

# IFS | Fiduciary Insights Update

## Retirement Plan Monthly Newsletter

<APPROVED  
TEAM DBA>

<CONTACT  
INFORMATION>

<ADDRESS>

December 2022

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

- Bipartisan Retirement Savings Bill Foreshadows Post-Secure 2.0 Debate
- More Hackers Going After Retirement Savings, Experts Say
- In the Wake of COVID-19, Retirement Savings Surge
- Six Obstacles to Retirement Income Adoption

### FIDUCIARY AND PLAN GOVERNANCE MATERIAL

- DOL Proposes Self-Correction Option and Other Changes to Voluntary Fiduciary Correction Program
- The Secret(s) to a Good TPA Partnership
- A Checklist for Your Retirement Plan Fiduciary Insurance Renewal
- End-of-Year 2022 Tips for Retirement Plan Sponsors

### INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

- DC Plan Sponsors Prevail in Two Recent Stock-Drop Rulings
- Six Obstacles to Retirement Income Adoption
- DOL Issues Final ESG and Proxy Voting Rule
- 401k Plan Matching Contributions: To True Up or Not True Up?

### COMPLIANCE AND REGULATORY RELATED

- 2023 ERISA Plan Compliance Calendar
- DOL Announces Form 5500 Changes
- Expert Consensus: SECURE 2.0 May or May Not Pass
- Informal DOL Guidance Addresses PEP Bonding Requirements

## GENERAL ITEMS

### BIPARTISAN RETIREMENT SAVINGS BILL FORESHADOWS POST-SECURE 2.0 DEBATE

Senate and House members introduce a measure that would establish retirement accounts for low- and middle-income workers not covered by an employer plan. Source: Investmentnews.com

Full Article Available Here ---> <https://www.investmentnews.com/bipartisan-retirement-savings-bill-foreshadows-post-secure-2-0-debate-230086>

-----

### MORE HACKERS GOING AFTER RETIREMENT SAVINGS, EXPERTS SAY

Employer retirement accounts are facing increasingly sophisticated attacks by hackers looking to get a slice of worker savings, and cryptocurrency investing is particularly at risk for scams, according to two financial-focused cybersecurity experts. Source: Planadviser.com

Full Article Available Here ---> <https://www.planadviser.com/experts-hackers-going-retirement-savings/>

-----

### IN THE WAKE OF COVID-19, RETIREMENT SAVINGS SURGE

Benefits have long been a powerful recruiting and retention tool, and amid a tight labor market, the Plan Sponsor Council of America's 65th Annual Survey of 401k and Profit Sharing Plans found record-high rates of retirement savings alongside innovative plan designs. The survey found participant and employer contribution rates were at all-time highs in 2021 with a combined average savings rate of 13.9% of pay, and 2021 saw the highest employer contribution rate in the history of the survey (5.6% of pay). Source: Napa-net.org

Full Article Available Here ---> <https://www.napa-net.org/news-info/daily-news/wake-covid-19-retirement-savings-surge>

-----

### SIX OBSTACLES TO RETIREMENT INCOME ADOPTION

Ironically, programs designed to provide retirement income pay so little attention to the realization of that objective. Still, some have said that this could be the year for retirement income -- a combination of new offerings, volatile markets, and rising interest rates -- and yet, it still seems that there are obstacles to overcome. Here are six. Source: Napa-net.org

Full Article Available Here ---> <https://www.napa-net.org/news-info/daily-news/6-obstacles-retirement-income-adoption>

---

## FIDUCIARY AND PLAN GOVERNANCE MATERIAL

### DOL PROPOSES SELF-CORRECTION OPTION AND OTHER CHANGES TO VOLUNTARY FIDUCIARY CORRECTION PROGRAM

The DOL proposed changes to its Voluntary Fiduciary Correction Program in November for the first time since 2006. The most significant change is the addition of a self-correction option for delinquent deposits of participant contributions and loan repayments. The other changes clarify and expand certain existing aspects of the VFCP. The DOL also proposed conforming changes to the prohibited transaction class exemption, PTE 2002-51, associated with the VFCP. Source: Erisapracticecenter.com

Full Article Available Here ---> <https://www.erisapracticecenter.com/2022/12/dol-proposes-self-correction-option-and-other-changes-to-voluntary-fiduciary-correction-program/>

-----

### THE SECRET(S) TO A GOOD TPA PARTNERSHIP

For years, one of the most persistent barriers to the smooth and efficient operation of many 401k plans has been the nature of the working relationship between the plan's advisor and its third-party administrator, or TPA. Source: Napa-net.org

Full Article Available Here ---> <https://www.napa-net.org/news-info/daily-news/secrets-good-tpa-partnership>

-----

### A CHECKLIST FOR YOUR RETIREMENT PLAN FIDUCIARY INSURANCE RENEWAL

In response to the continued proliferation of lawsuits against retirement plan fiduciaries, fiduciary liability insurers are raising rates, limiting coverage, and expanding their due diligence of fiduciary processes. This article provides a checklist that includes tips and best practices for policyholders to ensure they are in a strong position to obtain retirement plan fiduciary coverage when it comes time to review and avoid coverage denials when it comes time to pay benefits. Source: Bradley.com

Full Article Available Here ---> <https://www.bradley.com/insights/publications/2022/12/a-checklist-for-your-retirement-plan-fiduciary-insurance-renewal>

-----

### END-OF-YEAR 2022 TIPS FOR RETIREMENT PLAN SPONSORS

As a retirement plan sponsor, you have the fiduciary responsibility to look over your plan and part of looking over the plan is preparing for the future. This article is about what end-of-year planning you as a plan sponsor should be doing in maintaining and improving your retirement plan for the coming new year. Source: Jdsupra.com

Full Article Available Here ---> <https://www.jdsupra.com/legalnews/end-of-year-2022-tips-for-retirement-pla-09252/>

## INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

### DC PLAN SPONSORS PREVAIL IN TWO RECENT STOCK-DROP RULINGS

Two different federal appeals courts recently upheld the dismissal of lawsuits challenging the prudence of employee stock ownership plan offerings in DC plans. Both of these stock-drop cases involved allegations that plan fiduciaries -- who were corporate insiders privy to nonpublic information about the sponsor -- breached their ERISA duties by failing to take appropriate action based on that information. In each case, the court ruled that plaintiffs hadn't met the pleading standard set by the Supreme Court in *Fifth Third Bancorp v. Dudenhoeffer*. Source: Mercer.com

Full Article Available Here ---> <https://www.mercer.com/our-thinking/law-and-policy-group/dc-plan-sponsors-prevail-in-two-recent-stock-drop-rulings.html>

-----

### HOW DOES LOCAL COST-OF-LIVING AFFECT RETIREMENT?

Households across the United States face very different cost-of-living, largely due to variations in housing expenses. Wage levels directly affect retirement security through Social Security benefits. As a result, households in high-cost areas could face a replacement-rate penalty if their employers offer higher wages. The questions are: 1) How large is this penalty in practice? and 2) Do workers respond to the penalty by adjusting their behavior? Source: Bc.edu

Full Article Available Here ---> [https://crr.bc.edu/wp-content/uploads/2022/11/IB\\_22-21.pdf](https://crr.bc.edu/wp-content/uploads/2022/11/IB_22-21.pdf)

-----

### DOL ISSUES FINAL ESG AND PROXY VOTING RULE

The DOL released a rule on Nov. 22, 2022, that clarifies fiduciary responsibilities under ERISA for selecting investments and exercising shareholder rights such as proxy voting. The regulation, titled "Final Rule on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights," is summarized here. Source: Callan.com

Full Article Available Here ---> <https://www.callan.com/blog-archive/2022-esg-rule/>

-----

### 401K PLAN MATCHING CONTRIBUTIONS: TO TRUE UP OR NOT TRUE UP?

As a matter of plan design, for purposes of matching contributions, some 401k plans provide that a participant's compensation for the entire plan year is taken into account, while other 401k plans take into account a participant's compensation only for payroll periods for which the participant makes elective deferrals. The former design is commonly referred to as a "true up" feature. This article illustrates, through examples, each design, and addresses why a plan sponsor might choose one design over the other. Source: Verrill-law.com

Full Article Available Here ---> <https://www.verrill-law.com/benefits-law-update/401k-plan-matching-contributions-to-true-up-or-not-true-up/>

## COMPLIANCE AND REGULATORY RELATED

### 2023 ERISA PLAN COMPLIANCE CALENDAR

Being a retirement plan sponsor involves juggling many tasks, one of the more important is to make sure your plan complies with all pertinent federal legislation and regulations. A compliance calendar like this one helps you keep track of your company's required filings, their due dates, and related details so you can avoid incurring any fines or other penalties for late filings or missing information.

Source: Plansponsor.com

Full Article Available Here ---> <https://www.plansponsor.com/2023-erisa-plan-compliance-calendar/>

### DOL ANNOUNCES FORM 5500 CHANGES

The DOL announced changes to Forms 5500 and 5500-SF (short form) and released updated instructions on December 8. The DOL updates Form 5500 annually to keep it up-to-date with various regulatory changes. Every defined contribution and pension plan sponsor is required to file a 5500 to the IRS and DOL annually. Source: Plansponsor.com

Full Article Available Here ---> <https://www.plansponsor.com/department-labor-announces-form-5500-changes/>

### EXPERT CONSENSUS: SECURE 2.0 MAY OR MAY NOT PASS

Passage of the retirement reform legislative package known as SECURE 2.0 hinges primarily, if not entirely, on whether Congress can pass a budget by January 3, which is not a foregone conclusion. January 3 is when the next Congress is sworn in, and any unfinished bills under consideration must be proposed again. Source: Planadviser.com

Full Article Available Here ---> <https://www.planadviser.com/expert-consensus-secure-2-0-may-may-not-pass/>

### INFORMAL DOL GUIDANCE ADDRESSES PEP BONDING REQUIREMENTS

An information letter recently released by the Department of Labor addresses the application of ERISA's bonding requirements to a pooled employer plan established under the SECURE Act. Source: Napa-net.org

Full Article Available Here ---> <https://www.napa-net.org/news-info/daily-news/informal-dol-guidance-addresses-pep-bonding-requirements>