

IFS | Fiduciary Insights Update

Retirement Plan Monthly Newsletter

ROBERT A. SHY, AWMA®, CPFA

VICE PRESIDENT

WEALTH MANAGEMENT

1100 RIDGEWAY LOOP RD.
MEMPHIS TN 38120

WWW.THESAGROUP.NET

800-764-3580

ROBERT.SHY@RAYMONDJAMES.COM

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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

- Four Ways an Independent Recordkeeper Benefits an Advisor
- Retirement Experts Identify Possible Fixes to the Retirement Savings Gap
- Financial Challenges Prevent Saving for Retirement
- Most Americans Financially Unable to Retire at 65

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

- Common Myths of Cyber Insurance for Employee Benefit Plans
- Auto-Portability: A Guide for Retirement Plan Sponsors
- New Bill Seeks to Encourage 401k Investment in Alternative Assets
- Why Plan Sponsors Should Allow Independent Fiduciaries to Manage Employer Stock in Retirement Plans

INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

- Fiduciary Status for Rollovers Not a Given and New Developments in Uses of Plan-Related Data Under ERISA
- Four Generations of Workers Are Preparing for Retirement Amid an Uncertain Future
- Providing Meaningful Access to, and Features in, Retirement Savings Plans to Address Savings Gaps and Boost Retirement Savings
- Two More District Courts Reject ERISA Fee and Performance Claims as Insufficient

COMPLIANCE AND REGULATORY RELATED

- IRS Issues Update on Required Minimum Distribution Rule
- House Approves Bill Banning Arbitration Clauses in ERISA Plans
- ERISA Industry Committee Comments in Opposition to New DOL QPAM Rule
- IRS Extends Deadline to Amend Plans for Additional Cares Act, CAA Disaster Relief Provisions

GENERAL ITEMS

FOUR WAYS AN INDEPENDENT RECORDKEEPER BENEFITS AN ADVISOR

Advisors have a primary choice between partnering with companies who sell insurance or investments and offer 401k plans as part of their financial services lineup and independent recordkeepers who tend to be local or regional specialists who focus on actively collaborating with financial and tax advisors to design and operate retirement plans tailored to their clients. This piece reviews four ways an independent recordkeeper can help you grow your retirement plan practice. Source: Abgnational.com

Full Article Available Here --->> <https://www.abgnational.com/Portals/11/articles/ABG-Advisor-Four Ways an Independent Recordkeeper Benefits.pdf>

RETIREMENT EXPERTS IDENTIFY POSSIBLE FIXES TO THE RETIREMENT SAVINGS GAP

Professionals invited by the IAA discuss obstacles to retirement savings, and what can be -- and has been -- done about them. Opt-out policies are the best way to increase retirement plan enrollment, according to the retirement experts. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/retirement-experts-identify-possible-fixes-retirement-savings-gap/>

FINANCIAL CHALLENGES PREVENT SAVING FOR RETIREMENT

Many U.S. workers must grapple with a "financial vortex" of challenges blunting their retirement savings, research shows. The Goldman Sachs Asset Management Retirement Survey and Report find that every generation of respondents -- Gen Z, Millennials, Gen X, and Baby Boomers -- face significant effects, from competing financial priorities to life events, that distract from the ability of many to save for retirement. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/financial-challenges-prevent-saving-retirement/>

MOST AMERICANS FINANCIALLY UNABLE TO RETIRE AT 65

Yet another study has found the majority of retirees and pre-retirees are not financially prepared for retirement and lack sufficient savings to fully retire at age 65. Retirement solutions provider Finance of America Reverse today announced the release of "Disconnected: Perceptions vs. Reality in Retirement Planning," a new study from the Stanford Center on Longevity that examines the challenges and concerns facing retirees and pre-retirees as they plan for retirement. Source: 401kspecialistmag.com

Full Article Available Here --->> <https://401kspecialistmag.com/most-americans-financially-unable-to-retire-at-65/>

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

COMMON MYTHS OF CYBER INSURANCE FOR EMPLOYEE BENEFIT PLANS

Cyber insurance is a critical component of the cyber security risk management program necessary to protect employee benefit plans and participant retirement assets. But the current way plan fiduciaries seek cyber and crime coverage needs to change and this article explains why. Source: Euclidspecialty.com

Full Article Available Here --->> <https://www.euclidspecialty.com/common-myths-of-cyber-insurance-for-employee-benefit-plans/>

AUTO-PORTABILITY: A GUIDE FOR RETIREMENT PLAN SPONSORS

This Q&A is geared toward plan sponsors who are curious about the auto-portability process and how it might prove beneficial to their plan participants. Auto-portability can prove especially useful in industries with lower wages and high employee turnover, which may include retail, transportation, hospitality, and restaurants because this can often lead to numerous account balances of \$5,000 or less being involuntarily rolled to default IRAs. Source: Eforerisa.com

Full Article Available Here --->> <https://eforerisa.com/2022/10/06/auto-portability-a-guide-for-retirement-plan-sponsors/>

NEW BILL SEEKS TO ENCOURAGE 401K INVESTMENT IN ALTERNATIVE ASSETS

The Retirement Savings Modernization Act aims to clarify ERISA to incentivize retirement investment in assets such as real estate, private equity, and cryptocurrencies. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/new-bill-seeks-encourage-401k-investment-alternative-assets/>

WHY PLAN SPONSORS SHOULD ALLOW INDEPENDENT FIDUCIARIES TO MANAGE EMPLOYER STOCK IN RETIREMENT PLANS

The biggest value to using an independent fiduciary in this context is that it dramatically increases the likelihood that a plan fiduciary, sued for the drop in value of employer stock held by employees in a benefit plan, can end the case at the motion to dismiss stage. Author reviews why this is. Source: Bostonerisalaw.com

Full Article Available Here --->> <https://www.bostonerisalaw.com/2022/10/why-plan-sponsors-should-allow-independent-fiduciaries-to-manage-employer-stock-in-retirement-plans/>



INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

FIDUCIARY STATUS FOR ROLLOVERS NOT A GIVEN AND NEW DEVELOPMENTS IN USES OF PLAN-RELATED DATA UNDER ERISA

A September 27, 2022, decision by the Southern District of New York addresses several key theories recently advanced by the plaintiffs' bar in ERISA-based lawsuits against plan service providers. The Court also rejected fiduciary liability claims concerning alleged uses of plan information available to the Provider in its plan service provider role. The decision includes a reasoned analysis of the DOL's "shifting perspective" on defining investment advice fiduciaries under ERISA. Source: Groom.com

Full Article Available Here ---> <https://www.groom.com/resources/deference-declined-fiduciary-status-for-rollovers-not-a-given-and-new-developments-in-uses-of-plan-related-data-under-erisa/>

FOUR GENERATIONS OF WORKERS ARE PREPARING FOR RETIREMENT AMID AN UNCERTAIN FUTURE

Seventy-six percent of workers say their life priorities changed as a result of the pandemic and 56 percent cite saving for retirement as a financial priority, according to Emerging From the COVID-19 Pandemic: Four Generations Prepare for Retirement, a survey report released by the nonprofit Transamerica Center for Retirement Studies in collaboration with Transamerica Institute. Source: Transamericainstitute.org

Full Article Available Here ---> <https://transamericainstitute.org/docs/default-source/research/emerging-from-the-covid19-pandemic-four-generations-retirement-press-release.pdf>

PROVIDING MEANINGFUL ACCESS TO, AND FEATURES IN, RETIREMENT SAVINGS PLANS TO ADDRESS SAVINGS GAPS AND BOOST RETIREMENT SAVINGS

Mintz Of Counsel Michelle Capezza authored this chapter in New York University's Review of Employee Benefits and Executive Compensation examining some of the ways that employers can provide their employees with meaningful access to retirement savings plans to address retirement savings gaps. Source: Mintz.com

Full Article Available Here ---> https://www.mintz.com/sites/default/files/media/documents/2022-10-11/01646_ch0005v2022.pdf

TWO MORE DISTRICT COURTS REJECT ERISA FEE AND PERFORMANCE CLAIMS AS INSUFFICIENT

Two recent district court decisions add to the growing number of courts granting motions to dismiss putative ERISA class actions challenging defined contribution plan fees and investment performance. These decisions from the Eastern District of New York and the Eastern District of Wisconsin are the latest victories for defendants at the motion to dismiss stage in this arena and come on the heels of multiple similar decisions in the Sixth and Seventh Circuits. Source: Erisapracticecenter.com

Full Article Available Here ---> <https://www.erisapracticecenter.com/2022/10/two-more-district-courts-reject-erisa-fee-and-performance-claims-as-insufficient/>

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COMPLIANCE AND REGULATORY RELATED

IRS ISSUES UPDATE ON REQUIRED MINIMUM DISTRIBUTION RULE

The IRS has issued Notice 2022-53, providing guidance on final regulations related to required minimum distributions under section 401(a)(9) of the Internal Revenue Code that will apply no earlier than the 2023 distribution calendar year. The notice also provides guidance related to certain provisions of section 401(a)(9) that apply for 2021 and 2022. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/irs-issues-update-required-minimum-distribution-rule/>

HOUSE APPROVES BILL BANNING ARBITRATION CLAUSES IN ERISA PLANS

Shortly before recessing for the mid-term elections, the House of Representatives approved legislation that would prohibit arbitration and discretionary clauses in employer-sponsored benefit plans under ERISA. The proposed changes were passed as part of the Mental Health Matters Act (H.R. 7780), which the House approved on Sept. 29. Source: Napa-net.org

Full Article Available Here --->> <https://www.napa-net.org/news-info/daily-news/house-approves-bill-banning-arbitration-clauses-erisa-plans>

ERISA INDUSTRY COMMITTEE COMMENTS IN OPPOSITION TO NEW DOL QPAM RULE

The ERISA Industry Committee submitted a comment letter in opposition to a proposed Department of Labor rule that would change the way qualified professional asset managers are regulated. The new rule is opposed by industry participants due to the new ways in which QPAMs can be disqualified, the onerous new contract agreements, and the inadequate transition and winding down periods. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/erisa-industry-committee-publishes-open-letter-opposition-new-dol-qpam-rule/>

IRS EXTENDS DEADLINE TO AMEND PLANS FOR ADDITIONAL CARES ACT, CAA DISASTER RELIEF PROVISIONS

On September 26, 2022, the IRS issued Notice 2022-45 which extends the deadline for amending retirement plans, including 401k plans, to comply with recent legislation. The applicable legislative provisions, which have now expired, were enacted as part of a wider effort to provide temporary relief in response to the global COVID-19 pandemic, and generally require plan documents to be amended, as further explained below. Source: Compliancedashboard.net

Full Article Available Here --->> <https://www.compliancedashboard.net/401k-current-events-irs-extends-deadline-to-amend-plans-for-additional-cares-act-cao-disaster-relief-provisions/>



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