



PLAN SPONSOR Digest



Wealth
Management

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How are participants responding to economic uncertainty?

Several recent studies point to the difficulties that plan participants are encountering in light of the uncertainties facing the U.S. economy. Although we should always be careful in drawing broad conclusions from various “snapshot surveys,” these studies may be helpful in pointing out the perceptions of participants, plan sponsors and financial advisors, while also identifying ways to address their concerns.

Disconnect between participants and plan sponsors about retirement readiness

Before considering how participants and their employers may differ on their perceptions of retirement readiness, don't forget one important fact: according to a U.S. Bureau of Labor Statistics study, just over half of private industry (non-governmental) workers participate in an employer-sponsored retirement plan. Many employers, especially smaller employers, simply do not offer a plan.

With this in mind, consider a 2025 Voya Survey of the Retirement Landscape, that polled plan sponsors, participants and financial advisors regarding retirement



preparedness. While over 90% of plan sponsors believed that participants were either “very” or “somewhat” prepared for retirement, less than 70% of participants felt that way. Respondents may weigh many

factors when answering questions, so solid conclusions may be hard to support. Also consider that feeling prepared for retirement is not the same thing as *being* prepared.

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More bad news for many approaching retirement

According to the Federal Reserve Board's 2023 Survey of Consumer Finances, 43% of those age 55 to 64 have no retirement savings at all. And of those that do, most underestimate how much they need, especially to cover health care costs. The median account balance (\$202,000) is widely considered inadequate to last for a retirement that could last 20 years or more.

For those counting on Social Security benefits, news from the Board of Trustees' 2025 report is not encouraging. The Old-Age and Survivors Insurance (OASI) Trust Fund reserves are predicted to face depletion by 2033, causing an incapacity to pay full benefits unless corrective action is taken. Fearing Social Security insolvency, some are taking early retirement benefits rather than waiting until full retirement age (or later) to obtain larger projected benefits. Others—through job loss or other events—simply cannot wait longer for increased benefits.

Participants are requesting hardship distributions and loans

Whether or not to allow for hardship distributions and loans in a retirement plan are important plan design considerations. Some plan sponsors believe that limiting access to retirement assets is the only sure way to help ensure future financial security. Others adhere to a different view: allowing access to retirement assets before retirement encourages participants to place more of their own money in the plan—knowing that they can get to it if needed.

Most defined contribution plans (such as 401(k) plans) allow for some combination of loans and distributions before retirement age. Without discussing all the details, it is relatively easy for most plans to process loans and early distributions, especially because participants may now self-certify their eligibility for hardship distributions. A recent T. Rowe Price survey found that, in 2024, the average loan amount grew faster than the inflation rate. Loan requests also increased by

2% over 2023. Another report from Vanguard showed that 4.8% of 401(k) participants took hardship distributions in 2024, an increase from 3.6% in 2023 and more than double the pre-pandemic level of 2%.

There are some obvious concerns about taking assets out of a retirement account through either a distribution or a loan. First, these “absent assets” are no longer creating earnings. Further, hardship distributions cannot be paid back to the plan. Unless participants ramp up future deferrals, they simply never catch up on those lost assets. Loans are repaid to the borrower's account, but with after-tax assets. Eventually—when the repaid loan interest is distributed in retirement—this interest is taxed again. Another sometimes subtle danger exists: assets are often removed from a plan when economic times are tough. Distributing assets when financial markets are down can lock in losses and prevent cashing in on any market rebounds.

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The picture is not completely bleak

Despite concerns about retirement savings trajectories, bright spots remain. For example, according to a Fidelity study, the average contribution rate (both employee and employer contributions) in the first quarter of 2025 increased to its highest combined level yet of 14.3% (9.5% average employee contribution rate and 4.8% average employer contribution rate). Participants in 401(k) and 403(b) plans *increased* their contributions at a much higher rate than those who decreased their contributions. Whatever the reason for such increases, this trend is encouraging. Even so, it may be hard to draw definitive conclusions from this information. Those who increased their deferrals may be higher earners who have more discretionary income; those who decreased contributions may be struggling to make ends meet. And even with the increased contributions, average plan balances were down from the previous quarter.

What's the takeaway?

Is there a lesson that all this information reveals? Perhaps. It makes sense, however, to exercise



caution in extrapolating too much from the data. Each participant faces different challenges and opportunities. Broad inferences may not help. The message might be to focus on the fundamentals. Participants should be encouraged to continue deferring their income into retirement savings—despite existing headwinds. They should try to find ways to avoid tapping into their retirement assets through loans or hardship distributions. (This may involve a serious reckoning

with their lifestyle and budget.) And they should certainly evaluate their current investment mix. For some, this may involve protecting past gains and selecting more conservative investments; others may sense an opportunity and invest more aggressively. Whatever type of participant seeks help, financial professionals are uniquely positioned to provide sound advice during these uncertain economic times.

DOL sends amicus brief on plan forfeitures

Since the early 2023 release of proposed regulations on the use of plan forfeitures, scores of plaintiffs have filed lawsuits against plan sponsors alleging the misuse of such plan assets. IRS-approved plan documents allow for three options, in any combination, for using plan forfeitures.

- Pay plan administrative expenses
- Reduce employer contributions under the plan
- Allocate forfeitures to participants' accounts

Plaintiffs argue that when plan sponsors use forfeited assets to reduce their own contributions, they benefit by saving company assets that would otherwise fund the plan. Plaintiffs further maintain that doing this elevates the plan sponsor's interests above the interests of participants, thus violating a principal tenet of the Employee Retirement Income Security Act (ERISA).

Given the steady stream of forfeiture cases filed in recent years, the Department of Labor (DOL) decided to provide its view by submitting an

amicus (friend of the court) brief to the U.S. Court of Appeals for the Ninth Circuit in *Hutchins v. HP Inc.* Normally, the DOL or Treasury Department would not take such an approach. They would instead reveal their position by issuing regulations or other guidance. But the regulatory process typically includes releasing proposed rules followed by a comment and review period, which can take many months (or even years). To expedite the process and to help courts resolve the many outstanding suits, the DOL acted.

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The amicus brief itself takes a plan sponsor-friendly stance, recognizing that plan sponsors have used forfeitures to reduce employer contributions for decades. On its face, this practice would not violate ERISA, according to the DOL. The DOL states that plan design and funding decisions are “settlor functions” and not fiduciary functions. Therefore, the argument goes, using forfeited plan assets to reduce employer contributions cannot be a breach of ERISA’s fiduciary duties.

The DOL’s brief may help guide courts as they consider the spate

of recent plan forfeiture cases, but the results are not guaranteed. And plaintiffs are filing more forfeiture cases. While the majority of them are now being resolved in favor of plan sponsors, others are being settled or continue to be litigated. One important factor may diminish the DOL’s influence: in 2024, the Supreme Court overturned the 1984 decision in the *Chevron* case. This means that courts are no longer required to give regulations or other agency guidance the same high standard of deference when interpreting statutes.

Looking ahead

Passing the One Big Beautiful Bill Act (OBBBA) (enacted on July 4, 2025) took much of Congress’s time and energy this spring and early summer. Now Congress—when it returns in September—could focus more on bipartisan retirement plan legislation. Several such bills have already been introduced, ranging from Senator Bernie Sanders’s (I-VT) “Pensions for All Act” to several bills sponsored by various members of the Senate Health, Education, Labor, and Pensions (HELP) Committee. This HELP Committee package, while not as ambitious as the Sanders bill, could provide incremental benefits for retirement savers. Other topics of interest continue to develop: alternative investments in retirement plans, court rulings and other guidance on the DOL’s fiduciary rule and ongoing litigation on plan expenses and forfeitures. Future newsletters may address significant subjects as they emerge.



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