

Plan Legislative and Regulatory Update

Excessive Fee Case Heads to the Supreme Court

The Supreme Court has agreed to hear [Hughes v. Northwestern University](#), a case involving allegations related to excessive investment and recordkeeping fees.¹

The plaintiffs in the case claim that Northwestern University breached their fiduciary duty of prudence under ERISA by forcing plan participants to pay excessive recordkeeping fees and offering mutual funds with higher fees than other materially identical investment products.

The ruling in this case will determine whether charging participants significantly higher fees is sufficient to allege that a breach of duty has occurred. Until now, the Supreme Court has not taken on an ERISA excess fee case and the court's ruling should provide needed clarity on the issue.

Action Item: Monitor your plan's fees to ensure they are competitive and reasonable.

House Advances New Auto-Enrollment Legislation

On September 9th, the House Ways and Means Committee advanced legislation which would require small businesses to provide retirement plans for their employees.² The [measure](#) was approved mostly along party lines, with two Democrats joining the Republicans in opposition.

The proposed legislation included the following provisions:

- Employers that don't already offer a way for their employees to save for retirement must automatically enroll workers in IRAs or 401(k)-type plans, unless the worker opts out.
- The bill specifies that the retirement accounts must deduct 6% of wages from paychecks, rising to 10% over several years, and sets target-date funds as the default investment.
- Provides employers a tax credit to offset costs and imposes an excise tax on businesses which do not comply with the automatic-enrollment requirements.
- Makes the Saver's Credit refundable into a tax-favored retirement account, such as a Roth IRA.

Update: It was announced in late October that all the retirement-related provisions outlined above had been removed from the proposed budget reconciliation bill. Although these provisions have been stripped from this bill, it is likely that some or all of these provisions will be included in future legislation, such as SECURE 2.0.

Action Item: NWCM will continue to monitor and review the legislative activity associated with retirement plans. If you have any questions, please feel free to contact your NWCM advisor.

Forecasted Increases to 2022 Contribution and Benefit Limits

Nearly all qualified retirement plan limits will increase in 2022, according to projections using the Internal Revenue Code's cost-of-living adjustment and the Consumer Price Index.³ They are the following:

- Contribution limits for 401(k), 403(b) and eligible 457 plan elective deferrals (and designated Roth contributions) will increase from \$19,500 to \$20,500.
- The 415(c) DC plan maximum annual addition is projected to increase from \$58,000 to \$61,000.
- 414(q)(1)(B) highly compensated employee limit is projected to increase from \$130,000 to \$135,000.

The IRS typically releases the next year's limits in late October or early November.

Action Item: If you have questions on how these increases may affect your plan, please contact your NWCM advisor.

Lifetime Income Disclosure Timing

According to a [FAQ](#) released on July 26 by EBSA⁴, Lifetime Income Disclosures must be included in quarterly statements starting on up to the second calendar quarter of 2022, ending June 30, 2022. The Disclosure was mandated by 2019's SECURE Act.

Action Item: Contact your Recordkeeper to find out when these disclosures will be included in your participants' statements.

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Upcoming Plan Document Deadlines

Date	Legislation	Description
July 31 st , 2022	Cycle 3 Post-PPA Restatement	Every 6 years pre-approved 401(k) plan documents must be restated to incorporate legislative changes. By this date, all pre-approved 401(k) plans must be restated onto a post-PPA document. Reach out to your recordkeeper to confirm that your plan document is being restated.
December 31 st , 2022	CARES Act	If Coronavirus-Related Distributions or Loans were issued during the 2020 plan year, a retroactive plan amendment must be completed by December 31 st , 2022 (or by the end of 2024 for governmental plans).
December 31 st , 2022	SECURE Act	The required amendments for any of the optional retirement plan changes in the SECURE Act (such as qualified birth and adoption distributions) must be completed by December 31 st , 2022 (or by the end of 2024 for governmental plans and collectively bargained plans).

Note: Plan amendments for SECURE Act and CARES Act changes aren't due until December 31st, 2022. However, if you made discretionary changes to your qualified retirement plan in 2021 unrelated to the SECURE Act or CARES Act, plan amendments documenting those changes must be adopted by December 31st, 2021 (for calendar-year plans).

Check out the latest in our ongoing series on Plan Sponsor Best Practices [here](#).