ERISA Advisory Council Testimony, May 27, 2015

Liz Davidson, CEO Financial Finesse

Based on the research we've done, it is our belief that the best way to ensure plan participants fully value and understand the advantages of lifetime plan participation, the paradigm needs to be shifted away from plan communications as the key method and towards holistic financial wellness programs which address the root causes of why employees cash out, rollover, or take loans and hardship withdrawals.

In working with hundreds of thousands of participants around retirement planning, both in 1x1 and group settings, there's a clear disconnect between the retirement benefits communication they are getting and the guidance that they need.

We believe notices on this issue are absolutely necessary, but in no way sufficient. Notices they drive awareness of the issue, and are needed from that standpoint, but often are not compelling enough to change employees' behavior. In our experience, the average employee is not aware of the advantages of keeping their money in their plans vs. cashing out, rolling over into an IRA and investing with a financial advisor, taking hardship withdrawals, loans or neglecting to consolidate multiple plan balances. Notices can help raise that awareness, particularly if they are drafted in an illustrative way that shows the financial impact of making decisions to withdraw assets from the plan.

All that said, in our experience counseling participants, even when they are made aware of the disadvantages, in most cases, there are underlying financial or psychological issues that prevent them from keeping their assets in the plan.

According to our most recent findings based on aggregated data employees input into an online financial wellness assessment tool to analyze their overall financial wellness:

- 30% of employees do not have a handle on their cash flow, and 34% do not feel their current financial situation is under control
- 48% of employees do not have an emergency fund to tap in the event of an emergency
- 85% of employees report they are under financial stress with 23% under high or overwhelming financial stress

The vast majority of employees are putting retirement planning on the back burner, out of the need to address immediate financial problems or the belief they should be prioritizing other financial goals over retirement. For the most part, they understand the advantages of investing in their company's 401(K) plan (though they still need more insight and education around the disadvantages of "cashing out"). Through enrollment meeting and other plan communications, the industry has done an excellent job of showing employees the tax benefits associated with investing in their retirement plans, and how their investments can grow over time through payroll deduction. Tools like auto-enrollment and auto-escalation, as well as target date fund and managed accounts, have also set employees up for success,

and we've seen a strong increase in both plan sponsors and participants taking advantage of these options.

The problem is that employees are facing near stagnant wages, increased health care costs, the highest student loan debt load in history, and the burden of funding all of this with less financial support from their companies. And, as a natural consequence of financial pressures, more are turning to their retirement plans to make up the shortfall.

This shift has occurred quickly, without adequate support in terms of financial guidance.

If the DOL intends to provide plan sponsors with the guidance, support and incentive so that significantly more employees "keep their money where they make their money" as long as is prudent, we recommend the DOL provide much more detailed guidance for plan sponsors in the following areas:

- Expanding and/or clarifying the difference between financial education and advice so plan sponsors are clear on the difference and comfortable identifying which programs fall into which categories so they can move forward with a clear understanding of the implications
- Expanding and also clarifying the definition of ERISA 404(c) so that employers understand that their obligation as a fiduciary goes beyond helping employees make educated investment decisions and extends to providing employees with access to unbiased tools and resources that help them with **all aspects** of effectively managing their retirement plans—from how much they save, to how they invest that saving, to how and when they withdraw or annuitize their savings
- Expanding and also clarifying which educational expenses are retirement plan eligible so that workforces who need to put programs in place to prevent loans, hardship withdrawals, and cash outs can feel comfortable using ERISA budget dollars, provided the expenses are reasonable compared to the expected outcome. This would include ongoing financial education to help employees cultivate strong day to day money management skills, and ultimately become financially healthy so that they don't need to tap their retirement plan assets for short term needs.
- Providing best practices around selecting, and managing a financial education provider to ensure professionals delivering the education are highly qualified and that their compensation is not tied to the sale of financial products and services or management of assets.
- Providing some additional form of liability protection for plan sponsors who provide every single participant with access to unlimited, personalized financial guidance—online, in person, over the phone, through mobile apps, etc., particularly if the plan sponsor has established proof of the effectiveness of these programs in terms of enhancing employee retirement preparedness.

To address the questions regarding model notices for participants:

1. We've found that personalized models work best, to show estimates of participant's decisions to stay in the plan, roll over, cash out, etc. This does require making certain assumptions, but provided those are disclosed and it's clear that the model is simply an estimate, participants tend to respond best when the outcomes are estimates of the decisions they are considering.
2. If personalized models are not feasible, then illustrative models using representative salaries, withdrawal amounts, tax rates, and returns are the best way to truly show participants the impact of their decisions.
3. We believe notices should be written as simply and concisely as possible, with the most important messaging being illustrated in numerical examples of the costs associated with different decisions.
4. We would also recommend employees proactively sign a statement indicating they recognize the decision they are making is not in their best long term financial interest, that they are making the decision willingly without pressure from a financial advisor, and that they waive all rights of recourse against their employer for decisions they make in this matter.
5. We recommend that notices be provided in all instances where an employee may be considering withdrawing assets from the plan—from termination of employment to inquiring about or requesting a loan or hardship withdrawal to indicating intent to retire.
6. We believe that as long as the key content points regarding implications of the decision are covered, the DOL should encourage plan sponsors to use whatever formats best meet the needs of their workforce—online, via video, through interactive tools, etc.
7. We believe the notices should be sent separate from other required reporting and disclosures to avoid overwhelming the participant or separated employee with too much information. The notice should also be included with the distribution request form.