



401(k) investors can expect some changes

By MICHAEL J. FRANCIS

Eight trillion dollars attract a lot of attention. That is how much money disappeared in the stock market from peak to trough during the recent bear market. When the public loses that much money, those with political ambitions can win many friends by locating and prosecuting individuals whose unethical actions might have contributed to those losses.

Recently, the politically ambitious attorney general of New York, Eliot Spitzer, has made a name for himself by exposing certain legal but less-than-ethical investment practices.

First it was Wall Street research practices, rife with conflicts of interest. Now Spitzer is grabbing headlines by going after the mutual fund industry.

It has been widely reported that some mutual fund companies have routinely used the inefficient pricing of their funds (because they are priced only once a day) to attract institutional assets and generate unfair profits for themselves and a select group of large institutional investors. These ill-gotten gains come at the expense of the long-term retail fund shareholder, despite promises not to allow such activity.

In response, the Securities and Exchange Commission has proposed a host of new rules that will most certainly affect 401(k) investors. My advice is to be prepared for changes to how you operate your retirement account.

The first change you should expect is a delay in the processing of electronically entered fund purchase or

redemption orders. Today, most plans process orders received before 3 p.m. with that day's closing price. Under proposed new rules, organizations that collect orders throughout the day on behalf of mutual fund companies will be forced to move their cutoffs up for same-day execution to perhaps as early as 10 a.m. To lessen the confusion, some may just make all trades effective the next business day. While not a big deal for most 401(k) investors, those who are used to acting quickly may be put off by this change.

Next, count on new mutual fund trading restrictions in 401(k) plans. To discourage 401(k) participants from trying to take advantage of mutual fund price inefficiencies, a number of large employers have already begun instituting rules that limit the frequency or timing with which their employees may buy and sell the same fund. Some fund companies have also established early-redemption fees on funds that are held less than a prescribed number of days.

Perhaps the most immediate impact of these investigations, however, will be new funds in your 401(k) menu. Already, many 401(k) plan sponsors have been forced to reconsider scandal-tainted funds and have begun replacing them. Many more are currently evaluating their fund offerings and will be making changes to their fund lineup over the next couple of quarters. Either way, it would be wise to double-check your next statement, or better yet, jump onto

your plan's Web site to see if there have been any changes.

Reports of unethical practices have shaken the public's confidence in mutual funds over the past three months. Looking ahead, we will most likely be reading about more wayward fund executives and the penalties regulators place on them. Yet despite all the controversy, mutual funds remain the most highly regulated and safest way for the average investor to gain diversified access to the stock market.

The coming mutual fund rule changes should have long-term positive effects on the industry. By requiring fund companies to treat all of their shareholders the same, increasing their disclosure requirements and severely punishing those not looking out for their shareholders' interests, regulators can make mutual funds an even safer and more profitable place to invest.

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