

Fiduciary Insights Newsletter

November 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

Midterm Election Results Could Delay SECURE 2.0

A shift in Congressional power in Washington to Republicans could delay passage of SECURE 2.0 and push Democrat's ESG and cryptocurrency efforts to administrative tactics, experts say. Source: Planadviser.com

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FTX Bankruptcy Has Chilling Effect On Crypto Use in Retirement Plans

The rapid collapse of the cryptocurrency exchange FTX has some in the retirement industry second-guessing a recent push toward including cryptocurrency in 401(k)s and other defined contribution retirement plans. Source: Planadviser.com

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The "Entity" Difference Between 403(b) and 401(a) Plans

Think about this: the tax-favored status of the contributions to a 401a plan, and the earnings on the fund held by the plan, are derived from the tax-exempt status of the trust which receives and holds those funds. Compare this to the 403b plan. The favorable tax status granted to 403b plan participants does not derive from the tax-exempt status of any organization or entity. Instead, the statutory language makes it clear that it is derived from the contributions being made to an annuity contract, a custodial account, or a retirement income account. Source: Businessofbenefits.com

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Fiduciary & Plan Governance Material

What Responsibilities and Liabilities Come With Signing the Form 5500?

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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SPARK Releases Updated Data Security Best Practices

The SPARK Institute released Monday its Plan Sponsor and Advisor Guide to Cybersecurity, laying out its specific data security "Best Practices and seventeen Control Objectives." Developed by its Data Security Oversight Board, SPARK's best practices and control objectives establish a base of communications between recordkeepers and the public through third-party audits of cybersecurity control objectives. Source: Planadviser.com

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A 401(k) Plan Sponsor's Guide to Hiring a Financial Advisor

There are so many varieties of financial advisors that it can be confusing what you should be looking for. This article is intended to act as a guide for you as you select a financial advisor for your retirement plan or review the current advisor as part of your fiduciary responsibility. Source: Jdsupra.com

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Insights: Studies, Research & White Papers

Recordkeeper Consolidation Leads to Drop in Proprietary Product Share, Opening Door For Asset Managers

The consolidation of DC plan providers may not be as much of a threat to asset managers as some have thought, with recordkeeper integration needs and legal risk meaning less focus on proprietary investment options, according to new research from ISS Market Intelligence. Source: Planadviser.com

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Resilient Retirement Savers Shifting Focus to Short-Term Needs: Study

Rising prices and inflation are certainly affecting American workers but despite the economic environment, Americans remain resilient. More than 63 percent of Americans are confident they are financially on track for retirement. The study analyzes the behavior of approximately 4.3 million active DC participants to better understand their savings habits and levels of involvement with retirement planning, particularly during a highly challenging economic and financial environment. Source: Businesswire.com

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Arbitration of ERISA Plan Disputes

This article discusses the general enforceability of arbitration clauses in certain disputes, including class actions, with a particular focus on the enforceability of arbitration clauses involving legal claims made under ERISA. It also specifically analyzes the advantages and disadvantages of arbitration provisions for retirement plan sponsors. Source: Wagnerlawgroup.com

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Compliance & Regulatory Related

Employee Benefit Plan Year-End Deadlines

This year, with the delay of the deadline for amending qualified plans, 403b plans, and governmental 457b plans to comply with the SECURE Act and CARES Act, year-end to-dos are on the light side; however, there are still a few deadlines to be aware of depending on what types of plans an employer sponsors, including the first item mentioned below, a disclosure that applies to the majority of employers. Source: Frostbrowntodd.com

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Participant Loans: Important Considerations

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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2022 Retirement Plan Year-End Amendments and Operational Compliance

As the end of 2022 approaches, it's again time for plan sponsors to review their plan documents and plan operations to ensure compliance with increasingly complex qualification requirements and moving deadlines. While there are few, if any, required plan amendments for 2022, plan sponsors must remain diligent about amendment deadlines, operational compliance with changes in law, and ensuring later-adopted plan amendments accurately reflect plan operations. Source: Groom.com

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