



Federal Legislative & Regulatory Report

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DOL Fiduciary Case Moves Toward Resolution

On June 13, the deadline passed for the Department of Labor (DOL) to appeal the Fifth Circuit Court of Appeals decision invalidating the DOL fiduciary rule to the Supreme Court. Then, on June 21, the Court issued the official document (“mandate”) effectuating its decision to strike down the rule. The decision had been issued on March 15, but the Court delayed issuing the mandate causing concern and speculation as to the future of the rule.

As the DOL fiduciary rule comes to an end, the Securities and Exchange Commission (SEC) has begun working to impose [new standards for investment advice](#). Comments on the SEC proposals are due August 7.

IRS Releases Guidance on Reporting and Withholding of IRAs Escheated to States

The Internal Revenue Service (IRS) on May 29 released [Rev. Rul. 2018-17](#), regarding income tax withholding and reporting obligations for IRA trustees and issuers who pay proceeds from an IRA to a state’s “unclaimed property fund.”

The ruling concludes that such payments are subject to withholding under section 3405 and must be reported on Form 1099-R pursuant to section 408(i). The ruling generally applies to payments made after 2018, unless it is “reasonably practicable” for the payor to comply before then.

The ruling does not explicitly address payments from nonqualified annuities, even though they are subject to similar statutory withholding and reporting rules.

SEC Approves Mutual Fund Reports Delivered via Website

On June 4, the Securities and Exchange Commission (SEC) voted to approve [Rule 30e-3](#) to permit “notice and access” delivery of mutual fund shareholder reports (including funds underlying variable

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insurance products) via website posting. Under the rule, a fund may deliver its shareholder reports by making them publicly accessible on a website and sending investors a paper notice of each report's availability by mail. Investors may still elect to receive the reports in paper (free of charge) at any time. Funds cannot rely on the new rule until January 1, 2021.

Relatedly, [H.R. 4610](#), the RETIRE Act, remains under consideration in Congress which would permit electronic delivery to be the default option for providing required disclosures to plan participants, with an option to receive paper if desired.

Administration Fills Positions at SEC, CFPB and EAC

The White House on June 1 confirmed the President's intention to nominate Elad Roisman, the chief counsel to the Senate Banking Committee, to serve on the Securities and Exchange Commission (SEC). If confirmed, Roisman will fill the vacancy created by the retirement of Commissioner Michael Piwowar who announced he would leave the SEC by July.

The SEC will have a second vacancy created by the departure of Democratic Commissioner Kara Stein, who is expected to step down before her tenure expires at the end of the year. The vacancies and nomination process may complicate the advancement of the SEC's recently proposed [standards for investment advice](#).

On June 18, the President nominated Kathleen Kraninger to run the Consumer Financial Protection Bureau (CFPB). Kraninger, currently associate director for general government at the Office of Management and Budget, is a career government official with little to no experience in consumer protection or financial services. Previously, she spent time at the Department of Homeland Security and working for appropriations committees in the House and Senate. If confirmed, Kraninger would replace Acting Director Mick Mulvaney who has been leading the CFPB since former director Richard Cordray stepped down to run for governor of Ohio.

Also in June, the Department of Labor (DOL) appointed five new members to the ERISA Advisory Council (EAC). The EAC is a group of benefits experts established by Congress and appointed by the DOL to identify emerging benefits issues and advise the Secretary of Labor on health and retirement policy. The chair and vice chair, respectively, of the EAC for the 2018 term will be Cindy Levering, retired senior vice president and consulting actuary, Aon Consulting, and Srinivas D. Reddy, senior vice president, head of full service investments, Prudential Financial. This year the EAC intends to address the issues of lifetime income/QDIA and fidelity bonds, including portability elements of plan-to-plan transfers as part of the topic of lifetime income/QDIA.

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References and source material used in this publication

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Text of IRS Revenue Ruling 2018-17

<https://www.irs.gov/pub/irs-drop/rr-18-17.pdf>

Text of SEC Proposed Rule on Investment Advice

<https://www.sec.gov/rules/proposed/2018/34-83062.pdf>

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Text of SEC Rule 30e-3

<https://www.sec.gov/rules/final/2018/33-10506.pdf>

Summary and Text of H.R. 4610, the RETIRE Act

<https://www.congress.gov/115/bills/hr4610/BILLS-115hr4610ih.pdf>

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Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants in the Employer page of our plan website, NRSforu.com. In addition, we report guidance on legislative and regulatory activity relevant to government sector plans through:

- *Federal Legislative and Regulatory Report* – distributed monthly and posted in the Plan Sponsor section of NRSforu.com. It's available online and for download.
- *Plan Sponsor Alerts* – published as needed to announce breaking news.
- *Governmental 457(b) Guidebook*

About this report

BOB BEASLEY, CRC, Communications Consultant, edits this report. Beasley brings nearly 30 years of financial services communications experience to your plan. He has contributed to past editions of the *457(b) Governmental Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored "What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001." He often voices Nationwide's online presentations and telephone greetings.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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