



NewsDash - February 5

ACS Sues Former Buck Execs, EBSA Publishes Advice Guidance, NQDC Cap Survives Senate Vote, But...

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 FINE 'LINE' - ACS Sues Former Buck Execs for Shopping Consultancy
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Credentials Survey

PLANSPONSOR and Financial Service Standards, LLC (FSS) invite retirement plan advisors and plan sponsors to participate in a short "Retirement Credential Survey" that will culminate in the "2007 Retirement Credential Comparison Chart." The results of the survey will be published in the May issue of PLANSPONSOR Magazine, and it will contain information about eleven different retirement credentials including their sponsors, target audience, cost, locations, prerequisites, focus, benefits, continuing education eligibility, training format, exams, and on-going requirements. [MORE](#)

Benefit Briefs

Disposable Income? I received a call from the son of a pensioner requesting that we deposit his father's pension check directly into his checking account. It seems his father kept getting the checks and stuffing them down the garbage disposal. [MORE](#) War Stories [HERE](#)

Have YOU got a War Story to share? Email it to me at nevin.adams@plansponsor.com. Anonymity guaranteed.

"HOLDING" PATTERN. Officials with the Connecticut comptroller's office say they have not been able to completely change over the administration of state employees' retirement plans to ING Group, because one of the prior administrators won't arrange for the appropriate asset transfers without individual participant authorizations. According to The Hartford Courant, TIAA-CREF has been delaying the transfer of the assets it manages into new investment funds available under the state's arrangement with ING for more than a year, saying that the movement of funds requires the approval of each of the approximately 8,500 retirement plan participants with 401(a) Alternate Retirement Plans. [MORE](#)

Bank of America is rewarding environmentally-friendly employees with incentives to buy hybrid vehicles - expanding a pilot program to now offer the \$3,000 hybrid incentive program for all U.S.-based employees working at least 20 hours a week, according to News14 Carolina. During the summer's pilot program, sales of hybrid vehicles quadrupled in the three targeted cities.

Buyer's Market

There will be a launch party tomorrow (February 6) for a new book by author and pension advisor Keith Ambachtsheer. The launch for **Pension Revolution. A Solution to the Pensions Crisis**, will be held at 5:00 pm at Barclay's in the InterContinental Hotel, 111 East 48th Street, New York. Interested parties may RSVP to ann@kpa-advisory.com

[MORE](#)**Economic Events**

The Labor Department reported that January's unemployment rate stood at 4.6%, while U.S. employers added 111,000 jobs. Analysts had expected a 4.5% reading and 150,000 jobs added. On the other hand, December's job growth was revised upward to 206,000, and October and November payroll gains also turned out to be bigger. Average hourly earnings rose to \$17.09, a 0.2% increase from the prior month. Over the 12 months ending in January, wages grew by 4%. [MORE](#)

U.S. factory orders rose by 2.4% in November, according to the Commerce Department, better than the 1.8% increase anticipated, and the best showing since March. For all of 2006, factory orders rose by 5.3%, though that was down from 8.1% in 2005.

THE ECONOMIC WEEK AHEAD: **Today** we will get a report from the Institute for Supply Management (ISM) on growth in the services sector for January, followed on **Wednesday** by the first estimate of Q4 productivity and December consumer credit. On **Thursday**, we'll get a reading on December wholesale inventories, as well as the weekly jobless claims.

Market Mirror

The Dow fell back 20.19 points from its record close on Thursday, ending the week at 12,653.49 (it set a new intraday trading high of 12,683.93 before slipping back, however). The S&P 500 rose 2.45 points to 1,448.39, its highest level in more than six years, while the NASDAQ gained 7.50 points, closing at 2,475.88. The Russell 2000 set a new closing high for the second straight day, climbing another 1.64 points to close at 809.41. The Dow Jones Wilshire 5000 ended the day at 14,642.45, a gain of 27.07 points.

Advancing issues led decliners by an 18-to-13 margin on the NYSE, where 2.5 billion shares changed hands. On the NASDAQ, 1.9 billion shares were traded, where stocks that rose in value led decliners by a 16-to-13 margin.

The 10-year Treasury note rose 2/32 of a point, to yield 4.83%. The 30-year Treasury bond was up 6/32 of a point, yielding 4.92%.

WEEK'S WORTH. For the week, the Russell 2000 surged 2.70%, the Dow Jones Wilshire 5000 rose 2.00%, while the S&P 500 climbed 1.84%, the NASDAQ closed up 1.66%, and the Dow ended the day 1.33% higher.

Financial Sense

"FINE" LINE. Affiliated Computer Services Inc. (ACS), the parent company of Buck Consultants LLC, is suing two former executives it claims pursued deals with venture capitalists to sell Buck without authorization from ACS. Business Insurance reports that the lawsuit filed last month alleges Howard Fine, Buck's former chairman of the board, and Christopher Michalak, a former executive managing director, also made unauthorized disclosures of confidential and proprietary Buck information to outsiders "as part of their attempt to find venture capital financing for a purchase of Buck." ACS said in the suit that the former executives' actions were "simply for the reason that they personally would like to own Buck instead of ACS owning Buck." ACS said the executives' false statements that Buck was for sale would likely damage the consulting firm's relationship with current and prospective clients and cause those clients to hesitate to do business with Buck if they believe the firm is for sale. [MORE](#)

SUDAN LEAVE? The Idaho state legislature is considering a measure that could force the Public Employee Retirement System of Idaho (PERSI) to withdraw \$41 million in investments tied to oil-rich

Sudan to protest the violence in Darfur. The \$10.7 billion fund, whose officials stand against the legislation, currently holds investments in Chinese, Brazilian, Swedish, French, and British energy companies that have relations with Sudan, according to the Associated Press. U.S. sanctions on Sudan have kept out American companies since 1997. Like others who have fought against divestment of pension investments, PERSI officials warn that pulling the investments would be too complicated and have little of the expected impact on the conflict there. In addition, there are concerns that the due diligence required to judge the extent of foreign companies' business ties to violence in Sudan could overwhelm Idaho's two-person investment staff. [MORE](#)

The Feeling's Mutual

TURNER "BROADCAST." The Turner Funds is introducing two no-load stock mutual funds, the Turner International Core Growth Fund, which invests in large- and mid-cap growth stocks from markets around the world, and the Turner Midcap Equity Fund, which invests in both growth and value stocks with market capitalizations represented in the Russell Midcap Index. The former will be managed by Mark D. Turner, lead portfolio manager, and Christopher K. McHugh and Robert E. Turner, co-managers. The Midcap offering is managed by Steven L. Gold, lead portfolio manager, and Thomas J. DiBella and Kenneth W. Gainey, co-managers, at Turner Investment Management, a Hartford-based subsidiary of Turner Investment Partners. The addition of these two new investments increases the number of Turner Funds to 11.

Stock and bond funds experienced net inflows of \$39.4 billion in December, following a low net intake of \$17.4 billion in November, according to data from the Financial Research Corporation (FRC). International/Global funds continued to be the top draw with a net inflow of \$26.5 billion for the month. Corporate funds drew in a net \$8.2 billion in December, while Domestic Equity funds posted \$5.6 billion in net inflows. Government funds were the only asset category that saw a negative net flow for the month, decreasing \$1.9 billion. Jumping to the top of the best selling funds list was Barclays' iShares Russell 2000 Index fund, which took in a net \$2.3 billion in December. [MORE](#)

The World At Large

Retired people in the U.K. are starting to prefer browsing the Internet (41%) to more traditional retirement pastimes (gardening and home improvements were cited by 39% each), according to a survey by AXA UK. These "silver surfers" spend an average of six hours a week online, shopping, doing research, and e-mailing friends or relatives. Two-thirds regularly contact their children via the Internet, while four in 10 keep in touch with their grandchildren.

Rules & Regulators

FAB FORAY. While plan sponsors and other fiduciaries must exercise prudence in choosing a fiduciary investment adviser and periodically monitor the adviser's abilities and qualifications, they do not have to oversee the advice provided, according to a new Field Assistance Bulletin (FAB) from the U.S. Department of Labor (DoL) Employee Benefits Security Administration (EBSA) - whether or not said advice is provided by a fiduciary adviser under the Pension Protection Act (PPA). The FAB also included guidelines on how the required "prudent" selection and periodic monitoring should be carried out, and verified that the PPA in no way invalidates or alters prior guidance on participant advice. It also offered insights on the issue of compensation structures between advisers and affiliated organizations. [MORE](#)

WYDEN "OPEN?" U.S. Senators may have overwhelmingly approved a bill that includes a provision limiting non-qualified deferred compensation programs (NQDC), but the NQDC provision may still be changed in a later legislative conference committee, according to one lawmaker. According to news reports regarding the 94-3 approval of the Senate version of H.R. 2, the NQDC limit as it now stands would apply to too many executives and should be restricted to only top officials, Senator Ron Wyden (D-Oregon) told reporters in Washington. [MORE](#)

For the first time since 2002, the total number of discrimination-charge filings against private-sector employers received by the U.S. Equal Employment Opportunity Commission (EEOC) increased in 2006, coming in at 75,768, the federal agency reported Friday. Discrimination charges in almost all areas tracked by the EEOC were up in 2006 from the year before, with discrimination filings based on race ranking as the most frequent charge, with 27,238 filings, followed by sex discrimination (23,247), retaliation (22,555), and disability discrimination (15,625). Only charges based on age and equal pay declined from the year before. [MORE](#)

"STATUS" REPORT. The Michigan Court of Appeals ruled unanimously that a 2004 amendment barring same-sex marriages prevents public employers from offering health benefits to same-sex domestic partners. Reversing an appellate court decision, the three-judge panel writes that, in "officially recognizing a same-sex union through the vehicle of a domestic partnership agreement, public employers give same-sex domestic couples similar status to that of married couples." The court further said that the 2004 vote to "adopt the marriage amendment charted the policy direction for Michigan." [MORE](#)

U.S. District Judge Sidney Fitzwater of the U.S. District Court for the Northern District of Texas has refused to dismiss a lawsuit brought by two Southwest Airlines Co. 401(k) plans, a suit that claimed that an investment manager of the plan breached its fiduciary obligations by investing in Enron Corp. debt, which later became worthless. The court said that it was not able to dismiss claims against Brinson Partners Inc. (now known as UBS Global Asset Management (Americas) Inc.) on whether it violated investment policy rules, and therefore its fiduciary duties. Fitzwater did not make a decision on whether the investment manager agreement was the only relevant plan document, or if other documents like the investment policy statement qualify as Employee Retirement Income Security Act (ERISA) documents. [MORE](#)

Small Talk

Drivers who spend a significant amount of time behind the wheel face a greater risk of developing skin cancer on the left side of the body, according to new research by Dr. Scott Fosko, chairman of dermatology at Saint Louis University School of Medicine. In a presentation to the 65th annual meeting of the American Academy of Dermatology, Fosko noted that his team found a statistically significant number of left-side skin cancers on sun-exposed areas such as the head, neck, arms, and hands in men, though not in women.

Cybercrooks hacked into the Dolphin Stadium Web site last week (site of the Super Bowl) and rigged it to load malicious software onto unpatched Windows PCs. The initial breach of the Dolphin Stadium Web site appears to have occurred on January 25, and was cleaned up around 11 a.m. PST on Friday, according to Websense. The file downloaded in the attack is a keystroke logger and a remote control tool. If you visited the Dolphin Stadium Web site with a Windows PC that lacked the most recent patches, you should run a security scan.

Apple has warned Windows users running its iTunes software that they should wait for its next update before upgrading their PCs to Microsoft's new Windows Vista operating system. Apple says there are a variety of compatibility issues that may cause friction between the media player software, its accompanying iPod player, and Vista - and there is a chance that plugging an iPod into a computer running Vista may corrupt the device.

ON THIS DAY: In 1937, President Franklin Roosevelt announced a controversial plan to expand the Supreme Court to as many as 15 judges, allegedly to make it more efficient. However, critics charged him with trying to "pack" the court and thus neutralize Supreme Court justices hostile to his New Deal. In 1952, the first "Don't Walk" sign was installed in New York City.

MONDAY MUSING: What happens if you get scared half to death twice?