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Comment On: EBSA-2010-0050-0204
Definition of the Term Fiduciary; Conflict of Interest Rule-Retirement Investment Advice

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General Comment

I applaud the intent of the law. Like so many actions taken by the Department of Labor to protect employees, it has unintended consequences.

For 25 years I worked for a national bank with an employee benefits area that helped businesses create and administer retirement plans. In 1987 most of those plans were defined contributions plans with a single fund in which all participants held an interest in a single balanced portfolio. In some instances, that balanced portfolio reflected some personal biases of the company management which was frequently ill advised, but in 90% of the cases the investment process was managed by a professional who not only appreciated their fiduciary role and it's liabilities, but didn't require the threat of fines or other punishment by regulators to do the right thing. Competition for the client's business was the best insurance that fees would be fair and the services and performance were competitive.

With the advent of the 401k plan employers were held to a higher standard of care and participant direction became the norm so employers could avoid the liability of investing employees funds. My experience was most often negative. Employees chose funds based on the most recent performance and didn't monitor their investments, took far more risk than intended or no risk at all and ended up with poor results; well below the results they would have experienced under a single balanced fund. The worst instance was a finance manager for a small city who insisted we add a technology fund to the menu of choices in 1998. Initially the trust company, as administrator, advised the city as trustee to cap the allocation any participant could have at 10%. A year later, the finance manager insisted we remove the cap (which was difficult to administer in the first place). Between the peak in 1999 and the bottom in 2002, finance manager, who was the most technically qualified to manage his own investments, saw his balance decline from over $600,000 to $120,000.

A more recent example also troubles me. I manage a taxable account for client who asked for help with her Federal employee Thrift Savings Plan. Since going to work for the Federal Government she has 100% of her investment in the Government Securities Fund (Fund G). The marketing material she received advised her that this fund may not meet a participant's long term goals but gives very little guidance, and certainly offers no one-on-one counseling. In fact, there is a statement that does a disservice to employees and is the worst example of competing with a negative message (no surprise in Washington DC I guess). It reads, "Other financial institutions might try to pull you away from the TSP. Their expensive funds and confusing choices can devour thousands of dollars from your savings and, as a result, postpone your retirement several years. Don't let that happen to you."

Three years ago I formed an RIA and two years ago we were granted trust powers in North Dakota. We don't manage any ERISA business because it's too expensive and the regulatory burden is too great. I'd note that as the ERISA business has evolved, it's forced out smaller providers who provided more direct service and advice to participants, but I'd also concede that these are also where the worst offenders are found in terms of offering high priced products and poor or self-serving advice, but I'd also contend that the Department is also driving businesses and advisers out of the advice business and leaving participants to fend for themselves with more disastrous results for their own retirement.

I'd prefer to see the Department of Labor AND Securities and Exchange Commission work together to draft specific rules on fees and products allowed for ERISA plans and IRAs. Two suggestions that would go a long way would require retirement share classes of mutual funds to have fees no greater than the institutional share class with no 12b1 fees or fee rebates allowed. Second, it would ban insurance products such as variable annuities from being offered in retirement plans or IRAs. As a financial adviser and fiduciary, those are the two worst abuses in the retirement plan industry.

The bottom line is that the DOL and SEC should consider whether they aren't putting good advice out of reach of participants in an effort to restrict the bad actors. I applaud wholeheartedly the intent of the rules, but the application and consequences should be fully considered before implementation.

Attachments

2888-3601-TSP Highlights JanFeb2015

THRIFT SAVINGS PLAN
YOUR PLAN ★ YOUR FUTURE

HIGHLIGHTS

January/February 2015

Attention: Active Duty Army, Air Force, and Navy*

Beginning January 1, 2015, a change in myPay required you to designate your Roth contributions as a **percentage** of your pay, not a dollar amount.

If you did not designate your Roth contributions as a percentage of your pay by January 31, 2015, then the Defense Finance and Accounting Service (DFAS) was unable to process your Roth contributions. You must go to myPay to make the change.

This change affects active duty Army, Air Force, and Navy* participants making Roth contributions; traditional contributions are already designated as a percentage of pay.

How To Make the Change

Log into myPay. Click on the TSP section called "Traditional TSP and Roth TSP." Then in the "Contribution from Roth TSP" section, enter the percentage of your pay that you'd like to contribute (for example, 10%). Finally, click "Save" at the bottom of the screen.

* Includes Navy Reserve component who serve more than 30 days on active duty

Review. Rethink. Remain.

Several studies show that more than half of U.S. adults consider making a New Year's resolution about their finances. Are you one of them? By now, many resolutions have already been forgotten. Let this be the year you keep your commitment to your retirement goals. To help, we suggest following the three **Rs**.

- **Review.** When you first join the Federal Government, you're swamped with paperwork about your benefits. It can be overwhelming. If you haven't taken a good look at your Thrift Savings Plan (TSP) retirement account recently, now is a good time to review.

  If you were automatically enrolled in the TSP and haven't made any changes, then you're currently contributing 3% of your salary each pay period. Your civilian agency will match up to 5% of your pay, but you only get the full amount if you contribute at least 5% of your salary each pay period too. Bumping up your contributions to 5% or more can keep you from missing out on thousands of dollars in free money over time. To change how much you're saving, log into your agency's payroll system, not the TSP website. Payroll systems include Employee Express, myPay, EBIS, LiteBlue, and NFC EPP.

  You might also be able to transfer your retirement plan from former employers into the TSP. Our low administrative costs keep more of your savings where they belong: in your account. To find out how to move your money and what we accept, watch the video, "Combine and Save: Transfer Into the TSP," at youtube.com/tsp4gov.

- **Rethink.** Throughout your Federal career, pay careful attention to how much you're saving. The "Will you be ready for retirement?" section of your statement estimates your monthly income based on your statement account balance. Is it less than you expected?

  Don't worry: Small changes to your budget could make a big difference over time. Cutting back on takeout lunches or increasing your contribution amount with each pay raise could really pay off. To learn more, use our "How Much Will My Savings Grow?" calculator in the Planning & Tools section of tsp.gov. While you're there, our "Paycheck Estimator" calculator can show you how saving more might affect your pay.

  Also consider the way your account is invested. How long do you have until retirement? How comfortable are you with risk? Asking yourself these questions can help you decide whether to make a change. For example, our Lifecycle (L) Funds might help diversify your account. Learn more about our funds by viewing the "TSP Investment Options" videos at youtube.com/tsp4gov.

- **Remain.** There's no need to move your money when you leave Federal service. Other financial institutions might try to pull you away from the TSP. Their expensive funds and confusing choices can devour thousands of dollars from your savings and, as a result, postpone your retirement several years. Don't let that happen to you.

  The TSP keeps things affordable and simple. Stay with the TSP and you can still enjoy our low administrative costs, the freedom to change your investment mix, and the ability to transfer eligible money into your account. Even when it's time to start taking withdrawals, you won't have to take all of your savings at once. You can receive monthly payments while your account continues to grow. Rest assured knowing that your TSP account is there for you and your beneficiaries.

No matter what stage of life you're in—early career, mid-career, nearing retirement, or living in retirement—we want you to make the best choices for your future.

Rates of Return and Administrative Expenses

	L 2050	L 2040	L 2030	L 2020	L Income	G Fund	F Fund	C Fund	S Fund	I Fund
Monthly 2014										
Jan	–2.71%	–2.35%	–2.04%	–1.57%	–0.42%	0.21%	1.58%	–3.45%	–1.91%	–4.03%
Feb	4.44	3.94	3.44	2.73	1.15	0.18	0.62	4.58	5.43	5.58
Mar	0.09	0.12	0.14	0.17	0.19	0.19	–0.15	0.85	–0.69	–0.57
Apr	0.32	0.32	0.37	0.39	0.31	0.20	0.90	0.75	–2.47	1.51
May	1.78	1.63	1.46	1.20	0.64	0.20	1.21	2.35	1.52	1.72
June	1.96	1.77	1.52	1.19	0.58	0.19	0.14	2.07	4.45	0.99
July	–1.86	–1.63	–1.34	–0.97	–0.26	0.19	–0.19	–1.37	–4.38	–1.95
Aug	2.61	2.40	2.07	1.64	0.84	0.20	1.12	4.01	4.98	–0.14
Sept	–2.50	–2.18	–1.84	–1.36	–0.42	0.18	–0.58	–1.40	–5.10	–3.82
Oct	1.70	1.58	1.36	1.09	0.61	0.20	0.96	2.45	4.11	–0.63
Nov	1.55	1.42	1.27	1.04	0.55	0.17	0.74	2.70	1.33	0.51
Dec	–0.94	–0.76	–0.67	–0.50	–0.04	0.18	0.21	–0.24	0.99	–4.13
Annual 2005–2014										
2005	–	–	–	–	–	4.49%	2.40%	4.96%	10.45%	13.63%
2006	–	16.53	15.00	13.72	7.59	4.93	4.40	15.79	15.30	26.32
2007	–	7.36	7.14	6.87	5.56	4.87	7.09	5.54	5.49	11.43
2008	–	–31.53	–27.50	–22.77	–5.09	3.75	5.45	–36.99	–38.32	–42.43
2009	–	25.19	22.48	19.14	8.57	2.97	5.99	26.68	34.85	30.04
2010	–	13.89	12.48	10.59	5.74	2.81	6.71	15.06	29.06	7.94
2011	–	–0.96	–0.31	0.41	2.23	2.45	7.89	2.11	–3.38	–11.81
2012	15.85	14.27	12.61	10.42	4.77	1.47	4.29	16.07	18.57	18.62
2013	26.20	23.23	20.16	16.03	6.97	1.89	–1.68	32.45	38.35	22.13
2014	6.37	6.22	5.74	5.06	3.77	2.31	6.73	13.78	7.80	–5.27
2013[1] Administrative Expenses										
Gross	.047%	.046%	.046%	.045%	.045%	.044%	.056%	.046%	.044%	.046%
Net[2]	.029%	.029%	.029%	.028%	.028%	.027%	.039%	.029%	.026%	.029%

The returns for the TSP funds represent net earnings after the deduction of administrative expenses and, in the cases of the F, C, S, I, and L Funds, after deduction of trading costs and investment management fees. Additional information about the TSP funds, the related indexes, and their respective 1-, 3-, 5-, and 10-year returns can be found in the TSP Fund Information sheets on the TSP website.

With the exception of L 2050, the Lifecycle funds, which are invested in the individual TSP funds—G, F, C, S, and I[3]—were implemented on August 1, 2005. Therefore, their first annual returns are for 2006. Since L 2050 was implemented on January 31, 2011, its first annual returns are for 2012.

[1] The 2014 administrative expenses will be available in the April 2015 issue of *Highlights*.

[2] Net administrative expenses are the expenses charged to TSP participants per dollar invested in the respective funds after offsetting gross administrative expenses with account forfeitures and loan fees.

[3] The Government Securities Investment (G) Fund; the Fixed Income Index Investment (F) Fund; the Common Stock Index Investment (C) Fund; the Small Capitalization Stock Index (S) Fund; and the International Stock Index Investment (I) Fund.

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