

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

- ERISA Regulation of ESG Investment: A Counter-Theory
- Women Outperform Men in Managing DC Plans: Morningstar
- "Astronomical" RK Fees, Branded CITs, Draw Excessive Fee Suit
- As Retirement Income Needs Grow, DC Plan Sponsors Weigh Solutions

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

- DOL Issues Missing Participant Guidance After Years-Long Enforcement Initiative
- Withdrawals and Loans From DC Retirement Plans
- A Checklist for Retirement Plan Committees
- Evaluating Target-Date Funds Is a Fiduciary Responsibility

INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

- Sponsors' Retirement Plan Priorities Shift Due to Pandemic
- Is Auto-Enrollment "Not Optimal"?
- 401k Plan Asset Allocation, Account Balances, and Loan Activity in 2018
- Target-Date Funds Continue Their 401k DC Plan Domination

COMPLIANCE AND REGULATORY RELATED

- IRS Opine on PEP Plan Documents
- Increased Penalties for Late 5500 Filings
- How to Effectively Measure Retirement Plan Success
- COVID-19 Deadline Extensions -- No More Time Outs but No Single Deadline Either

GENERAL ITEMS

ERISA REGULATION OF ESG INVESTMENT: A COUNTER-THEORY

The author writes, "The DOL's effort to set limits on ESG investing implicates three ERISA duties -- prudence, diversification and loyalty. For me the headline issue is prudence and (as DOL itself claims in what I just quoted) the question of value. And that is where I want to start unravelling this seemingly endless argument we're having over 'social investing.'" Source: Asppa.org

Full Article Available Here --->> <https://www.asppa.org/news/erisa-regulation-esg-investment%E2%80%94counter-theory>

WOMEN OUTPERFORM MEN IN MANAGING DC PLANS: MORNINGSTAR

Women who are administrators of DC plans do a better job of managing than their male counterparts in key areas considered progressive practices by Morningstar. The research firm found that female administrators were more likely than their male counterparts to use auto-enrollment, offer default investments, and practice good governance according to ERISA guidelines. Source: Pionline.com

Full Article Available Here --->> <https://www.pionline.com/defined-contribution/women-outperform-men-managing-dc-plans-morningstar>

"ASTRONOMICAL" RK FEES, BRANDED CITS, DRAW EXCESSIVE FEE SUIT

Just when you thought all the \$1 billion 401k plans had been sued, another one shows up. This time the target is none other than the American Red Cross, sued by four of the 22,000 participants (with account balances) in the plan that had over \$1.2 billion in assets at the end of 2019 (according to the suit). The case presented is relatively straightforward; plan participants paid higher fees than participants in a "jumbo" 401k plan should have. Source: Napa-net.org

Full Article Available Here --->> <https://www.napa-net.org/news-info/daily-news/astromical-rk-fees-branded-cits-draw-excessive-fee-suit-0>

AS RETIREMENT INCOME NEEDS GROW, DC PLAN SPONSORS WEIGH SOLUTIONS

As more plan participants worry about retirement income security, demand for guaranteed income solutions is growing and plan sponsors are pondering the options. While there are many ways to measure the benefits, the author believes that some approaches, like in-plan and default options, have distinct advantages. Source: Alliancebernstein.com

Full Article Available Here --->> <https://blog.alliancebernstein.com/library/as-retirement-income-needs-grow-dc-plan-sponsors-weigh-solutions>

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

DOL ISSUES MISSING PARTICIPANT GUIDANCE AFTER YEARS-LONG ENFORCEMENT INITIATIVE

On January 12, 2021, the DOL issued sub-regulatory guidance detailing what steps plan sponsors should take to locate and distribute retirement benefits to missing or non-responsive participants (missing participants). While this guidance has been a priority request for retirement plan sponsors, service providers, and trade associations, there are mixed opinions as to its impact. Source: Groom.com

Full Article Available Here --->> <https://www.groom.com/resources/dol-issues-missing-participant-guidance-after-years-long-enforcement-initiative/>

WITHDRAWALS AND LOANS FROM DC RETIREMENT PLANS

In reaction to the current volatility in the economy due to the coronavirus pandemic, there have been many questions from defined contribution plan sponsors regarding ways participants can access money in their accounts. While recognizing such leakage may cause future headaches for participants in their retirement, many individuals do not have the resources to weather this storm and have no other options but to access their retirement accounts. Source: Rethinking65.com

Full Article Available Here --->> <https://rethinking65.com/2021/02/23/withdrawals-and-loans-from-defined-contribution-retirement-plans/>

A CHECKLIST FOR RETIREMENT PLAN COMMITTEES

Given that there are so many considerations to weigh when overseeing a retirement plan, it is important for plan sponsors to have a checklist for their committees -- whether the sponsor has a single retirement plan committee or dual investment and administrative committees -- to cover in quarterly meetings. Experts discuss what main facets of a retirement plan that a committee should cover in its quarterly meetings. Source: Plansponsor.com

Full Article Available Here --->> <https://www.plansponsor.com/in-depth/checklist-retirement-plan-committees/>

EVALUATING TARGET-DATE FUNDS IS A FIDUCIARY RESPONSIBILITY

Many fiduciaries responsible for selecting their 401k plan's target-date funds don't understand how these funds work. The risk of staying ignorant is increasing. Lawsuits challenging target-date fund selection are on the rise, and plan fiduciaries need to be able to defend their choices in response to these suits. New products, such as target-date funds that provide lifetime income options or make private equity investments are becoming available. For all of these reasons, if target-date funds are included in a plan's investment menu, fiduciaries need to develop a prudent process for evaluating the funds in partnership with their investment professionals. Source: Cohenbuckmann.com

Full Article Available Here --->> <https://cohenbuckmann.com/insights/2021/3/2/evaluating-target-date-funds-is-a-fiduciary-responsibility>

INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

SPONSORS' RETIREMENT PLAN PRIORITIES SHIFT DUE TO PANDEMIC

Callan surveyed plan sponsors and found that their priorities for their DC plans shifted considerably due to the pandemic. Sixty-nine percent of sponsors said they are now most interested in supporting their employees' immediate financial needs. In years past, employers' overriding priority has always been "aspirational goals for their total benefits or total rewards." Source: Plansponsor.com

Full Article Available Here ---> <https://www.plansponsor.com/sponsors-retirement-plan-priorities-shift-due-pandemic/>

IS AUTO-ENROLLMENT "NOT OPTIMAL"?

A recent industry trade article questions the efficacy of saving early for retirement and notes that there "may even be such a thing as saving too much." What launches that premise is a research paper titled "Is Automatic Enrollment Consistent with a Life Cycle Model?" That turns out to be a relatively fancy academic title for a simple concept: Does automatic enrollment make sense for younger adults? Source: Asppa.org

Full Article Available Here ---> <https://www.asppa.org/news/auto-enrollment-%E2%80%98not-optimal%E2%80%99>

401K PLAN ASSET ALLOCATION, ACCOUNT BALANCES, AND LOAN ACTIVITY IN 2018

Since 1996, the Employee Benefit Research Institute and the Investment Company Institute have worked together on collecting and analyzing annual data on millions of 401k plan participants' accounts. This new 36-page report reflects the year-end 2018 update of these data and EBRI and ICI's ongoing research into 401k plan participants' activity. Source: Ebri.org

Full Article Available Here ---> https://www.ebri.org/docs/default-source/ebri-issue-brief/ebri_ib_526_401kxsec.4mar21.pdf?sfvrsn=80823a2f_6

TARGET-DATE FUNDS CONTINUE THEIR 401K DC PLAN DOMINATION

Little surprise, target-date funds are a popular choice for 401k plans' investment lineups, especially among younger participants. An updated study from the Investment Company Institute and the Employee Benefit Research Institute found that younger 401k plan participants have large allocations to target-date funds, being both more likely to hold target-date funds than older participants. Source: 401kspecialistmag.com

Full Article Available Here ---> <https://401kspecialistmag.com/target-date-funds-continue-their-401k-dc-plan-domination/>

COMPLIANCE AND REGULATORY RELATED

IRS OPINE ON PEP PLAN DOCUMENTS

The IRS in their January 20, 2021 edition of Employee Plans News opined that pre-approved qualified retirement plan documents may be used to establish arrangements known as pooled employer plans or PEPs.

Source: Jdsupra.com

Full Article Available Here --->> <https://www.jdsupra.com/legalnews/irs-documents-opine-on-pep-plan-9431806/>

INCREASED PENALTIES FOR LATE 5500 FILINGS

As part of the release of the 2021 annual adjustment to the civil monetary penalties, the DOL has provided benefit plans with the ever-important reminder of the severity of the penalties that can be assessed for failing to file Form 5500. Effective for penalties assessed after January 15, 2021, the DOL per day penalty for failure to properly file an annual report has increased from \$2,233 to \$2,259, with no maximum. In addition to the DOL penalties, the IRS can also assess a penalty for late filers up to \$250 a day, up to a maximum penalty of \$150,000 per plan year. Source: Graydon.law

Full Article Available Here --->> <https://graydon.law/increased-penalties-for-late-5500-filings/>

HOW TO EFFECTIVELY MEASURE RETIREMENT PLAN SUCCESS

According to Vestwell's "2020 Retirement Trends Report," plan advisers and sponsors use different metrics to determine the success of retirement plans. But it is important for plan sponsors to define plan goals and what they are going to measure, and the defined metrics should be things they can influence. Source: Plansponsor.com

Full Article Available Here --->> <https://www.plansponsor.com/in-depth/effectively-measure-retirement-plan-success/>

COVID-19 DEADLINE EXTENSIONS -- NO MORE TIME OUTS BUT NO SINGLE DEADLINE EITHER

The DOL has released Disaster Relief Notice 2021-01 that attempts to resolve a potential conflict with other statutory guidance under ERISA Section 518 and Code Section 7508A, which technically limits the allowable deadline extension period to a maximum of 1 year. Unfortunately, this Notice now results in new deadlines that can apply immediately and will differ based on individual events. Source: Benefitslawadvisor.com

Full Article Available Here --->> <https://www.benefitslawadvisor.com/2021/02/articles/disaster-relief/covid-19-deadline-extensions-no-more-time-outs-but-no-single-deadline-either/>