Defined Contribution in Review

A Quarterly Briefing for Plan Sponsors: 4Q14

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What's Inside

Our **Defined Contribution in Review** is designed to help CEOs, CFOs, Treasurers, Human Resource and Benefit professionals and Investment Committees stay abreast of recent events that could have an impact on your plan or plan participants. Inside you will find the following information:

- **Quarterly Highlights:** A summary of plans and sponsors making the news
- **Participants' Corner:** Timely insights about the retirement readiness of plan participants
- **Legislative Review:** A summary of new and pending legislation
- **Regulatory Review:** News out of the Department of Labor and other regulatory bodies
- **Legal Review:** An update on high-profile ERISA cases

We hope you will find the information helpful and are happy to answer any questions you may have.

Quarterly Highlights

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Pensions & Investments Names its 2014 Innovator Award Winners

- According to *P&I*, the awards recognize plan executives who have taken unusual, bold and creative steps to help improve participant's income at retirement
- The 2014 winners are:
  - Rosemary Vilgan, CEO, Qsuper, Brisbane, Australia;
  - Steven Grossman, Massachusetts State Treasurer and Receiver General, Boston;
  - Carol Sung, 401(k) Product Manager, International Paper, Stamford, CT
  - Jeannie Lowe, Vice President, Human Resources, Buck Consultants, San Francisco; and
  - Georgette Gestely, Director of the New York City Employee Benefits Program, Office of Labor Relations
- For videos of the Innovator Award winners, go to pionline.com/innovators14

P&I Innovator Award Winner: QSuper

- The A$48B (US$41.8B) superannuation fund for Australia's state of Queensland changed its default option from a balanced fund to investment strategies for participants based on age, account balance and social security benefits via eight separate participant groups or cohorts
- To build support for the idea among Qsuper's board of trustees, recordings of phone calls by participants inquiring about their retirement security were played for the trustees

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P&I Innovator Award Winner: State of Massachusetts

- Massachusetts has become the first state to enact legislation that permits employees of small non-profit organizations (20 or fewer employees) without a retirement plan to participate in the state's $7.1B deferred compensation plan
- At the time of the award announcement, the state was in the final stages of obtaining IRS approval and was targeting a first quarter rollout

P&I Innovator Award Winner: International Paper

- International Paper launched an “encourage-employees-to-stay strategy” which aims to keep participant savings in the $5.1B plan after becoming distribution-eligible
- Beginning in late 2013, participants ages 55 and older were introduced to a retirement income managed account program powered by Financial Engines
  - 450 participants, or 2.4% of those eligible, have joined the program
- Since mid-2012, the company began sending monthly letters to terminated employees explaining their distribution options including leaving their money in the plan
  - The company also conducted follow-up phone calls with former employees
  - In the first 18 months, about 4,500 employees, or 48% of former employees, chose to stay in the plan

P&I Innovator Award Winner: Buck Consultants

- Buck Consultants has created a new program, Savings InSight, which recommends savings levels based on the employee's pay, age and account balance, as well as outside savings and Social Security
- Within the first year at Buck's $150.7M 401(k) plan, 90% of employees have reviewed Savings InSight; of that group 22% changed their savings rate
- Currently the program is available on an opt-in basis but the company plans to move to an opt-out approach in the future

P&I Innovator Award Winner: New York City Deferred Compensation Plan

- Officials at the $15B New York City Deferred Compensation Plan launched a women-only series of roundtables to improve female participation within the plan
  - Although women represent 60% of New York City employees, the group only represented 25% of plan participants
- In addition to retirement issues, roundtables included health care, financial planning, and assorted work-life topics
  - The roundtables were held twice a week – in the afternoon and evening – at the plan headquarters
  - Each session was limited to 10-15 people, and the goal was to encourage women to share their experiences

Pension De-Risking Trend Continues Among Defined Benefit Sponsors

- NCR has transferred $160M in pension liabilities, representing 4,500 retirees, to an insurance company following an earlier buyout offer to about 20,000 U.S. retirees
- Boeing announced a new lump-sum payout option to 40,000 former employees who have not yet retired from its existing defined benefit plans
- CNA also offered lump sums to about 11,000 former employees vested in its defined benefit plan; the plan has been closed to new participants since January 1, 2000

Participants' Corner

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Mercer Suggests 10 Steps for DC Sponsors

- Mercer has defined ten steps that DC Plan Sponsors should take in 2015 to mitigate fiduciary risks and provide participants with access to solutions that meet their long-term retirement needs
- A few of the steps include:
  - Conduct an in-depth analysis of your current, or future, managed account provider;
  - Monitor participant progress against their retirement goals;
  - Reconfirm the capital preservation option remains the most appropriate for participants; and
  - Consider the appropriateness of liquid alternatives within the plan

PSCA Releases Annual 401(k) Survey

- The Plan Sponsor Council of America (PSCA) released its 2013 survey consisting of responses from 613 plans with eight million participants and $832B in assets
- The report contains 179 tables of data on topics such as automatic enrollment, employee eligibility, investment advice, Roth features, target-date funds and vesting schedules
- Key findings include:
  - Plans offer an average of 19 funds, the same as in 2011 and 2012;
  - 50.2% of all plans have an automatic enrollment feature, up from 47.2% in 2012; and
  - 60% of plans offer a Roth 401(k) option, up from 53.8% in 2012

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College Faculty Ahead of Peers For Retirement

- According to a new TIAA-CREF survey, college faculty and staff are better prepared for retirement than the general population
- Specific findings show that 42% of higher education employees have saved in an IRA, compared to 34% of American employees overall and 36% have met with a financial advisor, while only 22% of the general population report the same
- The survey also found that almost two-thirds (64%) of higher education faculty plan to retire at age 65 or older and while retired, more likely will work part-time (37% vs. 31%) or do more volunteer work (37% vs. 21%) than Americans overall

Millennial Workers Not Capturing Full Company Match

- An analysis conducted by Aon Hewitt concluded that while the average participation rate of millennials is strong (73% for those ages 20-29 and 77% for those ages 30-39), many are saving at a low rate
  - Nearly 40% of 20-29 year olds and 31% of 30-39 year olds are saving at a level that is below the company match threshold
- According to the data millennial workers are using premixed funds (target-date, target-risk and diversified investments) and are therefore more heavily invested in equities than older workers
  - Workers ages 20-29 have an 83% allocation to equities while workers ages 30-39 have a 76% allocation to equities

More Women Looking Forward to Retirement

- A new survey from Financial Engines found that 51% of women, compared to 41% of men, are looking forward to retirement. Other findings include:
  - Women are less worried than men about getting older (29% of women vs. 40% of men) or getting bored in retirement (20% of women vs. 25% of men)
  - Women looking forward to retirement are most excited about spending time with family and friends (74%), travel (58%), pursuing a favorite hobby or passion (56%) and volunteering (44%)
- While the majority of women are looking forward to retirement, 27% admit to feeling anxious about their financial futures, regardless of how much money they earn now
  - Women are most concerned about rising healthcare costs (44%), running out of money (43%) and Social Security going bankrupt (30%)

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New Fee Survey Details Common Cost Structures

- NEPC's 2014 Defined Contribution Plan and Fee Study, which includes data from 113 plans encompassing 1.4M participants, shows the recordkeeping fees for the majority of retirement investment accounts are still calculated using pricing models based on assets within the plan
- Specific findings include:
  - 64% of plans have contracted recordkeeping fees in a bundled or fixed basis point structure;
  - 85% of plans have some level of revenue sharing; and
  - 29% of plans have fixed-dollar-per-head recordkeeping arrangements. Of these, 61% have $1B or more in assets. Of the 29%, only 30% have no revenue sharing

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Report Offers Suggestion for Helping Boomers Transition into Retirement

- The Transamerica Center for Retirement Studies released a new report, *“Baby Boomer Workers and Revolutionizing Retirement: Are They and Their Employers Ready?”* which examines the retirement vision of Boomers and the level of involvement among employers to facilitate their transition into retirement
- Several steps employers can take are offered including:
  - Provide education about Social Security and Medicare;
  - Facilitate a flexible and phased transition into retirement;
  - Assess effectiveness of retirement plan’s education offerings; and
  - Foster an age-friendly work environment

Whitepaper Highlights Advantages of Unbundled Target-Date Funds

- A Towers Watson whitepaper, *"Unbundled Target-Date Funds: Improving Participant Outcomes Through a Customized Approach,"* discusses four primary advantages of an unbundled solution including:
  - Improved transparency and potential lower overall fees;
  - Implementation of an open architecture approach to manager selection for each underlying asset class;
  - Flexibility to make changes to the glide path design, portfolio construction and underlying fund managers in whatever capacity and timeline is deemed appropriate; and
  - Tailoring the glide path to reflect plan participant demographics

Benefit Packages Important to Prospective New Hires

- The 2014 Workplace Benefits Survey conducted by the Employee Benefit Research Institute found that three-quarters of workers consider the benefit package an employer offers extremely (32%) or very (44%) important in their decision to accept or reject a job
- The survey also found that 86% of workers report that employment-based health insurance is extremely or very important, far more than for any other workplace benefit
- Workers identify lower costs (compared with purchasing benefits on their own) and choice as strong advantages of voluntary benefits while the possibility that workers may have to pay the full cost of any voluntary benefits is a strong or moderate disadvantage

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Legislative Review

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New Congress May Revisit Retirement Reform, Tax Incentives

- For the first time since 2006, Republicans will control both houses of Congress resulting in new leadership of two key Senate committees – Lamar Alexander, R-TN, on the Senate Health, Education, Labor and Pensions Committee and Orrin Hatch, R-UT, on the Senate Finance Committee
- Previously, Sen. Hatch has sponsored legislation to expand the use of multiple employer pensions, allow public defined benefit pension funds to purchase private annuities and create a "starter 401(k) plan" for small private-sector businesses
- Another Republican priority is corporate tax reform, which will have to be offset with other sources of federal revenue. Specific areas to monitor include:
  - Limiting the amount of tax deductions for higher-income plan participants;
  - Increases in PBGC premiums; and
  - New pension funding legislation

GAO Recommends New Forced Transfer Rules

- The Government Accountability Office (GAO) recently studied the impact of existing forced transfer rules impacting terminated employees with account balances less than $5,000
- Because the existing rules provide for an IRA investment intended to preserve principle, the GAO found that fees may outpace returns, reducing the IRA balance over time. As a result, the GAO is recommending that Congress amend the current law to permit an alternative default investment
- The GAO is also recommending that Congress repeal the provision that allows plans to disregard rollovers when identifying balances eligible for transfer to an IRA

Illinois Enacts Auto Retirement Accounts

- Under the new *Illinois Secure Choice Savings Program Act*, employees will be enrolled in an automatic, payroll-deduction retirement savings account if their employer does not offer a retirement plan, has been in business for at least two years and employs at least 25 people
- Starting payroll deduction rates are set at 3%, though participants can opt for higher or lower amounts or can opt out of the program entirely
- Account assets will be overseen by the seven-member Illinois Secure Choice Savings Board, appointed by the governor, which will choose a private firm to manage the money; the default option will be a target-date fund
- The new law takes effect June 1, 2015, and implementation must be completed within two years

Regulatory Review

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Reminder: First Quarter Compliance Calendar

January 31:	February 2:	March:
• Deadline for determination letter submission for individually designed plan documents. Year of submission determined by last digit of employer identification number (EIN). For 2015, this applies to plan sponsors with EINs ending in 4 or 9	Deadline for sending Form 1099-R to participants who received distributions during previous year	March 2 • Deadline for filing Form 1099-R with IRS to report distributions in previous year. Deadline for electronic filing is March 31 March 15 • Deadline for processing corrective distributions for failed ACP/ACP test without 10% excise tax March 16 • Contribution deadline for corporate, calendar-year plans

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Key Retirement Plan Limits for 2015

	2015	2014
Elective Deferral Limit	$18,000	$17,500
Defined Contribution Limit	$53,000	$52,000
Annual Compensation Limit	$265,000	$260,000
Catch-Up Limit	$6,000	$5,500
Highly Compensated Employees	$120,000	$115,000
Social Security Wage Base	$118,500	$117,00

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Lifetime Annuity Income Provided Through Target-Date Funds

- In Notice 2014-66, the IRS provided guidance that a series of target-date funds that purchase deferred annuities only for participants ages 55 and older will not violate anti-discrimination rules, assuming certain conditions are met
- The IRS guidance does not apply to annuities that offer guaranteed lifetime withdrawal benefits or guaranteed minimum withdrawal benefits
- In an informational letter, the DOL indicated that a series of target-date funds with deferred annuities can serve as a qualified default investment option (QDIA)
- The DOL also indicated that the target-date investment manager would have the fiduciary duty to select the annuity provider and that DOL safe harbor for selecting annuity providers is available; however, the plan sponsor has the fiduciary duty for selecting and monitoring the investment manager

PSGC Publishes Final Rule on 401(k) Rollovers to Pensions

- On November 24, 2014, the Pension Benefit Guarantee Corporation (PBGC) provided guidance on the treatment of benefits resulting from a rollover distribution from a DC plan to a DB plan, when the DB plan is terminated and trusteed by the PBGC (i.e. the plan has insufficient assets to pay all its liabilities)
- Under the final regulations, a pension benefit resulting from rollover amounts generally will:
  - Be in the second-highest priority category among various classes of benefits in the allocation of assets;
  - Remain untouched by the PBGC's five-year phase-in limits; and
  - Not be subject to the PBGC's limits on maximum benefits that can be guaranteed

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New IRS Form 5500 Reporting Requirements for MEPs

- Beginning in 2014, new IRS Form 5500 reporting requirements take effect for multiple employer pensions (MEPs). Specific changes include:
  - Identifying all participating employers by name and employer identification number (EIN) and
  - Estimating the percentage of the contributions made by each employer relative to the total contributions made by all participating employers during the plan year

IRS Amends Safe Harbor Notices for Rollovers

- The IRS has announced in Notice 2014-74 changes to the safe harbor explanations that must be provided to plan participants receiving eligible rollover distributions
- The new language includes information about in-plan Roth transfers, distributions consisting of after-tax contributions and penalty-free distributions from an IRA to pay for certain health insurance premiums
- Plan sponsors should update their 402(f) notices accordingly

IRS Issues More Guidance on New 60-Day Rollover Rule

- Earlier this year, the IRS announced that it will alter its previous position and interpret the "one rollover per 12-month" rule on a taxpayer rather than account basis beginning in 2015 (see Announcement 2014-15 for more information)
- In Announcement 2014-32, additional guidance was provided including:
  - A distribution taken in 2014 but rolled over in 2015 within 60 days will not be counted as a 2015 rollover as long as a subsequent 2015 distribution is taken from a different IRA;
  - Roth IRAs and Traditional IRAs are aggregated for purposes of the one-per-taxpayer-limit;
  - SEP IRAs and SIMPLE IRAs are considered Traditional IRAs for this new rule; and
  - Roth IRA conversions and direct rollovers from employer-sponsored retirement plans are not counted

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Legal Review

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Feds Side with Plaintiffs in Tibble 401(k) Suit

- In December 2014, the U.S. solicitor general filed a brief in support of the plaintiffs in *Tibble v. Edison*, a case now before the U.S. Supreme Court
- At issue was whether investment selections made by plan fiduciaries are subject to a six-year statute of limitations under ERISA, since such investments were arguably approved every year in order to remain on 401(k) menus
  - The plan included retail shares of mutual funds on the plan menu, as opposed to less costly institutional shares
- The district court ruled in favor of the plaintiffs regarding three funds approved by the plan fiduciaries in 2002, but found that three funds added in 1999 fell outside the statute of limitations
- Oral arguments are set for February 24, 2015

Courts Split on Whether an IPS is a Plan Document

- In *Murphy v. Verizon Communications, Inc.,* the Fifth Circuit considered whether an investment policy statement must be provided to plan participants upon request, similar to a summary plan description or other instrument under which a plan is established or operated
- The court found that the disclosure requirements of ERISA should be narrowly interpreted, and apply only to formal documents governing the plan; since the participants did not claim that the IPS guidelines were binding or mandatory in plan operation, they did not have to be disclosed
- In adopting this approach, the Fifth Circuit generally follows the Second, Fourth, Seventh, and Eighth Circuits; the Sixth Circuit favors disclosure where it would help participants understand their rights; the Ninth Circuit found that documents should be provided to the extent they provide participants with information about the plan and benefits

Lockheed Settles 401(k) Lawsuit

- Lockheed Martin agreed to settle a lawsuit brought by plan participants alleging the 401(k) charged excessive fees and provided lower returns in the company stock fund than had shares been purchased in the open market
- The Lockheed Martin plan is one of the country's largest with $26B in assets and more than 150,000 participants
- The terms of the settlement, which have not been made public, are currently being reviewed by the U.S. District Court

Two Major Excessive Fee Cases Moving Forward

- On September 30, 2014, the U.S. District Court denied Citigroup's motion for summary judgment in a suit brought by participants alleging the company breached its fiduciary duty by including its own funds, and those of its affiliates, in its 401(k) despite having higher fees than competing funds of equal performance
- In November 2014, a federal court in California granted the DOL access to documents gathered by the plaintiffs in a long-running class action lawsuit against Northrop Grumman that accused the plan sponsor of charging excessive investment and administrative fees in two 401(k) plans

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Ninth Circuit Revises ERISA "Stock Drop" Post-*Dudenhoeffer*

- On October 30, 2014, the U.S. Court of Appeals for the Ninth Circuit has ruled that the plaintiffs in *Harris v. Amgen* have sufficiently alleged violation of the company's fiduciary duties
  - In 2013, the Ninth Circuit reversed the district court's dismissal and held that the presumption of prudence (*Moench* defense) did not apply as the plan neither mandated nor required investment in company stock
  - The Supreme Court remanded the case for reconsideration post-*Dudenhoeffer* and the Ninth Circuit again reversed the district court's dismissal
- In light of the Supreme Court decision earlier this year, plan sponsors who offer a company stock fund in their 401(k) plan are encouraged to consult counsel on the potential implications and possible next steps

Plaintiffs Granted Summary Judgment in Church Case

- The U.S. District Court for the Northern District of California has granted a motion for partial summary judgment against an employer in a widely followed "church plan" case, *Rollins v. Dignity Health*
- At issue is whether the not-for-profit public benefit corporation that operates hospitals and ancillary care facilities should conform its defined benefit plan to ERISA or if the plan is exempt because it is a "church plan" as defined by the statute
- There are similar cases currently in the federal court system in which plan sponsors who represent religiously-affiliated organizations (who are not churches) may wish to follow closely

Defined Contribution Capabilities

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Janus Defined Contribution Capabilities

- 40+ years of industry experience
- Retirement excellence and leadership
- Unique, distinct-in-class asset managers: Janus, INTECH and Perkins
- Expertise in:
  - Fiduciary responsibility
  - Industry trends
  - Legislative and regulatory updates

- $22.59 Billion in DC Assets Under Management as of 9/30/14
- Products utilized by the top 25 DC record keepers in the industry
- Availability on over 200 recordkeeping platforms

Janus Capital Group Inc. is a global asset manager offering individual investors and institutional clients complementary asset management disciplines. Janus Capital Management LLC, Perkins Investment Management LLC and INTECH Investment Management LLC serve as investment advisers. Perkins and INTECH are indirect subsidiaries of Janus Capital Group Inc.

Janus QDIA Capabilities

	Dynamic Allocation		Risk-Based		
	Janus Balanced Fund	**Perkins Value Plus Income Fund**	**Janus Global Allocation Fund - Conservative**	**Janus Global Allocation Fund - Moderate**	**Janus Global Allocation Fund - Growth**
	A: JDBAX C: JABCX S: JABRX I: JBALX R: JDBRX T: JABAX	A: JPVAX C: JPVCX S: JPVSX I: JPVIX T: JPVTX	A: JCAAX C: JCACX S: JCASX I: JCAIX T: JSPCX	A: JMOAX C: JMOCX S: JMOSX I: JMOIX T: JSPMX	A: JGCAX C: JGCCX S: JGCSX I: JGCIX T: JSPGX
Managers(s)	Marc Pinto, CFA Gibson Smith	Jeff Kautz, CFA Theodore Thome, CFA Gibson Smith Darrell Watters	Ashwin Alankar, Ph.D. Enrique Chang		
Description	Equity and fixed income product capitalizes on Janus' uniquely integrated firmwide research	Flexibly allocates between Perkins income-focused equity and Janus credit-oriented fixed income	Diversified portfolios of Janus, Perkins and INTECH mutual funds with target risk determined allocations across global equity, fixed income and alternatives		
Asset Class Allocation Process	Ongoing at the discretion of the portfolio management team	Ongoing at the discretion of the portfolio management team	Long-term strategic asset allocations with ongoing monitoring and rebalancing of underlying funds. Oversight provided by Janus‘ asset allocation committee and supported by third party partnership		
Allocation Ranges	Equity 35-65% Fixed Income 35-65% Alternatives 0%	Equity 40-60% Fixed Income 40-60%	Equity 30-50% Fixed Income 50-65% Alternatives 0-20% International Allocation: ~40%	Equity 45-65% Fixed Income 30-45% Alternatives 5-20% International Allocation: ~40%	Equity 70-85% Fixed Income 10-25% Alternatives 5-20% International Allocation: ~40%
Fund Inception Date	9/1/92	7/30/10	12/30/05		
Benchmark	S&P 500® Index	Russell 1000® Value Index	Barclays Global Aggregate Bond Index	MSCI All Country World Index℠	MSCI All Country World Index℠

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About the Author

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Matt Sommer is Vice President and leads the Defined Contribution and Wealth Advisor Services team at Janus. In this role, he provides advice and consultation to Financial Advisors surrounding some of today's most complex retirement issues. His expertise covers a number of areas including regulatory and legislative trends, practitioner best practices, and financial and retirement planning strategies for HNW clients.

Prior to joining Janus, Matt spent 17 years at Morgan Stanley Smith Barney and its predecessors. Matt held a number of senior management positions including Director of Financial Planning at Citi Global Wealth Management and Director of Retirement Planning at Smith Barney.

Matt received his undergraduate degree in Finance from the University of Rhode Island and received a Masters of Business Administration with a specialization in Finance from the Lubin School of Business at Pace University. Matt currently serves on the Investment Management Consultant Association (IMCA) Wealth Management committee and CPWA examination sub-committee.

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A retirement account should be considered a long-term investment. Retirement accounts generally have expenses and account fees, which may impact the value of the account. Non-qualified withdrawals may be subject to taxes and penalties. For more detailed information about taxes, consult a tax attorney or accountant for advice.

In preparing this document, Janus has relied upon and assumed, without independent verification, the accuracy and completeness of all information available from public sources.

For more information contact your financial advisor.

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