy voting procedure or policy in place. We also found it interesting that a smaller number of respondents now believe that the plan sponsor is also serving as the designated plan administrator. This trend may reflect an enhanced awareness of fiduciary and risk management issues and a greater desire to specifically delegate such responsibility and designate another entity as the plan administrator. The majority of plan sponsors are offering investment advice, most of which is provided electronically.

Fees

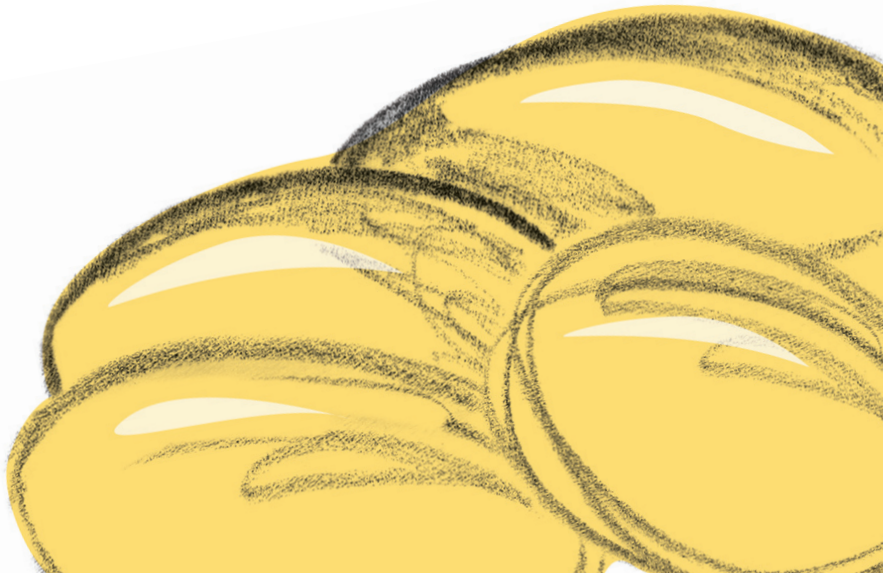
Plan sponsors are most knowledgeable about plan record keeping fees, Form 5500 reporting fees, advisor or consultant fees and compliance testing fees. Plan sponsors need to understand their fees, how much revenue sharing their plan is receiving, and how the revenue sharing is being used. Knowing this information will help plan sponsors evaluate the reasonableness of their plan fees, whether this determination is made internally or by a third party.

Administration

Of those that are requesting and reviewing the SAS 70 reports of their service organizations, only about half of the respondents evaluated their compliance with identified user control requirements. It is important to obtain the SAS 70 report, but it is equally important to analyze it and discuss it with the service organization.

Other plan matters

While approximately 35% of respondents still sponsor a defined benefit plan, the unmistakable trend in the benefits area is that more companies are offering a 401(k) plan and fewer are offering a traditional pension plan or cash balance plan. Many plan sponsors that currently maintain defined benefit plans have either frozen the plan or are in the process of terminating the plan, while only a very small percentage have converted their pension plan into a cash balance plan. This confirms the trend towards 401(k) plans becoming the primary retirement vehicle for employees. It also illustrates the importance placed on plan sponsors to educate participants about the benefits of contributing to 401(k) plans. Experts in behavioral finance have long said that 401(k) plans must become easier for the average person to navigate, increasing the likelihood that participants will take full advantage of them and get closer to reaching their overall retirement goals.



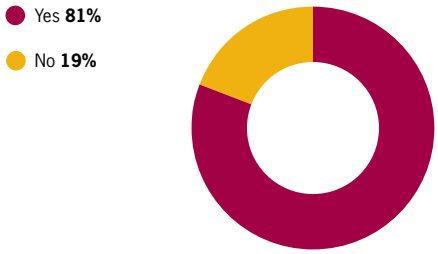
Investments

Investment policy

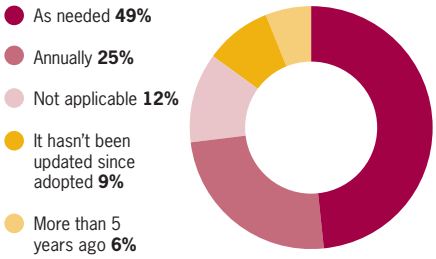
An Investment Policy Statement (IPS) is a decision-making roadmap for an investment committee. The existence of an IPS in a committee's toolkit demonstrates good fiduciary practice, as it documents the investment strategy and monitoring methods in writing.

We surveyed plan sponsors to see whether or not they had an IPS. Eighty-one percent of plan sponsors answered that they have an IPS in place. Of those who have an IPS, most were created by a plan sponsor or committee (39%) followed closely by consultant or advisor (35%). Of those who have an IPS, the majority of plan sponsors update their IPS as needed (49%), and 25% update their IPS annually. It is a good practice to periodically review the IPS to ensure the investment strategy and guidelines accurately represent the practices and decision-making process of the investment committee. While it is encouraging that the majority of plan sponsors have an IPS, there are still plan sponsors who need to implement one.

Do you have a written Investment Policy Statement (IPS) (ERISA §402(b)(1))?

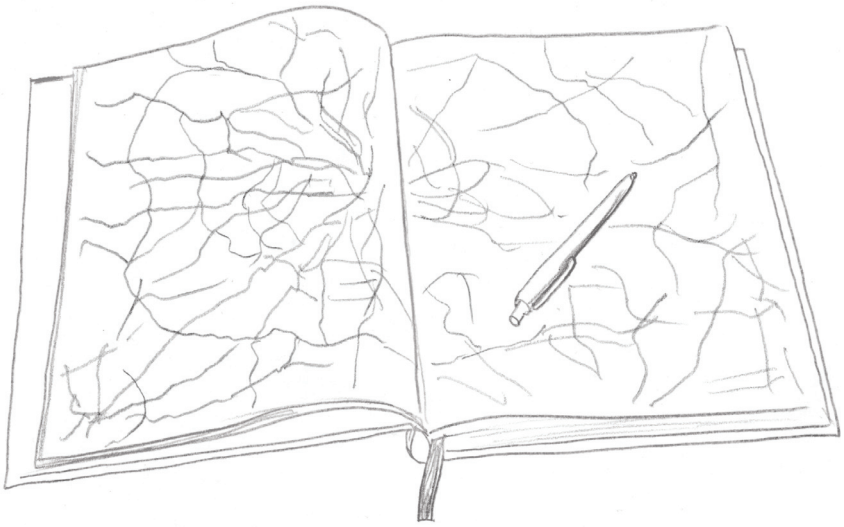


When was your Investment Policy Statement last updated?



*Total percentages do not add up to 100 due to rounding.

It is a good practice to periodically review the IPS consistently to ensure the investment strategy and guidelines accurately represent the practices and decision-making process of the investment committee.



Investment monitoring

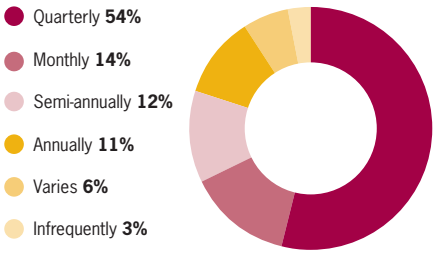
Not only is having an IPS in place a demonstration of good fiduciary practice, but periodic monitoring of investments is a good practice as well. We asked plan sponsors how often they monitor the plan's investments and who has this responsibility. Fifty-four percent of plan sponsors are monitoring their investments quarterly and 11% are monitoring annually. In comparing the results from last year's survey to this year, we noted the results were generally similar, with 60% performing quarterly monitoring and 12% monitoring investments monthly last year. The responsibility of monitoring the investments belongs primarily to plan sponsors or committees (46%), followed by consultants or advisors (36%) and record keepers or custodians (25%).

Selecting the appropriate benchmarks is also an important part of investment monitoring, and realizing that this decision can be shared by more than one party, we asked plan sponsors to select all of the parties who were involved in selecting the appropriate benchmarks. Fifty-four percent of the respondents stated that advisors or consultants participate in selecting the benchmarks, while 51% of plan sponsors or committees are involved.

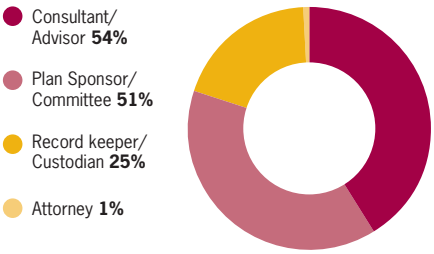
With investment funds, there are often multiple share classes (i.e., Class A, B, C, I, R shares, etc.) offered for the same fund. Determining the appropriate share class of each investment option in a plan is important to ensure participant investment fees are not too high.

Review of the share classes offered often involves discussions with plan record keepers or custodians to make sure that the share class offered is appropriate for the plan. We asked plan sponsors if they periodically checked whether or not the plan's investment options are being offered using an appropriate share class. While the majority of plan sponsors (61%) responded that they are performing a periodic review of share class appropriateness, there are still some that are either not performing this review (17%) or are not sure if they are performing the review (22%). Of those plan sponsors who are reviewing share classes, over half rely on the analysis of a consultant. In comparison to last year's survey results, 6% more plan sponsors are relying on consultants for this analysis this year.

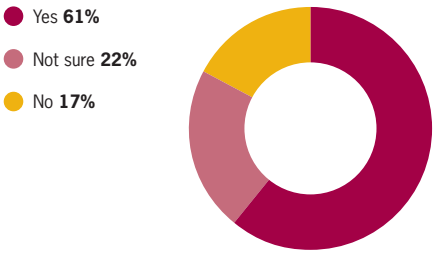
How frequently do you monitor the plan's investments?



Who selects the appropriate benchmarks by which you monitor your investments?



Do you periodically determine whether your plan's investment options are being offered using an appropriate share class (i.e., Class A, B, C. I, R shares, etc.)?



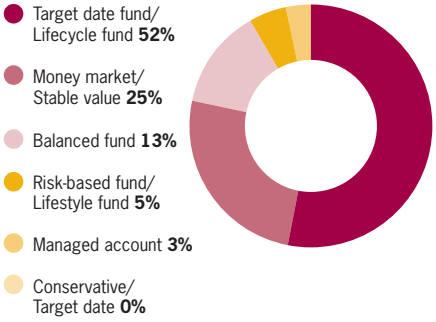
*Respondents able to select more than one answer.

Default investments

The Pension Protection Act of 2006 (PPA) has caused a substantial shift from money market and stable value investments as default investments to target date or lifecycle funds. PPA has given cause for plan sponsors to revisit which default investments their plans utilize, and the result is that most plan sponsors have implemented changes. Last year, 55% of plan sponsors surveyed were using a money market fund or stable value product as the default investment, while this year only 25% of plan sponsors are using these investments as the default. In contrast, last year 17% of plan sponsors were defaulting participants into a target date or lifecycle fund, compared to 52% of plan sponsors this year.

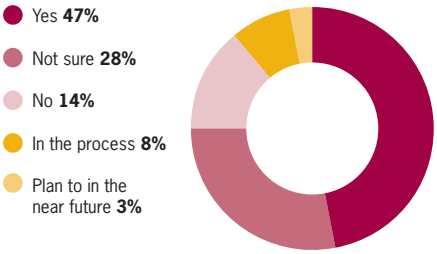
In order for plan sponsors to receive protection under PPA for the default investment, they must qualify their default investment accordingly. Qualifications include participant notifications, along with choosing a default that complies with the guidelines set forth by PPA. If all criteria are met, the default is considered to be a QDIA (Qualified Default Investment Alternative). While several of the plan sponsor respondents in the survey appear to have a default that qualifies as a QDIA under PPA, less than half (47%) can affirmatively state that their default investment has been qualified. Another 28% are not sure. The protection for plan fiduciaries under PPA guidelines is significant, and all plan sponsors should review their current default investment and the requirements for QDIAs to ensure they are in compliance.

If your plan has a default investment, what do you currently use as a default investment choice?



*Total percentages do not add up to 100 due to rounding.

Have you qualified your investment as a Qualified Default Investment Alternative (QDIA) under the Pension Protection Act (PPA)?



Stable value funds

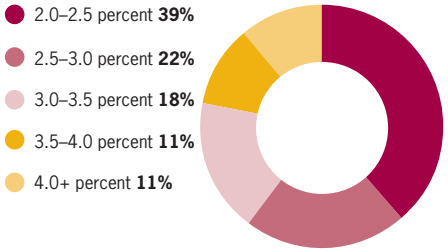
In light of the current economic conditions, stable value products have received increasing attention. As such, some plan sponsors are beginning to review their current stable value products and related wrap providers to determine the true stability of the stable value rates plan participants are receiving and should expect to receive in the future. The increased attention will continue to force plan sponsors to be more educated about the types and performance of stable value products offered in the marketplace.

According to this year's survey, the majority of plan sponsors (73%) offer some form of stable value investment option. We also asked plan sponsors to share what rate of return their stable value product was paying as of August 1, 2008. The comparison of last year's responses to this year's responses is quite different. Thirty-nine percent of this year's respondents state that their stable value fund is paying somewhere in the range of 2.0% to 2.5%. The majority of last year's survey respondents stated that their stable value fund was paying somewhere between 3.0% and 4.0% (53%). We find the overall decrease in the stable value rates from last year to this year to be consistent with our experience in the marketplace given the current economic conditions. Stable value providers have been struggling to find wrap providers who will guarantee the rates, which has been increasing the cost of the stable value products and decreasing the rates of return these products offer.

Despite the lower stable value rates, it does not appear that the amount of plan assets invested in the stable value funds has changed. For example, last year 76% of plans had $0 to $10 million invested in stable value funds, compared to 72% of plans invested in this range according to this year's survey. Given that much has changed in the stable value market since this survey was conducted, we expect there to be a decreasing amount of plan assets invested in stable value funds in 2009.

Understanding the provisions of a stable value fund is an important responsibility for plan sponsors. Besides understanding the rate that the stable value product is paying, there are other provisions, such as market value adjustments, surrender charges for contract termination and wrap fees, to name a few. Plan sponsors need a better understanding of which provisions apply to the stable value investments in their plans, as 69% responded saying that they were not sure if some of these abovementioned provisions applied. There are different types of market value adjustments, fees and wraps that may or may not apply to stable value products, depending on how they are structured. These issues are sometimes reviewed only when a plan sponsor explores the option of transferring the assets to another stable value provider. The result can be the discovery of early termination or surrender charges and/or market value adjustments that may impair a smooth and timely transition.

If you do have a stable value investment option, what is your stable value fund paying as of 8/1/08?



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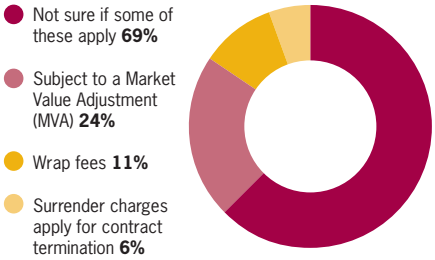
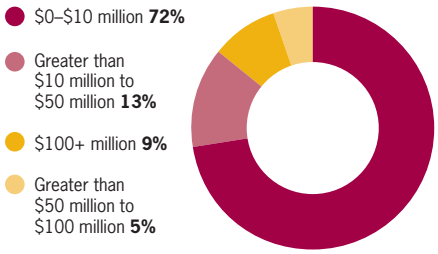
Which provisions apply to your stable value fund?



*Respondents able to select more than one answer.

What size assets does your plan have in its stable value fund?



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Limited scope audits

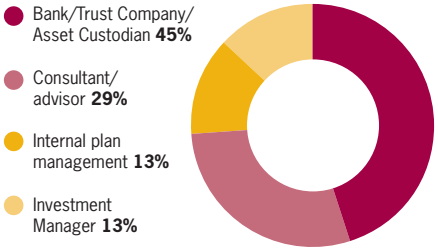
ERISA allows plan administrators to instruct their independent auditors to limit the scope of testing on investment information prepared and certified by a qualified institution (bank, trust company or similar institution) that acts as trustee or custodian of plan investments. The trustee/custodian typically certifies that the plan's investments and investment activity are both complete and accurate based on the information contained in the ordinary books and records of the trustee/custodian (which may or may not be fair value).

Consistent with general industry statistics, the majority of the respondents (65%) indicated that they engage their plan auditors to perform limited scope audits. When we asked the respondents to best describe their understanding of what certified investment values represent, alarmingly only 24% (up from 15% last year) recognize that the certified values are based on information contained within the ordinary business records of the certifying institution, 40% indicated that they believe that the investment values covered by the certification are properly valued at fair value, and 35% weren't sure.

Alternative investments

Similar to last year, less than 15% of the respondents indicated that one of their retirement plans invested in alternative investments (i.e., investments that are not traded on a national exchange or investments for which quoted market prices are not available from sources such as financial publications, exchanges, etc.). Not surprisingly, 87% indicated that plan management utilizes outside parties when valuing alternative investments.

Who is responsible for valuing the majority of the alternative investments?



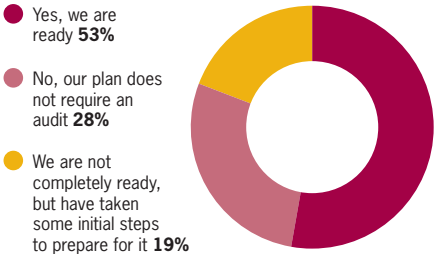
ERISA allows plan administrators to instruct their independent auditors to limit the scope of testing on investment information prepared and certified by a qualified institution (bank, trust company or similar institution) that acts as trustee or custodian of plan investments.

Investment valuation and FAS 157

It is imperative that plan management recognize that they are ultimately responsible for valuing the investments (including alternative investments). Management cannot outsource this responsibility; however, they can use external parties to assist them, assuming management has a sufficient understanding of the underlying investments, strategies and significant assumptions that underlie the valuations. Plan management should have in place systems, controls, processes and procedures to assist them in fulfilling their responsibilities.

FASB Statement No. 157, Fair Value Measurements (FAS 157), issued in September 2006, will be effective for benefit plan financial statements issued for fiscal years beginning after November 15, 2007. FAS 157 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. Since plans generally report all plan investments at fair value in their financial statements and regulatory filings with the DOL (Department of Labor), FAS 157 is anticipated to have a significant effect on employee benefit plan financial reporting. Numerous implementation questions continue to exist, yet only a little over half (53%) of the respondents feel that they are ready to comply with the requirements of the standard. Only 23% of the respondents have discussed with their plan's third parties (e.g., custodian) the planned approach of those third party information providers to generate the information that will be required to meet the new disclosures required by FAS 157. This is particularly worrisome, as preparing to meet the requirements of FAS 157 will undoubtedly require coordination between plan management, custodians, investment fiduciaries and auditors.

If the financial statements of your plan are required to be audited, are you ready to comply with the requirements of Statement of Financial Accounting Standards No. 157, Fair Value Measurements (FAS 157)?

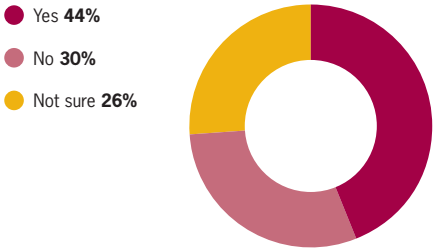


Governance

ERISA 404(c)

Fifty-nine percent of respondents confirmed that their plan is intended to comply with the requirements for special fiduciary protection under ERISA 404(c). Only 7% of respondents did not intend to be 404(c) compliant, and 33% were not sure. When asked if a review had been conducted to determine if their plans were actually in compliance, 44% answered that a review had been conducted. Thirty percent had not conducted a review and 26% were not sure.

If your plan is intended to be §404(c) compliant, have you conducted a review to determine if it actually is in compliance?



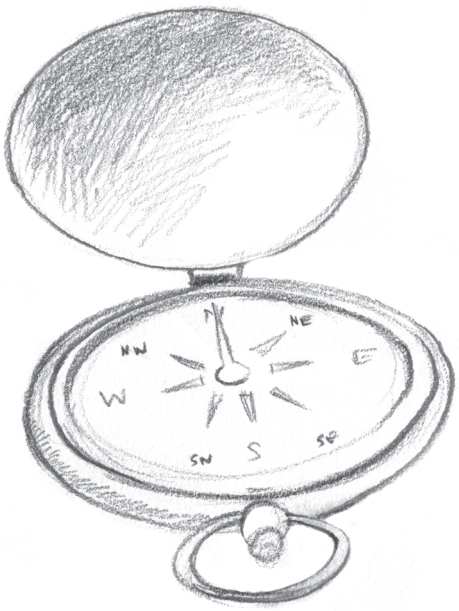
Fiduciary process

The sponsor of an ERISA-covered plan has a fiduciary duty to operate the plan for the exclusive benefit of its participants and beneficiaries. It has been said that ERISA's fiduciary requirements are some of the highest under law, making it all the more critical for sponsors to be able to demonstrate how they make decisions and operate their plans in accordance with the law and plan documents. In an investigation, the DOL will not expect a sponsor to have the benefit of "20/20 hindsight," but will look for a well-documented and carefully undertaken decision-making process.

Our respondents this year would have difficulty supporting the prudence of their fiduciary decisions in the face of a DOL audit. Only 58% said that they maintain minutes of meetings (down from 79% in last year's survey). Only 27% use an independent party to analyze plan fees (down from 45% in last year's survey).

Only 29% of respondents reported that they had established a clear chain of authority for their plan's governance committee (down from 41% in last year's survey). Twelve percent reported that their day-to-day procedures are not fully documented (down from 15% in last year's survey), and 73% reported that their records for investment decisions were located in one place and easily accessible. Sixty-five percent do not require plan management to periodically sign conflict-of-interest statements, which is especially alarming given the importance that the DOL places on the "exclusive benefit" rule.

It has been said that ERISA's fiduciary requirements are some of the highest under law, making it all the more critical for sponsors to be able to demonstrate how they make decisions and operate their plans in accordance with the law and plan documents.



Operational compliance

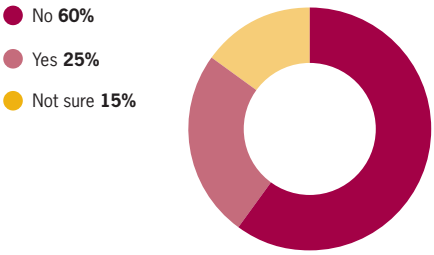
Although managing the risks associated with ongoing retirement plan operations continues to be an area of concern for plan sponsors, only a slight majority of them (51%) have conducted an independent review of basic plan functions and operations. Nonetheless, this is a higher percentage than was reported in last year's survey, in which only 41% of plan sponsors indicated that they had conducted such an independent review. In light of the increased focus on plan governance and operational compliance, this is a positive development.

Sponsors that have conducted independent operational reviews predominantly rely upon outside consultants (48%) to perform this review, followed by in-house resources (28%). Plan sponsors who perform operational reviews should not make a decision to use current plan vendors to perform the review lightly, since in some cases plan operational errors can be traced to process deficiencies inherent with the vendor itself. We anticipate that plan sponsors will continue to focus on the accuracy and reliability of work performed by service providers as part of their overall risk management process.

Proxy voting procedures or policies continue to be an area of uncertainty for plan sponsors. Similar to last year, the majority of plan sponsors (60%) reported that they do not have a proxy voting procedure or policy in place. While 25% of plan sponsors reported that they do have a procedure or policy in place, which is a 3% increase from last year, there is still cause for concern. Furthermore, 41% of proxies are voted by the trustee, with 29% being voted by the plan administrator, 17% by the record keeper or custodian and 12% by the investment committee. All plan sponsors should have a documented proxy voting procedure or policy.

Thirty percent of plan sponsors rely on an ERISA attorney for plan-related matters, while 23% employ external general counsel. Thirty-six percent of plan sponsors rely on vendors for legal assistance.

Do you have a voting procedure or policy?



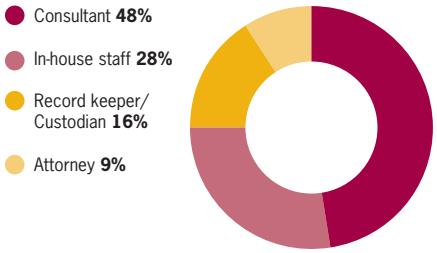
Plan design

PPA has sparked a flurry of plan design changes for many plan sponsors over the past couple of years. It is interesting to see how many plan sponsors have adopted the voluntary changes in each of the categories we surveyed.

Similar to last year, the majority of plan sponsors either offer automatic enrollment in their plans or are considering the addition of this feature to their plans. There has been a slight increase, from 39% last year to 42% this year, of plan sponsors who offer this feature. Forty-seven percent of participants in plans that offer automatic enrollment are automatically enrolled at 3%, and 24% of plan participants are automatically enrolled at 2%. Most plan sponsors automatically enroll new hires only (64%) as opposed to enrolling both new hires and currently eligible employees (31%).

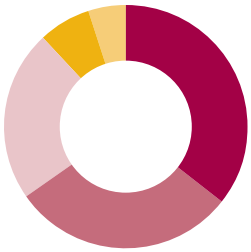
With respect to automatic contribution increases, 22% of plan sponsors now offer this feature (a 4% increase from last year). Eighty-two percent of plans offering automatic contribution increases have their contributions set to increase 1% each year, followed by 9% of plans increasing contributions each year by 2% annually. Most plans (57%) have a cap on automatic increases.

For those sponsors that have conducted operational reviews, who performed the review?



*Total percentages do not add up to 100 due to rounding.

Do you consult with an attorney for plan-related matters?



*Record keeper/Custodian, Plan Sponsor/Committee, Attorney, Counsel

**The total percentages do not add up to 100 due to rounding.

The most prevalent cap on automatic contribution increases is 10%. Overall, the survey results are in line with the safe harbor provisions under PPA. Per the Qualified Automatic Contribution Arrangement (QACA) under PPA, plan sponsors are provided a safe harbor for Actual Deferral Percentage (ADP) and Actual Contribution Percentage (ACP) testing if their plans follow the required QACA provisions, which include automatically enrolling employees at 3% for the first two years, followed by automatically increasing their contributions 1% annually up to a cap that is at least 6% but not more than 10% of pay. There are other QACA required provisions that relate to company contributions and vesting as well.

We also asked plan sponsors questions about their company match structures. Thirty-one percent of companies match between 51% and 100% of employee contributions, followed by 28% of companies matching between 26% and 50% of employee contributions. Most companies (40%) match up to 6% of employees' eligible pay. These results are not surprising, as the QACA provisions require a company match of 100% on the first 1% of pay and 50% on at least the next 5% of pay. This results in some form of company match on at least the first 6% of pay, which is consistent with the survey results.

Nineteen percent of plan sponsors have added a Roth 401(k) feature (down from 22% last year), while another 26% of plan sponsors (only 19% last year) are considering adding this feature in the coming year. A majority of plan sponsors (56%) have decided not to add a Roth 401(k) feature. According to our respondents, the three main impediments to adding a Roth 401(k) feature are the complexity of participant communications (45%), such as the need to address the tax consequences of participating in a Roth 401(k) arrangement vs. a regular 401(k), the perception that participants will not benefit from the ability to make Roth contributions (25%), and the cost of adding the feature (15%).

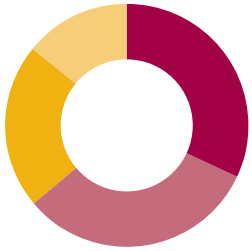
With respect to Automatic Enrollment:

- You now offer this feature **42%**
- You have thought about adding this feature **25%**
- You have investigated this feature and have decided not to offer it **23%**
- You have not considered this feature **11%**

*Total percentages do not add up to 100 due to rounding.

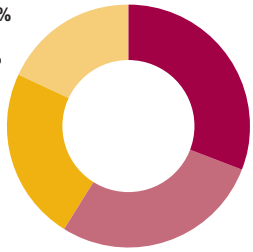
Have you considered an automatic increase function with respect to participant contributions?

- You have investigated this feature and have decided not to offer it **32%**
- You have not considered this feature **32%**
- You currently offer this feature **22%**
- Yes, you are are considering adding this feature **14%**



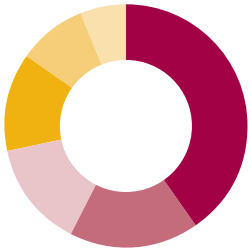
What percentage of employee contributions are you matching?

- 51–100 percent **31%**
- 26–50 percent **28%**
- 0–25 percent **23%**
- No match – we have a non-elective employer contribution. **18%**



Up to what percent of the employee's pay?

- 6 percent **40%**
- 4 percent **17%**
- 5 percent **14%**
- Other (i.e., if you match up to a specific dollar amount) **13%**
- 7 percent **9%**
- 3 percent **6%**

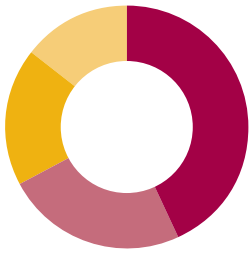


*Total percentages do not add up to 100 due to rounding.

If you have not added a Roth 401(k), what is the reason?

- Complexity of participant communication **45%**
- Do not think it will benefit participant **25%**
- No specific reason, we have not given any consideration to adding it **19%**
- Cost of adding this feature **15%**

*Respondents able to select more than one answer.



Finding ways to attract and retain participants in retirement plans continues to be an ongoing challenge for plan sponsors. The PPA created some opportunities for plan sponsors to enhance their overall retirement plan design to allow them to pursue increased plan participation more aggressively. A significant percentage of plan sponsors (77%) allow catch-up contributions in their 401(k) plans as a way for older participants to increase their pre-tax deferrals.

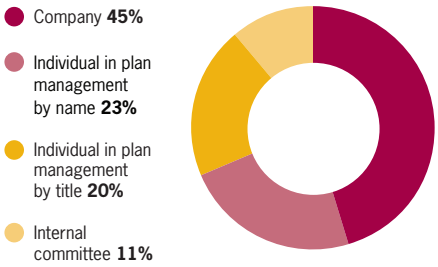
Interestingly, 45% of respondents now believe that the plan sponsor is also serving as the designated plan administrator (compared to 55% in last year's survey). This trend may reflect an enhanced awareness of fiduciary and risk management issues and a greater desire to specifically delegate such responsibility and designate another entity as the plan administrator. The respondents indicated that the designated plan administrator was either an individual in plan management identified by name (23%) or by title (20%), or by committee (11%). Under ERISA, the plan administrator is the person or entity responsible for the administration and operation of the plan and, as such, the plan administrator is a named fiduciary with respect to the plan. When the plan administrator function is delegated, plan sponsors may want to ensure that the designated person or committee has appropriate fiduciary protection.

Investment advice and participant education

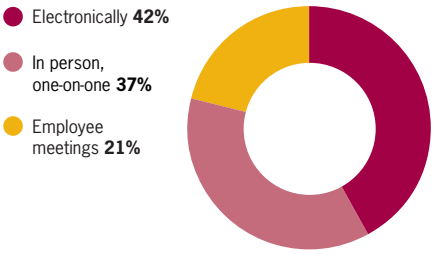
Investment advice has received some attention this year, especially with a proposal from the Department of Labor (finalized in early 2009) that would allow mutual funds and other investment companies to offer investment advice directly to participants in defined contribution plans. According to this year's survey, the majority of plan sponsors are offering investment advice (62%), and another 8% are thinking about adding advice in the future. Most of the investment advice information is provided electronically (42%).

When it comes to targeting certain groups of participants to take action on their defined contribution plans, 68% of plan sponsors responded that they provide some form of targeted participant education, such as mailings or group meetings. Most plan sponsors (51%) rely on the record keeper to provide this service. We encourage plan sponsors who do targeted education to measure the results of these efforts, to make sure that the education is making an effective and meaningful impact on participant behavior.

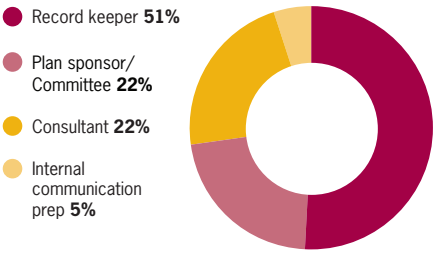
Who is the plan administrator (i.e., signs the Form 5500 in that capacity)?



If you are currently making investment advice available to your participants, how is that information provided?



If you provide targeted participant education, who provides this service?



*Total percentages do not add up to 100 due to rounding.

Fees

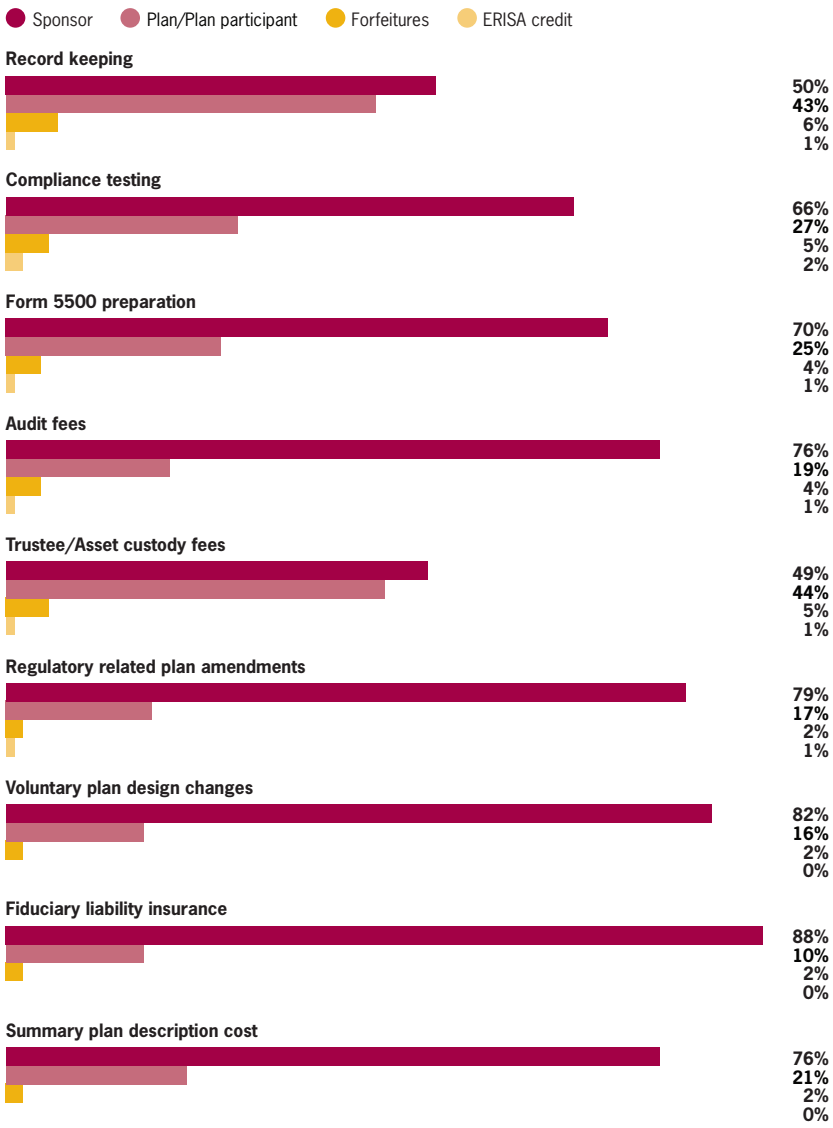
Plan expenses

There are various fees and expenses associated with the administration of retirement plans. These expenses are paid by a variety of sources, including the plan sponsor, plan or plan participants, forfeitures or ERISA credit.

We asked plan sponsors how their plan expenses are paid. Similar to last year's survey results, plan sponsors paid the majority of plan expenses in each category surveyed. The largest shift from last year to this year was in the record keeping expense category. There was a 10% decrease, from 60% last year to 50% this year, in plan sponsors paying for record keeping expenses. Correspondingly, there was a 7% increase, from 36% last year to 43% this year, in plan or plan participants paying for record keeping expenses. Our experience in the industry is that most plan record keeping expenses are paid by the plan or plan participants, such as in the form of wraps or revenue sharing from the plan investments.

Plan sponsors need to know not only whether or not the plan expenses are appropriate, but also that they are being paid for by an appropriate source. While it is typically acceptable for the plan or plan participants to pay for record keeping expenses, there is less clarity as to whether or not some expenses, such as plan design changes, can be paid by the plan or plan participants. This year 16% of the respondents stated that voluntary plan design changes are paid for by the plan or plan participants. These responses raise some concern, because in general,

Who pays for the following plan expenses?



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plan design changes that are voluntary and not part of regulatory changes are considered settlor function expenses. Settlor function expenses should not be paid by the plan or plan participants. Using forfeitures that would otherwise be allocated to plan participants is an acceptable source for paying plan non-settlor expenses, provided that the plan document allows for this arrangement. If plan sponsors have questions on acceptable sources for the payment of plan expenses, they should consult with legal counsel.

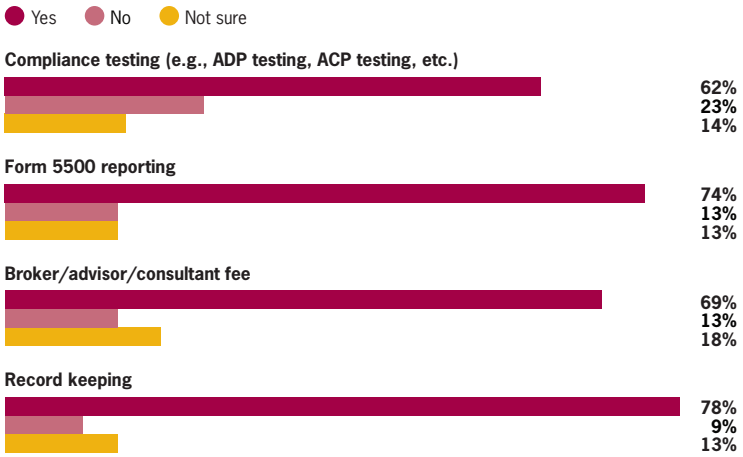
Reviewing fees

We asked plan sponsors how much in fees their plans were paying and the revenue streams being earned by their vendors. When we combined responses from each fee category, 71% of plan sponsors indicated that they understood the fees and vendor revenue streams in at least one of the service categories. Plan sponsors were most knowledgeable about plan record keeping fees (78%), followed by Form 5500 reporting fees (74%), advisor or consultant fees (69%) and compliance testing (62%). Plan sponsors need to understand their fees, how much revenue sharing their plan is receiving, and how the revenue sharing is being used. Knowing this information will help plan sponsors evaluate the reasonableness of their plan fees, regardless of whether this determination is made internally or by a third party.

Not only is it important for plan sponsors to be aware of the fees and revenue streams being received by vendors, but it is also important for plan sponsors to know how their fees compare to those of similarly sized plans. Seventy-four percent of plan sponsors have benchmarked their record keeping fees, with the majority performing this benchmark every 1 to 3 years (35%). While it is encouraging that most plan sponsors have performed benchmarking, it is still discouraging that 26% have never benchmarked their plan's record keeping fees. We dug a little deeper in the record keeping expense category and asked plan sponsors if their record keeping expenses were either a flat per participant fee or asset-based. The majority of respondents stated that their record keeping fees were asset-based (45%) versus flat fee per participant (37%). Still 18% of plan sponsors are not even sure whether their plan record keeping expenses are asset-based or flat fee per participant. Having an asset-based fee means that as the assets of the plan increase over time, so do the record keeping expenses being paid. Of course, the reverse is also true in that during times when plan assets are shrinking, so do the record keeping expenses.

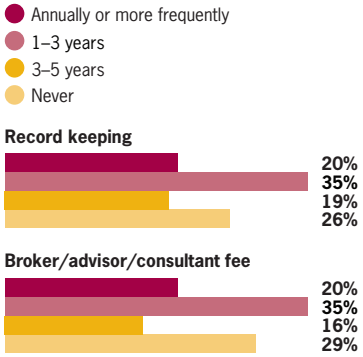
For the plan sponsors who have performed benchmarking, we asked which resource they utilized for the comparison. Similar to last year, the majority of plan sponsors use their internal resources, which may be either themselves or the committee (50%). Another 40% of plan sponsors use a consultant or advisor to perform benchmarking. Using a third party to perform these reviews can leverage independent industry expertise and knowledge that may not be readily available internally. Overall, we find that based on the survey results, plan sponsors need to be more prudent in benchmarking their fees. It is critical that plan sponsors review each of their plan fees to understand how they are being paid, to ensure the fees are being paid according to plan documentation, and also to ensure that the plan fees are reasonable.

Do you know how much your plan is paying (or the revenue streams being earned by your vendor(s)) for each of the following services?

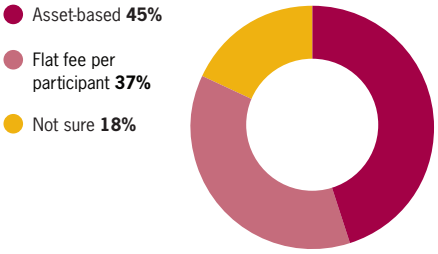


*Total percentages do not add up to 100 due to rounding.

How often do you benchmark the following fees to similarly sized plans?



Are your record keeping expenses a flat per participant fee or are they asset-based (percentage of assets)?



Administration

Process documentation

Those charged with governance (e.g., the plan administrator, the administrative committee or board of trustees, and others) of the plan have a responsibility and fiduciary duty to monitor the activities of the plan, including the activities of any third parties (record keeper, asset custodian, etc.). Proper discharging of those responsibilities should include having a solid understanding of the plan's various processes, along with documentation of those processes. Plan legal counsel should be consulted for interpretations of specific actions and how these may or may not be in accordance with their fiduciary responsibilities.

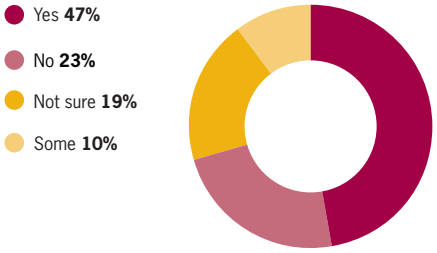
When an outside service organization is utilized by the plan to perform services that are a part of the plan's information system (e.g., initiating, executing, and/or accounting for the processing of plan transactions), plan management should become familiar with their service organization's SAS 70 report(s).

The SAS 70 report documents the service organization's internal controls and outlines user organization controls that plan management should have in place. Unfortunately, the trend continues over the last four years whereby far too many plans are not utilizing the SAS 70 reports. Over the last several years, only 47% to 49% of the respondents periodically requested and reviewed the SAS 70 report, which remains too low. Plan management should be aware that outsourcing the plan's processes does not mean that they have completely transferred their fiduciary responsibility for these processes to the third-party organization. Of those that are requesting and reviewing the SAS 70 reports of their service organizations, only 47% evaluated their compliance with identified user control requirements (down from 53% last year). It is important to obtain the SAS 70 report but it is equally important to analyze it and discuss it with the service organization.

In evaluating the level of satisfaction of our respondents with certain service providers, they continue to be satisfied with the services they receive from their ERISA attorney, plan auditor, record keeper and investment advisor/consultant. Less than 10% of the respondents indicated they were not satisfied with any one of these service providers. Plan fiduciaries (i.e., plan sponsors, plan administrators, trustees, etc.) have certain fiduciary responsibilities imposed by ERISA, and with those responsibilities comes potential liability if they fail to follow basic standards of conduct in various areas (including plan administration and the filing of complete and accurate annual returns). Effective controls and the use of qualified service professionals certainly helps reduce the risk of asset loss and helps ensure that plan information is complete and accurate, that financial statements are reliable, and that the plan is in compliance with laws and regulations. Therefore, the proposal and service provider selection process, along with the ongoing process of evaluating those services, is critical to protecting the assets and financial integrity of employee benefit plans.

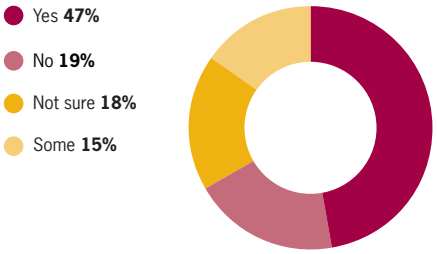
Plan legal counsel should be consulted for interpretations of specific actions and how these may or may not be in accordance with their fiduciary responsibilities.

Do you periodically request and review the SAS 70 reports for your external service providers that have them (SAS No. 70, Reports on the Processing of Transactions by Service Organizations)?



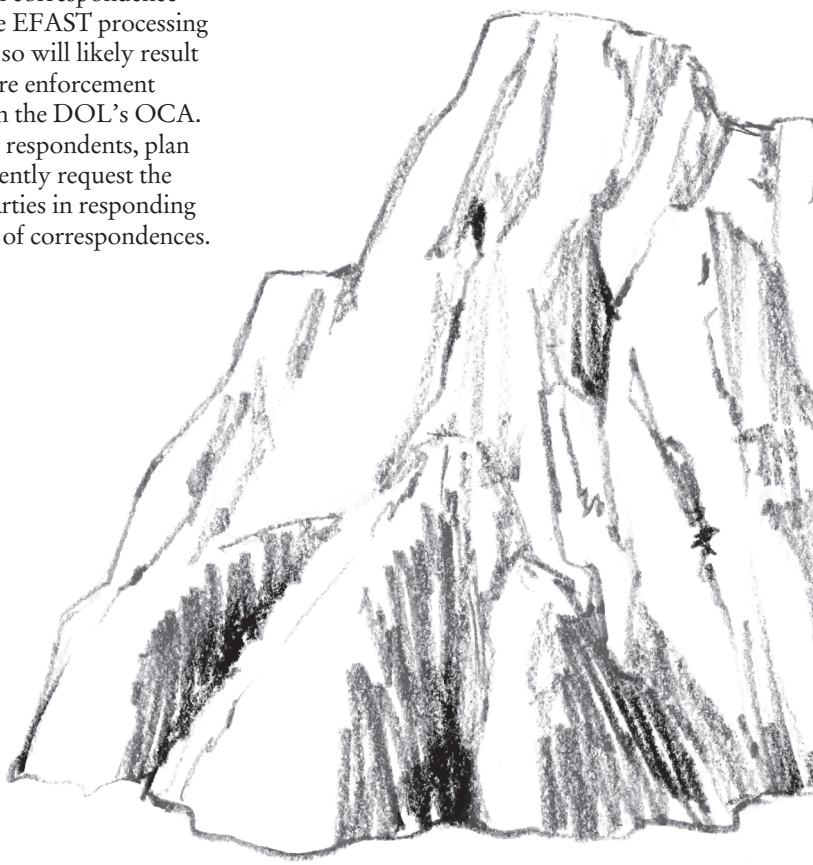
*Total percentages do not add up to 100 due to rounding.

If "yes" or "some," do you evaluate your compliance with identified user control requirements?



*Total percentages do not add up to 100 due to rounding.

While only a few of our respondents report having received correspondence from the ERISA Filing Acceptance System (EFAST) processing center, or the Department of Labor (DOL) Office of the Chief Accountant (OCA), it is not uncommon for plan administrators to receive correspondence from the DOL regarding their employee benefit plans. The deadlines to respond are rigid, and it is important that plan administrators make every effort to respond timely and thoroughly to all correspondence they receive from the EFAST processing center. Failure to do so will likely result in the receipt of future enforcement correspondence from the DOL's OCA. As evidenced by our respondents, plan administrators frequently request the assistance of third parties in responding to the various pieces of correspondences.



Other plan matters

403(b) plans

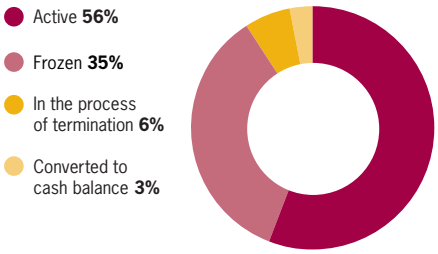
Sixteen percent of our respondents indicated that they sponsored a 403(b) plan (i.e., a retirement plan established for employees of public schools and employees of certain tax-exempt organizations). Most (over 70%) indicated they had already completed an assessment of their plan's readiness to comply with the new IRS regulations (i.e., written plan document, administrative procedures, etc.) and were in full compliance or did not feel it would take much for them to get in compliance. Most (over 70%) of those who indicated their plan was subject to ERISA felt they were ready or almost ready to meet the demands of a financial statement audit as required beginning with the 2009 Form 5500. This makes sense as 71% of the respondents indicated that their plan's administration is already centralized with a single vendor.

Defined benefit plans

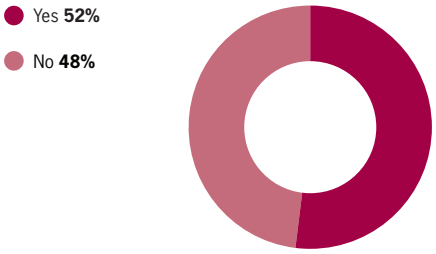
Although defined benefit plans have become less prevalent over the past 15 years or so, approximately 35% of respondents still sponsor a defined benefit plan. Nonetheless, the unmistakable trend in the benefits area is that more companies are offering a 401(k) plan and fewer are offering a traditional pension plan or cash balance plan. Many plan sponsors that currently maintain defined benefit plans have either frozen the plan or are in the process of terminating the plan (41%), while only a very small percentage have converted the pension plan into a cash balance plan (3%). This confirms the trend towards 401(k) plans becoming the primary retirement vehicle for employees. It also illustrates why it is important for plan sponsors to educate participants about the benefits of contributing to 401(k) plans. Experts in behavioral finance have long said that 401(k) plans must become easier for the average person to navigate, increasing the likelihood that participants will take full advantage of them and get closer to reaching their overall retirement goals.

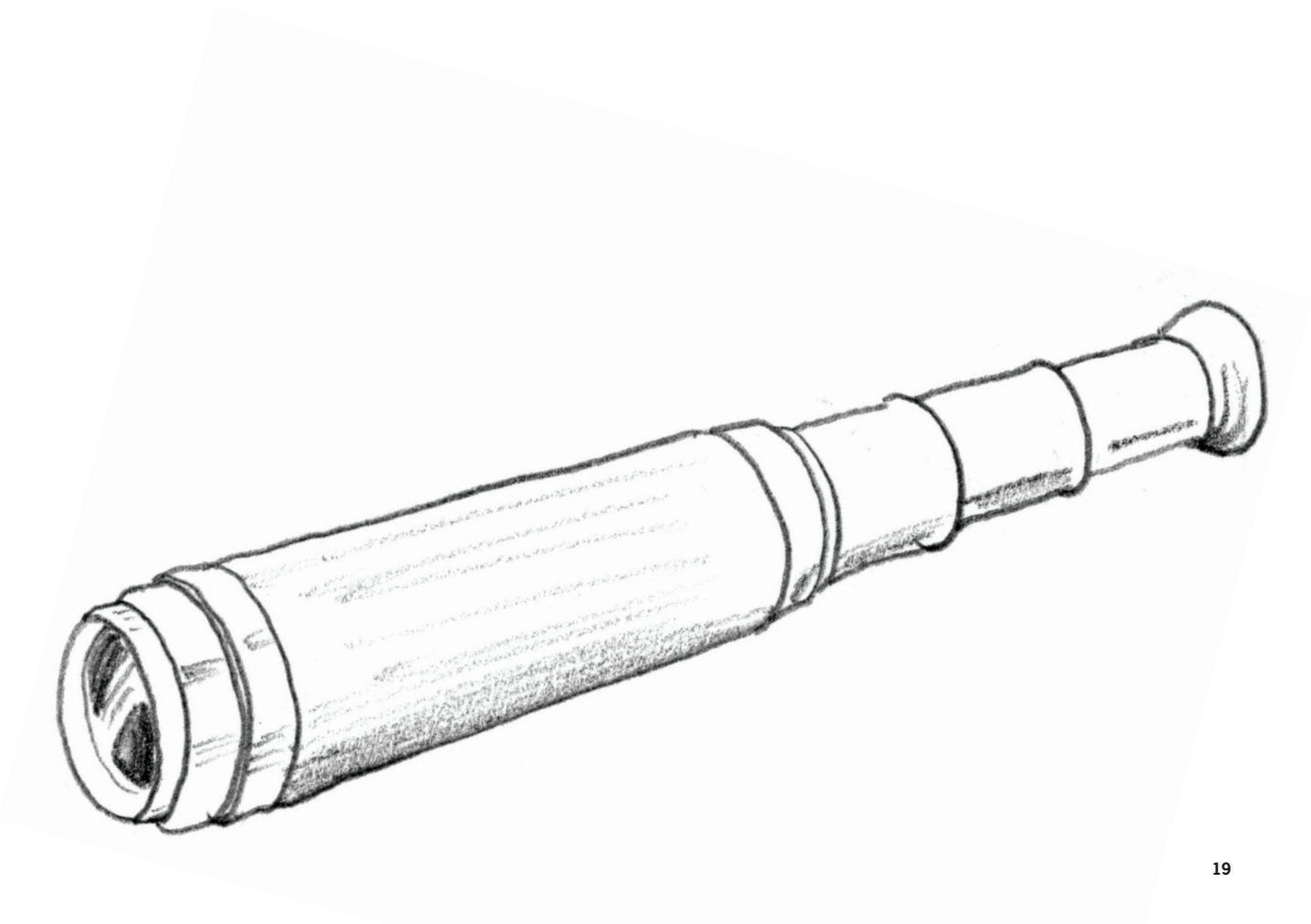
For those companies that still sponsor a defined benefit pension plan but are in the process of either freezing or terminating the plan, approximately 52% are considering plan design changes to increase participation in their defined contribution plan. This represents an increase from last year's survey, in which 46% of respondents that were in the process of either freezing or terminating their defined benefit plan indicated that they were also considering plan design changes to their defined contribution plan. These changes could include the introduction of automatic enrollment features and automatic contribution escalation features, the use of safe harbor plan designs, and the offering of additional investment alternatives.

If you have a defined benefit plan, what is the ongoing status?



If you are freezing or terminating your defined benefit plan, are you considering any plan design changes to increase participation in your defined contribution plan?



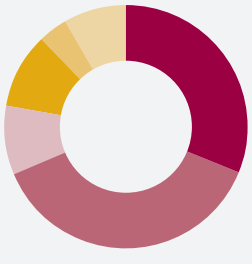


Appendix

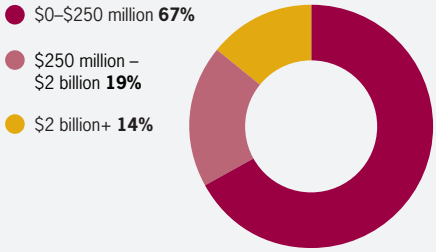
About the survey

Drinker Biddle & Reath LLP, Grant Thornton LLP and Plan Sponsor Advisors conducted a confidential survey to gain a general assessment of the level of understanding of investments, fees and administrative practices in the area of retirement plans. This publication presents the findings of the Drinker Biddle & Reath, Grant Thornton and Plan Sponsors Advisors Retirement Plan Survey of plan sponsors. The survey was conducted online from October 2008 to November 2008, with 275 independent plan sponsors participating. Survey topics include investments, fees, administration and other industry issues. The majority of the participants (33%) came from the manufacturing, wholesale, or distribution industry, with the remainder being in the not-for-profit (22%), financial institutions (13%), technology (17%), construction, real estate or hospitality (5%), retail (4%), and general services (2%) industries. Participants in the survey primarily held the position of CFO (36%), Human Resources/Benefits Manager (20%) and Human Resources/Benefits VP (21%). The remainder held finance positions.

Number of employees



Annual company revenue



*Total percentages do not add up to 100 due to rounding.

About the sponsors

DrinkerBiddle

Drinker Biddle & Reath has more than 25 employee benefits professionals. Our lawyers work as a team with lawyers in other practice areas, such as health law, labor, securities, tax and bankruptcy to advise clients on employee benefits and executive compensation issues. Our practice includes all aspects of qualified and nonqualified retirement plans; health, welfare and fringe benefit plans; specialized employee benefits issues under the Internal Revenue Code and ERISA; executive compensation; ERISA litigation; investment adviser and fiduciary issues; ESOPs and other stock-based compensation plans; global equity plans; and litigation of these issues. For more information, please visit *www.drinkerbiddle.com.*

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Plan Sponsor Advisors (PSA) is an independent, Chicago based registered investment advisor (RIA) and retirement plan consulting firm. With over 100 years of investment and retirement plan experience, our staff brings a wealth of knowledge to helping companies improve their retirement benefit while managing and mitigating fiduciary risks. The firm has advised over $35 billion in retirement plan assets inclusive of retainer and project work since 2002. Clients include public and private corporations and not-for-profit healthcare. For additional information, please visit our website at *www.psaretire.com.*

For the second year in a row, PSA has been named "One of the Most Successful Retirement Plan Firms" by PLANSPONSOR magazine (no affiliation with our firm).

Further information

If you would like to receive additional hard copies or an electronic copy of Grant Thornton's 5th Annual Retirement Plan Survey, please visit our website at www.GrantThornton.com/benefitsaudit. Inquiries regarding this survey may be directed to:

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