

## **Get Ready for 401(k) Retirement Advice at Work, But Be Prepared to Ask Questions**

For the last two decades, employees in self-directed retirement plans like 401(k)s have had to largely go it alone for advice on the investment choices offered within the company's plan.

A new federal law indicates that's about to change, but there's plenty of controversy swirling around it.

The August passage of the Pension Protection Act will allow "qualified" fiduciary advisers to deliver personally tailored investment advice in person, by phone or electronically for 401(k), IRAs, Archer medical savings accounts, health savings accounts and Coverdell education savings accounts. Essentially, the new law in its current form will allow big 401(k) providers like mutual funds, insurance companies and brokerages to supply direct advice to workers on the investments the firms themselves sponsor.

To proponents, the new law will provide necessary guidance for workers who have picked their retirement options at random with dangerously lukewarm results. To opponents, the new law may provide considerable risk of conflict of interest at worst and plentiful yet inadequate advice at best.

Many financial planners indicate they are gun-shy about jumping in. The Financial Planning Association (FPA) is particularly suspicious of the new law's permission of plan providers to provide direct advice to investors buying their products, which the organization believes may be distorted by a clearly recognized conflict of interest.

The law had declared two restrictions intended to keep the advisers from going overboard in supporting their own products. First, their recommendations have to be based on an objective computer model and the advisers will get the same fee no matter what funds they pick.

FPA would have preferred a requirement that advisers be truly independent of connection to the plan providers so investors could receive advice that is not intended to favor certain investment choices that may be of greater benefit to the sponsor's funds as opposed to other choices available in the plan.

Final language and requirements on the advisory issue are currently being worked out by the Labor Department, but the Pension Act itself contains provisions that are actually much broader in scope and extend beyond pension issues. For instance, the act extends popular retirement savings rules that were due to expire in 2010, including the Roth IRA, catch-up contributions, 403(b) plans and 529 plan savings benefits. Another provision would encourage employers to implement automatic 401(k) enrollment – a popular provision given recent public outcry over how badly Americans have planned for retirement.

In addition, the tax-free treatment of qualified withdrawals from 529 plans was made permanent.

This discussion of investment advice comes as the government is hoping to light a fire under contributions. Indeed, the new pension law allows 401(k) savers to put more away. The current annual contribution limit on 401(k)s of \$15,000 is set to increase every year for cost-of-living until 2011, at which point it is scheduled to fall back to approximately \$13,000. The new legislation makes permanent the \$15,000 level plus annual cost-of-living adjustments.

In the meantime, it's time for individual investors to ask some important questions of their employers, tax and financial advisers:

1. When advisory services are offered at my company, who will be providing them?
2. What investment choices will be available, and what is the adviser's connection to those offerings?

3. What does the adviser get paid for making recommendations to individual employees?
4. Does the employer receive any incentives for picking certain plan providers over others?

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