

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

- Target Date Funds: A 'Time Bomb' in a Retirement Tool for the Masses?
- Pitfalls in Evaluating Retirement Plan Fees—And Avoiding Them
- “Forgotten” 401(k) Accounts Amount to Nearly \$1.35 Trillion of Assets, According to New White Paper
- Missing Participants: What Comes Next?

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

- DOL Confirms Fiduciary Rule Rewrite, Other Agency Priorities
- Court Limits Fiduciary Breach Lawsuit to Claims Against Plan Sponsor and Plan Committee
- Biden Expected to Advance a More Stringent Fiduciary Rule, Advocate for Retirement Income and ESG Investing
- U.S. Asks Supreme Court to Weigh In on Excessive Fee Claims

INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

- Abandoned Retirement Savings: White Paper
- 2021 Retirement Confidence Survey: A Closer Look at Black and Hispanic Americans
- BlackRock Survey: Overwhelming demand from workers, employers, and retirees for retirement income
- T. Rowe Price Releases Annual Study On 401(k) Participant Activity And Plan Design

COMPLIANCE AND REGULATORY RELATED

- Empire State Poised to Enact Mandatory Auto-IRA Program
- Enhancing Emergency and Retirement Savings Act Introduced
- Bill Would Allow Penalty-Free Withdrawals From 401ks, IRAs
- DOL is pursuing fewer cases — but much bigger payouts

GENERAL ITEMS

TARGET DATE FUNDS: A 'TIME BOMB' IN A RETIREMENT TOOL FOR THE MASSES?

A congressional committee has asked the GAO to investigate target-date funds. Ron Surz calls TDFs a "time bomb," saying they hold too much risk near the target retirement date. But many believe TDFs are a valuable tool to help inexperienced investors build sensible retirement portfolios. Source: Thinkadvisor.com

Full Article Available Here --->> <https://www.thinkadvisor.com/2021/06/08/target-date-funds-a-time-bomb-in-a-retirement-tool-for-the-masses/>

PITFALLS IN EVALUATING RETIREMENT PLAN FEES—AND AVOIDING THEM

Benchmarking investment fees is an important function. It's more than that, it's critical to fulfilling your fiduciary duty. But "essential" does not translate to "easy," and there are some common pitfalls in performing that function. This article identifies common problems with benchmarking fees and mistakes that can be made, and how to avoid them. Source: Asppa.org

Full Article Available Here --->> <https://www.asppa.org/news/pitfalls-evaluating-retirement-plan-fees%E2%80%94and-avoiding-them>

“FORGOTTEN” 401(K) ACCOUNTS AMOUNT TO NEARLY \$1.35 TRILLION OF ASSETS

The white paper explains how these "forgotten accounts" represent 401k savings that have been left behind by people who have changed jobs or terminated employment. According to the company's research, as of May 2021, there are an estimated 24.3 million forgotten 401k accounts in the U.S. By the end of 2021, the company estimates that number will rise to almost 25 million forgotten accounts, with each account holding an average balance of approximately \$55,000 and representing nearly \$1.35 trillion of assets in total. Source: Businesswire.com

Full Article Available Here --->> <https://www.businesswire.com/news/home/20210602005396/en/%E2%80%9CForgotten%E2%80%9D-401-k-Accounts-Amount-to-Nearly-1.35-Trillion-of-Assets-According-to-New-White-Paper-from-Capitalize>

MISSING PARTICIPANTS: WHAT COMES NEXT?

Washington has shifted again. In 2009, Democrats had complete control of Congress and the presidency. By 2017, complete control had shifted to the Republicans. Now the Democrats are back. One constant is sure to continue: a focus on missing participants in retirement plans. While much of the focus in recent years has been on the DOL, the IRS has a key role to play as well. Source: Napa-net.org

Full Article Available Here --->> <https://www.napa-net.org/news-info/daily-news/missing-participants-what-comes-next>

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

DOL CONFIRMS FIDUCIARY RULE REWRITE, OTHER AGENCY PRIORITIES

The 10-year saga of the fiduciary rule will continue. As various administration officials had been suggesting over the past few months, the DOL's Spring 2021 Regulatory Agenda confirms that the Employee Benefits Security Administration plans to issue a Notice of Proposed Rulemaking addressing the definition of fiduciary. The DOL agenda item shows that EBSA plans to issue the NPRM by December 2021. Source: Ntsa-net.org

Full Article Available Here --->> <https://www.nts-net.org/news-resources/dol-confirms-fiduciary-rule-rewrite-other-agency-priorities>

COURT LIMITS FIDUCIARY BREACH LAWSUIT TO CLAIMS AGAINST PLAN SPONSOR AND PLAN COMMITTEE

It is not uncommon for fiduciary claims to be brought initially against every plausible party, including the plan sponsor's board and its members, and various individual employees. An interesting aspect of this case is the relative ease with which the court strips away the claims against individuals and the board in light of the plan sponsor's delegation of investment authority to the plan committee. Source: Thomsonreuters.com

Full Article Available Here --->> <https://tax.thomsonreuters.com/blog/court-limits-fiduciary-breach-lawsuit-to-claims-against-plan-sponsor-and-plan-committee/>

BIDEN EXPECTED TO ADVANCE A MORE STRINGENT FIDUCIARY RULE, ADVOCATE FOR RETIREMENT INCOME AND ESG INVESTING

Industry experts reflect on what President Joe Biden has done in his first months in office with respect to retirement plans and what they still see coming down the road from his administration. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/biden-expected-advance-stringent-fiduciary-rule-advocate-retirement-income-esg-investing/>

U.S. ASKS SUPREME COURT TO WEIGH IN ON EXCESSIVE FEE CLAIMS

U.S. attorneys argue the Court of Appeals' decision in a case against Northwestern University is incorrect and conflicts with decisions made by the 3rd and 8th Circuits in similar cases. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/u-s-asks-supreme-court-weigh-excessive-fee-claims/>

INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

ABANDONED RETIREMENT SAVINGS: WHITE PAPER

Retirement savings abandonment is a rising concern connected to DC systems and default enrollment. Authors use tax data on Individual Retirement Accounts to establish that in 2017, 2.7% of 72.5-year-old account-holders in total abandoned \$790 million; the median abandoned account held \$5,400. Nearly all of these funds remain with plans and are not sent to state unclaimed property. Regression discontinuity estimates show that abandonment is 10 times higher in automatic rollover IRAs, a type of default account. They nest their findings in a model of retirement savings featuring forgetting to derive implications for passive and active savers. Source: Ssrn.com

Full Article Available Here --->> https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3864530

2021 RETIREMENT CONFIDENCE SURVEY: A CLOSER LOOK AT BLACK AND HISPANIC AMERICANS

The Retirement Confidence Survey was conducted for its 31st year in 2021 to measure attitudes of American workers and retirees about issues surrounding retirement. The 2021 RCS included an oversample of Black and Hispanic Americans to allow for a closer analysis of the challenges that they face in saving and preparing for retirement. New questions were added this year to explore the impact of the COVID-19 pandemic, evaluate priorities regarding preparing for retirement, and understand experiences with the financial system that may affect Black and Hispanic Americans' retirement preparations. Source: Ebri.org

Full Article Available Here --->> <https://www.ebri.org/publications/research-publications/issue-briefs/content/2021-retirement-confidence-survey-a-closer-look-at-black-and-hispanic-americans-2>

OVERWHELMING DEMAND FROM WORKERS, EMPLOYERS, AND RETIREES FOR RETIREMENT INCOME

A large majority of workers saving for retirement through their employers' 401k plans want options that will help them generate income in retirement, according to the fifth annual DC Pulse Survey from BlackRock. According to the survey, 89% of DC plan participants are interested in owning a product designed to generate retirement income, and almost 9 in 10 said having guaranteed income in retirement would have a positive impact on their financial well-being. Source: Businesswire.com

Full Article Available Here --->> <https://www.businesswire.com/news/home/20210603005135/en/BlackRock-Survey-Overwhelming-demand-from-workers-employers-and-retirees-for-retirement-income>

T. ROWE PRICE RELEASES ANNUAL STUDY ON 401(K) PARTICIPANT ACTIVITY AND PLAN DESIGN

T. Rowe Price released Reference Point, its annual 401k benchmarking report featuring year-over-year data and analysis on participant behavior and plan design. The report is based on the firm's full-service recordkeeping client data and this year, it features findings derived through the lens of the global pandemic. Key findings are reviewed. Source: Prnewswire.com

Full Article Available Here --->> <https://www.prnewswire.com/news-releases/t-rowe-price-releases-annual-study-on-401k-participant-activity-and-plan-design-301304137.html>

COMPLIANCE AND REGULATORY RELATED

EMPIRE STATE POISED TO ENACT MANDATORY AUTO-IRA PROGRAM

The New York State legislature has taken another big step toward enacting a mandatory auto-IRA program. The State Senate voted 44-19 on June 7 to approve NY A03213-A, legislation that would convert the existing New York state secure choice auto-IRA saving program from being voluntary to mandatory for private-sector employers that do not offer a retirement plan and employ 10 or more employees. The legislation is now cleared for the signature of New York Gov. Andrew Cuomo. Source: Napa-net.org

Full Article Available Here --->> <https://www.napa-net.org/news-info/daily-news/empire-state-poised-enact-mandatory-auto-ira-program>

ENHANCING EMERGENCY AND RETIREMENT SAVINGS ACT INTRODUCED

The legislation would provide a penalty-free "emergency personal expense distribution" option from employer-sponsored retirement plans and IRAs. The proposal would allow for one emergency distribution per calendar year of up to \$1,000 from the individual's total nonforfeitable accrued benefit under the plan. The bill requires that the withdrawn funds be paid back to the plan before an additional emergency distribution from that same plan is allowed. Source: Ascensus.com

Full Article Available Here --->> <https://www2.ascensus.com/news/industry-regulatory-news/2021/06/02/enhancing-emergency-and-retirement-savings-act-introduced/>

BILL WOULD ALLOW PENALTY-FREE WITHDRAWALS FROM 401KS, IRAS

Sen. James Lankford introduced legislation Tuesday that would allow retirement plan participants to dip into their savings for emergencies. "The Enhancing Emergency and Retirement Savings Act of 2021" would "encourage participation in retirement plans by giving individuals penalty-free access to funds should a family emergency hit," Lankford said. Source: Thinkadvisor.com

Full Article Available Here --->> <https://www.thinkadvisor.com/2021/06/01/bill-would-allow-penalty-free-withdrawals-from-401ks-iras/>

DOL IS PURSUING FEWER CASES — BUT MUCH BIGGER PAYOUTS

DOL investigations are resulting in the biggest 401k recoveries the agency has ever seen, even as the number of cases it closes has been declining. The agency has been pursuing bigger investigations, part of an initiative started in 2013 to go after plan violations that affect a larger number of participants. The recent numbers suggest that the effort is paying off. Source: Investmentnews.com

Full Article Available Here --->> <https://www.investmentnews.com/dol-fewer-cases-bigger-payouts-207137>

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