



# Retirement Plan Newsletter

Quarterly Newsletter | Quarter Ending June 30, 2025

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## Markets in Review

After a challenging start to the quarter, marred by a tariff-induced sell-off in the first part of April, equity markets staged a remarkable turnaround in Q2 2025. After bottoming out on April 7th, both the S&P 500 Index<sup>1</sup> and Nasdaq Composite Index rebounded strongly, surging by 28.3% and 37.8%, respectively, to close out the quarter, reaching new all-time highs in the process. This largely V-shaped recovery was aided by positive trade developments, easing inflation pressures, and resilient corporate earnings. In addition, investors' risk appetite returned as economic data softened just enough to revive hopes for rate cuts later this year without triggering fears of an imminent recession.

The S&P 500 gained 10.6% in Q2 2025 while the Nasdaq Composite climbed 17.7%, erasing all the first quarter's losses in the process. Importantly, market leadership reverted back to growth and large-cap technology stocks, with the tech-heavy Nasdaq-100 Index<sup>3</sup> posting a 17.6% return during the quarter. In contrast, the Dow Jones Industrial Average<sup>4</sup>, more value-oriented in its composition, underperformed with a 5.0% gain, highlighting a renewed tilt toward growth over defensiveness. The Russell 2000 Index<sup>5</sup>, representing small-cap stocks, gained 8.1%, underperforming large-cap indices due to persistent concerns about tariff impacts and fears about a

"higher for longer" interest rate environment adversely impacting highly levered small-cap companies.

Market breadth narrowed considerably during the quarter. After outperforming the S&P 500 by 3.5% in Q1 2025, the S&P 500 Equal Weight Index<sup>6</sup> underperformed the market cap-weighted version of the S&P 500 by 5.6% in Q2 2025. In addition, despite Apple Inc. (AAPL) declining by 7.6% in Q2 2025, the mega cap "Magnificent Seven"<sup>7</sup> stocks generated an average return of 21.5% in the quarter, eclipsing the return of both the S&P 500 and the S&P 500 Equal Weight Index. By contrast, the Magnificent Seven stocks significantly underperformed both indices in Q1 2025, declining by 15.8% compared to a 4.6% (1.1%) decline in the S&P 500 (S&P 500 Equal Weight Index).

International markets continued their strong relative performance in Q2 2025, though the pace of outperformance versus U.S. equities moderated. The MSCI World ex USA Index<sup>8</sup> appreciated by 10.9% in the quarter, driven by robust returns in Japan and continued strength in Europe.

After a flat start to the year, the MSCI Japan Index appreciated by 11.2% in Q2, driven by easing trade tensions, attractive relative valuations, a weaker Yen, and accommodative monetary policy. The MSCI Europe Index built on a robust Q1

(+9.9%) with another strong quarter in Q2 (+9.8%). Consequently, the index appreciated by 20.7% in the first half of 2025, easily eclipsing the 5.5% return in the S&P 500 over this same time frame. European outperformance continues to be driven by attractive valuations, a relatively dovish monetary policy, and a weak U.S. dollar (boosting dollar-denominated returns for U.S. investors). Emerging markets also performed well, with the MSCI Emerging Markets Index<sup>9</sup> up 11.0%, led by exceptionally strong performance from Korean equities.

Moving on to domestic monetary policy, the Federal Reserve (“the Fed”) kept the federal funds rate unchanged at 4.25%–4.50% at both the May and June 2025 Federal Open Market Committee (“FOMC”) meetings with Fed Chair Jerome Powell, emphasizing a cautious approach despite recent disinflation trends, citing uncertainties around tariffs and their potential inflationary impact. The June Summary of Economic Projections (SEP) showed a consensus expectation of two rate cuts in the second half of 2025.

In fixed income, the 10-year U.S. Treasury yield finished the quarter at 4.23%, at the same yield where it started at the beginning of the quarter. But this view obscures some significant intra period movements. From 3/31/25 to 4/4/25, the 10-year yield declined from 4.23% to 4.01% as President Trump’s “liberation day” reciprocal tariff announcement and threat of a protracted trade war with China triggered a “flight to safety” rotation from equities to bonds.

After bottoming out in early April, the 10-year Treasury yield began a mostly upward ascent, reaching a zenith of 4.58% on 5/21/25. This ascendent trend was driven by a combination of factors, including the 90-day reciprocal tariff reprieve announced by President Trump on 4/9/25, resilient economic data, and a repricing of Fed rate cut expectations. The final move in the 10-year yield occurred between 5/21/25 and 6/30/25, a period that saw the yield decline from 4.58% to 4.23%, primarily driven by cooling inflation and slightly weaker economic indicators. This roller coaster ride in yields resulted in the Bloomberg U.S. Aggregate Bond Index<sup>10</sup> returning 1.3% in Q2 2025. While long duration bonds were pressured, as exemplified by the iShares 20+ Year Treasury Bond ETF (TLT) declining by 2.0% in Q2 2025, the iShares 1-3 Year Treasury Bond ETF (SHY) gained 1.2%.

On the commodity front, oil prices, which had posted modest gains in Q1 2025, faced new pressures in Q2 2025 related to trade policy uncertainty, new geopolitical risk factors (i.e., the conflict between Israel and Iran), and concerns about global economic growth and demand. All these factors combined to create significant volatility in Brent crude commodity pricing during the quarter.

As a case in point, consider that the price of Brent crude oil dropped by 21.9% to start the quarter, bottoming out at \$60.31 per barrel on 5/7/25. From there, the price of Brent crude reversed course, appreciating by 33.3% to close at \$80.37 per barrel on 6/19/25. Brent crude finished the quarter on a weak note, closing at \$68.15 per barrel on 6/30/25. Over the entire quarter, Brent crude posted an 11.8% decline despite significant intra-quarter movements. The S&P 500 Energy sector, which had been a top performer in Q1 (+9.1%), declined by 9.2% in the second quarter.

Looking ahead, we remain cautiously optimistic for the remainder of 2025. If tariff uncertainties continue to subside and economic growth stabilizes, the Federal Reserve may maintain a balanced monetary policy to address inflation without derailing the labor market. Strong corporate earnings and resilient economic fundamentals could support further equity market gains. However, risks remain, including potential trade disruptions and inflationary pressures, which could reintroduce volatility. Investors should stay vigilant as the economic and policy landscape evolves.

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## En Garde!!! The Challenge With Forfeitures

You may have been reading in the news about the recent uptick in ERISA class action lawsuits relating to the use of forfeitures. This article will be relevant to your plan if you have employer contributions and apply a vesting schedule to those funds.

### What is a Forfeiture?

An Employer may design its retirement plan so that contributions it makes for its participants are subject to a vesting schedule. The vesting schedule means that the participant earns the right to those contributions over a period of employment, based on that schedule. For example, a plan may apply a five-year vesting schedule, where a participant earns 20% of their benefit for each year of service (i.e., becomes 20% vested after one year, 40% vested after two, etc.) The longest permissible vesting schedule is six years. A “year of service” is usually a plan year in which the participant is paid for 1,000 or more hours of service. If the participant stops working for the company prior to earning 100% vesting on the schedule, then the unvested portion is called a “forfeiture.” The forfeiture is removed from the participant’s account and placed into a forfeiture account. The forfeiture account acts like a suspense account for these funds until they are later used within the plan for certain purposes, based on the terms of the plan document.

### How May Forfeitures be Used by the Plan?

There are three ways that forfeitures may be used within the plan:

1. To pay administrative fees;
2. To reduce employer contributions; and/or
3. The forfeiture may be allocated to eligible participant accounts to increase their benefits.

The plan document may state a specific use for the forfeitures from this list, or it may grant complete discretion to the Plan Administrator to select how (among the three options) the forfeitures will be used.

Forfeitures must be used by no later than 12 months following the end of the plan year in which they arose. For example, suppose you have forfeitures that arose in 2024 when a participant terminated employment and took their vested interest. That forfeiture must be used no later than the end of 2025. If the plan provides that forfeitures are used to pay plan expenses, the plan can use them to pay for the annual Form 5500 preparation or the 2024 Form 5500 audit, even if those invoices are paid in the summer of 2025.

## Why Are Employers Getting Sued?

There are a few variations of the lawsuits that have been filed, but participant-plaintiffs are essentially arguing that Plan Administrators, as fiduciaries to the Plan, are violating their duty of loyalty and prudence by using the forfeitures in a way that indirectly benefits themselves. In particular, when the plan permits the Plan Administrator to choose whether to use forfeitures to pay for plan expenses (which would otherwise be paid by participant accounts) or reduce employer contributions, the employer that uses forfeitures to reduce its contribution is prioritizing the employer's financial interests over the best interests of the plan and its participants.

Although the Internal Revenue Service has long approved the language permitting discretionary forfeiture use, and the language mentioned above is consistent with the historically permissible options outlined in the Internal Revenue Code, these new claims by the participant-plaintiffs have had some success in the courts. However, courts in different areas of the country are ruling differently, and none of the cases has yet been decided by an appeals court.

To avoid being a possible target for these often frivolous lawsuits, many employers are amending their plans or adopting a written administrative policy that clearly states how forfeitures will be used. The idea: remove the discretion, and you remove the potential for the claim of fiduciary breach for making the "wrong" choice.

## What Should a Plan Sponsor Do Now?

Plan Sponsors should talk to their third-party administrators ("TPA") or service providers to determine what the language of their plan document currently says. In some plan documents, the language permits the Plan Administrator to "elect to use any portion of the Forfeiture Account to pay administrative expenses incurred by the Plan." It may go on to say that forfeitures may also be applied at the direction of the Plan Administrator in any of three different options. This type of language is fully discretionary and open-ended, which is precisely what the lawsuits are trying to prevent.

Plan Sponsors may request that their TPA or document service provider prepare an amendment to the Plan to formalize a mandatory use for forfeitures in the future, removing the discretionary language. This has the best chance of avoiding a claim that the sponsor has improperly used the forfeitures. Even if this language dictates that forfeitures are used first to reduce employer contributions and are only used to pay expenses thereafter, the lack of discretion eliminates the potential for courts to find that there was a choice made that constitutes a fiduciary breach.

If you have any questions about the use of forfeitures or about how you can alter your plan document to clearly state the intended use, let us know. Remember: we are your ERISA solution!

Used with permission of author Alison J. Cohen, Esq. of Ferenczy Benefits Law Center. This article recently appeared in their Flash in the Plan! series. You can subscribe to their newsletters here: <https://ferenczylaw.com/flashpoint-sign-up/>.

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## Addressing the Challenge of Uncashed Distribution Checks

Uncashed distribution checks present a persistent and often overlooked challenge for retirement plan sponsors. Despite the best efforts of plan administrators, some participants fail to cash their distribution checks, leading to administrative burdens, fiduciary concerns and potential compliance issues. A recent publication by Retirement Management Services (RMS) sheds light on this issue and offers practical guidance for employers seeking to manage and mitigate the risks associated with uncashed checks.

Uncashed checks can arise for various reasons. Participants may have moved without updating their contact information, may not recognize the check as legitimate or may simply forget to deposit it. Regardless of the cause, the responsibility for addressing these uncashed funds ultimately falls on the plan sponsor. This creates a fiduciary obligation to act in the best interest of the participant while ensuring compliance with IRS and Department of Labor (DOL) regulations.

Sponsors are encouraged to maintain up-to-date contact information for all plan participants and to follow up promptly when checks remain uncashed. This may involve sending reminder letters, making phone calls or using certified mail to confirm receipt. In some cases, plan sponsors may also consider using electronic payment methods to reduce the likelihood of checks going uncashed in the first place.

The IRS and DOL have issued guidance on how to handle these situations, including the use of forfeiture accounts and escheatment to state unclaimed property programs. However, these options come with their own set of rules and potential pitfalls. For example, using a forfeiture account may require the plan document to explicitly allow for such treatment. Escheatment laws, which allow the government to assume control of unclaimed property, vary by state. As such, plan sponsors must carefully evaluate their options and consult with legal or compliance experts as needed.

Another important consideration is the documentation of all the efforts made to contact participants and resolve uncashed checks. Maintaining a clear audit trail can help demonstrate fiduciary prudence and protect the plan sponsor in the event of an audit or legal challenge. It is extremely important to have a written policy in place that outlines the steps to be taken when a check remains uncashed beyond a certain period.

By taking a proactive, well-documented and compliant approach, employers can fulfill their fiduciary duties, reduce administrative burdens and ensure that participants receive the benefits they are entitled to.

Source: Retirement Management Services – "Uncashed Distribution Checks" <https://www.consultrms.com/Resources/59/Plan-Sponsor-Tips-and-Help/212/Uncashed-Distribution-Checks>

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## Divorce and the Retirement Plan

When a participant in a qualified retirement plan undergoes a divorce, the participant's account balance may be an asset that is split with the former spouse. As the plan exists for the exclusive benefit of its participants, a court order is required to transfer the participant's benefits to the ex-spouse. Once approved by the plan administrator, this court order is called a Qualified Domestic Relations Order (QDRO).

The QDRO is a judgment, decree or order that must be issued by a state authority (usually a court). It can be part of the divorce settlement or it may be a separate document. Because of the serious nature of separating the participant's account balance, the QDRO is more than just an agreement made by both parties — it must also be signed by a judge.

A QDRO will describe how to divide the participant's account balance between the participant and the ex-spouse, referred to as the alternate payee. In some cases, a set dollar amount will be allocated; in others, a percentage of the account may be designated. In the latter case, the amount assigned to the alternate payee represents the given percentage of the participant's total vested account balance as of a specified valuation date. This percentage will apply to all sources — such as deferrals, matching or profit sharing — unless specified by the QDRO. Any interest and investment gains/losses that accrue between this valuation date and the date the funds are separated into an account for the alternate payee are often factored into this final calculation. If the participant has outstanding loans, the QDRO will usually indicate how the loans are handled.

Contributions such as deferrals and employer matching made after the valuation date are credited to the participant's account. Earnings and losses are applied to the account balances. Once the division is complete, the alternate payee's portion (either dollars or shares) is transferred to an account in the alternate payee's name.

If the plan allows, the alternate payee may be paid out in a cash or rollover distribution. Not all plan documents allow the alternate payee to receive a distribution before reaching normal retirement age, so it's important to follow the terms of the plan. In addition, the QDRO cannot violate the provisions of the plan document by requiring a plan to provide an alternate payee or participant with any type or form of benefit not otherwise provided under the plan.

Although the most common situation for a QDRO is a divorce, it can be issued in other situations, such as to a dependent in the case of child support. If the alternate payee is a minor child or legally incompetent, the order can also require payment to the individual with legal responsibility for the alternate payee. If a participant or their attorney provides you with a copy of a divorce decree that references the plan or a QDRO, please contact us immediately, and we will work with you to ensure it meets the requirements of the plan.

**Important note for defined benefit plans:** For 2025 plan years, PBGC premiums are due one month earlier than usual, specifically on the 15th day of the ninth month after the beginning of the plan year. For calendar year plans, this means the premium is due on **September 15, 2025**, instead of the

usual **October 15**. This accelerated deadline is due to a provision in the Bipartisan Budget Act of 2015.

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## Upcoming Compliance Deadlines

### September 2025

**15th:** Required contribution to defined benefit plans, money purchase pension plans and target benefit pension plans. Contribution deadline for deducting 2024 employer contributions for those sponsors who filed an extension for Partnership or S-Corporation tax returns to extend the **March 15, 2025**, deadline.

**15th:** Due date for **2025 PBGC Comprehensive Premium Filing** for defined benefit plans.

**30th:** Deadline for certification of the **Annual Funding Target Attainment Percentage (AFTAP)** for Defined Benefit plans for the 2025 plan year.

### October 2025

**15th:** Extended due date for the filing of **Form 5500** and **Form 8955-SSA** for plan years ending **December 31, 2024**.

**15th:** Contribution deadline for deducting 2024 employer contributions for those sponsors who filed a tax extension for C-Corporation or Sole-Proprietor returns for the **April 15, 2025**, deadline.

**15th:** Due date for non-participant-directed individual account plans to include Lifetime Income Illustrations on the annual participant statement for the plan year ending **December 31, 2024**.

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#### Sources:

1. The S&P 500 Index is designed to be a leading indicator of U.S. equities and is commonly used as a proxy for the U.S. stock market.
2. The Nasdaq Composite is a stock market index that includes almost all stocks listed on the Nasdaq stock exchange. The composition of the NASDAQ Composite is heavily weighted towards companies in the information technology sector.
3. The Nasdaq-100 Index is U.S. stock market index comprised of the largest 100 non-financial companies listed on the Nasdaq stock exchange. The index is dominated by technology companies and is commonly used as proxy for U.S. large cap technology performance.
4. The Dow Jones Industrial Average is a widely followed, price weighted stock market index of 30 prominent companies listed on stock exchanges in the United States.
5. The Russell 2000 Index is a small-cap U.S. stock market index that makes up the smallest 2,000 stocks in the Russell Index. The index is commonly used as proxy for U.S. small cap stock market performance.
6. The S&P 500 Equal Weight Index (EWI) is the equal-weight version of the S&P 500. The index includes the same constituents as the capitalization weighted S&P 500, but each company in the S&P 500 EWI is allocated a fixed weight of 0.2% of the index total at each quarterly rebalance.
7. The term "Magnificent Seven stocks" refers to a group of seven dominant and influential technology-focused companies in the U.S. stock market. The components of the Magnificent Seven are: Apple Inc. (AAPL), Microsoft Corporation (MSFT), Amazon.com, Inc. (AMZN), Alphabet Inc. (GOOG), Meta Platforms, Inc. (META), NVIDIA Corporation (NVDA), and Tesla, Inc. (TSLA).
8. The MSCI World ex USA Index captures large and mid-cap representation across 22 of 23 Developed Markets countries (excluding the U.S.) and 24 Emerging Markets countries.
9. The MSCI Emerging Markets Index captures large and mid-cap representation across 24 Emerging Markets countries.
10. The Bloomberg U.S. Aggregate Bond Index is a broad-based index that is commonly used as a proxy for the U.S. bond market.

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Historical performance results for investment indices, benchmarks, and/or categories have been provided for general informational/comparison purposes only, and generally do not reflect the deduction of transaction and/or custodial charges, the deduction of an investment management fee, nor the impact of taxes, the incurrence of which would have the effect of decreasing historical performance results. It should not be assumed that your BFSG account holdings correspond directly to any comparative indices or categories. **Please Also Note:** (1) comparative benchmarks/indices may be more or less volatile than your BFSG accounts; and (2) a description of each comparative benchmark/index is available upon request.

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