

# SPONSOR E-News



## Welcome to the December 2007 edition of Sponsor E-News!

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Welcome to the year-end edition of Sponsor E-News for 2007. We are excited to tell you about some of the enhancements we have made to our website recently. We hope the changes we've made will help streamline your process. Read on for more details.

This month's *Fiduciary Focus* continues its deeper examination of prohibited transactions by looking at plan transactions involving goods, services and facilities.

We are also pleased to share with you our exciting results from the annual *Plansponsor Magazine* survey. Please read below to see the accolades Transamerica has received.

**To help convey important information to you quickly, our newsletter messages are color-coded:**



**Action Required:** Noted in red, these messages require action, such as a signature, by the Trustee or Fiduciary of the plan



**Legislative / Compliance Update:** Noted in blue, these messages discuss legislative or compliance-related topics.



**For Your Information:** Noted in green, these messages provide you with general information covering subjects such as participant education, product and service features, and helpful tips for using the Web site.



### **Web Site Enhancements**

Transamerica Retirement Services is pleased to announce some recent enhancements to our employer Web site. We have added functionality that we hope you will find useful with your plan's administration.

## **New Functionality:**

### **Change Indicative Data Upload File function**

- Plan sponsors now can upload a file to add or update indicative data for multiple participants.

### **Add Participant Upload File function**

- Plan sponsors can add multiple participants to a plan by file upload.
- Please keep in mind the approved file layout is needed to properly upload a file.



### **Changes to Contribution Rate report**

- This report has been enhanced to allow for the inclusion of Automatic Enrollment, if your plan offers this feature.
- Automatically enrolled participants who do not complete online enrollment will show up on the report with the plan's default contribution rate.
- This new function includes participants who were enrolled automatically and participants with automatic deferral increases (including deferral increases set up by the plan as well as deferral increases set up by the participant individually).
- For plans with Automatic Enrollment, the end date of the report must be set to the plan entry date to make sure that automatically enrolled participants are included in the output. (Example: If the next entry date is January 1, 2008, then the end date of the report should be January 1, 2008.)

### **New Age 70 <sup>1</sup>/<sub>2</sub> Report**

- This report is now available to plan sponsors. The Age 70 <sup>1</sup>/<sub>2</sub> report allows employers to view participants who will reach age 70 <sup>1</sup>/<sub>2</sub> by any date specified by the plan sponsor.
- Sponsors can input a future date for this report, such as December 31, in order to generate a list of all participants who will be age 70 <sup>1</sup>/<sub>2</sub> by year end. This can help sponsors get an early start in planning for Required Minimum Distributions.

### **Enhanced Payroll Validator**

- This now includes the ability to handle contributions for plans with the Roth 401(k) feature.
- Column headings are now easier to read, making the Payroll Validator more user friendly.



## **Fiduciary Focus: Prohibited Transaction Discussion Continues**

ERISA Section 406(a)(1)(C) prohibits transactions that directly or indirectly provide goods, services or facilities between 401(k) plans and their parties in interest unless a statutory exemption exists. This is an extremely broad prohibition that could seriously hamper a plan's ability to perform plan functions if not for an exemption provided in ERISA Section 408(b)(2), allowing transactions that are otherwise prohibited by those transactions are:

- Necessary for the establishment and/or operation of the plan,
- Established by a reasonable agreement between the plan and the party in interest, and
- Compensation paid for the goods, services or facilities is reasonable.

Even though two of the conditions set forth above utilize the term "reasonable," ERISA does not define the term "reasonable." Instead, the reasonableness of a transaction is determined using facts and circumstances on a case-by-case basis. The only explicit example of reasonableness provided in the regulations states that a contract or arrangement will not be judged reasonable if the plan cannot terminate the contract or arrangement without penalty on reasonably short notice. It is the plan fiduciary's responsibility to assess whether or not a plan transaction is reasonable. In making this assessment, the plan fiduciary must utilize all aspects of the standard of care demanded by ERISA of plan fiduciaries. Please refer to the August 2007 issue of Sponsor E-News for the discussion on fiduciaries' standard of care.

It is important to note that the exemption provided by ERISA Section 408(b)(2) also applies to parties in interest who are plan fiduciaries as long as the fiduciary involved in the transaction:

- Is not a party to the decision to select himself or herself as a service provider to the plan,
- Does not participate in the decision determining how much he or she will be compensated for the services provided to the plan, and
- Does not use his or her plan authority to cause the plan to pay an additional fee for the services provided.

As a part of your responsibility for ensuring that plan functions and plan business are effectively and efficiently transacted, it is essential you understand that having parties in interest, including plan fiduciaries, provide services to the plan may be the most reasonable and effective solution to the plan's needs. But, as a plan fiduciary you must ensure that the party in interest's services are absolutely essential to the plan, that someone who is not a party in interest to the plan could not just as reasonably and cost effectively provide the services, and that the prohibited transaction exemption conditions established in ERISA Section 408(b)(2) and briefly described above are meticulously followed.

Next month Fiduciary Focus will examine prohibited transactions resulting from asset transfers.



**Transamerica Retirement Services Ranks as #1 in  
PLANSponsor® Magazine's Annual Survey\***

PLANSponsor® Magazine's Defined Contribution Survey is an

important industry benchmark, measuring and evaluating 401(k) and other Defined Contribution providers according to feedback from their own clients. Several categories are rated based on service provided to employers and participants.



Transamerica Retirement Services ("Transamerica") secured 39 "Best in Class" cups for sponsor and participant communications. Transamerica also received a 99% recommendation rating, the highest of any participating plan provider.

The honors included 21 in the micro (<\$5 million) and 18 in the small (\$5 million to \$50 million) markets, covering 22 categories. Participant categories included, Participant Communication Materials, Participant Education Program, and Enrollment Assistance; and Sponsor categories included, Internet Services, Compliance, Account Representative Knowledge and Responsiveness, to name a few.

To read more about the designations click [here](#).

\*Transamerica Retirement Services received 39 "Best in Class" cups for sponsor and participant services in *PLANSponsor*<sup>®</sup> Magazine's annual Defined Contribution Survey of retirement plans. The 39 Best in Class designations—21 in the micro (<\$5 million) and 18 in the small (\$5 million to \$50 million) markets—rank Transamerica Retirement Services number one for cup recipients among the 44 providers evaluated in the micro- and small-plan markets. The results of the Defined Contribution Survey were announced in the November 2007 issue of *PLANSponsor*<sup>®</sup> Magazine. The survey polled nearly 5,500 clients of 48 defined contribution plan providers. "Best in Class" cups are awarded to plan providers who score in the top quartile of a specific category. See the November 2007 issue of *PLANSponsor*<sup>®</sup> Magazine for complete results.

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Transamerica Retirement Services ("Transamerica"), a marketing unit of Transamerica Financial Life Insurance Company ("TFLIC"), 4 Manhattanville Road, Purchase, New York 10577, and Transamerica Life Insurance Company ("TLIC"), 4333 Edgewood Road NE, Cedar Rapids, Iowa 52499, and other TFLIC and TLIC affiliates, specializes in the promotion of retirement plan products and services. Investment choices are available from Transamerica Retirement Services under contract form number TA-AP-2001-CONT, a group variable annuity contract underwritten by TFLIC, or under contract form numbers TGP-439-194, TGP-416-192/194, TGP-430-192/194, CNT-TALIAC 05-02 or CNT-TLIC 10-05, group variable annuity contracts underwritten by TLIC. TFLIC is not authorized and does not do business in the following jurisdictions: Guam, Puerto Rico, and the U.S. Virgin Islands. TLIC is not authorized in New York and does not do business in New York. Contract form and number may vary, and these investment choices may not be available in all jurisdictions. Fees and charges may apply. For complete information, contact your Transamerica representative.

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