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Written Statement
for the
Senate Committee on Health, Education, Labor, and Pensions

Hearing on

"Protecting the Pensions of Working Americans: Lessons From the Enron Debacle"

Thursday, February 7, 2002

by

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Witness Disclosure Statement

- **The Witness:**

Dallas Salisbury is president and CEO of the Employee Benefit Research Institute (EBRI), Washington, DC. Salisbury has headed the Institute since its founding in 1978.

- **The Organization:**

EBRI is a private, nonprofit, nonpartisan education and research organization based in Washington, DC. Founded in 1978, its mission is to contribute to, to encourage, and to enhance the development of sound employee benefit programs and sound public policy through objective research and education. EBRI does not lobby and does not take positions on legislative proposals.

The Education and Research Fund (ERF), established in 1979, performs the charitable, educational, and scientific functions of the Institute. EBRI-ERF is a tax-exempt organization (under IRC Sec. 501(c)(3)) supported by contributions and grants. EBRI-ERF is not a private foundation (as defined by IRC Sec. 509(a)(3)).

EBRI-ERF has a number of programs:

American Savings Education Council
Choose to Save® Education Program
Consumer Health Education Council
Defined Contribution Research Program
Fellows Program
Health Confidence Survey Program
Health Security/Quality Research Program
Policy Forums
Retirement Confidence Survey Program
Retirement Security Research Program
Social Security Research Program
Education Programs—Policy Forums, Briefings, Round Tables
Publication Programs—both printed and online
EBRI Issue Briefs, EBRI Notes, EBRI Databook on Employee Benefits,
EBRI Health Benefits Databook, Fundamentals of Employee Benefit Programs,
Policy Studies

- **Contracts:**

EBRI has contracts with a number of government agencies to make use of a Social Security analysis model supported by EBRI, and a number of government entities subscribe to publications published by EBRI.

SUMMARY STATEMENT

- Mr. Chairman and members of the Committee. Good morning.
- I was pleased to accept the invitation of the Committee to testify on retirement plan security. My first testimony before this Committee was in 1981 on the security of defined benefit plans. Since that testimony, an estimated 340,000 401(k) plans have been established, with 42 million participants, and $1.7 trillion dollars in assets. We estimate that more than one trillion dollars in balances accumulated and distributed over those years have been placed in a new employer's plan or a rollover IRA. In short, defined contribution plans and rollover IRAs have become the primary means of retirement asset accumulation for most pension-covered workers, including many federal civilian workers, and beginning this year, members of the military.
- No one plan design fits all circumstances. Defined benefit plans are especially valuable for long-service workers, but an estimated 75 percent of the labor force will never be long service. For them, defined contribution plans provide their best opportunity to save. For many employers, particularly those with highly mobile work forces and variable profits, 401(k) plans provide a means of offering workers the chance to save for retirement, take the portable account balances with them when they change jobs, and allow the employer to vary contributions tied to profitability. The Internet has also made it easy to totally outsource such a plan, put employees in full control, keep costs down, and deliver education and advice in an online interactive form at low cost. And, employees both understand and value the plans.
- Company stock is found primarily in the largest 401(k) plans, and many of the sponsoring employers, like Enron, also provide a defined benefit pension plan. EBRI estimates that 2,000 out of the estimated 340,000 401(k) plans include a matching contribution in company stock.
- The aggregate percentage of 401(k) assets that are in company stock is equal to 19 percent and has stayed constant over the last five years.
- Where company stock is offered either as an employer match and/or an employee investment option, 32 percent of plan assets are in company stock if the plan sponsor does not offer a guaranteed investment contract, and 28 percent if it does.
- Where employer matching contributions are provided in the form of company stock, 33 percent of employee-directed deferrals are in company stock. But where company stock is not the match (but is available as an investment), 22 percent of employee deferrals are in company stock.
- 48 percent of the respondents to our recent survey reported a company stock investment option in their client/employer's 401(k) plan.
- Large plans (defined as those with 5,000 or more employees) are much more likely to have a company stock option in the 401(k) plan: the large plans had this option 73 percent of the time vs. 32 percent for small plans (defined as those with fewer than 5,000 employees).
- Among those plans that have a company stock option, the average percentage of company stock in the employees' 401(k) account breaks down as follows: 39 percent report less than 10 percent; 42 percent report 10–50 percent; and 18 percent report more than 50 percent.
- Of the 43 percent of 401(k) plans responding to our recent survey where employer contributions were required to be invested in company stock:

    - 13 percent reported no restrictions existed for selling the company stock.
    - 27 percent reported that they were restricted throughout a participant's investment in the plan.
    - 60 percent reported that they were restricted until a specified age and/or service requirement is met.
- 14 percent limited the amount or percentage of company stock that employees may hold in their 401(k) plan.
- 74 percent of the respondents' plans have undergone a blackout. The distribution of the blackout period follows:
    - No delay/overnight/over weekend, 3 percent.
    - Between one day and two weeks, 27 percent.
    - Between two weeks and one month, 39 percent.
    - Between one month and two months, 26 percent.
    - More than two months, 5 percent.

Respondents' Perception of the Impact of Various Legal/Legislative Developments

- 69 percent of respondents thought that reducing the deduction for matching contributions in the form of employer securities to 50 percent would be to either discontinue the use of company stock as the form of matching contribution or as an investment option, or to decrease the matching contributions.
- 37 percent thought that transfer availability for company stock after 90 days would be to either discontinue the use of company stock as the form of matching contribution or as an investment option, or to decrease the matching contributions. Another 35 percent thought that there would be no reaction.
- 47 percent of respondents thought there would be no reaction to a legislative change limiting to 20 percent the investment an employee can have in any one stock in his or her individual account plans. Another 28 percent thought that this would cause plan sponsors to either discontinue the use of company stock as the form of matching contribution or as an investment option, or decrease the matching contributions.

Conclusion

- A silver lining of Enron is the attention being given to education, advice, diversification, financial literacy, and other financial education issues. There is a great deal to be done, but programs like the Choose to Save® public education program can make a difference.
- A negative, beyond the tragic loss of jobs and wealth, is the suggestion that Enron means that the entire 401(k) system is in "crisis," because that is not true. As we deal with Enron we must take care not to inappropriately undermine confidence in 401(k), IRA, and other programs, that are sound for the vast majority of participants.
- Thank you for the invitation to testify today on this important topic. I would be pleased to take questions now, and to respond to written questions following the hearing.

STATEMENT BY DALLAS SALISBURY

President and CEO, Employee Benefit Research Institute (EBRI)

Committee on Health, Education, Labor and Pensions

February 7, 2002

Mr. Chairmen and members of the committee: I am Dallas Salisbury, president and CEO of the Employee Benefit Research Institute (EBRI), a nonprofit research and education organization founded in Washington, DC in 1978. EBRI does not lobby or advocate for or against legislative proposals. Our work is intended to assist in evaluating present policies and the possible results of proposals made by others.

I was pleased to accept the invitation of the Committee to join this important hearing on retirement security. My first testimony before this Committee was in 1981, on the same topic. At that time, the issue was the solvency of the Pension Benefit Guaranty Corporation and the future of defined benefit pension plans. Because that program is solvent, retirees and vested employees of Enron should know that they will be paid benefits due from the Enron Defined Benefit Pension Plan, up to the maximum guaranteed amount of $3,392.05 per month ($40,704.60 per year) (see www.pbgc.gov for details of phase-ins, reductions for early retirement, and other adjustments), should the plan ultimately have to be terminated and taken over by the PBGC. This will not fully protect the pensions of highly paid workers, but the rank and file will be secure.

Defined benefit plans, as other witnesses have noted, are primarily sponsored by employers that are large, with higher paid or unionized work forces. I would add that they are confident of profitability. The total number of participants protected by the PBGC has increased about 30 percent since the program was established in 1975, while the labor force has grown more quickly. My elderly parents in Everett, WA, are better off than they would otherwise be due to the defined benefit pension checks that resulted from my father spending 30 years with an employer that had a defined benefit plan.

My 1981 testimony noted that our tax laws began to encourage the development of defined contribution plans in the 1920s. The primary emphasis then was on profit-sharing plans that allow flexibility of contributions based upon the economic performance of the employer, and flexibility for the employee in deciding whether to fully defer contributions. The primary growth of defined benefit plans took place during the Korean War wage price controls when the government ruled that increased pension contributions would not count as wage increases. Large private employers have historically had both defined benefit and defined contribution plans, while small employers have historically had only defined contribution plans. EBRI small employer retirement surveys have documented the reasons for this preference, and the reasons that most small employers provide no retirement savings plan. Most prominent are the employees' desire for cash and the lack of profitability of the enterprise. EBRI Value of Benefits surveys and our Retirement Confidence Surveys have documented that workers have a strong preference for defined contribution plans, as they build an account with contributions that are proportional to pay, they are easy to understand, they are fully portable when the worker changes jobs, and they provide a feeling of control. The Federal Government reduced the value its own defined benefit plan by 40 percent and established the Thrift Savings Plan (TSP) in the early 1980s, for many similar reasons: employee appreciation, greater value delivered to shorter service employees, predictable cost for the employer, and neutrality relative to employee mobility as compared with the "golden handcuffs" of defined benefit pension plans. Participation in defined contribution plans has grown by more than 300 percent since the passage of ERISA.

Growth of the 401(k) plan was celebrated by many over the past several years as account balances grew and the plans created new individual wealth. It has been questioned by others. The numbers indicate that the growth of 401(k) plans has led to more financial education in the workplace, with more employers facilitating access to investment advice as well. My in-laws in West Hampstead, NH, are better off that they would otherwise be today due to the defined contribution plan that my mobile father-in-law had during his last decade of employment.

EBRI provides an interesting example of plan formation decision-making. EBRI was founded in 1978 by 13 actuarial consulting firms. This group was joined by group insurance companies, investment management firms, labor unions, multi-employer pension, health and welfare plans, and business corporations that sponsored pension, health, and welfare plans for their employees. The common element: a belief in the provision of economic security benefits to workers and the value of sponsoring research and data collection to facilitate understanding the programs. These firms were ***all*** strong supporters of defined benefit plans, yet they would not establish a defined benefit plan for the employees of EBRI. Instead, they established an employer funded defined contribution (money purchase) plan in 1979 to which EBRI contributes 8 percent of pay for each employee and a 401(k) plan in 1983 in which EBRI will match the first 4 percent of contribution at a 100 percent rate. They had a number of reasons for doing defined contribution: (1) the annual cost could be budgeted and did not change with the economy; (2) EBRI might or not be around for the decades necessary to provide meaningful benefits from a defined benefit plan; (3) EBRI might or might not end up with long-service employees who would benefit from a defined benefit plan; (4) the 401(k) plan allowed EBRI employees to save added dollars if they wanted to do so; and (5) the matching contribution could provide an incentive for employees to do so. The decision was made to go with defined contribution for these reasons, even though (1) a defined benefit plan would have been less costly to operate; (2) less costly over time in terms of contributions; and (3) could have included lump-sum distributions so that departing employees did not have to be tracked after leaving. These issues are common to many small- and medium-size employers. As in so many aspects of life, one "size" does not fit all. At the point ERISA was enacted in 1974, for example, there were approximately 200,000 defined contribution plans and 100,000 defined benefit plans, underlining differences in employer decision making. Today there are approximately 800,000 defined contribution plans and 60,000 defined benefit plans.

401(k) Prevalence

Studies based upon the EBRI/ICI Participant-Directed Retirement Plan Data Collection Project for the past five years document points that are central to retirement security. This database is representative of the universe of 401(k) plans. The U.S. Department of Labor, and others, provide data updates on the full plan universe:

- There are an estimated 43 million participants in an estimated 340,000 401(k) plans, with an estimated total of about $1.7 trillion in assets. Actual universe counts lag by several years, making estimates necessary. 401(k) plans have a wide range of designs, but most differ from that of the Enron 401(k) plan as most do not include company stock.

401(k) accounts grew dramatically from 1983 until 1999. With the decline in the equity markets in 2000, the average account balance of workers in plans in both 1999 and 2000 declined by an average of one-tenth of one percent, largely as a result of new contributions being made and diversification of plan assets through the selection of professionally managed funds provided by financial institutions. We are now beginning to review data from 2001, but expect a small average decline for a second year. EBRI's November 2001 *Issue Brief* provides detail on investment allocation, account balances, and multiple other issues (see www.ebri.org).

Company Stock

The incidence of company stock in 401(k) plans has been analyzed extensively as part of the EBRI/ICI Participant-Directed Retirement Plan Data Collection Project for the past five years. A special report published by EBRI last week looks at the company stock issue. The most recent information published in November 2001 applies to year-end 2000 account balances and shows that:

- The aggregate percentage of 401(k) assets that are in company stock is equal to 19 percent and has stayed constant over the last five years.
- Where company stock is offered as either an employer match and/or an employee investment option, 32 percent of plan assets are in company stock if the plan sponsor does not offer a GIC (guaranteed investment contract, a stable-value investment) and 28 percent if it does.
- Where employer matching contributions are provided in the form of company stock, 33 percent of employee-directed deferrals are in company stock. But where company stock is not the match (but is available as an investment), 22 percent of employee deferrals are in company stock. These numbers suggest that employees view company stock as a desirable option.

Although the topic of company stock investment in 401(k) plans has recently been the focus of considerable interest, the concept of preferred status for employee ownership has been part of the U.S. tax code for more than 80 years. When the Employee Retirement Income Security Act (ERISA) was passed in 1974, it required that fiduciaries diversify plan investments for defined benefit plans and some types of defined contribution plans. However, there is an exception for "eligible individual account plans" that invest in "qualifying employer securities." An Employee Stock Ownership Plan (ESOP) normally qualifies for this exception, as do profit-sharing plans.

Congress has acted repeatedly over the last 40 years to provide incentives for employee ownership. Former Senator Russell Long (D-Louisiana) was the primary champion of the provisions, believing that employee ownership was a form of worker democracy and "gain-sharing" as employers grew and prospered. Employee ownership has also been shown to align employee, management and shareholder objectives, resulting in greater productivity and growth. Employers like Procter & Gamble have relied upon profit sharing and employee ownership as the retirement program for decades, and new economy firms like Microsoft and Sun Microsystems have done the same. Employers match employee contributions in 401(k) plans as a means of encouraging participation, and some employers match in company stock to meet an employee ownership objective. Provisions enacted as recently as 2001 in EGTRRA related to the deduction of dividends paid to shares held in an ESOP have served to communicate to employees and employers that government policy seeks to encourage employee stock ownership.

EBRI's recent *Special Report* on company stock (see www.ebri.org) notes that profit-sharing plans with cash or deferred arrangements (more commonly referred to as 401(k) plans) grew from virtually no plans in 1983 to a point where by 1997 (the most recent year for which government data are currently available) they accounted for 37 percent of qualified private retirement plans, 48 percent of active employees, and 65 percent of new contributions.

- Enron had a defined benefit pension plan, matched employee contributions with company stock, and restricted diversification until after the age of 50. At Enron, 57.73 percent of 401(k) plan assets were invested in company stock, which fell in value by 98.8 percent during 2001.

To produce the Special Report on company stock, initiated as a result of a high number of inquiries following the collapse of Enron, on Jan. 15, 2002, a fax-back survey was sent to 3,346 members of the International Society of Certified Employee Benefit Specialists (ISCEBS). Respondents were asked to respond by Jan. 23 and to answer the questions for the largest (in terms of participants) client they worked for (if they were a consultant or service provider for 401(k) plans); otherwise, they were asked to answer for the firm that they were employed by. The survey was designed, fielded, and analyzed by Professor Jack VanDerhei of Temple University, who also serves as research director of the EBRI Fellows Program. The full report is an appendix to this testimony.

VanDerhei notes in the report: "Presumably, any recommendations to modify current pension law would attempt to strike a balance between protecting employees and not deterring employers from offering employer matches to 401(k) plans. Some have argued that if Congress were to regulate 401(k) plans too heavily, plan sponsors might choose to decrease employer contributions or not offer them at all. Previous research has shown that the availability and level of a company match is a primary impetus for at least some employees to make contributions to their 401(k) account. Others have argued that individuals should have the right to invest their money as they see fit.

"This survey was conducted in an attempt to provide a context to the current debate on company stock in a timely fashion, and it is not a statistically representative survey of the 401(k) industry; rather, this survey is a nonrandom polling of benefits professionals who are knowledgeable about the subject matter and able to respond to the survey quickly."

Company Stock: Availability and Percentage of Average Asset Allocation

- 48 percent of the respondents to this survey reported a company stock investment option in their client/employer's 401(k) plan.
- Large plans (defined as those with 5,000 or more employees) are much more likely to have a company stock option in the 401(k) plan: the large plans had this option 73 percent of the time vs. 32 percent for small plans (defined as those with fewer than 5,000 employees).
- Among those plans that have a company stock option, the average percentage of company stock in the employees' 401(k) account breaks down as follows: Less than 10 percent (39 percent); 10–50 percent (42 percent); more than 50 percent (18 percent).
- Large plans have a higher average percentage of company stock in the employees' 401(k) account

Employer Contributions: Investment in Company Stock and Restrictions on Sale

- 43 percent of those having a company stock investment option in the 401(k) plan reported that employer contributions were required to be invested in company stock.

- Among those plans that have a company stock option, large plans are more likely to require employer contributions to be invested in company stock: 49 percent of large plans vs. 38 percent of small plans.
- Of the 401(k) plans where employer contributions were required to be invested in company stock:
  - 13 percent reported no restrictions existed for selling the company stock.
  - 27 percent reported that they were restricted throughout a participant's investment in the plan.
  - 60 percent reported that they were restricted until a specified age and/or service requirement is met.

Limitations on Company Stock That May Be Held by an Employee

- 14 percent of those having a company stock investment option in the 401(k) plan reported that they limited the amount or percentage of company stock that employees may hold in their 401(k) plan.

Blackouts

- 74 percent of the respondents' plans have undergone a blackout.
- Of those that have undergone a blackout, the distribution of the blackout period follows:
  - No delay/overnight/over weekend, 3 percent.
  - Between one day and two weeks, 27 percent.
  - Between two weeks and one month, 39 percent.
  - Between one month and two months, 26 percent.
  - More than two months, 5 percent.

Impact of Defined Benefit Sponsorship

- It is more likely for there to be a company stock investment option in the 401(k) plan if there is also a defined benefit plan: 60 percent of those with a defined benefit plan vs. 35 percent of those without.
- Employer contributions are more likely to be required to be invested in company stock if there is also a defined benefit plan: 50 percent of those with a defined benefit plan vs. 33 percent of those without.
- It is more likely for restrictions to exist on selling the company stock if there is also a defined benefit plan.

Respondents' Perceptions on Appropriate Limits and the Role of Government

- When asked what they thought was the maximum percentage of company stock any employee SHOULD hold in his or her 401(k) portfolio, the distribution of responses was:
  - 4 percent of the respondents thought it should be zero.
  - 39 percent replied with no more than 10 percent.
  - 38 percent replied with no more than 20 percent.
  - 9 percent replied with no more than 50 percent.
  - 9 percent did not know.

- When respondents whose client/employer did not require employer contributions to be invested in company stock were asked if they thought the government should limit the plan sponsor's ability to mandate that matching contributions to a 401(k) plan be invested in company stock, 66 percent of the respondents said yes, 29 percent said no, and 5 percent did not know. However, when respondents whose client/employer did require employer contributions to be invested in company stock were asked if they thought the government should limit the plan sponsor's ability to mandate that matching contributions to a 401(k) plan be invested in company stock, 38 percent of the respondents said yes, 61 percent said no, and 2 percent did not know.
- When asked if they thought the government should limit the employees' ability to invest their own (participant-directed) contributions to a 401(k) plan in company stock, 32 percent said yes, 63 percent said no, and 5 percent did not know.

Respondents' Perceptions on Public Policy Issues Related to Company Stock in 401(k) Plans

- Respondents were fairly evenly split on whether they thought there was an inherent conflict of interest when a plan sponsor includes company stock as an option in their 401(k) plan.
- The vast majority of respondents (83 percent) strongly agreed that plan sponsors that offer company stock as an investment option should advise their employees to diversify.
- Respondents were fairly evenly split on whether they thought ERISA should be revised to require pension plan diversification or participant direction if an employee is over-invested in company stock.
- The majority of respondents (58 percent) agreed that problems resulting from employees investing their own contributions in company stock would be mitigated if employers were allowed to provide independent financial advice to their employees. Only 27 percent of the respondents disagreed with this statement.
- The majority of respondents (56 percent) did not agree that 401(k) plan sponsors should be allowed to mandate that matching contributions be invested in company stock, while 39 percent agreed, and 5 percent were neutral.
- More than 3 in 5 respondents (62 percent) did not agree that 401(k) plan sponsors should be allowed to restrict the sale of company stock they contributed on behalf of the participants as long as they are employees. 29 percent of the respondents agreed and 9 percent were neutral.

Respondents' Perception of the Impact of Various Legal/Legislative Developments

- Nearly one-half (47 percent) of respondents thought the most likely reaction to a successful class action suit alleging fiduciaries failed in their obligation to cease using company stock as the form of the matching contribution prior to the firm's bankruptcy would be to discontinue the use of company stock as the form of matching contribution or as an investment option.
- More than one-half (52 percent) of the respondents thought that the most likely reaction to a successful class action suit alleging fiduciaries "pushed" the company stock on employees through the 401(k) plan would be to discontinue the use of company stock as the form of matching contribution or as an investment option.

- Nearly 7 in 10 respondents (69 percent) thought that the most likely reaction to a legislative change reducing the deduction for matching contributions in the form of employer securities to 50 percent would be either to discontinue the use of company stock as the form of matching contribution or as an investment option, or to decrease the matching contributions.
- Approximately one-third of the respondents (37 percent) thought that the most likely reaction to a legislative change requiring immediate transfer availability for company stock for employees after 90 days would be either to discontinue the use of company stock as the form of matching contribution or as an investment option, or to decrease the matching contributions. However, another 35 percent thought that there would be no reaction.
- Nearly one-half (47 percent) of respondents thought there would be no reaction to a legislative change limiting to 20 percent the investment an employee can have in any one stock in his or her individual account plan. Another 28 percent thought that this would cause plan sponsors either to discontinue the use of company stock as the form of matching contribution or as an investment option, or decrease the matching contributions.

Employee Education

ERISA and its implementing regulations seek to assure extensive employee education. Sec. 404(c) of ERISA sets forth the types of conditions a plan sponsor must meet in order to allow a participant to exercise control over his or her participant-directed individual account. Providing sufficient information to make an informed investment decision is one of the requirements. The regulations do not set forth either "bright line" tests or offer a "safe harbor," but many employers have sought to meet what they believe to be required in an effort in the hope that it will reduce their fiduciary exposure. Interpretive Bulletin 96-1 provided additional guidance intended to increase the amount of participant investment education delivered to participants. A recent opinion letter issued to SunAmerica, like a number of previous actions of the Department of Labor, was aimed at increasing the provision of investment advice to plan participants, in addition to education. Technology has facilitated the delivery of both education and advice to plan sponsors and participants that desire it. Legal provisions provide special exceptions for employee stock ownership in defined contribution plans from normal rules related to diversification and employee direction.

Congress enacted the SAVER Act in 1997 to encourage savings and investment education. The first SAVER Summit was held in 1998, and the second will be held the end of this month. Inspired by the passage of SAVER, EBRI worked with partners to form the Choose to Save® public service announcement program in 1997. Those public service announcements, plus four Choose to Save® specials, have now taken messages of savings, compound interest, debt management, diversification, and more, to viewers in 49 states (see www.choosetosave.org). The National Association of Broadcasters, AP News Radio, ABC, CBS, Bonneville Radio, and others have worked together to expand the program in each of the last five years (Fidelity Investments has underwritten production and distribution of the program).

The Retirement Confidence Survey has been used to assess the level of financial education and preparation, attitudes toward retirement and savings, and what education approaches are valued and used by workers. Over the 11 years of the survey, we have seen steady movement toward more saving and retirement preparation, but the survey clearly documents that there is much more to be done.

While the surveys find that the public places very high value on Social Security and Medicare, it also underlines the public's desire for control of their own savings and investing.

Conclusion

Since the Bureau of Labor Statistics began a data series on job tenure in 1952, median job tenure for the total labor force has remained near four years. In spite of this short median tenure, about a quarter of all workers ages 55–64 report having spent 20 or more years with one employer, but that means 75 percent have not. For long-service workers defined benefit pension plans can provide meaningful benefits. For short-service workers defined contribution plans will do a better job of accumulating retirement income if the worker chooses to participate and contributes over many years. For both types of plans an essential element is saving the money upon any job change, obtaining good investment results, and spending the funds at a rate that keeps them from running out. Most defined contribution plans, including the federal Thrift Savings Plan (TSP), provide the option of lump-sum distributions. A growing number of defined benefit plans provide a lump-sum option as well upon job change, including the Federal employee defined benefit plan. Those with both types of plans have the opportunity for the best of both, but also face the risks and responsibilities of both. As noted above, when both types of plans are offered in the private sector, there is a greater likelihood of company stock being used in the 401(k).

The relevance of Enron for 401(k) participants in the estimated 338,000 plans without company stock matches, is that it sends a message about the value of diversification. For participants in the estimated 2,000 plans that match with company stock, it is a more powerful message of diversification for the funds contributed by the employee and for assets outside the 401(k) plan. Diversification is a function of all assets and income sources. The presence of Social Security allows investors covered by this program (nearly 99 percent of the labor force) to take higher risks in their investments. The presence of a defined benefit plan allows a participant to take higher risks in their 401(k) plan. The Internet allows access to financial tools for education and advice undreamed of 20 years ago. Growing life expectancy and longer retirements make it increasingly essential that our citizens be financially literate, that they understand investing, and that they understand how quickly they can spend funds in order to not outlive them. The public and private sectors are working together to increase financial literacy, to distribute those tools, and to increase their use. A silver lining of Enron is the attention being given to education, advice, diversification, financial literacy, and other financial education issues. There is a great deal to be done, but programs like Choose to Save® can make a difference. A negative is the suggestion that Enron means that the entire 401(k) system is in "crisis," because that is not true. As we deal with Enron, we must take care not to inappropriately undermine confidence in 401(k), IRA, and other programs, which are sound for the vast majority of participants.

Thank you for the invitation to testify today on this important topic. I would be pleased to take questions now, and to respond to written questions following the hearing.

EBRI Special Report

Company Stock in 401(k) Plans: Results of a Survey of ISCEBS Members

Jack L. VanDerhei
Temple University and EBRI Fellow

Employee Benefit Research Institute
January 31, 2002*

The International Society of Certified Emp loyee Benefit Specialists (ISCEBS) is an educational association dedicated to providing professional development opportunities for its members—Certified Employee Benefit Specialists. To earn the professional CEBS designation, an individual must have passed 10 rigorous national examinations, including one course devoted entirely to defined contribution plans and another on investments. More information is available at www.iscebs.org

The Employee Benefit Research Institute (EBRI) is a nonpartisan, nonprofit research organization created to provide objective and reliable analysis of retirement, health, and other economic security issues. EBRI does not lobby and does not take positions on legislative proposals, and its membership includes a wide range of organizations with an interest in benefits issues. More information is available at www.ebri.org

EBRI expresses its appreciation to members of ISCEBS, without whose cooperation and quick response this survey would not have been possible.

*The January 28th version contained typesetting errors for the data labels in Figures 2 - 4

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Introduction

The incidence of employer stock in 401(k) plans has been analyzed extensively as part of the EBRI/ICI Participant-Directed Retirement Plan Data Collection Project for the past five years. The most recent information[1] applies to year-end 2000 account balances and shows that:

- The aggregate percentage of 401(k) assets that are in company stock is equal to 19 percent and has stayed constant over the last five years.
- Where company stock is offered as either an employer match and/or an employee investment option, 32 percent of plan assets are in company stock if the plan sponsor does not offer a GIC (guaranteed investment contract, a stable-value investment) and 28 percent if it does.
- Where employer matching contributions are provided in the form of company stock, 33 percent of employee-directed deferrals are in company stock. But where company stock is not the match (but is available as an investment), just 22 percent of employee deferrals are in company stock.

Although the topic of company stock investment in 401(k) plans has recently been the focus of considerable interest, the concept of preferred status for employee ownership has been part of the U.S. tax code for more than 80 years.[2] When the Employee Retirement Income Security Act (ERISA) was passed in 1974, it required that fiduciaries diversify plan investments for defined benefit plans and some types of defined contribution plans. However, there is an exception for "eligible individual account plans" that invest in "qualifying employer securities."[3] An Employee Stock Ownership Plan (ESOP) normally qualifies for this exception, as do profit-sharing plans.[4]

Profit-sharing plans with cash or deferred arrangements (more commonly referred to as 401(k) plans) grew from virtually no plans in 1983[5] to a point where by 1997 (the most recent year for which government data are currently available) they accounted for 37 percent of qualified private retirement plans, 48 percent of active employees, and 65 percent of new contributions.[6]

The concept of legislating diversification for qualified retirement plan investments in company stock was first applied to ESOPs via a provision enacted as part of the Tax Reform Act of 1986.[7] Employees who are at least age 55 and who have completed at least 10 years of participation must be given the opportunity to diversify their investments by transferring from the employer stock fund to one or more of three other investment funds.[8] The right to diversify need be granted only for a 90-day window period following the close of the plan year in which the employee first becomes eligible to diversify and following the close of each of the next five plan years. This right is limited to shares acquired after 1986[9] and is further limited to 25 percent of such shares until the last window period, when up to 50 percent of such shares may be eligible for diversification.

The Taxpayer Relief Act of 1997 applied a limit on mandatory investment of 401(k) contributions in employer stock. This was a more modest version of a proposal by Sen.

Barbara Boxer (D-CA) to impose a separate limitation of 10 percent of plan assets on the mandatory investment of 401(k) contributions in qualifying employer stock and real property. [10]

The Economic Growth and Tax Relief Reconciliation Act of 2001 expanded the dividend deduction for ESOPs to include dividends paid on qualifying employer securities held by an ESOP that, at the election of participants or beneficiaries, are: 1) payable directly in cash; 2) paid to the plan and distributed in cash no later than 90 days after the close of the plan year in which the dividends are paid to the plan; or 3) paid to the plan and reinvested in qualifying employer securities.[11] A 401(k) plan with a company stock fund that regularly pays dividends may consider designating a portion of the plan that includes the company stock fund to be an ESOP in order to take advantage of this deduction.[12]

At Enron, 57.73 percent of 401(k) plan assets were invested in company stock, which fell in value by 98.8 percent during 2001.[13] The decrease in share price and eventual bankruptcy filing of Enron resulted in huge financial losses for many of its 401(k) participants. This has prompted several lawsuits as well as congressional and agency investigations into the relative benefits and limitations of the current practice. In addition, the practice of imposing "blackout" periods when the 401(k) sponsor changes administrators has recently been called into question in light of the Enron situation.[14]

Presumably, any recommendations to modify current pension law would attempt to strike a balance between protecting employees and not deterring employers from offering employer matches to 401(k) plans. Some have argued that if Congress were to regulate 401(k) plans too heavily, plan sponsors might choose to decrease employer contributions or not offer them at all. Previous research[15] has shown that the availability and level of a company match is a primary impetus for at least some employees to make contributions to their 401(k) account. Others have argued that individuals should have the right to invest their money as they see fit.

This survey was conducted in an attempt to provide a context to the current debate on company stock in a timely fashion, and it is not a statistically representative survey of the 401(k) industry; rather, this survey is a nonrandom polling of benefits professionals who are knowledgeable about the subject matter and able to respond to the survey quickly.

Survey Background Information

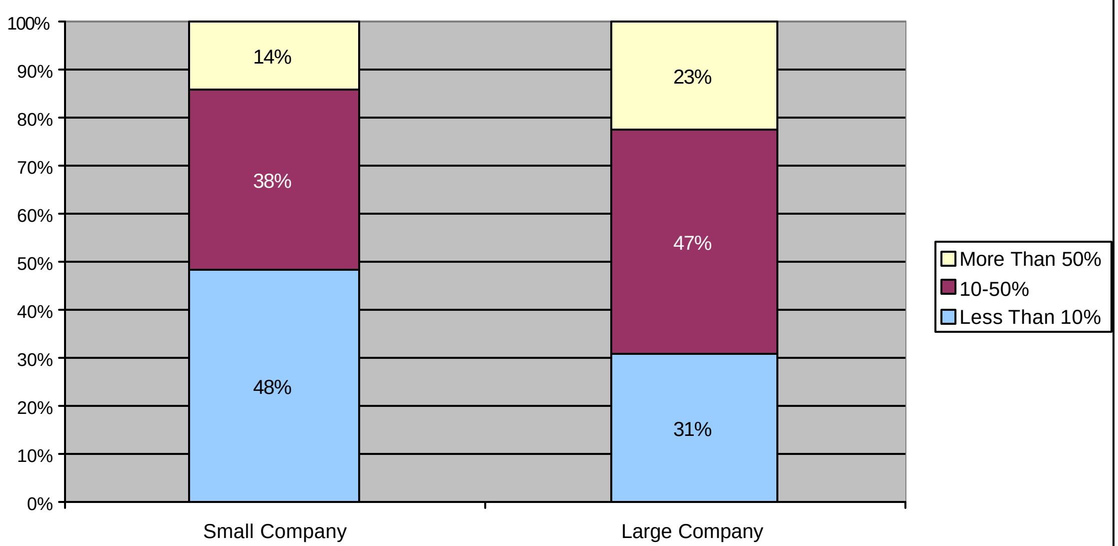
On Jan. 15, 2002, a fax-back survey was sent to 3,346 members of the International Society of Certified Employee Benefit Specialists (ISCEBS). Respondents were asked to respond by Jan. 23 and to answer the questions for the largest (in terms of participants) client they worked for (if they were a consultant or service provider for 401(k) plans); otherwise, they were asked to answer for the firm that they were employed by. The survey instrument was divided into six parts: Part I asked for personal information relating to respondents' type of benefits expertise, age, and number of years in the benefits industry. Part II asked for information on the client/employer—including industry, number of employees, and whether it offered a defined benefit plan and/or a 401(k) plan. For those that did offer a 401(k) plan, additional information was collected with respect to company stock investment options, whether employer contributions are required to be invested in company stock, average percentage of company stock in the employees' accounts, restrictions on selling the company stock, and blackout periods. Part III examined the employees' perceptions of the Enron situation. Part IV examined the respondents' views on the appropriate limits for investment in company stock and the role of the government. Part V requested information on the respondents' perceptions on public policy issues related to company stock in 401(k) plans, and Part VI asked the respondents to speculate on likely reactions to various legal/legislative developments.

Although all results were tabulated, for purposes of this report, I have screened out all respondents for whom their client/employer did not sponsor a 401(k) plan. This provided 375 usable responses, once surveys with missing information were excluded.

Company Stock: Availability and Percentage of Average Asset Allocation

- 48 percent of the respondents to this survey reported a company stock investment option in their client/employer's 401(k) plan.
- Large plans (defined as those with 5,000 or more employees) are much more likely to have a company stock option in the 401(k) plan: the large plans had this option 73 percent of the time vs. 32 percent for small plans (defined as those with less than 5,000 employees).
- Among those plans that have a company stock option, the average percentage of company stock in the employees' 401(k) account breaks down as follows: Less than 10% (39 percent); 10–50% (42 percent); more than 50% (18 percent).
- Large plans have a higher average percentage of company stock in the employees' 401(k) account (see Figure 1).

Figure 1
Average Percentage of Company Stock in the Employees' 401(k) Account, by Plan Size



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

Employer Contributions: Investment in Company Stock and Restrictions on Sale

- 43 percent of those having a company stock investment option in the 401(k) plan reported that employer contributions were required to be invested in company stock.
- Among those plans that have a company stock option, large plans are more likely to require employer contributions to be invested in company stock: 49 percent of large plans vs. 38 percent of small plans.
- Of the 401(k) plans where employer contributions were required to be invested in company stock:
  - 13 percent reported no restrictions existed for selling the company stock.
  - 27 percent reported that they were restricted throughout a participant's investment in the plan.
  - 60 percent reported that they were restricted until a specified age and/or service requirement is met.

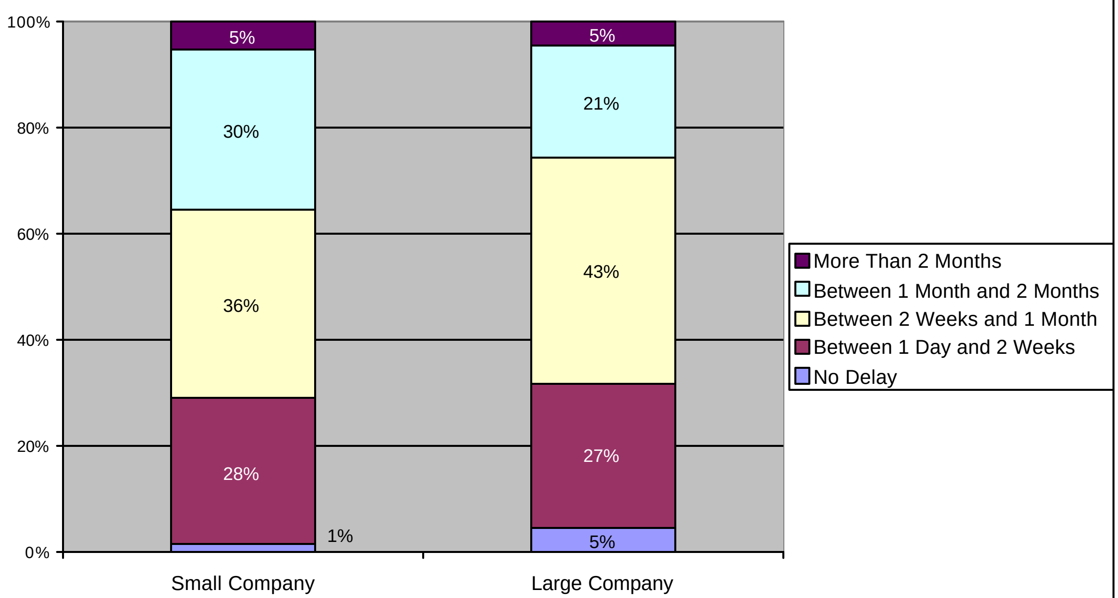
Limitations on Company Stock That May Be Held by an Employee

- 14 percent of those having a company stock investment option in the 401(k) plan reported that they limited the amount or percentage of company stock that employees may hold in their 401(k) plan.

Blackouts

- 74 percent of the respondents' plans have undergone a blackout.
- Of those that have undergone a blackout, the distribution of the blackout period follows:
  - No delay/overnight/over weekend, 3 percent.
  - Between one day and two weeks, 27 percent.
  - Between two weeks and one month, 39 percent.
  - Between one month and two months, 26 percent.
  - More than two months, 5 percent.
- Blackout periods appear to be somewhat shorter for large plans than for small plans (see Figure 2).

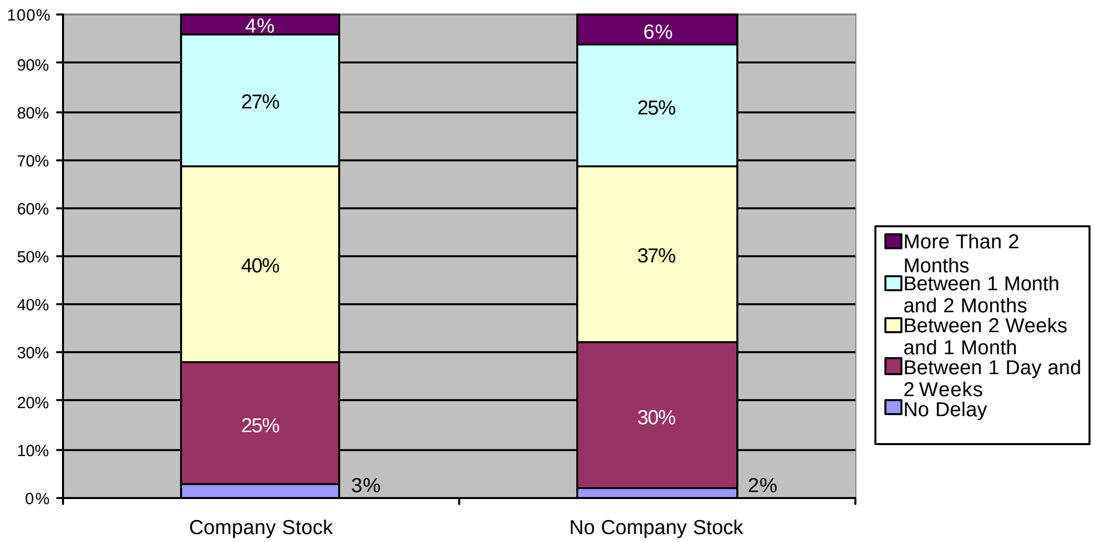
Figure 2
How Long Were Participants Not Allowed to Trade in a Blackout, by Plan Size



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

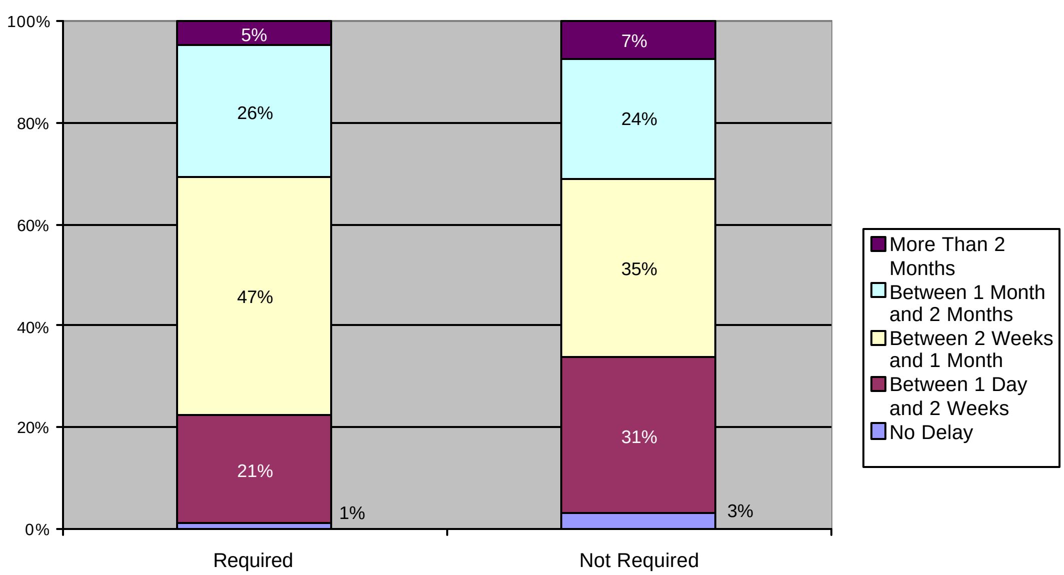
- The duration of the blackout period appears to be invariant (unaffected) to whether or not there is a company stock option (see Figure 3); however, the duration does appear to be slightly longer when employer contributions are required to be invested in company stock (see Figure 4).

Figure 3
How Long Were Participants Not Allowed to Trade in a Blackout, by Existence of Company Stock



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

Figure 4
How Long Were Participants Not Allowed to Trade in a Blackout, by Whether Employer Contributions Are Required to Be Invested in Company Stock

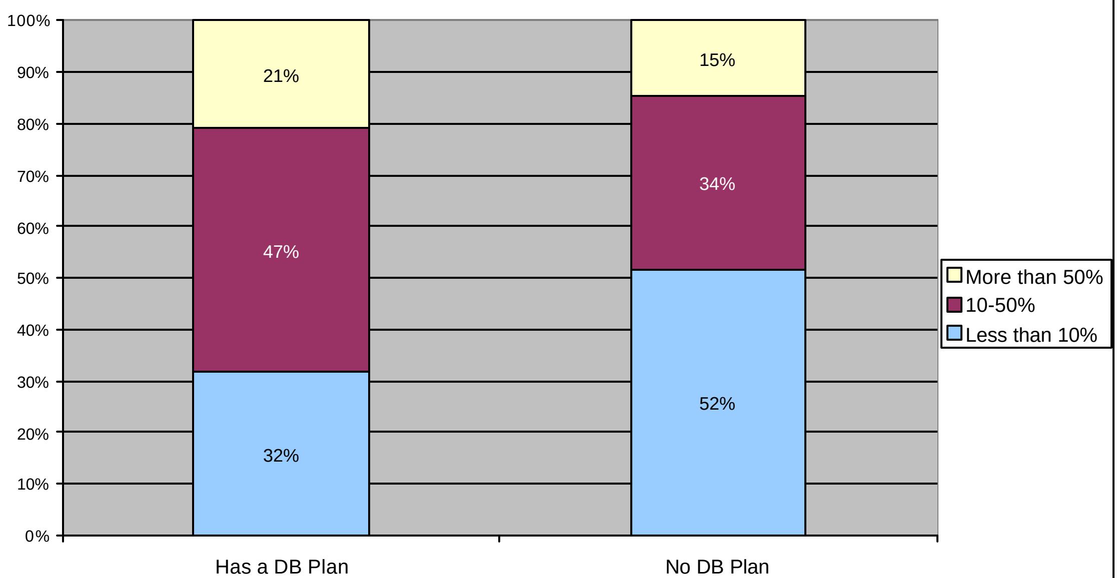


Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

Impact of Defined Benefit Sponsorship

- It is more likely for there to be a company stock investment option in the 401(k) plan if there is also a defined benefit plan: 60 percent of those with a defined benefit plan vs. 35 percent of those without.
- Employer contributions are more likely to be required to be invested in company stock if there is also a defined benefit plan: 50 percent of those with a defined benefit plan vs. 33 percent of those without.
- There is a heavier concentration of company stock (among those that have it) if there is also a defined benefit plan (see Figure 5).

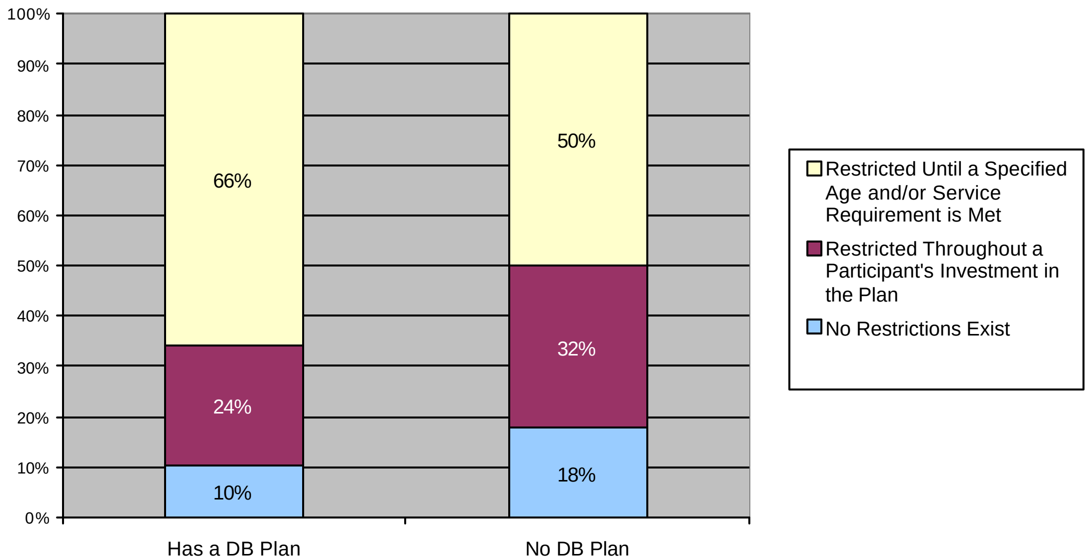
Figure 5
Average Percentage of Company Stock in the Employees' 401(k) Account, by Sponsorship of Defined Benefit Plan



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- It is more likely for restrictions to exist on selling the company stock if there is also a defined benefit plan (see Figure 6).

Figure 6
Restrictions on Selling the Company Stock, by Sponsorship of Defined Benefit Plan
(for 401(k) Plans Where Employer Contributions Were Required to Be Invested in Company Stock)



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

Enron

- 74 percent of the respondents thought that most of the employees at the employer/client were familiar with the Enron 401(k) situation.
- Respondents who did believe that most of the employees at the employer/client were familiar with the Enron 401(k) situation thought that the employees' typical reaction was as follows:
  - 43 percent thought that the employees did not think that the Enron situation applies to them.
  - 27 percent thought that the employees questioned why employers are allowed to mandate that company matches must be invested in company stock.
  - 22 percent thought that it caused the employees to review their asset allocation.
  - 6 percent thought that it caused the employees to question why employers are allowed to offer a company stock option.
  - 2 percent thought that the employees did not care.

Respondents' Perceptions on Appropriate Limits and the Role of Government

- When asked what they thought was the maximum percentage of company stock any employee SHOULD hold in his or her 401(k) portfolio, the distribution of responses was:[16]

  - 4 percent of the respondents thought it should be zero.
  - 39 percent replied with no more than 10 percent.
  - 38 percent replied with no more than 20 percent.
  - 9 percent replied with no more than 50 percent.
  - 9 percent did not know.

- When respondents whose client/employer did not require employer contributions to be invested in company stock were asked if they thought the government should limit the plan sponsor's ability to mandate that matching contributions to a 401(k) plan be invested in company stock, 66 percent of the respondents said yes, 29 percent said no, and 5 percent did not know. However, when respondents whose client/employer did require employer contributions to be invested in company stock were asked if they thought the government should limit the plan sponsor's ability to mandate that matching contributions to a 401(k) plan be invested in company stock, 38 percent of the respondents said yes, 61 percent said no, and 2 percent did not know.

- When asked if they thought the government should limit the employees' ability to invest their own (participant-directed) contributions to a 401(k) plan in company stock, 32 percent said yes, 63 percent said no and 5 percent did not know.[17]

- Of those who thought the government should place a limit on the percentage of the employee's 401(k) balance in company stock, the distribution of responses was analyzed as a function of whether the client/employer required employer contributions to be invested in company stock.
  - For those respondents were this was *not* the case:
    - 9 percent thought it should be zero.
    - 32 percent thought it should be no more than 10 percent.
    - 35 percent thought it should be no more than 20 percent.
    - 14 percent thought it should be no more than 50 percent.
    - 4 percent thought it should depend on the employer match.
    - 7 percent responded with "other."
    - 12 percent did now know.
  - For those respondents were this *was* the case:
    - 8 percent thought it should be zero.
    - 35 percent thought it should be no more than 10 percent.
    - 23 percent thought it should be no more than 20 percent.
    - 8 percent thought it should be no more than 50 percent.
    - 13 percent thought it should depend on the employer match.
    - 13 percent responded with "other."
    - 8 percent did not know.

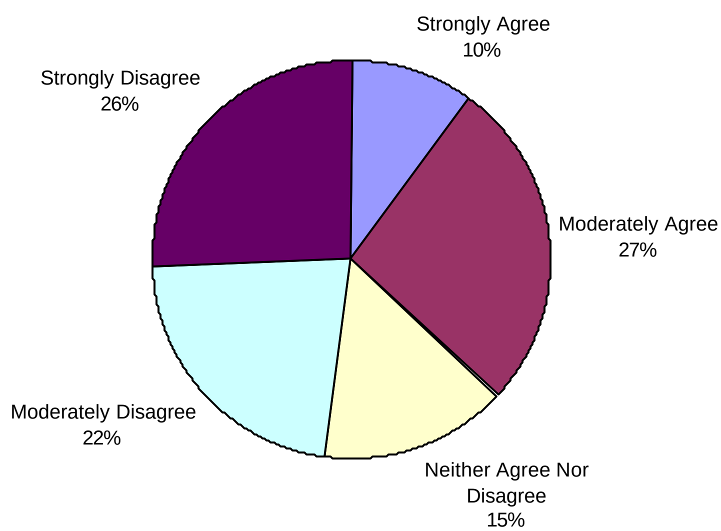
Respondents' Perceptions on Blackouts

- When asked if they thought it was fair to impose a blackout period on participants in cases when there was *no* company stock:
    - 10 percent said yes.
    - 9 percent said no.
    - 79 percent thought it was a necessary by-product of the conversion.
    - 2 percent had no opinion.
- When asked the same question but when there *was* company stock:
    - 7 percent said yes.
    - 16 percent said no.
    - 72 percent thought it was a necessary by-product of the conversion.
    - 1 percent had no opinion.

Respondents' Perceptions on Public Policy Issues Related to Company Stock in 401(k) Plans

- Respondents were fairly evenly split on whether they thought there was an inherent conflict of interest when a plan sponsor includes company stock as an option in their 401(k) plan (see Figure 7).

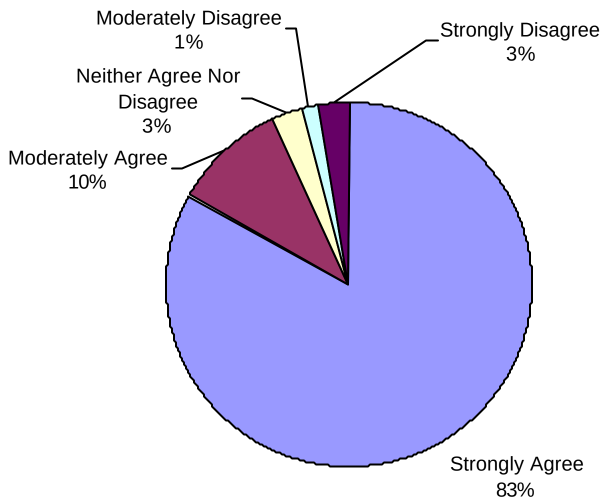
Figure 7
How Strongly Do You Agree With the Following Statement:
There Is an Inherent Conflict of Interest When a Plan Sponsor Includes Company Stock as an Option in Its 401(k) Plan



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- The vast majority of respondents (83 percent) strongly agreed that plan sponsors that offer company stock as an investment option should advise their employees to diversify (see Figure 8).

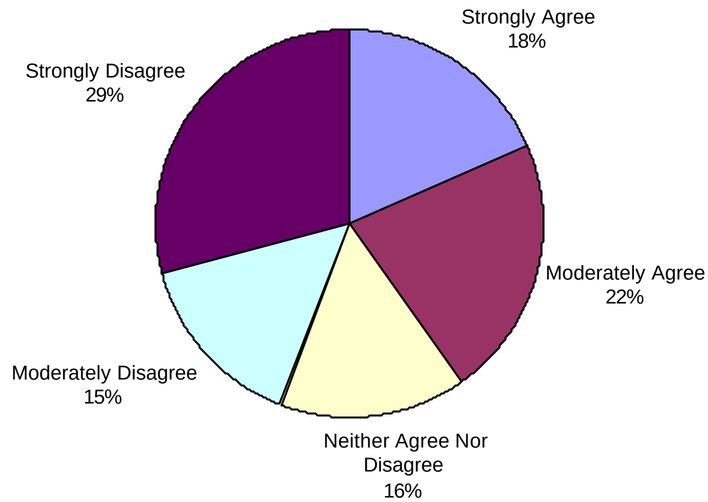
Figure 8
How Strongly Do You Agree With the Following Statement:
Plan Sponsors That Offer Company Stock as an Investment Option Should Advise Their Employees to Diversify



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- Respondents were fairly evenly split on whether they thought ERISA should be revised to require pension plan diversification or participant direction if an employee is over-invested in company stock (see Figure 9).

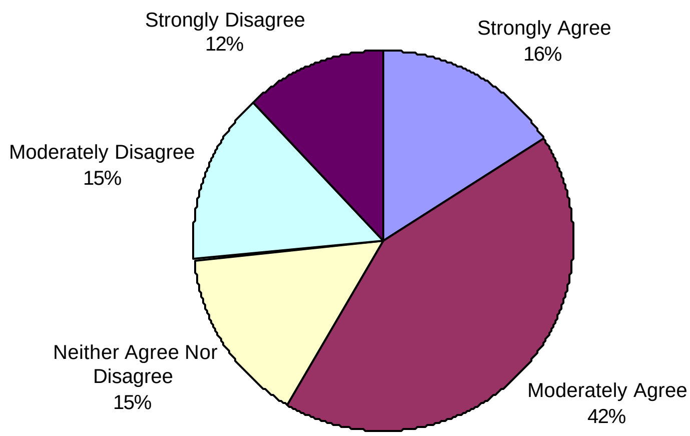
Figure 9
How Strongly Do You Agree With the Following Statement:
ERISA Should Be Revised to Require Pension Plan Diversification or Worker Control If an Employee Is Over-Invested in Company Stock



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- The majority of respondents (58 percent) agreed that problems resulting from employees investing their own contributions in company stock would be mitigated if employers were allowed to provide independent financial advice to their employees. Only 27 percent of the respondents disagreed with this statement (15 percent were neutral, see Figure 10).

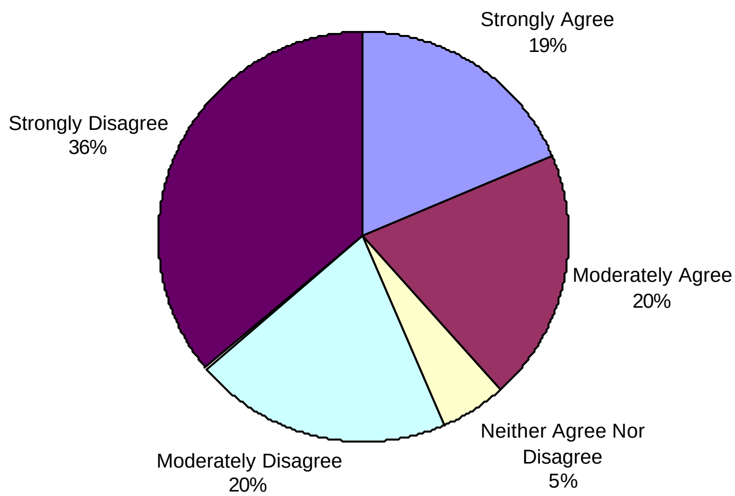
Figure 10
Problems Resulting From Employees Investing Their Own Contributions Into Company Stock Would Be Mitigated If Employers Were Allowed to Provide Independent Financial Advice to Their Employees



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- The majority of respondents (56 percent) did not agree that 401(k) plan sponsors should be allowed to mandate that matching contributions be invested in company stock, while 39 percent agreed and 5 percent were neutral (see Figure 11).

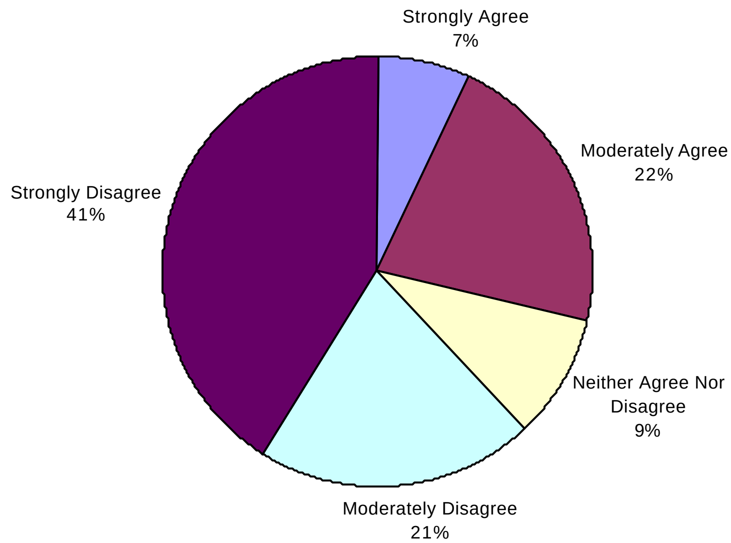
Figure 11
How Strongly Do You Agree With the Following Statement:
401(k) Plan Sponsors Should Be Allowed to Mandate That Matching Contributions Be Invested in Company Stock



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- More than 3 in 5 respondents (62 percent) did not agree that 401(k) plan sponsors should be allowed to restrict the sale of company stock they contributed on behalf of the participants as long as they are employees. 29 percent of the respondents agreed and 9 percent were neutral (see Figure 12).

Figure 12
How Strongly Do You Agree With the Following Statement:
401(k) Plan Sponsors Should Be Allowed to Restrict the Sale of Company Stock They Contributed on Behalf of the Participants as Long as They Are Employees

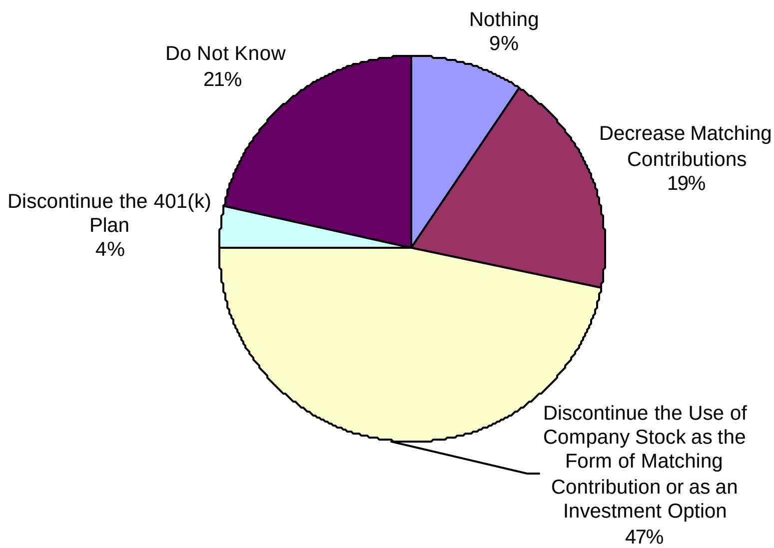


Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

Respondents' Perception of the Impact of Various Legal/Legislative Developments

- Nearly one-half (47 percent) of respondents thought the most likely reaction to a successful class action suit alleging fiduciaries failed in their obligation to cease using company stock as the form of the matching contribution prior to the firm's bankruptcy would be to discontinue the use of company stock as the form of matching contribution or as an investment option (see Figure 13).

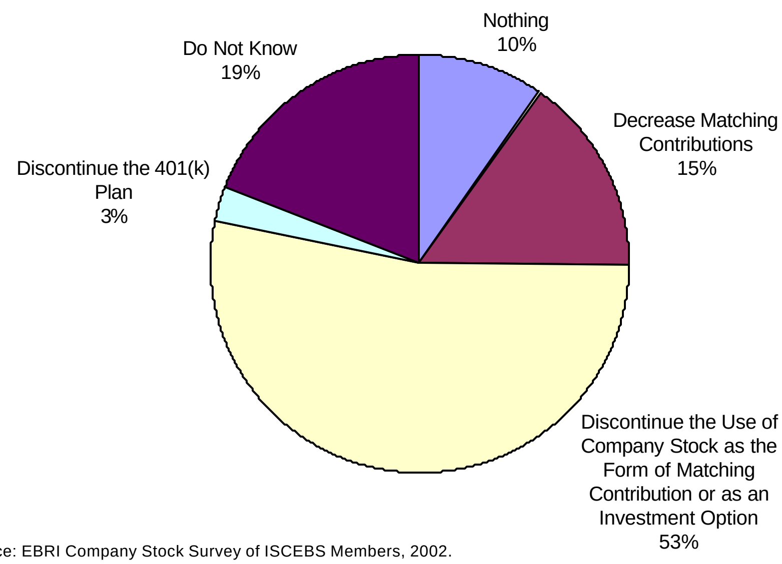
Figure 13
What Would Be the Most Likely Response to a Successful Class Action Suit Alleging Fiduciaries Failed in Their Obligation to Cease Using Company Stock as the Form of the Matching Contribution Prior to the Firm's Bankruptcy?



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- More than one-half (52 percent) of the respondents thought that the most likely reaction to a successful class action suit alleging fiduciaries "pushed" the company stock on employees through the 401(k) plan would be to discontinue the use of company stock as the form of matching contribution or as an investment option (see Figure 14).

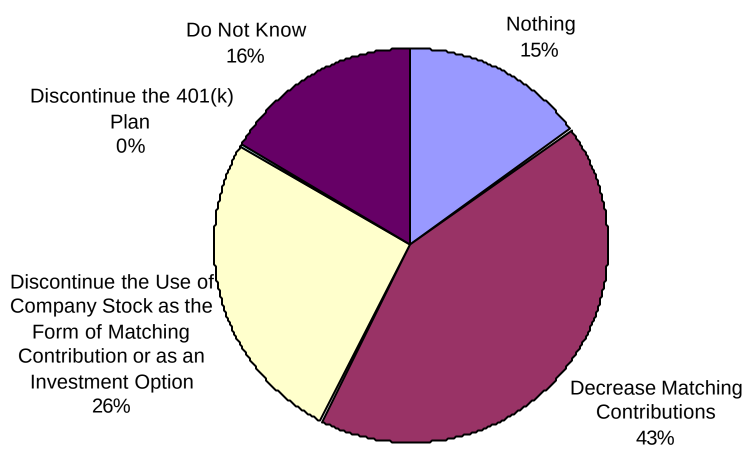
Figure 14
What Would Be the Most Likely Response to a Successful Class Action Suit Alleging Fiduciaries "Pushed" the Stock on Employees Through the 401(k) Plan?



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- Nearly 7 in 10 respondents (69 percent) thought that the most likely reaction to a legislative change reducing the deduction for matching contributions in the form of employer securities to 50 percent would be to either discontinue the use of company stock as the form of matching contribution or as an investment option, or to decrease the matching contributions (see Figure 15).

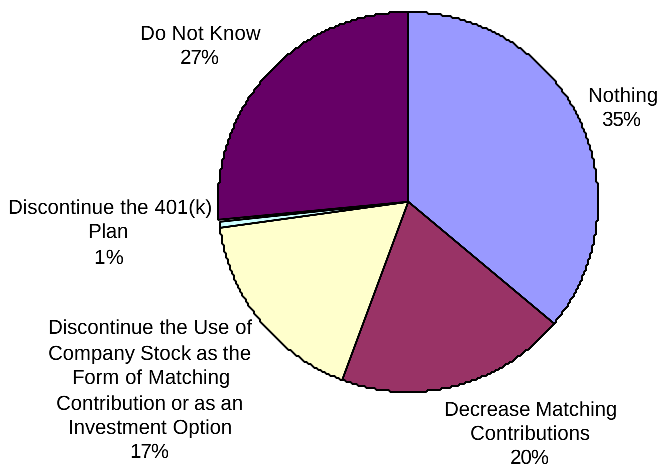
Figure 15
What Would be the Most Likely Response to a Legislative Change Reducing the Deduction for Matching Contributions in the Form of Employer Securities to 50%?



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- Approximately one-third of the respondents (37 percent) thought that the most likely reaction to a legislative change requiring immediate transfer availability for company stock for employees after 90 days would be to either discontinue the use of company stock as the form of matching contribution or as an investment option, or to decrease the matching contributions. However, another 35 percent thought that there would be no reaction (see Figure 16).

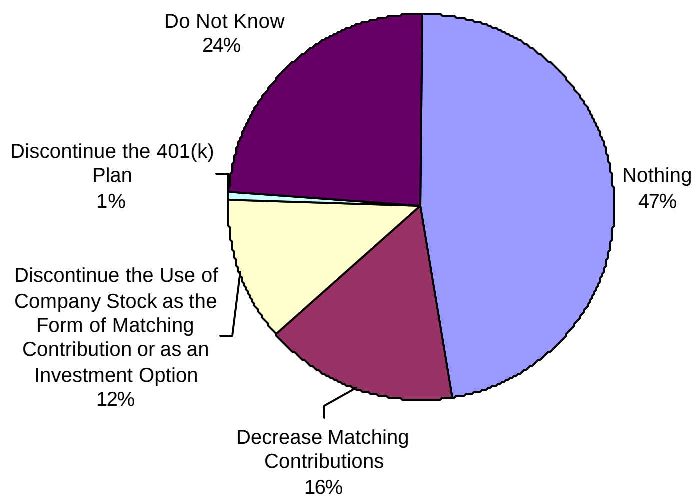
Figure 16
What Would Be the Most Likely Response to a Legislative Change Requiring Immediate Transfer Availability of Company Stock by Employees After 90 Days?



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

- Nearly one-half (47 percent) of respondents thought there would be no reaction to a legislative change limiting to 20 percent the investment an employee can have in any one stock in his or her individual account plans. Another 28 percent thought that this would cause plan sponsors to either discontinue the use of company stock as the form of matching contribution or as an investment option, or decrease the matching contributions (see Figure 17).

Figure 17
What Would Be the Most Likely Response to a Legislative Change Limiting to 20% the Investment Employees Can Have in Any One Stock in Their Individual Account Plans?



Source: EBRI Company Stock Survey of ISCEBS Members, 2002.

Endnotes

[1] Sarah Holden and Jack VanDerhei,"401(k) Plan Asset Allocation, Account Balances, and Loan Activity in 2000," *EBRI Issue Brief,* November 2001.

[2] The first stock bonus plans were granted tax-exempt status under the Revenue Act of 1921. See Robert W. Smiley, Jr. and Gregory K. Brown, "Employee Stock Ownership Plans (ESOPs)," *Handbook of Employee Benefits.* 5th Ed. Jerry S. Rosenbloom, ed, Homewood, Illinois: Dow Jones-Irwin, 2001.

[3] ERISA Sec. 407(b)(1)

[4] This is of importance because an ESOP is to be "primarily invested" in qualifying employer securities. See "Employee Stock Ownership Plans (Part II)," *Journal of Pension Planning and Compliance;* Winter 2000; John L Utz; pages 1-34.

[5] Although cash or deferred arrangements have existed since the 1950's, the Revenue Act of 1978 enacted permanent provisions governing them by adding Section 401(k) to the Internal revenue Code. While this was effective for plan years beginning after 1979, the proposed regulations were not released until November 1981. See Jack VanDerhei and Kelly Olsen, "Section 401(k) Plans (Cash or Deferred Arrangements) and Thrift Plans," *Handbook of Employee Benefits*. 5th Ed. Jerry S. Rosenbloom, ed, Homewood, Illinois: Dow Jones-Irwin, 2001.

[6] United States Department of Labor, Pension and Welfare Benefits Administration. "Abstract of 1997 Form 5500 Annual Reports," *Private Pension Plan Bulletin No. 10,* Winter 2001, Washington, DC. For a review of the academic literature analyzing these trends see William Gale, Leslie Papke and Jack VanDerhei, "Understanding the Shift Toward Defined Contribution Plans," in *A Framework For Evaluating Pension Reform* (Brookings Institution/TIAA-CREF/Stanford University), forthcoming. (www.brook.edu/es/erisa/99papers/erisa2.pdf)

[7] It should be noted that less than 5 percent of all ESOPs are in public companies. For an explanation of the challenges that stricter diversification rules may present to private company ESOPs, see Corey Rosen, "Should ESOPs Be Subject to Stricter Diversification Rules?" (www.nceo.org/library/boxer_corzine_bill.html)

[8] Alternatively, amounts subject to the right of diversification may be distributed from the plan. See Everett T. Allen, Jr., Joseph J. Melone, Jerry S. Rosenbloom and Jack L. VanDerhei, *Pension Planning: Pensions, Profit Sharing, and Other Deferred Compensation Plans* (8th ed), Homewood, Illinois: Richard D. Irwin, Inc., 1997.

[9] As a result, the impact of this change was de minimis during the significant market decline in the fall of 1997. See Jack VanDerhei, "The Impact of the October 1987 Stock Market Decline on Pension Plans," written testimony for U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Oversight, July 1988.

[10] The final version exempts from the 10 percent limits:

- De minimis (i.e., as much as 1 percent of pay) mandatory investment provisions.
- Plan designs under which the Sec. 401(k) deferrals (regardless of amount) are part of an ESOP.
- A plan in which the total assets of all defined contribution plans of the employer are not more than 10 percent of the total defined benefit and defined contribution plan assets of the employer.

The limit applies prospectively with respect to acquisitions of employer stock. The investment of matching or other employer contributions continues to be exempt from any limits. See Louis T. Mazawey, "1997 tax law changes affecting retirement plans," *Journal of Pension Planning and Compliance;* Winter 1998: 72-86. For more detail on the original proposal, see Ann L Combs, "Taking Stock of the Boxer Bill," *Financial Executive*; Jan/Feb 1997:18-20.

[11] Hewitt, *Special Report to Clients,* July 2001, "Impact of EGTRRA on Employer Plans." (http://was.hewitt.com/hewitt/resource/wsr/2001/egtrra.pdf)

[12] Watson Wyatt Worldwide, "Retirement Plan Provisions: What, When and How Much?" (Washington, DC: Watson Wyatt Worldwide, 2001).

[13] "Enron Debacle Will Force Clean Up of Company Stock Use in DC Plans*," IOMA's DC Plan Investing*, Dec. 11, 2001, p. 1.

[14] Currently, there is no statutory or regulatory limit on the length of time during which participants can be blocked from reallocating assets or conducting other transactions in a 401(k) plan. See Patrick J. Purcell, "The Enron Bankruptcy and Employer Stock in Retirement Plans*," CRS Report for Congress*, Jan. 22, 2002, p. 5.

[15] Jack VanDerhei and Craig Copeland, "A behavioral model for predicting employee contributions to 401(k) plans." *North American Actuarial Journal* (First Quarter, 2001).

[16] This distribution was invariant with respect to whether the client/employer required employer contributions to be invested in company stock.

[17] This distribution was invariant with respect to whether the client/employer required employer contributions to be invested in company stock.