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The Economics of Providing 401(k) Plans: Services, Fees, and Expenses, 2022

KEY FINDINGS

- » **401(k) plan participants investing in mutual funds tend to hold lower-cost funds.**
 At year-end 2022, 401(k) plan assets totaled \$6.6 trillion, with 36 percent invested in equity mutual funds. In 2022, the average expense ratio for equity mutual funds offered in the United States was 1.12 percent. 401(k) plan participants who invested in equity mutual funds, however, paid less than one-third of that amount—0.33 percent—on average.
- » **The mutual fund expense ratios that 401(k) plan participants incur have declined substantially since 2000, and the downward trend continued for equity, hybrid, and bond mutual funds in 2022.** In 2000, 401(k) plan participants incurred an average expense ratio of 0.77 percent for investing in equity mutual funds. By 2022, that figure had fallen to 0.33 percent, a 57 percent decline. The average expense ratios that 401(k) plan participants incurred for investing in hybrid and bond mutual funds also fell from 2000 to 2022—by 42 percent and 63 percent, respectively.
- » **401(k) plans are a complex employee benefit to maintain and administer, and they are subject to an array of rules and regulations.** Employers offering 401(k) plans typically hire service providers to operate these plans, and these providers charge fees for their services.
- » **Employers and employees generally share the costs of operating 401(k) plans.** As with any employee benefit, the employer typically determines how the costs will be shared.

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For a complete set of data files for each figure in this report, as well as additional appendix figures, see www.ici.org/files/2023/per29-06-data.xlsx. Some of these data files include additional time series data not presented in this report.

The following conditions, unless otherwise specified, apply to all data in this report: (1) funds of funds are excluded from the data to avoid double counting, (2) mutual funds available as investment choices in variable annuities are excluded, and (3) dollars and percentages may not add to the totals presented because of rounding.

This material is intended to provide general information on fees paid by participants in a wide variety of plans to provide insight into average fees across the marketplace. The fees of a particular plan will depend on factors specific to the plan, such as the exact investment options the plan offers and whether administrative and recordkeeping fees are included in the expense ratios or charged outside of them. Consequently, this material is not intended for benchmarking the costs of specific plans to the broad averages presented here.

Why Employers Offer 401(k) Plans

An attractive workplace benefit, 401(k) plans give workers the ability to defer income tax on the portion of their compensation that is set aside for retirement.¹ Offering flexibility, 401(k) plans allow employees to make elective deferrals and typically provide a choice of investments. Indeed, they have become the most common defined contribution (DC) plan in the United States, holding \$6.6 trillion in assets at year-end 2022 (Figure 1).² Mutual funds have become the primary vehicle for 401(k) plan investments, with the share of employer-sponsored 401(k) plan assets held in mutual funds rising from 9 percent at year-end 1990 to 62 percent at year-end 2022.

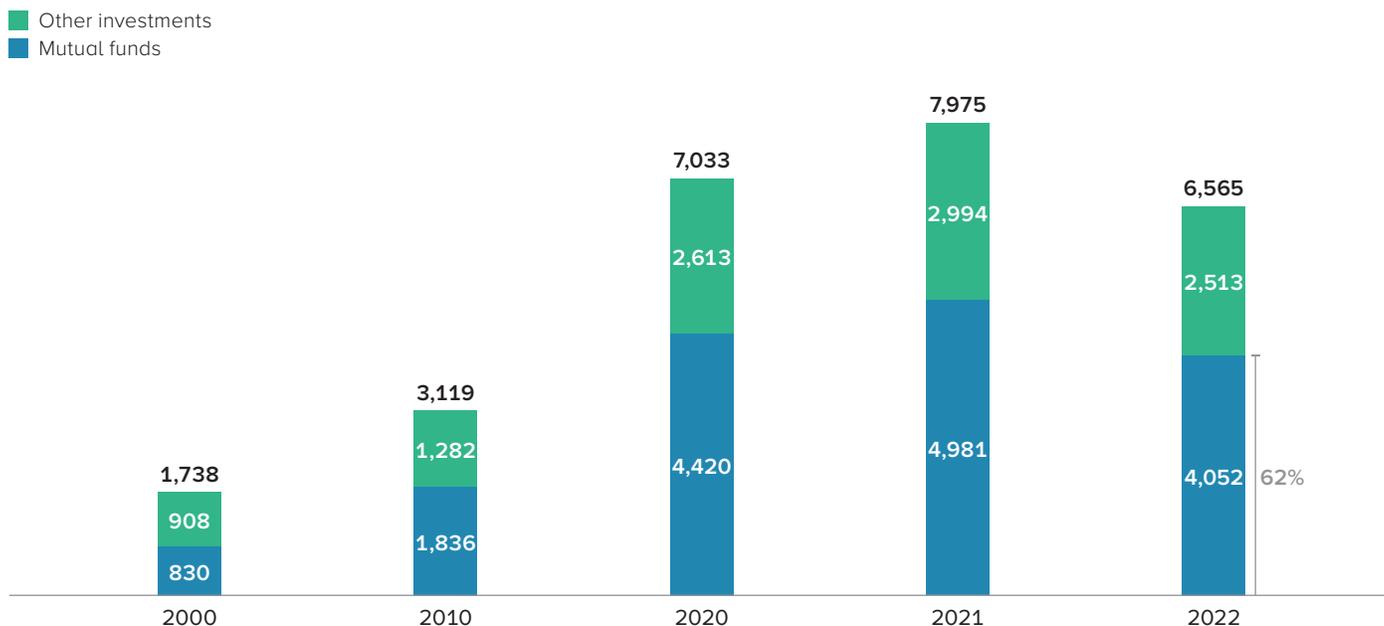
Employers that offer 401(k) plans, an optional employee benefit, face conflicting economic pressures: the need to attract and retain qualified workers with competitive compensation packages, and the need to keep their products and services competitively priced. As a firm increases overall compensation to its employees, it increases its ability to hire and retain workers but also increases the costs of producing its products and services.

To establish and maintain 401(k) plans, employers must obtain a variety of administrative, participant-focused, regulatory, and compliance services. All of these services involve costs; generally, the plan sponsor and the plan participants share these costs.

FIGURE 1

401(k) Plan Assets

Billions of dollars, year-end



Note: Data include mutual funds available as investment choices in variable annuities and mutual funds that invest primarily in other funds. Sources: Investment Company Institute, Federal Reserve Board, and US Department of Labor; see Investment Company Institute 2023b

Paying for 401(k) Plan Services

401(k) Plan Services Are Strictly Regulated

401(k) plans are complex to maintain and administer, and they are subject to an array of rules and regulations that govern all qualified tax-deferred employee benefit plans, including Section 401(a) of the Internal Revenue Code (IRC), which stipulates the requirements that employee benefit plans must meet to qualify for the deferral of federal income tax.³ The Department of the Treasury and Internal Revenue Service (IRS) have issued numerous regulations to implement these tax code provisions and enforce the requirements that plans must satisfy to qualify for favorable tax treatment.⁴ Further, the plans must meet many statutory and regulatory

requirements under the Employee Retirement Income Security Act of 1974 (ERISA), which is overseen by the Department of Labor (DOL).⁵

401(k) Plan Sponsors Provide a Variety of Services

When an employer offers a 401(k) plan to its employees, it selects an individual or group of individuals, known as plan fiduciaries,⁶ to oversee the administration of the 401(k) plan for the exclusive benefit of plan participants and beneficiaries, consistent with ERISA and the terms of the plan. The plan fiduciaries must arrange for the provision of the many services required to establish and maintain a 401(k) plan.

Administrative services maintain the framework of a 401(k) plan and include recordkeeping functions, such as maintaining plan and participant records and creating and delivering participant account statements (Figure 2). DOL regulations generally require plans to allow participants to change their investment elections at least quarterly,⁷ but most 401(k) plan participants are permitted to make daily transactions in their plans.⁸ Administrative service providers process all participant transactions. In addition, plan fiduciaries must arrange for administrative services relating to setting up, converting, and terminating plans, as well as trustee services.⁹

Participant-focused services help employees fully realize the benefits of their 401(k) plans. Plan sponsors provide a wide array of communications, educational resources, and advice services to help participants invest and plan for retirement (Figure 2).¹⁰ Plan fiduciaries select a menu of professionally managed investment options that typically covers a range of risk and return,¹¹ sometimes including a brokerage window through which participants may select securities not in the plan's menu.¹² If a plan sponsor permits loans, the plan fiduciaries must arrange for loan processing services.¹³ In addition, plans may opt to provide participants with access to installment payments or periodic distributions or annuity purchasing services at the time of retirement.¹⁴

FIGURE 2

Services Provided to 401(k) Plans

Administrative services

Recordkeeping, including maintaining plan records; processing employee enrollment; processing participants' investment elections, contributions, and distributions; and issuing account statements to participants

Transaction processing, including purchases and sales of securities within participant accounts

Plan creation/conversion/termination, including associated administrative services

Trustee services, providing the safe holding of the plan's assets in a trust, as required by ERISA

Participant-focused services

Participant communication, including employee meetings, call centers, voice-response systems, web access, and preparation of summary plan description and other participant materials

Participant education and advice, including online calculators and face-to-face investment advice

Investment management, typically offered through a variety of professionally managed investment options

Brokerage window, if offered, allowing direct purchase of individual securities (and other funds not on the plan's menu) by plan participants

Maintenance of an employer stock fund, if offered, to facilitate the purchase of employer securities within the plan

Loan processing, if a loan feature is offered

Distribution services, if offered, facilitating installment payments or periodic withdrawals

Insurance and annuity services, if offered, including offering annuities as distribution options

Regulatory and compliance services

Plan document services, including off-the-rack "prototype" plans

Consulting, including assistance in selecting the investments offered to participants

Accounting and audit services, including preparation of annual report (Form 5500)

Legal advice, including advice regarding interpretation of plan terms, compliance with legal requirements, plan amendments, and resolution of benefit claims

Plan testing, to comply with Internal Revenue Code nondiscrimination rules

Processing of domestic relations orders, ensuring that the split of accounts pursuant to divorce orders complies with ERISA

Sources: Investment Company Institute, US Department of Labor, and Internal Revenue Service

Regulatory and compliance services ensure that a plan fulfills legal requirements imposed by statute, DOL and IRS regulations, and other guidance (Figure 2). Plans are subject to complicated restrictions on contributions,¹⁵ lengthy audited annual reports to the DOL,¹⁶ and tax reporting to the IRS and may have additional compliance burdens under federal securities or state laws.¹⁷ Further, each investment option used in a plan has its own compliance requirements. For example, mutual funds must comply with the Investment Company Act of 1940 and other securities laws,¹⁸ bank collective investment trusts (CITs) with banking regulations, and group annuity contracts with state insurance rules.

Plan Sponsors Must Ensure That Service Costs Are Reasonable

Federal law requires that plan sponsors “ensure that the services provided to their plan are necessary and that the cost of those services is reasonable.”¹⁹ DOL regulations outline the fee and compensation information that plan sponsors must collect—and that service providers must disclose—to ensure that a contract or arrangement for services is considered “reasonable” under ERISA.²⁰ With these regulations, the DOL aims to help ensure that plan sponsors can make informed decisions about plan services and their costs and are aware of any potential conflicts that a service provider might have.²¹ Fees are only one factor that a plan sponsor must consider. Other factors include the extent and quality of service and the characteristics of the investment options chosen.²²

Another DOL regulation requires plans to give participants, when they become eligible for the plan and annually thereafter, key information about the plan’s investments and fees.²³ The goal of this regulation is to ensure that 401(k) participants have the information they need to make plan-related decisions, such as whether to participate and how to allocate the assets in their accounts among the investments available.

Plan Sponsors Select Service Providers and Investment Options

Plan sponsors select the service providers for their 401(k) plans and choose the investment options offered in them.²⁴ The costs of running a 401(k) plan generally are shared by the plan sponsor and participants, and the arrangements vary across plans. The fees may be assessed at a plan level, at a participant account level, as a percentage of assets, or as a combination of arrangements.

There are many possible fee and service arrangements in 401(k) plans (Figure 3). The boxes on the left highlight employers, plans, and participants, all of which use services in 401(k) plans. The boxes on the right highlight recordkeepers, other retirement service providers, and investment providers that deliver investment products, investment management services, or both.

expenses can be paid for by plan participants. For example, the DOL requires that the plan sponsor pay the costs associated with the initial design of the plan, as well as any design changes.²⁶

Beyond these design services, employers can share the costs of the plan services with their employees. However, many employers choose to cover some or all plan-related costs that legally could be shouldered by the plan participants. Any costs not paid by the employer, which may include administrative, investment, legal, and compliance costs, effectively are paid by plan participants.²⁷

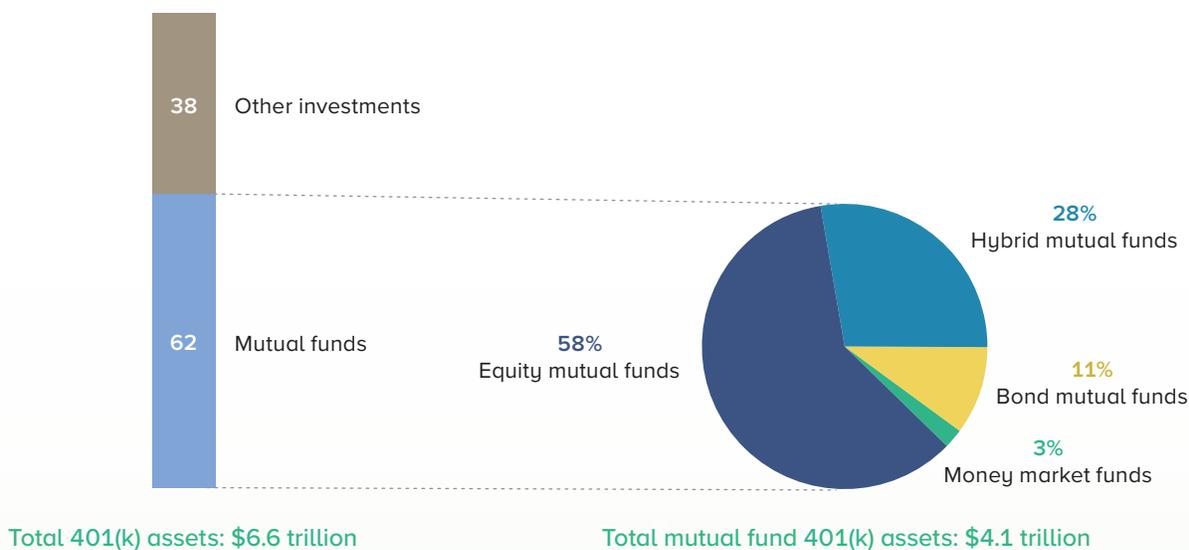
Fees and Expenses of Mutual Funds Held in 401(k) Accounts

Virtually all participant-directed 401(k) plans offer a variety of pooled investment options (such as a selection of mutual funds, CITs, and/or separately managed accounts), and some also include guaranteed investment contracts (GICs),²⁸ company stock,²⁹ or a brokerage window that gives participants access to direct investment in stocks,

bonds, and other securities.³⁰ All told, at year-end 2022, 62 percent of the \$6.6 trillion in 401(k) plan assets were invested in mutual funds (Figure 4).³¹ Mutual funds are required by law to disclose their fees and expenses, and ICI studies trends in those fees and expenses.³² In addition, ICI separately tracks 401(k) plan holdings of mutual funds.³³ This report combines the results of these analyses in order to examine the fees and expenses that investors incur on mutual funds held in 401(k) plan accounts.³⁴ This analysis finds that:

- » 401(k) plan participants tend to be invested in lower-cost mutual funds.
- » The mutual fund expense ratios that 401(k) plan participants incur have declined substantially since 2000, and the downward trend continued for equity, hybrid, and bond mutual funds in 2022.
- » At year-end 2022, 95 percent of mutual fund assets in 401(k) plans were held in institutional and retail no-load share classes, while the remaining assets were held in load share classes, including share classes that do not charge retirement plan participants a front-end load.

FIGURE 4
62 percent of 401(k) Plan Assets Are Invested in Mutual Funds
 Percentage of assets, year-end 2022



Note: Data include mutual funds available as investment choices in variable annuities and mutual funds that invest primarily in other funds.
 Source: Investment Company Institute; see Investment Company Institute 2023b

Mutual Fund Investment Categories

The mutual fund investment categories used in this article are broad and encompass diverse investment styles (e.g., active and index) within the investment types; a range of general investment types (such as domestic equity funds, which aggregates growth, sector, alternative strategies, value, and blend); and a variety of arrangements for shareholder services, recordkeeping, or distribution charges (known as 12b-1 fees). This material is intended to provide general information on fees paid by participants

in a wide variety of plans to provide insight into average fees across the marketplace. The fees of a particular plan will depend on factors specific to the plan, such as the exact investment options the plan offers and whether administrative and recordkeeping fees are included in the expense ratios or charged outside of them. Consequently, this material is not intended for benchmarking the costs of specific plans to the broad averages presented here.

Investors Pay Two Types of Mutual Fund Fees and Expenses

Investors in mutual funds can incur two primary types of fees and expenses when purchasing and holding mutual fund shares: ongoing expenses and sales loads. Ongoing expenses cover portfolio management, fund administration, daily fund accounting and pricing, shareholder services (such as call centers and websites), distribution charges (known as 12b-1 fees), and other operating costs.³⁵ Sales loads are paid at the time of share purchase (front-end loads), when shares are redeemed (back-end loads), or over time (level loads). Mutual fund share classes with a sales load are far less commonly sold today than they were a few decades ago as investors have gravitated toward funds without them.³⁶ Sales loads often are waived for mutual funds purchased through 401(k) plans.

Ongoing expenses are paid from fund assets, so investors pay these expenses indirectly. The average expense ratio, which reflects both the operating expense ratio—including portfolio management, fund administration and compliance, shareholder services, and other

miscellaneous costs—and 12b-1 fees, is measured in this report as an asset-weighted average. Using the asset-weighted average to measure costs provides an aggregate estimate of what 401(k) participants actually pay to invest in mutual funds through their 401(k) plans. Mutual funds with larger shares of assets in 401(k) plans contribute proportionately more to the asset-weighted average than mutual funds with smaller shares of assets in 401(k) plans.

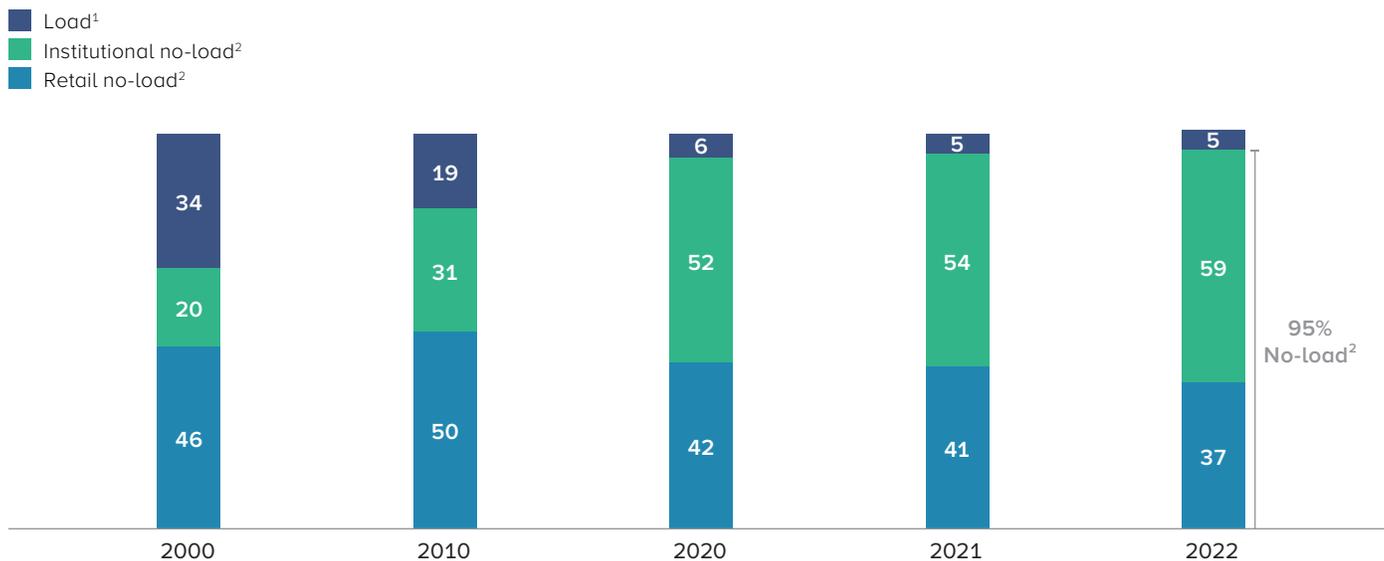
No-Load Funds Increasingly Used in 401(k) Plans

Plan sponsors have increasingly used no-load mutual funds in 401(k) plans. Altogether, 95 percent of 401(k) plan mutual fund assets were invested in no-load shares at year-end 2022, up from 66 percent at year-end 2000 (Figure 5).³⁷ Retail no-load shares were 37 percent of total 401(k) mutual fund assets, and institutional no-load shares were 59 percent. Over the past decade, institutional no-load shares have grown as a segment of 401(k) mutual fund assets, while retail no-load shares and load shares have declined.³⁸

FIGURE 5

401(k) Mutual Fund Assets by Share Class

Percentage of assets, year-end



¹ Includes front-end load, back-end load, level load, other load, and unclassified load. Front-end load > 1 percent. Primarily includes Class A shares; includes assets where front-end loads are waived.

² No-load shares have front-end load = 0 percent, contingent deferred sales load = 0 percent, and 12b-1 fee ≤ 0.25 percent.

Note: Data exclude tax-exempt mutual funds.

Sources: Investment Company Institute, Lipper, and Morningstar

Additional Reading

- » Trends in the Expenses and Fees of Funds, 2022
www.ici.org/system/files/2023-03/per29-03.pdf
- » *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at 401(k) Plans, 2019*
www.ici.org/research/retirement/dc-plan-profile
- » The US Retirement Market
www.ici.org/research/stats/retirement
- » ICI Resources on 401(k) Plans
www.ici.org/401k
- » ICI Resources on 12b-1 Fees
www.ici.org/rule12b1fees

Trends in 401(k) Plans' Mutual Fund Expenses

401(k) Participants Hold Lower-Cost Mutual Funds

The majority of 401(k) plan mutual fund assets are invested in equity mutual funds, and 401(k) plan participants tend to concentrate their assets in lower-cost funds. At year-end 2022, 58 percent of 401(k) plan assets invested in mutual funds were invested in equity mutual funds, including both active and index equity mutual funds (Figure 4). Average equity mutual fund expense ratios incurred by 401(k) investors continued to decline in 2022, falling to 0.33 percent (Figure 6).³⁹ 401(k) investors continued to concentrate their equity mutual fund assets in lower-cost funds. In 2022, the simple average expense ratio for equity mutual funds was 1.12 percent. However, taking into account both the funds offered in 401(k) plans and the distribution of assets in those funds, 401(k) plan participants who invested in equity mutual funds paid 0.33 percent on average.

These 401(k) mutual fund investors incur lower average expense ratios not only for equity mutual funds overall but also when disaggregated into domestic equity mutual funds and world equity mutual funds (see Figure A2). Similar patterns are also observed in 401(k) plan holdings of hybrid and bond mutual funds (Figures 6 and A2).

Several factors contribute to the relatively low average expense ratios incurred by 401(k) plan participants investing in mutual funds. Both inside and outside the 401(k) plan market, mutual funds compete among themselves and with other financial products to offer shareholders service and performance.⁴⁰ In addition,

shareholders are sensitive to the fees and expenses that funds charge.⁴¹ Indeed, new sales and assets tend to be concentrated in lower-cost funds, providing a market incentive for funds to offer their services at competitive prices.⁴² In the 401(k) plan market, performance- and cost-conscious plan sponsors also impose market discipline. Plan sponsors regularly evaluate the performance of the plans' investments,⁴³ and performance reflects fees.

The lower average expense ratios incurred by 401(k) participants also reflect other factors. Some plan sponsors choose to cover a portion of 401(k) plan administrative costs or pay such costs directly from participant accounts. This allows them to select funds or fund share classes with lower expense ratios because the fund or fund share class pays little or no shareholder servicing fees to recordkeepers or other intermediaries. Further, many 401(k) plans have large average account balances, and economies of scale help reduce the fees and expenses of the funds offered in these plans.⁴⁴ Finally, in contrast with investments made outside of 401(k) plans, where shareholders typically pay for the assistance of a financial adviser when investing in mutual funds,⁴⁵ there is a more limited role for financial adviser services inside these plans.⁴⁶

Expense ratios vary among the mutual funds that 401(k) participants hold. At year-end 2022, 96 percent of 401(k) plan equity mutual fund assets (including both active and index investment styles) were invested in equity mutual funds with expense ratios of less than 1.00 percent, with 69 percent invested in equity mutual funds with expense ratios of less than 0.50 percent (see Figure A3).⁴⁷

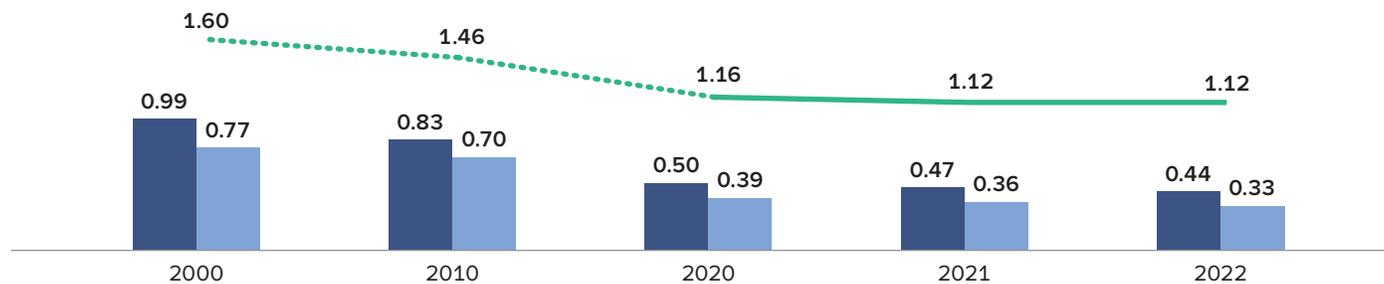
FIGURE 6

401(k) Mutual Fund Investors Tend to Pay Lower-Than-Average Expense Ratios

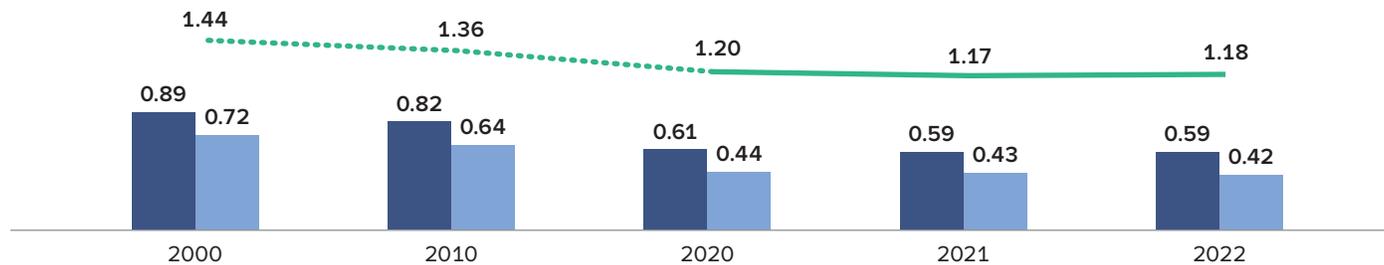
Percent

- Industry simple average expense ratio
- Industry asset-weighted average expense ratio
- 401(k) asset-weighted average expense ratio

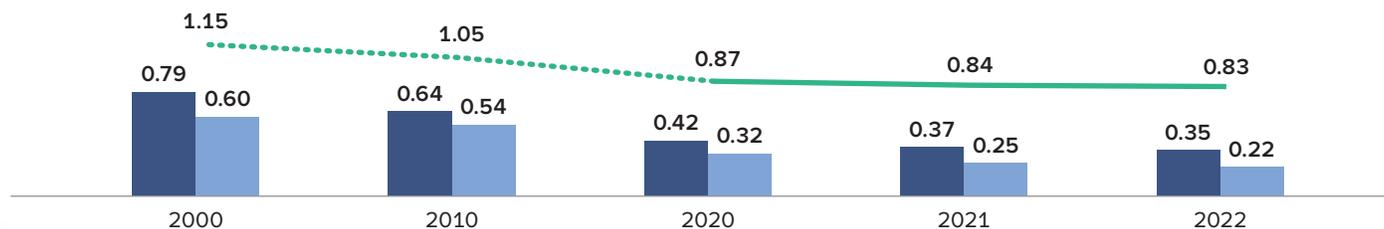
Equity mutual funds



Hybrid mutual funds



Bond mutual funds*



* Data exclude tax-exempt mutual funds.

Note: Fund investment categories include active and index investment styles.

Sources: Investment Company Institute, Lipper, and Morningstar

A Look at The BrightScope/ICI Defined Contribution Plan Profile

The *BrightScope/ICI Defined Contribution Plan Profile* is a collaborative research effort between BrightScope and the Investment Company Institute that analyzes plan-level data gathered from audited Form 5500 filings of private-sector DC plans, providing insights into private-sector DC plan design across a range of plan sizes. The research draws from information collected in the BrightScope Defined Contribution Plan Database. The database is designed to shed light on DC plan design across many dimensions, including the number and type of investment options offered, the presence and design of employer contributions, the types of recordkeepers used by DC plans, and changes to plan design over time. In addition, industrywide fee information is matched to investments in DC plans, allowing analysis of the cost of DC plans.

The analysis of 2019 401(k) mutual fund holdings in the database combined with mutual fund fee information from Morningstar finds that asset-weighted average mutual fund expense ratios paid by 401(k) plan participants tend to fall as 401(k) plan assets increase. For example, the asset-weighted average expense ratio for domestic equity mutual funds (including both active and index investment styles) held in large 401(k) plans in 2019 ranged from 0.59 percent in plans with less than \$1 million in plan assets to 0.35 percent in plans with more than \$1 billion (Figure 7).

The 2019 401(k) mutual fund fee analysis results are reported in *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at 401(k) Plans, 2019*, available at www.ici.org/files/2022/22-ppr-dcplan-profile-401k.pdf.

FIGURE 7

Domestic Equity Mutual Fund Fees Paid Tend to Fall as 401(k) Plan Size Increases

Asset-weighted average expense ratio as a percentage of plan assets in domestic equity mutual funds, 2019



Note: The sample is 47,255 large 401(k) plans with audited Form 5500 reports (generally plans with 100 participants or more) and between four and 100 investment options. The asset-weighted average domestic equity mutual fund expense ratio among all plans in the sample was 0.40 percent. The domestic equity funds used in this figure encompass diverse investment styles (e.g., active and index); a range of general investment types (such as growth, sector, alternative strategies, value, and blend); and a variety of arrangements for shareholder services, recordkeeping, or distribution charges (known as 12b-1 fees). This material is intended to provide general information on fees paid by participants in a wide variety of plans to provide insight into average fees across the marketplace. The fees of a particular plan will depend on factors specific to the plan, such as the exact investment options the plan offers and whether administrative and recordkeeping fees are included in the expense ratios or charged outside of them. Consequently, this material is not intended for benchmarking the costs of specific plans to the broad averages presented here.

Sources: BrightScope Defined Contribution Plan Database and Morningstar; see Exhibit 4.5 in BrightScope and Investment Company Institute 2022

Mutual Fund Fees Vary Across 401(k) Plans

In addition to the impact of the range and quality of services provided, many factors affect the fees of 401(k) plans. Further, as with any other employee benefit, the costs associated with 401(k) plans are typically shared between the employer and plan participants.

Participants who work for employers that do not heavily subsidize their plans will incur higher fees on average. Plans that charge account-level fees will tend to have lower-cost investment options than plans without direct account-level charges. Because of the relatively fixed costs that all plans incur, participants in plans with a smaller amount of assets tend to pay higher fees per dollar invested than plans with a larger amount.⁴⁸ Participants in plans that have many small accounts typically pay higher fees per dollar invested than plans with larger accounts. Plans with more service features tend to be more costly than plans with fewer service features. All of these factors affect the costs of the plan and the plan's investment options, so they must all be considered when evaluating the reasonableness of a plan's costs.

Other Costs Incurred by Mutual Fund Investors

Like all investors, mutual funds incur trading costs when buying and selling securities to manage their portfolios. These costs are not included in the fund's expense ratio but are reflected in the calculation of net return to the investor. To help shareholders evaluate the trading activity of a mutual fund, the Securities and Exchange Commission (SEC) requires each mutual fund to report its turnover rate in its annual shareholder report and its prospectus.⁴⁹ Broadly speaking, the turnover rate is a measure of how rapidly a fund is trading the securities in its portfolio relative to total fund assets.⁵⁰ Participants in 401(k) plans tend to own equity mutual funds with lower-than-average turnover rates (see Figure A4).

Conclusion

The most common private-sector employer-sponsored retirement plan in the United States, 401(k) plans, held \$6.6 trillion in assets at year-end 2022. Employers choose whether to offer these plans to employees as part of their total compensation packages; if a plan is offered, employees choose whether to participate. Maintaining a 401(k) plan involves a variety of services, and the costs of these services are generally shared by the plan sponsor and the plan participants.

401(k) plans provide many American workers with the opportunity for cost-effective investment in mutual funds. Plan participants invest primarily in equity mutual funds, and the bulk of these equity mutual fund assets is held in lower-cost mutual funds with lower-than-average portfolio turnover. Numerous factors contribute to the relatively low expense ratios incurred by 401(k) plan participants investing in mutual funds. Among them are: (1) competition among mutual funds and other investment products to offer shareholders service and performance; (2) plan sponsor decisions to cover a portion of 401(k) plan costs, which allow them to select lower-cost funds or fund share classes; (3) economies of scale, which large investors such as 401(k) plans can achieve; (4) cost- and performance-conscious decision-making by plan sponsors and plan participants; and (5) the limited role of professional financial advisers in these plans.

Notes

- ¹ Tax-deferred contributions to a plan are not included in a worker's taxable income, but distributions from the plan are included in income and subject to tax. Since 2006, employers have been allowed to offer employees the option to make Roth 401(k) contributions. Like a Roth IRA, contributions to a Roth 401(k) are included in income and subject to tax, but qualified distributions are not included in taxable income. Clark 2023, analyzing the DC plans in the Vanguard Group's recordkeeping system, reports that 80 percent of plans covering 93 percent of participants have a Roth option. In plans with a Roth option, 17 percent of participants have used it.
- ² See Investment Company Institute 2023b.
- ³ Section 401(a) of the IRC contains rules that govern qualified pension plans, profit-sharing plans, stock bonus plans, and other employee benefit plans. Section 401(k) of the IRC stipulates that a profit-sharing or stock bonus plan, a pre-ERISA money purchase plan, or a rural cooperative would not be considered to be in violation of the qualification rules simply because it included a qualified cash or deferred arrangement. A qualified cash or deferred arrangement provides employees the option to defer a portion of their compensation or to receive the compensation in cash. Plans with a qualified cash or deferred arrangement must meet the requirements of Section 401(a) and other sections of the IRC that pertain to their plan type, as well as the additional requirements included in Section 401(k) of the IRC. Congress added Section 401(k) of the IRC in 1978, to become effective in 1980 (see Revenue Act of 1978, Public Law 95-600). However, companies generally did not begin to adopt 401(k) plans until the Department of the Treasury and the IRS issued proposed regulations clarifying the scope of Section 401(k) on November 10, 1981 (see 46 Fed. Reg. 55544, November 10, 1981; and Holden, Brady, and Hadley 2006a).
- ⁴ All tax-deferred compensation provides the same tax benefits to employees, whether it is provided as part of a defined benefit (DB) plan or a DC plan and whether it is in the form of an employer contribution or an employee contribution. (For a detailed explanation of the tax benefits of deferral, see Brady 2012.) Unless part of a tax-qualified employee benefit plan, all compensation would be included in a worker's taxable wages and would be subject to tax in the year it is earned, and all income generated by investments would be taxable in the year it was received. In contrast, compensation deferred through a tax-qualified employee benefit plan is not subject to income tax in the year it is earned, and investment income earned by the plan is not subject to income tax in the year it is received. Instead, employees defer taxation on both compensation and investment income until distributions are taken from the plan. These plans generally provide no direct tax benefit to employers, who are allowed to deduct both cash compensation expenses and retirement plan contribution expenses from revenue when calculating taxable business income. Instead, the benefits to employers generally are indirect, allowing employers to offer more valuable compensation packages to their employees. An employee benefit plan must meet many requirements to be tax qualified, including nondiscrimination rules, which are designed to ensure that the plan benefits do not disproportionately accrue to highly compensated employees. This is accomplished by linking the benefits received by high-paid workers to the benefits received by low-paid workers within a given plan. For a further discussion of nondiscrimination rules, see pages 11–14 of Holden, Brady, and Hadley 2006a and Holden, Brady, and Hadley 2006b.
- ⁵ See US Department of Labor, Employee Benefits Security Administration, "FAQs about Retirement Plans and ERISA."
- ⁶ ERISA requires that every plan identify at least one fiduciary (a person or an entity) named in the written plan document—the "named" fiduciary or fiduciaries—as having control over the plan's operation (see ERISA Section 402). A plan sponsor may, and often does, identify itself as the named fiduciary. In its role as named fiduciary, the employer assumes fiduciary responsibility to, among other things, select and monitor service providers and investment options for the plan. Most employers appoint a retirement committee consisting of senior human resource or other employees to oversee the administration of the plan. In their role acting for the employer as plan administrator, the members of the committee assume fiduciary responsibility to administer the plan solely in the interest of plan participants and beneficiaries. For convenience, this report often uses the terms *employer* and *plan sponsor* to mean the fiduciary or fiduciaries appointed to administer the plan. For an overview of the basic fiduciary responsibilities applicable to retirement plans under the law, see US Department of Labor, Employee Benefits Security Administration 2021.
- ⁷ See Department of Labor Reg. Section 2550.404c-1. For an explanation of this regulation, see note 11.
- ⁸ Plan Sponsor Council of America 2022 reports that 86.3 percent of the 557 profit-sharing and 401(k) plans

in its survey allowed participants to initiate daily fund transfers in plan year 2021.

⁹ To protect 401(k) plan assets, ERISA Section 403 requires that pension plan assets be held in a trust or invested in insurance contracts.

¹⁰ Plan sponsors use an array of educational resources, including email, enrollment kits, in-person seminars/workshops, webinars, individually targeted communication, newsletters, retirement income projections, mobile apps, internet/intranet sites, fund performance sheets, slides/PowerPoint, retirement gap calculators, 401(k) day, posters, videos, and social media (see Plan Sponsor Council of America 2022). The most commonly cited primary purposes for plan education are increasing employees' overall financial literacy (24.7 percent of plans), increasing participation (18.5 percent of plans), increasing appreciation for the plan (14.4 percent of plans), and retirement planning (13.5 percent of plans).

¹¹ Where participants are given control of the investments in their accounts, which is common in 401(k) plans, the selection of investment options available is usually designed to meet the requirements of ERISA Section 404(c). This section provides liability relief for plan sponsors and other plan fiduciaries from losses resulting from employees' exercise of investment control. The DOL regulations under ERISA Section 404(c) are designed to ensure that participants have control over their assets and have adequate opportunity to diversify their holdings. Plans must offer at least three diversified investment options with materially different risk and return characteristics. (Although 401(k) plans can offer company stock or any individual stock, neither would qualify as one of the three core options.) Plans generally must allow transfers among the diversified investment options at least quarterly. Plan Sponsor Council of America 2022 indicates that in 2021, the average number of investment fund options available for participant contributions was 21 among the 557 plans surveyed. BrightScope and Investment Company Institute 2022 reports an average of 28 investment options in 2019, and an average of 21 investment options when a target date fund suite is counted as a single investment option (in 401(k) plans generally with 100 participants or more).

¹² Plan Sponsor Council of America 2022 reports that 31.6 percent of plans in its survey offered a self-directed brokerage window in 2021. These windows hold a very small amount of assets, with just 2.3 percent of total plan assets invested through the brokerage window. Clark 2023 similarly reports limited use of brokerage windows:

in 2022, 20 percent of DC plans recordkept by Vanguard offered brokerage windows, covering 41 percent of participants. In plans offering a self-directed brokerage window, only 1 percent of those plan participants used it, and about 2 percent of those plan assets were invested through the window.

¹³ The EBRI/ICI 401(k) database indicates that 53 percent of plans offered a loan feature at year-end 2020, covering 84 percent of 401(k) plan participants. Also at year-end 2020, 16 percent of 401(k) plan participants in plans allowing loans had loans outstanding. See Holden, Bass, and Copeland 2022.

¹⁴ Plan Sponsor Council of America 2022 reports for plan year 2021 that 14.0 percent of plans in its survey provide annuities as a distribution option at the time of retirement, 64.0 percent provide installments as a retirement distribution option, and 65.9 percent provide access to periodic/partial withdrawals. Clark 2023 reports distribution options in the DC plans in Vanguard's recordkeeping system in 2022 and finds that 65 percent of plans provided installments other than required minimum distributions (RMDs); 39 percent offered ad hoc partial distributions; 11 percent offered an annuity; and 7 percent of plans had a grandfathered annuity option.

¹⁵ The IRC includes a number of flat annual dollar contribution limits. In addition, several sections of the IRC provide a framework for nondiscrimination testing, which limits contributions to 401(k) plans to ensure that employees in all income ranges benefit from the plan. For example, the actual deferral percentage (ADP) nondiscrimination test essentially requires that the before-tax contributions of highly compensated employees (as a percentage of their eligible compensation) do not exceed those of non-highly compensated employees (as a percentage of their eligible compensation) by more than a specified amount.

¹⁶ Plans file their annual reports on Form 5500, a form issued jointly by the DOL, the IRS, and the Pension Benefit Guaranty Corporation (PBGC). The DOL publishes summary annual reports tabulating the Form 5500 data (see US Department of Labor, Employee Benefits Security Administration 2022a and 2022b). In addition, private-sector plans, typically those with 100 participants or more, file an audited Form 5500 report. Those data are analyzed in BrightScope and Investment Company Institute 2022 and 2023.

¹⁷ For example, plans can incur costs responding to requests for information pursuant to SEC Rule 22c-2, under which mutual funds may obtain trading

information necessary to ensure compliance with the fund's short-term trading policies. In addition, 401(k) plans that allow participants to invest in the employer's stock must register with the SEC on Form S-8. ERISA preempts most state laws that relate to employee benefit plans, but plans might still need to comply with state tax laws relating to withholding and information filing. The Consumer Financial Protection Bureau, created by the Wall Street Reform and Consumer Protection Act of 2010, potentially has the ability to regulate service providers to 401(k) plans, but only with respect to specific regulatory areas approved by the DOL and the Department of the Treasury.

¹⁸ For a discussion of regulations governing mutual funds, see Investment Company Institute 2023a.

¹⁹ See US Department of the Treasury and US Department of Labor 2012. See also US Department of Labor, Employee Benefits Security Administration, "A Look at 401(k) Plan Fees," "Understanding Retirement Plan Fees and Expenses," "Selecting and Monitoring Pension Consultants—Tips for Plan Fiduciaries," and "Tips for Selecting and Monitoring Service Providers for Your Employee Benefit Plan." Some commentators have argued that the core standard under ERISA that governs plan fiduciaries—the duty of prudence—requires that fiduciaries engage in a prudent process in evaluating a plan's investments and services and does not require a particular result. See Vine 2010.

²⁰ See 77 Fed. Reg. 5632 (February 3, 2012).

²¹ See US Department of the Treasury and US Department of Labor 2012.

²² See US Department of Labor, Employee Benefits Security Administration, "Understanding Retirement Plan Fees and Expenses" and "A Look at 401(k) Plan Fees." See also US Securities and Exchange Commission, "Calculating Mutual Fund Fees and Expenses" and "Mutual Fund Fees and Expenses."

²³ See 75 Fed. Reg. 64910 (October 20, 2010). Under this regulation, participants must receive general plan information and investment-related information before making an initial investment decision, and annually thereafter. This includes information on how to give investment instructions and what, if any, account fees or fees for individual services (e.g., loans, investment advice) participants pay. The regulation requires that participants be given a chart comparing each investment in the plan's investment lineup; the investment's name and type; sales charges and any restrictions on withdrawal;

the expense ratio; the annual dollar cost of the expense ratio for each \$1,000 invested (assuming no returns); 1-, 5-, and 10-year performance; and performance of a benchmark index over the same periods. Participants are referred to a website for more information on the investment's objectives, principal strategies and risks, portfolio turnover rate, and quarterly performance data. Although there are some differences, the information required under this regulation is similar to the information that mutual fund investors receive as part of a fund's prospectus. The DOL provides information to help employees learn about fees associated with their 401(k) plans. See US Department of Labor, Employee Benefits Security Administration, "A Look at 401(k) Plan Fees." The SEC also provides investor education at www.sec.gov/investor.shtml.

²⁴ Plan sponsors use a variety of arrangements to obtain services for their 401(k) plans. When multiple service providers are used (an "unbundled" arrangement), the expenses of each provider (e.g., trustee, recordkeeper, communications firm, investment manager) are charged separately to the plan. When one provider is used to perform a number of services (a "bundled" arrangement), the single provider interacts with the plan and then pays for the other bundled services out of the fees it collects from the plan. Some plans use a combination of these approaches—for example, by selecting a single provider for administrative participant services and one or more providers for investment options. In this case, the costs of administering the plan may be defrayed through fees paid by the investment product, which are reflected in the investment product's expense ratio rather than through a direct charge paid by plan participants or the plan sponsor. For mutual funds, service provider fees can be paid from fund assets. The 2012 DOL regulations cited in note 20 require service providers that provide recordkeeping as part of a bundle to give the plan a reasonable and good faith estimate of how much the recordkeeping services will cost the plan. BrightScope and Investment Company Institute 2022, analyzing 2019 Form 5500 audited reports, finds that 401(k) plans use a variety of recordkeepers and that the types of recordkeepers used varied with plan size. Overall, in 2019, 48.8 percent of 401(k) plans in the BrightScope Defined Contribution Plan Database used insurance companies for recordkeeping; 13.2 percent used pure recordkeepers, 31.2 percent of plans used asset managers, 5.2 percent used banks, and 1.6 percent used brokerage firms.

²⁵ Plan Sponsor Council of America 2022 reports that in 2021, 50 percent of 401(k) plans surveyed indicated the plan paid the recordkeeping fees; 34 percent indicated

the company (employer) paid them; and 16 percent indicated that both the plan and the company paid them. Figure A1 indicates whether recordkeeping fees are based on assets or flat fees. Additionally, Deloitte Consulting LLP 2019 finds that 52 percent of 401(k) and 401(b) plans surveyed in 2019 indicated that plan recordkeeping and administrative fees were paid as a direct fee to the recordkeeper; 33 percent indicated they were paid through investment revenue; and 15 percent indicated a wrap fee or added basis point charge on investments were used to pay those costs.

²⁶ US Department of Labor Opinion Letters 97-03A (January 23, 1997) and 2001-01A (January 18, 2001).

²⁷ For the most part, 401(k) plan assets are held in individual accounts established for each participant. However, the costs of running a 401(k) plan may also be partly defrayed through employee “forfeitures.” Employees who terminate employment without fully vesting (that is, earning full ownership of account assets) forfeit matching or other employer contributions. (Participants always are fully vested in their own contributions.) These forfeitures typically are used to offset fees or pay for additional employer contributions. Plan Sponsor Council of America 2022 reports that 70.9 percent of 401(k) plans with forfeitures allocate forfeitures to reduce company contributions; 13.8 percent allocate the forfeitures among participants (based on account balances, 4.0 percent; based on participant contributions, 2.9 percent; or based on the participant’s share of company contributions, 6.9 percent); and 52.0 percent used the forfeitures to reduce plan expenses (data are for 2021). The IRC and ERISA determine the maximum vesting schedule for 401(k) plans and require that employer contributions made to the 401(k) plan not be removed from the plan. In addition, plans may charge fees for some transactions, such as taking a loan or making a withdrawal, and participants typically pay those fees in full when engaging in the transaction.

²⁸ Guaranteed investment contracts (GICs) are insurance company products that promise a specific rate of return on invested capital over the life of a contract. A similar investment option is a synthetic GIC, which consists of a portfolio of fixed-income securities “wrapped” with a guarantee (typically by an insurance company or bank) to provide benefit payments according to the terms of the plan. For additional discussion of these investment options and 401(k) plan participants’ asset allocations, see Holden, Bass, and Copeland 2022.

²⁹ Company stock is the stock of the plan sponsor (employer). See Holden, Bass, and Copeland 2022 for

additional discussion of 401(k) participant investment in company stock in 401(k) plans.

³⁰ See discussion of availability and use of self-directed brokerage windows in note 12.

³¹ For additional information on mutual funds and the US retirement market, see Investment Company Institute 2023a and 2023b.

³² See Investment Company Institute 2023a and Duvall and Rybak 2023 for analysis of mutual fund fees and expenses industrywide. For an analysis of mutual fund fees paid by IRA investors on mutual funds held in their IRAs, see Duvall 2022.

³³ See Investment Company Institute 2023b.

³⁴ Additional servicing fees not reflected in average mutual fund expense ratios are not captured in this analysis, nor is the cost of holding other types of investments in 401(k) plans.

³⁵ Financial advisers, retirement plan recordkeepers, discount brokerages, and other financial intermediaries provide an array of important and valuable services to mutual fund shareholders. For 401(k) plans, these services can include recordkeeping, transaction processing, participant communication, education and advice, and regulatory and compliance services (see Figure 2). Mutual funds and their investment advisers use a variety of arrangements to compensate plan service providers for these services. Under one arrangement, a mutual fund’s board of directors may adopt a plan pursuant to Rule 12b-1 under the Investment Company Act of 1940. As explained in US Securities and Exchange Commission, “Mutual Fund Fees and Expenses,” Rule 12b-1 allows mutual funds to use fund assets to cover distribution expenses and shareholder service expenses. For more information, see note 34 in Holden, Atamanchuk, and Chism 2022.

³⁶ See Investment Company Institute 2023a.

³⁷ See Figure A2 in the appendix for more detail on long-term mutual funds.

³⁸ Load shares accounted for the remainder of 401(k) mutual fund assets at year-end 2022 (see Figure 5), with about half held through front-end load shares. Front-end load shares, which are primarily Class A shares, have a front-end load of greater than 1 percent. Analysis for front-end load shares includes data where front-end loads are waived. For additional details, see Investment Company Institute 2023a and Duvall and Rybak 2023. Most funds

waive front-end loads for retirement plans, so 401(k) plan participants generally are not charged a front-end load on shares purchased through their plans (see Reid and Rea 2003). The other half was primarily held by fund shares specifically for sale in the retirement market.

³⁹For additional discussion of industrywide mutual fund fee trends, see Investment Company Institute 2023a and Duvall and Rybak 2023.

⁴⁰For a more-detailed discussion of competition in the mutual fund industry, see Coates and Hubbard 2007, Reid 2006, and Investment Company Institute 2023a.

⁴¹The ICI Mutual Fund Shareholder Tracking Survey finds that about nine out of 10 mutual fund–owning households consider fees and expenses when selecting a mutual fund, including five in 10 indicating that fees and expenses are “very important” when selecting a mutual fund. See Holden, Bogdan, and Schrass 2023. Analysis of industry mutual fund asset and fee and expense data finds that mutual fund investors tend to concentrate their assets in lower-cost funds. See Duvall and Rybak 2023.

⁴²For example, see Investment Company Institute 2023a and Duvall and Rybak 2023.

⁴³Plan Sponsor Council of America 2022 reports that 65.6 percent of the plans in its survey monitored the performance of plan investments on a quarterly basis; 12.3 percent did so semiannually; 18.5 percent annually; 3.1 percent monthly; and 0.5 percent at some other frequency (data are for 2021). Deloitte Consulting LLP, the International Foundation of Employee Benefit Plans, and the International Society of Certified Employee Benefit Specialists 2015 finds that 52 percent of plans had replaced a fund due to poor performance within the last year; 19 percent had replaced a fund one year to less than two years ago; 16 percent had replaced a fund two years to less than five years ago; 6 percent had last replaced a fund five or more years ago; and 7 percent had never replaced a fund (data are for 2015).

⁴⁴The size of the plan—in terms of assets, participants, and average account balance—is key in pricing services. However, many factors influence plan fees, and they all must be considered when evaluating the reasonableness of a plan’s cost. In addition, the reasonableness of fees paid by a plan is different from the question of whether a plan fiduciary engaged in a prudent process under ERISA in selecting and monitoring plan services and investments (see note 19).

⁴⁵Holden, Schrass, and Bogdan 2022 reports that among mutual fund–owning households holding funds outside employer-sponsored retirement plans in 2022, 67 percent owned fund shares through investment professionals.

⁴⁶Plan Sponsor Council of America 2022 reports that 46.0 percent of 401(k) plans in its survey offered investment advice and only 13.9 percent of participants used advice when offered. It also reports that the cost of this advice was covered by the employer in 44.7 percent of plans, by the participants in 43.3 percent of plans, and by both in 12.0 percent of plans. Clark 2023 finds that 41 percent of DC plans recordkept by Vanguard in 2022 offered managed account advice, covering 77 percent of participants. Among participants in DC plans offering managed account advice, 9 percent used it.

⁴⁷At year-end 2022, 94 percent of 401(k) plan equity mutual fund assets (including both active and index investment styles) were invested in equity mutual funds with no 12b-1 fees, and 4 percent were invested in equity mutual funds with 12b-1 fees of 0.25 percent or less. For the distribution of expense ratios of mutual funds held in 401(k) plans disaggregated by more-detailed investment objectives, see Figure A3 in the appendix.

⁴⁸For analysis of the variation in mutual fund fees across 401(k) plans by plan size, see the box on page TK and BrightScope and Investment Company Institute 2022. For an analysis of the variation in mutual fund fees across ERISA 403(b) plans, see BrightScope and Investment Company Institute 2023.

⁴⁹The SEC has modified its prospectus rules to make the turnover rate more prominent by moving it to the summary section at the beginning of the prospectus. See 74 Fed. Reg. 4546 (January 26, 2009). The 2010 DOL rules described in note 23 require that participants have access to a website showing, among other information, the portfolio turnover rate for each investment in the plan’s menu.

⁵⁰The SEC requires that a fund’s turnover rate be calculated by dividing the lesser of its purchases or sales of portfolio securities for a reporting period by the monthly average of the value of its portfolio securities during the same reporting period.

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