



NATIONAL INSTITUTE *of* PENSION ADMINISTRATORS

2013
NAFE

401(k) Questionnaire –
The Final Chapter
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Topics to be Discussed

- IRS current 401(k) activity
- The 401(k) questionnaire
- Practitioner viewpoint
- Future uses

401(k) Facts

- Section 401(k) plans are the most popular plans in the United States
- More than 500,000 401(k) plans
- Cover about 60 million participants
- Average account balance = over \$58,000

- Compliance Check performed by EP Compliance Unit (EPCU)
- First IRS on-line compliance check
- Statistical sample of 1,200 randomly selected plan sponsors
- Stratified based on plan size
- Number of participants

Background – EPCU Projects

- Completed projects with reports on website
- 401(k) Excess Deferrals Project
- Over 26,000 W-2Cs filed to correct errors
- Corrected software/date transmission problems
- 401(k) Money Purchase Plan Project
- Only 1 of over 700 contacts had improper plan
- Completed – 401(k) Final Report
- 401(k) Untimely Deferral Deposit Project also underway

- Non-amender/Late amender
- Failure to follow the terms of the plan
- Definition of “Compensation”
- Matching contributions
- Nondiscrimination testing (ADP/ACP)
- Omitting eligible employees
- IRC 402(g) limits
- Timely deposit of employee elective deferrals

401(k) Plans – Projects

- EPCU Upcoming Projects
- Based on Final Report findings
- Learn/Educate/Self-Correct/Enforce (LESE)
- Completed
- IRC 402(g) Excesses (only a few issues found)
- Top Heavy 401(k) Plans (many issues found)
- In-Progress
- Safe Harbor 401(k) Plans
- Based on 401(k) Interim Report findings
- Initial Year 401(k) Plans

Questionnaire Objectives

- Look at plan form and operation issues
- Learn how our outreach & compliance programs are working
- Optimize EP outreach & compliance efforts

Background to Report

- 98% of the plan sponsors responded
- Initiated examinations on the 2% non-responders
- Questionnaire data analyzed to
- Identify potential compliance problems
- Design future compliance efforts
- Improve case selection models
- Published interim report on Feb. 3, 2012

Person Completing Questionnaire

Respondents	Count
Company Financial Staff	391
Company Human Resources Staff	380
Company Legal Staff	41
External Accountant	62
External Legal	94
Insurance Company	9
Third Party Administrator	515
Actuary	12
Other External Provider	60
Other Internal Staff	140

Questionnaire Categories

- Demographics
- Plan Participation
- Contributions
- Nondiscrimination
- Distributions/Plan Loans
- Automatic Contributions
- Other operations
- Roth features
- Voluntary Compliance
- Plan Administration

Plan Selection Demographics

Plan Size	# of Participants	Percent in Industry	Percent in Questionnaire
Small	1 - 5	17%	14.20%
Medium	6 - 100	70%	58.33%
Large	101 - 2,500	12%	10.83%
Very Large	2,500 +	1%	16.67%

EPCRS

Aware of EPCRS

Aware of Fix-It Guide

**Very Large
Plans**

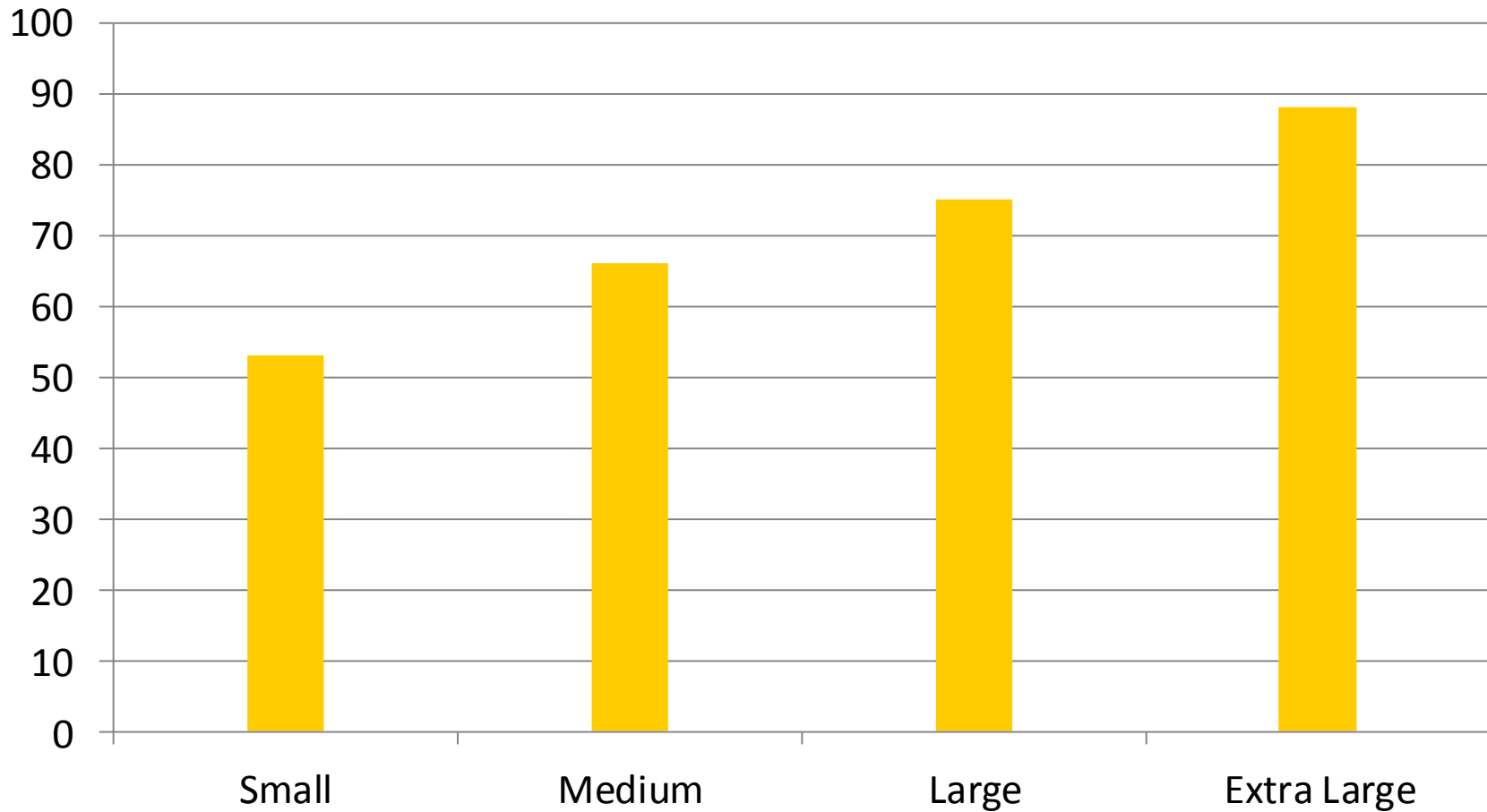
more likely to be
aware of EPCRS

Defaulted loans

- 60% of plans saw an increase in the number of defaulted loans from 2006 to 2008.
- 47% of plans saw an increase in the number of outstanding loans from 2006 to 2008.
- There was a decrease in the number loans originated during the same time period.
- This is an indication that older loans are not being timely repaid.



Plans that Permit Loans



Top Heavy plan issue

- Failure to provide 3% minimum contribution
- 19% of plans that indicated they were Top Heavy provided some lesser level of top-heavy contribution based on the Questionnaire responses.



Final Report Highlights – Top Heavy Status

20%

- Top heavy plans

25%

- Top heavy N/A to their plan

20%

- Top heavy plans

25%

- Top heavy N/A to their plan

**Small & Medium
Plans**

more likely to be
top heavy

Small Employers with Multiple Plans

- Approximately 79,000 out of the 396,000 plan sponsors with less than 100 participants (about 20%) had more than one plan.



54% One-year service requirement

64% Age 21 restriction

4% Permit employee after-tax contributions

**Very Large
Plans**

more likely to have no
age requirement

- ADP Test Corrections
- As provided in the Interim Report.
 - 31% prior Year
 - 60% current Year
 - 9% Claim Exempt from Testing

Method of Correction

- Distribution of Excess Contributions
 - 2006 – 61%, 2007 – 58%, 2008 - 67%
- Additional Contribution of QNECs
 - 2006 – 4%, 2007 -3%, 2008 – 4%

- Additional Contributions of QMACs
 - 0% all three years
- Re-characterizing elective deferrals as employee after-tax
 - 2006 – 23%, 2007 – 26%, 2008 – 17%
- Other Method
 - 2006 – 7%, 2007 – 6%, 2008 – 4%
- More than one Method
 - 2006 – 5%, 2007 – 7%, 2008 – 7%

Suspended/Discontinued Matching

- 2006 – 1%
- 2008 – 4%

Suspended/Discontinued Non-Elective

- 2006 – 2%
- 2008 – 5%

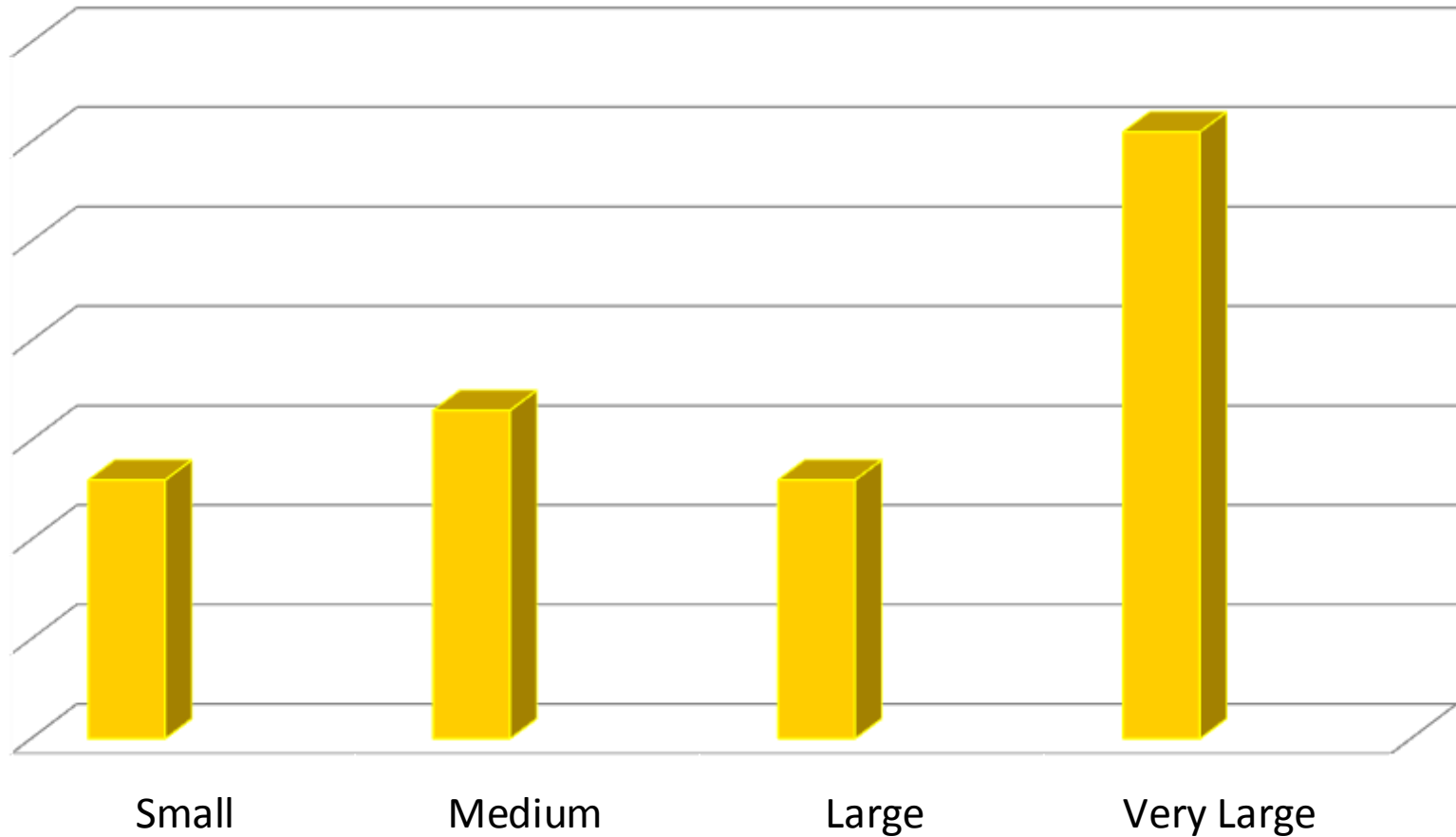


15% reported suspension, reduction or discontinuance of matching or non-elective contributions in the 4 years preceding the questionnaire.

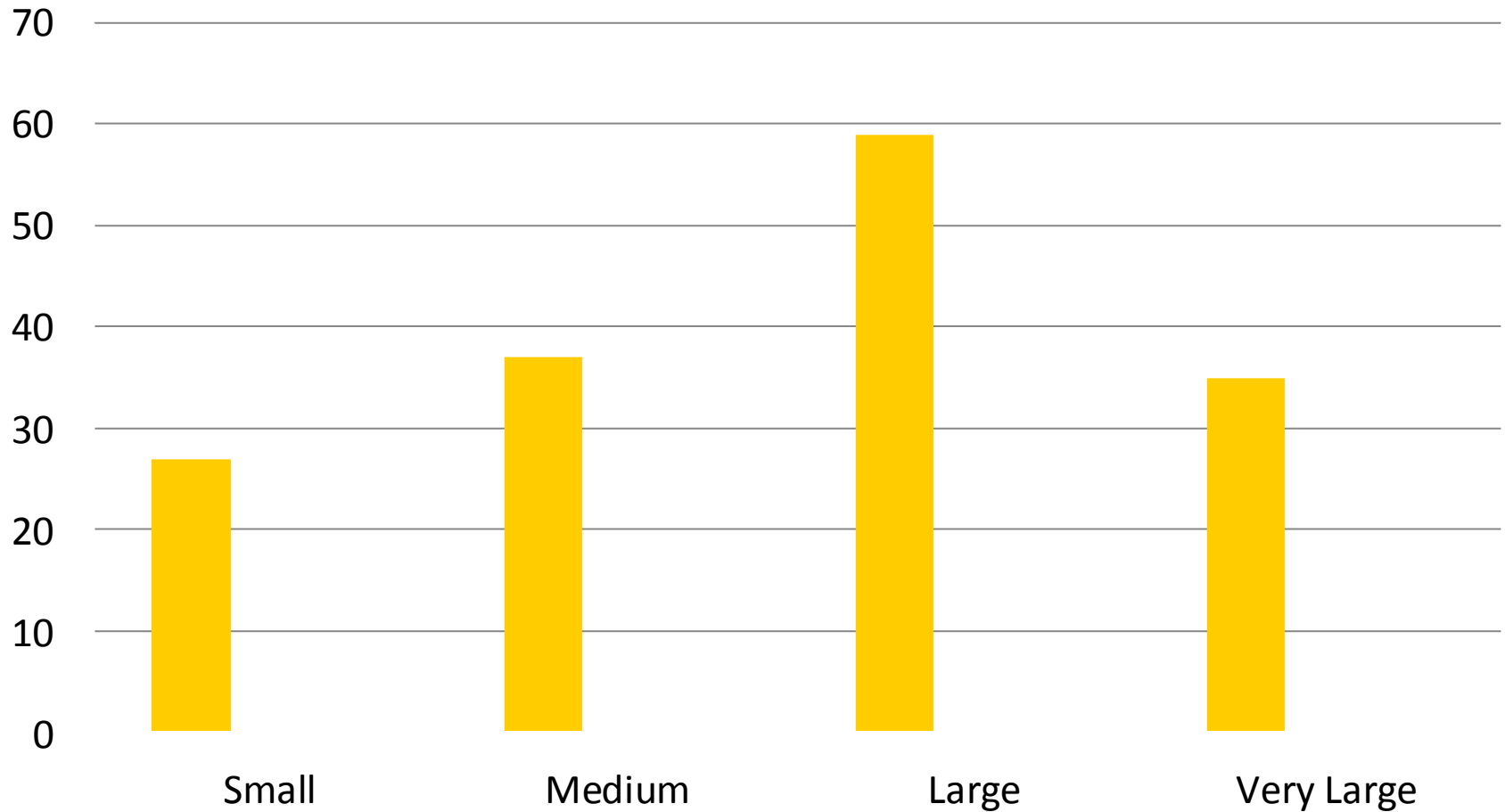
Provide Matching Contributions

68%

Fixed Match in 2008



Discretionary Match in 2008



43%

Safe Harbor

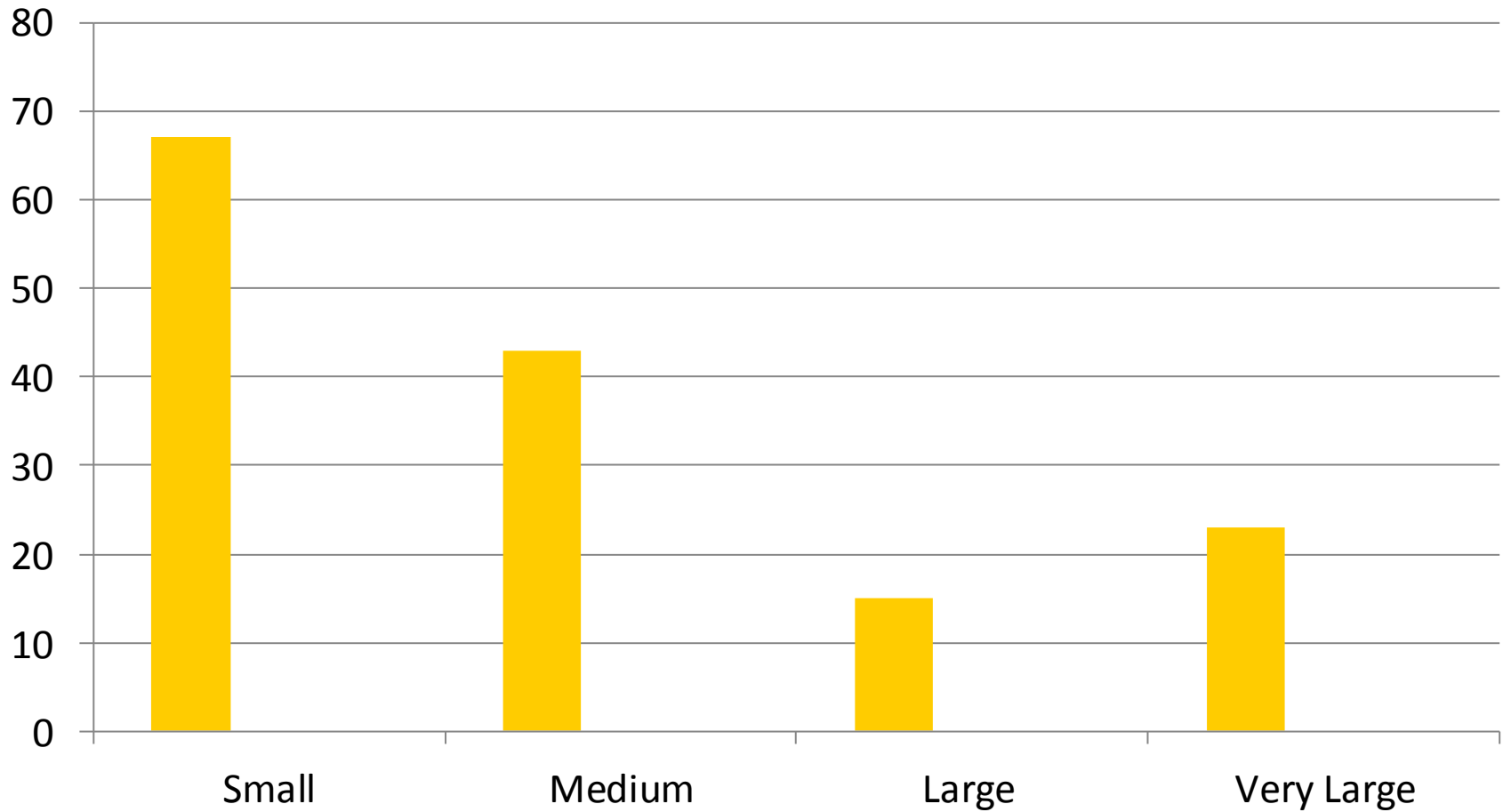
5%

SIMPLE

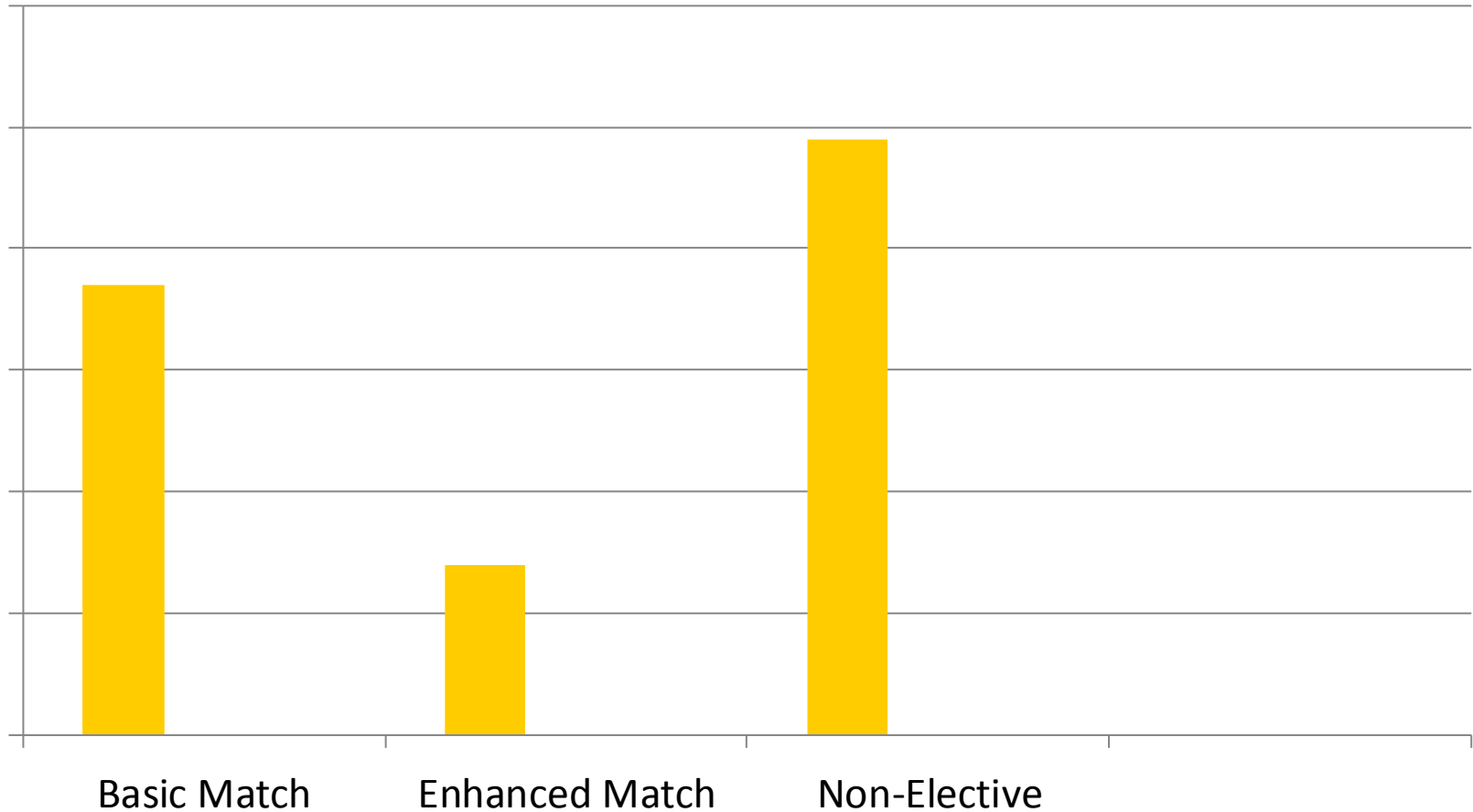
Small Plans

more likely to be a safe
harbor plan

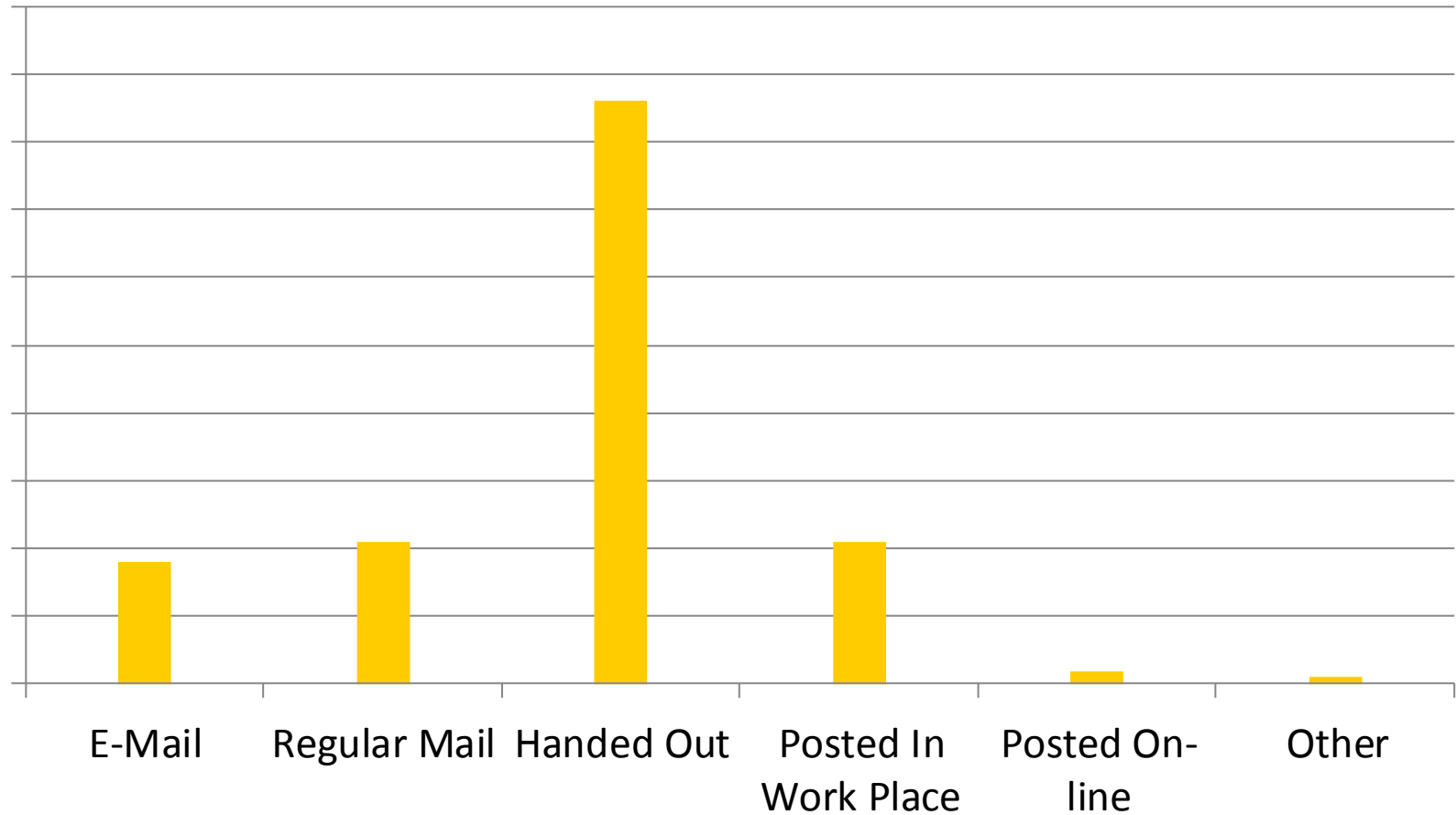
Safe Harbor Plans



Employer Contributions to Safe Harbor Plans



Methods for Providing Safe Harbor Notices



Plans that include an ACA

5%

Defer at the default rate

43%

Elected < the default rate

7%

Elected > the default rate

29%

Very Large & Large Plans

more likely to have
an ACA



Less than 20% of plans with an
ACA satisfy both the QACA and
EACA requirements.

Final Report Highlights – Distributions

72%

Permit involuntary cash-outs

62%

Allow in-service distributions

**Very Large
Plans**

more likely to permit
involuntary cash-outs

**Very Large &
Large Plans**

more likely to permit
in-service withdrawals

Final Report Highlights – Determinations

86%

Pre-approved plan document

23%

Requested IRS determination letter

**Very Large
Plans**

less likely to use a pre-
approved plan

**Very Large
Plans**

more likely to request the
IRS determination letter

1%

Also maintained a defined benefit plan

7%

Terminated a defined benefit plan (1995-2010)

Final Report Highlights – Customer Education and Outreach

57%

Used the IRS website to obtain
information

41%

Aware of the Fix-It Guide

**Very Large
Plans**

more likely than small,
medium or large plans to
be aware of & use the
Fix-It Guide

Third-party administrators used for

53% Plan administration

73% Making plan amendments

83% Form 5500 preparation

Primary Responsibility for Plan Administration

PERSON(S) RESPONSIBLE	PLANS
Company Financial Staff	20%
Company Human Resources Staff	15%
Company Legal Staff	0%
External Accountant	2%
External Legal	1%
Insurance Company	1%
Third Party Administrator	53%
Actuary	0%
Other External Provider	2%
Other Internal Staff	5%

Person Responsible for Plan Administration (by employer size)

PERSONS	SMALL	MEDIUM	LARGE	VERY LARGE
Corp Financial Staff	20%	20%	23%	7%
Company HR Staff	2%	15%	35%	47%
Corp. Legal Staff	2%	0%	0%	0%
External Accountant	3%	2%	0%	0%
External Legal	1%	1%	0%	0%
Insurance Company	1%	1%	1%	2%
Third Party Admin	60%	54%	38%	41%
Actuary	1%	1%	0%	0%
Other External Prov.	5%	2%	0%	0%
Other Internal Staff	7%	5%	4%	4%

We will use the Questionnaire's findings to:

- modify and improve our 401(k) plan compliance tools
- produce outreach materials
- improve voluntary compliance programs
- assess the need for additional guidance and
- define upcoming projects and enforcement activities

New Look IRS Website



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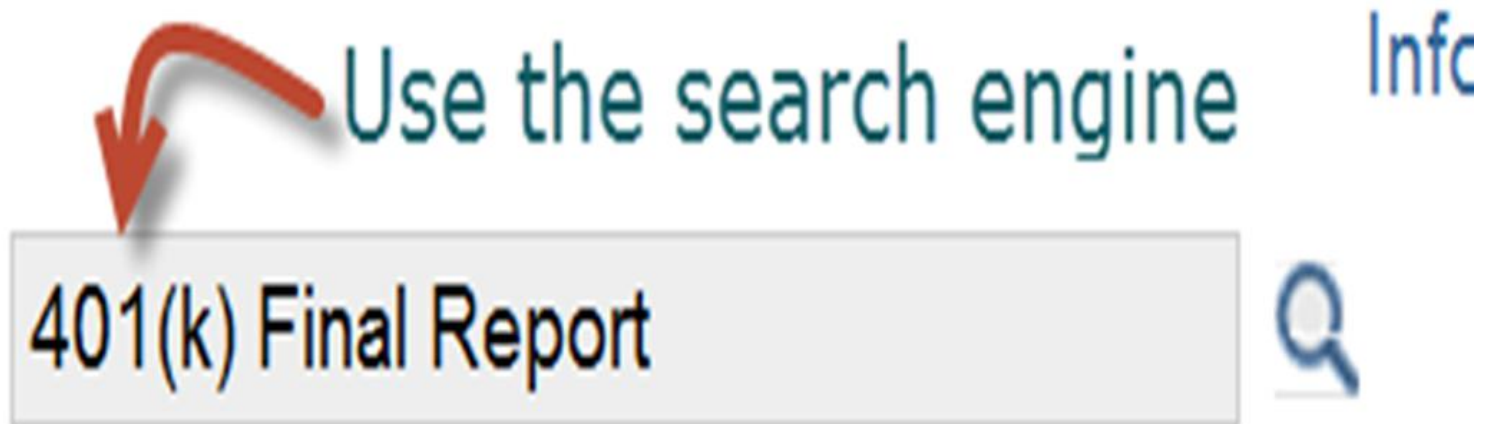
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www.irs.gov/Retirement-Plans

More Information

Starting at www.irs.gov/Retirement-Plans



Forms & Pubs

Help & Resources

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401(k) Compliance Check Questionnaire Final Report



The [Final Report](#) (p. 91 pages) summarizes the results from the 401(k) Compliance Check Questionnaire. The **1** is both:

- generalized to the 401(k) plan population that files Form 5500, and
- stratified to highlight the differences in the results by plan size.

The 401(k) Questionnaire requested information in the following areas: demographics, plan participation, contributions, designated Roth features, distributions, top-heavy and nondiscrimination testing, IRS correction programs and plan administration.

Learn more:

- [FAQs](#) regarding the Final Report **2**
- [Next Steps and Web Resources](#)


The following [chart](#) **3** highlights of the findings from the Questionnaire. Unless otherwise indicated, all findings are for the 2008 plan year.

401(k) Compliance Check Questionnaire Final Report - Next Steps and Web Resources



We'll use the Questionnaire's findings to:

- enhance our 401(k) plan administration compliance tools,
- produce outreach materials,
- improve voluntary compliance programs,
- assess the need for additional guidance, and
- define upcoming projects and enforcement activities.



401(k) plan sponsors can use the [Questionnaire](#), along with these findings, to strengthen internal controls over plan operations.

Web Resources

[401\(k\) Plans](#)

[401\(k\) Plan Overview](#)

We are repackaging it as the
Questionnaire Self-Audit Tool (QSAT).

- Adding new internal control questions
- The QSAT is scheduled to be launched later in 2013.
- Will help plan sponsors find, fix and avoid costly mistakes

Questions

- ??????????