

Fiduciary Insights Newsletter

July 2022

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

Senate Help To Kick Off SECURE 2.0 Push

The Senate Health, Education, Labor, and Pensions (HELP) Committee is set to move forward on legislation intended to build off the House-passed SECURE Act 2.0. After formally introducing the "Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg" (RISE & SHINE) Act on June 7, the committee announced that it will hold a markup on Tuesday, June 14 to consider the legislation. Source: Napa-net.org

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How To Communicate With Your Plan Participants Right Now

With ongoing market volatility and increasing chatter about a potential bear market, some retirement savers may be feeling more anxious about their investments than they have in the recent past. For plan sponsors, the recent economic turmoil is an opportunity to connect with plan participants to educate them on the current markets and the best moves for their financial security. Experts say that using in-person and virtual one-on-one consultations and communicating across different media, including text messaging and email, can reach the broadest swath of participants. Source: Plansponsor.com

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More Pushback Against CAR 2022-01: ForUsAll's Suit Against The DOL

ForUsAll continues to maintain that cryptocurrency could be an appropriate plan investment to provide account diversification and considers its business targeted by the DOL guidance. On June 2, ForUsAll filed suit in the District of Columbia to invalidate the CAR because it was issued in violation of the Administrative Procedure Act. This is the same statute that was used by the Fifth Circuit Court of Appeals to invalidate the DOL's Fiduciary Rule. Source: Cohenbuckmann.com

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Fiduciary & Plan Governance Material

How To Choose Your Retirement Plan Provider

Selecting competent plan providers is part of your fiduciary duty as a plan sponsor. So selecting a provider must be through an actual process where you review potential providers in each area (administration, financial advisory, ERISA attorney, and auditors) before selecting one and documenting the entire method of selection. This article is about what you should consider in selecting a retirement plan provider. Source: Jdsupra.com

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Taking 401(k) Plan Design To The Next Level

In a testament to the willingness of plan sponsors to implement smart plan design, retirement plan participants broke new savings records in 2021, yet there is still more to be done, according to Vanguard's newest edition of How America Saves. Source: Napa-net.org

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Brokerage Window Fiduciary Duties in Light of DOL Cryptocurrency Guidance

The DOL recently issued a warning about its intention to launch an investigative program into those plans that offer cryptocurrency and related products as investment options. The DOL's investigative program would include those products offered through brokerage windows, implying that plan fiduciaries might be responsible for those investments. Therefore, plan fiduciaries need to carefully consider their potential responsibilities concerning brokerage windows, both concerning cryptocurrency and investments. Source: Hallbenefitslaw.com

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Insights: Studies, Research & White Papers

Cybersecurity And Retirement Plans

This learning deck will help you understand the latest guidance on cybersecurity for qualified retirement plans, adapt the tips for hiring a plan service provider, know cybersecurity program best practices for qualified retirement plans, and recognize the role of the financial advisor in cybersecurity. Source: Fi360.com

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State-Mandated Retirement Plans: Coming To A State Near You?

With approximately 30% of all private-sector employees not having access to a workplace retirement plan, some states and some bigger cities have decided that our current system, which lets employers decide whether they want to adopt a retirement plan for their employees, is not working well. In response, at least 12 states and three cities have developed some form of private employer workplace retirement plan, with some of these plans mandatory for certain private employers. Source: Frostbrowntodd.com

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How America Saves 2022

Using data from How America Saves, Vanguard's annual comprehensive look at Americans' retirement saving habits, Vanguard helps plan sponsors and consultants take action to optimize plan design to better serve employees through their entire investing journey. Source: Vanguard.com

Source: Euclidspecialty.com

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Compliance & Regulatory Related

New IRS Compliance Program Should Be On Every Plan Sponsor's Radar

Dealing with such plan participation adds yet another layer of administrative difficulty and legal exposure for employers who hire employees not authorized to work in the U.S. ERISA does not exclude individuals otherwise qualifying as common law employees from plan rights and protections simply because of their immigration status. However, although the DOL has affirmed that other federal statutes, such as the FLSA, protect undocumented workers, it has conspicuously failed to formally state that ERISA does too. Source: Benefitslawadvisor.com

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How To Handle The DOL's New IRA Rollover Rule

The rule requires written disclosures to your prospects and clients that outline the reason the rollover recommendation is in their best interest. The author polled the advisor community and received 25 detailed responses. He says that "at first it was bewildering because none of the disclosure forms or checklists looked like any of the others. But when I looked closer, there were some commonalities that I fit into a composite disclosure document that the profession can rally around. At the very least, it shows you the thinking of people who have put a lot of thought into this issue. I can offer an even dozen of observations from the responses." Source: Advisorperspectives.com

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IRS Provides Guidance For Late Pre-Approved Plan Restatements

This IRS clarification allowing correction of these late adoptions without requiring a corresponding VCP filing is very helpful. While the IRS did not specifically address pre-approved defined contribution plans, for which the deadline to adopt a restatement for the current cycle is July 31, 2022, it is reasonable to conclude that this guidance will apply to those plans as well. Source: Groom.com

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