



# Understanding the Changing Retirement Plan Landscape

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# Agenda

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Retirement Basics

Washington Update

What's New / What to Look For



## America's Retirement System

**Social  
Security**



**Personal  
Assets**

**Employer  
Retirement Plans**

# Retirement Basics



## Retirement Sources: Age 65 and Older (2008)





## Latest News from Social Security

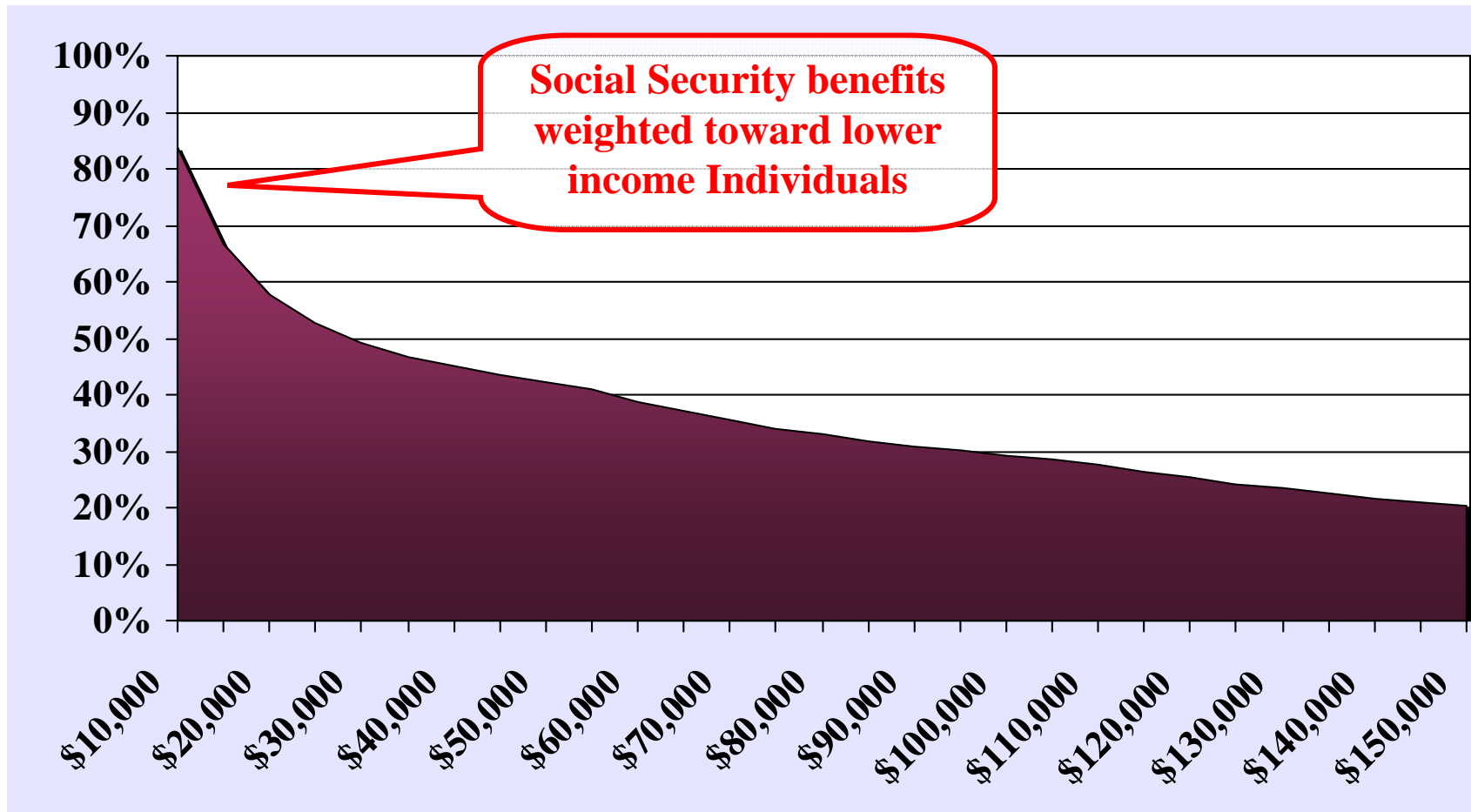
1. Current FICA Tax Rates adequate through 2015
2. Projected to Exhaust Trust Fund in 2037
3. Solution - Increase FICA (OASDI) Taxes 2.0%



# Retirement Basics



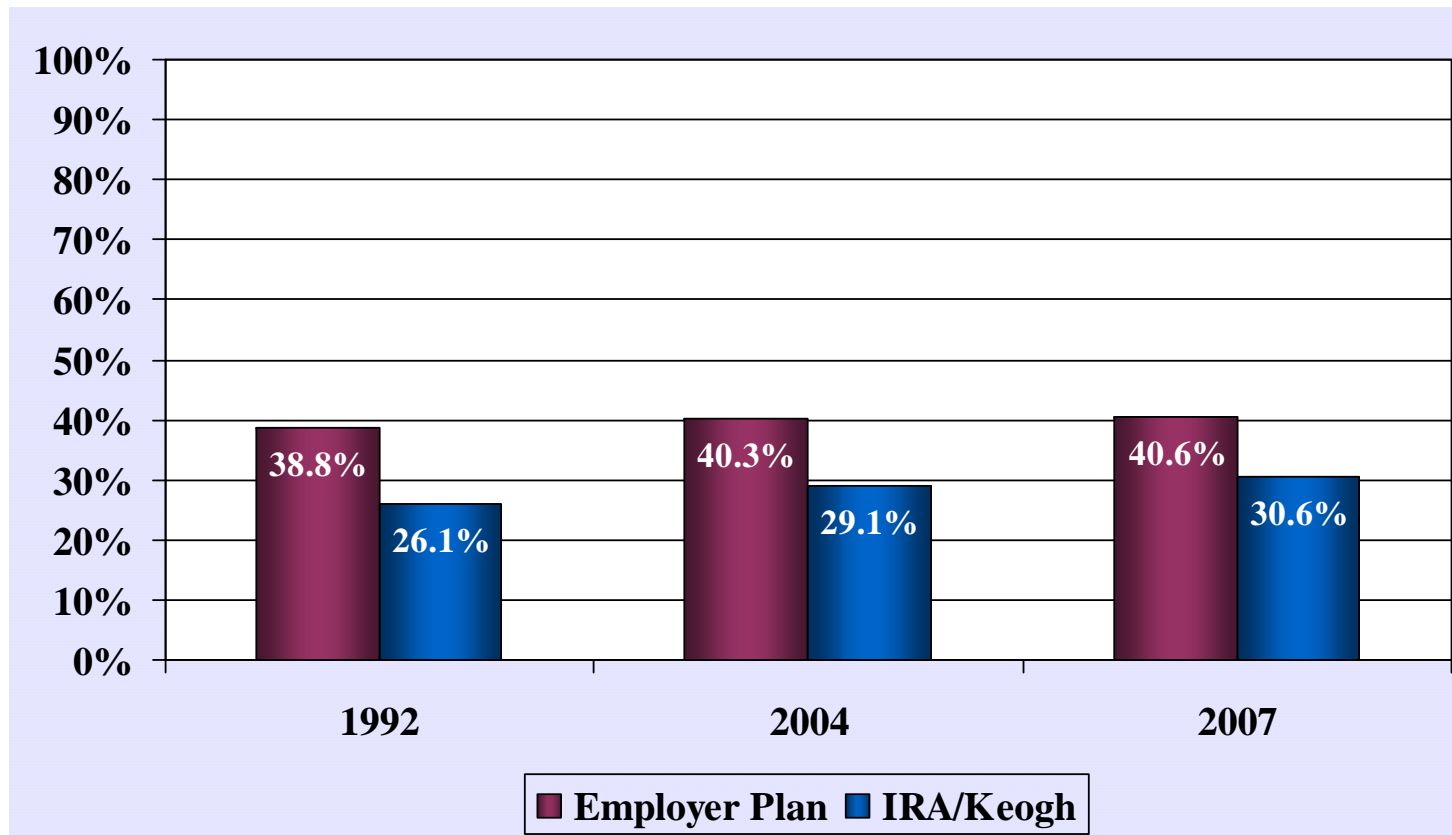
## Estimated Income Replaced by Social Security



# Retirement Basics



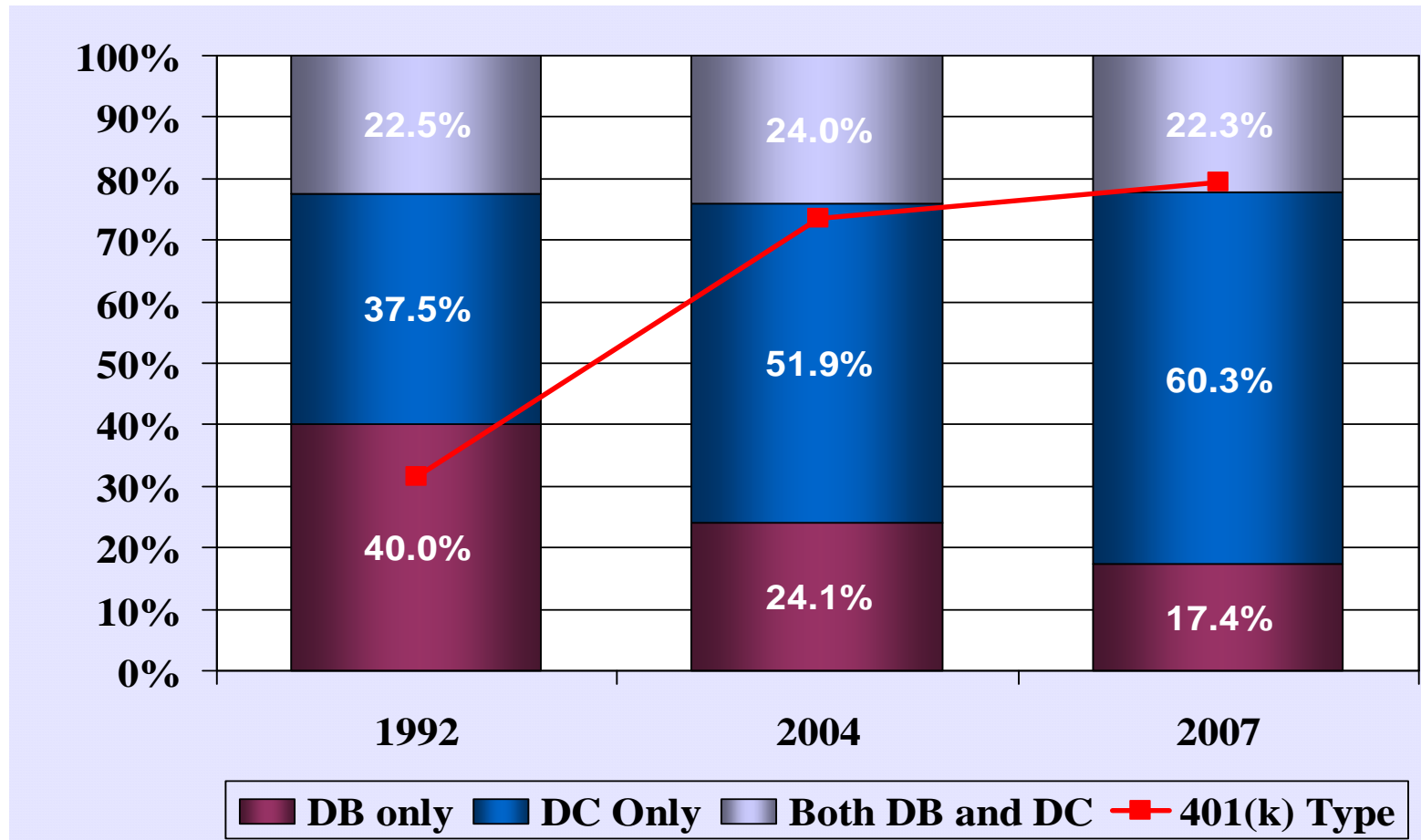
## Percentage of Families with Employer-sponsored or Individual Retirement Plans



# Retirement Basics

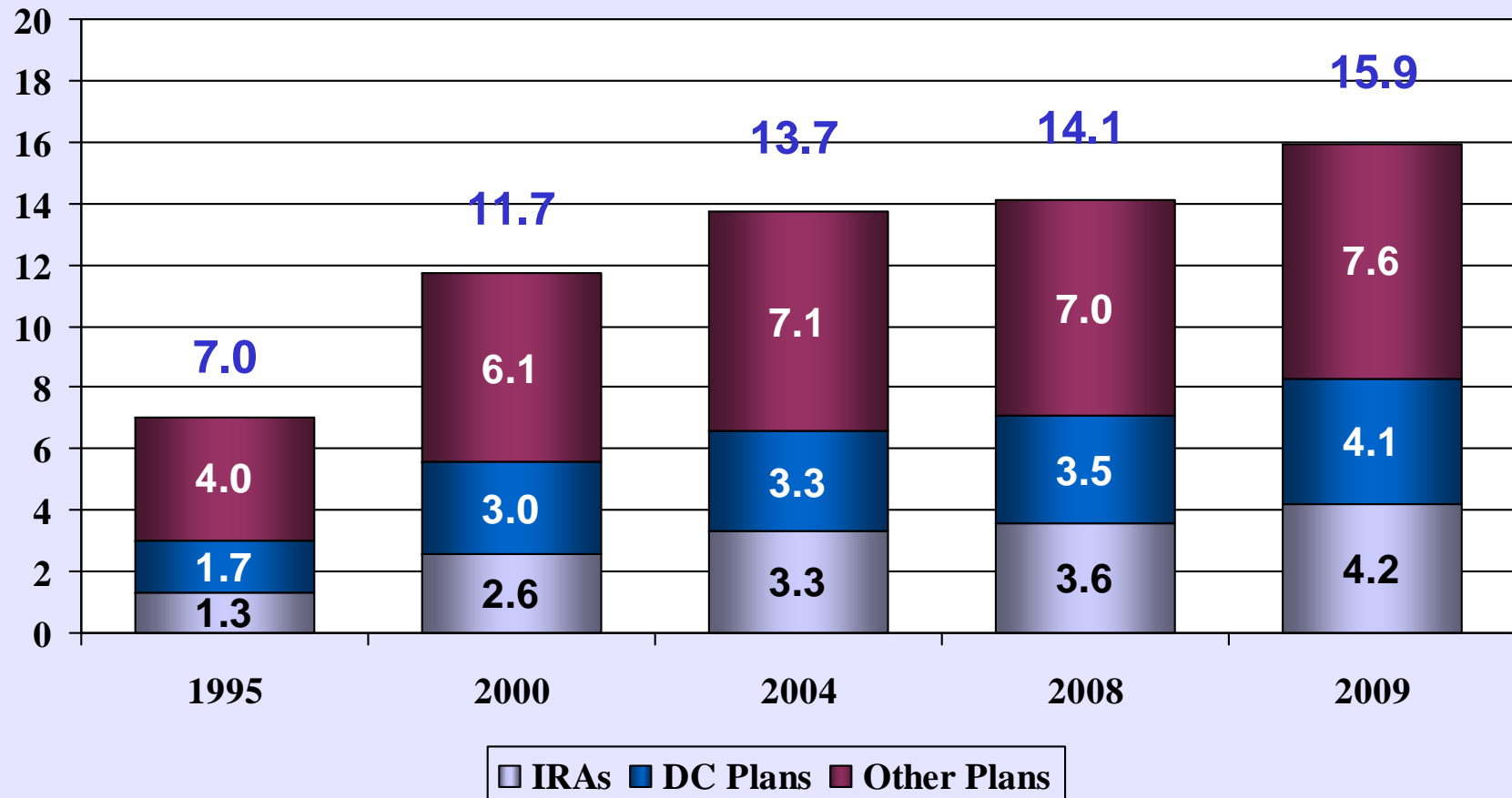


## Types of Plans - Trends and Effects





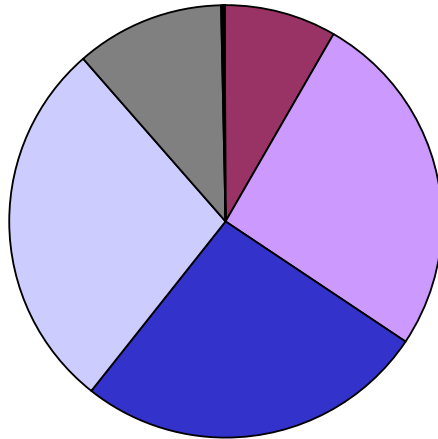
## Total U.S. Retirement Assets - Trillions



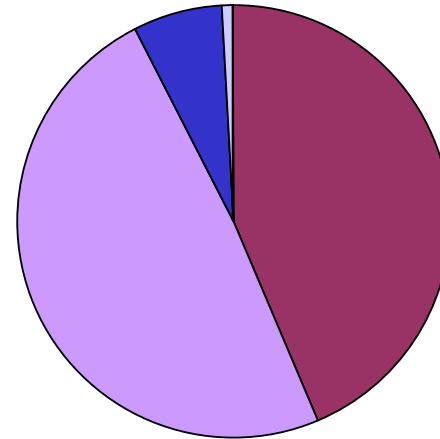


## Market Segmentation: By Head Count

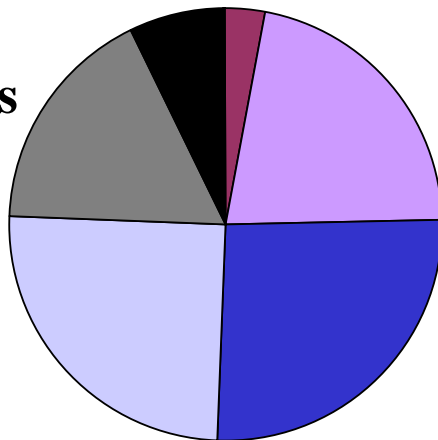
**Assets**



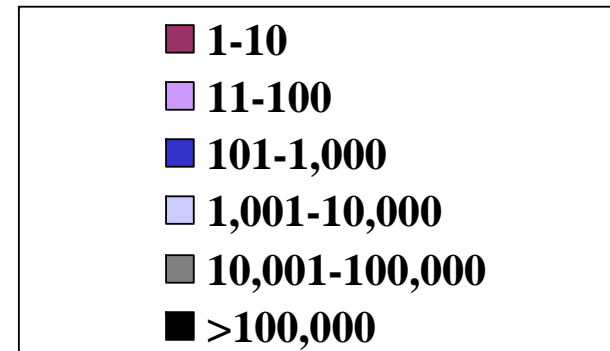
**Plans**



**Participants**

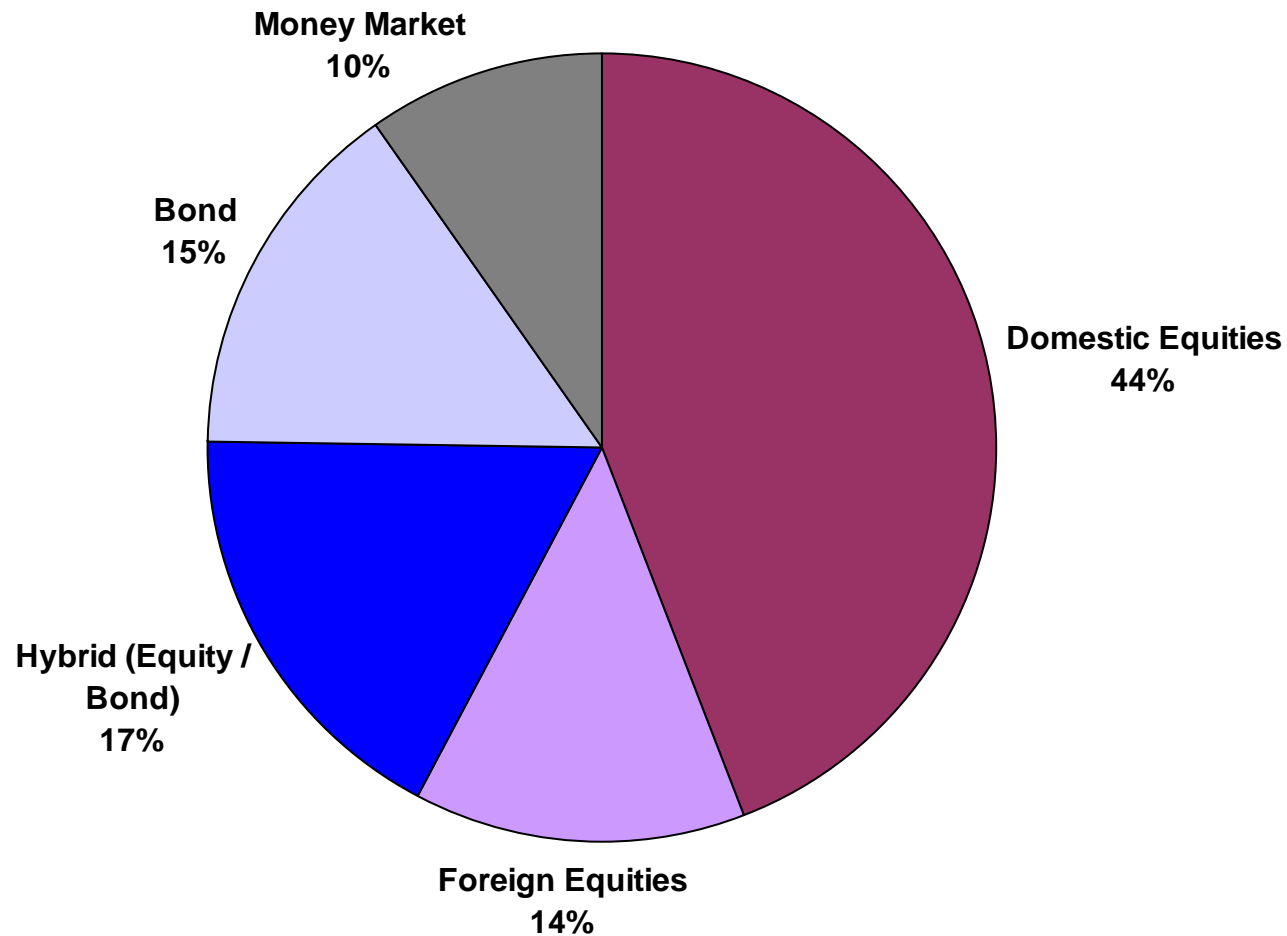


**Number of Participants**





## Mutual Fund Retirement Assets - 2009





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# Legislative Activities



## Congress Passes Pension Funding Relief

- “2+7” rule allows interest only on losses for 2 years, then amortize losses over following 7 years
- Alternative: 15-year amortization of plan losses
- Any 2 years between 2008-2011

## Cross-Testing Scrutiny

- Viewed by some members of congress as “manipulation”
- Gives maximum annual contributions
- Uses pension discrimination to test
- Doggett bill killed, huge win for small businesses

## Financial Services Reform

- Consumer Financial Protection Agency (CFPA) to oversee 401(k) recordkeepers
- Create \$50B fund
- Unwinding “too big to fail” firms
- Renamed Bureau of Consumer Financial Protection

# Legislative Activities



## Roth Conversions

- Stiff pushback from democrats originally
- Not expansion, but equalization
- Estimated at \$5.1B

## Roth Conversions (Controversy)

- Create Roth 457?
- Allow conversions to Roth 401(k) accounts also?
- Benefits the wealthy more than the “rank-and-file”?

## Fee Disclosure

- House and Senate, Republicans and Democrats cannot agree
- Bundled vs. Unbundled debate
- Plan Sponsor vs. Participant debate

# Other Issues



## Automatic Enrollment

- Obama and Congress love it
- Included in Obama's budget
- Requires businesses w/o retirement plans to auto-enroll iras (subject to worker "opt out")
- Query: what is a "very small" business?

## Investment Advice

- Too controversial
- Fell off in 2010
- Registered Investment Advisor vs. registered representative of a broker/dealer (SEC vs. FINRA)

## Small Business Lending Bill

- Currently contains Roth provisions
- Before July 4th recess Senate took procedural steps to block potential amendments
- Prevent estate tax and/or extension of middle income tax rates
- July 31 resolution?



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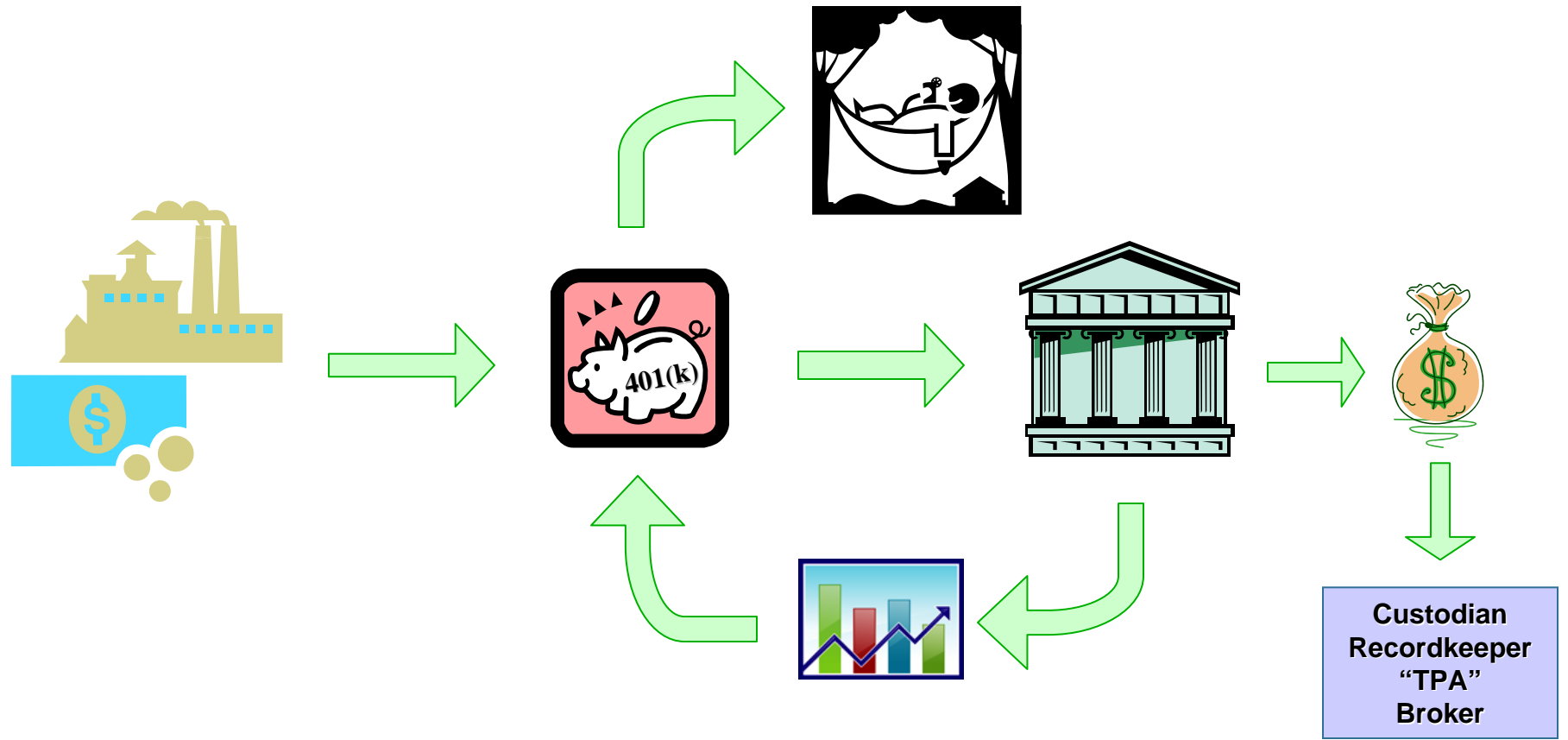


## What's New #1: Fee Disclosure





## Fee Disclosure: Revenue Sharing

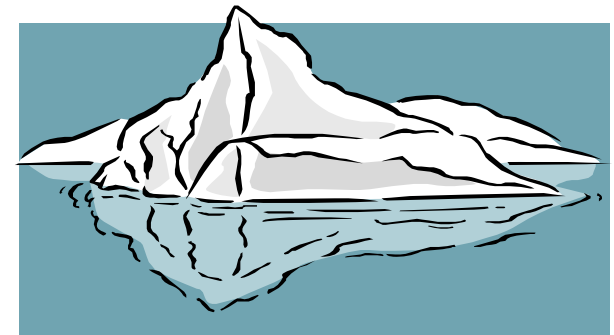




# Fee Disclosure: Revenue Sharing

1. Various Names: Sub TAs / 12b-1s
2. Usually part of the expense ratio
3. Paid to brokers, custodians, and record keepers
4. Amounts range from 0% to approx. 1.3%

**Often, you can only see the tip of the iceberg . . .**





## Fee Disclosure: DoL's 3 Initiatives

1. Schedule C Form 5500: *Requires fee disclosure to DOL for 'large' plans*

2. 408(b)(2) Regulations: *Requires fee disclosure to the plan fiduciaries*

3. 404(a)/(c) Regulations: *Requires fee disclosure to plan participants*





## Fee Disclosure: Pending Litigation



*Haddock v. Nationwide  
Financial Services Inc.,  
(No. 3:01-cv-1552 SRU D. Conn)*

### Issues w/ "Revenue Sharing"

In 2001, the trustees for a handful of 401(k) plans filed suit against Nationwide Financial Services Inc., claiming that Nationwide's alleged quid pro quo engagement with mutual fund companies involving revenue sharing violates ERISA's prohibition of fiduciary "self-dealing."

In 2006 the courts denied the defendant's motion for summary judgment, finding "triable issues of fact."

Most recently the courts certified a class of all pension plans using Nationwide.



## What's New #2: Roth Contributions





# Roth Contributions

Roth IRA Conversions, effective January 1, 2010:

- No income limit on Roth conversions
- Defer taxes on 2010 conversion to 2011 and 2012 – 50% in each year
- AGI Limit still applies to Roth contributions (*but taxpayers can bypass limit with new conversion rules*)

**Beware of Legislators bearing gifts. This may be better for the Treasury than the taxpayers.**



# Roth Contributions

## Roth 401(k) Conversions?

- Currently not possible within the plan, but... that may change soon
- Currently, participants can do a direct rollover to Roth IRA, *but must have a distributable event.*

**Each situation should be carefully evaluated on its own merits. Stock brokers love Roth and so does President Obama.**



# What to Look For





# What to Look For

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## #1: Outdated Arrangements

1. Pooled account w/ only annual valuations  
*Left over from 1954*

2. Unlinked individual brokerage accounts  
*The 403(b) model is a thing of the past*

3. “Anything under the sun” self-direction:  
*All kinds of problems and potential liabilities*



# What to Look For

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## #2: Employer Changes

### 1. Financial Health:

- Partial Plan Termination
- Freezing contributions
- Funding problems

### 2. Mergers and acquisitions

### 3. Retirement



# What to Look For

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## #3: Fiduciary Issues

1. Late Deposits
2. Illiquid or “Alternative” Investments
3. Different Investment Options for Owners
4. Failure to Monitor Fees Paid by Plan
5. Inadequate ERISA Bond and/or Fiduciary Liability insurance



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## Questions...

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