



CYPEN & CYPEN
NEWSLETTER
for
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Never Forget September 11, 2001
and
Always Remember May 2, 2011

1. RETIREMENT ASSETS TOTAL \$27.2 TRILLION IN THIRD QUARTER 2017: According to Investment Company Institute, www.ici.org, total US retirement assets were \$27.2 trillion as of September 30, 2017, up 2.3 percent from June 30, 2017. Retirement assets accounted for 35 percent of all household financial assets in the United States at the end of September 2017. Retirement market assets grew across all categories in the third quarter of 2017. Assets in individual retirement accounts (IRAs) totaled \$8.6 trillion at the end of the third quarter of 2017, an increase of 2.7 percent from the end of the second quarter. Defined contribution (DC) plan assets rose 2.5 percent in the third quarter of 2017 to \$7.7 trillion. Government defined benefit (DB) plans—including federal, state, and local government plans—held \$5.8 trillion in assets as of the end of September, a 2.3 percent increase from the end of June. Private-sector DB plans held \$3.1 trillion in assets at the end of the third quarter of 2017, and annuity reserves outside of retirement accounts were \$2.2 trillion.

- **Defined Contribution Plans** - Americans held \$7.7 trillion in all employer-based DC retirement plans on September 30, 2017, of which \$5.3 trillion was held in 401(k) plans. In addition to

401(k) plans, at the end of the third quarter, \$585 billion was held in other private-sector DC plans, \$967 billion in 403(b) plans, \$305 billion in 457 plans, and \$543 billion in the Federal Employees Retirement System's Thrift Savings Plan (TSP). Mutual funds managed \$3.5 trillion, or 65 percent, of assets held in 401(k) plans at the end of September 2017. With nearly \$2.1 trillion, equity funds were the most common type of funds held in 401(k) plans, followed by \$954 billion in hybrid funds, which include target date funds.

- **Individual Retirement Accounts:** IRAs held \$8.6 trillion in assets at the end of the third quarter of 2017. Forty-eight percent of IRA assets, or \$4.1 trillion, was invested in mutual funds. With \$2.3 trillion, equity funds were the most common type of funds held in IRAs, followed by \$906 billion in hybrid funds.
- **Other Developments:** Target date mutual fund assets grew 5.0 percent in the third quarter, reaching \$1.1 trillion at the end of September 2017. Retirement accounts held the bulk of target date mutual fund assets. Eighty-seven percent of these assets were held through DC plans (67 percent) and IRAs (20 percent).

2. DEFINED CONTRIBUTION PLANS: 10 NEW DEFINITIONS FOR

2018: The defined contribution (DC) landscape is changing rapidly, reports *Willis Towers Watson*. When this happens, we need to redefine terms better to reflect the new environment. Here we identify

10 terms rendered outdated by change. In each case, we provide a more robust, accurate and current definition. While we aim for our definitions to become the industry standard for our clients and our peers, we realize that some might disagree with our interpretations. In these cases, we believe it is valuable to educate each other on why we think differently, and to find areas of common ground. This culture of open and honest communication will help us provide advice, tools and innovation in a way that is best suited to you and your plan.

1. Plan design

- **Traditional:** Supplemental retirement benefit. Matching contributions were the primary tool used to encourage modest employee savings and maintain competitiveness.
- **Modern:** Primary or even sole retirement benefit. Customized design focused on retirement adequacy, particularly for participants that are approaching retirement. The plan is structured to be cost sustainable, aligned to the business strategy, and supports employers' workforce and financial priorities.

2. Plan success

- **Traditional:** Investment managers outperforming published market benchmarks. Participant behaviors measured on one-size-fits-all rule of thumb metrics focused on improving

averages: account balances, participation, employee savings rates, *etc.*

- **Modern:** Successful participant retirement outcomes. Ability of participants to retire at normal retirement age. Measured by individualized retirement readiness metrics capturing health care costs, tax efficiency and lengthening lifespans. Custom scorecards that identify workforce gaps in financial well-being and retirement preparedness. Business analytics that measure the cost of financially stressed employees and the risk of a "stuck" workforce.

3. Plan risk factors

- **Traditional:** Compliance errors, piecemeal documentation, excessive fees, poor fund performance, nondiscrimination failures, employee lawsuits.
- **Modern:** Old risk factors **plus:** workforce bottleneck caused by employees who cannot afford to retire. High cost of financially stressed employees with low engagement, high absenteeism and poor health. Class action lawsuits creating reputational and financial damage related to employee disclosures, investment-related fees and overall program costs.

4. Participant inertia

- **Traditional:** Employers focused on **preventing** participant

inertia and poor participant behaviors: inappropriate asset allocations, under saving, low participation, *etc.* Belief that default options expose plan sponsor to fiduciary risk.

- **Modern:** Leveraging participant inertia to improve retirement outcomes: auto-enrolling, auto-escalating, rebalancing or reenrolling participants. Using behavioral economics to encourage positive retirement saving behaviors. Delivering personalized, smart suggestions to participants that resonate and are easier to implement.

5. Participant communications

- **Traditional:** One-way push communication with generic messaging distributed through traditional channels (*e.g.*, print/mail) and focused on one call to action for all (*e.g.*, "save more").
- **Modern:** Multi-channel push and pull communication tactics that leverage technology to deliver relevant, customized messages and a call to action based on segmented demographic data, including generational differences and other behavioral metrics.

6. Participant outreach

- **Traditional:** Onsite, large group meetings focusing on a homogeneous group of employees who are all approached in a

similar manner.

- **Modern:** Targeted outreach utilizing employee segmentation and multiple communication channels based on various factors, including demographics, life-stage saving behavior, retirement readiness, preferences, financial stress, *etc.*

7. Qualified default investment alternative (QDIA) and target-date fund (TDF) selection

- **Traditional:** Static option - single QDIAs, commonly TDFs, taking participants through all phases of work/life and retirement. Off-the-shelf TDFs selected based on performance and expenses, or defaulting to proprietary series managed by the recordkeeper.
- **Modern:** Dynamic option - multiple QDIAs that evolve to meet participant needs in each phase, such as converting from TDFs to managed accounts to retirement income solutions as participants approach and then move into retirement. Sponsors seeing the value in unbundling key decision points (glide path, portfolio construction and implementation) to design a tailored TDF series to plan needs.

8. Participant investment decisions

- **Traditional:** Give participants many choices with the expectation that they will design and manage a diversified

portfolio themselves, including periodic rebalancing and ongoing shifts in allocation as they move through various phases of life.

- **Modern:** Simplified and streamlined approach to investment menu construction emphasizing professionally designed and managed portfolios. Participants focus on saving and staying the course, not on investment-related decisions for which they are usually ill-equipped.

9. Investment decisions for plan fiduciaries

- **Traditional:** Investment decisions typically made by a committee of employees from various areas of an organization (finance/treasury, HR, legal, *etc.*) who are named fiduciaries and are exposed to personal liability. Most of whom have limited time to devote to managing the retirement plans, where process is typically limited to selecting an array of retail investment products.
- **Modern:** Committees delegate investment decisions and related fiduciary responsibilities to investment professionals whose primary focus is managing DC plans. Prudent experts from the delegated provider make the investment decisions allowing committees to focus more on overall strategy rather than investments. Delegation of investment decisions to the prudent expert enhances risk management for the plan's named fiduciaries.

10. Diversification and investment solutions

- **Traditional:** Large menu of off-the-shelf single fund options - mutual funds and collective trusts - across the style-box spectrum with additional specialty funds, such as high-yield bonds, real estate investment trusts (REITs), technology and other sector-specific options. The demand for these options often comes from a narrow group of vocal employees. This structure creates heightened complexity for participants and fiduciaries.
- **Modern:** Greatly streamlined investment menu using off-the-shelf or custom multi-manager options focused on participant retirement objectives. Complexity is imbedded inside the options with the design, implementation and management decisions delegated to investment professionals as prudent experts and fiduciaries. This can offer improved investment propositions, lower costs and reduced complexity for participants and plan fiduciaries. (See Cypen & Cypen Newsletter for November 30, 2017, item 1, for definitions as to defined benefit plans, <http://www.cypen.com/pubs/11-17/2017nov30.htm>).

3. JOINT STATEMENT OPPOSING “COMPOSITE” PENSION

LEGISLATION: A joint Statement of AARP, International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers; Musicians for Pension Security; National United

Committee to Protect Pensions; National Retirees Legislative Network; Pension Rights Center; United Steelworkers; and Western Conference of Teamsters Pension Trust Opposing Composite Pension Legislation. The organizations, representing tens of millions of workers and retirees, strongly support the passage this year of critical legislation to make available loans to severely-underfunded multiemployer pension plans to pay earned pensions to retirees and their families, earn investment market returns to repay the loans, and fund the federal pension insurance program, the Pension Benefit Guaranty Corporation (PBGC). Approximately 10 million workers and their families are covered by multiemployer pension plans. These workers worked a lifetime to earn their retirement benefits and should not have their retirement years shattered because Congress failed to act to protect their pensions. At the same time, they strongly oppose efforts to attach “composite plan” proposals that put earned benefits at risk to this legislation. The composite legislative proposal does not ensure that earned pensions will be fully paid in either existing multiemployer pension plans or in newly created plans. The composite proposals put benefits at risk, even in those multiemployer plans that are well-funded today. Advocates for composite plans argue that their proposals would preserve existing plans for workers and retirees while creating innovative plans for the future. But what they are not saying is that money that would be needed for the new composite plans will be taken from money needed to fund existing plans – likely leading to underfunding of both plans – without adequate benefit protections. Proposals to limit composite plans to

certain industries do not solve the problem as these plans will face the same incentives to cut earned benefits. The composite plan legislative proposal, while creating new risks for existing plans, would continue to permit underfunded existing plans to cut retiree pensions. Benefits under the new composite plans would not be guaranteed, as plan trustees have broad authority to reduce earned pensions, including for retirees already receiving pensions. While the Treasury Department and plan participants must approve any proposed pension cuts in existing plans, the participant vote does not follow democratic voting principles and unfairly counts those who do not vote as having voted to cut pensions. We support the need to have pension plans that work for all parties – workers, retirees, employers and unions. We are open to discussing pension designs that encourage employers to join and contribute to multiemployer plans without unfairly eliminating the fundamental principle of secure earned pensions. The organizations urge passage of the legislation to improve the funding of and protect the earned pensions of retirees covered by severely underfunded plans – and say “no” to composite plans that put earned benefits at risk. See the entire statement at www.pensionrights.org/newsroom/releases.

4. SOCIAL SECURITY’S GIFT TO CHILDREN IS SECURITY: During the holiday season, most of us, regardless of religion or beliefs, focus on the children we love. Caring for children is one of the best ways to safeguard the future. And we at Social Security know a thing or two about helping children. The application for a Social Security number

and card is sometimes overlooked in the paperwork that parents fill out in preparation for a child's birth. Typically, the hospital will ask new mothers if they want to apply for a Social Security number for their newborn as part of the birth registration process. This is the easiest and fastest way to apply. The Social Security card typically arrives about a week to ten days after that little bundle of joy! Learn about Social Security numbers for children by reading the publication, [*Social Security Numbers for Children*](#). A child needs a Social Security number if he is going to have a bank account, if a relative is buying savings bonds for the child, if the child will have medical coverage, or if the child will receive government services. You will also need a Social Security number for a child to claim him on your tax returns. If you wait to apply, you will have to visit a Social Security office and you will need to, complete an Application for a Social Security Card (Form SS-5); show the original documents proving your child's U.S. citizenship, age, and identity; and show the documents proving your identity. A child age 12 or older requesting an original Social Security number must appear in person for the interview, even though a parent or guardian will sign the application on the child's behalf. Children with disabilities are among our most vulnerable citizens. Social Security is dedicated to helping those with qualifying disabilities and their families through the Supplemental Security Income (SSI) program. To qualify for SSI the child must have a physical or mental condition, or a combination of conditions, resulting in "marked and severe functional limitations." This means that the conditions must severely limit your child's activities; the child's conditions must be severe, last for at least

12 months, or be expected to result in death; and the child must not be working and earning more than the Substantial Gainful Activity limit (\$1,180 a month in 2018). If your child's conditions do not result in "marked and severe limitations," or does not result in those limitations lasting for at least 12 months, your child will not qualify for SSI. Family resources are also considered. If the parents of the child or children have more resources than are allowed, then the child or children will not qualify for SSI. You can read more about children's benefits [here](#). Visit [Kids and Families page](#) to learn more about all we do to care for children. Social Security is with you and your children through your life's journey, securing today and tomorrow.

5. HOW PUBLIC EMPLOYEES COULD POWER THE

STRUGGLING TAXI INDUSTRY: As a program analyst for the city administrator's office in the District of Columbia, Alexandra Caceres works with many agencies and often travels across the congested city for meetings, reports *Governing*. Every time she does, she has to reserve one of the two vehicles owned by her agency or, if those are being used, reserve a car from the city's shared fleet. In either case, she has to schedule how long she will need the car, pick it up, drive to her destination and face the frustrating search for an elusive parking spot. Well, that is how she *used* to do it. D.C. launched a new transportation program that makes it much easier for city employees to get around for work. Now, Caceres uses a smartphone app to contact a taxi participating in the city's "Vehicles on Demand" pilot. Within five to 10 minutes usually, a driver picks her up, checks her

employee ID and takes her to her destination. It cuts the transportation time almost in half. It is quicker and easier all around. The president of the International Association of Transportation Regulators and a former taxi commissioner for New York City, says he knows of no other city in the world that has started something similar. The program is also a boon to the taxi industry, which has been suffering in cities across the country since ride-sharing companies like Uber and Lyft appeared on the scene and took a lot of their business. More than 150 taxi drivers have signed up to transport D.C.'s public servants. The idea that a government employee could hail a for-hire vehicle from his phone seems like a no-brainer, but it is a huge leap forward for local government, which launched the program in collaboration with the D.C. Department of For-Hire Vehicles (DFHV). So far, this is not just saving time for employees – it is saving money for the city. The cost of using an agency-owned car -- based on acquisition costs, parking, fuel and maintenance -- boils down to \$3.18 per mile, according to the Department of Public Works. The city's fleet-share program is even more expensive, at \$4.52 a mile. But the cost of the Vehicles on Demand program comes in around \$2.16 per mile. That is more than 30 to 50 percent in savings. Tips are not permitted, but drivers do get a \$2 bonus per trip to make up for the loss of those extra dollars. The average fare so far is \$17, compared to \$15 for taxi rides to the general public, according to the DFHV. The pilot program is still under evaluation, so the impact on taxi drivers has not been calculated, but the director of the DFHV, which represents taxi drivers, says the revenue is going up for

everyone. The pilot program is currently being tested with 15 of the city's 78 agencies through September 30. If it expands citywide, it is expected to reduce the city's fleet size. A smaller fleet would also reduce the need for garage and parking lot space, he says. To, New York's former taxi commissioner, D.C.'s program is innovative not just because it may be a first of its kind but also because it provides solutions to several widely recognized problems

6. TOP 5 THINGS TO DO IF YOU RECEIVE IRS LETTER 226-J:

Although the current administration has directed the federal agencies to use their regulatory authority to simplify and delay certain provisions of the Patient Protection and Affordable Care Act (PPACA), many employers may be surprised to learn that the IRS has begun to enforce Section 4980H, also known as the Employer Shared Responsibility mandate. After all, PPACA is still the law of the land despite numerous repeal and replace efforts. As an early holiday present, some employers are now receiving IRS Letter 226-J, notifying them of proposed Employer Shared Responsibility penalties. What is letter 226-J? [Letter 226-J](#) is sent by the IRS to [Applicable Large Employers](#) (ALEs) to notify them that they may be liable for an Employer Shared Responsibility Payment (ESRP). This proposed penalty assessment is based on information gathered from Forms 1094-C and 1095-C filed by the employer as well as individual income tax returns filed by the employees for the 2015 tax year. Receiving a Letter 226-J may surprise some ALEs, including those ALEs that made the necessary changes to comply with Section 4980H. Since

employer reporting was a new process for ALEs, it is likely that mistakes were made that may trigger Letter 226-J. Should you receive a 226-J letter, there are several action items an employer must consider. Make sure to review the accuracy of the information contained in the Letter 226-J. Generally, the letter will provide the penalty amount, the response date, how the penalty was calculated and a list of the employees that triggered the penalties through the receipt of premium tax credits in 2015. The letter also instructs ALEs how to respond to the IRS in the event they agree or disagree with the penalty assessed. Act quickly, time is ticking! Employers only have 30 days from the date of the letter to reply - giving very little time to respond. The IRS has indicated additional time may be provided upon request. Since the demand is based on the 2015 calendar year, make sure you can access the information you need to defend against the proposed penalty. This may include contacting your payroll provider and any third-party vendor that assisted with calculating hours of service, administering measurement methods, and generating Forms 1094-C and 1095-C. Notify the appropriate internal teams, as well as your legal counsel or tax advisor. You will want to have a team assembled if you have to have further dialogue with the IRS around the ESRP. Notify your Benefits Consultant if you are working with an employee benefits consulting firm, you likely received guidance around PPACA from your consultant. Their records and assistance should provide you with quicker access to your history. If you receive a letter, do not panic. Take a step back and remember you have an opportunity to contest the penalty if the amount proposed is incorrect.

How to Dispute a Penalty-Forms 14764 (ESRP Response) and 14765 (Employee Premium Tax Credit Listing) are the documents an ALE will use to respond to the IRS to pay or dispute the penalty. Letter 226-J clearly outlines the steps to complete these forms. These forms provide an explanation as to why the IRS is seeking a penalty and will give the employer the opportunity to respond. Form 14764 – This form asks employers to indicate agreement or disagreement with the proposed penalty. If an employer disagrees, the employer is advised to submit a signed statement explaining the reasons behind their disagreement. Employers may include documentation supporting the statement. However, the IRS has yet advised the type of supporting documentation may be required to resolve a proposed penalty. Form 14765 - Review form 14765 carefully. It will give a list of employees that generated the penalty and the codes found in Lines 14 and 16 of each employee's Form 1095-C. If any of the codes listed are incorrect, the form provides space for the employer to indicate corrections. If Letter 226-J was generated as the result of incorrect or incomplete information that was reported on Forms 1094-C or 1095-C, the employer should not file corrected forms; however, any necessary corrections to Forms 1094-C or 1095-C should be identified in the employer's signed statement or on Form 14765. For more information on the ESRP assessment process, review Gallagher's [Employer Shared Responsibility Penalty Assessment Toolkit](#). Should you receive a Letter 226-J, consider the action steps above and contact HCW if further guidance is needed. And if you are an applicable large employer, consider [attending our live event on](#)

[January, 17, 2018](#) as we will walk you through sample scenarios of what to do if a letter is received.

7. NEW OFFICE ADDRESS: Please note that Cypen & Cypen has a new office address: Cypen & Cypen, 975 Arthur Godfrey Road, Suite 500, Miami Beach, Florida 33140. All other contact information remains the same.

8. CRAZY STATE LAWS: *Good Housekeeping* reminds us that there are crazy laws in every state. In Wyoming, an official permit is required before one may lawfully photograph a rabbit during the months from January to April.

9. INSPIRATIONAL QUOTE: “Eighty percent of success is showing up.” Woody Allen

10. LEXOPHILES: A dentist and a manicurist married. They fought tooth and nail.

11. FUNNY TOMBSTONE SAYINGS: I am finally thin...maybe a little too thin.

12. TODAY IN HISTORY: On this day in 1993, Dow-Jones hits record 3793.49

13. KEEP THOSE CARDS AND LETTERS COMING: Several

readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

14. PLEASE SHARE OUR NEWSLETTER: Our newsletter readership is not limited to the number of people who choose to enter a free subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

15. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.