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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

[CIT Providers Target Mid-Sized to Large DC Plans in 2024](#)

Collective investment trusts have surpassed mutual funds as the top investment vehicle by defined contribution investment-only assets. CIT assets totaled \$4.63 trillion as of year-end 2022, as improved capital market conditions coupled with continued robust demand within the defined contribution retirement plan space have contributed to ongoing growth, according to Cerulli's latest report.

Read the full article at [Cerulli](#).

[House to Vote on Bill Blocking Funding for DOL's Fiduciary Rule](#)

The U.S. House of Representatives will vote on a spending bill (H.R. 5894) that contains key amendments restricting funding for the DOL's recently proposed fiduciary rule.

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

[Small Businesses See Many Obstacles to Plan Creation, Lack Awareness of SECURE 2.0](#)

A survey from Capital Group found that the primary obstacles to small businesses creating retirement plans were costs, complexity, and concerns about the size and stability of their business. The report also found that larger employers were much more informed about the SECURE 2.0 Act of 2022 and the law's impact on federal retirement policy.

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

[Employee Attitudes Towards Their Retirement Benefits Contain Contradictions](#)

While employees expect their defined contribution plan to be a key vehicle for funding their retirement, most are worried their retirement savings will not be enough to cover their expenses, according to new research from Buck.

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

FIDUCIARY AND PLAN GOVERNANCE MATERIAL

[The New Fiduciary Rule: Fixed Indexed Annuities](#)

Statements from the White House indicate that the DOL and the White House are concerned that fixed-indexed annuities may be inappropriately sold to participants and IRA owners in connection with recommendations to roll over benefits from plans and to transfer money from IRAs. The reaction from the insurance industry and state insurance commissioners has been immediate and strong. If the proposals become final as written, the greatest impact of the changes will likely be on insurance agents, particularly independent producers. This article covers the impact on independent insurance agents, insurance companies, and annuities.

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

[The Who, the When and the "Oh, No" of 401k Plan Notices](#)

It's that time of year when calendar year 401k plans must send annual retirement plan notices. As you work with your service providers to make sure all notices are sent, now may be a good time to reacquaint yourself with the more common notices and related 401k plan documents that must be provided to employees. Mistakes can happen especially with the "Who and the When," so here is a chart of the common notices with timing and recipients.

Read the full article at [Graydon Law](#).

[IRS Bumps 2024 401k Contribution Limit to \\$23,000](#)

The IRS today issued technical guidance regarding all of the cost of living adjustments affecting dollar limitations for pension plans and other retirement-related items for tax year 2024 in Notice 2023-75. As predicted in forecasts earlier this year, the Internal Revenue Service announced that the amount individuals can contribute to their 401k plans in 2024 has increased to \$23,000, up from \$22,500 for 2023.

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

[Shifting the 401k "Balance"](#)

IBM recently announced that they were making changes to its 401k. While it's certainly an interesting move, it seems unlikely to catch on more broadly. Retirement savers have not only long understood and appreciated the value of an employer match, and so seem unlikely to embrace "losing" that to a new plan they don't understand. As for plan sponsors, a big design change that requires sensitive and ongoing communication will almost surely give pause to even the most innovative. That said, it should serve as a reminder that plan designs can, and should, serve multiple purposes.

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

INSIGHTS; STUDIES, RESEARCH AND WHITE PAPERS

[Has ERISA Class Action Litigation Made a Positive Difference for Plan Participants?](#)

The author writes, "A recent article this month in Pension & Investments asked ERISA lawyers whether class action litigation has made a positive difference for plan participants. The premise of the article was that while many critics issue harsh assessments about class action litigation, plan participants have nevertheless seen positive changes and fee reductions from the litigation.... Plan administration and investment fees are universally lower for nearly every plan, and large plans have adopted best fiduciary practices that include advice and monitoring of investments by sophisticated investment advisors. [But] the current slate of cases have an entirely different agenda."

Read the full article at [Euclid Specialty](#).

[Seven Steps Toward a New Paradigm for Retirement](#)

The author suggests that the conventional wisdom on retirement is misguided. The approaching exhaustion of the Social Security and Medicare trust funds has stoked anxiety over the disappearance of these programs' support, while dire statistics about Americans' lack of retirement assets have propelled a belief of chronic under-saving. In the aggregate, neither view is quite right, and this mischaracterization has unearthed calls by some to dismantle the entire system. While the current system has serious flaws, however, it is still worth saving. To do so, policymakers need both an accurate assessment of the system's shortfalls and a menu of plausible options to improve them.

Read the full article at [Georgetown](#).

[DOL Proposes Major Changes to Fiduciary Advice Definition](#)

On November 3, 2023, the DOL published a new set of regulatory proposals in its long-running effort to expand the circumstances under which a person will be considered an investment advice fiduciary for purposes of ERISA and the parallel provisions of the Internal Revenue Code and to change the landscape of prohibited transaction exemptions available to those fiduciaries. This article provides an overview of the 2023 Proposed Regulation.

Read the full article at [Groom](#).

[Schlichter Sanction Swept Aside by Appellate Court](#)

A federal appellate court has determined that a lower court "abused its discretion" in assessing a \$1.5 million sanction against the Schlichter Bogard law firm.

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

COMPLIANCE AND REGULATORY RELATED

[United Airlines Sues Advisers for Scheme to Defraud 401k Pilot Participants](#)

United Airlines Inc. and its retirement plan committee have filed a complaint against an independent advisor for an alleged scheme to defraud retirement plan participants through a personalized retirement account, according to court filings. United alleges that Keep Safe Investments LLC, J&K Connect LLC, and adviser Krisi Berge had, "unbeknownst to plaintiffs, and contrary to the terms of the plan," taken loans from the retirement accounts of participants in the United Airlines Pilot Retirement Account Plan for "personal gain."

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

[Guidance on Section 603 of the SECURE 2.0 Act Concerning Catch-Up Contributions](#)

The IRS has issued Notice 2023-62, which gives guidance on Section 603 of the SECURE 2.0 Act concerning catch-up contributions. The Notice delays the requirement in Section 603 for highly compensated individuals to make catch-up contributions on a Roth basis -- with no pre-tax option -- to qualified retirement plans effective January 1, 2024. Instead, the Notice establishes a two-year administrative transition period, during which all catch-up contributions by these individuals will satisfy the terms of Section 603, whether they are made on a Roth basis or not.

Read the full article at [Hall Benefits Law](#).

COMPLIANCE AND REGULATORY RELATED

[IRS Grants Much-Needed Two-Year Grace Period to Get Roth Catch-Ups All Caught Up](#)

On January 1, 2024, Section 603 of SECURE 2.0 becomes effective, which mandates that plan sponsors provide Roth catch-ups for DC plans that offer catch-ups and have at least one participant who earned \$145,000 of FICA wages in the prior year. This new mandate had plan sponsors and recordkeepers alike scrambling to understand the new rule and how to implement this new plan qualification requirement by yearend. This new rule raises several open questions. In this article, Groom principals Elizabeth Dold and David Levine explore IRS Notice 2023-63, which provides guidance for Section 603 of SECURE 2.0.

Read the full article at [Groom](#).

[State AGs Appeal Dismissal of Suit Challenging DOL's ESG Rule](#)

A group of 26 state attorneys general has appealed to the 5th U.S. Circuit Court of Appeals the dismissal of their complaint challenging the legality of the Department of Labor's final rule permitting environmental, social, and governance factors to be used when selecting retirement plan investments. The Department of Labor's defense continues on two tracks, one in Wisconsin, and another in the 5th Circuit.

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

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