

Fact Sheet



U.S. Department of Labor
Employee Benefits Security Administration
June 2004

RETIREMENT SECURITY INITIATIVES

The Labor Department's Employee Benefits Security Administration (EBSA) is committed to safeguarding employee contributions to 401(k) plans and health care plans by investigating situations in which employers improperly delay forwarding employee contributions to the appropriate funding vehicle or simply convert the contributions to other non-plan uses. Either or both scenarios may occur when the employer is having financial problems and turns to the plan as a source of financing. In addition to following up on participant complaints, EBSA is currently conducting a baseline study designed to help assess the level of noncompliance with ERISA's requirements in this area. Results of this study should be available in mid 2005.

Background:

- ?? About 70 percent of all workers who participate in retirement plans are covered by a 401(k) plan, either as their only plan or as a supplemental plan.
- ?? The number of 401(k) plans has grown continually from 17,000 plans covering 7.5 million people in 1984 to more than 300,000 plans covering more than 42 million people, as of 2002.
- ?? These plans have combined assets of about \$1.8 trillion, as of 2003.
- ?? The Labor Department's national enforcement project reduces misuse of contributions made by workers to their 401(k) plans.
- ?? The initiative is multi-faceted, including: conducting investigations into 401(k) misuse; implementing the Pension Payback program, a voluntary compliance program for restoring contributions and lost earnings to the plans; issuing a regulation to shorten the time for transmitting contributions to a 401(k) plan; and launching an education campaign to inform retirement plan participants about their rights and ways to protect their pension.

401(k) Enforcement Initiative Results:

- ?? For the first three quarters of fiscal year 2004, 975 investigations were closed – 788 with violations.
- ?? The Labor Department had monetary results of \$22,129,798 nationwide during the first three quarters of the 2004 fiscal year under this project.
- ?? For fiscal year 2003, 1,384 investigations were closed – 1,165 with violations.

401(k) Initiative Cumulative Statistics

(as of 6/30/2004)

FY	Civil Cases Closed	Civil Cases Closed With Violations	Criminal Cases Closed	Criminal Prosecutions	Monetary Results
*1995	95	34	5	7	\$1,320,308
1996	458	146	8	14	\$8,039,957
1997	823	388	10	21	\$28,176,814
1998	824	461	30	16	\$13,989,075
1999	852	625	23	17	\$19,366,568
2000	1,025	840	27	21	\$27,882,270
2001	1,150	893	23	8	\$28,828,131
2002	1,317	1,045	20	15	\$42,833,078
2003	1,364	1,157	20	8	\$135,528,157
2004	<u>975</u>	<u>788</u>	<u>14</u>	<u>9</u>	<u>\$22,129,798</u>
TOTALS	<u>8,883</u>	<u>6,377</u>	<u>180</u>	<u>136</u>	<u>\$328,094,156</u>

* The first year that EBSA began to emphasize 401(k) abuse as a National Enforcement initiative.

Participant Contribution Regulation:

?? The Department's participant contribution regulation requires employers of all sizes to transmit employee contributions to pension plans as soon as they can be segregated, but in no case later than the 15th business day of the month immediately following the month in which the contribution is either withheld or received by the employer.

Consumer Education:

?? The Department began a consumer education program simultaneously with its enforcement effort on employee contributions.

?? The "Top Ten Warning Signs" were published on EBSA's Web site to provide consumers with tips on indicators of potential 401(k) abuse.

?? Several new publications were developed to assist individuals in learning about their rights and monitoring the safety of their pensions. Some of the more popular include *What You Should Know About Your Retirement Plan*, *Protect Your Pension -- A Quick Reference Guide*

and *A Look at 401(k) Plan Fees*.

- ?? All of these publications are available on EBSA's Web site at www.dol.gov/ebsa or through EBSA's toll free number at **1-866-444-EBSA (3272)**.
- ?? If you have questions not answered in this fact sheet, contact EBSA through the toll-free number or electronically at www.askebsa.dol.gov.

This fact sheet has been developed by the U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC 20210. It will be made available in alternate formats upon request: Voice phone: (202) 693-8664; TTY: 1-202-501-3911. In addition, the information in this fact sheet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.