

# AHEAD OF THE CURVE

## STRATEGIES FOR RETIREMENT PROGRAM SUCCESS

Delivered by Epstein Financial Services

delivering significant resources with focused solutions

# YOU HAVE INVESTED MILLIONS IN YOUR EMPLOYEES ... COULD YOUR RETIREMENT PROGRAM BE DELIVERING MORE? (and potentially for less)

**INSIDE THIS ISSUE**

participants experience  
 volatile ride

department of labor's  
 employee benefit security  
 administration introduces  
 consultant/adviser project

industry fee/performance  
 comparison

In retirement program management, the rewards for staying **Ahead Of The Curve** have the potential to have a profound impact on your employees' financial success. Epstein Financial Services' goal is to manage your retirement program at the forefront of the latest industry developments, regulatory requirements and fiduciary best practices. Managing retirement program details on behalf of our clients allows them to focus on their primary goal of a successful and thriving business.

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## PARTICIPANTS EXPERIENCE VOLATILE RIDE

After experiencing the most severe market correction since the Great Depression participants finally saw some light at the end of the tunnel with their third quarter participant statements. Unfortunately, these significant corrections appear to be occurring with regularity.

- The 1980s: The S&L crisis, which led to the failure of more than 700 financial institutions.
- The 1990s: The tech bubble and subsequent tech wreck, leading to more than a 40 percent correction in the S&P 500.

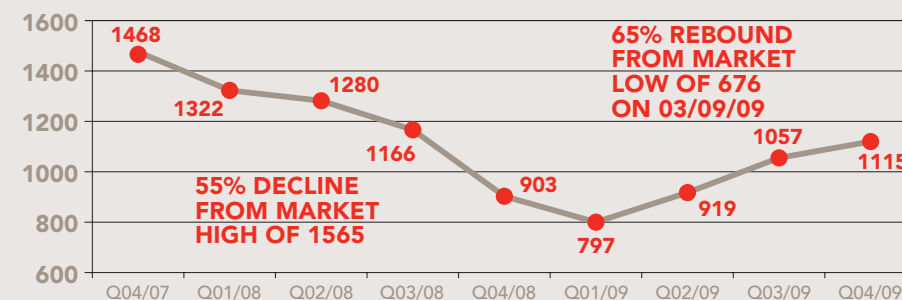
- The 2000s: The market meltdown driven by excessive leverage in the financial system.

While the 65% recovery from the bottom is welcome news, the mathematics indicate that even those participants that stayed the course and remained invested are still about 25% short of their pre-correction account balance. Assuming a 4% withdrawal rate in retirement, this translates to approximately six years of retirement income. As the dust settles on this most recent market turmoil, plan sponsors may want to review their

continued on page 3

### S&P 500 QUARTERLY CLOSE

(12/31/07-12/31/09)



# DEPARTMENT OF LABOR'S EMPLOYEE BENEFIT SECURITY ADMINISTRATION INTRODUCES CONSULTANT/ADVISER PROJECT

"EBSA's newest National Project focuses on the receipt of improper, undisclosed compensation by pension consultants and other advisors. Investigations will seek to determine whether the receipt of such compensation violates ERISA because the adviser/consultant used its position with a benefits plan to generate additional fees for itself or its affiliates. When ERISA violations are uncovered, EBSA will seek corrective action for past violations as well as relief to deter future violations. EBSA may also need to investigate individual plans to address such potential violations as failure to adhere to investment guidelines and improper selection or monitoring of the consultant or adviser. The CAP will also seek to identify potential criminal violations such as kickbacks and fraud."

This quotation was extracted from the Department of Labor's ERISA enforcement web site. For the first time, to our knowledge, advisor relationships to plan fiduciaries and compensation will be a focus of audits related to your corporate retirement program. As we have stressed with our clients relative to all regulatory issues, process and documentation are keys to successfully addressing the issues that surface during an audit. You may want to review your documents and be prepared to address the following issues/procedures explicit or implied in the DOL release:

## UNDISCLOSED COMPENSATION

Review your 5500's to determine if any commissions paid to an advisor were disclosed. The review should include explicit advisory/consulting fees and any considerations received from the provider or at the fund level such as 12b-1 fees.

## INVESTMENT GUIDELINES

There has been an ongoing debate in regard to whether an Investment Policy Statement is required. The fact that the DOL release refers to investment guidelines would indicate the DOL assumes some form of documentation is required in evaluating investment performance and fees.

Not only does it appear some form of investment guideline is required but the plan sponsor would need to demonstrate that the due diligence process relative to the funds has been administered in accordance with the investment policy/guidelines. Having copies of your plan investment policy and due diligence

reports readily available will serve to expedite the audit process and result in a favorable determination.

## SELECTION/MONITORING OF CONSULTANT ADVISOR

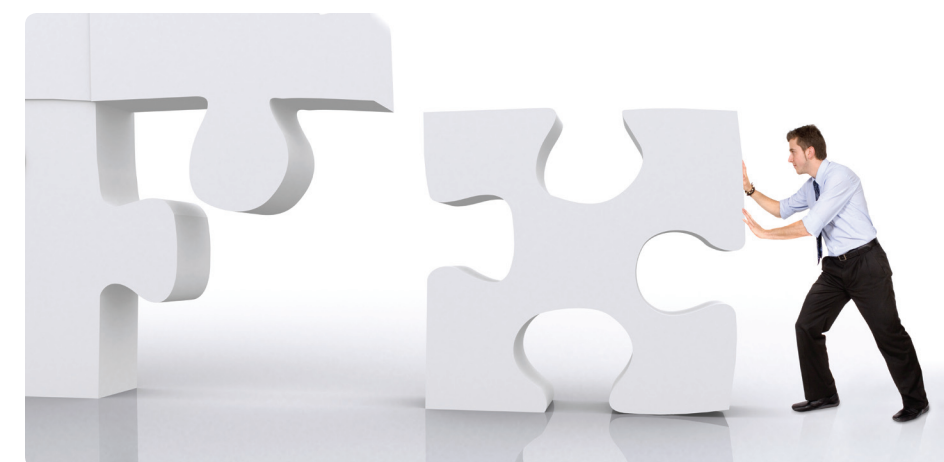
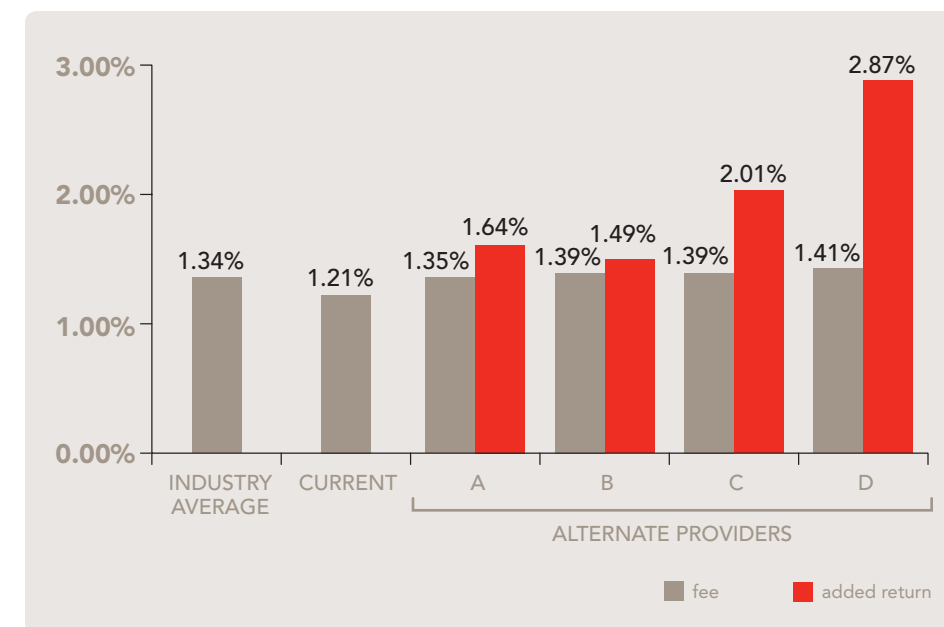
The DOL clearly has an agenda relative to plan assets being used to compensate an advisor/consultant. In addition to disclosure, they are also auditing the services provided relative to investment due diligence and extending the due diligence process to the selection of the advisor. The CAP project release does not detail the specific documents that will be requested. It appears in the plan sponsors best interest, however, that some form of documentation in regard to the selection process and advisors' credentials, services provided and compensation is in your plan's records and minutes of trustee meetings.

The objective of the CAP project relative to plan service providers is very much in line with the Department of Labor's proposed regulation under ERISA Section 408(b)(2). If enacted, it will require contracts and arrangements between service providers to be "reasonable." To be reasonable, the DOL said that such contracts must be in writing and that there must be advance disclosure of the services to be provided, the compensation to be received for those services, and potential conflicts of interest that could impact the services being provided. While Section 408(b)(2) is not yet enacted, addressing the requirements in conjunction with the CAP would appear to be an appropriate demonstration of the DOL's objectives during an audit. ↗

# INDUSTRY FEE/PERFORMANCE COMPARISON

Securing competitive bids for your 401(k) on a three-to-five-year cycle can be very revealing. This graphic represents an analysis performed for a prospective client. The plan sponsor was surprised to find there was significant opportunity to enhance the performance expectations of their fund line-up. The average enhanced returns of the alternative providers was approximately 2% per year, calculated using the actual dollar weighted returns for each investment option in the plan.

While the expenses for the plan appear to be competitive the current provider's expense did not include an allowance for an advisor to perform an independent review. A review of this nature does not necessarily result in changing providers. We have found that an analysis of this nature can be a valuable tool in restructuring a fund line up and expense arrangement with the plan's current provider, avoiding the need for a transition. ↗



Participants Experience Volatile Ride  
continued from page 1

current plan structure and investment line-up with the objective of continuing to assist their valued employees achieve retirement success.

- Benchmark your investment line-up to determine how funds held up on an absolute and relative basis.
- Evaluate key participant demographics, including participation, average account balance, contribution rates and investment activity throughout correction.
- Conduct a targeted education/communication campaign to assist participants in getting back on track.
- Determine if auto enrollment, auto increase and Qualified Default Investment Accounts would be of value prospectively.
- Provide plan enhancements relative to participants as they approach retirement.
- Capitalize on permissible plan distributions after age 59½, enabling participants to convert accumulated assets to a stream of retirement income.
- Investigate "in plan" guaranteed income and annuity features that have the ability to lock in income regardless of the performance of the underlying assets. ↗

To learn more about the topics covered in **Ahead Of The Curve** or to discuss putting the pieces together to enhance your company's retirement plan, contact Leo Polverini at **Epstein Financial Services: 413-539-2376** or [lpolverini@finsvcs.com](mailto:lpolverini@finsvcs.com)