

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

- CITs Have Different Fiduciary Implications Than Mutual Funds
- 401k Auto-Enrollment Proves Popular
- Get Ready to Explain Lifetime Income Illustrations
- House Committee Advances 401k Spousal Consent Bill

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

- A Higher Level of Fiduciary Oversight Could be Required for 401k Plan Brokerage Windows
- How to Help 401k Plan Sponsors Cut Through ESG Confusion
- When Providers Use Plan Participant Data for Purposes Unrelated to a Plan: What Fiduciaries Need to Know
- Ninth Circuit Revives Fee Challenge to Salesforce.com 401k Plan

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- When Recordkeepers Merge
- Study Finds Wide Range in 403b Plan Fees
- OECD Issues Recommendations for the "Good" Design of DC Retirement Plans
- Collective Investment Trusts and Good Governance Considerations

COMPLIANCE AND REGULATORY RELATED

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- Proposed IRS RMD Regulations Present Challenges, Risks for 403b Plans
- 401k, 403b, 457b: Why Are the Rules Different?
- Just Adopted a New 401k Plan? Beware These Common Pitfalls

GENERAL ITEMS

CITS HAVE DIFFERENT FIDUCIARY IMPLICATIONS THAN MUTUAL FUNDS

Plan sponsors considering collective investment trusts for their 401k plans should focus on the product provider's CIT governance policies and procedures, according to industry experts.

Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/cits-different-fiduciary-implications-mutual-funds/>

401K AUTO-ENROLLMENT PROVES POPULAR

Legislation moving through Congress would prompt more employers to automatically enroll new employees in 401k or similar defined contribution retirement plans and to increase participants' savings rates over time. Even without new mandates to do so, however, more employers are adopting automatic features to increase employee participation and to encourage employees to save enough for a secure retirement.

Source: Shrm.org

Full Article Available Here --->> <https://www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/401k--auto-enrollment-proves-popular.aspx>

GET READY TO EXPLAIN LIFETIME INCOME ILLUSTRATIONS

Highlights and discussion around the question, "When are the new lifetime income illustrations due and what should I be telling my clients who are 401k sponsors and participants about them?" Source: Napa-net.org

Full Article Available Here --->> <https://www.napa-net.org/news-info/daily-news/case-week-get-ready-explain-lifetime-income-illustrations>

HOUSE COMMITTEE ADVANCES 401K SPOUSAL CONSENT BILL

One week after the House passed SECURE 2.0, the House Education and Labor Committee advanced The Protecting America's Retirement Security Act (H.R. 7310) on Tuesday. It purports to strengthen the retirement system to protect workers' retirement savings and better support families and employers.

Source: 401kspecialistmag

Full Article Available Here --->> <https://401kspecialistmag.com/house-committee-advances-401k-spousal-consent-bill/>

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

A HIGHER LEVEL OF FIDUCIARY OVERSIGHT COULD BE REQUIRED FOR 401K PLAN BROKERAGE WINDOWS

Fiduciaries of 401k plans and other retirement plans know that they must prudently monitor the investment options available to participants in the plan, but are they monitoring participants' investments made through a plan's brokerage window? Recent commentary from the DOL on cryptocurrency investments suggests maybe fiduciaries should be and that the DOL may check in on that soon. Source: [Employeebenefitslawblog.com](https://www.employeebenefitslawblog.com)

Full Article Available Here --->> <https://www.employeebenefitslawblog.com/how-much-is-that-investment-in-the-window-a-higher-level-of-fiduciary-oversight-could-be-required-for-401k-plan-brokerage-windows/>

HOW TO HELP 401K PLAN SPONSORS CUT THROUGH ESG CONFUSION

When it comes to Environmental, Social, and Governance investing, regulatory changes are a big source of confusion for advisors and plan sponsors. "It's no surprise," said Bonnie Treichel, Chief Solutions Officer at Endeavor Retirement, "the apparent ESG regulatory back-and-forth over the past several years is enough to make even an ERISA attorney's head spin." The good news: When it comes to ESG, she's confident that advisors and plan sponsors can move forward. Source: 401kspecialistmag.com

Full Article Available Here --->> <https://401kspecialistmag.com/how-to-help-401k-plan-sponsors-cut-through-esg-confusion/>

WHEN PROVIDERS USE PLAN PARTICIPANT DATA FOR PURPOSES UNRELATED TO A PLAN: WHAT FIDUCIARIES NEED TO KNOW

There is a growing trend of using participant data to cross-sell financial products unrelated to plan recordkeeping by large recordkeepers and asset custodians of employer-sponsored retirement plans. In light of the fact that plan fiduciaries are ultimately legally responsible for the management and mismanagement of a retirement plan, this trend to use participant data may raise issues for employers in their role as plan sponsors and fiduciaries. Source: [Ogletree.com](https://ogletree.com)

Full Article Available Here --->> <https://ogletree.com/insights/when-retirement-plan-service-providers-use-plan-participant-data-for-purposes-unrelated-to-a-plan-what-employers-need-to-know/>

NINTH CIRCUIT REVIVES FEE CHALLENGE TO SALESFORCE.COM 401K PLAN

The Ninth Circuit became the first circuit court to rule in a 401k plan fee and investment litigation following the Supreme Court's January 2022 decision in *Hughes v. Northwestern University*. In *Davis v. Salesforce.com, Inc.*, the Ninth Circuit, without discussing *Hughes*, upheld the viability of the types of claims that *Hughes* reinstated and remanded for further review. Source: [Erisapracticecenter.com](https://erisapracticecenter.com)

Full Article Available Here --->> <https://www.erisapracticecenter.com/2022/04/ninth-circuit-revives-fee-challenge-to-salesforce-com-401k-plan/>

INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

WHEN RECORDKEEPERS MERGE

Businesses that provide recordkeeping services to defined contribution retirement plans are merging at a dizzying rate. What considerations should plan sponsors resolve when a competitor or aggregator acquires their recordkeeper or third-party administration firm? Source: Rolandcriss.com

Full Article Available Here ---> <https://rolandcriss.com/wp-content/uploads/2022/04/Hagan-JCB-When-RKs-Merge.pdf>

STUDY FINDS WIDE RANGE IN 403B PLAN FEES

A key finding of a recent GAO study is that fees for 403b plans varied widely. The agency surveyed ERISA and non-ERISA plan sponsors and service providers and reviewed the most recent Form 5500 data. It noted in its report that non-ERISA 403b plans are not required to file a Form 5500 with the Department of Labor, making it difficult to get information about this segment of the market. Source: Plansponsor.com

Full Article Available Here ---> <https://www.plansponsor.com/study-finds-wide-range-403b-plan-fees/>

OECD ISSUES RECOMMENDATIONS FOR THE "GOOD" DESIGN OF DC RETIREMENT PLANS

Because DC retirement plans have increasingly become an integral, if not the main, part of most countries' overall pension systems, the Organization for Economic Co-operation and Development recently issued several recommendations for the implementation and management of these plans. The recommendations are intended to build trust in the design of DC plans by ensuring that the best interest of plan participants is considered, as well as to improve the robustness of retirement systems.

Source: Georgetown.edu

Full Article Available Here ---> <https://cri.georgetown.edu/oecd-issues-recommendations-for-the-good-design-of-defined-contribution-retirement-plans/>

COLLECTIVE INVESTMENT TRUSTS AND GOOD GOVERNANCE CONSIDERATIONS

This 14-page paper explores relevant portions under each of the three legs of the regulatory triad. In particular, it examines the regulatory emphasis on the central role that good CIT governance -- in the form of well-designed and implemented bank-maintained processes and procedures -- plays in the ongoing management and operation of CITs. It also addresses and discusses how regulatory considerations inform CIT governance policies and may be reflected and implemented through good governance practices. Source: Wilmingtontrust.com

Full Article Available Here ---> <https://www.wilmingtontrust.com/content/dam/wtb-web/pdfs/cit-whitepaper-2022.pdf>

COMPLIANCE AND REGULATORY RELATED

A FIRST LOOK AT SECURE 2.0: NEW REQUIREMENTS FOR PLAN SPONSORS

The U.S. House of Representatives passed H.R. 2954, entitled "Securing a Strong Retirement Act," which would, among other things, impose additional requirements on employers that sponsor 401k and 403b plans. Secure 2.0 has not yet been passed by the Senate and is likely to change if passed by the Senate. Nevertheless, this is an overview of some of the provisions included in the House version of Secure 2.0 provides a preview of the types of changes that retirement plans sponsors may be required (or permitted) to implement, as early as this year or in 2023. Source: Workforcebulletin.com

Full Article Available Here --->> <https://www.workforcebulletin.com/2022/04/04/a-first-look-at-secure-2-0-new-requirements-for-plan-sponsors/>

PROPOSED IRS RMD REGULATIONS PRESENT CHALLENGES, RISKS FOR 403B PLANS

The IRS is strategically working to execute the statutory changes that were outlined by the SECURE Act of 2019. However, the IRS's efforts to streamline the required minimum distribution requirements for 403b plans with Section 401(a) qualified plans, such as 401k plans, may have unforeseen challenges and risks. Source: Employeebenefitsblog.com

Full Article Available Here --->> <https://www.employeebenefitsblog.com/2022/04/proposed-irs-rmd-regulations-present-challenges-risks-for-403b-plans/>

401K, 403B, 457B: WHY ARE THE RULES DIFFERENT?

Why should the rules that determine how and how much a person can save for retirement be different depending on whether the person works for a government entity, a nonprofit, or a for-profit employer? People are people, and their retirement needs are not different based on what type of entity employs them. Well, it is what it is and we cannot control it, so we may as well embrace it. Source: Belfint.com

Full Article Available Here --->> <https://employeebenefitplanaudit.belfint.com/401k-403b-457b-rules/>

JUST ADOPTED A NEW 401K PLAN? BEWARE THESE COMMON PITFALLS

By June 30, 2022, businesses with five or more California employees must either enroll in CalSavers, a state-managed system of Roth IRA accounts or establish their exemption from CalSavers by adopting 401k. Other states have implemented or are rolling out similar auto-IRA programs. This article covers some potential pitfalls for new plan adopters, and, where possible, steps to avoid these pitfalls. Source: Eforerisa.com

Full Article Available Here --->> <https://eforerisa.com/2022/04/04/just-adopted-a-new-401k-plan-beware-these-common-pitfalls/>