

IFS | Fiduciary Insights Update

Retirement Plan Monthly Newsletter

CONTACT INFORMATION

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Welcome to Fiduciary Insights, the monthly newsletter that keeps you in touch with issues, trends, events, and insights of significance to individuals connected with the retirement plan industry. The articles have been carefully selected from a variety of high quality sources.

GENERAL ITEMS

- Senate HELP to Kick Off SECURE 2.0 Push
- How to Communicate With Your Plan Participants Right Now
- How Retirement Is Changing as We Live Longer
- More Pushback Against CAR 2022-01: ForUsAll's Suit Against the DOL

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

- How to Choose Your Retirement Plan Provider
- Taking 401k Plan Design to the Next Level
- A Wait-and-See Approach for 401k Plan Fiduciaries Interested in Cryptocurrency Options
- Brokerage Window Fiduciary Duties in Light of DOL Cryptocurrency Guidance

INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

- Cybersecurity and Retirement Plans
- State-Mandated Retirement Plans: Coming to a State Near You?
- DOL Proposes Tougher Prohibited Transaction Exemption Procedures
- How America Saves 2022

COMPLIANCE AND REGULATORY RELATED

- New IRS Compliance Program Should Be on Every Plan Sponsor's Radar
- How to Handle the DOL's New IRA Rollover Rule
- Anonymous Correction Guidance Still Available Under EPCRS
- IRS Provides Guidance for Late Pre-Approved Plan Restatements

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

Full Article Available Here ---> <https://www.napa-net.org/news-info/daily-news/senate-help-kick-secure-20-push>

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

Full Article Available Here ---> <https://www.plansponsor.com/communicate-plan-participants-right-now/>

HOW RETIREMENT IS CHANGING AS WE LIVE LONGER

A new study by Edward Jones and Age Wave, "Longevity and the New Journey of Retirement," examines what it means to experience well-being and thrive in retirement, a journey that is not one-size-fits-all, and instead has many possible paths and variations. The study of more than 11,000 U.S. adults found that despite Americans' worries about health care and long-term care costs in retirement, they still desire to live longer, and nearly seven in 10 Americans (69%) want to live to age 100. Source: Planadviser.com

Full Article Available Here ---> <https://www.planadviser.com/retirement-changing-live-longer/>

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

Full Article Available Here ---> <https://cohenbuckmann.com/insights/2022/6/12/more-pushback-against-car-2022-01-forusalls-suit-against-the-department-of-labor>

FIDUCIARY AND 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

Full Article Available Here ---> <https://www.jdsupra.com/legalnews/how-to-choose-your-retirement-plan-provi-96034/>

TAKING 401K 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

Full Article Available Here ---> <https://www.napa-net.org/news-info/daily-news/taking-401k-plan-design-next-level>

A WAIT-AND-SEE APPROACH FOR 401K PLAN FIDUCIARIES INTERESTED IN CRYPTOCURRENCY OPTIONS

Many plan fiduciaries may not anticipate including cryptocurrency options in their participant-directed account plans now or in the future. For those fiduciaries who might consider them, the Department of Labor's Compliance Release combined with initiatives supported by the Executive Order strongly counsels a wait-and-see approach today. Source: Verrill-law.com

Full Article Available Here ---> <https://www.verrill-law.com/benefits-law-update/departments-of-labor-guidance-and-federal-initiatives-counsel-a-wait-and-see-approach-for-401k-plan-fiduciaries-interested-in-cryptocurrency-options/>

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

Full Article Available Here ---> <https://hallbenefitslaw.com/brokerage-window-fiduciary-duties-in-light-of-dol-cryptocurrency-guidance/>

INSIGHTS: STUDIES, RESEARCH AND 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

Full Article Available Here --->>

https://www.fi360.com/uploads/media/Cybersecurity_and_Retirement_Plans_final_06082022.pdf

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

Full Article Available Here --->> <https://frostbrowntodd.com/state-mandated-retirement-plans-coming-to-a-state-near-you/>

DOL PROPOSES TOUGHER PROHIBITED TRANSACTION EXEMPTION PROCEDURES

On March 15, 2022, the DOL published proposed amendments to its regulations specifying the procedures for applying for class and individual exemptions and the processing of such applications. If finalized as recently proposed, these changes would impose significant new requirements on applicants and other actors (such as appraisers and independent fiduciaries) who are involved in transactions that require an exemption. Source: Wagnerlawgroup.com

Full Article Available Here --->> <https://www.wagnerlawgroup.com/wp-content/uploads/sites/1101401/2022/06/A0703741.pdf>

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

Full Article Available Here --->> <https://institutional.vanguard.com/how-america-saves/overview.html>

COMPLIANCE AND REGULATORY RELATED

NEW IRS COMPLIANCE PROGRAM SHOULD BE ON EVERY PLAN SPONSOR'S RADAR

Every employer that receives the new 90-day notice should immediately engage in a comprehensive review of its retirement plan with its third-party administrator and legal counsel. Correction of any plan document defects or operational failures discovered should be made a top priority to ensure timely compliance and response to the IRS. Source: Foxrothschild.com

Full Article Available Here ---> <https://www.foxrothschild.com/employee-benefits-compensation/publications/new-irs-compliance-program-should-be-on-every-plan-sponsors-radar>

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 poled 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

Full Article Available Here ---> <https://www.advisorperspectives.com/articles/2022/05/30/how-to-handle-the-dols-new-ira-rollover-rule>

ANONYMOUS CORRECTION GUIDANCE STILL AVAILABLE UNDER EPCRS

New EPCRS procedures have replaced the anonymous submission under VCP with a Pre-Submission Conference. The plan sponsor's representative can submit a VCP Pre-submission Conference request with the IRS. Unlike the anonymous VCP submission, there is no fee for a Pre-Submission Conference. Source: Graydon.law

Full Article Available Here ---> <https://graydon.law/anonymous-correction-guidance-still-available-under-epcrs/>

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

Full Article Available Here ---> <https://www.groom.com/resources/irs-provides-guidance-for-late-pre-approved-plan-restatements/>