

# Fiduciary Insights Newsletter

October 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

### Cryptocurrency and Retirement Plans

As advisors, TPAs, recordkeepers, and other service providers are dipping their toes into including cryptocurrency solutions for their clients, the regulators and legislators are wading in as well. It has been an active first half of 2022 in the world of crypto offerings with a general interest in regulating cryptocurrencies and digital assets coming from President Biden and a specific interest in cryptocurrencies in retirement plans from Congress and the DOL. Source: Napa-net.org

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### Feds Poised to Implement Four Policy Changes Affecting ERISA Plans Before End of 2022

The Biden administration plans to introduce various rules before the end of 2022 that will impact ERISA-regulated benefits plans. Meanwhile, Congress is working to smooth out differences between the Senate and House on a broad retirement policy omnibus bill. Here is a review. Source: Hallbenefitslaw.com

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### Despite Recession Fears, Most 401(k) Investors Haven't Changed Their Portfolios

Only 5% of 401k and 403b investors shifted their asset allocations during the second quarter of 2022, according to a Fidelity Investments report. It's not surprising since many 401k investors use target date funds, a "set it and forget it" option that gradually shifts to more conservative assets as they approach retirement. However, there may be opportunities for adjustments in other accounts, experts say. Source: Cnbc.com

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## Fiduciary & Plan Governance Material

### Guiding Through Uncertainty: Ways To Connect With Participants

When uncertainty hits, it's natural that 401k participants will have questions, especially those who don't have a lot of investment experience. Plan sponsors can do a lot to allay their concerns by proactively reaching out and addressing the benefits of staying invested, the impacts of taking early distributions, and even the strength of the plan design can help keep jitters in perspective. Source: Blackrock.com

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### Practical Tips For Plan Sponsors and ESG Investments

Regulatory and legislative developments continue to accelerate around investments incorporating ESG factors into retirement plans. Plan sponsors and fiduciaries should take note of the fast-changing landscape when selecting and monitoring investment options. Groom Law Group's Jacob Eigner outlines what asset managers need to know about incorporating ESG factors in their investment processes. This includes compliance steps and how firms can build processes to avoid lawsuits from stockholders and the government. Source: Bloomberglaw.com

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### Report Features 401(k) Plan Sponsor and Participant Behavior in First Half of 2022

T. Rowe Price has published a report detailing plan sponsors' and participants' reactions to increased inflation and market volatility in the first two quarters of 2022. The report examines retirement behavioral trends and correlations between the challenging economy and job tenure with rates of savings for retirement. Source: Pnewswire.com

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## Insights: Studies, Research & White Papers

### Senate Finance Leaders Formally Introduce Earn Act

We now have legislative language for the Enhancing American Retirement Now (EARN) Act and a quick review finds a change from the concept draft regarding catch-up contributions. With legislative language now in hand, it appears the Finance Committee leaders have placed an income floor to the revenue-raising provision concerning catch-up contributions being treated as Roth contributions. Source: Asppa.org

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### Seventh Circuit Provides Hope For Fiduciaries Defending Plan Fee Litigation

The Seventh Circuit recently provided a ray of sunshine in what has largely been a gloomy stretch for plan sponsors and fiduciaries defending ERISA breach of fiduciary duty claims based on allegedly excessive investment and administrative fees and investment underperformance. In this particular case, Oshkosh emerged victorious with the Seventh Circuit affirming the dismissal of claims that it mismanaged its 401k plan by paying excessive recordkeeping fees, failed to ensure investment options were prudent, and unreasonably maintained high-cost investment advisors. Source: Erisapracticecenter.com

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### How Gloomy Is The Retirement Outlook For Millennials?

Social, economic, demographic, and public policy shifts have made Millennial retirement security a pressing concern. Many recent trends threaten financial security for future generations of retirees. Male labor force participation pre-age 55 has slumped, men's median earnings have stagnated, marriage and homeownership rates are falling, debt levels remain high, and out-of-pocket spending on medical and long-term services and supports are rising. Other trends are more encouraging, such as women's higher earnings, the rise in labor force participation at older ages, and improvements in educational attainment. Source: Upenn.edu

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## Compliance & Regulatory Related

### IRS Makes Changes To Determination Letter Application Program

IRS Revenue Procedure 2022-4 made some notable changes to the determination letter application filing process. This article provides background on changes made under the Revenue Procedure to the determination letter filing process, including utilizing pay.gov, some "nuts and bolts" advice regarding navigating the website, filing an IRS Form 2848 electronically, and related considerations. Source: Groom.com

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### DOL (somewhat) Unshackles Auditors From Stringent Independence Requirements

On September 6, 2022, the DOL published an Interpretive Bulletin entitled "Independence of Employee Benefit Plan Accountants" superseding previous guidance governing when the Department considers a qualified public accountant to be "independent." The DOL's preamble statements in Interpretive Bulletin explain that the new guidance "remove[s] certain outdated and unnecessarily restrictive provisions." Source: Groom.com

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### DOL Releases New Bulletin on Independence For Plan Accountants

How independent do accountants have to be when auditing plan documents? The DOL just got more specific. Interpretive Bulletin 2022-01 revises and restates the 1975 Interpretive Bulletin to remove certain outdated and unnecessarily restrictive provisions and reorganize other provisions for clarity. Source: 401kspecialistmag.com

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