

# 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

### [Experts Forecast More Retirement Plan Options for Gig Workers](#)

A panel of employment industry executives and researchers see at least some potential for gig workers to be offered workplace retirement plans, according to polling released Wednesday by TransAmerica Corp. The majority of a Transamerica-sponsored panel sees better retirement plan offers and even matching for gig workers by 2026.

**Read the full article at [Planadviser](#).**

### [Start the Conversation about Quiet Quitting](#)

Quiet quitting refers to employees deciding to stop going above and beyond at work and instead simply fulfill their duties. They don't quit their jobs; they just quit being married to their work.

**Read the full article at [Raymond James](#).**

### [Do Catch-up Contributions Need to Be Roth Now?](#)

In case there's any confusion about how Federal and State governments think retirement plans can be improved in future years, it's two things: More auto-enrollment and more Roth contributions. This article focuses on one expansion of the increased appetite for Roth contributions, the new requirement for "Catch-up" contributions from some employees to only be allowable on a Roth basis.

**Read the full article at [Benefit Resources Inc.](#)**

### [Maine and Colorado to Partner On State-Sponsored Auto IRA](#)

Maine will partner with Colorado on its already established state-sponsored automatic retirement savings program for private-sector workers to provide the smaller state of Maine with a ready-made plan while reducing costs for both programs, the states announced Tuesday.

**Read the full article at [Planadviser](#).**

## FIDUCIARY AND PLAN GOVERNANCE MATERIAL

### [Don't Let a Natural Disaster Derail Your Business](#)

A volcano in Hawaii, wildfires in the West, floods in the Midwest, hurricanes on the Gulf Coast, snowstorms in the Northeast – what's a business to do?

**Read the full article at [Raymond James](#).**

### [\\$13 Million Settlement By USC Shows That ERISA Litigation Continues to Be Costly](#)

ERISA litigation against universities for alleged plan mismanagement and high fees is continuing to result in the payment of settlements to avoid trials which could result in even larger damages as well as personal liability for plan trustees and university executives for breach of fiduciary duty under ERISA.

**Read the full article at [Cohen Buckmann](#).**

### [State Mandates: How Employers Are Responding](#)

The club of states adopting retirement plans that provide coverage for private-sector employees whose employers do not is becoming increasingly less exclusive. A recent study takes a look at how employers are responding. The researchers used data from the Current Population Survey and Form 5500 filings to examine the effect of those programs on employer decisions regarding offering, and worker inclusion in, employer-provided plans.

**Read the full article at [ASPPA](#).**

### [401k a "Must-Have" Benefit for Job Seekers: Schwab Study](#)

Employers not offering a 401k plan is a deal-breaker for prospective employees, according to a comprehensive new study focused on defined contribution retirement plans. 3 in 4 would refuse a new job if it doesn't come with a defined contribution retirement plan, a wide-ranging Charles Schwab survey finds.

**Read the full article at [401k Specialist Mag](#).**

## INSIGHTS; STUDIES, RESEARCH AND WHITE PAPERS

### [Ninth Circuit Decision in AT&T Case Could Open Up Potential New Attacks on Retirement Plan Fiduciaries](#)

On August 4, 2023, the Ninth Circuit Court of Appeals revived a lawsuit against AT&T Services Inc. and its retirement plan fiduciaries, reversing a district court's order granting summary judgment in AT&T's favor. This decision, which is published and binding on cases located in the Ninth Circuit, could open up new lines of attack on retirement plan sponsors and fiduciaries based on indirect fees received by plan service providers that, to date, have not played a major role in this area of litigation.

**Read the full article at [Tucker Huss](#).**

### [2023 Defined Contribution Plan Sponsor Survey Findings: Expanding the Trend of Doing More for Participants](#)

This survey offers insights into how plans have navigated the remarkable past four years. The period began with the COVID-19 pandemic; subsequently moved through the Great Resignation, rapidly rising inflation, and elevated market volatility; and then saw the passage of the SECURE 2.0 Act. Plan sponsors appear to have emerged with an ever-expanding focus on how to help position participants for greater retirement funding success.

**Read the full article at [J.P. Morgan](#).**

### [The DOL's Regulatory Agenda and a New Fiduciary Rule](#)

The anticipated DOL proposed fiduciary regulation could be sent to the Office of Management & Budget in a matter of weeks. The proposal will likely say that a rollover recommendation to a participant in an ERISA-governed retirement plan is a fiduciary act. The DOL will also likely propose amendments to prohibited transaction exemptions, including PTE 84-24, the exemption used for fiduciary rollover recommendations into individual annuity contracts.

**Read the full article at [Fred Reish](#).**

### [73% of 401k Savers Would Like Personalized Investment Advice](#)

About three-quarters (73%) of 401k savers would like personalized investment advice for managing their workplace savings, according to an annual 401k participant survey by The Charles Schwab Corp. Among the 1,000 employed 401k plan participants surveyed by Schwab, nearly half (49%) said they were very confident in investment decisions with professional help, with a lower 27% expressing confidence in their decision-making. About 39% of workers said they are already receiving professional advice through their plans at work.

**Read the full article at [Planadviser](#).**

## COMPLIANCE AND REGULATORY RELATED

### [Live Nation 401k Plan Escapes Class Suit, Moves to Arbitration](#)

A federal judge has ruled that allegations of fiduciary mismanagement brought by former employees participating in Live Nation Entertainment's 401k plan must be addressed by arbitration rather than in court, effectively ending the plaintiff's attempts at a class action lawsuit.

**Read the full article at [Planadviser](#).**

### [Why the Future Is Now Brighter for Small-Balance Retirement Accounts](#)

Tom Hawkins explains two key developments that dramatically improve the outlook for retirement accounts with small balances. He says, "My optimism is based on large-scale, industry-led action on auto portability, and more recently, proactive steps being taken by leading providers to consolidate legacy small-balance IRAs, affording accountholders greater opportunity for a secure and timely retirement."

**Read the full article at [401k Specialist Mag](#).**

### [Schlichter Widens Net for Fiduciary Claims](#)

The next wave of fiduciary litigation seems to be expanding, based on social media outreach by the law firm of Schlichter Bogard.

**Read the full article at [NAPA](#).**

### [IRS Issues Transitional Guidance for Required Minimum Distributions](#)

In response to changes made by the SECURE 2.0 Act to the required minimum distribution rules of the Internal Revenue Code, the Internal Revenue Service recently issued Notice 2023-54, which provides two forms of transitional relief for 2023 RMDs.

**Read the full article at [Wagner Law Group](#).**

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