News & Insights

An e-Newsletter for Retirement & Benefit Plan Sponsors MAY 2010

Bank of America Merrill Lynch

RETIREMENT & BENEFIT PLAN SERVICES

In the Spotlight

The Results Are In!

Six years running, Targeted Communication Campaigns continue to aid in increased participation, contributions and diversification.

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Bank of America Merrill Lynch

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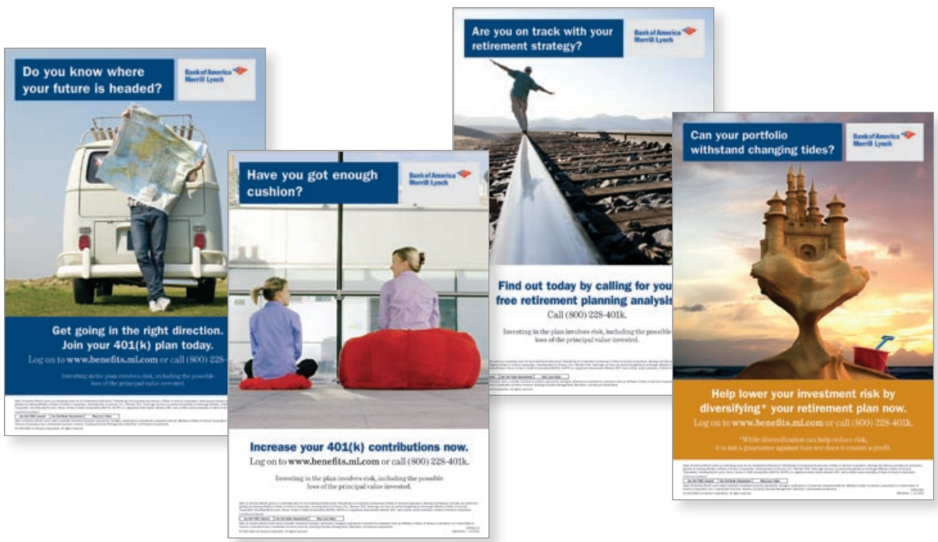


The results from our fall 2009 Targeted Communication Campaigns show that while there was still some reluctance among non-participating employees to join their 401(k) plans following the financial crisis that began in fall 2008, active participants continued to heed the call to contribute more in their plans and diversify their accounts. In total, 5.5% of employees targeted in 2009 (including our spring and fall offerings) increased their contribution rates and 6.8% acted to diversify their plan accounts.

In fact, there was steady improvement in the number of orders placed for these campaigns throughout 2009 as employers continued their commitment to driving employee action in their plans. And, nearly 2% of non-participating employees chose to join their plans, despite challenging economic times.

Overall, 3.84 million employees have been reached since the program launched at the end of 2004.

Our results have shown that consistent, ongoing reminders about the importance of planning for retirement drive employee action and assist in working toward financial wellness. In many cases, responses are best when campaign messages are reinforced through multiple touch points, such as personalized letters, postcards or e-mails combined with posters in the workplace. To further reach targeted employees, messaging is also reinforced through Benefits OnLine® and through interactions with our call center associates.

Fall 2009 Results by Campaign

Participation:

Do you know where your future is headed?

Call to Action: *Get going in the right direction. Join your 401(k) plan today.*

Target: *All eligible non-participants.*

Total Number of Employees Reached	141,924
Total Number of Employees Who Acted	2,404
Overall Percentage of Employees Who Acted	1.69%

Vehicle	Number Reached	Percentage Who Acted
E-mails Only	3,008	7.15%
Letters Only	10,791	1.24%
Postcards Only	33,273	1.81%
Posters Only	19,275	1.38%
E-mails/Posters	465	3.23%
Letters/Posters	7,147	0.60%
Postcards/Posters	36,370	1.97%
Postcards/E-mails	9,536	1.37%
Vehicles (English/Spanish)	**Number Reached**	**Percentage Who Acted**
Letters (Bilingual)*	4,783	1.65%
Posters (English); Posters (Spanish)	3,021	1.69%
Posters (English); Letters (Bilingual)*	237	1.27%
Posters/Postcards (English); Posters (Spanish)	12,206	0.99%
Posters (English); Letters (Bilingual)*; Posters (Spanish)	1,586	1.83%
Letters/Posters (English); Posters (Spanish)	226	0.00%

• English letter on one side, Spanish letter on the other.

Save More (Under Age 50):

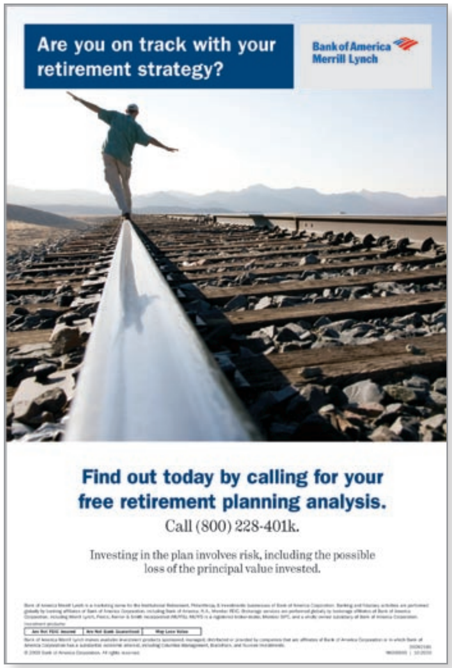
Have you got enough cushion?

Call to Action: *Increase your 401(k) contribution now.*

Target: *Active participants under age 50 saving less than 6% (plans for which contribution rates were on file; for plans with no rates on file, all participants were targeted).*

Total Number of Employees Reached	116,970
Total Number of Employees Who Acted	7,620
Overall Percentage of Employees Who Acted	6.51%
Average contribution rate increased from 2.42% to 6.14% (increase reflects results for plans for which Bank of America Merrill Lynch tracks rates)	

Vehicles	Number Reached	Percentage Who Acted
Letters Only	18,319	6.77%
E-mails Only	6,558	7.11%
Postcards Only	26,163	6.23%
Posters Only	3,442	10.14%
Letters/Posters	17,031	3.79%
Postcards/Posters	38,327	7.27%
Postcards/E-mails	2,469	11.62%
Posters/E-mails	915	6.12%
Letters/E-mails	2,622	3.85%
Postcards/Posters/E-mails	1,124	5.25%



Save More/Retirement Ready (Age 50+):

Are you on track with your retirement strategy?

Call to Action: *Find out by calling for your free retirement planning analysis.*

Target: *Active participants age 50 and over saving less than 10% (plans for which contribution rates were on file; for plans with no rates on file, all participants were targeted.*

Total Number of Employees Reached	70,236
Total Number of Employees Who Acted	3,083
Overall Percentage of Employees Who Acted	4.39%

Average contribution rate increased from 3.61% to 7.93%
(increase reflects results for plans for which Bank of America Merrill Lynch tracks rates)

Vehicles	Number Reached	Percentage Who Acted
Letters Only	11,067	5.81%
E-mails Only	2,005	3.49%
Postcards Only	16,196	3.78%
Posters Only	2,276	7.34%
Letters/Posters	10,420	2.91%
Postcards/Posters	21,059	4.91%
Postcards/E-mails	5,402	3.54%
Posters/E-mails	242	4.13%
Letters/E-mails	1,421	2.89%
Postcards/Posters/E-mails	148	8.11%

Diversify:

Can your portfolio withstand changing tides?

Call to Action: *Help lower your investment risk by diversifying your retirement plan now.*

Target: *Active participants with less than three investments (for plans with participant-directed funds).*

Total Number of Employees Reached	52,824
Total Number of Employees Who Acted	2,384
Overall Percentage of Employees Who Acted	4.51%

Vehicles	Number Reached	Percentage Who Acted
Letters only	3,036	3.72%
E-mails only	2,750	5.56%
Postcards only	24,428	3.69%
Posters only	2,324	2.93%
Letters/Posters	1,119	4.02%
Postcards/Posters	13,905	4.22%
Postcards/E-mails	4,372	10.61%
Postcards/Posters/E-mails	484	7.23%
Letters/E-mails	406	4.43%

For more information on our Targeted Communication Campaigns, please contact your Bank of America Merrill Lynch representative. ■

Bank of America Merrill Lynch

401(k) Contribution Activities: A Quarterly Scorecard

Bank of America Merrill Lynch's Retirement & Benefit Plan Services reports quarterly on plan participant contribution activities within its proprietary 401(k) business, which services more than $85.8 billion in total plan assets, and currently includes approximately 1,500 plan sponsors and nearly 1.4 million actively contributing plan participants.[1]

We also report on our plan sponsors' adoption of offered products and services, which are designed to encourage greater use of employer-sponsored retirement savings plans.

Trends observed during the most recent quarter ended March 31, 2010 include:

- Significant increase in total plan assets, up from $82 billion as of year-end 2009—due to market recovery, increased contributions among participants and significant new business commitments in Q1 2010.
- Significant year-over-year increase in participant use of Advice Access.
- 280 plan sponsors using Financial Wellness Monitor® tool, introduced in Q1 2010.

Key Statistics

Year-Over-Year Participant Savings (as of March 31, 2010):

- 132,540 employees took a positive savings action in their 401(k) plan accounts so far in 2010, compared to 128,100 in Q1 2009.
- Of all participants who have taken some type of savings action in 2010, 66% took a positive action (started or increased saving), versus 34% who took a negative action (stopped or decreased saving)—compared to 54% who took a positive action and 46% who took a negative action in Q1 2009.

- Among total plan participants who took a positive action, 47% of these employees started contributing to their plans and 53% of these employees increased contributions to their plans.

Positive Savings Actions Trending Appreciably Higher:

- The number of existing plan participants who increased their contribution rate in Q1 2010 was 35% higher than the number of plan participants who increased their rate in Q1 2009.
- The number of participants who stopped contributing to their plans in Q1 2010 was 25% lower than Q1 2009.
- The number of participants who decreased their contribution in Q1 2010 was 23% lower than Q1 2009.

Increased Plan Sponsor Adoption of Multitier Full-Plan Use, Participant Advice Services and Easy Employee Decision-Making Services (year-over -year growth rates)[2]:

- 9% increase in the use of Auto Enrollment feature.
- 13% increase in the use of Auto Increase.
- 19% increase in plan usage of Advice Access, with nearly 340 plan sponsors now live with this service
- Increases in plan participant interest and use of Advice Access—64% increase in participants accessing advice, and 49% increase in participants receiving specific advice within their 401(k) accounts. ■

The Advice Access service uses a probabilistic approach to determine the likelihood that participants in the service may be able to achieve their stated goals and/or to identify a range of potential wealth outcomes that could be realized. Additionally, the recommendations provided by Advice Access do not consider an individual's comfort level with investment risk, and may include a higher level of investment risk than a participant may be personally comfortable with. Participants are strongly advised to consider their personal goals, overall risk tolerance, and retirement horizon before accepting any recommendations made by Advice Access. Participants should carefully review the explanation of the methodology used, including key assumptions and limitations, which is provided in the Advice Access disclosure statement. It can be obtained through Benefits OnLine®, or through your Bank of America Merrill Lynch representative.

IMPORTANT: The projections or other information shown in the Advice Access service regarding the likelihood of various investment outcomes are hypothetical in nature, do not reflect actual investment results and are not guarantees of future results. Results may vary with each use and over time.

Currently, the Financial Wellness Monitor is being offered only for plans that have adopted the Advice Access service.

[1] As of March 31, 2010.

[2] Year-over-year growth rates—all figures are from March 2009 to March 2010

A Nonqualified Deferred Compensation Plan Can Help Align Company and Employee Needs

At Bank of America Merrill Lynch, we understand the challenges you face in attracting, rewarding and retaining key executives and top-performing employees.

In today's business environment, competition to recruit and retain visionary leaders and talent is fierce. Losing critical links in your company's chain of command can often lead to severe knowledge depletion and negative consequences throughout the organization.

Because of qualified plan contribution limits, an increasing number of companies are offering Nonqualified Deferred Compensation (NQDC) plans to help select, highly compensated employees defer more compensation.[1]

An NQDC plan is a benefit agreement in which the employer promises to pay select employees at some future date for services performed today. Unlike qualified plans, an NQDC plan can be discriminatory in that the company has the right to determine which executives or highly compensated employees can participate in the plan. The plan can be customized to best meet participant objectives based on the financial resources of the company.

The NQDC agreement is defined as nonqualified because it does not meet the requirements of the Internal Revenue Service Code Section 401(a) and related sections that must be met by tax-qualified plans such as a 401(k) plan.

Bank of America Merrill Lynch offers a choice of three nonqualified deferred compensation program solutions. Using one of the three programs as a framework, we can help design a strategy that's right for you and your employees—one that helps individuals grow their assets while the company manages its cash flow.

Bank of America Merrill Lynch NQDC

Bank of America Merrill Lynch NQDC offers clients a unique executive benefit experience. This full service program offers consulting, participant recordkeeping, and plan sponsor financing services. In addition, it is supplemented with trust services through Bank of America, N.A. The program is fully integrated with other retirement plans serviced by Bank of America Merrill Lynch, including defined contribution, defined benefit and equity compensation plans, offering participants and plan sponsors a truly seamless experience through our award-winning Benefits OnLine® website[2] and our award-winning participant statements.[2]

The Principal® NQDC

The Principal NQDC platform[3] offers turnkey executive benefit plan solutions to companies and tax-exempt organizations including plan documentation, tailored employee communications and enrollment materials, as well as internet-based plan level administrative services. Complemented by trust services provided by Bank of America, N.A., The Principal NQDC platform provides a comprehensive solution for small- to mid-size companies.

FutureComp

FutureComp is an investment-only program which offers a financing solution for plan sponsors looking to informally fund liabilities due under an existing NQDC plan. FutureComp employs Bank of America, N.A.'s trust services, including custody, distributions, and reporting. In addition, FutureComp offers a broad range of investment options. The program provides plan sponsors with the flexibility to recordkeep their NQDC in-house or use a third-party recordkeeper.

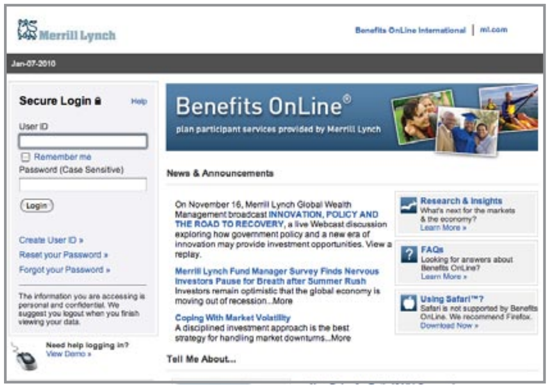
For more information on nonqualified deferred compensation plans, please contact your Bank of America Merrill Lynch representative. ■

[1] Income taxes are due upon distribution.

[2] 2010 DALBAR Communications Seal of Excellence.

[3] Insurance products are sold through Merrill Lynch Life Agency, Inc., through its appointment with Principal Life Insurance Company. Corporate-owned life insurance (COLI) is issued by and plan administrative services provided by Principal Life Insurance Company. Underlying securities for COLI are offered through Princor Financial Services Corporation, 1.800.247.1737, Member SIPC, and/or independent broker/dealers. Principal Life and Princor® are members of the Principal Financial Group® , Des Moines, IA 50392.

Benefits OnLine® Participant Site Update—Making A Great Site Even Better



We are pleased to announce that the Benefits OnLine® (BOL) site was recently awarded the DALBAR Communications Seal for excellence in meeting the needs of plan participants.[1] In addition, the site, which received top ratings for usability, ranked #2 overall for the third consecutive quarter.[2]

Only one year ago, the BOL site was ranked #5 overall by Dalbar. This past year, through additional investments directed toward redesigning the home page, adding new interactive education features and some key site capabilities, including enhancements to the Advice Access experience, the site rating rose to #2 and continues to maintain high rankings.

Recently, Kasina, an independent research firm that rates defined contribution participant and plan sponsor websites, also praised BOL for its extensive and detail-rich participant education content and easy-to-understand information. Kasina also cited the "convenience and completeness"of our Advice Access investment service as one of BOL's key strengths.

We are committed to continually improving the site so all participants regardless of age, life stage or financial acumen can access BOL to effectively manage their employer-sponsored benefits. An important part of our "roadmap" for the site's ongoing development comes directly from insights we learn from you, and your employees.

Participant Survey

Earlier this year, an online survey was conducted enabling us to gather feedback and comments from participants on how they use the site, the features they like best and their suggestions on areas for improvement.[3] These responses have provided valuable insight into the ongoing enhancement of the BOL user experience.

User Survey Highlights

- **Among users who go online for information, 94% report that they are able to get the information they need on BOL**—without the need to phone or e-mail a representative.
- **Seventy-one percent report high satisfaction** for completing transactions.
- **BOL is viewed more favorably by longer-term users compared with first time users**—participants become more familiar with how to use BOL over time.
- **Compared to other financial and investing sites**—approximately half (47%) rated BOL as comparable, while 18% rate BOL better than other financial sites they rely upon for investing information and assistance.
- **The site scored high for basic high volume activities** including accessing account balances, monitoring investment performance and changing contribution rates and/or investments.
- **Respondents provided many specific and valuable recommendations for the site's improvement** including simpler, more intuitive navigation and easier ways for finding information. Additional recommendations included use of plainer language, fewer clicks to complete transactions, and better graphics.
- **For more complex investment decisions and transactions,** users want easier navigation and simpler directions.

How we're responding

We have expanded our web design team with additional highly experienced retirement and benefit plan web professionals to complement our existing team. We have also established comprehensive online user research programs, including surveys, focus groups and usability testing,

Upcoming Enhancements

Based on feedback, we plan to make a number of enhancements to the site, including:

- **New Defined Contribution Enrollment**—*will make it easier to enroll and select investing strategies.* Rollout of this new process will start in October 2010.
- **Account Summary Snapshot**—*in response to participant requests for simpler, more concise charts and graphics*—a new Account Summary will be introduced that will highlight holdings and provide quick access to online statements. This redesign will include easy-to-understand balance and contribution trends, daily market value change and cost basis of investments.
- **Site Simplification**—*users have told us they would prefer less jargon on the site*—so we are streamlining and simplifying the text.
- **New Pre-Retiree Services**—*later this year we will be piloting a new set of online tools and resources* specifically designed to help employees nearing retirement assess their retirement readiness in light of their goals and financial preparedness.

We welcome your feedback and that of your employees in our continuing enhancements to the Benefits OnLine participant website. Please send your comments to beth.michnowski@baml.com. ■

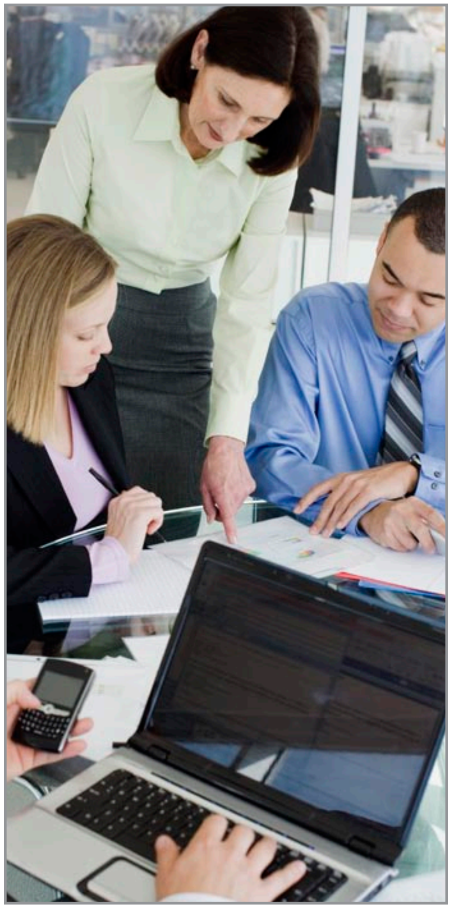
Dalbar, Inc. and Kasina are not affiliated with Bank of America Corporation.

[1] Consideration of a website for the DALBAR Communications Seal includes a rigorous examination and scoring of the site, as well as a comparison of its offerings and overall usability to the retirement and benefit plan industry. Websites are evaluated based on five factors, including: DALBAR designation, functionality, usability, appeal and number of errors. Websites that excel in each of these areas are recognized with the DALBAR Communications Seal.

[2] Dalbar, Inc., a leading financial services research firm, examined 43 websites tailored to Defined Contribution plan participants in the 4th quarter of 2009. Scores were based on the quality and range of capabilities and content provided, ease of navigation and ability to locate information.

[3] The survey was conducted between January 19, 2010 and February 16, 2010 drawing 500 respondents.

We value your opinion! Please see the article on the next page and take a few minutes to participate in an online study that will give us valuable guidance in our continuing enhancements to the Benefits OnLine Administrative website.



We Value Your Opinion.

As we continue to enhance the navigation and overall usability of the Benefits OnLine® (BOL) Administrative site, we not only welcome your suggestions, but are actively seeking them. Please take a few minutes now, by clicking **here** to participate in a short online card sorting study that will give us valuable guidance in our continuing enhancements to the BOL Admin site.

What is card sorting?

Card sorting is a technique that allows web designers and information architects to organize the information on a website in a way that maximizes the ability of users to easily and quickly find the information they are seeking. In a card sorting exercise you are presented with a list of key site elements and are asked to sort them into logical groupings as you see fit. Your groupings provide patterns that indicate how you would expect to find online content organized. We will aggregate all of the data we receive and use that data to inform the design process for upcoming enhancements to our site.

What do I need to do?

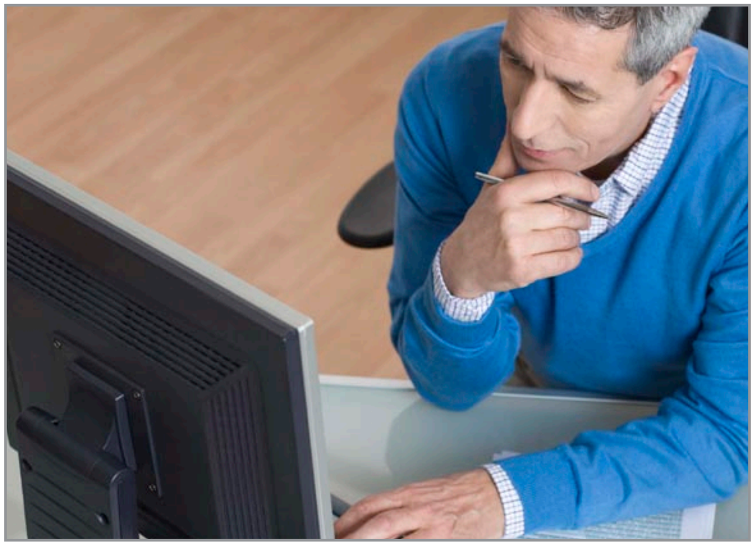
To participate, just click on the link above to begin card sorting. The process should take 15 to 20 minutes. As you categorize and label the provided topics into groups that make sense to you, we suggest you try to "forget" everything you already know about how information on the site is currently organized. This is your chance to show us how you would structure the content to meet your needs. Try not to "over think" any one topic. Simply divide the items into categories according to your personal preferences and identify the most important items and categories from your point of view.

Please note that all results are completely confidential.

We thank you in advance for your participation. Please feel free to forward the link to any colleagues who may want to participate. Your feedback is really important to us! ■

Bank of America Merrill Lynch

Benefits OnLine® Now Offers Plan Sponsors the Ability to Search for Participants by Name



We are pleased to announce an enhancement to our Benefits OnLine administrative website that allows sponsors to search for participants by name for 401(k), defined benefit, and nonqualified deferred compensation plans.

Search by name includes the following features:

- After selecting a plan, sponsors can search on the participant's last name and first name (or at least two characters of the last name).
- Search results will display the participant's Last Name, First Name, Date of Birth (MM/DD/YYYY) and the last four digits of his or her Social Security/Account Number (XXXXX1234).

For further information on the search by name feature, please contact your Bank of America Merrill Lynch representative. ■

A Bank of America Merrill Lynch Webcast You Won't Want to Miss!

Helping Your Plan and Employees Achieve Financial Wellness, Plus Important Compliance Updates

The presentation will address the importance of financial wellness, and will take a closer look at in-plan tools to help plan sponsors measure, monitor and promote financial wellness among employees.

In addition, speakers will follow-up on last quarter's compliance discussion of important changes regarding the 2009 IRS Form 5500 (IRS 5500 Short Form, Schedule C and Electronic Filing) and review proposed regulatory changes.

Presented by:

Katherine Roy,
Director of Product Development & Innovation for Bank of America Merrill Lynch

Evan Israel and Robert Kaplan,
compliance consultants at Bank of America Merrill Lynch.

Date:

Wednesday, June 9, 2010

Time:

2:00 p.m. Eastern

Approximate Length:

1 hour

Click here to submit a question in advance of the meeting.

To view the webcast:

Microsoft Office Live Meeting:
Click Here to Join

Audio information:
Toll-free: 1.866.277.1181
Toll: 1.617.597.5358
Participant code: 56302750

First-time users:
To save time before the meeting, check your system to make sure it is ready to use Microsoft Office Live Meeting.
http://go.microsoft.com fwlink/?LinkId=90703

Troubleshooting:

Unable to join the meeting?
Follow these steps:

1. Copy this address and paste it into your web browser:
   https://www.livemeeting.com/cc/bankofamerica/join
2. Copy and paste the required information:
   Meeting ID: KH65PT
   Entry code: sB>&c_w{5
   Location:
   https://www.livemeeting.com/cc/bankofamerica

Notice: Microsoft Office Live Meeting can be used to record meetings. By participating in this meeting, you agree that your communications may be monitored or recorded at any time during the meeting.

A Road Map for Effectively Managing a Frozen Pension Plan

Recent pension reform, an aging workforce, volatile interest rates and uncertain investment returns have put significant financial pressures on pension plan sponsors. To cope, more organizations are choosing to freeze their plans—either by closing them to new entrants or discontinuing accruals for some or all of their employees.

This article is excerpted from the Bank of America Merrill Lynch white paper "***A road map for effectively managing a frozen pension plan***." Please click here to view or download the complete white paper, which includes a detailed case study illustrating how asset/liability analysis shapes investment strategy.

While freezing a plan limits the future growth of its liability and may help alleviate some risk, a frozen plan still requires significant attention and resources. Plan sponsors may be required to continue making cash contributions to meet the plan's target liability, and the same market fluctuations and interest rate risks that affected the active plan will continue for the frozen plan.

In addition, the need remains for accounting, reporting, compliance, fiduciary and investment oversight, as well as participant administration and communications. These responsibilities can strain resources—particularly if the organization has already introduced another retirement savings program, such as a defined contribution plan, and has to cover the costs of those benefits.

This article outlines a four-step road map for sponsors who want to implement an effective strategy for managing their frozen pension plan—with the goal of either terminating the plan or managing costs and risks over a longer time horizon:

Step 1: Evaluate goals

Prior to pension reform, many plan sponsors focused solely on maximizing investment return in order to reduce future contributions. However, once a plan is frozen, the priorities typically change, and so should the approach to investment management. With a frozen plan, the following considerations should be reviewed:

- Time horizon for maintaining the plan
- Desired contribution level and pension expense budgets
- Acceptable levels of balance sheet, cash contribution and pension expense volatility

Since more than one objective often applies, the goals should be prioritized and the trade-offs evaluated. The type of freeze also affects whether the plan can phase out sooner rather than later. For example, if a "soft freeze" has been implemented in order to limit the impact to employees, the growth in the plan's liability will not be curtailed in the same manner as a "hard freeze," and the time frame for maintaining the plan will be extended.

Step 2: Understand the liability and other key pension metrics

While recent funding and accounting reforms sought to simplify pension rules and improve the accuracy of measuring pension plan costs, there are still many methods that can be used to determine a plan's funded position.

Plan sponsors who want to maintain their frozen plans may decide to focus on managing balance sheet and expense volatility, which are measured on an annual basis. However, for sponsors who want to terminate their plan, the numbers published in valuation reports and company footnotes may underestimate the plan's termination liability. This is because insurance companies, in quoting annuity purchase rates, will generally use lower discount rates and include a margin for profit and mortality conservatism, which are not considered in funding and accounting measurements.

Although annuity purchase quotes from qualifying insurance companies would produce the most accurate value of a plan's termination liability, this figure can be estimated on a real-time basis using a widely accepted proxy—U.S. Treasury spot rates. By discounting future benefit disbursements using U.S. Treasury spot rates and projecting longevity improvements, the plan's termination liability may be reasonably estimated.

Step 3: Use asset/liability modeling to identify an optimal investment strategy

The use of asset/liability modeling (ALM), and the asset allocation framework that results, can serve as an effective method for meeting cost and risk objectives, reaching the plan's target liability and preparing the plan for termination, if that is the objective.

Asset/liability modeling considers not only a plan's objective of achieving total return in the asset allocation process, it also incorporates the impact of the plan's liabilities on various pension metrics. Results can enable the plan sponsor, with the investment manager, to identify the allocation with the greatest likelihood of meeting the plan's financial and risk management goals. ALM can also help sponsors identify how to limit contributions and manage the risk of overfunding—since excess funds cannot easily be removed from the plan without incurring significant excise taxes.

Step 4: Implement and monitor a revised investment strategy

Prior to freezing a pension plan, many plan sponsors measure the success of their program solely on asset performance relative to a portfolio benchmark or peer group universe. However, after a plan is frozen, most sponsors introduce new objectives based on the plan's funded status and the long-term objective of either reducing costs and volatility or terminating the plan. These new objectives, risk standards and resulting asset allocation decisions should be updated in the plan's investment policy statement, along with criteria for monitoring and replacing investments.

For example, funded status thresholds may be identified, which, when reached, would trigger asset allocation changes to help reduce program risk, increase liability hedging and help lock-in funded status improvements. As part of a liability-hedging strategy, it may also be appropriate to use a custom liability benchmark to monitor the fit to the plan's liability rather than to a standard benchmark. Finally, triggers for potential opportunistic events should be outlined in the investment policy statement and monitored. For example, lump sum payments to vested terminated employees may become more cost effective by 2011 under rules being phased in following the Pension Protection Act of 2006.

These opportunities to reduce the plan's risk over time should be built into the plan freeze strategy and monitored as market conditions change.

Summary

If you decide ALM is right for your organization, Bank of America Merrill Lynch can assist you in managing your frozen plan—helping mitigate the impact to your organization's balance sheet and lessen the strain on company resources. We can undertake an asset/liability analysis to identify optimal investment strategies. And we can assist you in achieving your plan termination goals and exploring cost-effective alternatives to help your employees with their retirement goals. We welcome the opportunity to work with you.

For more information, please contact your Bank of America Merrill Lynch representative. ■

This article is designed to provide general information for plan fiduciaries to assist with planning strategies for their retirement plan and is for discussion purposes only. Always consult with your independent actuary, attorney and/or tax advisor before making any change to your plan. Bank of America is prohibited by law from giving legal or tax advice outside the company.

Compliance Update

IRS to Survey 401(k) Plan Sponsors on Rules Compliance

The IRS has indicated that it expects send letters to a random sample of 1,200 401(k) plan sponsors in the near future asking them to complete an online "**Compliance Check Questionnaire**"[1].

The purpose of the questionnaire is to help the IRS better understand the state of compliance with the agency's rules. As your provider, we wanted to make you aware of this IRS initiative.

Sponsors chosen to complete the survey will be assigned identification numbers and will have 90 days to respond with the option of asking for an extension. The IRS has indicated that the survey is not an audit, but also says it could use the information provided by respondents in enforcement actions.

According to the IRS, one aim of the survey is to gauge the extent to which voluntary compliance tools it makes available, the **401(k) Fix-It Guide and 401(k) Plan Checklist**, are useful and are being used by plan sponsors.

For further information, please logon to the **IRS Compliance Check Questionnaire Project** page.

The IRS will prepare a report on the survey's findings to be published on the agency's **website**. ■

1 Please note, the IRS has made available a copy of the questionnaire for information purposes only. Sponsors who receive a letter from the IRS must complete the survey online. Further information may be found on the IRS Compliance Check Questionnaire Project page mentioned above.

Randy Hardock's News From the Hill

What Does Health Care Reform Mean for Retirement Plans?

Like many major pieces of legislation, President Obama's sweeping health care reform package—the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010—could have unintended consequences. These measures' reach could extend far beyond the insurance reforms that have been so publicly dissected. Specifically, a number of potential side effects could exert an indirect influence on retirement plan decision-making, including new taxes and an increased regulatory burden.

The health care reform package imposes two significant new taxes on higher-income taxpayers. For taxpayers whose income exceeds certain thresholds, a new 3.8% tax will be imposed on investment income and a separate 0.9% tax will be imposed on wages and income from self-employment. These new taxes will apply beginning in 2013 and will increase the relative benefit to affected taxpayers of tax-favored retirement plan saving. Each tax will also add yet another layer of complexity for individuals contemplating whether to convert pre-tax retirement savings into Roth IRA balances.

The larger of the new taxes is the additional tax on investment income. This tax is labeled the "Unearned Income Medicare Contribution," but it has nothing to do with Medicare and is little more than a direct tax on certain types of investment income.

Very generally, taxpayers with adjusted gross income (AGI) in excess of certain thresholds ($250,000 if married filing jointly; $200,000 if single) will be subject to this additional 3.8% tax, but only to the extent that they have taxable investment income above those thresholds. The 3.8% tax will apply to various types of investment income, including interest, dividends, capital gains (both short- and long-term), royalties, and annuity distributions. However, all distributions (including annuity distributions) from tax-favored employment-based retirement plans and IRAs are specifically exempted from the 3.8% tax.

The interaction of the 3.8% tax with retirement plans (and other tax-favored savings plans like Internal Revenue Code Section 529 education savings plans) raises some interesting issues. Perhaps most obvious is that any taxpayer with investment income (and AGI above the thresholds) will have an even greater incentive to protect that income from higher tax rates by increasing contributions to a tax-favored vehicle.

Moreover, the 3.8% tax must be considered alongside other anticipated tax rate increases applicable to all income. With the 2001 and 2003 tax rate reductions scheduled to expire starting in 2011, the top marginal federal income tax rate that could apply to most income (including investment income from interest, for example) could well increase to 39.6%. At the same time, the tax rates on capital gains and dividends are also likely to increase starting next year. When the new 3.8% tax is added to the possible 39.6% top marginal tax rate, we suddenly will have a top federal income tax rate on investment income of 43.4%.

The burden of interpreting the behemoth health care legislation will fall on a relatively small group within the executive branch and that could delay the release of expected retirement plan guidance.

It is worth noting that even though retirement plan distributions are not subject to the new tax, they do (to the extent taxable) count in determining whether AGI exceeds the thresholds because such distributions are included in AGI. Thus, taxable retirement plan distributions could push an individual over the proverbial "edge" and subject additional income to the 3.8% tax. This is yet another factor that could affect the already complex Roth conversion calculus, since Roth distributions do not count towards AGI.

With the Roth conversion option now available regardless of income level, more taxpayers are considering conversion. Although income from the conversion would not be subject to the 3.8% tax even after 2013, it would be included in AGI and could subject more investment income to the 3.8% tax. As a result, converting before the 3.8% tax becomes effective in 2013 may be somewhat more attractive.

Another significant tax increase in the health care reform package is a 0.9% tax increase on certain wage and self-employment income. This tax is added to the current employee share of the hospital insurance portion of payroll taxes on wages (FICA) and to corresponding self-employment (SECA) tax. The 0.9% tax will apply to the extent that combined wage and self-employment income exceeds $200,000 for individuals or $250,000 for married taxpayers (filing joint returns). Unlike the thresholds for the 3.8% tax, only wages and self-employment income are taken into account in determining whether a taxpayer has income in excess of the thresholds, i.e., investment income is disregarded.

Although not as significant as the tax on investment income, the 0.9% tax will also increase the relative advantages of direct employer contributions to retirement plans. Significantly, however, only employer contributions (but not employee contributions) to a retirement plan are exempt from FICA taxes. The self-employed do not enjoy any exclusion under the SECA rules, regardless of the source of the contribution.

With major health care reform changes in the Internal Revenue Code and ERISA, both Treasury and the Department of Labor (DOL) face an unprecedented regulatory burden. Treasury, for example, must interpret and implement the two taxes described above and over twenty other new tax provisions, many of them complicated. The burden of interpreting the behemoth health care legislation will fall on a relatively small group within the executive branch and that could delay the release of expected retirement plan guidance. Projects well along in the pipeline (like upcoming DOL regulations on fee disclosure) should still be completed, but other retirement projects are likely to be pushed to the back burner as time-sensitive health care questions dominate the attention of top agency decision-makers.

There may be some exceptions. For example, the health care reform legislation includes authority for Treasury to prevent abuse of employee benefit rules through use of leased employees and similar arrangements. That guidance, if and when published, could easily be extended to all employee benefit plans. Similarly, DOL interpretations of fiduciary rules in the health area could also affect retirement plans.

In the end, however, perhaps the most basic connection between health care reform and retirement may be based on the premise that you cannot spend the same dollar twice. If health care reform does not slow the rate of growth of health spending and increases the administrative and cost burdens on employers, then we will continue to see health care costs eating up more and more of the employee benefit budget. If, on the other hand, health care cost growth is slowed and workers have more security about their health needs in retirement, that could open up additional resources for retirement saving. ■

Randy Hardock, the author of this article, is a regular columnist for News & Insights. He is managing partner of the Washington D.C. law firm of Davis & Harman, LLP. He is well known through his advice and advocacy on legislative and regulatory matters affecting employee benefit plans. The opinions expressed are those of Mr. Hardock and do not necessarily reflect the opinions of Bank of America Merrill Lynch.

Bob Doll's

Investment Commentary

May 24, 2010

Financial market volatility has increased over the past several weeks amid growing investor concern over happenings in Europe, the prospect of increased financial market regulation in the United States and, more generally, worry that the economic recovery has hit a rough patch. In Europe, the rescue package announced by the European Central Bank a couple of weeks ago should be enough to prevent the threat of an outright default by Greece, but investors remain concerned about the sharp fall in the value of the euro and are questioning whether the sovereign debt crisis will spill over into other markets. Regarding US financial regulations, the Senate passed its version of a reform package last week, which will now need to be reconciled with the House of Representatives. Specific provisions of the bill are still in flux, but investors have been interpreting the overall tone of the bill as equity-market unfriendly. In reference to the economy, investors were disheartened last week when initial jobless claims unexpectedly rose, bucking the trend of a slowly improving labor market. The combination of these factors was enough to drive equity markets down last week, with the Dow Jones Industrial Average losing 4.0% to close at 10,193, the S&P 500 Index declining 4.2% to 1,088 and the Nasdaq Composite falling 5.0% to 2,229. With these losses, stocks are back in negative territory for the year.

While many investors have been unnerved by current events, we believe the broader economic recovery remains on track. The cyclical recovery in most countries (including the United States) remains intact, as interest rates remain low and leading economic indicators continue to have a positive tone. That said, we acknowledge that US economic data has been somewhat less positive in recent weeks, with the decline in unemployment claims having stalled and with upward revisions to corporate earnings slowing down. In any case, we expect second-quarter gross domestic product growth to come in over the 3% level, but it will likely not be over 4%.

Given the magnitude of the recent currency and sovereign debt concerns, equity market performance is likely to be driven by the broad macro outlook rather than company-specific fundamentals. This is usually the sort of environment where volatility remains high in both directions. It is important to remember that corrections during times of economic recovery are normal, but are often intense and quick.

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Looking ahead, one positive factor is that market valuations have become more attractive in recent weeks, as prices have dropped while earnings have increased.

Regarding the current correction, we believe the worst should be behind us in terms of the magnitude of the downturn, but it will likely take some additional time before markets can repair themselves. Looking ahead, one positive factor is that market valuations have become more attractive in recent weeks, as prices have dropped while earnings have increased. Over time, we expect that additional clarity around the situation in Europe and financial market reform in the US should provide a measure of stability; and a sense that the economic recovery remains on track should help spark a turnaround in the recent aversion to higher-risk assets. ■

Bob Doll is Vice Chairman and Chief Equity Strategist for Fundamental Equities at BlackRock®, a premier provider of global investment management, risk management and advisory services. Mr. Doll also is a member of the BlackRock Leadership Committee and lead portfolio manager of BlackRock's Large Cap Series Funds. Prior to joining the firm, Mr. Doll was President and Chief Investment Officer of Merrill Lynch Investment Managers. BlackRock has $3.36 trillion in assets under management as of March 31, 2010.

Sources: BlackRock; Bank Credit Analyst.

FOR MORE INFORMATION:
www.blackrock.com

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Events & Conferences

Equity Plan Sponsor Forum
August 17-18, 2010
Location: Bank of America Merrill Lynch Corporate Campus, Hopewell, NJ

Plan Sponsor Forum
September 14-15, 2010
Location: Bank of America Merrill Lynch Corporate Campus, Hopewell, NJ

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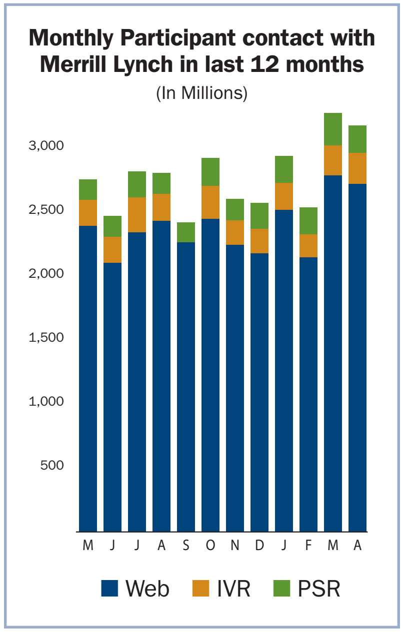
Participant Pulse



Participant Interactions Online and By Phone				
Time Interval	Benefits OnLine® website	Interactive Voice Response (IVR)	Participant Service Representative (PSR)	Total Contact
2009 May	2,395,839	204,796	161,750	2,762,385
June	2,106,813	204,022	167,997	2,478,832
July	2,345,382	276,366	204,340	2,826,088
August	2,436,368	213,132	161,837	2,811,337
September	2,266,440	200,941	159,356	2,626,737
October	2,450,958	261,653	215,550	2,928,161
November	2,248,304	192,817	170,069	2,611,190
December	2,182,263	192,257	202,194	2,576,714
2010 January	2,522,469	213,114	208,687	2,944,270
February	2,150,169	183,962	207,970	2,542,101
March	2,794,549	235,507	254,590	3,284,646
April	2,727,632	241,432	215,540	3,184,604
12-Month High	**2,794,549**	**276,366**	**254,590**	
12-Month Low	**2,106,813**	**183,962**	**159,356**	
12-Month Average	**2,385,599**	**218,333**	**194,157**	
12-Month Total	**28,627,186**	**2,619,999**	**2,329,880**	**33,577,065**

Data: Bank of America Merrill Lynch

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