

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

- Further Retirement Policy Reforms Possible in 2022
- DOL to Hold Fiduciary Responsibilities Webcast Series in March
- Retirement Savers Show Confidence in Current 401k Model
- Advisers Can Help Women Add to Growing Retirement Confidence

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

- On the Hunt for Good Fiduciary Processes? What to do After the Supreme Court Decision in Hughes
- The Mistakes Employers Should Avoid When Starting a 401k Plan
- How to Shoot Yourself in the Foot With Your SPD
- Reviewing Fees, IPS Top Focus of Large DC Plan Sponsors

INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

- The System Still Fails Small 401k Plans
- Defined Contribution Plan Profile: A Close Look at ERISA 403b Plans, 2018
- Retirement Policy: Aligning Plan Design With Effective Employee Engagement
- Alternative Investments in Participant Directed Individual Account Plans: The Treatment of Private Equity Sleeves

COMPLIANCE AND REGULATORY RELATED

- Voluntary Fiduciary Correction Program Checklist
- IRS Revamps Minimum Required Distribution Rules
- Do Employers Need a CISO for ERISA Compliance?
- DOL Compliance Notice Warns Against Crypto Risks

GENERAL ITEMS

FURTHER RETIREMENT POLICY REFORMS POSSIBLE IN 2022

As the director of policy at Principal Financial Group, Lance Schoening has spent a substantial portion of his professional life in Washington, D.C. During a recent interview with PLANSPONSOR, Schoening pointed to multiple pieces of legislation already on the table and suggested more proposals could come ahead of the midterm elections, all in time for passage during the lame-duck session at the end of the year. Source: Plansponsor.com

Full Article Available Here --->> <https://www.plansponsor.com/retirement-policy-reforms-possible-2022/>

DOL TO HOLD FIDUCIARY RESPONSIBILITIES WEBCAST SERIES IN MARCH

To help increase awareness and understanding about basic fiduciary responsibilities when operating a retirement or health benefit plan, the Department of Labor is presenting the "Getting It Right -- Know Your Fiduciary Responsibilities" webcast series. The three-part series will help employers and service providers understand how the fiduciary responsibility provisions of ERISA apply to employer-sponsored retirement and health plans and provide information about how to avoid common problems in managing a plan. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/dol-hold-fiduciary-responsibilities-webcast-series-march/>

RETIREMENT SAVERS SHOW CONFIDENCE IN CURRENT 401K MODEL

A recent ICI survey found that a majority of Americans dislike the idea of government-controlled investment options and are confident in their ability to make their own asset management decisions. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/retirement-savers-show-confidence-current-401k-model/>

ADVISERS CAN HELP WOMEN ADD TO GROWING RETIREMENT CONFIDENCE

Women are showing more confidence about their retirement readiness and in managing their finances, amidst the ongoing pandemic, according to research from two financial institutions. The Nationwide survey shows that women with investable assets of \$100,000 or more who are primary or shared decision-makers regarding financial planning are pivoting to approach finances more proactively and want help with strategies to reach financial goals. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/advisers-can-help-women-add-growing-retirement-confidence/>

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

ON THE HUNT FOR GOOD FIDUCIARY PROCESSES? WHAT TO DO AFTER THE SUPREME COURT DECISION IN HUGHES

The Supreme Court recently handed down its eagerly-awaited decision in Hughes v. Northwestern University. Plan sponsors and 401k and 403b plan administrators had hoped the decision would create clearer pleading standards to free them from the endless line of ERISA class actions alleging fiduciary malfeasance when selecting investment menus and plan service providers. It didn't and now those fiduciaries have some more thinking to do. Source: Cohenbuckmann.com

Full Article Available Here --->><https://cohenbuckmann.com/insights/2022/2/28/on-the-hunt-for-good-fiduciary-processes-what-to-do-after-the-supreme-court-decision-in-hughes>

THE MISTAKES EMPLOYERS SHOULD AVOID WHEN STARTING A 401K PLAN

Being a retirement plan sponsor is a big deal when you factor in the responsibility of being a plan fiduciary, so it's important that the employer gets on the right foot and avoids making these mistakes when starting a 401k plan. Source: Jdsupra.com

Full Article Available Here --->> <https://www.jdsupra.com/legalnews/the-mistakes-employers-should-avoid-star-17911/>

HOW TO SHOOT YOURSELF IN THE FOOT WITH YOUR SPD

Benefit plan sponsors sometimes send out Summary Plan Descriptions having given too little thought to the legal consequences. Two recent cases illustrate how an organization can end up in serious and costly litigation based on statements that did not have to be made in SPDs that did not have to be issued. Source: Verrill-law.com

Full Article Available Here --->> <https://www.verrill-law.com/benefits-law-update/how-to-shoot-yourself-in-the-foot-with-your-spd/>

REVIEWING FEES, IPS TOP FOCUS OF LARGE DC PLAN SPONSORS

Large plan sponsors continue to be laser-focused on fees, but they also will be taking a close look at their investment policy statements and conducting formal fiduciary training in the coming year. These are among the findings in Callan's 2022 Defined Contribution Trends Survey. Now in its 15th year, the survey reviews key findings from 2021 and expectations for 2022 for DC plan sponsors. Source: Napa-net.org

Full Article Available Here --->> <https://www.napa-net.org/news-info/daily-news/reviewing-fees-ips-top-focus-large-dc-plan-sponsors>



INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

THE SYSTEM STILL FAILS SMALL 401K PLANS

Anybody who has investigated the 401k system realizes that big organizations have the clout to demand and receive discounts from 401k providers, while smaller firms usually take what they are given. However, figures recently gathered through an exhaustive study of Form 5500 filings are striking. Source: Morningstar.com

Full Article Available Here ---> <https://www.morningstar.com/articles/1082795/the-system-still-fails-small-401k-plans>

DEFINED CONTRIBUTION PLAN PROFILE: A CLOSE LOOK AT ERISA 403B PLANS, 2018

This 68-page report focuses on ERISA 403b plans in 2018. It first analyzes 403b plans in the Department of Labor 2018 Form 5500 Research File. Focus then shifts to more than 6,200 audited 403b plans in the BrightScope Defined Contribution Plan Database, which typically have 100 participants or more. Source: ICI.org

Full Article Available Here ---> https://www.ici.org/system/files/2022-03/22_ppr_dcplan_profile_403b.pdf

RETIREMENT POLICY: ALIGNING PLAN DESIGN WITH EFFECTIVE EMPLOYEE ENGAGEMENT

This 10-page paper addresses how retirement program design can impact decisions that participants make to improve retirement security. Most defined contribution retirement plans, such as 401k plans, leave important and sometimes complex choices to the individual. Underlying the DC retirement plan structure is the assumption that individuals are equipped to make decisions in their own best interests, and that they will do so. However, this assumption might not always be accurate, especially if individuals lack the resources and/or knowledge needed to make informed choices. Source: Actuary.org

Full Article Available Here ---> https://www.actuary.org/sites/default/files/2022-03/Retirement_Plan_Design_Employee_Engagement.pdf

ALTERNATIVE INVESTMENTS IN PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLANS: THE TREATMENT OF PRIVATE EQUITY SLEEVES

While the plan asset issue continues to be a significant one concerning investments in private equity funds, recently the focus has been upon offering private equity funds as a part of an asset allocation fund, an issue that had been addressed both by the Department of Labor and a California federal district court on multiple occasions, as discussed here. Source: Wagnerlawgroup.com

Full Article Available Here ---> <https://www.wagnerlawgroup.com/wp-content/uploads/sites/1101401/2022/03/A0685186.pdf>



COMPLIANCE AND REGULATORY RELATED

VOLUNTARY FIDUCIARY CORRECTION PROGRAM CHECKLIST

This checklist provides step-by-step guidance for private employers on the use of the DOL's Voluntary Fiduciary Correction Program to correct and self-report fiduciary violations or prohibited transactions under ERISA. The VFCP also provides limited Internal Revenue Code excise tax relief for certain prohibited transactions that can be corrected under the VFCP. Source: Foxrothschild.com

Full Article Available Here ---> <https://foxrothschild.gjassets.com/content/uploads/2022/02/Voluntary-Fiduciary-Correction-Program-Checklist-1.pdf>

IRS REVAMPS MINIMUM REQUIRED DISTRIBUTION RULES

At long last, the Internal Revenue Service issued proposed regulations under Code section 401(a)(9) that take into account the major changes made by the SECURE Act, and make other conforming changes to the eligible rollover rules. Compliance with these rules will pose challenges of every type, communications, system redesign, and plan documentation to name the major ones. This article highlights the major changes. Source: Groom.com

Full Article Available Here ---> <https://www.groom.com/resources/irs-revamps-minimum-required-distribution-rules/>

DO EMPLOYERS NEED A CISO FOR ERISA COMPLIANCE?

As DOL investigators grapple with applying the Guidance along with their internal resources, it remains unclear whether they will be fixated on requiring in all cases an express designation of a Chief Information Security Officer by all retirement plan sponsors and plan service providers. Of course, it will be important for organizations to clearly define and assign information security roles and responsibilities. The lack of a CISO designation alone should not necessarily mean an organization's data security efforts are rudderless. Source: Benefitslawadvisor.com

Full Article Available Here ---> <https://www.benefitslawadvisor.com/2022/03/articles/defined-benefit-plans/do-employers-need-a-ciso-for-erisa-compliance/>

DOL COMPLIANCE NOTICE WARNS AGAINST CRYPTO RISKS

The DOL's Compliance Assistance Release No. 2022-01 urges plan fiduciaries to exercise "extreme care" before they consider adding a cryptocurrency option to a 401k plan's investment menu. Source: Planadviser.com

Full Article Available Here ---> <https://www.planadviser.com/dol-compliance-notice-warns-crypto-risks/>