

Participation Rate Stayed Steady

How Does Your Plan Compare?

The average participation rate in 401(k) plans was 82.3 percent at the end of 2009, according to the 53rd Annual Survey of Profit Sharing and 401(k) Plans by the Profit Sharing/401(k) Council of America (PSCA). The rate the year before was 82.7 percent. Small plans (1 to 49 participants) had a participation rate of 91.4 percent.

The pre-tax participant deferral rate averaged 5.2 percent for non-highly compensated employees and 6.7 percent for highly compensated employees.

Auto Enrollment Remained Popular

Nearly 40 percent of 401(k) plans had an automatic enrollment feature. It applied to new hires in 34 percent of these plans and to all non-participants in 6 percent of these plans.

The most common default deferral rate was 3 percent of pay (58 percent of plans). Target retirement date funds remained the most common default investment option (57 percent of plans).

Automatic increases in contribution rates were reported by 53 percent of plans. Most plans cap the auto increases at 6 percent of pay.

Roth Feature Usage Rose

Over 41 percent of plans permitted Roth 401(k) contributions, up from 37 percent the previous year. Of those eligible to make Roth contributions, 13 percent did so.

Investment Options Didn't Change

The average number of investment choices offered to participants remained at 18.

Almost 63 percent of plans offered target date funds.



Investment Advice Grew

Advice was available in 60 percent of plans, up from 52 percent in the previous year's survey. About 22 percent of participants used advice when offered. Small plans tended to have the highest usage.

Other Survey Results Included:

- The typical plan had about 60 percent of assets invested in equities.
- Less than 14 percent of plans offered company stock as an investment option.
- Almost 86 percent of plans allowed hardship withdrawals, and about 2 percent of participants had such a distribution in 2009.
- Loans were permitted in 90 percent of plans.
- Almost 24 percent of plans used a safe harbor match, and 11 percent used a safe harbor non-elective contribution.
- About 40 percent of plans offered immediate vesting of the company match.

The survey reflects 2009 experience of 931 plans with 8.6 million participants and more than \$628 billion in plan assets.

The survey may be ordered from the PSCA online at www.psc.org. ■

Roth Conversions Within Plan Permitted

The Small Business Jobs Act of 2010 allows plans to permit conversions of pre-tax contributions to a Roth account within a 401(k) plan. In the past, participants had to roll over their 401(k) distribution to a Roth IRA outside the plan in order to take advantage of Roth savings provisions. In-plan conversions are allowed after September 27, 2010.

Any participant, whether active or terminated, may make the Roth conversion election if he or she is eligible for an eligible rollover distribution. (Generally, such a distribution would include vested contributions and related investment gain.) An eligible rollover distribution includes in-service withdrawals after age 59½, termination of employment distributions and rollover contributions.

The pre-tax amount converted is subject to income tax in the year of conversion, but the 10 percent early distribution penalty for participants under age 59½ is waived.

To accept these conversions, a plan must have a qualified Roth contribution feature; a plan cannot establish a Roth option solely to accept conversions. Plans that already have the Roth contribution option are not required to accept conversions.

Once a conversion is made, the participant may not reverse the conversion of money to a designated Roth account back to pre-tax status.

Plan sponsors should consult legal counsel regarding the implications of adding a conversion option and any necessary plan amendment. ■

Pension Plan Limitations for 2011

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

Plan Ahead for New Disclosures

The Department of Labor (DOL) issued final participant fee disclosure regulations that apply to participant-directed individual account plans, including those that intend to comply with ERISA Section 404(c). Their purpose is to provide uniform disclosure to participants about fees and expenses of a plan's investment options.

The final rules were effective on December 20, 2010, for plan years beginning on or after November 1, 2011. For calendar year plans, compliance is required on January 1, 2012.

Disclose Plan-Related Information

Plan administrators must disclose basic plan information, including a list of investment options and when and how participants may give investment instructions. Administrative expenses for plan services that may be deducted from all individual accounts must be described, as well as actual charges that may be deducted from certain participants' accounts, such as loan origination fees.

Actual charges assessed to individual accounts must be disclosed on at least a quarterly basis, either through a confirmation statement or regular quarterly plan account statements.

Investment-Related Information Must Be Provided

For each investment option, performance data (such as the average annual total return for 1-, 5- and 10-year periods) and a comparison of returns to a benchmark must be disclosed. Fees and expenses information for each option's operating expenses is also required. Further, a website address where participants can get specific additional investment information must be announced. A glossary of investment terms must also be included.

Initial disclosures are required within 60 days after the date the rules apply to the plan (by February 29, 2012 for calendar year plans), and annually thereafter. ■

Resources for New Disclosure Rules

DOL's Fact Sheet:
<http://tinyurl.com/DOLFeeFinalRule>

DOL's Model Comparative Chart:
<http://tinyurl.com/DOLFeeModelNotice>

Profit Sharing/401(k) Council of America's detailed summary:
<http://tinyurl.com/PSCAFeeDisclosure>

Plan Sponsors Ask...

Q & A

Q: We're planning ahead for preparation of the plan's Summary Annual Report. What are the key items that must be included?

A: A Summary Annual Report summarizes information from the plan's Form 5500. It's required each year, and generally must be distributed to participants and beneficiaries within nine months after the end of the plan year.

The following information is required:

- The plan's formal name, the Employer Identification Number under which the Form 5500 is filed, and the plan year covered by the Form 5500.
- Financial information, including:
 - Plan expenses
 - Value of plan assets at beginning and end of the plan year, and the amount of increase or decrease in net assets
 - Plan income (employer and employee contributions, gains or losses from the sale of plan assets, and investment earnings)
- Statement of right to obtain additional information
- Availability of foreign-language assistance

If your plan is eligible for the small plan audit waiver, you may need to include information about the plan's fidelity bond and financial institutions where certain plan assets are held.

The Department of Labor has a model Summary Annual Report available on its website.

Q: Is having a Roth contribution feature in our 401(k) plan likely to result in more retirement saving by participants?

A: Roth contributions to 401(k) plans were permitted beginning in 2006. This feature permits participants to make after-tax contributions to 401(k) plans. Those contributions grow tax-free and are not taxed when distributed.

A survey of 500,000 participants by Hewitt Associates found that the average Roth deferral was 6.8 percent of pay; the total contribution rate of Roth users was 10.8 percent. In



contrast, the average total contribution rate for the rest of the participants was 8.1 percent.

Nearly 13 percent of new participants chose to make Roth contributions, and almost 17 percent of participants in their 20s did so.

The data in this survey suggest that having a Roth feature would be beneficial to participants. Find out more at <http://tinyurl.com/Roth401kFeature>.

Q: We just received our first Qualified Domestic Relations Order. What should we know about who an "alternate payee" can be?

A: In a Qualified Domestic Relations Order (QDRO), an alternate payee can be a participant's spouse or former spouse, child or other dependent. If any other person is named, a QDRO generally isn't qualified. The Department of Labor allows a limited exception that permits payment to a person who has legal responsibility for an alternate payee, such as a guardian or trustee.

You may, according to the Department of Labor, rely on the qualified status of the alternate payee if that determination has been made by a competent state authority under your state's domestic relations law.

Keep in mind that an alternate payee can also be a plan participant. Making a distribution to that person does not violate the plan's distribution rules for participants, even if he or she could not request a plan payout strictly on the basis of his or her status as a plan participant. ■

Auto Features Can Boost Savings

Research by the Employee Benefit Research Institute (EBRI) found that automatic enrollment and automatic contribution increases can significantly improve retirement savings, particularly for low-income workers.

With more optimal use of automatic features, the chances of younger participants reaching an 80% pre-retirement income replacement target, the goal recommended by many financial experts, rise dramatically.

Three key factors related to auto contribution increases would help enhance saving:

- Reduce opt-outs
- Raise the annual escalation rate from 1 percent to 2 percent
- Increase the rate cap

EBRI's simulation concluded that taking these actions would greatly enhance retirement savings.

Details of the study are at <http://tinyurl.com/EBRIRetireIncome>.

Web Resources for Plan Sponsors

Internal Revenue Service, Employee Plans	irs.gov/ep
Department of Labor, Employee Benefits Security Administration	dol.gov/ebsa
401(k) Help Center	401khelpcenter.com
Plan Sponsor Magazine	plansponsor.com
BenefitsLink	benefitslink.com
Profit Sharing/401(k) Council of America	psca.org
Employee Benefits Institute of America, Inc.	ebia.com
Employee Benefit Research Institute	ebri.org

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PLAN SPONSOR'S QUARTERLY CALENDAR

April

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

May

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

June

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

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