Comments to the U.S. House of Representatives Committee on Education and Labor

Strengthening Worker Retirement Security

February 24, 2009

The American Society of Pension Professionals & Actuaries (ASPPA) and the Council of Independent 401(k) Recordkeepers (CIKR) appreciates the opportunity to submit our comments for the record to the U.S. House of Representatives Committee on Education and Labor on the very important issue of how to strengthen American workers' retirement security.

ASPPA is a national organization of more than 6,500 retirement plan professionals who provide consulting and administrative services for qualified retirement plans covering millions of American workers. ASPPA members are retirement professionals of all disciplines, including consultants, administrators, actuaries, accountants and attorneys. ASPPA's large and broad-based membership gives ASPPA unusual insight into current practical problems with ERISA and qualified retirement plans, with a particular focus on the issues faced by small to medium-sized employers. ASPPA's membership is diverse, but united by a common dedication to the private retirement plan system.

CIKR is a national organization of 401(k) plan service providers. CIKR members are unique in that they are primarily in the business of providing retirement plan services as compared to larger financial services companies that primarily are in the business of selling investments and investment products. As a consequence, the independent members of CIKR, many of whom are small businesses, make available to plan sponsors and participants a wide variety of investment alternatives from various financial services companies without bias or inherent conflicts of interest. By focusing their businesses on efficient retirement plan operations and innovative plan sponsor and participant services, CIKR members are a significant and important segment of the retirement plan service provider marketplace. Collectively, the members of CIKR provide services to approximately 70,000 plans covering three million participants holding in excess of $130 billion in assets.

Current Environment

The current economic and financial markets crisis has had a devastating effect on Americans' retirement savings. Testifying before this Committee in October, Peter

Orszag, the Director of the Office of Management and Budget, testified that American retirement plans had lost as much as $2 trillion – or about 20 percent of their value – in the past 15 months. This figure is likely higher today.

With respect to 401(k) plans, Fidelity recently announced in its analysis of 11 million participants in more than 17,000 plans that account balances went down on average 27 percent in 2008. The average 401(k) account balances dropped from $69,200 in 2007 to $50,200 in 2008.[1]

According to the Urban Institute, assets in defined contribution plans and individual retirement arrangements (IRAs) lost $2.8 trillion – or 32 percent of their value – over about a one year period. These assets reached $8.7 trillion on September 30, 2007. Just about a year later, as of December 2, 2008, the value of the retirement accounts was $5.9 trillion.[2]

It should be noted that it isn't just private retirement plan assets that have suffered. Federal employees saw their stock fund investments in the Thrift Savings Plan (TSP) plummet as well. Twelve-month returns[3] on the common (C), small cap (S) and international (I) stock index funds showed losses ranging from 38.62% for the C Fund to 44.57% for the I Fund.

But American families already know this – they see the impact every time they check their 401(k) account balance. And understandably many Americans are worried about their financial security in retirement – especially those who are just a few years away from retirement. A recent survey conducted by the National Institute on Retirement Security found that 83 percent of Americans are concerned about how the current economic crisis will impact their ability to attain a secure retirement.[4] Seventy-one percent of Americans believe it will be harder to retire than it was for their parents – and 51 percent believe today's system is worse than when workers relied more on traditional pensions. Furthermore, only about half of Americans with 401(k)-type plans believe they will have enough money to retire.

401(k) Plans Are Effective Savings Vehicles

In light of these trends, 401(k) plans have come under intense fire. Testifying before this Committee in October, Professor Teresa Ghilarducci declared that the 401(k) plan was a "failed experiment" and should be replaced with a $600 tax credit for contributions to retirement accounts maintained by the government and providing a guaranteed three percent return. In addition, hundreds of media stories have questioned the viability of

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[1] Fidelity Investments, "Fidelity Reports on 2008 Trends in 401(k) Plans," January 28, 2009, available at http://personal.fidelity.com/myfidelity/InsideFidelity/index_NewsCenter.shtml?refhp=pr.

[2] Soto, Mauricio, Urban Institute, "How Is the Financial Crisis Affecting Retirement Savings?" December 3, 2008, available at http://www.urban.org/UploadedPDF/901206_retirement_savings.pdf.

[3] Returns updated through February 2, 2009.

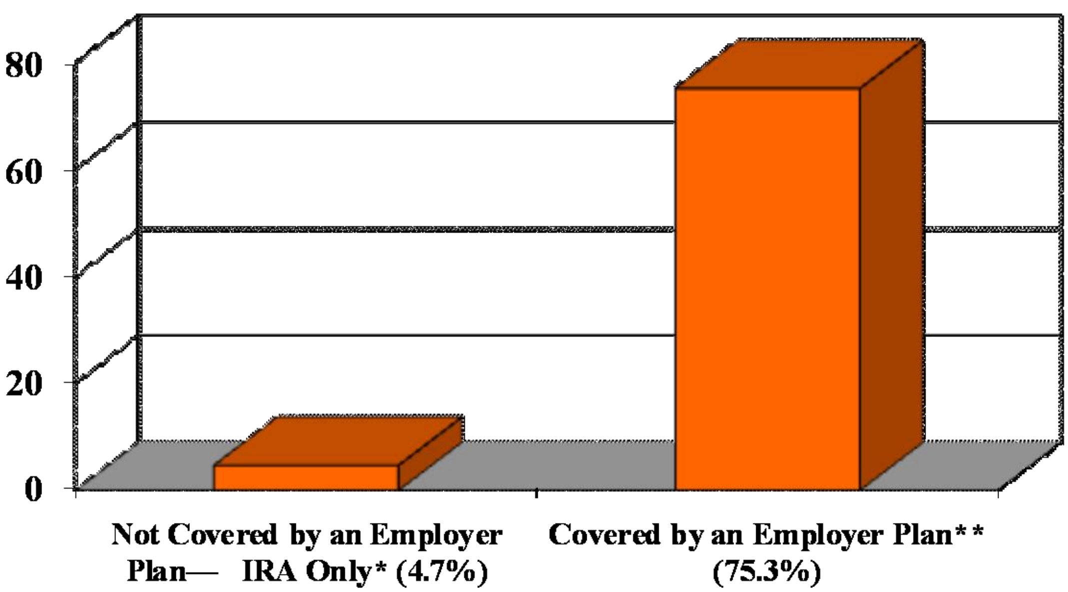
[4] National Institute on Retirement Security, "Pensions & Retirement Security: A Roadmap for Policy Makers," January 14, 2009, available at http://www.nirsonline.org/index.php?option=content&task=view&id=172.

401(k)-type retirement plans. For example, in a recent article in the Los Angeles Times, the reporter argued, “there’s been little discussion of the way in which this economic implosion has exposed the utter failure of the now-ubiquitous 401(k) retirement accounts. In fact, the entire 401(k) system looks increasingly like the sort of bait-and-switch con relished by the Bernie Madoff’s of the world.”[5]

401(k)-bashing has certainly become fashionable, but blaming the plan design itself is unjustified. The 401(k) plan is not a pension plan and was never intended to be one. It was originally viewed as a supplemental retirement savings plan, not as the primary one.

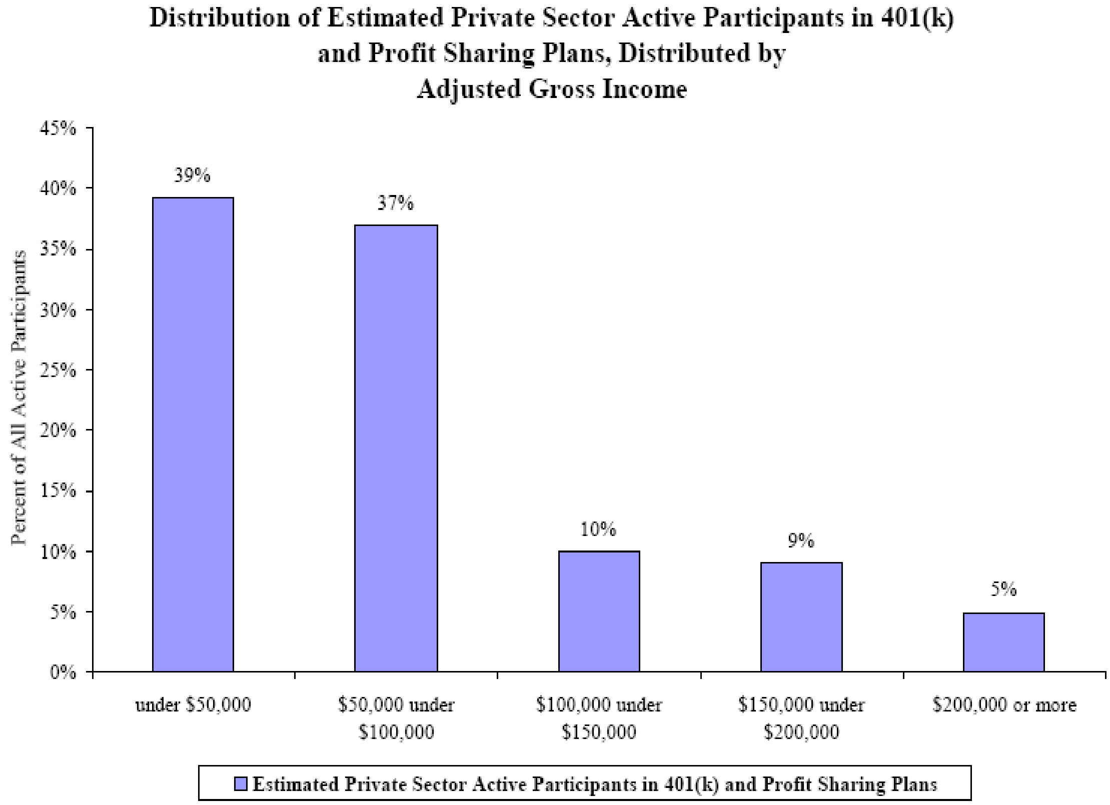
401(k) plans are savings vehicles – and as a savings vehicle, 401(k) plans have worked extremely well. In fact, 401(k) plans are the only effective way we have ever gotten working Americans to save. As demonstrated in the 2008 Employee Benefit Research Institute analysis below, over 75 percent of workers making between $30,000 and $50,000 contribute when covered by a 401(k)-type plan. These workers are 20 times more likely to save as compared to those workers not covered by an employer plan.

Participation Rates by Moderate Income ($30,000–$50,000) Workers Not Covered by a 401(k)-Type Plan versus Covered by a Plan

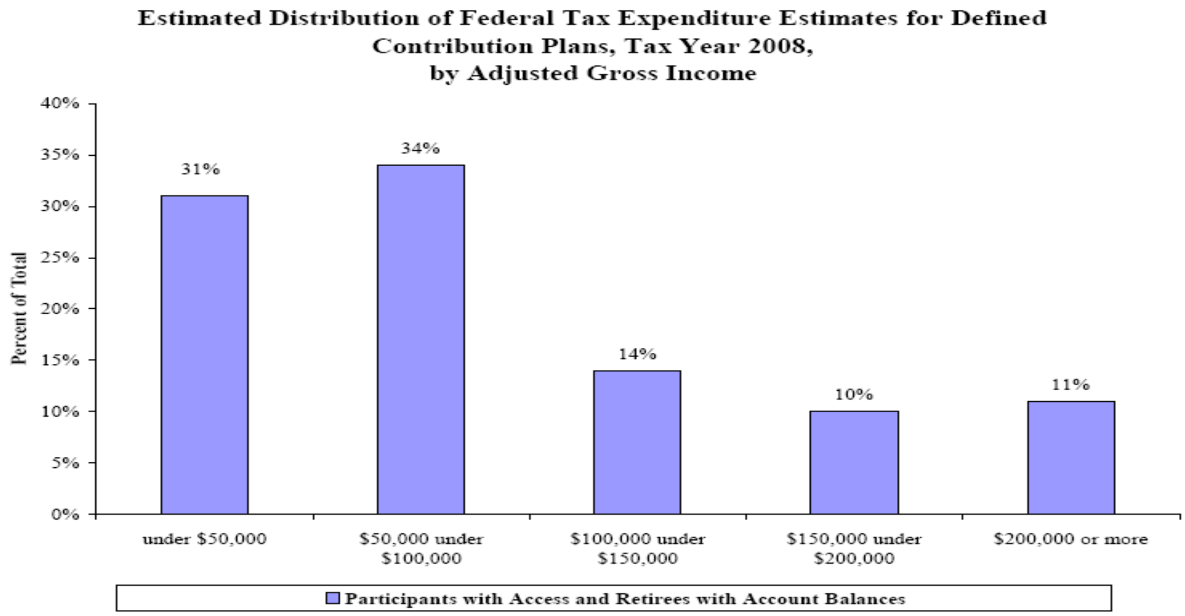


It also is true that lower income workers are the primary beneficiaries of 401(k) and profit sharing plans. The chart below, based on our analysis of Internal Revenue Service data, shows 76 percent of participants in defined contribution plans have annual household incomes of less than $100,000. Eighty-six percent of benefitting households have incomes of less than $150,000 – and only five percent have incomes of $200,000 or more.

[5] Rutten, Tim, “The failure of our 401(k)s,” Los Angeles Times, January 10, 2009.

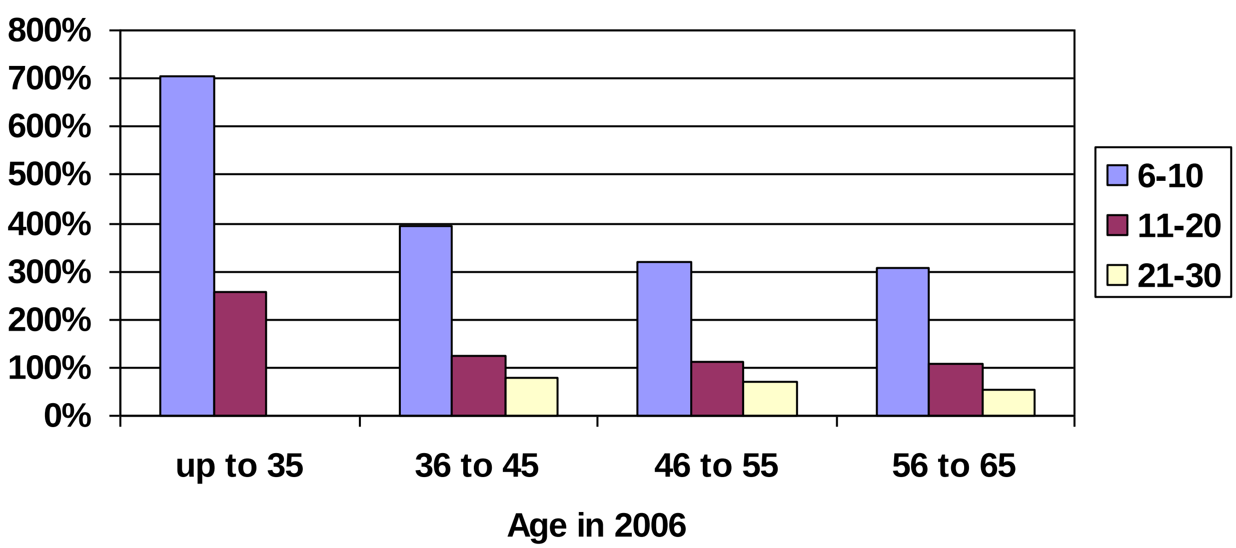


Our research also demonstrates that most of the tax benefits for defined contribution plans go to middle-income Americans. As shown in the chart below, approximately 65 percent of the total tax benefits go to those taxpayers who earn less than $100,000 a year in adjusted gross income (AGI) - and about 79 percent go to those with less than $150,000 of AGI. Almost one-third of the benefits go to Americans with less than $50,000 of AGI.



Furthermore, although the recent market crisis has had a negative impact on the value of 401(k) account balances in 2008 and into 2009, as demonstrated below, the overall impact has been considerably positive. Over about an eight year period, the percentage change in average account balances of all age groups was significantly positive.

Percentage Change in Average Account Balances among 401(k) Participants Present From Year End 1999 through Year End 2006 by Age and Tenure January 1, 2000 through October 1, 2008[6]



[6] Statement of Jack VanDerhei, Research Director, Employee Benefit Research Institute, before the House Committee on Education and Labor, *The Impact of the Financial Crisis on Workers' Retirement Security* (October 7, 2008).

Also despite the difficulties in the markets, participants continued to contribute to their 401(k) plans last year. According to the Fidelity analysis, 96 percent of active 401(k) participants as of the third quarter of 2008 continued to contribute in the difficult fourth quarter. This percentage is in line with normal fourth quarters where it is typical to see a slight decline reflecting those participants who have reached their IRC § 402(g) limits. Fidelity also found that 401(k) participants contributed a slightly higher amount to their plans in 2008 than in 2007.[7]

Although 401(k) plans were not intended to be a worker's primary retirement plans, for most Americans, the 401(k) plan will be supplementing Social Security, not Social Security and an employer-provided pension, and the Committee is to be applauded for considering ways to strengthen the 401(k) system. ASPPA and CIKR have been a strong supporter of proposals such as the improved disclosure regime in the 401(k) Fair Disclosure for Retirement Security Act (H.R. 3185) passed by this Committee in the 110th Congress. The principles outlined by Chairman Miller last November[8] will serve as a thoughtful guide for this Committee's deliberations as it works to preserve and strengthen the 401(k) system.

Summary

In response to the current economic and financial markets crisis, 401(k) plans have come under fire. However, you can't blame the drought on the well. 401(k) plans are savings vehicles, and blaming the vehicle itself for the investment losses within the plan is unfair and unjustified. In fact, 401(k) plans work as savings vehicles and they are the only effective way we have ever gotten working Americans to save.

That being said, the reality is that for most working Americans the 401(k) plan has become their sole and primary retirement plan. The drop in values of 401(k) plan accounts has many Americans worried about their financial security in retirement – especially those who are just a few years away from retirement. We stand ready to work with this Committee to strengthen the rules governing 401(k) plans to ensure that all Americans are secure in retirement.

[7] Fidelity Investments, *supra*.
[8] http://edlabor.house.gov/newsroom/2008/11/chairman-miller-unveils-princi.shtml#more