Float: Out of Sight, But Not Out of Mind – A Quiet Source of Income in Retirement Plan Dollars

Float is income earned on plan assets during the brief period between when a service provider receives money and when it is actually invested, distributed or paid out on behalf of the plan. This money, called float (or float income), is a plan asset, and as such, the Department of Labor (DOL) says it should be regarded by plan fiduciaries and service providers as part of the service provider's compensation for services to the plan. [i] Moreover, the DOL has said that plan fiduciaries must have an adequate understanding of how the service provider will earn float and how it contributes to the service provider's compensation.

Here's What You Really Need to Know:

- Float is not inherently improper, but it must be disclosed, understood and evaluated under ERISA's fiduciary standards of prudence and loyalty.
- Because fiduciary duties apply, plan fiduciaries should inquire regarding who earns float income, how much is generated, and whether the arrangement is reasonable in light of total compensation. This exercise should be documented as part of a prudent process.
- Some service providers may incorporate float provisions into recordkeeping agreements, for example, and advisors, consultants and other experts can play a key role in translating technical disclosures for plan sponsors.

Let's Dive In…

Unlike excessive fees or imprudent investments, float doesn't always feel like a problem. It's operational. It's technical. It feels like nominal amounts. And for years, it was largely invisible. But recent lawsuits, DOL scrutiny and heightened fiduciary awareness have brought the issue of float into the spotlight. Float income is not an automatic violation, but a governance issue that requires understanding, monitoring, and intentional decision-making.

What is Float and Why Does it Exist?

Float is the interest or investment earnings generated when plan assets are temporarily held, often in short-term, interest-bearing vehicles, during transactional periods. These periods may include:

- The time between payroll withholding and investment allocation

- The period after assets are liquidated but before a distribution is paid
- Exchanges between investment options
- Loan processing or rollover transactions

From an operational standpoint, float exists because money doesn't move instantaneously. Assets must be received, processed, reconciled and settled. During that time, those assets can earn interest.

What's the Fiduciary Issue?

The fiduciary issue isn't whether float exists; it almost always does. The issue is regarding who retains the earnings and whether the arrangement is prudent, reasonable and appropriately disclosed. Historically, float was often retained by recordkeepers or custodians as part of their compensation model. In some cases, it offset explicit fees. In others, it functioned as additional, variable revenue. In many cases, plan sponsors simply didn't know it was happening.

That lack of awareness is what transformed float from an operational detail into a fiduciary concern and now an essential fiduciary consideration that should be incorporated into an annual governance framework.

Is Float a Plan Asset?

Yes. Under the Employee Retirement Income Security Act (ERISA), earnings on plan assets are generally considered plan assets themselves. However, courts and regulators have recognized that a service provider may retain float if:[i]

- The arrangement is clearly disclosed
- The plan fiduciary understands the arrangement
- Total compensation (including float) is reasonable in light of services provided under ERISA section 408(b)(2)

In other words, float isn't automatically a plan asset that must be credited back to participants — but it *can* be, depending on how the contract is structured and how fiduciaries evaluate it.

As with all aspects of retirement plan administration and oversight, the DOL has repeatedly emphasized that fiduciaries must focus less on labels and more on process:

- Did the plan sponsor understand the compensation structure?
- Was it evaluated in light of alternatives?
- Was the decision documented and monitored?
- What was the total compensation and was it reasonable considering the services rendered to the plan and its participants?

The DOL is focused on the process and not necessarily the outcomes. However, the failure to have a process to evaluate could be problematic for plan sponsors.

How Much Money are we Talking About?

Float revenue can vary significantly based on several factors, including but not limited to plan size, transaction volume, interest rate environment, timing of contributions and distributions, and whether assets are held in pooled or segregated accounts. For example, in low-rate environments, float earnings may be negligible. In higher-rate environments, float may be material, especially for large plans with frequent cash movement.

Recent litigation has alleged that some providers generated millions of dollars annually in float from a single large plan.[ii] Whether those allegations ultimately succeed often depends less on the dollar amount and more on what the plan sponsor knew and what they did with that knowledge. Plan sponsors must also remain diligent in their ongoing monitoring. In practice, service providers may change their process throughout the relationship. While float may be credited back at the beginning of the relationship, service providers may later issue an amendment to their agreement to retain float and plan sponsors must continually be aware of the amendments and notices received and acknowledged as these amendments may require a prudent decision-making process.

Typical Areas Where Float Accumulates

Plan sponsors are often surprised to learn how many routine activities involve temporary asset holding. Common examples include:

- **Contribution processing**: Assets received but not yet invested.
- **Distribution windows**: Assets liquidated but awaiting payment
- **Investment exchanges**: Timing gaps between sell and buy orders
- **Loan repayments**: Funds in transit before allocation

Each of these may generate float for a brief period. Individually, the amounts may appear small. Collectively, over time and across participants, they can add up.

Who is Responsible for Float Oversight?

The plan's service providers like recordkeepers, custodians, and trustees are responsible for (i) accurately describing float practices in disclosures, (ii) applying the contract terms consistently, and (iii) providing information necessary for fiduciaries to evaluate compensation. What they are *not* responsible for is making fiduciary decisions on behalf of the plan sponsor regarding whether the arrangement is reasonable. Float disclosures are often buried in service agreements or fee disclosures, written in dense, technical language. Plan sponsors should work with a retirement plan advisor or consultant to:

- Identify where float exists
- Quantify its potential impact
- Compare it to alternative pricing models
- Integrate float into total compensation analysis

This aligns with fiduciary obligations under ERISA related to payment of compensation to service providers. Keep in mind that under ERISA section 406(a), a retirement plan generally cannot pay money from plan assets to a "party in interest." Service providers such as recordkeepers, trustees, investment advisors, and custodians are explicitly considered parties in interest. To mitigate this prohibited transaction, plans may use section 408(b)(2), which provides that a plan may pay a service provider from plan assets if the arrangement is reasonable, the services are necessary, and compensation is fully disclosed. Further, the plan fiduciary must monitor the arrangement over time as well as document the decision and the rationale for the decision. This extends to float income; plan sponsors are not required to eliminate float. But they are required to know it exists and to assess it prudently.

Why Float Became a Litigation Issue

Most recent float-related lawsuits share common themes:

- Allegations that float was undisclosed or poorly disclosed
- Claims that plan sponsors failed to understand or monitor it
- Arguments that providers retained excessive compensation
- Assertions that participants were harmed through lost earnings

What's notable is that many cases focus less on the existence of float and more on process failures including inadequate review, lack of benchmarking, or absence of documentation.

As interest rates rise and litigation continues to shape expectations, plan sponsors who understand float and can articulate why their arrangements are reasonable will be better positioned to withstand scrutiny.

Action Items for Plan Sponsors:

- Review service agreements and fee disclosures to identify where float may be earned.
- Ask your advisor and recordkeeper for a clear explanation of float practices. Ask explicit questions: Where does float occur? Who earns it? Under what conditions?
- Evaluate float as part of total compensation, not in isolation. Benchmark total compensation by comparing arrangements against alternatives.
- Document fiduciary decisions regarding compensation structures.
- Reassess arrangements periodically, especially as market conditions change and as service providers may make updates to agreements.

When it comes to float, the greatest risk isn't earning interest, it's not knowing who benefits from it, or why.

[i] U.S. Department of Labor, Employee Benefits Security Administration, "Disclosure and Other Obligations Relating to 'Float,'" Field Assistance Bulletin No. 2002-03, November 5, 2002, https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2002-03.

[ii] *Tussey v. ABB, Inc.*, 850 F.3d 951 (8th Cir. 2017), https://law.justia.com/cases/federal/appellate-courts/ca8/15-2792/15-2792-2017-03-09.html; U.S. Department of Labor, Employee Benefits Security Administration, Advisory Opinion 1993-24A, September 13, 1993, https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/advisory-opinions/1993-24a.



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