



## Washington Update

### A Summary of Key Legislative and Regulatory Developments Affecting Retirement Savings

MARCH 2026

#### 119th Congress—A Busy Start to the Year

At the end of January, Congress passed 11 full fiscal-year appropriations bills, but the fatal shootings in Minneapolis changed the political dynamics around funding the Department of Homeland Security, which includes Immigration and Customs Enforcement (ICE). Accordingly, essential employees at the Transportation Security Administration, Customs and Border Protection (CBP), the Federal Emergency Management Agency, Coast Guard and elsewhere are currently working without pay. At the time of publication, negotiations are ongoing around reopening the government, but it is unclear how, and how quickly, the impasse will be resolved.

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Republicans have indicated they support certain reforms regarding how ICE handles immigration enforcement, but they appear unwilling to agree to the policy changes that Democrats are demanding. The economic and political ramifications of a single-agency government shutdown are not as severe as a government-wide shutdown, but pressure will build over time for Congress to come to a deal.<sup>1</sup>

Meanwhile, the Administration and Congressional Republicans are turning their attention to tax-filing season, where Republicans are hoping to focus on lower tax bills stemming from the 2025 One Big Beautiful Bill Act (OBBBA). The law made several new tax breaks, such as the “no tax on tips” and “no tax on overtime” provisions targeting lower- and middle-class households, many such tax breaks being retroactively available to

January 2025. Republicans hope lower tax bills will juice consumer spending, which will in turn produce higher economic growth and help their electoral fortunes in November.<sup>2</sup> Democrats, for their part, will likely focus on the fact that much of the tax relief (including the “no tax agenda”) expires at the end of 2028, the additional \$3.4 trillion that the law is expected to add to the debt over the coming decade, the cuts to entitlement programs and renewable energy tax provisions, and the now-lapsed Affordable Care Act premium tax credits.

What follows is an overview of various notable bills and a review of recent regulatory initiatives related to retirement security and policy.





# Legislation

While the prospects for enactment of each of these bills varies, all have generated discussion within the financial services industry.

## **S. 2003—Strengthening Benefit Plans Act of 2025**

*Sen. Tim Scott (R-SC):*

Permits (i) overfunded 401(h) retiree pension account assets to be transferred and used to help pay for active healthcare programs, (ii) surplus defined benefit plan assets to fund employer contributions to defined contribution plans, and (iii) the corresponding transfer of such excess assets from these overfunded plans to fund active employee benefits. These transfers are limited to one per taxable year and must meet minimum cost and benefit requirements over a five-year period. The assets transferred are not treated as employer reversions or prohibited transactions, and the employer cannot deduct the transfer or related benefits. The bill also includes provisions to ensure transparency through participant notices and continued compliance with existing retirement plan regulations.

Status: The bill has been referred to the Senate Committee on Finance.

## **S. 2403—Retire Through Ownership Act**

*Sen. Roger Marshall (R-KS) and Sen. Tim Kaine (D-VA):*

Would address the longstanding issue of employee stock ownership plans' (ESOPs) valuation by aligning ESOP valuation standards with IRS standards under existing valuation law, thereby allowing fiduciaries of ESOPs to rely on IRS Revenue Ruling 59-60 for such determinations. This reliance is permitted under the principles and

methodologies established in that ruling as it existed on the date of enactment of the ERISA Adequate Consideration Act of 2025. The bill would further permit the Department of Labor (DOL) to issue additional guidance and provide a safe harbor for those fiduciaries relying on “well established IRS provisions.” The amendments apply to determinations made on or after the date the bill is enacted.

Status: The Senate unanimously passed the legislation on October 9. The bill then advanced to the House of Representatives and, if passed by the chamber, would advance to President Trump to consider signing into law.

## **S. 2461—Promotion and Expansion of Private Employee Ownership Act of 2025**

*Sen. Steve Daines (R-MT) and Sen. Maggie Hassan (D-NH):*

Encourages S corporations to create an ESOP when looking to transition ownership by offering tax incentives, ensuring continued eligibility for small business programs and establishing new offices to promote and support employee ownership.

Status: The bill has been referred to the Senate Committee on Finance.

## **H.R. 4996—Financial Opportunities for Retirees and Warriors Advancing Retirement Development (FORWARD) Act**

*Rep. Jen Kiggans (R-VA) and Rep. Wesley Bell (D-MO):*

Would expand contribution eligibility for the federal 401(k) plan, the Thrift Savings Plan (TSP), to allow military retirees and disabled veterans to contribute to their TSP accounts even if they are no

longer in service or employed by the government. The bill directs the Federal Retirement Thrift Investment Board, which governs the TSP, to coordinate with the Department of Defense and the Department of Veterans Affairs to issue regulations implementing the changes under the legislation within 180 days after enactment. The bill clarifies that no additional matching government contributions would be made on behalf of these participants.

Status: The bill has been referred to the House Committee on Oversight and Government Reform.

## **S. 2335—Pensions for All Act**

*Sen. Bernie Sanders (I-VT):*

Aims to provide comprehensive retirement coverage to individuals without access to an employer-sponsored retirement plan. The legislation requires all employers and self-employed individuals to either provide a traditional defined benefit retirement plan equivalent to, or better than, the plan provided to new members of Congress under the Federal Employees Retirement System (FERS) or to elect and pay into FERS at a level that ensures their employees receive the same amount of retirement benefits as members of Congress. The bill includes provisions for annual elections and tax penalties for noncompliance and generally would require the government to subsidize up to 50% of the cost to small- and mid-sized employers. Employers are prohibited from reducing any employee's compensation due to the extra costs associated with providing a defined benefit plan to their employees.

Status: The bill has been referred to the Senate Committee on Finance.



## Legislation (cont.)

### **H.R. 4548—Small Nonprofit Retirement Security Act of 2025**

*Rep. Vern Buchanan (R-FL):*

A bipartisan, bicameral bill to address a gap in federal tax policy that excludes nonprofit organizations from accessing the retirement start-up tax credits established under the under the Setting Every Community Up for Retirement Act of 2019 (the SECURE Act) and the SECURE 2.0 Act of 2022 (SECURE 2.0). Extends retirement credits, including startup costs and auto-enrollment benefits, under both the SECURE Act and SECURE 2.0 to tax-exempt small nonprofit organizations and specifically, would provide a tax credit of up to \$5,000 for the first three years of a retirement plan’s operation and an additional \$500 annually for plans that adopt auto-enrollment features. Such tax credits could be applied directly to the nonprofit organization’s payroll tax liability.

Status: The bill has been referred to the House Committee on Ways and Means.

### **H.R. 1155—Recovery of Stolen Checks Act**

*Rep. Nicole Malliotakis (R-NY):*

Requires the Department of the Treasury to establish procedures that allow an eligible taxpayer to elect to receive by direct deposit a replacement of a federal tax refund amount that was originally issued as a paper check and was lost or stolen (currently, taxpayers eligible to receive a replacement of a lost or stolen federal tax refund check are generally issued another paper check).

Status: The bill passed the House by voice vote in March 2025.

A companion bill (S. 2449) under the same title was introduced by Senators Marsha Blackburn (R-TN) and Mark Warner (D-VA) to similarly allow taxpayers whose paper checks from the Treasury were lost or stolen in the mail to receive payments via electronic deposit. The bill mandates the Treasury establish procedures allowing taxpayers to receive such funds electronically.

Pursuant to an executive order issued by President Trump earlier this year, federal agencies were directed to stop the use of paper checks as of September 30, 2025.

### **S. 1707—Helping Young Americans Save for Retirement Act**

*Sen. Bill Cassidy (R-LA) and*

*Sen. Tim Kaine (D-VA):*

Expands eligibility for certain employer-sponsored retirement plans and qualified trusts. Specifically, the bill allows an employee to participate in a pension plan if the employee has at least 500 hours of service during the first 24-month period. The bill also allows a qualified public account to be counted as a participant for five years after the employee first becomes a participant in the plan.

- Would reduce the eligibility age to 18 (from age 21 today) for participation in an ERISA-covered defined contribution plan.
- Would be limited to employees between the ages of 18 and 21 in certain circumstances.
- Such employees may be excluded from nondiscrimination and top-heavy rules.
- Employees under age 21 who are eligible to participate in the plan

would not be counted for purposes of determining whether the plan is subject to an annual audit (would not be counted until five years after becoming a participant in the plan).

- Would not be effective until 2027, if enacted this year.

Status: The bill has been referred to the Senate HELP Committee for further consideration.

A companion bill (H.R. 4718), also titled the Helping Young Americans Save for Retirement Act, was reintroduced by Rep. Brittany Pettersen (D-CO) and Rep. Michael Rulli (R-OH) on July 23, which generally mirrors the terms of S. 1707. The companion bill has been referred to the House Committee on Ways and Means and the House Committee on Education and Workforce.

### **S. 928—Protecting Americans’ Retirement Savings Act (PARSA)**

*Sen. Jim Banks (R-IN):*

Prohibits retirement plan sponsors and fiduciaries from investing in foreign adversary entities or sanctioned entities. Specifically, the bill would amend Section 404 of ERISA to prohibit ERISA-covered retirement plans from making future investments in foreign adversary countries, collecting interest in, lending money to, engaging in transactions with, or transferring plan data to entities associated with foreign adversary countries. The bill would define “covered entity” via various cross-references to other laws that identify certain nations and entities as foreign adversaries or sanctioned entities, primarily North Korea, China, Russia and Iran. Section 404(a) of ERISA, as amended by this bill, would provide that such fiduciary



## Legislation (cont.)

standard of care (and those other fiduciary duties set forth under ERISA) will be deemed to be violated if a fiduciary of a retirement plan fails to ensure that the plan does not engage in a transaction that the fiduciary knows, or should know, will result in the plan: (i) acquiring an interest between the plan and a sanctioned entity; (ii) lending money or extending credit to such entity; (iii) furnishing goods, services or facilities to a covered entity; or (iv) transferring, directly or indirectly, any assets of the plan or any data to, for use by, or for the benefit of a covered entity. The bill also requires plan fiduciaries to disclose continued investments in such entities (including, but not limited to, a statement of justification explaining why the fiduciary continues to hold the investment on behalf of the plan). Additionally, the bill directs the DOL to publish regulations implementing the new law within 180 days of enactment.

Status: The bill has been referred to the Senate HELP Committee.

### **S. 988—Women’s Retirement Protection Act of 2025**

*Sen. Tammy Baldwin (D-WI):*

Revises the spousal protection requirements for defined contribution retirement plans (excluding non-ERISA 403(b) plans and governmental 457(b) plans) to provide greater spousal protections under these plans that are similar to those available for defined benefit plans. Specifically, the bill (i) requires a plan participant to have their spouse’s consent for distributions from their defined contribution plan accounts, with limited exceptions; (ii) provides grants for community-based organizations to improve financial literacy for women of working or

retirement age; (iii) provides grants to community-based organizations to assist women in obtaining benefits via qualified domestic relations orders; and (iv) requires the DOL to establish an interagency task force to study and report on the implementation of these requirements. In addition, the Department of Health and Human Services must establish a program to award grants to states and Indian tribes to implement the requirements.

Status: The bill has been referred to the Senate HELP Committee.

### **H.R. 2163—No Penalties for Victims of Fraud Act**

*Rep. Hailey Stevens (D-MI):*

Waives the 10% early withdrawal penalty for victims who made early retirement plan account distributions that are the result of fraud, provided that such victims can document their fraud losses through law enforcement or court verification. Such victims would be permitted to repay the amount withdrawn from such retirement accounts without penalty. The bill defines a victim of fraud as an individual who (i) applies for a waiver to the IRS that fulfills the documentation requirement, and (ii) is designated as a fraud victim by the IRS. The IRS must conduct a public awareness campaign to educate the public about the protections and relief available under this bill.

Status: The bill has been referred to the House Committee on Ways and Means.

### **H.R. 3248—American Ownership and Resilience Act**

*Rep. Blake Moore (R-IL):*

Requires the Department of Commerce to establish a domestic ownership

succession investment facility to finance the sale of an ownership interest of a business concern to an ESOP or eligible worker-owned cooperative if such sale results in (i) holding a majority interest of the outstanding stock of the business concern, and (ii) the provision of capital to finance such a sale. The bill would create a zero-subsidy investment facility administered by the Commerce Department to provide loan guarantees to support “licensed private investment funds devoted to expanding employee ownership at small- and mid-size businesses.” The bill aims to make it easier for retiring business owners to exit their business by selling it to their employees through the creation of an ESOP by expediting the liquidity timeline for business owners to make more capital available for ESOP creation. This would enable American workers to build substantial retirement assets while preventing the sale of American businesses to foreign investors.

Status: The bill has been referred to the House Committee on Financial Services and the House Committee on Ways and Means.

### **S. 1728—Employee Ownership Representation Act of 2025**

*Sen. Bill Cassidy (R-LA):*

Expands the membership of the Advisory Council on Employee Welfare and Pension Benefit Plans, otherwise known as the ERISA Advisory Council, to include representatives of employee ownership organizations. The council is an interagency task force that works with the DOL to develop and recommend best practices for the development and implementation of employer-sponsored retirement plans. Specifically, the bill aims to give ESOPs representation



## Legislation (cont.)

on the council by amending ERISA to include two new positions, increasing membership from 15 to 17 members.

**Status:** The Senate passed the Employee Ownership Representation Act of 2025 by unanimous consent on October 9. The bill then advanced to the House of Representatives and, if passed by the chamber, would go to the president for his signature into law.

### **S. 1831—Auto Reenroll Act of 2025**

*Sen. Tim Kaine (D-VA) and Sen. Bill Cassidy (R-LA):*

Would encourage automatic enrollment in employer-sponsored retirement plans and the use of employer matches. Specifically, it would amend safe harbors in ERISA and the Internal Revenue Code of 1986, as amended (Code), to permit plan sponsors to reenroll non-participants at least once every three years, unless the individual affirmatively opts out again.

**Status:** The bill has been referred to the Senate HELP Committee.

### **H.R. 2089—Generating Retirement Ownership Through Long-Term Holding (GROWTH) Act**

*Rep. Beth Van Duyne (R-TX) and Rep. Terri Sewell (D-AL):*

Allows an individual to defer recognition of a capital gain dividend if the dividend is automatically reinvested in additional shares of the company pursuant to a dividend reinvestment plan. The gain would be recognized upon a subsequent sale or redemption of stock in the distributing company or upon the death of the individual.

**Status:** The bill has been referred to the House Committee on Ways and Means.

A companion bill (also titled the Generating Retirement Ownership Through Long-Term Holding (GROWTH Act) was reintroduced in the Senate by Sen. John Cornyn (R-TX) on May 21, which would similarly defer taxation of automatically reinvested capital gain distributions until shareholders sell their fund shares.

### **S. 424—Retirement Fairness for Charities and Educational Institutions Act of 2025**

*Sen. Katie Britt (R-AL):*

Would allow 403(b) plans to include collective investment trusts (CITs) as part of the plan's investment line-up. The bill would amend the Investment Company Act of 1940, the Securities Act of 1933 and the Securities Exchange Act of 1934 to allow 403(b) and governmental plans to invest in unregistered insurance company separate accounts and CITs, which are generally lower-cost investment options available for inclusion in other defined contribution plans, including 401(k) plans.

**Status:** The bill has been referred to the Senate Committee on Banking, Housing and Urban Affairs.

### **S. 627—Ensuring Nationwide Access to a Better Life Experience (ENABLE) Act**

*Sen. Eric Schmitt (R-MO):*

Makes permanent certain provisions with respect to qualified Achieving a Better Life Experience (ABLE) programs otherwise set to expire in 2025. It also makes permanent the allowance of the Saver's Credit and the ABLE tax credit. It prioritizes tax-exempt savings accounts for individuals with disabilities.

Other key provisions that would be permanently extended by this bill include:

- “ABLE to Work,” allowing an employed individual with a disability to contribute an additional amount to their ABLE account beyond the standard limit (subject to certain other limits);
- “ABLE Saver's Credit,” enabling an individual with a disability to qualify for a non-refundable Saver's Credit of up to \$1,000 for qualified contributions made to their ABLE account; and
- “529 to ABLE Rollover,” permitting the rollover of funds from 529 plan accounts into ABLE accounts without incurring income taxes, provided the amounts are within the annual ABLE contribution limit.

**Status:** A version of this legislation was signed into law in July as part of the OBBBA.<sup>3</sup>

### **S. 1222—Financial Freedom Act of 2025**

*Sen. Tommy Tuberville (R-AL):*

Prohibits the DOL from limiting the type of investments (including cryptocurrency investments) a fiduciary may offer to participants and beneficiaries of employer-sponsored retirement plans who exercise control over the assets in their account. Specifically, the bill prohibits the DOL from issuing regulations or sub-regulating guidance that constrain or prohibit the range or type of investment that may be offered through a self-directed brokerage window, so long as participants retain the ability to select a particular investment from a broad range of a plan's investment offerings. If fiduciaries



## Legislation (cont.)

select such a brokerage window as an investment alternative, the DOL shall not issue any regulations or guidance constraining or prohibiting the investment window. Similar versions of this bill were previously introduced by Sen. Tuberville and Rep. Donalds in May 2022 in direct response to the DOL's March 2022 Compliance Assistance Release No. 2022-01 (which discouraged retirement plans from including cryptocurrency assets and other alternative investments in their investment offerings) and again in 2023, but these prior iterations did not advance. The 2022 guidance has since been rescinded.

Status: The bill has been referred to the Senate HELP Committee.

### **H.R. 2696—Retirement Savings for Americans Act (RSAA) of 2025**

*Rep. Lloyd Smucker (R-PA):*

Establishes the American Worker Retirement Fund administered by the Department of the Treasury, a federally run retirement plan accessible to low- and middle-income workers that do not otherwise have access to an employer-sponsored retirement plan. The board must establish policies and investment policies for the fund, including the selection of asset managers. The bill establishes a government matching tax credit for contributions to the fund. It also establishes an advisory council to advise the board on matters relating to the plan.

Status: The bill has been referred to the House Committee on Education and Workforce and the House Committee on Ways and Means.

On April 30, 2025, Sen. John Hickenlooper (D-CO) and Sen. Thom

Tillis (R-NC) reintroduced a companion bill to RSAA. This bill would similarly provide uncovered private-sector workers with access to a federally run retirement plan.

### **H.R. 2958—Balance the Scales Act**

*Rep. Michael Rulli (R-OH):*

Requires the Employee Benefits Security Administration (EBSA) to report annually on adverse interest agreements (i.e., assistance or advice that is directed specifically toward an attorney for potential use in a civil action) entered into with plaintiffs' firms. The bill would require (i) the DOL to disclose a copy of any such agreement to affected employers, plan sponsors or fiduciaries, (ii) require the DOL to submit an annual report to Congress outlining key information about such agreements, and (iii) would amend ERISA to include a statement explicitly reaffirming one of the key principles of the statute. EBSA must also provide a copy of such an agreement to any employer, plan sponsor or fiduciary that may be directly and adversely impacted by such assistance.

Status: The House Education and Workforce Committee voted 19-16 to advance the Balance the Scales Act on September 17. The bill now advances to a full floor vote in the House of Representatives.

### **H.R. 2869—Employee Benefits Security Administration (EBSA) Investigations Transparency Act**

*Rep. Lisa McClain (R-MI):*

Requires EBSA to annually report to Congress on the status of cases in enforcement status. Specifically, the bill targets the DOL's prolonged and burdensome audits of ERISA plans

and would obligate the DOL to submit annual reports to Congress on the status of ongoing ERISA plan audits, with special attention to, and specific reporting requirements imposed on, any investigations lasting three years or longer. The report would not include information identifying any private party to the investigation. The bill also requires the report to include investigations that are active or in relation to which EBSA asserted investigative authority.

Status: The House Education and Workforce Committee voted 19-16 to advance the EBSA Investigations Transparency Act on September 17. The bill now advances to a full floor vote in the House of Representatives.

### **H.R. 2988—Protecting Prudent Investment of Retirement Savings Act**

*Rep. Rick Allen (R-GA):*

On January 15, the House approved an amended version of the Protecting Prudent Investment of Retirement Savings Act, which would generally require ERISA retirement plan fiduciaries to prioritize financial returns by generally prohibiting such fiduciaries from considering so-called "non-pecuniary factors," such as Environmental, Social and Governance (ESG), Diversity, Equity and Inclusion (DEI), race, color, religion, sex and national origin, when making plan investment decisions. The legislation would repeal the 2022 ESG Rule issued during the Biden Administration and would amend ERISA so that a plan fiduciary may only consider pecuniary factors in its plan investment decisions, with very limited exceptions. Before passage by the House, the bill was amended to include a mandate that the Government Accountability Office (GAO) conduct a



## Legislation (cont.)

study comparing investment returns in similar windows from participant-directed brokerage accounts and those investments selected and monitored by retirement plan fiduciaries and further directs the GAO to submit a report to Congress with its findings.

Status: The bill has been referred to the Senate HELP Committee for further consideration.

### **H.R. 2748—First Time Homeowners Savings Plan Act**

*Rep. Haley Stevens (D-MI):*

Would increase the amount that can be withdrawn without penalty from retirement plans as first-time homebuyer distributions, from \$10,000 to \$25,000 (as indexed for cost-of-living inflation adjustments, beginning in calendar year 2026). As proposed, the bill would be effective for distributions made in tax years ending after December 31, 2025.

Status: The bill has been referred to the House Committee on Ways and Means.

### **H.R. 2891—IRA Charitable Rollover Facilitation and Enhancement Act of 2025**

*Rep. Adrian Smith (R-NE):*

Allows tax-exempt charitable rollovers from individual retirement accounts to donor-advised funds. If passed, the bill would amend the Code to repeal a restriction under Section 408(d)(8)(B) (i) of the Code on charitable rollovers from IRAs to donor-advised funds or accounts. It also repeals the limitation on the amount of such rollovers that may be transferred to a donor-advised fund.

Status: The bill has been referred to the House Committee on Ways and Means.

### **S. 1840—Retirement Investment in Small Employers (RISE) Act**

*Sen. Maggie Hassan (D-NH) and Sen. Ted Budd (R-NC):*

Would increase the tax credit that certain small employers (with fewer than 10 employees) can use to cover the administrative and start-up costs of setting up a retirement plan. Sponsors of the bill highlight that the current tax credit available to these small businesses is typically insufficient, as it is calculated on a per-employee basis. To remedy this and to assist small businesses with covering costs associated with starting an employer-sponsored retirement plan, the bill would raise the tax credit from a minimum of \$500 to \$2,500.

Status: The bill has been referred to the Senate Committee on Finance.

### **H.R. 5325—Unclaimed Retirement Rescue Plan**

*Rep. Seth Magaziner (D-RI) and Rep. Ron Estes (R-KS):*

Would direct the DOL to issue regulations permitting, but not requiring, plan fiduciaries to transfer unclaimed retirement distributions to the relevant state unclaimed property program. The legislation limits these types of transfers to distributions valued between \$50-\$5,000 and imposes waiting periods before executing these transfers, along with certain conditions. For example, the plan fiduciary must attempt to contact the recipient of such unclaimed distributions before initiating a transfer and that the fiduciary report any subsequent transfer of assets to the DOL for purposes of populating the agency's newly established Retirement Savings Lost and Found Database before execution.

Status: The bill has been referred to the House Committee on Education and Workforce and the House Committee on Ways and Means.

### **S. 2966—Emergency Relief for Federal Workers Act of 2025**

*Sen. Tim Kaine (D-VA) and Rep. Don Beyer (D-VA):*

Would permit furloughed TSP participants to withdraw up to \$30,000 from their TSP accounts without incurring a 10% early withdrawal penalty during government shutdowns exceeding two weeks, although such workers remain responsible for paying income taxes on any withdrawn amounts. The legislation would also permit these furloughed workers to replace any withdrawn funds back into their TSP accounts.

The legislation would also suspend TSP loan repayments during shutdowns, with any outstanding payments to be deducted from the participant's back pay once the government resumes operations. Notably, missed loan payments during such periods are prohibited from being classified as taxable distributions. The bill has 28 Democrat co-sponsors and is unlikely to receive support from Congressional Republicans.

Status: The bill has been referred to the Senate Committee on Finance.

### **H.R. 5748—Retirement Investment Choice Act**

*Rep. Troy Downing (R-MT):*

A one-page bill that would codify President Trump's August 7 Executive Order 14330 (Executive Order 14330) into law, stating that such order "shall have the full force and effect of the law." However, what exactly it would codify into law remains unclear, as Executive



## Legislation (cont.)

Order 14330 does not amend any law itself, and existing laws do not currently prohibit including private market investments in a defined contribution plan.

**Status:** The bill has been referred to the House Committee on Education and Workforce and the House Committee on Financial Services.

### **S. 3086—Restoring Integrity in Fiduciary Duty Act**

*Sen. Bill Cassidy (R-LA) and Sen. Jim Banks (R-IN):*

Would essentially codify the sub-regulatory guidance issued in 2020 during the first Trump Administration on the use of ESG factors in retirement plan investment decisions by amending Section 404(a) of ERISA to only permit fiduciaries to consider “pecuniary factors” in such plan investment decisions. If passed, the bill would impose a *capita aut navia* standard on a fiduciary when choosing between two or more potential investment options in a tiebreaker scenario—meaning to flip a coin or otherwise decide between such options at random. The legislation would similarly impose the pecuniary-only limitation with respect to a fiduciary’s exercise of shareholder rights.

**Status:** The bill has been referred to the Senate HELP Committee for further consideration.

### **S. 3083—Providing Complete Information to Retirement Investors Act**

*Sen. Jim Banks (R-IN):*

Would require employer-sponsored defined contribution plans to provide participants with information explaining the difference between investment

options selected by their plan fiduciaries and those selected through a self-directed brokerage window. Under the legislation, such plans must “provide a notice to investors each time they allocate money into or out of a brokerage window that such investments were not selected by a fiduciary and may result in lower returns.”

**Status:** The bill has been referred to the Senate HELP Committee for further consideration.

### **H.R. 5887—Saving for the Future Act**

*Rep. Scott Peters (D-CA) and Rep. Norma Torres (D-CA):*

Would establish a hybrid emergency savings and 401(k)-type government-run program and would require employers to pay a minimum of 50 cents into an employee’s savings plan account for every hour worked. The minimum employer contribution amount would increase after two years from 50 to 60 cents and again with wage growth. The legislation permits businesses with fewer than 10 workers to opt out of the employer contribution mandate, and a Universal Personal Savings Account (UP Account) would still be available to such employers’ workers with a direct, individual credit for their savings.

**Status:** The bill has been referred to the House Ways and Means Committee and the House Education and Workforce Committee for further consideration.

### **H.R. 6084—ERISA Litigation Reform Act**

*Rep. Randy Fine (R-FL):*

Would amend Section 502 of ERISA to clarify that, for purposes of litigation alleging certain prohibited transactions under Section 406 of ERISA, the

applicable statutory exemption under Section 408 of ERISA is effectively an element of the prohibited transaction. This effectively overrides the recent decision in *Cunningham v. Cornell*, which held that prohibited transaction exemptions are an affirmative defense that must be raised by the defendant and cannot be considered in the context of a motion to dismiss.

**Status:** The legislation has been referred to the House Committee on Education and Workforce and the Committee on Judiciary.

### **H.R. 3383—Incentivizing New Ventures and Economic Strength Through Capital Formation (INVEST) Act of 2025**

On December 11, the House passed the INVEST Act, a legislative package that consolidates more than 20 bipartisan bills aimed at strengthening capital markets and were passed by the House. Section 202 of the INVEST Act includes the Retirement Fairness for Charities and Educational Institutions Act of 2025, which would amend federal securities laws to permit 403(b) plans to invest in CITs and unregistered insurance company separate accounts, which are generally lower-cost investment options already available for inclusion as investment options in other defined contribution plans.

**Status:** The INVEST Act has been referred to the Senate Committee on Banking, Housing and Urban Affairs for further consideration.

### **S. 3352, H.R. 6450—Retirement Rollover Flexibility Act**

On December 4, Rep. Darin LaHood (R-IL) and Rep. Linda Sanchez (D-CA), along with Sen. John Barrasso (R-WY) and Sen.



## Legislation (cont.)

Michael Bennet (D-CO), reintroduced the Retirement Rollover Flexibility Act, legislation that would amend the Code to specifically allow the transfer of contributions from Roth IRA savings accounts into a Roth 401(k), Roth 403(b) or Roth 457(b) plan. The bill would create parity with traditional IRAs by allowing workers to transfer Roth IRA balances into employer-sponsored retirement plans when starting a new job.

**Status:** The bipartisan, bicameral bill has been referred to the Senate Committee on Finance and the House Committee on Ways and Means.

### **S. 3333, H.R. 6417—Emergency Savings Enhancement Act of 2025**

On December 3, Sen. Cory Booker (D-NJ) and Sen. Todd Young (R-IN) introduced the Emergency Savings Enhancement Act of 2025, legislation that would increase the maximum contribution limit for pension-linked emergency savings accounts (PLESAs) from \$2,500 to \$5,000 and eliminate the prior exclusion of highly compensated employees to ease administrative burdens associated with PLESAs by expanding eligibility to include all employees who otherwise met the plan's general requirements.

**Status:** The bill has been referred to the Senate HELP Committee.

A companion bill titled the Emergency Savings Enhancement Act of 2025 was also introduced on December 3 by Rep. Eugene Vindman (D-VA) and Rep. Glenn Thompson (R-PA) and has been referred to the House Committee on Education and Workforce and the House Committee on Ways and Means.

### **H.R. 6722—Automatic IRA Act of 2025**

House Ways and Means Committee Ranking Member Richard Neal (D-MA) reintroduced the Automatic IRA Act of 2024 on December 15, which would establish a federal auto-IRA for employers with more than 10 employees who do not currently offer an employer-sponsored retirement plan. It would require such employers to automatically enroll all full-time and long-term or part-time employees in an automatic IRA or other automatic contribution plan or arrangement, such as a 401(k) plan. The legislation sets forth exemptions from these requirements for (i) companies with 10 or fewer employees; (ii) employers that already offer an employer-sponsored qualified retirement plan or that otherwise participate in a state auto-IRA program enacted prior to 2028; (iii) employers in business for less than two years; and (iv) those employers with governmental or church plans. Further, the Treasury Secretary is directed to issue guidance under the bill to make auto-IRAs available to gig workers, self-employed individuals, freelance workers, independent contractors and other non-traditional workers. The bill has received support from a number of organizations, including the American Retirement Association, the Insured Retirement Institute and the American Council for Life Insurers.

**Status:** The bill has been referred to the House Committee on Ways and Means for further consideration.

### **H.R. 6183—HSA Consumer Protection Act**

On November 20, Rep. Lloyd Doggett (D-TX), along with co-sponsor Rep. Pramila Jayapal (D-WA), introduced

the HSA Consumer Protection Act, legislation that aims to curb perceived misuse and excessive fees in health savings accounts (HSAs) by adding restrictions such as income caps on HSA contributions, limiting non-medical withdrawals after age 65, and requiring better substantiation for expenses, among other proposed changes.

**Status:** The bill has been referred to the House Committee on Ways and Means for further consideration.

### **H.R. 7185—Home Savings Act**

Rep. John McGuire (R-VA) introduced the Home Savings Act on January 21, legislation that would amend the Code to allow penalty-free withdrawals from 401(k) plan accounts for down payments or closing costs on a primary residence. Specifically, the bill would permit savers to withdraw funds from their retirement accounts for up to five years without incurring a penalty and would also permit penalty-free withdrawals gifted to eligible relatives (the spouse of the employee or any child, grandchild, or ancestor of the employee or the spouse of the employee) where the withdrawn funds are used for the same purpose. If passed, the bill would apply to distributions made in tax years beginning after December 31, 2025, but would not apply to distributions made in taxable years beginning after December 31, 2030. However, the likelihood of the bill's advancement remains unclear, as President Trump stated on January 22 that he is not a fan of using retirement assets to buy a home—an abrupt change from the support evidenced by the Trump Administration earlier in January.

**Status:** The bill has been referred to the House Committee on Ways and Means.



## Legislation (cont.)

### **H.R. 7362—Form 5500 Filing Simplification Act**

Rep. Glenn Grothman (R-WI) and Rep. Donald Norcross (D-NJ), along with seven other sponsors, introduced the Form 5500 Filing Simplification Act on February 4, legislation that seeks to change the procedures for filing Form 5500 and effectively extends the filing deadline by almost three months—from July 31 to October 15. The bill directs the DOL, Treasury and Pension Benefit Guaranty Corporation to modify Form 5500 to expressly permit filers to electronically sign Form 5500 and any accompanying information. If passed, the bill would apply to plan years ending on, or after, the date of enactment.

Status: The bill has been referred to the House Committee on Education and Workforce and the House Committee on Ways and Means.

### **S. 3931—Taxpayer Assistance and Service Act**

Sen. Mike Crapo (R-ID) and Sen. Ron Wyden (D-OR) introduced the Taxpayer Assistance and Service Act on February 24, legislation that combines various legislative proposals recommended by the National Taxpayer Advocate and standalone tax administration bills designed to improve communication between the IRS and taxpayers, streamline processes for tax compliance, and ensure filers have access to timely expert assistance, among other reforms. Specifically, the legislation would upgrade IRS online accounts to provide more visibility to filers related to their returns, expected refunds and any delays, expand the jurisdiction of the U.S. tax court and the

independence of the National Taxpayer Advocate Service, digitize more tax returns to support faster refunds, permit the IRS to regulate and impose stronger standards on paid tax-return preparers, and protect victims of fraud from indefinite IRS scrutiny. Notably, the bill instructs the IRS to implement procedures by 2028 so that all of the agency’s phone lines will provide callers with an option to receive a callback from the IRS if their call is not answered within five minutes.

Status: The bill has been referred to the Senate Committee on Finance.

### **New Public Law No. 119-60—The National Defense Authorization Act for Fiscal Year 2026 (NDAA)**

President Trump signed the NDAA into law on December 18. It includes a section titled “Comprehensive Outbound Investment National Security Act of 2025,” restricting investments in technologies in China and other “countries of concern.” The law identifies restricted technologies as those within the following areas: semiconductors and microelectronics, artificial intelligence, quantum information, high-performance computing and supercomputing and hypersonic systems. The legislation builds on the rules limiting investments in “countries of concern” issued by the Treasury Department in response to an executive order issued by President Biden in 2024 and establishes a formal process where U.S. investors must notify government regulators about deals involving sectors vital to China’s military, intelligence or surveillance operations.

### **New Public Law No. 119-39—Internal Revenue Service Math and Taxpayer Help Act**

President Trump signed this into law on December 1. The legislation (i) requires the IRS to include a clear description of the relevant error in math and clerical error notices sent to taxpayers, highlighting the exact line(s) where the error was made in the federal return; (ii) provides a clear deadline for taxpayers requesting an abatement of their tax assessment; and (iii) creates a pilot program to examine the benefits of sending such math or clerical error notices via certified or registered mail.



## Outlook

With the federal government mostly funded through the end of the fiscal year, Congress theoretically has time to focus on legislative priorities besides appropriations bills. However, legislating in election years always comes with challenges. Both political parties are careful to avoid even the perception of giving the other a win, and lawmakers will seek to spend more time on the campaign trail. Republicans may attempt to pass another party-line reconciliation bill, but discussions have not yet gained steam in either chamber, and President Trump did not call on Congress to pass another reconciliation bill in his State of the Union address. Bipartisan discussions in both the House and the Senate about a digital asset taxation package continue, but nothing substantial has materialized to date, and such a package seems unlikely to move ahead of the currently stalled digital asset market structure legislation.<sup>4</sup>

While we cannot entirely rule out the passage of tax legislation in the next several months, Republicans will probably spend their time between now and November continuing to market the provisions in the OBBBA, emphasizing the provisions that retroactively went into effect for tax year 2025. A post-election tax package during the lame-duck session remains possible, depending on how the election results shift the balance of power in Congress.



# Regulatory

## **A Full Regulatory Agenda**

The Treasury and the IRS will remain exceedingly busy issuing regulations from now until at least the end of 2026, with an emphasis on OBBBA tax provisions. The highest regulatory priority for the Administration is likely the Trump Accounts (also referred to as 530A accounts). The Administration aims to fund Trump Accounts by July 4, which is the earliest that these accounts can accept contributions. Meeting that deadline will almost certainly require a steady stream of guidance from now until then. Certain pieces of guidance, such as clarity on how the rollover process will operate, are likely to remain unanswered until after July. The Treasury/IRS are also actively identifying and rescinding or modifying regulations from prior administrations as part of the Administration's broader deregulatory agenda, which will occupy a great deal of time.

Although some of the proposed rules and guidance highlighted below may be subject to review, delay and possible withdrawal by the Trump Administration (while others respond directly to various Presidential actions furthering the Administration's policy goals), here is a brief synopsis of the proposals in the event they remain viable:

### **Executive Order 14330– Democratizing Access to Alternative Assets for 401(k) Investors**

President Trump issued the long-anticipated Executive Order 14330 titled "Democratizing Access to Alternative Assets for 401(k) Investors" on August 7, which directs the DOL, the Securities and Exchange Commission (SEC) and other relevant federal agencies to

revise regulatory guidance and reduce legal barriers that currently restrict defined contribution retirement plans from offering alternative investment options. Pursuant to Executive Order 14330, within 180 days (by February 3, 2026) the DOL must (i) re-evaluate existing guidance—including the 2021 Supplemental Private Equity Statement, which the DOL promptly rescinded on August 12; (ii) issue guidance clarifying fiduciary duties when considering alternative assets as an investment option in a 401(k) plan; (iii) propose rules or safe harbors to limit fiduciary litigation exposure; and (iv) coordinate with other federal agencies on potential parallel regulatory updates on this issue. As discussed in more detail below, the DOL submitted a proposed rule titled "Fiduciary Duties in Selecting Alternative Investments" to The White House's Office of Management and Budget (OMB) on January 13.

### **New Executive Order– Protecting American Investors from Foreign-Owned and Politically-Motivated Proxy Advisors**

On December 11, President Trump signed a new executive order titled "Protecting American Investors from Foreign-Owned and Politically-Motivated Proxy Advisors," which requires federal agencies to tighten restrictions on proxy advisors that provide guidance to shareholders and investors by rescinding existing rules or developing new guidance aimed to curb proxy voting firms' "enormous influence." Specifically, the order mandates (among other items) that the (i) SEC: consider revising or rescinding any rules or guidance "that are inconsistent with

the purpose of this order, especially to the extent that they implicate (DEI) and (ESG) policies, enforce anti-fraud provisions against proxy advisers' voting recommendations, and assess whether investment advisers breach their fiduciary duties when relying on proxy firms' non-pecuniary factors in investing; and (ii) DOL: "strengthen ERISA fiduciary rules and increase fiduciaries' transparency regarding their use of proxy advisors, ensuring proxy advisors and plan managers act solely in the financial interest of American workers and retirees," determine whether proxy advisers qualify as an ERISA fiduciary, subject to strict fiduciary standards related to managing 401(k) and other benefit plans, and take all appropriate actions to enhance transparency concerning the use of proxy advisors, particularly regarding DEI and ESG investment practices. The executive order escalates the Trump Administration's ongoing political battle over the inclusion of ESG and DEI factors in plan investment decisions, and the forthcoming ESG rule (slated to be issued by May 2026) will likely reflect the limitations contemplated in this executive order.

## **Department of Labor**

### **DOL Issues Advisory Opinion 2025-04A**

Issued by the DOL on September 23, this advisory opinion concluded that the applicant's lifetime income strategy program meets the criteria to be a qualified default investment alternative (QDIA) under ERISA and the corresponding regulations. A.O. 2025-04A is in direct response to Executive Order 14330, directing the DOL to re-



## Regulatory (cont.)

examine its guidance regarding fiduciary duties under ERISA in connection with making asset allocation funds that include alternative asset investments available as a plan investment option to participants. A.O. 2025-04A also underscores that those plan fiduciaries selecting annuity providers for such programs may rely on either (i) the 2008 regulatory safe harbor or (ii) the statutory safe harbor created by the SECURE Act in 2019. In an accompanying press release, the DOL stated that it intends to issue formal rulemaking that clarifies the fiduciary duties owed to plan participants when considering the inclusion of investments such as private equity or cryptocurrency (for example) in retirement plan investment menus.

### **DOL Rescinds Biden-Era Supplemental Statement Questioning the Suitability of Private Investments in 401(k) Plans**

On August 12, the DOL rescinded the Biden-era 2021 Supplemental Guidance that questioned whether private investments belonged in 401(k) plans, finding that many plan fiduciaries were “not likely suited to evaluate the use of [private equity] investments in designated alternatives in individual account plans.” According to the DOL’s announcement, the 2021 Supplemental Guidance departed from the agency’s normal neutral stance on specific type of investments and a principle-based approach to fiduciary investment decisions, as the 2021 Supplemental Guidance cautioned against private-market valuation risks, illiquidity and lack of transparency. The DOL’s action in repealing the 2021 Supplemental Guidance was in direct response to Executive Order 14330, which directed the agency to reevaluate existing guidance on alternative assets in 401(k)

plan investment menus. The DOL’s 2020 Guidance was not impacted by the rescission of the 2021 Supplemental Guidance and remains in effect.

### **DOL Issues Compliance Assistance Release No. 2025-01: 401(k) Plan Investments in “Cryptocurrencies” (2025 CAR)**

On May 28, the DOL issued the 2025 CAR, which rescinded Compliance Assistance Release No. 2022-01: 401(k) Plan Investments in “Cryptocurrencies” (the 2022 CAR), stating that the 2022 CAR was overreaching and strayed from the requirements set forth under ERISA.

In the 2022 CAR, the DOL expressed that it had “serious concerns about the prudence of a fiduciary’s decision to expose 401(k) plan participants to direct investments in cryptocurrencies” or other products whose value is tied to cryptocurrencies. The guidance raised concerns about risks associated with crypto, including fraud, theft and volatility in retirement accounts and further warned plans offering cryptocurrency menu options to expect a possible DOL investigation as a result of the decision to include such assets as an investment option in a retirement plan. The 2022 CAR further directed plan fiduciaries to exercise “extreme care” before adding a cryptocurrency option to their plans.

The DOL stated that by rescinding the 2022 CAR, “the department reaffirms its neutral stance, neither endorsing nor disapproving of plan fiduciaries who conclude that the inclusion of cryptocurrency in a plan’s investment menu is appropriate.” The 2025 CAR applies broadly to a wide range of digital assets, including tokens, coins, crypto assets and derivatives. Further, the 2025

CAR eliminates the vague “extreme care” standard under the 2022 Guidance and restores traditional fiduciary discretion under ERISA.

### **DOL Issues Multi-Part Regulatory Package: “Pooled Employer Plans: Big Plans for Small Business” Guidance and RFIs**

On July 29, the DOL published this package, including interpretive sub-regulatory guidance and two requests for information (RFIs). The guidance generally provides tips to help small employers select and manage participation in a pooled employer plan (PEP) (including with respect to investment selection and management), and the RFIs solicit stakeholder feedback about the PEP business environment, conflicts of interest and potential need for fiduciary safe harbors. According to the DOL, the purpose of this guidance is to help small employers select high-quality, low-cost PEPs, and to gather information about PEP market practices with a view toward developing a potential regulatory safe harbor. Comments on both RFIs were due to the DOL by September 29.

### **Field Assistance Bulletin No. 2025-01—Missing Participants and Beneficiaries—Pension Plans’ Transfer of Small Retirement Benefit Payments to State Unclaimed Property Funds DOL FAB 2025-01: Missing Participants and Beneficiaries—Pension Plans’ Transfer of Small Retirement Benefit Payments to State Unclaimed Property Funds**

On January 14, 2025, the DOL issued Field Assistance Bulletin 2025-01 (FAB 2025-02), which sets forth a temporary relief policy to provide retirement plan fiduciaries with an option to help manage



## Regulatory (cont.)

small benefit amounts owed to missing participants and beneficiaries who cannot be located. Such relief applies to small retirement benefit payments owed to missing participants or beneficiaries that a responsible plan fiduciary voluntarily decides to pay over to a state unclaimed property fund from an ongoing defined contribution or defined benefit pension plan. DOL announced via FAB 2025-01 that, pending further guidance, it would not pursue violations of Section 404(a) of ERISA in connection with a decision to transfer retirement benefit payments owed to a missing participant/beneficiary from an ongoing plan to a state unclaimed property fund, provided the present value of the participant/beneficiary's nonforfeitable accrued benefit is \$1,000 or less. FAB 2025-01 also sets forth conditions under which the plan fiduciary must adhere when engaging in such a transfer.

### **DOL FAB 2025-02: ERISA's Annual Funding Notice Requirements Following SECURE 2.0**

The DOL issued Field Assistance Bulletin 2025-02 (FAB 2025-02) on April 3, 2025, providing interim guidance on how pension plans annually calculate and disclose the value of a plan's assets and liabilities in connection with modifications to Section 101(f) of ERISA under Section 343 of SECURE 2.0. The appendices to FAB 2025-02 also provide updated model notices for single-employer and multiemployer defined benefit pension plans. Pending further guidance, the DOL will treat compliance with FAB 2025-02 as a plan administrator's reasonable, good faith interpretation of the annual funding notice disclosure requirements.

[View the Field Assistance Bulletin.](#)

### **DOL Proposed Rule: Fiduciary Duties in Selecting Alternative Investments**

The DOL submitted this proposed rule to OMB on January 13, although the text and content of the proposal remain unknown while under OMB review. The proposal is in direct response to Executive Order 14330 mandating the DOL review, clarify and propose guidance surrounding the fiduciary duties regarding the inclusion of private market and digital assets as investment options in 401(k) plans. As of the date of this publication, the proposal remains under review at OMB, and the DOL will likely release the proposed rule for public notice and comment in March rather than by the February 3 deadline imposed by Executive Order 14330.

### **Retirement Security Rule: Definition of an Investment Advice Fiduciary**

On April 25, 2024, the DOL published in the Federal Register its final fiduciary rule regulatory package, which revises the definition of an investment advice fiduciary. Under the final rule, a person would be an investment advice fiduciary under ERISA:

- If the investment advice/recommendation is made to a retirement investor (a plan, plan fiduciary, plan participant or beneficiary, IRA, IRA owner or beneficiary, or IRA fiduciary);
- The advice/recommendation is provided "for a fee or other compensation, direct or indirect" (defined in the proposal);
- The person makes the recommendation in one of the following contexts:
  - The person either directly or indirectly has discretionary authority or control, whether or not

per an agreement, arrangement or understanding, with respect to purchasing/selling securities or other investment property for the retirement investor;

- The person either directly or indirectly makes investment recommendations on a regular basis as a part of his/her business and the recommendation is provided under circumstances indicating it is based on the particular needs/individual circumstances of the retirement investor and may be relied upon as a basis for investment decisions that are in the retirement investor's best interest; or
- The person making the recommendation represents/acknowledges that they are acting as a fiduciary when making investment recommendations.

The 2025 Spring Regulatory Agenda released by the IRS and the Treasury Department on September 4 listed, among other agenda items, the issuance of a new fiduciary rule that "will ensure that the regulation is based on the best reading of the statute," although the agenda does not provide any further details as to what such final rule may state. According to the agenda, this is in final rule stage and will be issued by May 2026 (although the government shutdown may impact this timeframe).

[View the Final Rule.](#)

### **Litigation Response**

There have been several challenges in federal district court to the DOL's final rule defining an investment advice fiduciary, as well as the amendments to certain existing prohibited transaction exemptions (PTEs). The location and



## Regulatory (cont.)

status of the litigation appear below:

- On July 25, 2024, in the matter of *FACC et al. v. Department of Labor* (Case No. 6:24-cv-163-JDK), the U.S. District Court for the Eastern District of Texas stayed the effective date (September 23, 2024) of the DOL's new definition of fiduciary investment, as well as the amendments to Prohibited Transaction Exemption (PTE 84-24several PTEs) until further order of the Court.
- On July 26, 2024, in the matter of *American Council of Life Insurers v. Department of Labor* (Civil Action No. 4:24-cv-00482-O), the U.S. District Court for the Northern District of Texas stayed the effective date of the DOL's new definition of fiduciary investment, as well as amendments to Prohibited Transaction Exemption (PTE 2020-02), until further order of the Court. This means the final fiduciary rule regulatory package will no longer go into effect while the litigation progresses.
- On September 20, 2024, the DOL filed notices in both of the proceedings referenced above, indicating it would appeal the stays. On November 1, 2024, the parties to the litigation in both cases jointly moved to consolidate the appeals in the 5th Circuit Court of Appeals, which was granted on November 4, 2024. The parties also moved the court to extend the time for filing briefs in the matter to December 20, 2024, for the DOL, and to February 14, 2025, for the plaintiffs. The 5th Circuit granted the motion with regard to the DOL's filing date, but denied the plaintiff's requested filing date as "premature" while leaving open the opportunity to again request an extension after the

DOL has filed its brief.

- The DOL filed another unopposed motion requesting an additional 60-day abeyance on April 14, which the 5th Circuit Court granted on April 15, staying the consolidated litigation through June 16. On June 17, the 5th Circuit granted the DOL's subsequent June 13 motion for another 60-day abeyance, extending the abeyance through the end of August. Briefing deadlines were similarly extended for the later of August 29, or two weeks after the expiration of the June stay to the litigation proceedings.
- On August 14, the DOL filed an unopposed consent motion requesting yet another 60-day abeyance "to and including October 14, 2025" to the ongoing appeals in both *FACC et al. v. DOL* and *ACLI et al. v. DOL*. The 5th Circuit Court of Appeals granted the accompanying request to extend the plaintiff's briefing deadline for the later of October 14, or two weeks after the expiration of this most recent stay in the ongoing litigation proceedings.
- On October 1, the DOJ filed a motion with the 5th Circuit requesting the abeyance to the ongoing appeals in both *FACC et al. v. DOL* and *ACLI et al. v. DOL* be extended until 14 days after the end of the government shutdown, when Congress restores appropriations to the DOJ. The 5th Circuit Court denied the request, but granted an extension that expired on October 28. On October 22, the DOJ filed an unopposed request for a 30-day extension to the abeyance, citing the ongoing government shutdown and lack of appropriations to the DOJ necessary for the department to operate. The 5th Circuit Court of

Appeals denied the DOJ's request to pause the proceedings until November 28, but extended the abeyance again until November 13.

- The parties in *FACC et al. v. DOL* filed a joint status report with the District Court for the Eastern District of Texas on January 9, stating that the DOL needs "additional time for various stakeholders to fully consider the next steps in this matter and to secure all necessary approvals before settling on a position" and that the "parties therefore respectfully request that the Court allow them to file another joint status report on or before March 11, 2026, in which they will propose any necessary next steps for resolving this matter." Notably, the report also states that the parties do not intend to seek further extensions. The same motion was filed in *ACLI et al. v. DOL* in the District Court for the Northern District of Texas on January 9.

### **Department of Treasury/IRS**

On September 30, 2025, the Treasury Department released the 2025-2026 Priority Guidance Plan (PGP) that contains 105 guidance projects that are priorities for the agency during the 12-month period from July 1, 2025 through June 30, 2026. Included in the PGP are retirement and/or other related benefit priorities, some of which are addressed elsewhere in this Update, and include the following (a sampling):

- Guidance under §§128, 139J, 530A, 6434, and 6659 regarding Trump accounts.
- Guidance under §529 regarding enhancements to qualified tuition programs.



## Regulatory (cont.)

- Final regulations updating electronic delivery rules and other guidance for providing applicable notices and making participant elections and spousal consents. Proposed five regulations were published on December 30, 2022.
- Guidance updating safe harbor explanations for eligible rollover distributions to satisfy the notice requirement under §402(f).
- Revenue Procedure updating and consolidating procedures for a sponsoring organization or a mass submitter to apply to the IRS for an opinion letter on whether an IRA or SEP arrangement satisfies the applicable requirements under §408.
- SECURE 2.0 Guidance:
  - Guidance implementing provisions to the SECURE 2.0 Act, including §103 (savers match), §110 (qualified student loan matching contributions), §125 (long-term, part-time employees), §127 (pension-linked emergency savings accounts), §324 (rollover rules), and §334 (qualified long-term care distributions), and guidance under Code §72(t) relating to the repayment provisions for certain distributions added by the SECURE 2.0 Act.
  - Final regulations relating to modifications to §401(a)(9) and related provisions made by the SECURE 2.0 Act and regarding other issues under §401(a)(9) and related provisions. Proposed regulations were published on July 19, 2024.
  - Final regulations and related guidance on the exception to the unified plan rule for §413(e) multiple

employer plans as modified by the SECURE Act. Proposed regulations were published on March 28, 2022.

- Final regulations on automatic enrollment requirements under §414A as added by SECURE 2.0. Proposed regulations were published on January 10, 2025.
- Final regulations on updates to catch-up contribution rules under §414(v) as added by SECURE 2.0. Proposed regulations were published on January 10, 2025.

### **IRS Issues Revenue Procedure 2025-31 Regarding Safe Harbor Guidance for Cryptocurrency Staking**

The Treasury Department and the IRS released this guidance on November 10, providing a safe harbor for investment and grantor trusts that stake digital assets without jeopardizing their tax status provided the requirements set forth in Rev. Procedure 2025-31 are satisfied. Staking is the process by which cryptocurrency holders lock up their tokens to validate transactions on the blockchain. Such investment and grantor trusts may stake digital assets on “proof-of-stake networks” if they (i) hold only cash and one type of digital asset; (ii) use a qualified custodian to exercise the rights of ownership over the trust’s digital assets; (iii) comply with the liquidity risk policies established by the SEC to ensure assets are available to meet redemption requests even with staked assets; (iv) maintain an “arm’s-length” arrangement with staking providers; and (v) limit activities to holding, staking and redeeming digital assets and do not try to beat the market by making investment decisions.

### **IRS Revenue Ruling 2025-15: Withholding and Reporting With Respect to Uncashed Retirement Plan Distribution Checks (and Subsequent Checks)**

On July 16, the IRS released Rev. Rul. 2025-15, which sets forth guidance on withholding and reporting concerning uncashed retirement plan distribution checks and specifically addresses an employer’s withholding and reporting obligations when a subsequent check is issued, after the original check was not cashed and subsequently voided. The primary conclusion in this revenue ruling is that the plan administrator is not required to report or withhold any tax related to a reissued check, provided the amount of the second check is less than or equal to the original amount of the uncashed check. Because the guidance addresses a very specific factual instance and application, questions remain about potential variations in the circumstances surrounding these obligations with respect to uncashed checks and the subsequent reissuance thereof.

[View a copy of Notice 2024-73.](#)

### **IRS–IR 2025-07: Catch-Up Contributions (Update)**

On January 13, 2025, the Treasury Department/IRS published in the Federal Register IR 2025-07, setting forth proposed regulations relating to catch-up contributions to certain defined contribution plans. The proposed regulations would amend the regulations under Code section 414(v) to reflect changes to the catch-up contribution requirements for certain



## Regulatory (cont.)

eligible participants pursuant to the following provisions of SECURE 2.0:

- Section 109 of SECURE 2.0, which allows additional catch-up contributions to a 401(k), 403(b), governmental 457(b), SARSEP, SIMPLE IRA and SIMPLE 401(k) plans for employees ages 60, 61, 62, or 63;
- Section 117, which increases the contribution limits for SIMPLE IRA and SIMPLE 401(k) plans sponsored by employers with 25 or fewer employees, to 110% of the limits that would otherwise apply to such plans (2024 limits), as adjusted for inflation; and
- Section 603, which provides that plan participants in 401(k), 403(b) and governmental 457(b) plans with FICA wages in the prior year (from the employer sponsoring the retirement plan) of over \$145k (indexed), can make age-based catch-up contributions on a Roth basis only (not on a pre-tax basis).

Comments on the proposed regulations were due to the IRS by March 14, 2025, and a public hearing was held on April 7, 2025.

[View the proposed regulation.](#)

On September 15, the IRS and Treasury Department released final regulations providing guidance regarding catch-up contribution changes under SECURE 2.0, including the requirement that contributions made by certain eligible participants be made on a Roth basis. Specifically, the final regulations implement the changes to Code Section 414(v) made by Sections 109, 117 and 603 of SECURE 2.0, which establish a higher catch-up limit for participants turning 60, 61, 62 or 63 years old

during a taxable year, increases the contribution limits for SIMPLE plans, and require that catch-up contributions by certain higher-earning employees be made as Roth contributions. The final regulations will now apply with respect to contributions in taxable years beginning after December 31, 2026, with limited exceptions for governmental and collectively bargained plans. For prior taxable years (and collectively bargained and governmental plans), a reasonable, good faith interpretation standard applies. The IRS published the final regulations in the Federal Register on September 16, with an effective date of November 17.

### **IR 2025-09: Automatic Enrollment Requirements Under Section 414A– Proposed Regulations**

On January 14, 2025, the Treasury Department/IRS published in the Federal Register IR 2025-09, setting forth proposed regulations that would, among other things, generally require newly established 401(k) and 403(b) plans to automatically enroll eligible employees starting in the 2025 plan year, absent an exception (e.g., plans established before the December 29, 2022, enactment date for SECURE 2.0). The requirement to include an automatic enrollment feature would exclude:

- SIMPLE 401(k) plans, governmental plans, church plans and new businesses in existence for less than three years.
- Small businesses with fewer than 10 employees (until such time as they employed greater than 10 employees).
- Plans established before the date of enactment of SECURE 2.0.

Comments on the proposed regulations were due to DOL by March 17, 2025, and a public hearing was held on April 8, 2025.

[View the Automatic Enrollment Proposal.](#)

### **IRS Notice 2026-5: Expanded Availability of Health Savings Account Under the OBBBA**

The IRS released Notice 2026-5 on December 9, which provides guidance on new tax benefits for HSA participants (the OBBBA expanded HSA availability). Notice 2026-5 addresses changes to telehealth and remote care services, direct primary care service arrangements (DPCSAs), and treats bronze and catastrophic plans under the ACA as high-deductible health plans (HDHPs). Specifically, the notice (i) makes permanent a safe harbor permitting HSA holders to receive telehealth and other remote care services prior to meeting their deductible, while remaining eligible to contribute to their HSA, effective for plan years beginning on or after January 1, 2025; (ii) revises the definition of HDHP to treat bronze and catastrophic plans to be treated as HDHPs, regardless of whether such plans satisfy the general definition of a HDHP; (iii) clarifies that individuals enrolled in HDHPs that participate in certain DPCSAs can pay such direct primary care fees from their HSAs where the individual's monthly fees are \$150 or less (\$300 or less for family coverage).

Comments on the guidance set forth in Notice 2026-5 were due by March 6.

[View Notice 2026-5.](#)



## Regulatory (cont.)

### **IRS Notice 2026-13: Safe Harbor Explanations—Eligible Rollover Distributions**

The IRS issued Notice 2026-13 on January 15, which sets forth revised guidance and updates two safe harbor explanations that may be used by plan sponsors and administrators of 401(a), 403(a), 403(b) and governmental 457(b) plans to satisfy the requirements of Section 402(f) of the Code when providing written explanations to retirement plan participants regarding eligible rollover distributions.

The updated safe harbor explanations set forth in Notice 2026-13 reflect statutory changes made by SECURE 2.0 and implement recommendations made by the GAO, among other changes. Notice 2026-13 supersedes the guidance under Notice 2020-62, issued by the IRS in 2020.

[View Notice 2026-13.](#)

### **IRS IR 2026-05: Use Free File to Conveniently File Your Return At No Cost**

On January 9, the IRS issued IR 2026-05, which announced the availability of the IRS Free File Guided Software to assist taxpayers in preparing and submitting their tax returns for the 2026 filing season. Eight private-sector partners will offer guided tax software products to taxpayers with an adjusted gross income of \$89,000 or less in 2025, with Free File Fillable forms available beginning on January 26 for those with adjusted gross incomes of more than \$89,000.

[View IR 2026-05.](#)

### **IRS Notice 2026-09: Extension of SECURE 2.0 Act Amendment Deadline for IRAs**

On January 26, the IRS and the Treasury Department released Notice 2026-09, which extends the deadline to make certain amendments to IRAs, SEP arrangements and SIMPLE IRA Plans required under the SECURE Act, SECURE 2.0, the Coronavirus Aid, Relief and Economic Security Act (known as the CARES Act), and the Taxpayer Certainty and Disaster Tax Relief Act of 2020. The agency explained that the intent of this extension is partly due to the ongoing development of model language that may be used by IRA trustees, custodians and issuers to amend an IRA to ensure compliance with such legislation. The notice sets December 31, 2027, as the new compliance deadline, or such later date as may be prescribed by the Treasury in subsequent guidance.

[View Notice 2026-09.](#)



# Miscellaneous

Simply for reference, below we provide updated inflation-adjusted amounts, applicable for the upcoming calendar year 2026, that pertain to social security benefits, retirement benefits, health savings accounts and the estate and gift tax exclusion amounts:

## Social Security Benefits for 2026

- Social Security and Supplemental Security Income beneficiaries:
  - 2.8% Cost of Living Adjustment for 2026.
- Taxable Wage Base:
  - \$184,500.
- Retirement Earnings Test Exempt Amounts:
  - Under full retirement age: \$24,480/year or \$2,040 per month.
    - \$1 in benefits withheld for every \$2 in earnings above the limit.
  - The year an individual reaches full retirement age: \$65,160/year or \$5,430 per month.
    - Applies only to earnings for months prior to attaining full retirement age.
    - \$1 in benefits withheld for every \$3 in earnings above the limit.
  - There is no earnings limit beginning the month an individual reaches full retirement age.

[View a copy of the 2026 Social Security Fact Sheet.](#)

## Income Taxes and Social Security Benefits

- Individual filers with combined income between \$25,00 and 34,000—may pay income tax on up to 50% of benefits.
  - If more than \$34,000—up to 85%.
- Joint filers with combined income between \$32,000 and \$44,000—may pay income tax on up to 50% of benefits.
  - More than \$44,000—up to 85%.
- Combined income = adjusted gross income plus nontaxable interest plus ½ of social security benefits.

[View a copy of the Social Security Income FAQs.](#)

## Retirement Plan Limits

For quick reference, selected 2026 plan limits are as follows:

- Elective deferral (contribution limit) for 401(k), 403(b), 457 plans:
  - **\$24,500**
- Catch-up contribution limit for 401(k), 403(b), 457 plans:
  - **\$8,000**
- Annual contribution to traditional and Roth IRAs:
  - **\$7,500**
- Catch-up contribution limit for traditional and ROTH IRAs:
  - **\$1,100 (indexed)**
- SIMPLE employee deferrals:
  - **\$17,000**

- SIMPLE catch-up limit:
  - **\$4,000**
- Simplified Employee Pensions (SEPs) minimum compensation threshold:
  - **\$800**
- SEP maximum compensation limit:
  - **\$360,000**
- SEP annual contribution limit:
  - **\$72,000**
- Annual total defined contribution plan contribution limit:
  - **\$72,000**
- Catch-up contribution limit for individuals age 50—59 participating in 401(k), 403(b) and governmental 457 plans:
  - **\$8,000**
- “Super” catch-up contribution limit for individuals age 60, 61, 62 and 63 participating in 401(k), 403(b) and governmental 457 plans:
  - **\$11,250**
- Annual Compensation limit for calculating contributions (401(k), 403(b), profit-sharing plans, etc):
  - **\$360,000**
- Limit on annual benefit provided through a defined benefit plan:
  - **\$290,000**
- Employee Stock Ownership Plan (“ESOP”) maximum account balance:
  - **\$1,455,000**

[View a copy of the Cost of Living Adjustments for 2026.](#)



## Miscellaneous (cont.)

### Health Savings Accounts (Inflation Adjusted Amounts for 2026)

For employees to be eligible to participate in a Health Savings Account (HSA), they must be enrolled in a High Deductible Health Plan (HDHP). For 2026, the limits for both HDHPs and HSAs are provided below:

- HSA contribution limit—self only:
  - **\$4,400**
- HSA contribution limit—family:
  - **\$8,750**
- HSA catch-up contribution limit (age 55+):
  - **\$1,000**

- The minimum HDHP deductible—self only:
  - **\$1,750**
- The minimum HDHP deductible—family:
  - **\$3,400**
- Annual out-of-pocket expenses are capped at—self only:
  - **\$8,500**
- Annual out-of-pocket expenses are capped at—family:
  - **\$17,000**

[View the 2026 HSA limits.](#)

### Estate and Gift Tax Exclusion Amounts

For calendar year 2026, the estate and gift tax exemption amounts are:

- \$15,000,000 per individual.
- \$30,000,000 per couple.

The per recipient gift amounts (tax-free and without counting towards the taxpayer's lifetime gift/estate tax exemption amount) are:

- \$19,000 per recipient.
- \$38,000 per recipient for married couples.

[View the tax inflation adjustments for 2026.](#)

<sup>1</sup> Following the news on February 28 that the U.S. and Israel had launched an attack on Iran, Republican lawmakers called for Democrats to abandon their policy demands and pass the Homeland Security legislation. Democrats have countered with funding all agencies within the Department of Homeland Security except for ICE and CBP.

<sup>2</sup> According to [IRS data](#), the average tax refund amount through the week that ended February 13 was \$3,804, which is 10.2% higher than refunds at the same time last year.

<sup>3</sup> [Senator Schmitt's Landmark ENABLE Act Signed into Law-Senator Schmitt.](#)

<sup>4</sup> The CLARITY Act passed the House of Representatives on July 17, 2025, by a vote of 294-134. At the time of publication, a legislative markup has not yet been scheduled by the Senate Banking Committee

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