

Legislative and Regulatory Report

A monthly review of the latest information of importance to retirement plan sponsors

July 2023

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Employers urge delay in SECURE 2.0 Roth catch-up

On June 29, more than 225 public and private employers sent a [letter](#) to Congress and the Treasury Department urging a 2-year delay of SECURE 2.0's Roth catch-up provision, explaining that there is not enough time to comply. SECURE 2.0 requires that retirement plan participants who earned more than \$145,000 in the prior year from their current employer must make all age-based catch-up contributions as Roth (post-tax) contributions. The letter highlights that this new wage-based requirement will require significant compliance updates that may not be ready by 2024, and that without a delay some may be forced to eliminate all catch-up contributions for 2024 to comply.

IRS issues RMD relief

On July 14, the IRS [released Notice 2023-54](#) to provide relief with respect to certain provisions of the required minimum distribution (RMD) rules that Congress changed as part of the SECURE Act and the SECURE 2.0 Act. The Notice extends for 1 year (through 2023) the relief the IRS previously provided in Notice 2022-53 regarding (1) the effective date of final RMD regulations and (2) relief from the IRS interpretation of the "10-year rule" as reflected in the 2022 proposed RMD regulations. The new Notice also provides relief under the rollover rules for certain distributions made in 2023 that were mischaracterized as RMDs as a result of the change that SECURE 2.0 made to the "required beginning date" for commencing RMDs.

Senators reintroduce amended auto re-enrollment bill

On July 26, Senators Tim Kaine (D-VA) and Bill Cassidy (R-LA) introduced the [Auto Reenroll Act of 2023](#). The bill would amend ERISA and IRC safe harbors to permit plan sponsors to re-enroll nonparticipants at least once every 3 years, unless the individual affirmatively opts out again. Plans would be permitted to sweep everyone who meets the requirements for re-enrollment, rather than on each employee's enrollment date, and need only provide this re-enrollment opportunity to those who are not participating in the plan at all. Unlike previous versions of the legislation, the new version is voluntary and has bipartisan support.

House Financial Services Committee approves ESG bills

On July 27, the House Financial Services Committee [approved](#) 6 bills related to cryptocurrency and ESG, as well as one resolution to overturn the Consumer Financial Protection Bureau's Section 1071 rulemaking related to small business lending data collection. The environmental, social and governance legislation advanced on a party-line basis, and the bills are not expected to become law. The approved bills include (1) H.R. 4790, the "[Guiding Uniform and Responsible Disclosure Requirements and Information Limits \(GUARDRAIL\) Act of 2023](#)," relating to the materiality standard for SEC disclosures; (2) H.R. 4767, the "[Protecting Americans' Retirement Savings from Politics Act](#)," relating to proxy advisors and shareholder proposals; (3) H.R. 4823, the "[American Financial Institution Regulatory Sovereignty and Transparency Act](#)," addressing federal regulators' coordination with international and nongovernmental organization; and (4) H.R. 4655, the "[Businesses Over Activists Act](#)," which clarifies that the SEC does not have the power to regulate shareholder proposals through Rule 14a-8 and prevents the SEC from forcing companies to include or discuss shareholder proposals.

Oversight Chair asks asset managers for information on ESG practices

On July 18, House Financial Services Oversight Subcommittee Chair Bill Huizenga (R-MI) [sent letters](#) to various asset managers highlighting the Chair's concern about their influence over businesses and asking a series of questions about the firms' ESG practices. The firms that received the letter are BlackRock, BNY Mellon, Capital Group, Fidelity, Goldman Sachs, J.P. Morgan Chase, Prudential, State Street, T. Rowe Price and Vanguard. Chair Huizenga previously introduced the Empowering Shareholders Act of 2023, which requires investment advisors to vote proxies in accordance with issuer voting instructions for covered securities held by passive index funds.

References and source material used in this publication

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"Huizenga Opens Inquiry Into How Asset Managers Fulfill Their Fiduciary Responsibility," Office of Congressman Bill Huizenga, <https://huizenga.house.gov/news/documentsingle.aspx?DocumentID=402668> (July 18, 2023).

Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, NRSforu.com/plansponsor.



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NRM-22059AO (08/23)

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