

# FIDUCIARY INSIGHTS UPDATE

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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.

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## GENERAL ITEMS

### Employees See 401k Plans as Prerequisite Instead of Perk

Access to workplace retirement plans is no longer considered a job perk to employees, but a necessity instead. A new study released today by Vestwell, which surveyed 1,200 employees nationwide on savings habits, evolving benefits, and challenges, finds that 85% of respondents expect their employer to offer retirement benefits, up from 72% last year.

**Read the full article at [401kspecialistmag.com](https://www.401kspecialistmag.com)**

### After SECURE 2.0: Rethinking Roth 401k vs. Roth IRA

Did SECURE 2.0 change the decision-making regarding whether to contribute to a Roth 401k or a Roth IRA? Yes, and no. Participants should keep an eye on any actions a plan sponsor takes (or fails to take) in amending their 401k plan following SECURE 2.0. But most retirement savers can achieve the best outcome by leveraging the superior features incorporated in each account.

**Read the full article at [401kspecialistmag.com](https://www.401kspecialistmag.com)**

### Can 403bs and CITs Some Day Be Friends?

403b plans still may not use collective investment trusts, an investment similar to a mutual fund that is subject to fewer regulations and requirements and often carries lower fees for defined contribution retirement plans. But, legislation to permit the pooled investment into 403b plans continues to inchworm its way through Congress.

**Read the full article at [Planadviser.com](https://www.planadviser.com)**

### A winning benefits package can set your business apart

To stay competitive, your business needs to maintain a vibrant culture and impressive benefits – and that includes offering a retirement savings plan. According to survey data, 85% of workers see retirement benefits as important, and 80% consider retirement benefits a major factor in their final decision-making among prospective employers.<sup>1</sup>

**Read the full article at [RaymondJames.com](https://www.RaymondJames.com).**

## FIDUCIARY AND PLAN GOVERNANCE MATERIAL

### Retirement Security Proposal Addresses "Significant Gaps," EBSA Official Says

Tim Hauser says the DOL's retirement security proposal, sometimes called the fiduciary proposal, is not the same as the proposal made in 2016, as some critics have suggested. The latest iteration of the proposal has been the subject of widespread debate and controversy since it was first proposed in October. Hauser, the deputy assistant secretary for program operations of the DOL's Employee Benefits Security Administration, offered insight into why the Department of Labor continues to pursue it.

**Read the full article at [Planadviser.com](https://www.planadviser.com)**

### Small Biz Owners Seemingly Unaware of 401k Start-up Credits

Despite the SECURE and SECURE 2.0 acts essentially making it free for small business owners to offer a retirement plan, new research finds that many are still harboring old excuses for not providing one. The report, "Small Business Retirement Survey: Policy Knowledge and Reasons for Offering or Not Offering a Retirement Plan," is the result of a survey of small businesses conducted to give a more current understanding of attitudes, concerns, and knowledge about retirement plans.

**Read the full article at [Napa-net.org](https://www.napa-net.org)**

### Impact on ERISA Regulation if Supreme Court Throws Chevron Deference Overboard

Although Relentless and Loper Bright do not directly implicate ERISA, a repeal of Chevron deference would almost certainly affect how courts treat regulations under ERISA. Two current ERISA hot topics that come to mind are the proposed Retirement Security Rule and the Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights rule. If the Court abandons or curtails the Chevron deference, ERISA regulations adopted by the DOL may be more heavily scrutinized, modified, or vacated by federal courts.

**Read the full article at [Morganlewis.com](https://www.Morganlewis.com).**

## INSIGHTS; STUDIES, RESEARCH AND WHITE PAPERS

### Nearly Three Quarters of Higher Ed Institutions List Retirement Readiness as Top Concern

A new study on retirement plans in higher education institutions likens the past year's challenges to those during the COVID-19 pandemic and highlights how continuing economic fallout have marred retirement planning for participants.

Read the full article at [401kspecialistmag.com](https://www.401kspecialistmag.com)

### Index Funds Have Officially Won

The inevitable at last arrived. Last month, for the first time, passively managed funds controlled more assets than did their actively managed competitors. For the most part, the public discussion of indexing's ascension has been unhelpful. The prevailing argument, that indexing's success has distorted stock market prices, is both unprovable and improbable. The second claim is that a handful of index-fund providers have control of too many assets. Perhaps that is so, but what specific threat do they pose?

Read the full article at [Morningstar.com](https://www.morningstar.com)

### EBSA Recovered \$1.4B in Retirement, Health Benefits in '23

In an annual fact sheet summarizing recoveries from enforcement actions and complaint resolutions, EBSA, a division of the DOL, reported that \$854.7 million in recovery came from 731 civil investigations, with 505 (or 69%) resulting in monetary resolutions or other corrective actions. Another \$444.1 million came from resolving complaints, \$61.2 million from recovering abandoned plan assets, and \$84.5 million from its voluntary fiduciary correction program.

Read the full article at [Planadviser.com](https://www.planadviser.com)

### American Views on Defined Contribution Plan Saving, 2023

This survey polled respondents about their views on defined contribution retirement account saving and their confidence in 401k and other DC plan accounts. Survey responses indicated that Americans value the discipline and investment opportunity that 401k plans represent and largely oppose changing the tax preferences or investment control in those accounts.

Read the full article at [lci.org](https://www.lci.org)

## COMPLIANCE AND REGULATORY RELATED

### When It Comes to Vesting, the IRS Says Once a Long-Term, Part-Time Employee, Always a LTPT Employee

Under the SECURE Act and the SECURE 2.0 Act, employers must provide long-term, part-time employees the opportunity to make elective deferrals under their 401k plans and, beginning in 2025, their 403b plans. However, long-term, part-time employees are not required to be eligible for employer matching or profit-sharing contributions until they satisfy the regular plan rules. Despite this fact, one of the most salient issues surrounding the implementation of the new rule is how it impacts -- and complicates -- tracking when employees become vested in such contributions.

Read the full article at [Mwe.com](https://www.mwe.com)

### IRS Pre-Examination Retirement Compliance Pilot Program Is Extended

On February 7, 2024, the IRS announced the second phase of its Pre-Examination Retirement Compliance Program. Under this program, sponsors will be notified that their plan is selected for examination and will have 90 days to review and correct any plan document or operational errors, similar to the process for phase one. If a plan sponsor receives a letter notifying them of an upcoming examination, it is important to act quickly and loop in benefits counsel as soon as possible.

Read the full article at [Erisapracticecenter.com](https://www.erisapracticecenter.com)

### Federal Auto-IRA Bill for Uncovered Workers Introduced in the House

House Ways and Means Committee Ranking Member Richard Neal introduced a bill to establish a federal auto-IRA for employers with more than 10 employees who do not currently sponsor a retirement plan. The Automatic IRA Act of 2024 (H.R.7293) would require employees to be automatically enrolled in either an IRA or some other "automatic contribution plan or arrangement," like a 401k. It would apply to plan years beginning after 2026.

Read the full article at [Napa-net.org](https://www.napa-net.org)

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