

Fiduciary Insights Newsletter

December 2021

Timely updates on the retirement industry



Welcome to Fiduciary Insights, the monthly newsletter that keeps you in touch with issues and trends that employers need to know about the retirement plan industry. The articles have been carefully selected from a variety of quality sources.

General Items

The Who, What, Where, Why and How of Retirement Plan Audits

You (or your client) may have just found out that an audit is required for its retirement plan. Many questions may be running through your head such as Why must an audit be performed? What must be audited? Who performs audits? Who is required to have an audit? How is an audit performed? Well, it's your lucky day, because this blog will address these burning questions. If your plan already requires an audit, this article may still provide benefits by uncovering facts that you didn't know. Source: Belfint.com

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Misuse Of Participant Confidential Data

The DOL has become highly focused on the cybersecurity practices of plan sponsors and their service providers and has begun asking comprehensive cybersecurity questions in plan audits. It seems clear the DOL is concerned not just with theft of plan data or assets, but also with the misuse of confidential participant data. Source: Wagnerlawgroup.com

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Congress Considers Mandatory Auto-Enrollment IRAs

All eyes are on Congress as it wrestles with a \$1 trillion infrastructure bill and a \$3.5 trillion budget reconciliation bill. The House Ways and Means Committee markup of the reconciliation bill would require certain employers with five or more employees to automatically enroll employees in a payroll deduction IRA. This requirement would take effect on January 1, 2023. Source: Wagnerlawgroup.com

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Fiduciary & Plan Governance Material

2021 Best Practices Conference: Outsourcing & What To Expect From Providers

A panel discussion at the virtual 2021 PLANSPONSOR Best Practices Conference focused on the critical topic of fiduciary outsourcing and what plan sponsors can expect from service providers. Experts discussed the types of outsourcing available to plan sponsors, from basic 3(16) administration services to full discretionary 3(38) investment management. Source: Plansponsor.com

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The DOL's Proposed ESG Rule: A Retirement Committee Perspective

A recently proposed DOL regulation entitled "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights" addresses the duties of retirement plan fiduciaries when considering economically targeted investments, i.e., investments that take into account environmental, social, and governance factors. Issued in response to a May 20, 2021, Executive Order, the Proposal would significantly modify prior, Trump-era rules on the subject. This article examines the proposal from the retirement committee perspective. Source: Mintz.com

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Fiduciaries: Assuming Additional Responsibilities For Retirees is Rife With Questions

Should a 401k plan sponsor take on the additional fiduciary liability associated with retirees? Deciding whether to encourage participants to leave account balances in the plan through retirement should not be based solely on considerations like accumulation of assets in the plan, the offsetting of administrative fees, and the ability to offer very low-cost funds. Using only these factors may lead to unexpectedly difficult questions with no clear answers. Thus, when contemplating whether to encourage participants to leave account balances in the plan, consider the questions outlined here. Source: Keightleyashner.com

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Insights: Studies, Research & White Papers

Employer-Sponsored Retirement & Health Plans: What You Need To Know For Year-End

While year-end is ordinarily a busy time for companies, the number of COVID-19-related pieces of legislation and developments present additional items employers and plan sponsors must address in wrapping up 2021. Source: Troutman.com

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Rise Act OKed By House Panel, Will Be Merged With SECURE 2.0

Bipartisan retirement security legislation that shares some overlap with the SECURE Act 2.0 has been approved by a key House committee. The House Education and Labor Committee on Nov. 10 approved the Retirement Improvement and Savings Enhancement (RISE) Act of 2021 (H.R. 5891) by a unanimous voice vote. Source: Asppa.org

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EPCRS Update Brings Good News For Plan Sponsors

Rev. Proc. 2021-30 is the latest iteration of the IRS correction program -- Employee Plans Compliance Resolution System -- that enables plan sponsors and the retirement industry to sleep at night knowing that plan errors can be corrected and may retain their all-important tax-favored status. In this article, Groom's Elizabeth Dold and David Levine outline the few, key changes that were made to the Self-Correction Program, Voluntary Correction Program, and the Audit Closing Agreement Program, and Voluntary Audit Cap via EPCRS. Source: Groom.com

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Compliance & Regulatory Related

IRS Adds Two FAQs To Its Covid-19 Q&A Guidance For Retirement Plans

On October 28, 2021, the IRS added two FAQs to its official guidance in the form of questions and answers regarding COVID-19 pandemic relief for retirement plans, including 401k plans. Source: Compliancedashboard.net

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2021 Best Practices Conference: Understanding ERISA & Fiduciary Fundamentals

During the first session of the virtual 2021 PLANSPONSOR Best Practices Conference, experts discussed the requirements for maintaining retirement plan documents and operating a plan according to ERISA. They also discussed what should be reported to participants and regulators, and how sponsors can adhere to fiduciary duties. Source: Plansponsor.com

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ERISA Bonding Requirements & Compliance Testing Kit

ERISA bonding requirements and compliance testing, although not necessarily related, are two of the compliance matters auditors commonly look at during an audit. It is important for plan fiduciaries to be aware of the overall purpose of the bonding requirements and the compliance tests and be familiar with the correction methods and deadlines. Source: Berrydunn.com

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