Top DC Trends and Developments

Fourth quarter 2023 edition

A curated update on the latest happenings in the retirement plan world
October 1 to December 31, 2023

A defined contribution partner with more to offer

45+ years as a trusted partner to advisors looking to grow their retirement business

Top DC Trends and Developments is curated quarterly to help plan advisors, consultants, and plan sponsors stay up to date on trends impacting plans and plan participants.

Leverage this guide to help you develop a detailed agenda and ideas for your next investment committee meeting.

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A defined contribution partner with more to offer

45+ years as a trusted partner to advisors looking to grow their retirement business

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Source: Janus Henderson Investors, as of January 1, 2024

Best practices

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Best practices

Pensions & Investments 12th Annual Excellence & Innovation Awards

Winners were recognized for their commitment to their participants' retirement security

Award Winner	Plan Sponsor
Diana K. Winalski, Deputy CIO	International Paper
Josh Gotbaum, Board Chair	MarylandSaves
Sarah Reeder, Deputy Administrator	Savings Plus Program
Cody Davis, Director of Benefits	CoStar Group
Melissa Santostefano, Assistant Vice President	Lincoln Financial Group

Source: Pensions & Investments 12th Annual Excellence & Innovation Awards. 2023.

Best practices

International Paper adds private real estate to plan lineup

- International Paper added a stand-alone real estate fund to its two defined contribution plans; the fund allocates 75% of assets to commercial real estate properties and 25% to real estate investment trusts
- The goal of the fund is to offer attractive risk-adjusted returns, investment diversification, and potential inflation protection while providing daily liquidity
- Company executives opted against a stand-alone REIT because they felt it correlated too closely to small-cap equity funds; they also opted against the private real estate funds that were already part of the company's pension fund because they didn't offer daily liquidity or daily valuations
- A 25% limit is placed on a participant's account that may be invested in the fund

Source: Pensions & Investments 12th Annual Excellence & Innovation Awards. 2023.

Best practices

MarylandSaves adopts an emergency fund first approach

- The Maryland Small Business Retirement Savings Program, which administers the state's auto-IRA program, mandates that the first $1,000 contributed by participants through payroll deduction is directed to an emergency savings account
- The emergency savings are invested in a stable value fund that currently guarantees a 2% annual return, with a minimum guarantee of 1% for the life of the contract
- Employees are automatically enrolled at 5% of pay, and escalated by 1% annually to a maximum of 10%; employees can choose a higher or lower deferral, or can opt out entirely

Source: Pensions & Investments 12th Annual Excellence & Innovation Awards. 2023.

Best practices

California state employees benefit from fee reductions

- The Savings Plus Program, which administers 401(k) and 457(b) plans for most of California state employees, reduced the annualized asset-based fee from 0.05% to 0.04% but raised the annual administrative charge from $18 to $24
- In addition, the asset-based fee component is capped at $240 a year for the first $600,000 in an account
- According to state officials, a majority of participants will pay less in fees

Balance	Fee Reduction
$800,000	$154
$600,000	$54
$100,000	$4
$60,000	$0

Source: Pensions & Investments 12th Annual Excellence & Innovation Awards. 2023.

Best practices

CoStar adopts student loan matching provision

- Following in the footsteps of Abbott Laboratories, CoStar launched a program that provides a corporate match to employees who contribute a portion of their salaries to paying off student debt and/or to the sponsor's 401(k) plan
- The maximum match is dollar-for-dollar up to 4% to either contribution, or combination of contributions
- To assist with the program, CoStar engaged with SoFi, which verifies the employee's student loan payment and offers tools to help employees evaluate repayment options
- By mid-September, about 200 employees, or about 4% of the company, was participating in the program

Source: Pensions & Investments 12th Annual Excellence & Innovation Awards. 2023.

Best practices

Lincoln Financial Group provides participants a guaranteed income solution

- Lincoln Financial Group recently introduced a guaranteed income solution for participants in its two 401(k) plan and two money purchase plans
- The guaranteed income solution is an annuity that is offered outside of the plan's target-date series; in other words, participants are not defaulted into this option
- Participants can take a distribution at any time after reaching age 65 even if they are still working; the annual distribution is 5% (adjusted downward if the spouse is covered) of the guaranteed income account balance, and payments may be made monthly, quarterly, semi-annually, or annually

Source: Pensions & Investments 12th Annual Excellence & Innovation Awards. 2023.

Best practices: Key takeaways

- Consider revamping your plan’s lineup to include non-correlated asset classes
- Offer participants an emergency savings account through the convenience of salary deferrals
- Evaluate whether your plan should adopt pricing “caps” on asset-based fees
- Help employees navigate outstanding student loan obligations

Participants’ corner

Participants' corner

IBM ends 401(k) match and reopens pension plan

- In a surprising move, IBM plans to end 5% matching contribution and 1% automatic contribution to the company's 401(k) and instead make a 5% contribution to a "Retirement Benefit Account" for all employees
- IBM originally closed its pension plan to new employees in 2006 and froze accruals in 2008; in 2022, IBM transferred $16 billion of pension liabilities to private insurance companies and had a $3.5 billion surplus
- According to reports, the Retirement Benefit Account will pay 6% interest through 2026 and earn a rate equivalent to the 10-year Treasure yield, with a 3% per year minimum through 2033

Source: "IBM Plans to End 5% Employer Match in 401(k) Plan." PLANSPONSOR, November 3, 2023.

Participants' corner

Voya finds plan sponsors overestimate participant retirement readiness

- In Voya's most recent "Survey of the Retirement Landscape: Plan Sponsor Perceptions," 87% of plan sponsors reported that participants were very or somewhat prepared for retirement, while only 63% of participants reported being very or somewhat prepared
- More than half of participants reported that inflation and the state of the economy will have a severe or major impact on their ability to save for retirement, and 37% of participants over age 50 said they are now planning to retire later than originally hoped
- While AARP reported that 21% of Americans are caregivers, either to older parents or special needs children, 84% of plan sponsors believed the caregivers represented less than 20% of their participant population

Source: "Survey of the Retirement Landscape: Plan Sponsor Perceptions." Voya. Third quarter, 2023

Participants' corner

Betterment: Almost half of employees do not have an emergency fund

- In Betterment At Work's "2023 Retirement Readiness Annual Report," 48% of employees reported not currently having an emergency fund – a 7% increase from 2022 and a 14% increase from 2021
- When asked reasons for not having an emergency fund, 82% said they don't have enough funds to build one, 11% said they don't know how to start one, and 7% said they didn't think they needed one
- More than twice the percentage of men surveyed (60%) reported having an emergency fund compared to women (27%)

Source: "The Retirement Readiness Annual Report." Betterment at Work, 2023.

Participants’ corner

Withdrawal and investment options most confusing part of retirement plans

- A survey by Buck found that 27% of employees find withdrawal and investment options the most confusing parts of their retirement plans; other areas of confusion included plan fees and expenses (26%), tax implications (26%), and vesting schedules (22%)
- Additionally, the survey found that while employees recognize the importance of their employer’s matching contribution, 39% were unsure if they contribute the required percentage to receive the company match
- Among plan sponsors, 28% reported interest in improving education and communications

Source: “Saving for Retirement: Employee and Employer Attitudes Towards Retirement Benefits.” Buck, 2023

Participants’ corner

Transamerica explores retirement age expectations and reality

- In Transamerica’s “Life in Retirement: Pre-Retiree Expectations and Retiree Realities,” 44% of workers ages 50 and older envisioned transitioning into retirement by reducing work hours or by working in a different capacity that is less demanding
- The reality, however, is 41% of current retirees stopped working immediately when they retired, 26% worked as long as possible, and only 13% transitioned into retirement by reducing hours or working in a different capacity
- Overall, 56% of respondents retired sooner than planned, 37% retired when planned, and 7% retired later than they had planned

Source: “Life in Retirement: Pre-Retiree Expectations and Retiree Realities.” Transamerica Center for Retirement Studies, 2023.

Participants' corner

New research suggests demand for guaranteed income may increase

- While an estimated 9-in-10 defined contribution plans do not offer an in-plan option for generating lifetime-guaranteed income, recent research from LIMRA suggests that this trend may soon change
- According to new survey data, about three-quarters of plan sponsors reported that they will consider adding this option within the next 12 months
- The top three reasons for adding an in-plan option include an obligation to help employees generate income in retirement (43%), recommendation of a plan advisor or consultant (39%), and the feeling that the best place to generate retirement income is from the employer sponsored plan (37%)

Source: "Are In-Plan Annuities at a Tipping Point?" LIMRA, November 28, 2023.

Participants' corner

Gen Z value better benefits over salary raises

- In Charles Schwab's "2023 401(k) Participant Study," 86% of Generation Z respondents were willing to forego salary raises for better benefits compared to 74% of Millennials, 60% of Generation X, and 50% of Baby Boomers
- Similarly, 76% of Generation Z were also willing to forgo salary raises for a more flexible work arrangement, compared to 67% of Millennials, 49% of Generation X, and 29% of Baby Boomers

Source: "2023 401(k) Participant Study." Charles Schwab, 2023.

Participants' corner

Empower explores whether money buys happiness

- Empower's "Financial Happiness Study" found that 71% of Americans believe that "having more money would solve most of my problems" and 59% of Americans say "money can buy happiness"
- Only 17% defined financial happiness as reaching a certain net worth; most associate happiness with on-time bill payment (67%) and debt-free status (65%)
- For many, incremental gains can dramatically increase happiness: 42% said $25,000 would increase happiness for six months, 32% said $15,000 would increase happiness for the same amount of time, and 17% said it would take only $5,000

Source: "Financial Happiness Study." Empower, 2023.

Participants' corner

Many couples do not coordinate 401(k) matching contributions

- A new academic study found that about 25% of couples fail to allocate their retirement savings contribution to the plan with the most generous match
- Among these couples who fail to allocate their contributions to the higher match plan, the average loss is $682 a year, or about 13% of the employee contributions made; 10% of these couples forego over $1,741 per year, or about 31% of their combined employee contributions

Source: "Efficiency in Household Decision Making: Evidence from the Retirement Savings of U.S. Couples." Choukhmane, T., Goodman, L., & O'Dea, C., 2023.

Participants' corner

Overcoming obstacles to small business retirement plan adoption

- The Center for Retirement Research at Boston College found that the major obstacles to adoption of retirement plans by small businesses (fewer than 100 employees) are the revenue stability and size of the firm and perceived costs or administrative burdens of having a plan
- The study found that concerns regard costs or administrative burdens were largely driven by misconceptions, and many firms were unfamiliar with SEPs, SIMPLEs, MEPs, and start-up tax credits
- The growth of state-sponsored retirement programs does not seem to deter firms without a plan from offering one and may actually encourage them to do so

Source: "Small Business Retirement Plans: The Importance of Employer Perceptions of Benefits and Costs." Center for Retirement Research at Boston College, October 2023.

Participants' corner: Key takeaways

- Augment employee education to include financial considerations of caregiving
- Consider adopting the new SECURE 2.0 provision that allows DC plans to offer an emergency savings account
- Discuss guaranteed income solutions with your service providers
- Use a targeted communication strategy based on generational cohorts

Legislative review

Legislative review

House blocks DOL fiduciary rule

- The House of Representatives voted to pass key amendments in H.R. 5894, or the Labor, Health, and Human Services, Education, and Related Agencies Appropriations Act, that would prevent the Department of Labor from using any allocated funds for its fiduciary proposal
- The Biden Administration has vowed to veto the bill

Source: “House Passes Amendments Blocking DOL Fiduciary Rule.” 401(k) Specialist, November 2023.

Legislative review

Fixes contained in new SECURE 2.0 technical corrections bill

- The House and Senate released a draft of a bill that contained three technical corrections to the SECURE 2.0 legislation
- First, the bill fixes the drafting error that inadvertently prohibited any participants from making catch up contributions beginning in 2024
- Second, the bill clarifies that the new Starter K contribution limit would be equal to the annual IRA limit ($7,000 for 2024)
- Lastly, the bill clarifies that the RMD age for individuals born in 1959 would be 75

Source: "3 Key Fixes in New SECURE 2.0 Technical Corrections Bill." 401(k) Specialist Magazine, December 2023.

Legislative review

A trio of bills aimed at closing the coverage gap

- The Helping Young Americans Save for Retirement Act, introduced by Senators Bill Cassidy (R-LA) and Tim Kaine (D-VA), would lower the participation age in defined contribution plans from 21 to 18
- The Retirement Investment in Small Employer (RISE) Act, introduced by Representative Claudia Tenney (R-NY), would modify the start up tax credit by changing the formula from the greater of $500 or $250 for each non-highly compensated employee to the greater of $2,500 or $250 for each non-highly compensated employee (the $5,000 maximum remains)
- The Retirement Savings for American Act, introduced by a bipartisan coalition of Senators and Representatives, would auto-enroll full- and part-time employees at 3% of salary into a new federally administered program modeled after government's Thrift Plan

Source: "Bipartisan Bill Backs 401(k) Plans for Teen Workers." 401(k) Specialist Magazine, November 2023.
"Increased Retirement Plan Startup Credit Proposed for Micro Businesses." Ascensus, November 2023.
"Controversial 'Retirement Savings for Americans Act' Reintroduced in Congress." 401(k) Specialist, October 2023.

Legislative review: Key takeaways

- Discuss with your service providers how, if at all, the new DOL proposed fiduciary rule impacts your plan
- Reevaluate your plan’s eligibility requirements and determine if any changes are needed

Regulatory review

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Regulatory review

Annual limits on qualified plans for 2024

	2023	2024
Elective Deferral Limits: 401(k), 403(b), 457(b) plans	$22,500	$23,000
Catch-up Contribution Limit (age 50+)	$7,500	$7,500
Defined Contribution Limit	$66,000	$69,000
Dollar limit – Highly Compensated Employees	$150,000	$155,000
Officer – Key Employee	$215,000	$220,000
Annual Compensation Limit	$330,000	$345,000

Source: IRS Notice 2023-75.

Regulatory review

DOL issues proposed retirement security rule

- On October 31, 2023, the Department of Labor issued a proposed "retirement security rule" that would amend the five-part test in its 1975 regulation for determining whether a person is a "fiduciary" by reason of providing "investment advice" for a fee
- The proposed rule would replace the five-part test's requirement that advice be provided on a regular basis pursuant to a mutual agreement, arrangement, or understanding, and that it would serve as a primary basis for investment decisions with a much broader test that is based on the retirement investor's reasonable expectations and context
- The proposed rule would specifically cover the recommendation to roll over an account from an employer-sponsored plan into an IRA

Source: "Retirement Security Rule: Definition of an Investment Advice Fiduciary & Proposed Amendment to Prohibited Transaction Exemption 2020-02." Department of Labor, October 31, 2023.

Regulatory review

IRS issues guidance on long-term part-time employee coverage

- On November 27, 2023, the IRS issued proposed regulations regarding the new requirements that long-term part-time employees (LTPTE) be allowed to contribute to employer-sponsored plans
- Among other open issues, the guidance provides a formal definition of LTPTE, clarifying that a LTPTE is any employee who is eligible to participate in the plan solely due to the following:
  - For plan years after December 31, 2020, completion of three consecutive 12-month periods during which the employee was credited with 500 hours
  - For plan years after December 31, 2024, completion of two consecutive 12-month periods during which the employee was credit with 500 hours
  - Additionally, an LTPTE must have attained age 21 by the end of the applicable consecutive 12-month periods

Source: Federal Register. Vol 88, Issue 226. November 27, 2023.

Regulatory review

New DOL advisory opinion addresses diverse plan manager hiring program

- In a September 29, 2023, Advisory Opinion issued to Citigroup Inc., the Department of Labor addressed issues regarding Citi's intentions to pay all or some portion of the investment fees for diverse investment managers retained by the firm's defined benefit and defined contribution plans
- The opinion held that Citigroup retained discretion, in its settlor capacity, to determine whether and to what extent plan expenses are paid by the plan sponsor rather than from plan assets and that these decisions are not governed by ERISA's fiduciary rules

Source: Advisory Opinion 2023-01A. DOL. September 29, 2023.

Regulatory review

IRS issues 81-page Q&A on several SECURE 2.0 provisions

- In December 2023, the IRS issued an extensive Q&A document designed to address many of the open questions regarding SECURE 2.0
- Among the guidance provided:
  - A plan's adoption date, rather than start date, is used to determine whether SECURE 2.0's mandatory automatic enrollment provisions apply (these provisions apply to plans adopted after December 29, 2022)
  - Terminally ill is defined as "individuals certified by a physician as having an illness or physical condition that can reasonably be expected to result in death in 84 months or less"
  - Matching contributions may only be designed as a Roth contribution if the employee is fully vested

Source: "Miscellaneous Changes under the SECURE 2.0 Act of 2022." IRS Notice 2024-2, December 2023.

Regulatory review: Key takeaways

- Communicate the new salary deferral and catch-up contribution limits to participants

- Inquire about LTPTE with your service providers; 2024 is the first which year employees may become eligible under the new rules

Legal review

Legal review

New flavor of lawsuits center around forfeitures

- New lawsuits have been filed against Qualcomm Inc., Intuit Co., and Clorox Co. that allege using forfeitures to reduce employer contributions rather than offset plan expenses was a fiduciary breach
- The IRS has endorsed the use of forfeitures by defined contribution plans to reduce employer contributions for decades, as long as permitted by the plan document

Source: “New Wave of 401(k) Forfeiture Lawsuits May Hinge on Plan Terms.“ Benefits & Executive Comp., October 24, 2023.

Legal review

Second Circuit upholds ruling in favor of Cornell University

- The Second Circuit upheld a lower court's dismissal of a lawsuit brought against Cornell University alleging the plan incurred excessive recordkeeping fees
- In the decision, the appellate court noted "it is not unreasonable to pay more for superior services" and the plaintiffs "failed to allege any facts going to the relative quality of recordkeeping services provided"

Source: "A Victory for Plan Fiduciaries: In Cunningham v. Cornell University, the Second Circuit Clarifies the pleading Standard for Prohibited Transactions Claims." Groom Law Group, November 2023.

Legal review

AT&T case remanded to lower court for further consideration

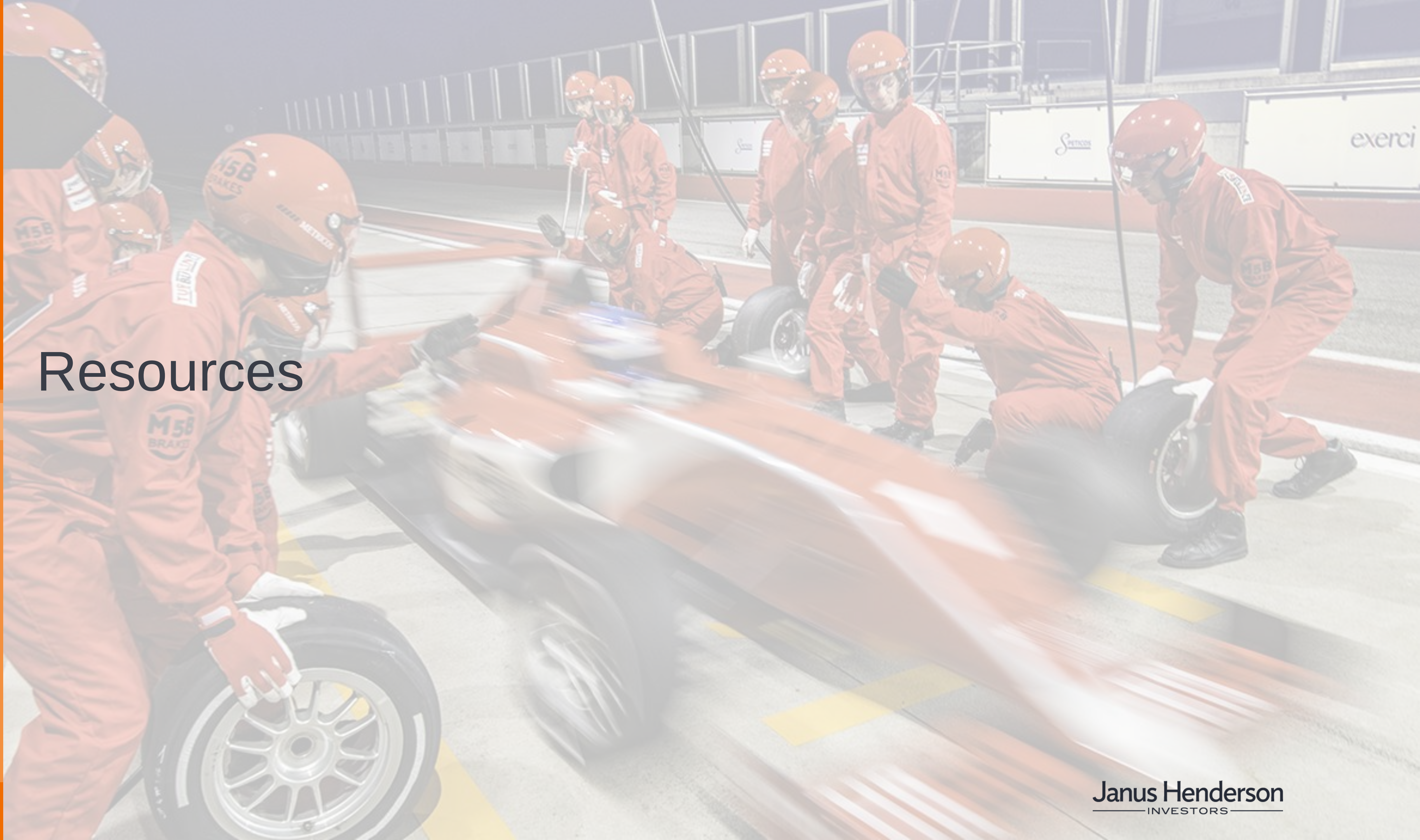
- The Nineth Circuit Court of Appeals has remanded the excessive fee case of Bugielski vs. AT&T Services back to the district court for further consideration
- At issue is whether the record keeper received unreasonable indirect compensation as a result of revenue-sharing agreements with the mutual fund available through the plan’s brokerage window and with the plan’s managed service provider

Source: “9th Circ. ERISA Ruling Informs DOL’s New Fiduciary Proposal.” Law360. November 17, 2023.

Legal review: Key takeaways

- Ensure the use of forfeitures is consistent with the plan document
- Monitor all forms of service provider compensation, including indirect compensation

Resources



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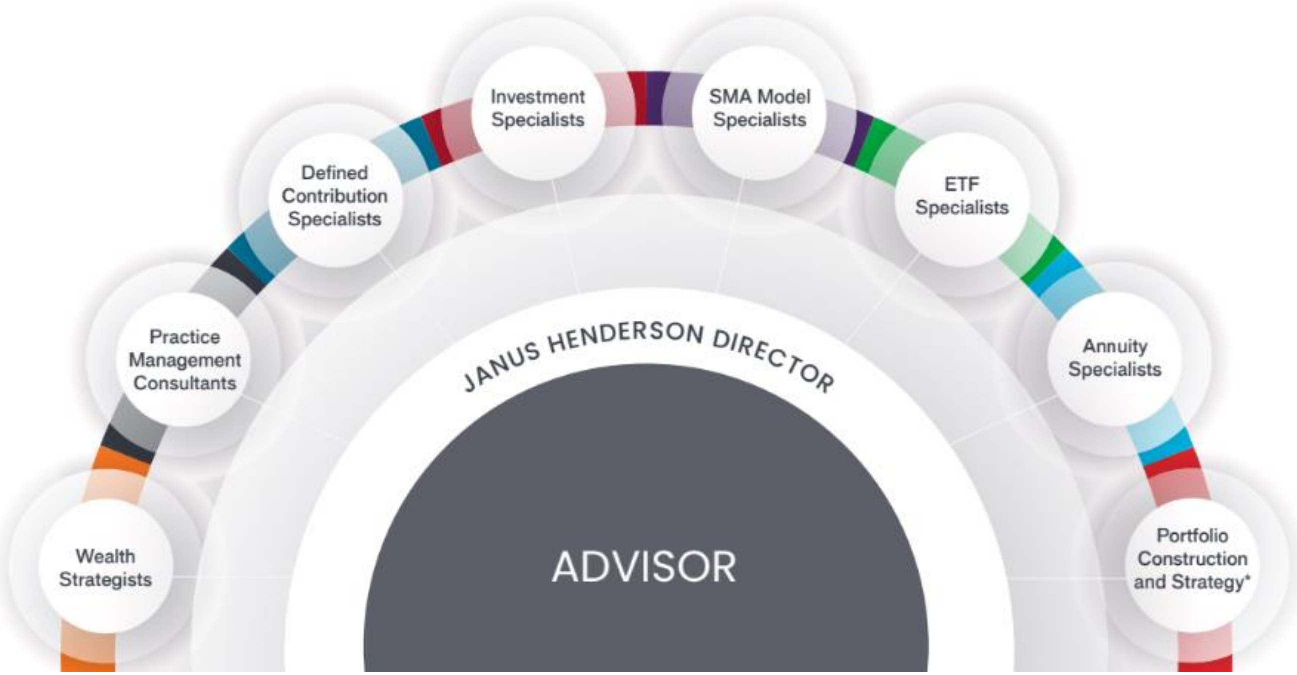

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