

TOP STORY

NAGDCA Seeks Qualified Speakers for the 2007 Annual Conference

The National Association of Government Defined Contribution Administrators (NAGDCA) is now seeking moderators, facilitators and panelists for its 2007 Annual Conference in Indian Wells, California on September 15-19, 2007. This year's theme is Saving for a Brighter Future: An Oasis of Possibilities. Through the hard work of the 2007 planning committee, the conference is sure to be an educational experience, and will offer clarification on many ongoing issues including the Pension Protection Act of 2006. Along with eight concurrent sessions (offered twice during the conference), four government breakout sessions and four general sessions will be offered. Knowing that our members want to be apprised on all issues, concurrent sessions at this year's conference will cover a wide range of topics including;

- Automatic Enrollment: How does it fit with your plan?
- The Evolution of Investment Vehicle Types– Emerging Investment Choices and Evaluating them for your Fund Line-up
- Meeting the Retiree Healthcare Challenge
- Revenue Sharing and Expenses: What's appropriate?
- Current Trends in RFPs and Using a Consultant on Your Plan
- Fiduciary Responsibility and Legal Issues
- Managed Accounts, Lifestyle and Lifecycle Funds –Trends, Responsibilities, Communication and More
- Understanding the Demographics of your Workforce

To access the speaker solicitation form, please visit the following link:

<http://www.nagdca.org/meetings/speakerInterest2007.cfm>. Forms must be submitted by April 30, 2007 for consideration. If you have questions regarding the speaker selection process, call Robert T. Hansel at 859-514-9161 or e-mail (rhansel@amrms.com).

Conference registration and hotel reservations are now open. The conference rate is \$174/night, for single or double occupancy. You can visit the NAGDCA website at <https://www.nagdca.org/meetings/2007annual.cfm> for more information.

PRESIDENT'S CORNER



This has been an extremely busy season for the NAGDCA Executive Board, as well as the organization as whole. Due to all the action going on within the retirement arena, we have been working to communicate NAGDCA's positions on legislative issues with officials in Washington, while keeping members abreast of the latest news from Capitol Hill. The NAGDCA Board traveled to Washington DC for the annual Hill visits at the end of February, where we met with several congressional staff members and representatives of the Department of Treasury. During our time in Washington, we developed the following list of legislative priorities for the organization (to view the full letter of legislative priorities, visit

<http://www.nagdca.org/legislation/correspondence/NAGDCA2007LegislativePrioritiesLetter.doc>.

- **Maintain Important Distinctions Between Governmental Defined Contribution Plans:** The continued growth in assets in governmental defined contribution plans is evidence of the value of these supplemental retirement vehicles. Therefore, NAGDCA supports the continued existence of substantive distinctions of §457(b) plans. NAGDCA is concerned that efforts to further simplify or consolidate defined contributions may result in the loss of benefits to public employees. NAGDCA has identified a number of practical concerns related to efforts to consolidate defined contribution plans.
- **Ensure Parity:** Enhancing retirement benefits and incentives for savings to all governmental and private sector workers.
- **Maintain Exemption from Early withdrawal penalty:** Under current law, government §457(b) plan employees are not subject to the 10 percent early withdrawal penalty. This recognizes the fact that many public employees, particularly police officers, firefighters, correction officers and other public safety officers, have access to early retirement options. In addition, many employees currently rely upon these early withdrawals to pursue retirement or phased-retirement options, including using these dollars to supplement health care costs during early retirement. Under consolidation proposals, as continued in the President's Federal Fiscal Year 2008 Budget proposal it is not clear that this current benefit would remain intact
- **Maximize Unused Flexible Account Dollars:** NAGDCA supports allowing state and local government employees to roll up to \$500 dollars in unused flexible spending account dollars into their defined contribution plans. (457, 401(k) or 403(b) plans)
- **Enactment of a Roth 457 Option:** 401(k) and 403(b) plans are permitted to offer a Roth 401(k) or a Roth 403(b) to allow participants to save for retirement with both pre- and post-tax contributions. It is important that public-employer sponsored 457 plans be permitted to provide this same range of retirement savings options to its participants.
- **Permit Non-Spousal Beneficiaries to Roll Assets to 457 and 403(b) Plans:** The PPA permitted non-spousal beneficiaries to roll assets they obtain as a beneficiary to an IRA. EGTRRA acknowledged that the consolidation of retirement assets is valuable to those with multiple retirement savings accounts. It would be similarly valuable to non-spousal beneficiaries to consolidate their beneficiary assets to their 457(b) or 403(b) accounts.
- **Extend the "National Save for Retirement Week" Resolution:**
We appreciate the support of the Senate in establishing the first National Save for Retirement Week in 2006 and urge the Senate and House of Representatives to pass an extension of this Resolution during the 110th Congress. This Resolution was a solid example of the partnership we have developed over the years and by giving national attention to this issue, this assisted state and local government employers across the country in creating a heightened level of awareness towards the importance of taking personal responsibility for saving for retirement.
- **Increase population cap for Low Income Savers Tax Credit:** The addition of a provision for indexing of the income limits on the Savers Tax Credit is valuable and would and allow more low-income individuals to take opportunity to save.

Anyone who joined the NAGDCAST #1, *A Legislative Update of Defined Contribution Plans*, would have been given the full update of our Hill visits, along with additional information regarding

the state legislative arena and tips for making the most of National Save for Retirement Week.

Also, NAGDCA has several activities on the horizon:

- The 2007 Industry Roundtable (April 18-19, Washington, DC)
- Speakers will be chosen for the 2007 Annual Conference (Deadline April 30)
- Working with Senators Smith and Conrad to introduce the Resolution for NS4RW in 2007
- NAGDCAST #2: Target Date Funds (Summer, TBD)

As members of NAGDCA, I encourage you to network with your fellow administrators and experience all the educational programs NAGDCA has to offer. NAGDCA strives to keep its constituents apprised of the latest issues surrounding the defined contribution community and it is our goal to act as an educational resource for individuals throughout the industry. For more information on any of NAGDCA's upcoming events or deadlines, please visit www.nagdca.org or contact NAGDCA at 859-514-9161.

INDUSTRY VIEWPOINT

Playing Defense to Help Reduce Risk at Retirement

By: Wells Fargo ITS

The key to understanding a target date fund's asset allocation philosophy is to examine its glide path. The basis for this strategy is simple: sometimes the best offense is a good defense.

Transitioning Into Retirement

The current debate about the appropriate glide path model revolves around longevity risk. The longer a person lives after retirement, the greater the possibility that they could outlive their nest egg. For this reason, some target date funds remain heavily invested in equities at the retirement target date and beyond.

In reality, the years just before and after retirement are a crucial yet risky period for retirement investments. At this stage of life, a wide array of risks can have an adverse impact on retirement assets and income resources. The result may be a long-term, if not permanent, setback to an individual's ability to outlive their investments.

A Variety of Risk Factors Can Affect Retirement Resources

Market Risk	Stock market losses can substantially reduce retirement assets.
Interest Rate Risk	Lower interest rates may reduce available retirement income to meet day-to-day expenses, while rising interest rates may impact the value of long-term fixed-income investments.
Inflation Risk	Inflation can erode the purchasing power and overall financial well being of retirees, even at low levels.
Employment Risk	Employment for this age group varies, and changes to health, family circumstances (death of a spouse or divorce), or economic conditions may lead to a loss of anticipated income or forced early retirement with the need to prematurely dip into a nest egg.
Public Policy Risk	Legislative changes to Social Security and Medicare may include benefit cuts, or increases in taxes may raise income, property, or sales taxes.
Business Risk	Insolvency of an employer can lead to reduction or loss of defined benefit plan payouts and other retirement benefits.

A Mistimed Market Decline Can Take a Toll

Retirement is a time of transition for employees. Not only are they preparing to adjust to a new lifestyle, they're also making many changes to their 401(k) plans. This is evidenced by a recent study that shows only 13% of retirees left money in their 401(k) plan. Half of retirees rolled their 401(k) balances into an IRA and a full 60% of those who rolled over to an IRA did so within two months of leaving their employer.¹

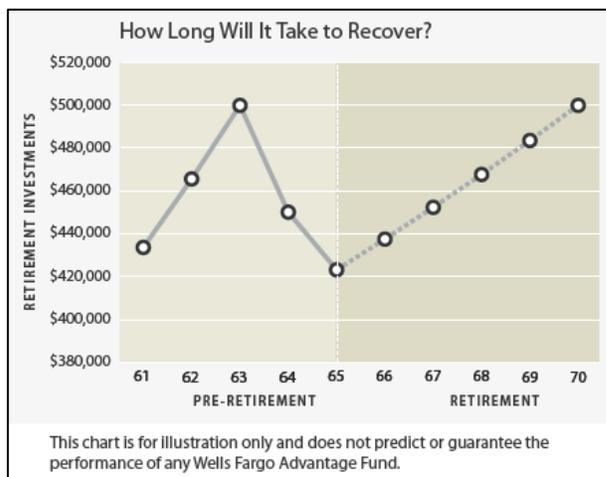
A significant market downturn during this already emotionally stressful time can make participants take drastic action, often making their portfolio ultra-conservative in an effort to minimize losses or ultra-aggressive to try to make up for losses.

In fact, a market downturn that precedes or coincides closely with a planned retirement date can have a long-lasting negative impact on retirement assets. Without the luxury of time to recover, plan participants may need to make dramatic adjustments to their planned lifestyle in retirement.

What's more, plan sponsors may be subject to fiduciary exposure if plan participants experience a large decrease in account value as they near retirement and start to withdraw their investments. While there is no steadfast remedy for this situation, target date funds that provide a more conservative posture at retirement may help reduce the impact of market risk.

What's the impact of a market downturn that coincides with retirement?

In our example, we've assumed market declines of 10% and 6% in two consecutive years leading up to retirement, resulting in an overall portfolio loss of 18%. At a 7.40% annual rate of return and annual withdrawals of 4% from total assets, it would take five years to recover from this loss.



Managing Risk at Retirement

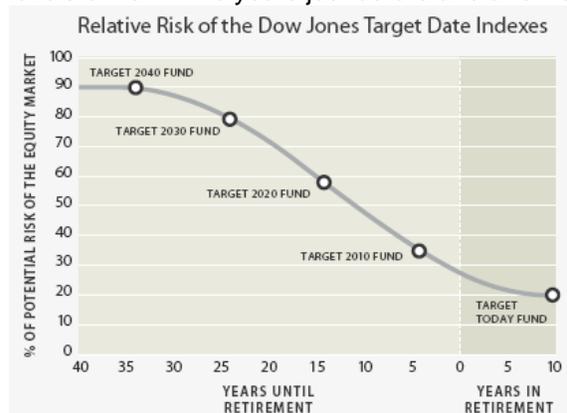
The glide path philosophy behind target date funds is to help plan sponsors and plan participants manage financial risk at retirement when planned withdrawals are close at hand.

Broad Diversification

Target Date Funds Should remain broadly diversified throughout a participant's investment lifecycle. Overall exposure to stocks, bonds, and cash should be adjusted to help manage risk as the target date approaches. The decisive differentiator, though, is that risk is not managed by excluding asset classes, but rather by including all asset classes at all times. This approach seeks to find a balance between possible upside performance and downside risk.

Glide Path

Once the many risks faced by preretirees and new retirees is understood, it's easy to see why it's important for investors to move from an accumulation to a preservation bias over time, with lower levels of risk in the years just before and after retirement.



A method that provides a more prudent approach at a time when preservation of assets is crucial. Further, given the risk-averse nature of many retirees/ pre-retirees, investors at this stage of life are typically less willing or less able to tolerate negative returns that exposure to higher equity allocation strategies may produce. This might drive them from the fund, possibly selling at a low point.

A more conservative approach is also a positive for retirement plan sponsors who are concerned about the detrimental impact of market declines on accounts of employees who are approaching retirement.

¹ Based on percent of retiree's plan assets. Source: LIMRA International, *Capturing Rollover Assets*, 2006

Fiduciary Opportunities

By: Brad Brewer, CPA, Innovest Portfolio Solutions

While many plan sponsors view the fiduciary obligations associated with retirement plans solely as a burden, it is refreshing to see many plan sponsors embrace their obligations. More plan sponsors are taking the view that fiduciary responsibility is more than an obligation; it is also an opportunity to build a sound retirement program and equip plan participants to better secure adequate retirement savings. In this article, the traditional fiduciary responsibilities will be summarized and an expanded set of opportunities will be explored for plan sponsors and advisors to consider in pursuit of better fulfilling their role as fiduciaries.

Plan sponsors, recognizing their role as fiduciaries, understand they have responsibility for the structure and operation of the committee charge with plan oversight, plan investment monitoring, and governing plan documents.

Employee Benefit Committees (EBC)

Most organizations structure EBCs to allow representation from all significant business functions and bring the requisite expertise to address the many facets of overseeing an employee benefit plan, particularly a participant directed retirement plan. Typically, this structure results in an EBC comprised of officers or directors representing human resources, legal, finance, risk management, and operations. Each committee member

should acknowledge they are a plan fiduciary, be educated on the role and responsibility of a fiduciary, and know that fiduciaries are held to the standard of a prudent expert.

From an operational standpoint, it is essential that the EBC actually meet on a quarterly or semi-annual basis. A central due diligence file should be maintained to include items such as agendas, notes, minutes, and supporting documentation for the process followed in making plan administration and plan investment decisions. Documentation to support a prudent process for making plan decisions is crucial, especially in the area of hiring service providers such as recordkeepers, consultants, and auditors. Without proper due diligence procedures and documentation, an EBC can not substantiate that they fulfilled their fiduciary obligation to act in the best interests of plan participants.

Plan Investment Monitoring

Committees have the fiduciary responsibility to structure an appropriate investment menu, select prudent investment managers, and monitor the performance, fees, and qualitative characteristics of those investment managers. Most committees acknowledge they are not a prudent expert in this area and they delegate these responsibilities to an outside consultant.

When selecting an outside consultant to monitor plan investments, it is imperative that the outside consultant be completely independent. If the outside consultant's recommendation can influence their compensation through commissions or revenue sharing payments, this creates an inherent conflict of interest. This conflict has received heightened attention recently due to the SEC investigation that revealed certain brokerage firms channeled the vast majority of their clients' investments into mutual funds that paid them higher commissions. Complete independence on behalf of the consultant eliminates this scenario, allowing for advice that aligns with the interests of the committee and plan participants.

Governing Plan Documents

Committees should work with competent ERISA counsel to ensure the plan's governing documents are up to date and in compliance with all regulatory guidelines. Just as important, the committee needs to have procedures in place to ensure a plan is administered in accordance with its terms. For example, if a plan has a unique definition of compensation, a procedure needs to be in place to ensure that the definition is followed when calculating employee deferrals, employer matching contributions, and employer profit sharing contributions.

If a committee suspects there may be some plan operational failures, they should consider engaging professionals to conduct a compliance review. A compliance review is a type of audit where critical plan operations are tested to compare a plan's actual operation to the terms of the governing plan documents. While correcting a plan operational failure typically creates a cost to the employer, failures discovered and corrected early on can be much less costly than if discovered by the Internal Revenue Service or Department of Labor during audit. To prevent compliance review findings from discovery, committees should consider having outside ERISA counsel engage the professionals conducting the compliance review rather than the plan sponsor.

Developing sound processes, committing to follow them, and documenting decisions will go a long way to ensuring the fiduciary obligations are fulfilled. Yet, some plan sponsors have determined that meeting these core responsibilities is not enough and take advantage of their opportunity to create a truly successful retirement program for plan participants. While the shell of success for plan participants has been created, without measuring participants' "success", a plan sponsor does not know if their plan is providing adequate retirement benefits. To measure a plan's "success", plan sponsors should evaluate participation and deferral rates, participant investing and asset allocation, and the success of investment education programs. This is very

important, because for most plan participants, their defined contribution plan will need to provide their primary retirement benefit.

In our review of retirement plan providers, quality providers have the tools available for plan sponsors to gauge participants' savings and investment behaviors. Communication materials can be targeted to the participants that appear to be at risk. For example, if the participants in only one investment fund (not a lifecycle or target date fund) are identified, materials on the importance asset allocation or an invitation to an asset allocation seminar could be directed to that group of participants that appear under-diversified. For plan sponsors that our firm has taken through this process, participants appreciated the guidance.

It is not a giant leap to take this next step in managing a retirement program. It completes the circle to ensure the original purpose of the plan is being fulfilled. Serving as a plan fiduciary results in responsibility, but also provides significant opportunity. A fiduciary has the responsibility to develop a well diversified menu of quality investment options and review plan costs to ensure there is a reasonable balance between participant services and the plan costs. They also have the opportunity to address participant investment quality and the rates of savings to increase the likelihood that participants secure adequate retirement benefits.

Brad Brewer is an investment consultant with Denver based Innovest Portfolio Solutions. He provides investment consulting services primarily to defined contribution and defined benefit plan sponsors. He can be reached at bradb@innovestinc.com. Innovest is a fee-only investment consulting firm.

When Discussing Financial Diversity with Your Advisor, Remember Tax Diversity

By: Kathryn Capage, First Vice President and Strategic Planning Director for AIM's Tax Advantaged Products Division, AIM Investments®

Over the past decade taxpayers have learned (hopefully, not the hard way) that financial diversity may be the best way to spread the risk of the unknown. Whether through the lessons learned from the dot-com bubble burst or the 401(k) retirement collapse for Enron employees, many taxpayers are now focused on a balanced approach to life-income planning.

For better or worse, I've studied and lived with the tax code for more than 33 years. I've never seen this system more riddled with temporary "patches" and expiration dates than I do today. With a tax system so erratic and susceptible to change at any given congressional moment, how do we, as taxpayers, structure our investments so what gains we make are not erased with future taxes? One thought to consider is—tax diversity.

There are many paths to tax investments, but the three primary tax structures are: taxable investments, tax-deferred investments and tax-free investments. All three have good and bad points. All three have tax futures with questions. For example, many taxable investments are subject to capital gains or dividend taxes, which are currently at a low tax rate thanks to the 2003 tax cut. Currently, dividends and capital gains have a maximum tax rate of 15% with an even lower rate of 5% for taxpayers in the 10% to 15% tax brackets; however, this rate is due to expire by the end of 2010. Then what?

Or take your retirement plan investments like 401(k)s or IRAs. Investments in these plans are tax-deferred—not subject to capital gains or dividend taxes—and are allowed to grow in value until a specific time when the investments are distributed and taxed as ordinary income. You know what

your income tax rate is today, but what will it be years or even decades from now when you need these investments for your retirement?

As for the more recent tax-free savings, Congress designed the Roth IRA, Roth 401(k) and Roth 403(b) to allow eligible taxpayers to forego tax deductions today in order to reap the benefits of a tax-free distribution in the future. But what will the tax code look like in this future?

Without a crystal ball, I believe the best course is the one that has worked soundly for financial planners—diversity. Ask your financial advisor to categorize your investments by their tax structure. Then discuss whether you should invest more in your 401(k) deferral or add more to your taxable investments. Also, review the tax-free Roth structure to see if you should contribute, if eligible, or convert existing investments to Roth.

Then, when Congress alters the tax code yet again, you can sit back and say, “Hey, at least I’m diversified.”

Consider the investment objectives, risks, and charges and expenses carefully. For this and other information about AIM funds, obtain a prospectus from your financial advisor and read it carefully before investing.

The opinions of the article are solely the opinions of Kathryn Capage and do not reflect the opinions of A I M Distributors, Inc. or any of its affiliates.

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Note: Not all products available through all firms.

Do You Know...Understanding Plan Costs and Revenues Paid to Your Providers

By: Fred Reish, Bruce Ashton and Stephanie Bennett

Media and public attention has increasingly focused on the expenses borne by the participants in participant-funded retirement plans. While much of the attention centers on private sector 401(k)'s and 403(b)'s – arising out of fiduciary litigation regarding fees, expenses and revenue sharing, Congressional hearings on the costs charged to plans and the revenues paid to providers, and efforts by the U.S. Department of Labor (“DOL”) to re-write the rules for disclosure of those costs and revenues – the fallout from these efforts will almost certainly impact public sector 457(b) and 403(b) plans as well.

The consequence of this attention will be greater scrutiny of fees, costs and indirect payments received by providers, sometimes referred to as “revenue sharing.” That scrutiny will inevitably lead to more transparency and additional disclosure by service providers. Further, regulatory changes expected this year, affecting private sector plans governed by the Employee Retirement Income Security Act of 1974 (“ERISA”), will almost certainly affect the expectations of participants, the responsibilities of fiduciaries, and the costs of public sector participant-funded and invested plans. As a result, the officials responsible for these plans (e.g., members of a municipal retirement board) need to be aware of the costs associated with the administration and investments of the plans.

While any analysis of costs and revenues includes the charges made directly to plans, it also includes indirect payments from the investments to service providers. In turn, that means that fiduciaries must understand and evaluate who receives the benefit of the indirect payments. By following the “money trail,” the plan sponsor and its fiduciaries may discover a variety of indirect

payments, such as finder's fees, 12b-1 fees, administrative service fees, bonus payments and awards, transfer agency fees and even gifts. That trail also reveals the recipients of those indirect payments, which may include consultants, advisers, plan providers, recordkeepers, broker-dealers and third party administrators.

Most plan officials understand direct fees charged to their plan. For example, plans that work with investment advisers to select the investments for their 457(b) plan may pay the investment adviser's fee themselves or through plan assets. That fee is typically a fixed dollar amount or a fixed percent of the plan assets. The flat fee is straightforward and transparent, since a description of the services rendered along with the amount of the fee is usually included in the agreement with the adviser and later documented by an invoice. However, the investigation into the plan costs and the payments to advisers (or other providers) cannot end there, because it is possible for an adviser to receive additional compensation from other sources, such as investment managers or mutual funds or their affiliates that may or may not be adequately disclosed – or even mentioned – in the advisory agreement.

For example, a plan adviser may receive compensation that varies depending on the investments that are selected for the plan. This form of compensation is usually either a commission or a bonus paid by a provider of investments to a plan, such as a mutual fund or its management company, or an affiliate. However, it may also take the form of a gift, such as an expensive trip or vacation. If the consultant or adviser is a broker, the payments may include finder's fees for new deposits into the plan (such as transferred amounts from a prior provider, new contributions and deferrals, rollovers to the plan, and so on), together with an ongoing 12b-1 fee—most often $\frac{1}{4}$ of 1% per year (sometimes referred to as 25 basis points), but sometimes as high as 1% per year. (A broker may also be known as a registered representative, financial adviser or financial consultant. The compensation is usually split between the broker and the broker-dealer with whom he or she is associated.)

An example of the type of information that public sector fiduciaries should seek from their advisors is the information reported for private sector plans in Schedule C of the Form 5500. (The Form 5500 is an annual report filed by private sector plans with both the IRS and DOL.) The instructions of the proposed Schedule C for 2008 indicate that the following must be reported:

[M]oney or any other thing of value (for example, gifts, awards, trips) paid by the plan or received from an entity other than the plan or the plan sponsor by a person who is a service provider in connection with that person's position with the plan or services rendered to the plan.

[F]inder's fees, placement fees, commissions on investment products, transaction-based commissions, sub-transfer agency fees, shareholder servicing fees, 12b-1 fees, soft-dollar payments, and float income. Also, brokerage commissions or fees (regardless of whether the broker is granted discretion) are reportable whether or not they are capitalized as investment costs.

Providers are developing information based on this framework. Even though this information may not be required to be disclosed to them by law, it would be prudent for public sector plan fiduciaries to ask for information similar to that reported on Schedule C.

Uncovering the costs and revenues to providers is the first step, but once that information is collected, what should the fiduciaries do with it?

That question leads to the next step, which is an evaluation of the information. In evaluating the information, the fiduciaries should focus on whether the plan costs are competitive and whether the participants are receiving equivalent value for the cost. To determine competitiveness, fiduciaries may wish to hire a consultant to perform a request for proposal and compare the costs

of other providers' services for plans of a similar size (*i.e.*, number of participants and total assets). To determine value, fiduciaries should ask the following two questions: What does the plan receive in exchange for the expense paid? Is the service worth it? For example, if a service is provided to participants and the plan pays all associated costs but no one uses the service, no matter how minimal the fee, it would be unreasonable because no one is using the service.

If the plan officials do not understand those concepts and have not traced the "money trail," it is possible that they are unaware of additional compensation being paid to one or more of their plan's service providers, compensation that may impact the advice or services being received from that service provider. In order to protect the plan and themselves, plan officials need to take precautions. The DOL's ERISA Advisory Council offered practical advice to all plan officials about the information they should obtain from service providers:

"The Advisory Council makes the following recommendations in an effort to further educate plan sponsors and fiduciaries:

- A. Plan sponsors should avoid entering transactions with vendors who refuse to disclose the amount and sources of all fees and compensation received in connection with plan.
- B. Plan sponsors should require plan providers to provide a detailed written analysis of all fees and compensation (whether directly or indirectly) to be received for its services to the plan prior to retention.
- C. Plan sponsors should obtain all information on fees and expenses as well as revenue sharing arrangements with each investment option. Plan sponsors should also determine the availability of other mutual funds or share classes within a mutual fund with lower revenue sharing arrangements prior to selecting an investment option.
- D. Plan sponsors should require vendors to provide annual written statements with respect to all compensation, both direct and indirect, received by the provider in connection with its services to the plan.
- E. Plan sponsors need to be aware that with asset-based fees, fees can grow just as the size of the asset pool grows, regardless of whether any additional services are provided by the vendor, and as a result, asset-based fees should be monitored periodically.
- F. Plan sponsors should calculate the total plan costs annually."

That advice is consistent with the DOL's interpretation of ERISA's fiduciary responsibilities. While ERISA does not govern the operation of public sector retirement plans, the basis for ERISA's rules is the same as for the state fiduciary laws controlling public plans. For example, the prudent man rule for California, found in the state's Constitution, is virtually verbatim the same as the ERISA provision:

The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

As a result, the DOL interpretations of ERISA's fiduciary rules are important guidance for the officials of government-sponsored plans.

The DOL has a long-held position that fiduciaries have an obligation to know, understand and evaluate all of the fees and expenses being charged to a plan, as well as the compensation of all plan providers. In that regard, the DOL stated in its Advisory Opinion 97-16A:

“...the responsible Plan fiduciaries must assure that the compensation paid directly or indirectly by the Plan to [the provider] is reasonable, taking into account the services provided to the Plan as well as any other fees or compensation received by [the provider] in connection with the investment of Plan assets. **The responsible Plan fiduciaries therefore must obtain sufficient information** regarding any fees or other compensation that [the provider] receives with respect to the Plan’s investments in each....Fund...**to make an informed decision** whether [the provider’s] compensation for services is no more than reasonable.

While that DOL guidance refers to plan providers (*i.e.*, recordkeepers), it also applied to any other person or entity that provides services to a plan, such as advisers and consultants.

Unfortunately, it is easy for the DOL to say that ERISA requires that fiduciaries obtain all of the information on fees and expenses, but it is often difficult to do. In fact, it is hard to even figure out the right questions. However, the recommendations made by the Advisory Council are a great starting point. In fact, that guidance can be re-written as questions and then submitted to each of the plan providers, advisers and service providers for answers. A good adviser can help the plan fiduciaries prepare and submit the questions—and then evaluate the answers.

A recent consultant agreement we reviewed for a private sector plan contained the following:

Consultant agrees to undertake the following obligations and responsibilities with respect to the Funds for the Client:

1. Consultant agrees to serve the Funds as a fiduciary and to assume the standard of care imposed on a fiduciary under the Employee Retirement Income Security Act of 1974 (“ERISA”)
2. Consultant agrees not to accept or receive any commission or other soft dollar payment from any source with respect to the Funds.
3. Consultant warrants that it receives no compensation, soft dollar-based or otherwise, from any investment manager or mutual fund, and that it will continue to refrain from receiving such income during the course of this agreement.
4. Consultant agrees not to sell any services to managers, including but not by way of limitation, banks and investment advisory companies. The purpose of this limitation is to ensure the Client receives objective advice.

The representations and disclosures in this agreement are helpful to fiduciaries by providing them the information they need to know and evaluate in order to appreciate the true costs associated with retaining the adviser. Although plan providers and advisers are not required to make a statement like this, if they cannot, they should at least be able to explain to plan officials why they cannot.

In the final analysis, the public officials charged with responsibility for operating a participant-funded 457(b) or 403(b) plan and overseeing its operations owe a duty to the employees who defer a part of their pay into the plan. A part of that duty is to make sure the employees are receiving fair value for the costs that come out of their retirement savings account, to make sure they are receiving a fair return on their invested dollars compared to the revenues being generated by the investment provider and the plan's advisors. The task is not difficult – it just requires attention and a willingness to do a little probing.

Women and Retirement: Facing Unique Challenges

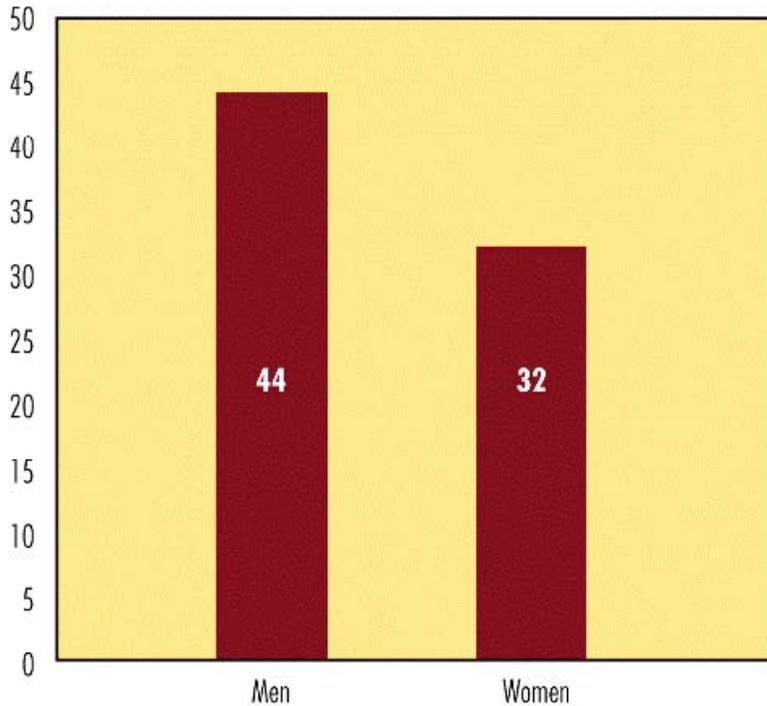
An ICMA-RC White Paper

Retirement saving in the U.S. is a national issue that cuts across race, gender and income lines. But the reality is women workers face unique challenges that often make it difficult for them to achieve retirement security. In fact, nearly one in three women over age 65 in the U.S. is living at or below the poverty level.

One major contributing factor to this crisis is that women continue to be the primary caregivers in our society and are more likely than men to cut back on employment to meet family needs. As a result, women typically work fewer years, on average, than men. These breaks in continuous service impact the ability of women to build retirement assets and to accumulate any defined benefit plan payouts they may receive from an employer.

Women are more likely than men to work part-time jobs, which rarely offer any pension or other retirement benefits. Women earn, on average, a lower wage than men – up to a quarter less for similar work. Over a lifetime of employment that can amount to \$300,000, according to the Women's Institute for a Secure Retirement. That sum of money could mean the difference between a comfortable retirement and poverty.

Median Years Worked of Workers Retiring in 2000

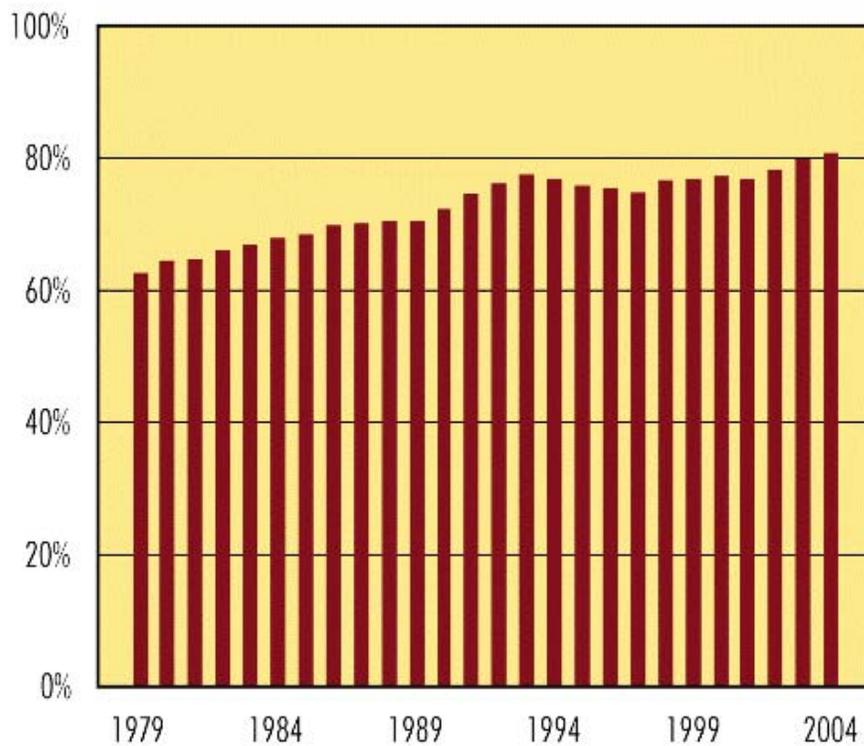


Source: U.S. Social Security Administration (2004a).

A study recently released by the U.S. Department of Labor shows that women make more conservative investments than men, which adds to the problem. Because of that tendency, the rate of return women receive on their portfolios is reduced. As a result, they accumulate less wealth over time.

Another issue some women face is insufficient basic knowledge about financial issues. Consequently, they often forgo key retirement safety nets like long-term disability insurance or annuities for no better reason than they don't know about them or don't understand them. Statistics confirm just how lean finances for women in retirement can be. According to a study by the Economic Policy Institute, in 2001 the average single woman over age 65 had retirement benefits of just \$28,800, while a single man had \$81,600. A married couple had \$162,000. According to a report issued by the Women's Institute for a Secure Retirement, less than one in five women age 65 and older had a pension. The average annual income from a pension for women was \$4,164 in 2004. Overall, the median income in 2004 for retired women was \$12,080, compared to men's income of \$21,102.

Women's Median Earnings as a Percent of Men's for Full-Time Workers, 1979-2004



Source: U.S. Department of Labor (2005).

While Social Security benefits are considered to be gender neutral, lower overall earnings still have an impact on women, who collect an average monthly benefit of \$826. Men, by comparison, receive an average \$1,076, according to the Social Security Administration.

Finding a Solution

Despite these discouraging facts, much can be done to improve a woman's retirement prospects. Many of these provisions are under consideration in the "Women's Retirement Security Act of 2007," legislation co-sponsored by Senators Gordon Smith (R-OR), John Kerry (D-MA) and Kent Conrad (D-ND).

Financial experts agree that to have an impact on the broad range of issues confronting women in retirement, changes in legislation, practice, and procedure should focus on three key areas:

- an expansion of programs to address the special needs of women,
- further protection of income in retirement,
- and more education for men and women so they can make informed financial decisions.

Expanding Retirement Programs

Among the most important of the expansion issues is to get more women to participate in tax-advantaged employer-sponsored plans. One proposal would offer employers incentives to include

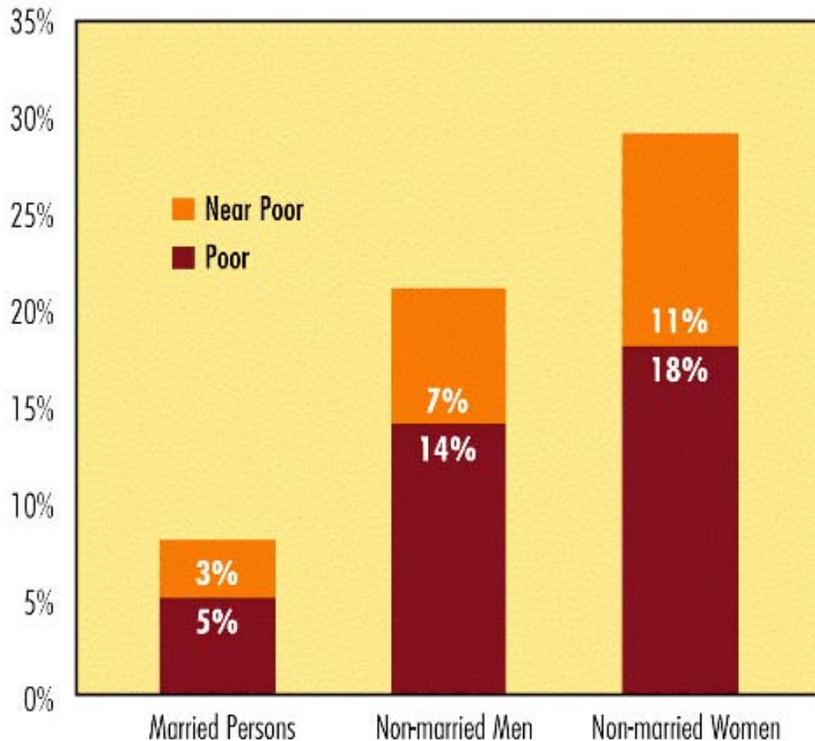
part-time employees in retirement plans. Under existing law, employers can exclude part-time employees who work fewer than 1,000 hours annually from defined contribution plans offered to full-time employees.

Those rules could be changed to include part-time workers who work 1,000 hours every year after they've completed one full year of work or 500 hours after three years of employment. These employees would qualify for benefits and the opportunity to get employer matches for contributions, for instance.

One provision of the Women's Retirement Security Act would enhance savings in Individual Retirement Accounts (IRA). Employers who do not sponsor a qualified retirement plan would be required to permit employees to contribute a portion of their income to an individual retirement account (IRA) established either by the employee or for the employee.

Studies conducted by the Employee Benefit Research Institute show automatic enrollment helps boost participation and that employees in a plan are more likely to contribute than workers who must enroll first before contributing.

Percent Poor and Near Poor by Marital Status of Population Aged 65 and Over, 2002



Source: U.S. Social Security Administration (2004a).

Another promising provision of the "Women's Retirement Security Act" would alter existing Flexible Spending Account rules so that up to \$500 of money set aside for this purpose and not used for qualified expenses such as health care costs would instead be deposited in a defined contribution plan or IRA..

Additional make-up provisions for women only would allow them to save more in IRAs and use payroll deductions to encourage their use. A related change would create an IRA-like investment

in which employees could set aside money on a tax-deferred basis that could be drawn as income while they take leave from the workforce to raise children or care for family members, for example. This provision would have a more significant impact on women, who typically assume this role in the family.

The Saver's Credit, a tax credit for qualified low and moderate income workers who contribute to IRAs and workplace plans, would be altered to allow workers to claim a larger credit without first having to pay taxes. The new law would also require that the credit be deposited into a qualified retirement savings account.

Safeguarding Retirement Assets

To protect women's retirement assets, the default option at retirement would be a joint and survivor annuity for couples, and a life-only annuity for singles. The participant would be required to opt out in order to receive benefits in another form. At the same time, a couple selecting life-only would be offered an opportunity to supplement the life-only annuity with a retirement plan option.

Individuals could be given tax incentives to purchase long-term care insurance. Currently, 80 percent of women have not purchased long-term care insurance, despite the fact that because of their longer life spans, one in four will need long-term care at least once in their lives.

Enhancing Education Opportunities

Because they live longer in retirement, women need to be better informed on financial matters. Government incentives to employers that offer training programs for women are one way to boost financial awareness among women. When an individual reaches Social Security eligibility, he or she would automatically receive a reference-style booklet with definitions and explanations of financial terms that are important to anyone nearing retirement.

Improved decision-making among women could result from requiring married couples to take courses focused on retirement options. The learning sessions could be offered when couples elect retirement benefit coverage and when the pension holder nears retirement. One topic the sessions might cover is the difference between life-only annuities and joint and survivor benefits - differences that could mean security for a surviving spouse or financial devastation.

Conclusion

While this is certainly not a comprehensive response to the challenges facing women in retirement, practical policy changes like these and new laws that reflects today's reality of longer life spans and higher health care costs could have a significant impact in closing this critical element of the gender gap.

The Women's Institute for a Secure Retirement (www.wiser.heinz.org) offers a wide range of information and data on the financial needs of older women. The Center for Retirement Research at Boston College (www.bc.edu/crr) is a source of information on many aspects of retirement for both men and women.

ICMA-RC on its Web site (www.icmarc.org) offers a comprehensive set of learning tools and financial calculators to help all investors build retirement security.

WASHINGTON REPORT

By: Susan J. White and Jonah Mainzer, Susan J. White and Associates, Inc.

New Congress Pays Attention to Retirement Concerns

The 110th Congress has stayed extremely busy, with a number of new oversight hearings, including some related to administrative fees for private retirement accounts, and an effort to begin addressing the implementation of the 2006 Pension Protection Act through technical corrections legislation. Key members of Congress, like Senator Gordon Smith, (R-OR) are preparing legislation for reintroduction in the new Congress. Specifically, Smith is finalizing efforts related to his women's pension legislation.

Although, the first few months of the new Congress have been busy, it still remains to be seen how a number of issues in the retirement arena will play out. For example, will technical corrections to the 2006 pension bill be resolved and will the measure remain technical in nature? Will hearings being conducted in the House regarding administrative fees for 401(k) plans continue, develop in the Senate, and will congressional interest ultimately encompass state and local plans? Also, will the Department of Treasury complete action on a number pending regulations affecting governmental defined contribution plans, including wide ranging 403(b) plans?

Executive Board Annual Visit

NAGDCA has conferred on these issues with Congress and with the Department of Treasury. In late February, NAGDCA's Executive Board met in Washington, DC with Capitol Hill and Treasury Department officials. In preparation for these meetings in Washington, NAGDCA's Executive Board finalized NAGDCA's 2007 legislative priorities and priorities letter. NAGDCA Executive Board members met with the Senate Committee on Health, Education, Labor and Pensions, the Senate Committee on Finance, the House Committee on Ways and Means, House Committee on Education and Labor, Joint Committee on Taxation, staff for Senator Smith and the Department of the Treasury.

These meetings provided an opportunity for NAGDCA's Board to share the Association's priorities and discuss pending federal actions, including reintroduction of the National Save for Retirement Week Resolution, the possibility of permanently designating such a week, congressional scrutiny regarding 401(k) administrative fees, provisions for public safety workers in the Pension Protection Act (PPA) of 2006, this year's technical corrections legislation to the PPA, 415 and 403(b) regulations, and auto enrollment.

Legislative Priorities

The NAGDCA letter outlining the Association's priorities covers a wide range of issues important to NAGDCA members. They include maintaining important distinctions between governmental defined contribution plans, ensuring parity, maintaining the exemption from early withdrawal penalties, maximizing unused flexible account dollars, enactment of a Roth 457 option, permitting non-spousal beneficiaries to roll assets to 457 and 403(b) plans, extending the "National Save for Retirement" resolution, and increasing the population cap for the low income savers tax credit.

Technical Corrections Legislation: Pension Protection Act of 2006 (PPA)

Congress has begun preparations for drafting of a technical corrections bill expected later this spring. At issue, is whether the technical corrections legislation will ultimately accommodate broader policy concerns. Leadership in both chambers and on both sides of the aisle are currently sticking with a purely "technical" bill approach.

House Committee on Education and Labor Hearings

The House Committee on Education and Labor, chaired by Representative George Miller (D-CA) recently held the first in a series of hearings on 401(k) fees it has announced it plans to hold.

The first hearing focused on hidden 401(k) fees and how much disclosure should be required. State and local government defined contribution plans were not discussed as part of this first hearing.

National Save for Retirement Week

With the success of National Save for Retirement Week last fall, NAGDCA is advocating for renewal of the resolution for the coming year. Senator Smith's office has indicated an interest in introducing the Resolution earlier in the year so that state and local governments, plan sponsors and the industry, in general, will have more lead time to plan events nationwide. NAGDCA is working with Senator Smith –and Senator Kent Conrad (D-ND)—last year's co-sponsors— as cosponsors for this year's Resolution. We are also exploring legislative efforts in the House.

Women's Pension Bill

Senator Smith's staff has indicated that he will be reintroducing his Women's Retirement Security Act of 2006 in the near future. As part of the draft legislation, they have worked with NAGDCA to ensure that a Flexible Savings Account (FSA) rollover provision of up to \$500 into a defined contribution plan includes governmental plans. The Senator's bill was originally introduced at the end of the 109th Congress, however, given the new Congress all legislation must be reintroduced.

Smith is also beginning work on retirement related legislation for Older Americans and NAGDCA will be working closely with his office to provide input in a number of areas, including phased retirement.

AROUND THE COUNTRY

State of California Issues a Request For Proposal for Three Investment Products

The State of California's Department of Personnel Administration (DPA) recently released a Request for Proposal (RFP) soliciting bids for three (3) investments in the following categories: 1) Stable Value, 2) Bond (actively managed), and 3) Mid Cap Growth Equity (actively managed). Two (2) of the investment categories [i.e., Stable Value and Mid Cap Growth Equity (actively managed)] will replace current investments in the Savings Plus Program's (SPP) Deferred Compensation Plan (IRC 457) and Thrift Plan (IRC 401(k)), which will be discontinued in 2007. The Bond (actively managed) category will be added as new investments to SPP's investment portfolio.

The proposed investments must be qualified to accept both IRC Section 457 and Section 401(k) plan assets. Also, the proposing firms and the proposed investments must meet minimum qualifications and mandatory business and licensing requirements as specified in the RFP.

DPA will select these investments through a competitive process that considers firm background and experience, specific investment strategy, investment philosophy and process, investment performance, fees, and other operational information. It is DPA's intention to award one contract for each investment mandate. The Agreement(s) resulting from this RFP will be for a five-year period beginning November 1, 2007 with the option to extend the Agreement(s) up to two (2) additional one-year periods.

If you are interested in receiving a bid package, please visit www.cscr.dgs.ca.gov/cscr on or after March 16, 2007. Select "View By Contract Number Or Agency" then select "Agency" and scroll to "Department of Personnel Administration" and click the submit button. If you are unable to download the bid package because you do not have a username and password, follow the instructions for "click here to register for a username and password". If you are still unable to download after following the instructions, you may call our Bidder's Hotline at (916) 445-9007 to request a hard copy. Final proposals are anticipated to be received by April 20, 2007.

NAGDCA Member Benefit Spotlight

To remind members of benefits they receive that they may not be aware of, we will be spotlighting a benefit of membership in each edition of *The Contributor*. For more information on this or any benefit of membership, please visit our website at <http://www.nagdca.org/> or contact NAGDCA staff at (859) 514-9161.

Information

- The Contributor, NAGDCA's quarterly newsletter that provides the latest information on association issues, members and legislative matters
- An interactive Web site at www.nagdca.org that provides current information on federal activities, meetings, members, RFPs, presentations and more!
- An electronic clearinghouse with resources that offer answers and perspectives on various issues by showing actual practices used by members across the country
- Legislative representation in Washington, DC

New Members

Please visit the NAGDCA on-line directory for member's full contact information. You will need a username and password to access the information.

NAGDCA State Government Primary Member

Phyllis Chambers
State of Nebraska

Gary Emery
Maine State Retirement System

Donald S Hill
State of New Hampshire

Michael Williamson
State of North Carolina

Kirke Willing
State of Indiana

NAGDCA Local Government Primary Member

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Howard County Public School Systems

Patricia Jakubiak
Orange County Fire Authority

Donnie R Jones
City of Orlando

Jonathan Kadlec
County of Sonoma

Terry Kellogg
Fairfax County Government

Jennifer Mattes
City of Tulsa

Michael Perkins
Boise Police 457 SSRP

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Karen Samson
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of Counties (CSAC)

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Joe T San Augustin

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Mhalou D Villamejor
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James Yung
City and County of San Francisco

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Lincoln Financial Group

Kristin Poirier-Whitley
Jones Day

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Theresa Cruz Myers
Great-West Retirement Services

Christina Stauffer
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Widener University

Jonathan Napora
Loyola University Chicago

ABOUT THE CONTRIBUTOR

The Contributor is published quarterly by the National Association of Government Defined Contribution Administrators, Inc. (NAGDCA). NAGDCA encourages the submission of articles on topics relating to defined contribution/ deferred compensation retirement savings/plans. Articles that appear under the by-line of an individual express the opinions of the author and not those of NAGDCA as an organization. The deadline for submissions for the next issue is June 15, 2007. Articles should be approximately two pages in length and should be submitted in Word format. Please direct all newsletter items and questions to NAGDCA, 201 East Main Street, Ste. 1405, Lexington, KY 40507. You may also e-mail submissions to Robert Hansel at

rhansel@AMRms.com. Please contact Robert Hansel at 859-514-9161 with any questions or comments.

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