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Happy Birthday ERISA! Congratulations on 40 Years

By Sarah Holden and Elena Barone Chism

Today marks the 40th birthday of the Employee Retirement Income Security Act (ERISA). Signed into law on September 2, 1974, ERISA introduced bold steps to safeguard Americans' employer-sponsored pensions and created the individual retirement account (IRA). Assets earmarked for retirement totaled $0.4 trillion at year-end 1974 (see the figure below). At this modest start, private-sector defined benefit (DB) plans accounted for 35 percent of the total; federal, state, and local plans for 34 percent; private-sector defined contribution (DC) plans for 17 percent; annuities for 13 percent; and there was a mere glimmer of IRA assets by year-end. Currently, total U.S. retirement assets are $23.0 trillion, and their composition has shifted considerably over the past 40 years.

U.S. Retirement Assets

Trillions of dollars, 1974–2014:Q1

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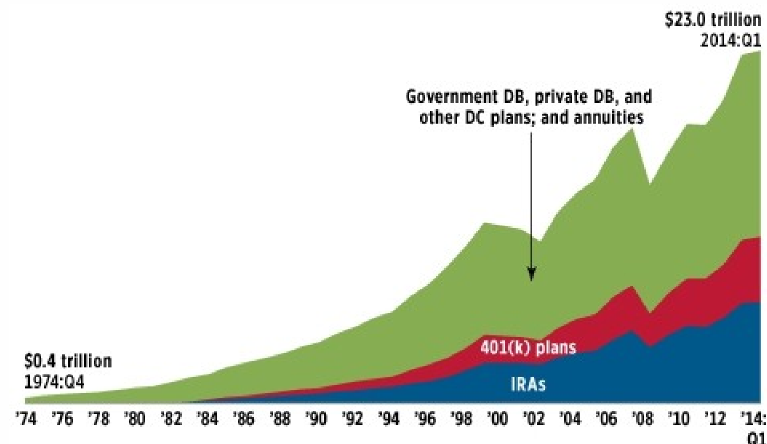

Note: For detailed definitions of the components of U.S. retirement assets, see Investment Company Institute, "The U.S. Retirement Market, First Quarter 2014" (June).

Sources: Investment Company Institute, IRS Statistics of Income, Federal Reserve Board, U.S. Department of Labor, American Council of Life Insurers, and National Association of Government Defined Contribution Administrators

Today the largest single component of U.S. retirement savings is IRAs, with $6.6 trillion at the end of March 2014, representing 29 percent of the total. Congress created the traditional IRA to gather rollovers as well as contributions, and about half of IRA assets are the result of rollovers from employer-sponsored retirement plans (both DB and DC, from public as well as private employers). Federal, state, and local retirement plan assets account for about one-quarter of total U.S. retirement assets. Although these governmental plans are not covered by Title I of ERISA, many of the tenets of ERISA generally translate over to the rules governing these plans. And 401(k) plans—the rules for which were not in place until November 10, 1981—had $4.3 trillion in assets at the end

of March 2014, or nearly one-fifth of total U.S. retirement assets.

Protecting Pension Assets and Enhancing Workers' Receipt of Benefits

ERISA—which contained sweeping changes in the regulation of pension plans, and created rules regarding reporting and disclosure, funding, coverage and participation, vesting, and fiduciary duties—was a seminal moment in the development of U.S. pension policy, and led to further improvements. Regulations allowing workers to contribute wages or salary on a pretax basis (the 401(k) feature) were added in 1981. And though retirement plans faced regulatory headwinds in the 1980s, changes promoting retirement savings occurred again in the late 1990s. For example, as part of a package of reforms aimed at bolstering small businesses—the Small Business Job Protection Act of 1996 (SBJPA)—Congress acted to encourage employers to offer retirement plans, including 401(k) plans.

Flanked by Congressional sponsors of the Act, President Gerald Ford signs ERISA into law on this day in 1974. His statement that accompanied the signing said it was "appropriate that this law be signed on Labor Day, since this Act makes a brighter future for almost all the men and women of our labor force." Photo courtesy of PBGC and DOL.

In 2001, the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) increased the annual DC plan contribution limit (albeit not higher than the limit in place in 1982), increased the limit on pretax elective deferral contributions, and allowed additional "catch-up" contributions for employees aged 50 or older. EGTRRA also permitted 401(k) plans to offer a "Roth" feature for after-tax contributions. (The Roth IRA, created by the Taxpayer Relief Act of 1997, allows tax-free withdrawals after the Roth IRA owner reaches age 59½, dies, or becomes disabled and a five-year holding period is met.) With the goal of preserving retirement accounts even when job changes occur, EGTRRA also increased opportunities for rollovers among various savings vehicles. The Pension Protection Act (PPA), passed in August 2006, made permanent EGTRRA's higher contribution limits, and encouraged employers to automatically enroll employees in their 401(k) plans and offer appropriate default investments.

Both the Treasury Department and Department of Labor (DOL), through implementing regulations and guidance, have played key roles in the development of ERISA. For example, in 1992 DOL finalized its 404(c) regulation, providing a framework for offering participant-directed plans, while in 1996 it published important guidance on providing investment information and education to participants in these plans. In 2007, to implement changes included in the PPA, DOL crafted rules for qualified default investment alternatives (QDIAs) that have since led to the widespread use of target date funds and other more long-term focused investments for participants who are automatically enrolled or otherwise do not provide investment instructions. More recently, DOL undertook a comprehensive fee disclosure project requiring plan fiduciaries and plan participants to receive key information about the investments and services offered under plans.

Long before enactment of the PPA, Treasury—through IRS rulings in the late 1990s and early 2000s—gave the first official guidance confirming automatic enrollment as a permissible plan design. Over the years, Treasury and the IRS also have been instrumental in creating more plan options for small businesses, ensuring and encouraging portability between plans, and implementing Congress's vision for Roth accounts in employer-sponsored plans and automatic enrollment arrangements.

A Public-Private Partnership

The past 40 years of U.S. pension policy aimed to help Americans build a retirement nest egg represents the combined efforts of a

number of key players:

- *Policymakers* define the “rules of the road” to provide tax incentives for and protections around workers’ pension assets.
- *Employers* sponsor retirement plans (DB, DC, or both), designing their individual plans to attract and retain a quality workforce, meet the needs of their workers, and promote long-term thinking and retirement planning
- *Financial services firms* compete to offer administrative and investment management services to retirement plans, and develop innovative educational materials, tools, and calculators to promote the understanding of saving and investing.
- *Individuals* enroll in their plans at work and/or set up their own IRAs to defer some of today’s income for their future consumption.

Are You Taking Full Advantage of ERISA?

Today, on the 40th anniversary of ERISA, take time to reflect on your own preparations for retirement. Take stock of whatSocial Security will provide as a base of income for your retirement years. Review your current employer-sponsored retirement plan savings—have you taken advantage of all plans offered? Are you getting your full employer match? If you’re 50 or older, have you taken advantage of catch-up contributions? And, whether you have a plan at work or not, have you explored all IRA options for you and your spouse? (IRS regulations allow a working spouse to create an IRA for their nonworking spouse.)

You may also have a choice of tax treatment—traditional or Roth. Have you looked at your pension benefit statement, or the chart comparing the investment options in your plan? Finally, have you reviewed your investments for diversification, making sure you are comfortable with the mix of equities and fixed-income securities? (This is good to do periodically, regardless of whether you’re investing in target date funds or selecting investments on your own.) Now is a good time to make sure you are taking full advantage of the opportunities and tools resulting from 40 years of ERISA.

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