

# IFS | Fiduciary Insights Update

## Retirement Plan Monthly Newsletter

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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

- Cryptocurrency and Retirement Plans
- Feds Poised to Implement Four Policy Changes Affecting ERISA Plans Before End of 2022
- Despite Recession Fears, Most 401k Investors Haven't Changed Their Portfolios
- Factors Contributing to Lower Retirement Confidence Among Women Who Are Not Married

### FIDUCIARY AND PLAN GOVERNANCE MATERIAL

- Guiding Through Uncertainty: Ways to Connect With Participants
- Practical Tips for Plan Sponsors and ESG Investments
- Report Features 401k Plan Sponsor and Participant Behavior in First Half 2022
- How Advisors Can Help Clients Invest Sustainably Outside of 401ks

### INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

- Senate Finance Leaders Formally Introduce EARN Act
- Seventh Circuit Provides Hope for Fiduciaries Defending Plan Fee Litigation
- Split Decision for 401k Excessive Fee Suit
- How Gloomy Is the Retirement Outlook for Millennials?

### COMPLIANCE AND REGULATORY RELATED

- IRS Makes Changes to Determination Letter Application Program
- DOL (Somewhat) Unshackles Auditors From Stringent Independence Requirements
- DOL Extends Comment Period, Sets Hearing on QPAM Exemption Amendment
- DOL Releases New Bulletin on Independence for Plan Accountants

## GENERAL ITEMS

### CRYPTOCURRENCY AND RETIREMENT PLANS

As advisors, TPAs, recordkeepers, and other service providers are dipping their toes into including cryptocurrency solutions for their clients, the regulators and legislators are wading in as well. It has been an active first half of 2022 in the world of crypto offerings with a general interest in regulating cryptocurrencies and digital assets coming from President Biden and a specific interest in cryptocurrencies in retirement plans from Congress and the DOL. Source: Napa-net.org

Full Article Available Here --->> <https://www.napa-net.org/news-info/daily-news/cryptocurrency-and-retirement-plans>

### FEDS POISED TO IMPLEMENT FOUR POLICY CHANGES AFFECTING ERISA PLANS BEFORE END OF 2022

The Biden administration plans to introduce various rules before the end of 2022 that will impact ERISA-regulated benefits plans. Meanwhile, Congress is working to smooth out differences between the Senate and House on a broad retirement policy omnibus bill. Here is a review. Source: Hallbenefitslaw.com

Full Article Available Here --->> <https://hallbenefitslaw.com/feds-poised-to-implement-four-policy-changes-affecting-erisa-plans-before-end-of-2022/>

### DESPITE RECESSION FEARS, MOST 401K INVESTORS HAVEN'T CHANGED THEIR PORTFOLIOS

Only 5% of 401k and 403b investors shifted their asset allocations during the second quarter of 2022, according to a Fidelity Investments report. It's not surprising since many 401k investors use target date funds, a "set it and forget it" option that gradually shifts to more conservative assets as they approach retirement. However, there may be opportunities for adjustments in other accounts, experts say. Source: Cnbc.com

Full Article Available Here --->> <https://www.cnbc.com/2022/08/31/despite-recession-fears-most-investors-havent-shifted-401k-assets.html>

### FACTORS CONTRIBUTING TO LOWER RETIREMENT CONFIDENCE AMONG WOMEN WHO ARE NOT MARRIED

Americans have near-record-high confidence in having enough money to live comfortably throughout retirement. However, unmarried women workers and retirees have lower retirement confidence than their married counterparts and are more likely to have lower incomes and assets. This 37-page report examines the attitudes, considerations, and behaviors surrounding the retirement of women workers and retirees of different marital statuses to provide greater insight into what can help improve women's retirement outcomes. Source: Ebri.org

Full Article Available Here --->> [https://www.ebri.org/docs/default-source/ebri-issue-brief/ebri\\_ib\\_567\\_rcswomen-1sept22.pdf?sfvrsn=82bf382f\\_4](https://www.ebri.org/docs/default-source/ebri-issue-brief/ebri_ib_567_rcswomen-1sept22.pdf?sfvrsn=82bf382f_4)

## FIDUCIARY AND PLAN GOVERNANCE MATERIAL

### GUIDING THROUGH UNCERTAINTY: WAYS TO CONNECT WITH PARTICIPANTS

When uncertainty hits, it's natural that 401k participants will have questions, especially those who don't have a lot of investment experience. Plan sponsors can do a lot to allay their concerns by proactively reaching out and addressing the benefits of staying invested, the impacts of taking early distributions, and even the strength of the plan design can help keep jitters in perspective. Source: Blackrock.com

Full Article Available Here --->> <https://www.blackrock.com/us/financial-professionals/your-practice/defined-contribution/news-insight-analysis/guiding-401k-retirement-savers>

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### PRACTICAL TIPS FOR PLAN SPONSORS AND ESG INVESTMENTS

Regulatory and legislative developments continue to accelerate around investments incorporating ESG factors into retirement plans. Plan sponsors and fiduciaries should take note of the fast-changing landscape when selecting and monitoring investment options. Groom Law Group's Jacob Eigner outlines what asset managers need to know about incorporating ESG factors in their investment processes. This includes compliance steps and how firms can build processes to avoid lawsuits from stockholders and the government.

Source: Bloomberglaw.com

Full Article Available Here --->> <https://news.bloomberglaw.com/daily-labor-report/practical-tips-for-plan-sponsors-and-esg-investments>

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### REPORT FEATURES 401K PLAN SPONSOR AND PARTICIPANT BEHAVIOR IN FIRST HALF 2022

T. Rowe Price has published a report detailing plan sponsors' and participants' reactions to increased inflation and market volatility in the first two quarters of 2022. The report examines retirement behavioral trends and correlations between the challenging economy and job tenure with rates of savings for retirement. Source: Prnewswire.com

Full Article Available Here --->> <https://www.prnewswire.com/news-releases/t-rowe-price-publishes-report-featuring-401k-plan-sponsor-and-participant-behavior-in-first-half-2022-301625311.html>

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### HOW ADVISORS CAN HELP CLIENTS INVEST SUSTAINABLY OUTSIDE OF 401KS

This article is part of a series providing a framework for incorporating sustainable investing into your advisory practice. A previous article explored the limitations and opportunities of investing sustainably within employer-sponsored retirement plans such as 401ks. Advisors supporting clients in investing sustainably outside of these accounts may find more choice but also more complexity. Source: Morningstar.com

Full Article Available Here --->> <https://www.morningstar.com/articles/1111309/how-advisors-can-help-clients-invest-sustainably-outside-of-401ks>

## INSIGHTS: STUDIES, RESEARCH AND WHITE PAPERS

### SENATE FINANCE LEADERS FORMALLY INTRODUCE EARN ACT

We now have legislative language for the Enhancing American Retirement Now (EARN) Act and a quick review finds a change from the concept draft regarding catch-up contributions. With legislative language now in hand, it appears the Finance Committee leaders have placed an income floor to the revenue-raising provision concerning catch-up contributions being treated as Roth contributions. Source: Asppa.org

Full Article Available Here --->> <https://www.asppa.org/news/senate-finance-leaders-formally-introduce-earn-act>

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### SEVENTH CIRCUIT PROVIDES HOPE FOR FIDUCIARIES DEFENDING PLAN FEE LITIGATION

The Seventh Circuit recently provided a ray of sunshine in what has largely been a gloomy stretch for plan sponsors and fiduciaries defending ERISA breach of fiduciary duty claims based on allegedly excessive investment and administrative fees and investment underperformance. In this particular case, Oshkosh emerged victorious with the Seventh Circuit affirming the dismissal of claims that it mismanaged its 401k plan by paying excessive recordkeeping fees, failed to ensure investment options were prudent, and unreasonably maintained high-cost investment advisors. Source: Erisapracticecenter.com

Full Article Available Here --->> <https://www.erisapracticecenter.com/2022/09/seventh-circuit-provides-hope-for-erisa-plan-sponsors-and-fiduciaries-defending-investment-fee-performance-litigation/>

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### SPLIT DECISION FOR 401K EXCESSIVE FEE SUIT

Auto parts maker GKN North America Services Inc. managed to fend off some, but not all, claims in an excessive fee suit involving its use of Prudential's GoalMaker product. Source: Napa-net.org

Full Article Available Here --->> <https://www.napa-net.org/news-info/daily-news/split-decision-401k-excessive-fee-suit>

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### HOW GLOOMY IS THE RETIREMENT OUTLOOK FOR MILLENNIALS?

Social, economic, demographic, and public policy shifts have made Millennial retirement security a pressing concern. Many recent trends threaten financial security for future generations of retirees. Male labor force participation pre-age 55 has slumped, men's median earnings have stagnated, marriage and homeownership rates are falling, debt levels remain high, and out-of-pocket spending on medical and long-term services and supports are rising. Other trends are more encouraging, such as women's higher earnings, the rise in labor force participation at older ages, and improvements in educational attainment. Source: Upenn.edu

Full Article Available Here --->> [https://repository.upenn.edu/cgi/viewcontent.cgi?article=1741&context=prc\\_papers](https://repository.upenn.edu/cgi/viewcontent.cgi?article=1741&context=prc_papers)

## COMPLIANCE AND REGULATORY RELATED

### IRS MAKES CHANGES TO DETERMINATION LETTER APPLICATION PROGRAM

IRS Revenue Procedure 2022-4 made some notable changes to the determination letter application filing process. This article provides background on changes made under the Revenue Procedure to the determination letter filing process, including utilizing pay.gov, some "nuts and bolts" advice regarding navigating the website, filing an IRS Form 2848 electronically, and related considerations.

Source: Groom.com

Full Article Available Here --->> <https://www.groom.com/wp-content/uploads/2022/09/Tax-Management-Compensation-Planning-Journal-IRS-Makes-Changes-to-Determination-Letter-Application-Program-VAA-JEB.pdf>

### DOL (SOMEWHAT) UNSHACKLES AUDITORS FROM STRINGENT INDEPENDENCE REQUIREMENTS

On September 6, 2022, the DOL published an Interpretive Bulletin entitled "Independence of Employee Benefit Plan Accountants" superseding previous guidance governing when the Department considers a qualified public accountant to be "independent." The DOL's preamble statements in Interpretive Bulletin explain that the new guidance "remove[s] certain outdated and unnecessarily restrictive provisions."

Source: Groom.com

Full Article Available Here --->> <https://www.groom.com/resources/dol-somewhat-unshackles-auditors-from-stringent-independence-requirements/>

### DOL EXTENDS COMMENT PERIOD, SETS HEARING ON QPAM EXEMPTION AMENDMENT

The DOL announced that it will hold an online public hearing on the proposed amendment to its Class Prohibited Transaction Exemption 84-14, commonly known as the qualified professional asset manager exemption. The DOL is also extending the public comment period for the proposed amendment for an additional 15 days, through October 11. This period will be supplemented by a subsequent comment period beginning after the hearing in mid-November. Source: Planadviser.com

Full Article Available Here --->> <https://www.planadviser.com/dol-extends-comment-period-sets-hearing-qpam-exemption-amendment/>

### DOL RELEASES NEW BULLETIN ON INDEPENDENCE FOR PLAN ACCOUNTANTS

How independent do accountants have to be when auditing plan documents? The DOL just got more specific. Interpretive Bulletin 2022-01 revises and restates the 1975 Interpretive Bulletin to remove certain outdated and unnecessarily restrictive provisions and reorganize other provisions for clarity.

Source: 401kspecialistmag.com

Full Article Available Here --->> <https://401kspecialistmag.com/dol-releases-new-bulletin-on-independence-for-plan-accountants/>