

# THE ASPPA Journal

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## WASHINGTON UPDATE

### 401(k) Plans under Fire—Blaming the Drought on the Well

by Brian H. Graff, Esq., APM

The current economic and financial markets crisis has obviously impacted the values of 401(k) plan accounts. It has also fundamentally affected the overall image of the 401(k) plan itself. You've heard the jokes—"my 401(k) is now a 201(k)." In fact, even the minister at my church said it during a recent sermon. But the comedic comments underscore an increasing public anxiety about 401(k) plans. Frankly, many working Americans (and probably a decent number of members of Congress) are realizing for the first time that their 401(k) accounts can go down—by a lot.

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. In a recent survey conducted by the National Institute on Retirement Security, only about one-half of Americans covered by a 401(k)-type plan feel they will have enough money to retire. Almost 60 percent believe that 401(k) plans force workers who are not investment experts to gamble on the stock market, which may result in insufficient retirement savings. Let's face it—the 401(k) plan is currently taking a public relations beating.

Last October, even before the election, the House Education and Labor Committee, led by Chairman George Miller (D-CA), conducted a hearing on the impact of the financial crisis on retirement savings. Needless to say it garnered a

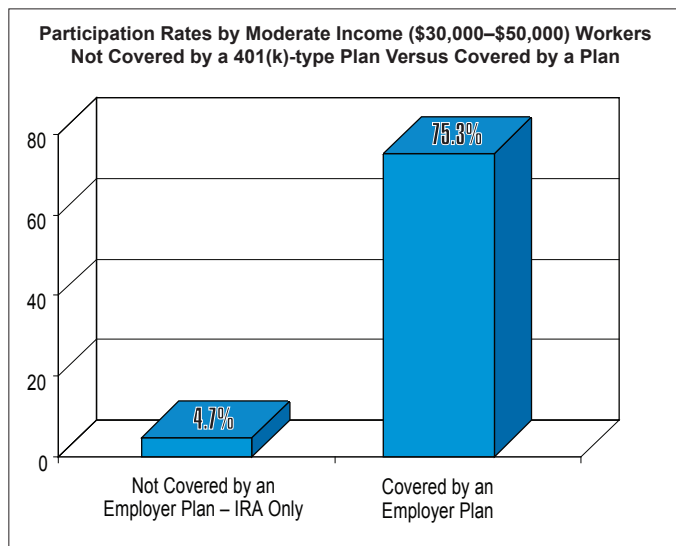
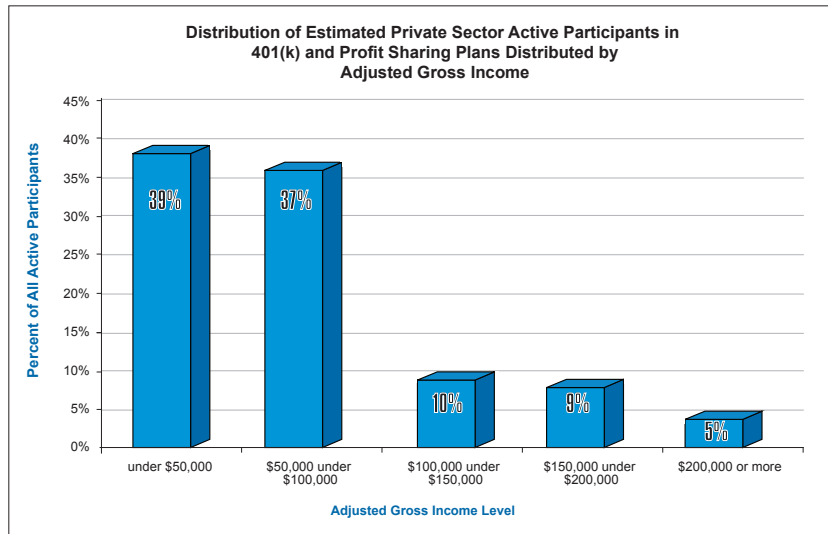


lot of attention. At that hearing Peter Orzag, the new Obama Administration's Budget Director, testified that more than \$2 trillion in retirement savings had been wiped out.

Getting even more attention was Professor Teresa Ghilarducci's declaration at the hearing 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 3% return. She also stated that 401(k) plans only benefit the rich. Chairman Miller's television interview following the hearing, where he said Professor Ghilarducci's ideas were worthy of further examination, created an uproar spawning hundreds of media stories questioning the viability of 401(k)-type retirement plans. Just one example was a recent article in the *Los Angeles Times*, where the author 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 Madoffs of the world.”

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. As you all know, it was *originally* viewed as a supplemental retirement savings plan, not as the primary one. And as a savings plan it has worked famously. In fact, the 401(k) plan is the only effective way we have ever gotten working Americans to save.



Source: Employee Benefit Research Institute (2008).


As provided above, more than 75 percent of workers making between \$30,000–\$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 a plan. It is also true that lower income workers are the primary beneficiaries of 401(k) plans.

As this chart shows, according to IRS data, 76 percent of participants in defined contribution plans have annual household incomes of less than \$100,000. 86 percent of households have incomes of less than \$150,000.

In recent months, ASPPA’s Government Affairs Committee has been aggressively conveying these positive facts about 401(k) plans to policymakers in Washington, and the good news is that these realities are starting to have an impact among key decision makers. Chairman Miller, in fact, gave a recent television interview clearly stating that he does not think we should abandon the 401(k) plan concept. At this point, it seems fairly certain that no one is seriously considering getting rid of 401(k) plans.

That, however, is where the certainty ends. Despite original intents to the contrary, the reality for most working Americans is that the 401(k) has become their sole and primary retirement plan. Consequently, in that context, we expect over the next several months that there will be a series of hearings examining the 401(k) plan—three were expected in the month of February alone. In particular, they will likely be evaluating the 401(k) from the perspective of those participants who are within five years of retirement and whose retirement aspirations have been severely impacted by the economic downturn.

Through that lens, Congress will evaluate what has worked and, in their view, what went wrong. Because, whether you or like it or not, the perception is that the 401(k) plan failed those working Americans close to retirement who lost a substantial amount of their retirement savings. The standard responses like “the market will rebound” or “you need to think long-term” are wholly inadequate to those whose immediate retirement income expectations have been dashed. At town hall meetings throughout the country, 401(k) participants are expressing their frustration and anger to their members of Congress who are listening.

401(k) reform will certainly be the overriding retirement policy theme for this Congress, and given the current climate, there is a real danger of an overreaction that could do real, long-term harm to the system. ASPPA’s Government Affairs Committee is acutely aware of this potential risk and is already working hard to manage it. It is going to be a very interesting year. 

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