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Highlights

Highlights of GAO-11-291, a report to the Chairman, Special Committee on Aging, U.S. Senate

March 2011

401(K) PLANS

Certain Investment Options and Practices That May Restrict Withdrawals Not Widely Understood

Why GAO Did This Study

401(k) plan sponsors are responsible for offering an array of appropriate investment options, and participants are responsible for directing their investments among those options. While participants expect to be able to switch investment options or withdraw money from their accounts, during the recent economic downturn, some 401(k) plan sponsors and participants found that they were restricted from doing so.

GAO was asked to (1) identify some of the specific investments and practices that prevented plan sponsors and participants from accessing their 401(k) plan assets and (2) determine any changes the Department of Labor (Labor) could make to assist sponsors in understanding the challenges posed by the investments and practices that restricted withdrawals. To do this, GAO reviewed relevant federal laws and regulations and consulted with experts, federal officials, service providers, and plan sponsors.

What GAO Recommends

GAO recommends Labor study stable value funds and the practice of securities lending with cash collateral reinvestment by 401(k) plans to identify situations or conditions where plan sponsors could be prevented from meeting their fiduciary obligations, revise one of its prohibited transaction exemptions, and provide better disclosures and guidance to plan sponsors and participants. Labor disagreed with three of GAO's recommendations and stated that it will consider the remaining four. GAO continues to believe in its recommendations.

View GAO-11-291 or key components.
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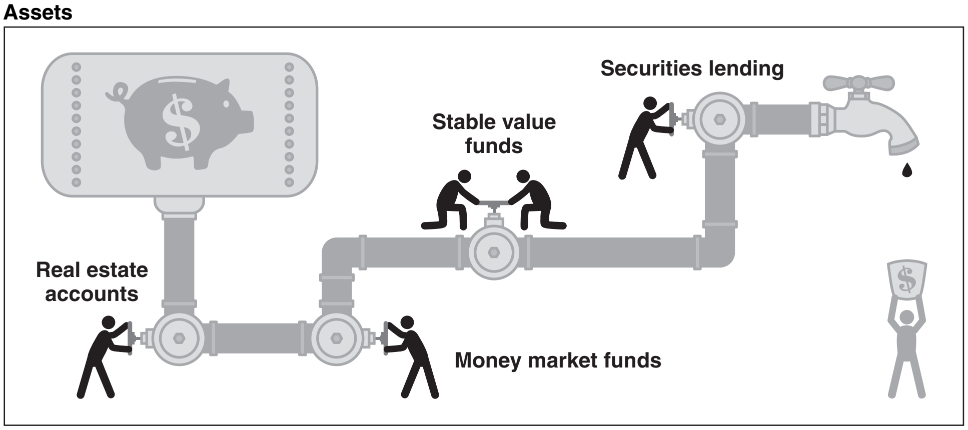
What GAO Found

Between 2007 and 2010, some 401(k) plan sponsors and participants were restricted from withdrawing their plan assets from certain 401(k) investment options, see figure, including real estate, money market, and stable value investment options, as well as other investment options that lent securities (the practice of lending plan assets to third parties in exchange for cash as collateral that a fund reinvests). In most cases, the withdrawal restrictions were caused by losses and illiquidity in the investment options' underlying portfolios and sometimes contract constraints placed on plan sponsors by the investment options. For stable value funds, and also for those investment options that lent securities, the withdrawal restrictions and their causes highlight the risks that participants face when allocating their 401(k) plan assets to these investment options—and, that losses are borne by plan participants. In addition, participants often do not understand or may receive insufficient disclosures of the risks posed by these investments. Further, plan sponsors may be unaware or receive insufficient disclosures of the risks and challenges involved with those investment options and practices.

Investments and Practices that Restricted Plan Sponsor and Participant Access to 401(k) Plan Assets



Source: GAO.

Labor can take a variety of steps to help plan sponsors who offer stable value funds and investment options that lend securities. Many of these steps can draw upon the changes that the Securities and Exchange Commission and others have already made, or will make, regarding these investment options and recent suggestions from plan sponsors, industry service providers, and other key stakeholders. Specifically, Labor could identify and take action to address those stable value contract constraints that may hinder plan sponsors from performing their fiduciary responsibilities and provide better disclosures to plan sponsors about certain investment options to help sponsors make decisions on behalf of participants. Similarly, revising Labor's prohibited transaction exemption for securities lending to restrict those securities lending arrangements that may pose unreasonable financial terms upon plans and providing more guidance, in general, about such transactions can also help plan sponsors and participants understand the risks that cash collateral reinvestment can pose to plan assets in investment options that lend securities and how to mitigate them.