



441 G St. N.W.
Washington, DC 20548

March 20, 2014

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate

Private Pensions: Pension Tax Incentives Update

Dear Chairman Wyden:

To encourage private-sector employers to sponsor pension plans and U.S. workers to save for retirement, federal law authorizes a variety of tax incentives for employer-sponsored pension plans and other retirement savings vehicles. These tax incentives are structured to strike a balance between encouraging employers to start and maintain voluntary, tax-qualified pension plans and ensuring that lower-income employees receive an equitable share of the tax-subsidized benefits.¹ For example, under current federal law, certain employer contributions to qualified pension plans, contributions made at the election of the employee through salary reduction, and income earned on pension assets are not taxed until distributed. Yet these tax deferrals come at a cost. The Joint Committee on Taxation has estimated that in fiscal year 2014, the tax expenditures for such deferrals will result in the U.S. Treasury forgoing around \$100 billion in income taxes.²

To prevent use of these tax incentives to subsidize excessively large pension benefits, legislation has been enacted to constrain the amount of tax-deferred contributions that can be made to tax-qualified pension plans. We issued reports in 2001³ and 2011⁴ that, among other

¹ The Internal Revenue Code (IRC) establishes requirements that private pension plans must satisfy, including minimum coverage and benefits, in order to qualify for favorable tax treatment. Employers that sponsor these tax-qualified plans are entitled to a deduction (within limits) for the contributions they make, and contributions are not included in an employee's income until benefits are received. Small employers with fewer than 100 employees may also qualify for a federal tax credit for costs associated with starting a new pension plan. One important requirement for tax-qualified pension plans of private employers is that contributions or benefits be apportioned in a nondiscriminatory manner between highly compensated employees and other workers. See 26 U.S.C. §§ 401(a)(4), 401(a)(5), and 414(q).

² Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2012-2017* (Washington, D.C.: Feb. 1, 2013). This estimate is based on provisions of federal tax law enacted through January 2, 2013. A tax expenditure is measured by the difference between tax liability under present federal law and the tax liability that would result from a recomputation of tax without benefit of the tax expenditure provision. The only larger individual tax expenditure in fiscal year 2014 is expected to be the exclusion of employer contributions for medical insurance premiums (\$143 billion).

³ GAO, *Private Pensions: Issues of Coverage and Increasing Contribution Limits for Defined Contribution Plans*, [GAO-01-846](#) (Washington, D.C.: Sept. 17, 2001).

⁴ GAO, *Private Pensions: Some Key Features Lead to an Uneven Distribution of Benefits*, [GAO-11-333](#) (Washington, D.C.: Mar. 30, 2011).

things, examined the trends in plan formation and the characteristics of participants affected by the statutory limits for contributions to defined contribution (DC) plans.⁵ A key source of data for these two previous reports was a survey on household finances conducted by the Board of Governors of the Federal Reserve System every 3 years. Following release of another installment of this survey, you asked us to update certain findings. Specifically, this report provides an update with respect to the following:

- (1) the number of new pension plans that have been formed since 2009; and
- (2) the income characteristics of plan participants affected by the statutory limits, and how they have changed over time.

For this update, we replicated the methodology that we used in our previous reports.⁶ To examine recent trends in new and net private-sector plan formation, we analyzed annual filings data from the Department of Labor's (DOL) Form 5500 database⁷ for plan years 2009 through 2011—the most recent complete datasets available—and reviewed aggregate plan and participant counts included in the most recent *Private Pension Plan Bulletin* published by DOL in 2013. As we did in our previous reports, we limited our analysis to examining private single-employer pension plans with more than one participant. In addition, we vetted our methodology with officials from DOL and the Pension Benefit Guaranty Corporation (PBGC) to ensure that we obtained a reliable plan count.⁸

To examine trends in participant contribution levels and income characteristics of participants affected by the statutory limits on contributions to DC plans, we analyzed the most recent data from the Board of Governors of the Federal Reserve System's triennial *Survey of Consumer Finances* (SCF), reflecting 2010 participant contributions to all DC plans (including both public- and private-sector plans).⁹ As in our previous reports, we focused on contribution levels relative

⁵ Pension plans are generally classified as either defined benefit (DB) or defined contribution (DC) plans. DB plans typically offer a fixed level of monthly retirement income based upon a formula specified in the plan (which often takes into account factors such as years of service and age at retirement), regardless of how the plan's investments perform. In contrast, in DC plans, benefit levels depend on the contributions made to the plan and the performance of the investments in individual accounts, which may fluctuate in value over time.

⁶ For a more detailed discussion of our data analysis, see [GAO-11-333](#), pp. 44-49.

⁷ The Employee Retirement Income Security Act of 1974 and the IRC require administrators of pension and welfare benefit plans (collectively referred to as employee benefit plans) to file annual reports concerning, among other things, the financial condition and operation of plans. DOL, the Internal Revenue Service, and PBGC jointly developed the Form 5500 series so employee benefit plans could satisfy annual reporting requirements overseen by all three agencies.

⁸ DOL's Employee Benefits Security Administration works to assure the security of the retirement, health and other employment-related benefits of America's workers and their families. PBGC is a government corporation established to protect the retirement incomes of more than 40 million American workers in more than 26,000 private-sector DB pension plans.

⁹ Our analysis of participant contribution levels and other characteristics examined a subpopulation of individuals who were deemed eligible DC participants in the SCF, meaning that they worked for a public or private employer who sponsored a DC plan in which they were eligible to participate. Estimated percentages based on all DC participants have 95 percent confidence intervals of plus or minus 1 percentage point or less. Percentage estimates based on participants contributing below the limits have 95 percent confidence intervals within plus or minus 3 percentage points of the percentage estimate itself. Percentages based on participants at or above the limits have confidence intervals within plus or minus 13 percentage points of the estimate itself.

to statutory limits on the amounts that participants can contribute to DC plans on an annual basis.¹⁰ The dollar limits for each of these limits has increased over time, as shown in table 1.

Table 1: Statutory Limits on Annual Participant Contributions to DC Plans, in Selected Years

Statutory limit	2001	2004	2007	2010	2014
Limit on elective deferrals 26 U.S.C. § 402(g)(1)	\$10,500	\$13,000	\$15,500	\$16,500	\$17,500
Limit on catch-up contributions 26 U.S.C. § 414(v)(2)(B)(i)	N/A ^a	3,000	5,000	5,500	5,500
Limit on combined employer/participant contributions 26 U.S.C. § 415(c)(1)(A)	35,000	41,000	45,000	49,000	52,000

Source: Internal Revenue Service publications.

^a N/A = not applicable. There was no catch-up contribution provision in 2001.

We conducted this performance audit from December 2013 through March 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

From 2009 through 2011, the number of newly formed plans each year remained relatively flat, but below the levels reported previously for 2003 through 2007. Specifically, from 2009 through 2011, private-sector employers sponsored about 81,000 new pension plans, including 75,000 DC plans and 6,000 defined benefit (DB) plans (fig. 1). DC plans with fewer than 100 participants accounted for about 90 percent of all new plan growth over this period. However, the net change in the number of pension plans over this period was negative, with the number of terminated plans more than offsetting new plan formation by nearly 34,000 plans (fig. 2). Over the 3-year span from 2009 to 2011, private-sector employers terminated about 106,000 DC and 9,000 DB plans. Overall, there were about 52,000 fewer private single-employer pension plans in 2011 than there were in 2000 (fig. 3). Thus, while tax incentives from increased contribution limits may have spurred new plan formation, other events—such as company bankruptcies and consolidations stemming from the recent recession—may have discouraged it. Nevertheless, despite the overall decline in the number of plans, the total number of participants rose throughout the decade (fig. 4).

The percentage of DC participants affected by the 2010 statutory limits and their income characteristics were similar to what we reported previously for participants affected by the 2007 limits. In 2011, we reported that an estimated 5 percent of all DC participants who contributed to their plans in 2007 were affected by the statutory limits. Based on our analysis of the most recent SCF data, we estimate that about 6 percent of all DC participants who contributed to their

¹⁰ Other statutory limits include, for example, a limit on the amount of compensation (\$260,000 for 2014) that can be taken into account in determining qualified pension plan contributions or benefits (26 U.S.C. § 401(a)(17)). There is also a statutory limit on the total amount of tax-deductible contributions that an employer may make to certain types of plans (26 U.S.C. §§ 404 and 4972).

plans in 2010 were affected by the statutory limits in that their annual contributions in 2010 reached or exceeded one or more of the three limits that we examined.¹¹ Of this group:

- About 3 percent were under age 50 and contributed at least \$16,500 (the elective deferral limit).
- About 3 percent were aged 50 or older and contributed at least \$22,000 (the combined elective deferral and catch-up contribution limits).
- Another one-tenth of 1 percent of all ages contributed at or above the combined employer-participant contribution limit of \$49,000.

Participants affected by the 2010 statutory limits shared similar income characteristics with their counterparts in 2007. When compared with other DC participants who contributed below all of the 2010 statutory limits, this group had disproportionately higher earnings (90th percentile and higher) (fig. 6) and were more likely to have additional assets (fig. 7) of greater average value in their households (table 3). In addition, in 2007 and 2010, men were overwhelmingly more likely than women to contribute at such levels (fig. 8). However, fewer DC participants with earnings below the 90th percentile took maximum advantage of tax incentives in 2010 than did in 2007.

On February 6, 2014, we briefed committee staff on our preliminary findings regarding recent private pension plan formation and statutory contribution limits affecting participant contributions to certain private-sector pension plans in 2010. This report formally conveys the final version of the briefing slides provided to the committee at that meeting (see encl. 1).

Agency Comments

We provided copies of this draft report to DOL, the Department of the Treasury, the Internal Revenue Service, and PBGC for review and comment. The agencies provided technical comments, which we incorporated in the report, as appropriate.

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As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this report. At that time, we will send copies to the Secretary of Labor, the Secretary of the Treasury, the Commissioner of the Internal Revenue Service, and Director of PBGC. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-7215 or jeszeckc@gao.gov. Contact points for our Offices of Congressional Relations and

¹¹ Employee contributions may exceed the limits, but amounts in excess will be subject to income tax in the contribution year, but may be withdrawn without taxation in the following tax year.

Public Affairs may be found on the last page of this report. GAO staff members who made key contributions to this report are listed in enclosure 2.

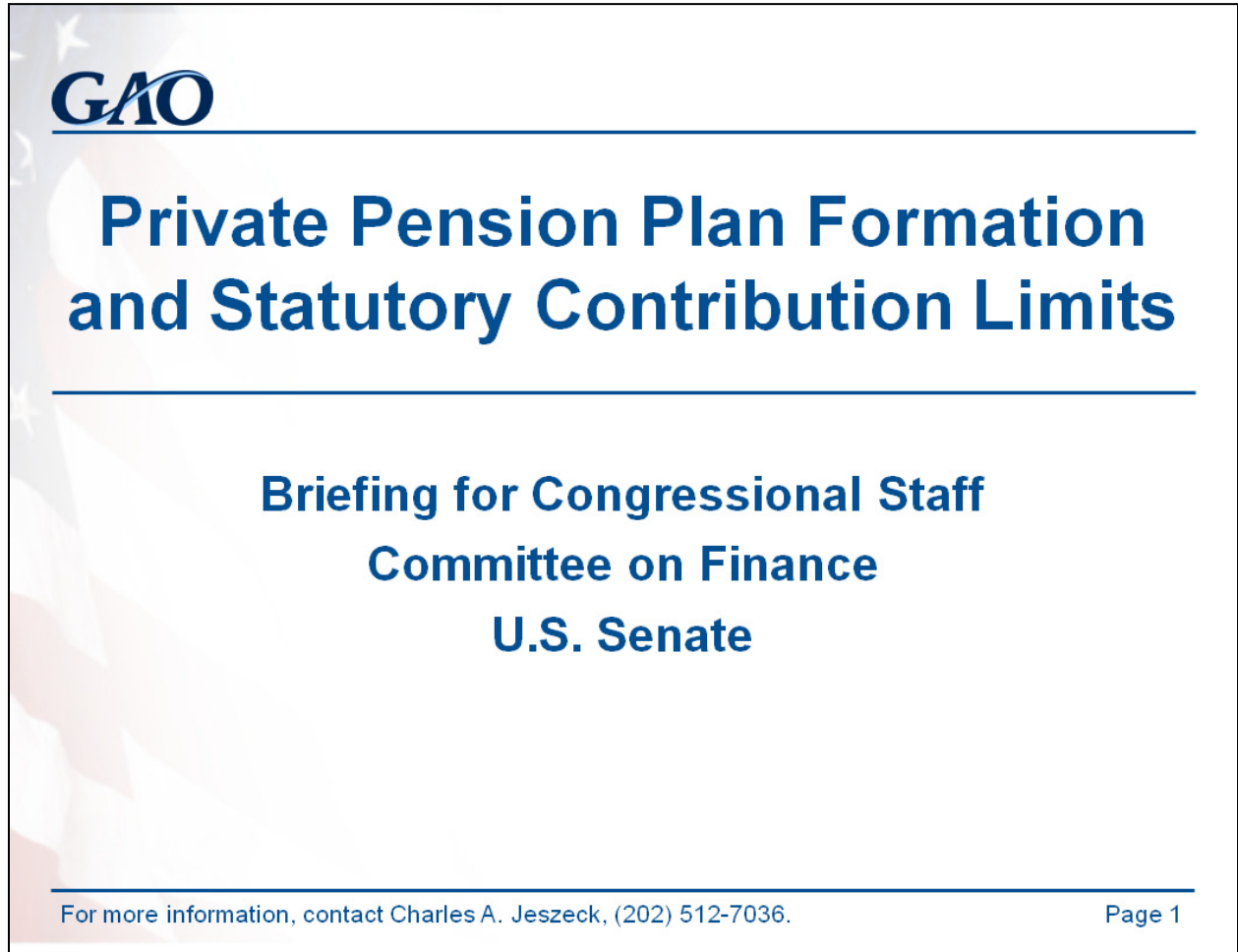
Sincerely yours,

A handwritten signature in black ink, appearing to read "Charles Jeszeck". The signature is fluid and cursive, with the first name "Charles" written in a larger, more prominent script than the last name "Jeszeck".

Charles A. Jeszeck
Director
Education, Workforce, and Income Security Issues

Enclosures – 2

Enclosure 1: Briefing Slides



GAO

Private Pension Plan Formation and Statutory Contribution Limits

Briefing for Congressional Staff Committee on Finance U.S. Senate

For more information, contact Charles A. Jeszeck, (202) 512-7036. Page 1

We briefed committee staff on February 6, 2014, using a preliminary version of these slides.

Background

- To promote retirement savings, federal law provides several tax incentives for pension contributions and earnings.
- These incentives are significant. The Joint Committee on Taxation has estimated that tax expenditures for defined benefit (DB) and defined contribution (DC) plans will result in around \$100 billion in revenue losses in 2014.
- A key incentive for individuals to participate in their employers' DC plans is the elective tax deferral, which reduces the amount of taxable income in the contribution year and defers taxation until funds are withdrawn.
- To limit the extent to which such tax deferrals can benefit higher-income individuals more than lower-income individuals participating in DC plans, the law establishes several annual limits on participant contributions to these plans.

Background (cont'd)

These statutory contribution limits include the following:

- **402(g) elective deferral limit**
Description: annual limit on elective deferrals
Applies to: most DC plan participants
- **414(v) catch-up contribution limit**
Description: annual limit on catch-up contributions
Applies to: most DC plan participants aged 50 or older
- **415(c) combined employer/participant contribution limit**
Description: annual limit on combined employer/participant contributions
Applies to: all DC plan participants

The numbers included here refer to sections of the Internal Revenue Code. The elective deferral and catch-up contribution limits apply to employees who participate in 401(k), 403(b), most 457 plans, and the Thrift Savings Plan for federal employees.

Objectives

To update the findings of our 2011 report by examining:

- The number of new pension plans that have been formed since 2009, and
- The income characteristics of plan participants affected by the statutory contribution limits, and how they have changed over time.

Methodology

- This analysis updates our findings from previous reports:
 - *Private Pensions: Some Key Features Lead to an Uneven Distribution of Benefits*, GAO-11-333 (Mar. 30, 2011).
 - *Private Pensions: Issues of Coverage and Increasing Contribution Limits for Defined Contribution Plans*, GAO-01-846 (Sept. 17, 2001).
- Our methodology is the same as in our previous reports:
 1. To examine recent trends in private-sector plan formation, we reviewed the most recent *Private Pension Plan Bulletin* published by the Department of Labor (DOL) in 2013, and analyzed data from DOL's Form 5500 database for plan years 2009 through 2011, the most recent data available. We limited our analysis to private single-employer pension plans with more than one participant.
 2. To examine trends in participant contribution levels and other characteristics, we analyzed the most recent data from the Board of Governors of the Federal Reserve System's *Survey of Consumer Finances* (SCF), reflecting participant contributions in 2010 to all DC plans (including both public- and private-sector plans).

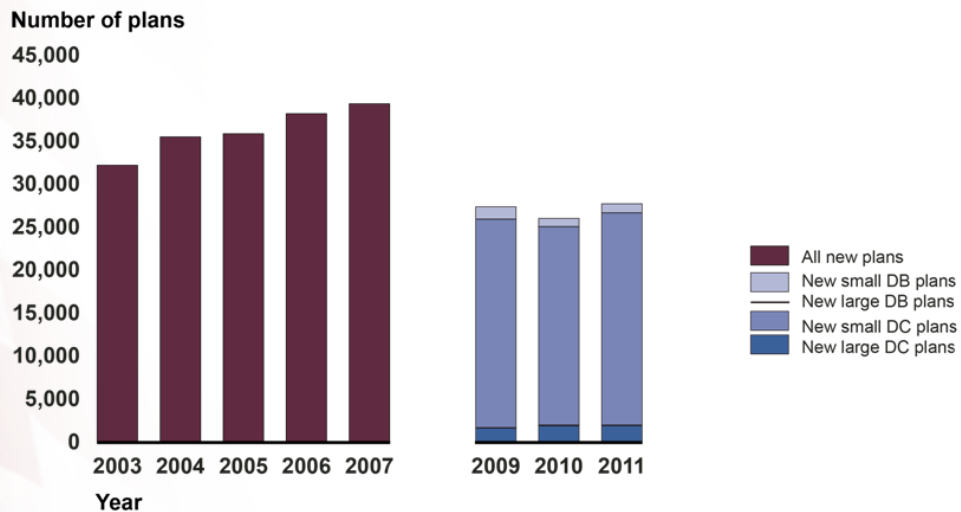
For a more detailed description of our methodology, see our 2011 report at <http://www.gao.gov/products/GAO-11-333>, pp. 44-49.

Trends in Private Pension Plan Formation

- **2011 report findings:**
 - From 2003 through 2007, most of the new private single-employer plans that were formed were **small DC plans** (plans with fewer than 100 participants).
 - However, because plan terminations offset new plan formation, the total number of these private plans remained relatively unchanged over this period.
- **Update:**
 - From 2009 through 2011, most of the new private single-employer plans were also **small DC plans**.
 - However, aggregate net plan formation was negative from 2009 through 2011 because plan terminations more than offset new plan formation over this period. The total number of private pension plans in 2011 was below the level in 2000.

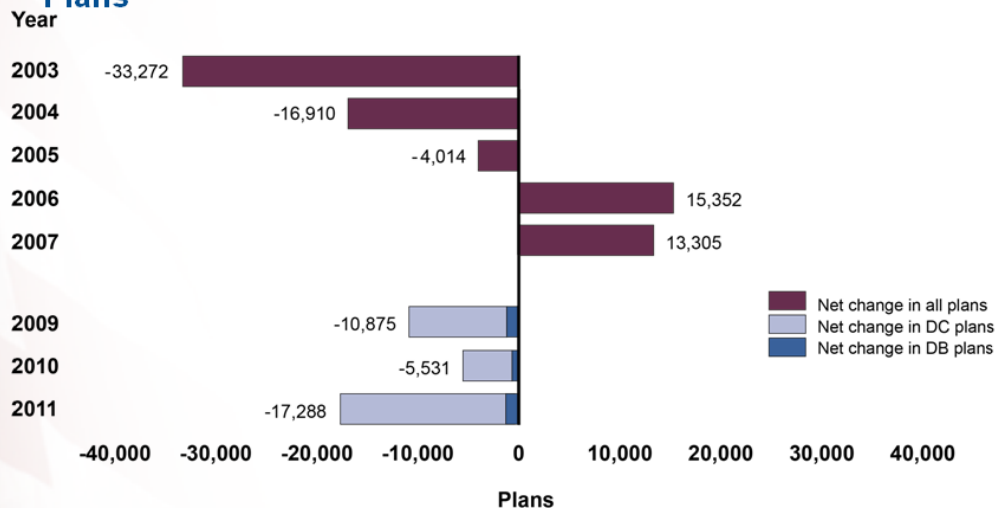
Plan Formation: New Plan Growth

Figure 1: Number of New Private Single-Employer Pension Plans



Plan Formation: Net Plan Growth

Figure 2: Net Change in the Number of Private Single-Employer Pension Plans

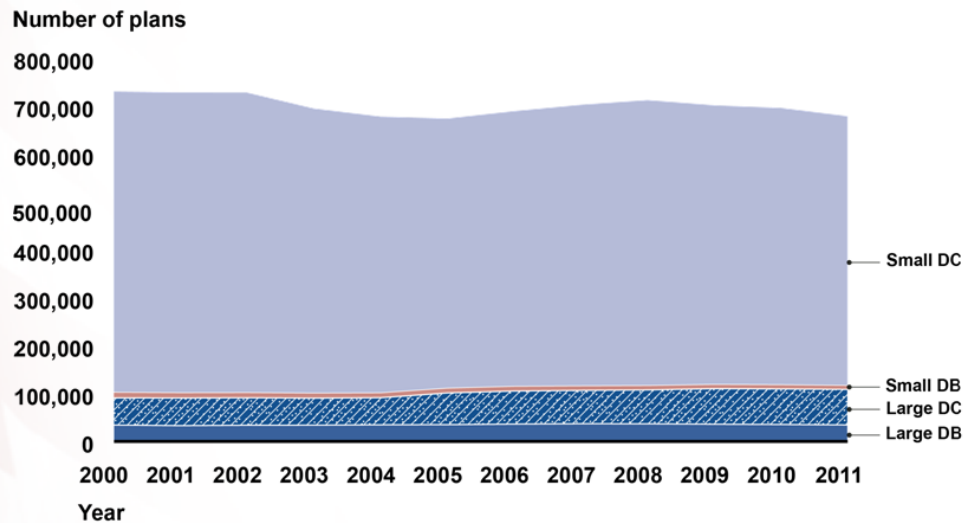


Source: GAO analysis of Form 5500 filings.

Note: We calculated net plan growth by subtracting the number of terminated plans from the number of new plans formed during each year included in our analysis. We identified terminated plans based on final Form 5500 filings indicating that all plan assets had been distributed or rolled over into another plan.

Plan Formation: Total Plans

Figure 3: Number of Private Single-Employer Pension Plans, by Plan Size and Type, 2000-2011

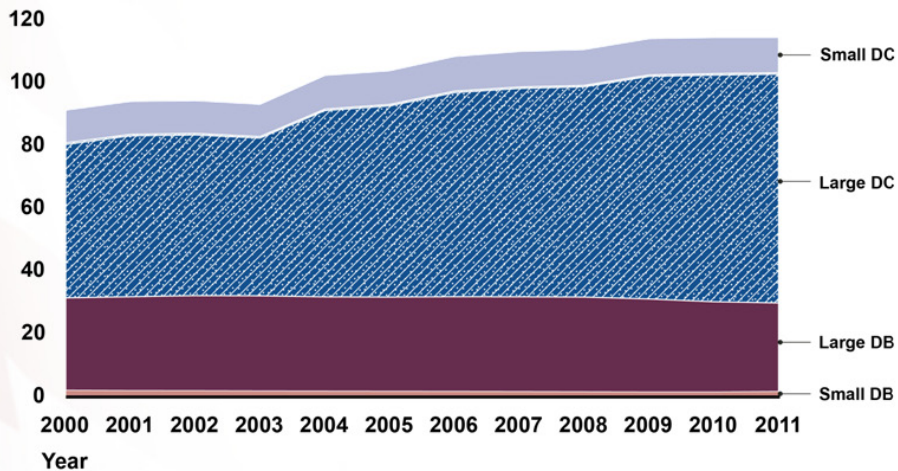


Source: GAO analysis of Department of Labor's *Private Pension Plan Bulletin*.

Plan Formation: Total Participants

Figure 4: Number of Participants in Private Single-Employer Pension Plans, by Plan Size and Type, 2000-2011

Number of participants (in millions)



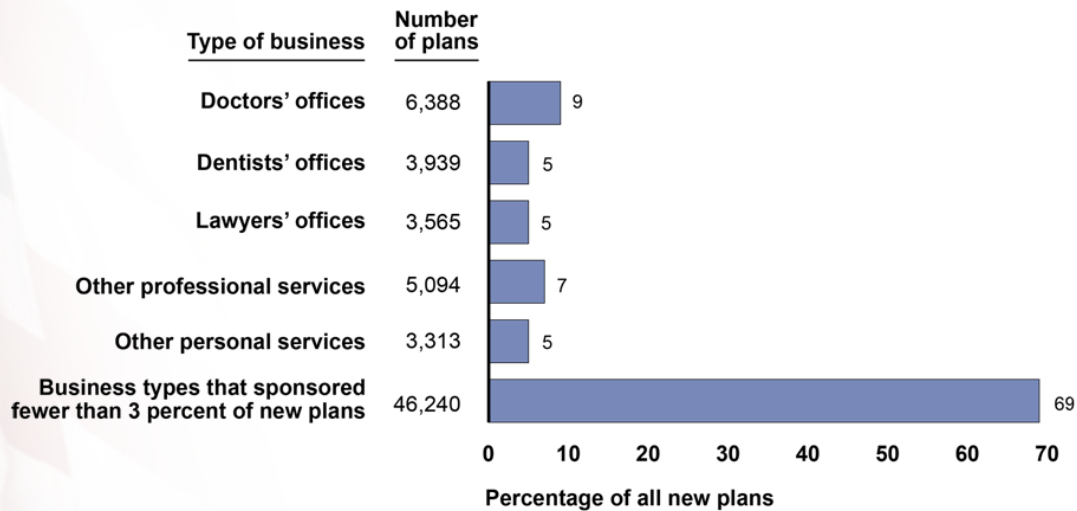
Source: GAO analysis of Department of Labor's Private Pension Plan Bulletin.

Plan Formation: Sponsors of New Plans

- **2011 report findings:**
 - 92% of all new plans formed between 2003 and 2007 were DC plans (89% were small DC plans).
- **Update:**
 - 93% of all new plans formed between 2009 and 2011 were DC plans (79% were small DC plans).
 - About 26% of these new small DC plans were sponsored by four kinds of professional businesses—doctors' offices, dentists' offices, lawyers' offices, and non-categorized professional services.

Plan Formation: Sponsors of New Plans

Figure 5: Businesses Sponsoring New Small DC Plans, 2009-2011



Source: GAO analysis of Form 5500 filings.

Participants Affected by Statutory Limits

- **2001 report findings:**
 - Using the 1998 SCF survey data, we estimated that about 8% of all DC participants—about 3.1 million people—contributed at or above one of the statutory limits in effect at the time.
- **2011 report findings:**
 - Using the 2007 SCF survey data, we estimated that about 5% of all DC participants—about 2.0 million people—contributed at or above one of the statutory limits in effect at the time.
- **Update:**
 - Using the 2010 SCF survey data, we estimated that about 6% of all DC participants—about 2.4 million people—contributed at or above one of statutory limits in effect at the time.

For each analysis, we evaluated the level of participant contributions to public- and private-sector DC plans relative to the statutory limits in effect at the time for tax-qualified plans, as specified in 26 U.S.C. §§ 402(g)(2), 414(v), and 415(c)(1). Employee contributions may exceed the limits, but amounts in excess will be subject to income tax in the contribution year.

Statutory Limits: 2010 Contributions

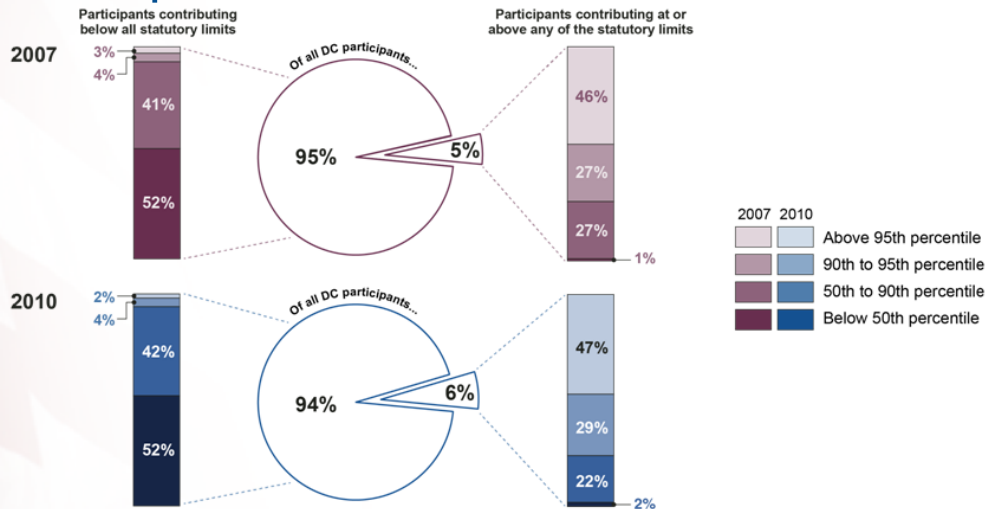
- Based on our analysis of SCF survey data on DC participant contributions in 2010, we estimate that:
 - Approximately **6%** of DC participants contributed at or above at least one of the 2010 statutory limits.
 - About **3%** were under age 50 and contributed at or above the 2010 annual **elective deferral limit** of \$16,500.
 - About **3%** were aged 50 or older and contributed at or above the 2010 annual **catch-up contribution limit** of \$5,500 (\$22,000 total).
 - About **1/10 of 1%** of DC participants of all ages contributed at or above the 2010 annual **combined employer/participant contribution limit** of \$49,000.

Statutory Limits: Participant Characteristics

- 2011 report findings:
 - DC participants who contributed at or above any of the statutory limits in 2007 were more likely to:
 - have higher levels of annual compensation;
 - own their homes, own stock, or have an IRA; and
 - be male.
- Update:
 - Similarly, we found that the DC participants contributing at or above the statutory limits in 2010 were also more likely to have these same characteristics.

Statutory Limits: Annual Compensation

Figure 6: Estimated Percentage of DC Participants by Contribution and Compensation Levels



Source: GAO analysis of 2007 and 2010 SCF data.

Statutory Limits: Annual Compensation

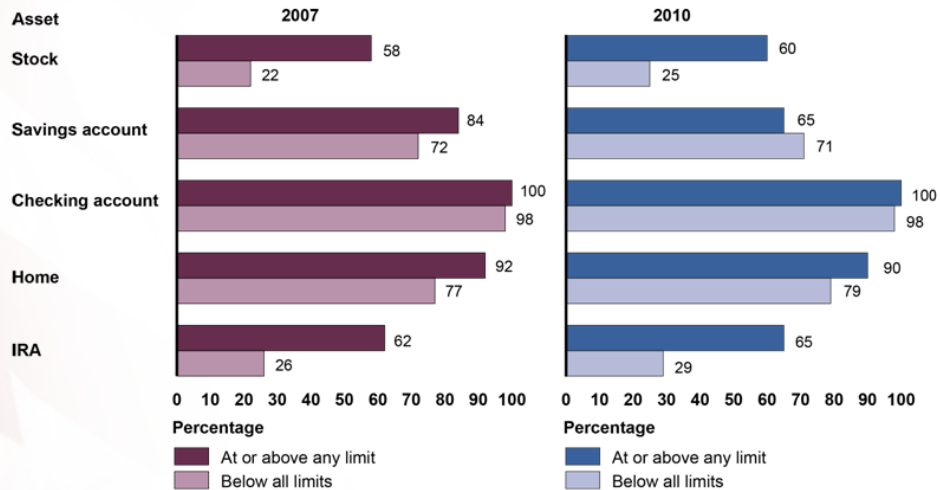
Table 2: Comparison of 2007 and 2010 Earnings of DC Participants, by Earnings Groups (in constant 2013 dollars)

Earnings groups	2007	2010
Below 50 th percentile	Under \$58,000	Under \$60,000
50 th to 90 th percentile	58,000 to 142,000	60,000 to 159,000
90 th to 95 th percentile	142,000 to 202,000	159,000 to 233,000
Above 95 th percentile	202,000 or more	233,000 or more

Source: GAO analysis of 2007 and 2010 SCF data.

Statutory Limits: Household Assets

Figure 7: Estimated Percentage of DC Participants with Various Household Assets, by Contribution Level



Source: GAO analysis of 2007 and 2010 SCF data.

Statutory Limits: Household Assets

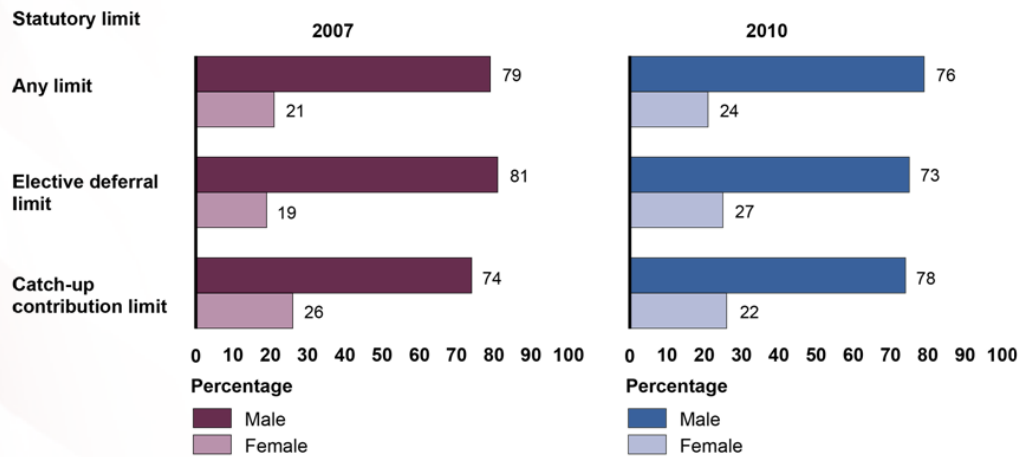
Table 3: Estimated Mean Value of Household Assets of DC Participants, by 2007 and 2010 Contribution Levels (in constant 2013 dollars)

Financial asset	At or above any limit		Below all limits	
	2007	2010	2007	2010
IRA or Keogh	\$116,000	\$158,000	\$ 24,000	\$22,000
Home	820,000	737,000	292,000	234,000
Checking accounts	42,000	71,000	9,000	9,000
Saving accounts	66,000	159,000	17,000	18,000
Publicly traded stock	256,000	218,000	36,000	26,000

Source: GAO analysis of 2007 and 2010 SCF data.

Statutory Limits: Gender

Figure 8: Estimated Percentage of DC Participants Contributing At or Above the Limits, by Gender



Source: GAO analysis of 2007 and 2010 SCF data.

Concluding Observations

- **2011 report:**

Our analysis, while limited in scope, suggested little direct, positive relationship between increases in the contribution limits and the formation of new private single-employer plans.

- The total number of plans remained largely unchanged between 2003 and 2007. A lack of employer-sponsored plans likely restricted coverage for many employees' access along with access to the associated tax benefits of qualified plans.
- A disproportionate share of the benefits from the increased limits on tax-deferred income went to DC participants with higher earnings.
 - An estimated 72% of participants who contributed at or above the 2007 limits were in the top 10th percentile of earners.
 - An estimated 1% of participants who contributed at or above the 2007 limits had earnings at the median or below.
 - The additional \$5,000 catch-up contribution for participants aged 50 and older in 2007 tended to favor men over women and had little impact on moderate income workers.

Concluding Observations (cont'd)

- **Update:**

In our current analysis, we reached similar conclusions.

- Despite increases in the statutory limits, new plan growth has remained fairly steady.
 - The observed decline in the number of small DC plans offset all aggregate plan growth, resulting in the total number of plans falling below 2000 levels (although the total number of participants increased over this period).
 - Factors other than contribution limits, including the recession, may have influenced the amount of new plan formation over this period.
- High-earning and male DC participants accounted for a larger share of those reaching or exceeding the contribution limits.
 - An estimated 76% of participants who contributed at or above any of the 2010 limits were in the top 10th percentile of earners; 47% were in the top 5th percentile. By contrast, an estimated 2% of participants who contributed at or above any of the 2010 limits had median earnings or below.
 - An estimated 78% of those contributing at or above the 2010 catch-up contribution limit were men; 22% were women. (In 2007, an estimated 74% were men; 26% were women.)



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Enclosure 2: GAO Contact and Staff Acknowledgments

GAO Contact

Charles A. Jeszeck, Director, (202) 512-7215 or jeszeckc@gao.gov.

Staff Acknowledgments

In addition to the individual above, David Chrisinger; Gene Kuehneman; Kathy Leslie; Sheila McCoy; Jonathan S. McMurray; Edward Nannenhorn; Mimi Nguyen; Ronni Schwartz; Margie K. Shields; Aron Szapiro; Roger Thomas; and Walter Vance made key contributions to this report.

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