

CalSavers

December 13, 2021

Defined Contribution
Marketplace Trends

Defined Contribution Marketplace Update

- The United States Supreme Court will hear ERISA case *Hughes v. Northwestern* to address the allegations of excessive fees charged to the University's 403(b) plan participants.
 - The original complaint was filed in 2016, accusing the plan fiduciaries of ERISA violations such as utilizing too many recordkeepers, too many investment options, and charging high fees.
 - The plaintiffs' claims were most recently rejected by the Seventh Circuit Court.
 - In May, 2021, the US Solicitor General filed a brief that supported the plaintiffs' motion for review by the US Supreme Court.
- SECURE 2.0: On May 5, the House Ways and Means Committee Act approved the *Securing a Strong Retirement Act*, sending it to the House for a vote. On May 21, the *Retirement Security and Savings Act* was reintroduced to the Senate, which features many provisions included in the House's Act. If the Senate were to pass the Retirement Security and Savings Act, the House and Senate would likely move to reconcile their separate bills. A few notable provisions include:
 - Require the use of automatic enrollment
 - Increase the required minimum distribution (RMD) age to 75
 - Allow 403(b) plans to invest in Collective Investment Trusts (CITs)
 - Create a national online database of lost retirement accounts

Takeaway: The Securing a Strong Retirement Act, if passed would build on SECURE 1.0 with additional legislation to make retirement saving more easily accessible.

Defined Contribution Marketplace Update (continued)

- In June, ForUsAll, a 401(k) provider, announced they will allow participants to invest up to 5% of their assets in cryptocurrencies. This includes 50 different crypto assets, custodied and managed by Coinbase Institutional.
- On July 21, 2021, Empower announced plans to acquire Prudential's retirement business. The deal includes more than 4,300 retirement plans, covering approximately 4 million plan participants with \$314 billion in assets. The deal is expected to close in Q1 of 2022, pending regulatory approval. Following the close, Empower Retirement will service 16.6 million individuals and assets will be approximately \$1.4 trillion, solidifying their position as the #2 recordkeeper in the industry.
 - Empower is still working to complete the transition of MassMutual retirement plans to its platform, with the last wave of migrations to occur in Q3 2022. Prudential plans will not begin migration until the MassMutual plans have been successfully transferred.
- On October 13, 2021, the Department of Labor (DOL) has announced a proposed rule, "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights", that will allow plan sponsors to consider climate change and ESG factors when they select investment options and exercise shareholder rights.
 - Following publication on October 14, 2021 with the Financial Register, there will be a 60-day comment period.

Defined Contribution Marketplace Update (continued)

- Following the DOL's guidance to recordkeepers, plan fiduciaries, and participants last April, there has been an increase in activity in the marketplace around cybersecurity:
 - In June, the DOL began auditing retirement plan cybersecurity practices.
 - In August, the Securities and Exchange Commission (SEC) ordered eight financial firms to pay \$750,000 in fines due to inadequate cybersecurity protections that resulted in the exposure of client and customer information over the past four years (InvestmentNews.com).
 - Recordkeepers are increasing internal cybersecurity staff (plansponsor.com).
 - Plan sponsors are exploring hiring cybersecurity consultants and evaluating cybersecurity insurance.

Takeaway: The DC Marketplace is experiencing major changes via regulatory actions (DOL initiatives around ESG Investing & cybersecurity) as well as market consolidation (Empower acquisition of Prudential's retirement business).

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