

YOUR 401(K) PLAN IN A COVID-19 WORLD:

THE 5 BIG ITEMS TO TACKLE THIS YEAR


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Meet the Presenters



Josh Null

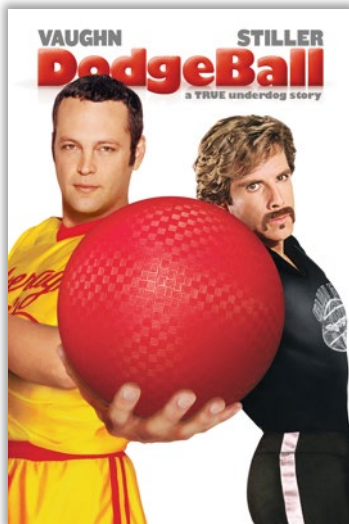
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5 big items? Or is it just 4?



Our Roadmap



CARES Act



Electronic Disclosure



Financial Wellness



Benchmarking



Governance – Fiduciary Basics

A black and white photograph of the U.S. Capitol building in Washington, D.C. The image shows the iconic dome and the neoclassical architecture of the building, surrounded by a large lawn and trees. A dark blue horizontal band is superimposed across the middle of the image, containing the text "CARES Act" in white.

CARES Act

Recordkeeper Approaches

General Rule: CARES Act provisions are considered to be optional at the plan sponsor level

Issue(s): A few recordkeepers took an “opt out” approach. Most took an “opt in” approach. Some varied based on the provisions.

Recommendations: Work through the following framework:

- Have we already made an election or been deemed to?
- If so, what did we elect?
- If not, do we have a deadline upcoming?
- If not, do we want to implement one or more CARES Act provisions at this time?

Deferral of Payment on Existing Loans

General Rule:

Participants may suspend loan repayments for the remainder of 2020

Issue(s):

- When will payments restart in 2021?
- Will participants be making double payments?
- Or will the entire outstanding amount be re-amortized early in 2021?

Recommendations:

- Focus on the “now”.
- Pay close attention to the recordkeeper/TPA instructions.
- Ensure accurate communication with employees, including acknowledging what you may not yet know about 2021 and beyond.

Increased Loan Ceiling

General Rule:

For 180 days following the CARES Act, plan loans are subject to a higher ceiling of \$100,000 or 100% of the vested account balance

Issue(s):

- How does this work within the plan's existing loan limits?
- Is a larger CARES Act loan eligible for the 2020 suspension of payments?

Recommendations:

- Understand that your plan's limits on the number of loans is not changed by the CARES Act.
- Recognize that such a loan would be eligible for the 2020 repayment suspension.
- Consider whether this is necessary and, to the extent not already added, defer the decision until participants need and/or demand it.

\$100,000 Distribution Option

General Rule:

The CARES Act permits a “coronavirus-related distribution” of up to \$100,000, with favorable tax treatment

Issue(s):

- Are all employers allowing this?!? Do we have to?!?
- How will the reporting issues work for the distribution and potential repayments?

Recommendations:

- Feel comfortable knowing that employers across the country have struggled with this. Some implemented it. Some are dead set against it. Some are taking a wait-and-see approach.
- Do what best suits your organization.
- Anticipate 1099 reporting help from the recordkeeper, and IRS guidance relating to the distribution and potential repayment reporting

Reminders

- Eligibility for CARES Act loan provisions and special distribution requires satisfaction of one of the “qualified individual” conditions:
 - 1) Participant diagnosed with COVID-19;
 - 2) Participant’s spouse or dependent diagnosed with COVID-19; or
 - 3) Participant experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, subject to reduced hours, being unable to work due to lack of child care, closing or reducing hours of the individual’s business, as a result of COVID-19.
- IRS Notice 2020-50 expanded item 3) to include an individual who experiences the adverse financial consequences as a result of:
 - the individual, the individual’s spouse, or a member of the individual’s household having a reduction in pay or self-employment income due to COVID-19 or having a job offer rescinded or start date for a job delayed due to COVID-19;
 - the individual’s spouse or a member of the individual’s household experiencing any of the events previously limited to the individual (e.g., being quarantined, being furloughed or laid off, having work hours reduced); or
 - closing or reducing hours of a business owned or operated by the individual’s spouse or member of the individual’s household due to COVID-19.

Reminders

- Plan amendments are not required until the end of the 2022 plan year (at the earliest).
 - Right now, we're focusing on administrative elections, but we also want to make sure those elections match the amendments that will be adopted later.

Reminders

- How does this self-certification process work? Can we really rely on the individual's certification without further investigation?

Generally, yes.

- The CARES Act permits a plan administrator to rely on an individual's self-certification unless it has “actual knowledge” to the contrary.
- IRS Notice 2020-50 confirms that this standard “does not mean that the administration has an obligation to inquire into whether an individual has satisfied” the qualified individual conditions.
- It confirms that the “actual knowledge” requirement is limited to situations in which the administrator already possesses sufficiently accurate information to determine the veracity of a certification.”
- The Notice also includes safe harbor certification language, which allows an individual to simply certify that he or she meets “at least one of” the conditions listed in the certification.



Electronic Disclosure

Past, Present, & Future

1974

Employee
Retirement Income
Security Act



2020

DOL issues additional safe
harbor for use of electronic
media as a default



DOL issues safe harbor for
electronic disclosure



2002



Electronic Disclosure

Q: What does the new rule do?

Philosophically, it recognizes the widespread, modern-day reliance on electronic communication.

Practically, it provides employers the flexibility to more widely disclose retirement plan information in an electronic format.

It does so in the form of a voluntary "safe harbor" for employers that would like to use electronic disclosure as a default approach for ERISA-required (but not Tax Code-required) participant communications.

Electronic Disclosure

Q: What forms of electronic distribution can we use?

The final regulation provides for two options:

- 1) posting the disclosure(s) on a website; or
- 2) Email delivery

Q: When does the new safe harbor first become available?

From a practical perspective, immediately. The formal effective date is 60 days after the final publication of the regulation, but the DOL explicitly provided its support for employers to implement the safe harbor rule earlier.

Electronic Disclosure

Q: So does this mean we can start to use electronic disclosure immediately?

Not quite yet. The regulation requires a specific written notice *before* an employer can begin to rely on electronic disclosure. The DOL considers the rule to follow a "notice-and-access" structure, and the initial written notice is the first step within the structure.

Q: We're already using electronic disclosure for some or all of our people. How does the new rule impact what we've been doing?

It does not immediately replace the DOL guidance currently on the books. Some of the DOL's prior guidance will be phased out over an 18-month period, but that won't happen immediately.

Action Steps

1 Build an email list.

- Email addresses may be employer assigned or employee-provided.
- If you plan to use some employee-provided email addresses, the regulation provides ample flexibility around the time at which you receive that address.
- May be provided as part of the job application and hiring process, as a part of becoming a plan participant, "or otherwise" (as the regulation broadly provides).

2 Distribute the paper notice.

- The regulation requires that this paper notice include specific information, including the email address for the specific individual.

3 Begin to use the electronic disclosure structure.

- Became effective on 7/27/20.

4 Build out a process to maintain the email list.

- This process should reflect the need to track:
 - email addresses for future hires;
 - individuals who have opted out of the electronic disclosures; and
 - the email addresses to be used for a terminated employee in the case of one whose email address on file was employer-assigned.

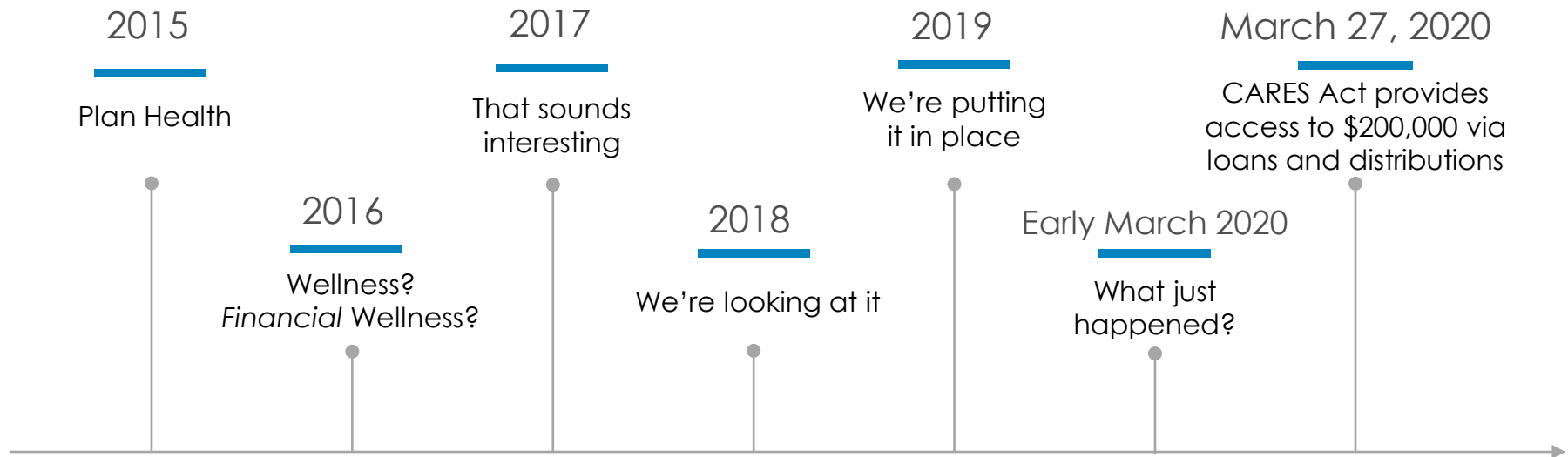


Financial Wellness

Wellness Program Needs

- Intentions > Readiness
- The New Normal
- How Employers Are Responding
- Forward-Looking Wellness Program Best Practices

Best of Intentions



But Employees Weren't Ready

Nearly 50% of Americans Don't Have Enough Emergency Savings to Get Through the COVID-19 Crisis

Maurie Backman (TMFI)
Mar 27, 2020 at 7:37AM

Emergency cash is crucial for times like these, and unfortunately, many people don't have it.

Lack of Savings Worsens the Pain of Coronavirus Downturn

Many of the millions of restaurant, hotel and store workers affected by shutdowns are expected to fall behind on rent and other bills

THE WALL STREET JOURNAL

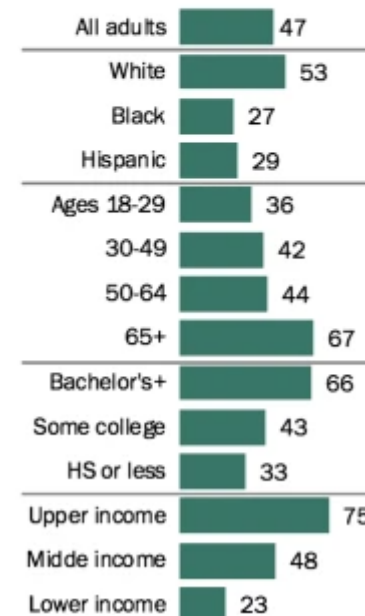
Survey Tracks How COVID-19 Is Affecting American's Finances, With Grim Results

Liz Frazier Contributor

Forbes

Fewer than half of U.S. adults have emergency funds that would last three months

% saying they have rainy day funds that would cover their expenses for three months in case of emergency



PEW RESEARCH CENTER

The New Normal

The post-COVID-19 era will have an economy shaped by new habits and regulations. Both people and organizations will discover the benefits of a new way of living and working, which will challenge traditional business and lifestyle norms.

⬇️ Top-Down Enforced

Rules/policies will swing up & down.

- Limited gatherings
- Travel restrictions
- Hygiene requirements
- Protecting vulnerable groups

⬆️ Bottom-Up Embraced

New habits & behaviors will stick.

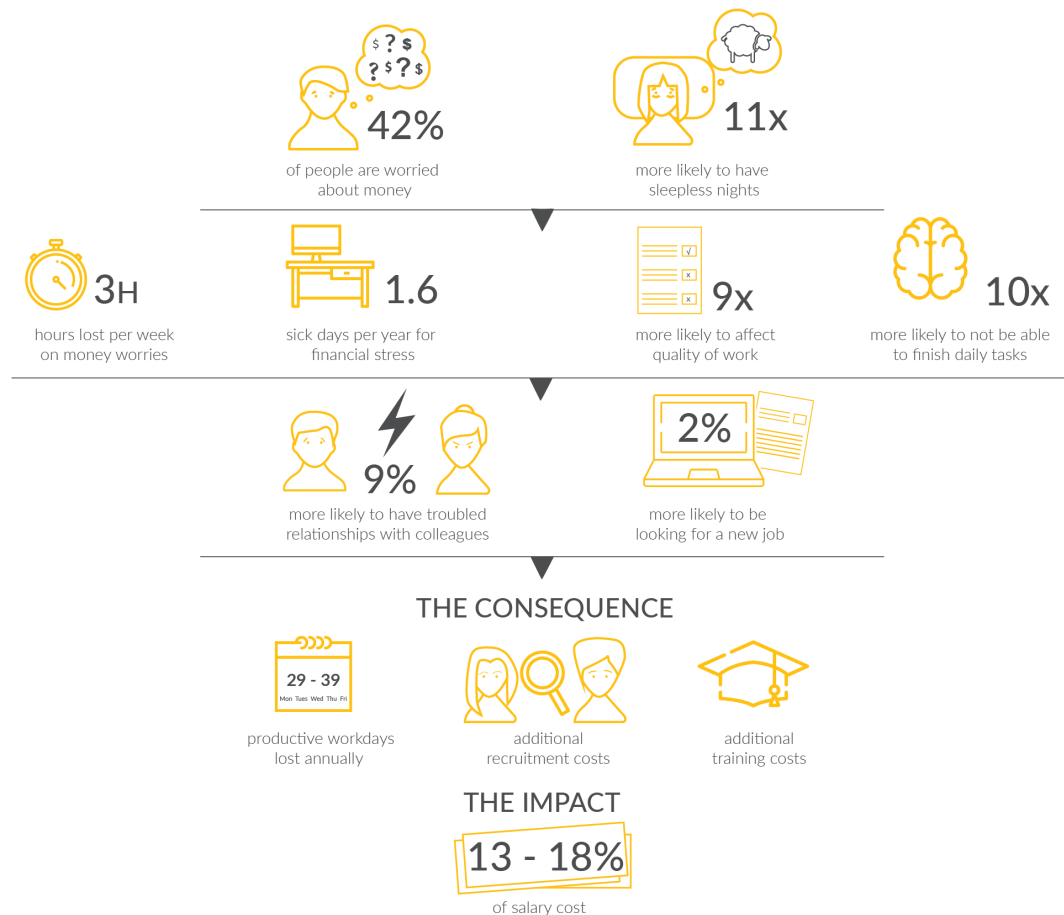
- Remote working
- Mixed work/life balance
- Access to e-commerce & logistics
- E-health

Likely Implications of the New Normal

Employer	Employee
Mass Unemployment, Bankruptcies, Bail-outs	Stress over Job Security
Employees Working Remotely	Isolation and Disengagement from Employer
Engagement/Communications Challenged	Struggling to Maintain Schedule
Productivity of Employees	Anxiety, Loneliness, Depression
Empathy and Availability with workers	Technology Challenges, Maintaining Routine
Support and Assistance Built Out Benefits Offerings	Finances- Basic Expenses, Funding Emergency Account, Paying Off Debt, Retirement Readiness
	Child Care, Remote Learning

The Pre-COVID-19 Cost of Financial Stress

Financial Stress has a significant impact on mental health, productivity, turnover and absenteeism in the workplace.



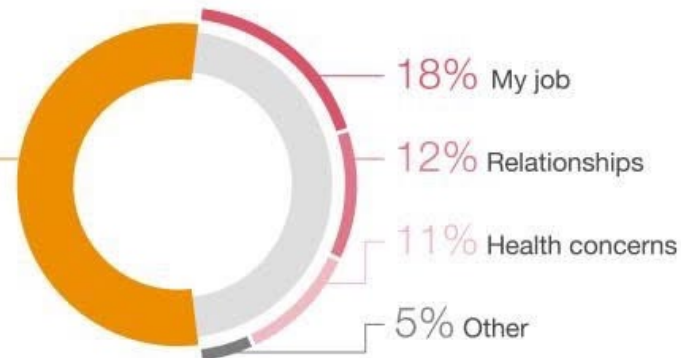
Source: The 2020 Employer's Guide to Financial Wellness by Salary Finance

The Post-COVID-19 Cost of Financial Stress



Which of the following causes you the most stress?

54%
Financial or money
matters/challenges



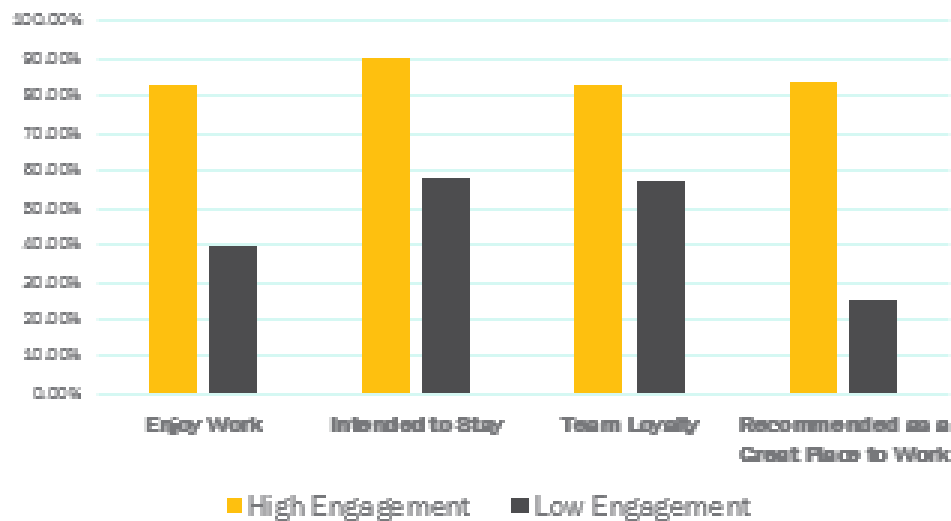
Source: PwC's 9th Annual Employee Financial Wellness Survey, PwC, 2020

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How Employers are Responding

How Wellness Engagement Impacts Workers



Source: Limeade

Forward-Looking Wellness Program Best Practices



Embracing Technology



Ability to Engage Via Technology



Customized to the Organization



Personalized to the Employee



More Expansive Topics – financial and otherwise



Data-dependent and Results-driven



Benchmarking

Consider the Health Insurance Shopping Process

Does a plan sponsor...



Wait 5 or 10 years before seeking a proposal?



Ask the current carrier whether its price is reasonable?



Analyze only one aspect of any carrier's quote?

Consider the Health Insurance Shopping Process

Or does a plan sponsor . . .



Check the marketplace every year or two?



Shop the marketplace to determine what a competitive market bears?



Look at the various details (e.g., co-pay, deductibles, size of network)

Why is a Retirement Benchmarking Process So Different?



Shouldn't many of the same considerations apply?



Shouldn't a CFO and HR Department be similarly motivated?



ALSO: with 401(k) plans, there's an additional layer of fiduciary responsibility and risk.

Benchmarking: Why?



DOL
Regulations



Federal
Courts



Rapidly
Changing
Marketplace



Your
Employees

Benchmarking Goals

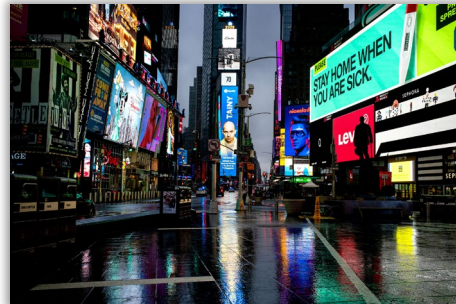
- Positive Attitude:
 - Better Pricing?
 - Better Service?
 - A Combination of Both?
- Do Not Fear a Move
 - The goal is NOT to transition the plan
 - This will happen only if the results show the current situation to be inferior





Fiduciary Basics

Governance – Fiduciary Basics



Fiduciary Best Practices



Hold your meetings



Document meetings through minutes



Ensure IPS compliance: Review investment performance



Perhaps more importantly, review participant (investor) performance



Study employees' needs



Discuss benchmarking needs

Thank you

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