Morgan Stanley

Washington Update

A Summary of Key Legislative and Regulatory Developments Affecting Retirement Savings

SEPTEMBER 2025

Can a Government Shutdown Be Avoided?

Members of Congress departed for their annual August recess a few days later than initially planned, but earlier than many Members were expecting. That is because on July 4, after six full months of legislative sausage-making, President Trump signed into law H.R. 1, the $3.4 trillion tax reconciliation legislation commonly referred to as the One Big Beautiful Bill Act (OBBBA). Republicans had indicated privately and publicly that they planned to forgo recess and remain in session until the bill passed, underscoring the political importance of getting it across the finish line (we will dive deeper into the reconciliation bill later in this update).

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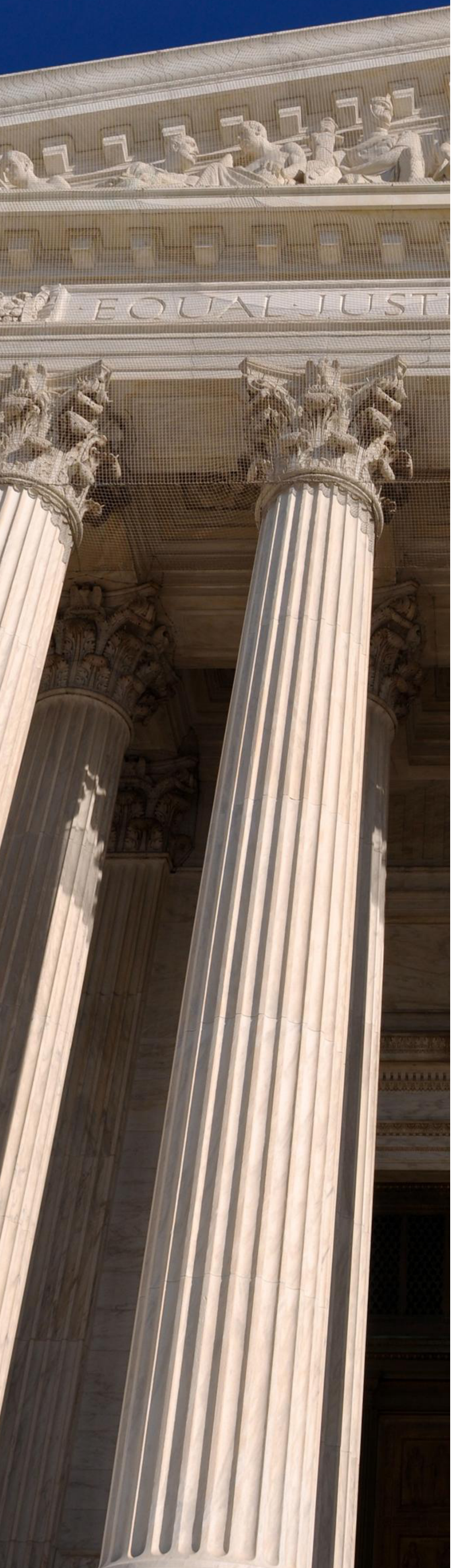

Now that Congress is back in session, focus turns to how to fund the government after September 30 (when current government funding legislation expires). Congress typically finds a way to avoid shutdowns, but the political dynamics at play this fall could make keeping the government open a tall order this year. We go through a few of those dynamics below:

- Lack of progress on appropriations bills: As of this writing, none of the twelve fiscal year 2026 appropriations bills have passed both chambers of Congress and been signed into law by the president. Republicans enacted many of their major priorities in the reconciliation bill, and may be less motivated to compromise with Democrats as a result.
- Political wounds from March government funding agreement: Senate Minority Leader Schumer took significant heat from certain segments of the Democratic Party voter base across the country for his backing of a clean continuing resolution in March. There may be a strong push from rank-and-file Democrats to extract significant concessions in exchange for their votes on any government funding deal, which Republicans may not be willing to grant. Given the continued stream of controversial and, in many cases, legally questionable actions by the Trump Administration in areas such as tariff policy and refusal to spend congressionally appropriated funds, the spirit of cooperation is unlikely to be in the air.
- Debt ceiling increase in reconciliation: Government shutdowns are often coupled with a need to raise the nation's borrowing limit and prevent a default on government debt. However, the tax reconciliation bill increased the debt ceiling by $5 trillion, eliminating the prospect of a U.S. debt default in the fall and taking away a huge consequence of a government shutdown (the threat of default has historically helped to foster agreement). A short shutdown would cause economic damage amongst impacted populations, but would not be expected to cause broad economic damage.

A best-case scenario for government funding would involve a short-term continuing resolution, likely until mid-November or December, to provide additional time for lawmakers to enact additional appropriations bills into law. However, such a scenario may only kick the can down the road and delay, not prevent, a government shutdown. What is clear from history is that while one side may receive more of the blame, government shutdowns are rarely political winners for either party.

Legislation

Tax Reconciliation Crosses the Finish Line

As previously mentioned, the tax reconciliation bill was signed into law by President Trump on July 4. At a high level, the law makes permanent the lower tax rates, increased estate and alternative minimum tax thresholds, 20% deduction for pass through businesses, and other provisions from the 2017 Tax Cuts and Jobs Act (TCJA) that were set to expire at the end of this year. The law also creates new temporary tax deductions for individuals and businesses, allocates billions of dollars for border security and defense, and enacts other Republican priorities in energy, agriculture and healthcare.

The OBBBA enacted limited modifications within the retirement savings sector but introduced several noteworthy provisions. One such measure is the establishment of tax-advantaged "Trump Accounts," a new category of savings accounts resembling individual retirement accounts, designed for children. Parents, employers and other contributors may collectively deposit up to $5,000 annually until the beneficiary reaches 18 years of age. Additionally, the federal government will provide a one-time contribution of $1,000 to the accounts of all U.S. children born between 2025 and 2028. It is anticipated that further clarification regarding the operational aspects of Trump Accounts will be a key regulatory focus for the Treasury and Internal Revenue Service (IRS) in the near future.

Furthermore, the legislation enhances the flexibility and permitted uses of funds held in 529 accounts. Notably, the maximum annual withdrawal limit for K-12 education expenses from a 529 plan has been increased to $20,000, doubling the previous cap of $10,000.

Instead of presenting an exhaustive summary of the 900-page bill, we offer a link to Morgan Stanley's OBBBA Cheat Sheet. Published in July in collaboration with Morgan Stanley's Global Investment Office, this document highlights several of the law's key provisions, as well as which provisions were not included.

What Comes Next?

While appropriations will occupy much of Congress's attention this fall, there remains the possibility that a tax package—whether partisan or bipartisan—could be negotiated. The likelihood of advancing another partisan reconciliation bill before year-end appears minimal, given the necessary procedural steps, political considerations and the limited legislative calendar. Nevertheless, it is plausible that a more modest bipartisan tax measure could be incorporated into an end-of-year funding package. A key factor in this discussion is the scheduled expiration at the end of 2025 of enhanced tax subsidies for Affordable Care Act health insurance marketplaces, initially enacted through the American Rescue Plan Act of 2021. According to the Congressional Budget Office, allowing these premium subsidies to expire may lead to around four million Americans losing health insurance. Legislators from both parties have expressed interest in preventing this potential outcome, and Democrats have signaled it will be among their top priorities. Should negotiations succeed in extending these subsidies, additional bipartisan tax provisions—including those related to retirement policy—may be included in such a package.

Retirement Policy in the 119th Congress

Ahead of the final months of the year, we highlight below many of the notable pieces of legislation that have been introduced during the first session of this Congress. While the prospects for enactment of each of these bills varies, all have generated discussion within the financial services industry.

Notable Presidential Action

New Executive Order—Democratizing Access to Alternative Assets for 401(k) Investors

President Trump issued the long-anticipated Executive Order entitled "Democratizing Access to Alternative Assets for 401(k) Investors" on August 7, which directs the DOL, the SEC and other relevant federal agencies to revise regulatory guidance and reduce legal barriers that currently restrict defined contribution retirement plans (e.g., 401(k) plans) from offering alternative investment options. Pursuant to the Executive Order, within 180 days (by February 3, 2026) the DOL must (i) reevaluate 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.

Legislation (cont.)

Notable Legislation

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 maintains compliance with existing retirement plan regulations. The bill has been referred to the Senate Finance Committee and, if passed, would be effective for tax years beginning after December 31, 2025.

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 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 Act is enacted.

S. 2461—Promotion and Expansion of Employee Ownership Act of 2025 (Sen. Steve Daines, R-MT and Sen. Maggie Hassan, D-NH)

Encourages S corporations to create an employee stock ownership plan ("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.

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, also known as the "TSP"–to allow military retirees and disabled veterans to contribute to their TSP accounts even if such individuals 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.

S. 2335—Pensions for All Act (Sen. Bernie Sanders, I-VT)

Aims to provide comprehensive retirement coverage to those 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 the provision of a defined benefit plan to their employees.

H.R. 4548—Small Nonprofit Retirement Security Act (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

Legislation (cont.)

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.

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).

A companion bill (S. 2449) under the same title was introduced by Senators Mark Warner (D-VA) and Marsha Blackburn (R-TN) 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 are directed to cease the use of paper checks by 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 served 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.

A companion bill (H.R. 4718), also entitled the Helping Young Americans Save for Retirement Act, was reintroduced by Reps. Brittany Pettersen (D-CO) and Michael Rulli (R-OH) on July 23, which generally mirrors the terms of S. 3305.

S. 928—The Protecting Americans' Retirement Savings Act (Sen. Jim Banks, R-IN)

Prohibits employers of employee retirement plans 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 standard of care (and the 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 know, or should know, will result in the plan: acquiring an interest between the plan and a sanctioned entity; lending money or extending credit to such entity; furnishing goods, services or facilities to a covered entity; or 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, the mandate that such fiduciaries provide a statement of justification explaining why the fiduciary continues to hold such investment on behalf of the plan). Additionally, the bill directs the DOL to publish regulations implementing the new law within 180 days of enactment.

S. 988—The 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

Legislation (cont.)

457(b) plans) to provide greater spousal protections under these plans that are similar to those available for defined benefit plans. Specifically, the bill (1) requires a plan participant to have their spouses' consent for distributions from their defined contribution plan accounts, with limited exceptions; (2) provides grants for community-based organizations to improve financial literacy of women of working or retirement age; (3) provides grants to community-based organizations to assist women in obtaining benefits via qualified domestic relations orders; and (4) the Department of Labor must establish an interagency task force to study and report on the implementation of these requirements. In addition, the Department of Health and Human Services (HHS) must establish a program to award grants to states and Indian tribes to implement the requirements.

H.R. 2163—No Penalties for Victims of Fraud Act (Rep. Hailey Stevens, D-MI)

Waives the 10% early withdrawal penalty for those victims who made early retirement plan account distributions that are the result of fraud, provided 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 (1) submits an application for waiver to the IRS that fulfills the documentation requirement, and (2) 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.

H.R. 3248—America 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 employee stock ownership plan or eligible worker-owned cooperative if such sale results in (1) holding a majority interest of the outstanding stock of the business concern, and (2) 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, thereby enabling American workers to build substantial retirement assets while preventing the sale of American businesses to foreign investors.

S. 1728—Employee Ownership Representation Act (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 Department of Labor to develop and recommend best practices for the development and implementation of employer-sponsored retirement plans. Specifically, the bill aims to give ESOPs representation on the council by amending ERISA to include two new positions, increasing membership from 15 to 17 members.

The Senate HELP Committee advanced this bill during a committee hearing held on July 30.

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 usage of employer matches. Specifically, it would amend safe harbors in ERISA and the Internal Revenue Code to permit plan sponsors to reenroll non-participants at least once every three years, unless the individual affirmatively opts out again.

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 shall be recognized upon a subsequent sale or redemption of stock in the distributing company or upon the death of the individual.

A companion bill (also entitled the Generating Retirement Ownership Through Long-Term Holding (GROWTH) Act) was recently reintroduced in the Senate by Senator John Cornyn (R-TX) on May 21, which would

Legislation (cont.)

similarly defer taxation of automatically reinvested capital gain distributions until shareholders sell their fund shares.

S. 1576—Stop Subsidizing Multimillion Dollar Corporation Bonuses Act (Sen. Jack Reed, D-RI)

Expands the denial of a tax deduction for excessive employee remuneration to include any employee who was the principal executive officer or principal financial officer of the taxpayer during the year after December 31, 2016 and before January 1, 2025. The bill would amend Section 162(m) of the tax code to impose a deductibility cap of $1 million per employee. Section 162(m) restrictions under the current law are only applied to a publicly traded corporation's top five executives, so the bill would apply such restrictions to all employees of such publicly traded corporations receiving compensation packages over $1 million.

S. 424—Retirement Fairness for Charities and Educational Institutions Act (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) plans 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.

S. 627—The Ensuring Nationwide Access to a Better Life Experience ("ENABLE") Act (Sen. Eric Schmitt, R-MO)

It makes permanent certain provisions with respect to qualified 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 makes tax-exempt savings accounts for individuals with disabilities a priority. Other key provisions that would be permanently extended by this bill include:

- "ABLE to Work," allowing an individual with a disability who is employed 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.

A companion bill (also dubbed the ENABLE Act) was similarly reintroduced to the House by Representatives Lloyd Smucker (R-PA) and Donald Beyer (D-VA), along with other bipartisan cosponsors. This legislation was enacted as part of the OBBBA.

S. 1222—Financial Freedom Act (Sen. Tommy Tuberville, R-AL)

Prohibits the Department of Labor 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 Labor 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. In the event that fiduciaries select such a brokerage window as an investment alternative, Labor shall not issue any regulations or guidance constraining or prohibiting the investment window. Similar versions of this bill were previously introduced by Senator Tuberville and Representative 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.

H.R. 2696—The Retirement Savings for Americans Act (RSAA) (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

Legislation (cont.)

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.

On April 30, Senator 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 Benefit 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 that the DOL submit an annual report to Congress outlining key information regarding 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.

H.R. 2869—Employee Benefit 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 regarding 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 shall 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.

S. 1381—Protecting Employees and Retirees in Business Bankruptcies Act of 2025 (Sen. Dick Durbin, D-IL)

Revises protections for employees and retirees in business bankruptcies. It increases the wage priority of employees in certain employee benefit plans and revises the definition of stock value losses in defined contribution plans. It provides priority for severance pay and contributions to the employee benefit plan and would expand the maximum value of employee wage claims entitled to priority payment from $10,000 to $20,000. It requires the Department of Labor to establish a process for the payment of retired employees in a bankruptcy sale. It also prohibits executive compensation from being enhanced if the debtor's business exits from bankruptcy. The bill has been referred to the Senate Committee on the Judiciary for further consideration.

H.R. 2988—Protecting Prudent Investment of Retirement Savings Act (Rep. Rick Allen, R-GA):

Requires fiduciaries of retirement plans to prioritize financial returns over non-pecuniary factors when making plan investment decisions and would amend ERISA so that a plan fiduciary may only consider pecuniary factors in its plan investment decisions, with very limited exceptions. Specifically, the bill would amend ERISA to specify that a plan fiduciary shall be deemed to be acting solely in the interest of plan participants and beneficiaries only if: (1) the investment does not subordinate the interests of participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives (including ESG goals); and (2) the fiduciary does not sacrifice investment returns or take on additional investment risks to promote goals unrelated to the plan or purposes of the plan. Under ERISA, a fiduciary may not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives and may not sacrifice investment return or take on additional investment risk to promote non-pecuniary benefits or goals. The weight given to a factor must reflect a prudent assessment of the impact of such factor on risk and return. The bill would permit the limited use and consideration of non-pecuniary factors in a brokerage window, subject to the satisfaction of certain conditions (including various participant disclosure requirements) as well as in a "tie-breaker test" scenario, although the consideration of such factors would trigger stringent documentation requirements for plan fiduciaries. Non-pecuniary factors such as

Legislation (cont.)

ESG considerations would be prohibited for use in a plan's default investment option under the bill.

On June 25, the House Education and Workforce Committee voted to approve the legislation, which now awaits the full chamber's 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. The bill has been referred to the House Committee on Ways and Means.

H.R. 2891—IRA Charitable Rollover Facilitation and Enhancement Act
(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 Internal Revenue Code (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.

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 certain small employers (with fewer than 10 employees) are permitted to use to cover administrative and start-up costs of setting up a retirement plan. Sponsors of the bill highlight that the current tax credit available to such small businesses is typically insufficient, as it is calculated on a per-employee basis. To remedy this issue, the bill would raise the minimum tax credit that such small businesses can receive from a minimum threshold of $500 to $2,500 to assist such businesses with those costs associated with starting a retirement plan for its employees.

Regulatory

What's Next for the Regulatory Process?

Since taking office, President Trump has unsurprisingly pursued a broad deregulatory agenda. However, we expect Treasury/IRS to begin issuing a flurry of regulations following the passage of the OBBBA, with an emphasis on tax provisions that were made effective retroactively (e.g., no tax on tips, no tax on overtime, etc.).[1] This effort is complicated in part by the departure of key officials, such as Former IRS Commissioner Billy Long and Deputy Treasury Secretary Michael Faulkender, whose replacements have yet to be nominated. The lack of progress on these nominations, coupled with an overall reduction in the size of agency workforces, could complicate efforts to move as swiftly as the administration would like.[2]

As we mentioned in the June edition of the Washington Update, on January 20, 2025, President Trump issued an Executive Order (EO) entitled "Regulatory Freeze - Pending Review" that ordered all executive departments and agencies to refrain from proposing or issuing any rule, in any manner (including sending to the Office of the Federal Register) until a department/agency head appointed or designated by the President could approve the rule. The EO further instructed agencies to consider postponing for 60 days (from January 20) the effective date for any rules that have been published in the Federal Register (or issued in any manner) but not yet effective–to allow for review and possible comment from the public. Thus, for many of the rules listed herein that remain under consideration from prior Administrations, a delay in their consideration and possibly a withdrawal of the rule, is possible over the coming months. Of course, it is also possible that a number of these rules are ultimately approved and finalized by the Trump Administration or, in the case of issued guidance, allowed to remain in effect. However, for the immediate future, it is likely that we will see little action on these rules pending their review.

So, with the caveat that some of the proposed rules (and guidance) highlighted below will be subject to review, delay and possible withdrawal by the Trump Administration, we nonetheless provide a brief synopsis of the proposals in the event they remain viable going forward:

Department of Labor

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 principled-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 the Executive Order issued by President Trump on August 7 (see Section 3 above), 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 and the guidance raised concerns regarding 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 resulting from such plan fiduciary's investment decision. The 2022 CAR further directed plan fiduciaries to exercise "extreme care" prior to adding a cryptocurrency option to their plans.

Regulatory (cont.)

Marking a return to the DOL's neutral stance on fiduciary investment decisions and asset type, 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 a multi-part regulatory package dubbed "Pooled Employer Plans: Big Plans for Small Businesses," including interpretive sub-regulatory guidance and two RFIs. The guidance generally provides tips to help small employers select and manage participation in a 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 are due to the DOL on or before 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 small benefit amounts owed to missing participants and beneficiaries that cannot be located. Such relief is applicable 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 the Employee Retirement Income Security Act of 1974, as amended ("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 $1k 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, which provides interim guidance on how pension plans annually calculate and disclose the value of a plans' assets and liabilities in connection with the modifications made 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.

Retirement Security Rule: Definition of an Investment Advice Fiduciary

On April 25, 2024, 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);

Regulatory (cont.)

- 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.

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 class exemptions/PTEs. The location and status of the litigation appears 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 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 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, 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 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 DOL has filed its brief.
- The 5th Circuit Court granted the DOL's original abeyance request to the appeals in both *FACC et al. v. DOL* and *ACLI et al. v. DOL* on February 14 to allow the (then) new DOL official sufficient time to become "familiar with the issues surrounding the litigation" and to determine how such officials wish to proceed. On April 14–one day prior to the expiration of the abeyance period–the DOL filed another unopposed motion requesting an additional 60-day abeyance, staying the consolidated litigation through June 16. On June 13, the DOL filed yet another motion for abeyance, which the 5th Circuit granted, staying the litigation through the end of August.
- On August 14, the DOL filed an unopposed consent motion requesting yet another 60-day abeyance (the agency's third request in 2025) "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 latter of October 14, or two weeks after the expiration of this most recent stay in the ongoing litigation proceedings.

Amendment to Various PTEs

On April 25, 2024, and in conjunction with the publication of the new regulatory definition of an investment advice fiduciary (see above), DOL published in the Federal Register amendments to various class exemptions that work in conjunction with ERISA's fiduciary provisions.

Regulatory (cont.)

These affected class exemptions are as follows:

Amendment to Class Exemption PTE 2020-02

According to DOL, the amendment to PTE 2020-02 would seek to build upon the existing conditions included therein, by:

- Providing additional disclosures to ensure that retirement investors have sufficient information to make informed decisions about the costs of the investment advice transaction and services of the investment advice fiduciary and any material conflicts of interest;
- Requiring compliance with the Impartial Conduct Standards;
- Establishing, maintaining and enforcing policies and procedures to ensure compliance with the Impartial Conduct Standards;
- Requiring financial institutions to report any non-exempt prohibited transactions in connection with fiduciary investment advice (via IRS Form 5330) and make corresponding corrections thereto; and
- Adding the failure to report and correct PTEs to the list of behaviors that could make a financial institution ineligible to rely on the exemption (for ten years).

The Amendment was set to go into effect on September 23, 2024, and is applicable to transactions pursuant to investment advice provided on or thereafter. However, the challenges to the DOL's fiduciary rule regulatory package have stayed the effective date for the amendments to PTE 2020-02 until the ongoing litigation is resolved. For transactions occurring prior to such time, the prior version of PTE 2020-02 will remain available for parties currently relying on the exemption. The Amendment provides a one-year phase-in period beginning on the effective date, during which Financial Institutions and Investment Professionals may receive reasonable compensation during the phase-in period, if in compliance with the Impartial Conduct Standards and in acknowledgment of fiduciary status.

View the Amendment to PTE 2020-02.

Litigation Response

On July 9, a federal judge issued a partial ruling in favor of plaintiffs challenging the DOL's guidance under PTE 2020-02. Plaintiffs argued that the DOL exceeded its statutory authority under the Administrative Procedure Act, and the court agreed that certain portions of PTE 2020-02 represented "arbitrary and capricious interpretations" of the five-part test used to determine fiduciary status. The 5th Circuit Court granted Federation of Americans for Consumer Choice's August 6 motion to (1) delay the due date for the status report regarding the case referenced below until October 21, and (2) delay the due date for the government's response to the plaintiffs' motion for reconsideration until October 27 (*Fed'n of Ams. for Consumer Choice, Inc. v. Couch* and *Federation of Americans for Consumer Choice, Inc. et al v. United States Department of Labor et al*).

See Matter of *American Council of Life Insurers v. Department of Labor*, noted herein.

Amendment to PTE 84-24

According to DOL, the amendment to PTE 84-24 will limit the universe of investment advice fiduciaries eligible for exemptive relief thereunder to only those entities or persons defined as Independent Producers (persons/entities licensed to sell, solicit or negotiate insurance contracts of multiple unaffiliated insurance companies) and who are not insurance company employees or statutory employees under Section 3121 of the Code selling only non-securities annuities or other insurance products (not regulated by the SEC) to Retirement Investors.

To rely upon PTE 84-24, Independent Producers would have to sell annuities of two or more unrelated insurers. Such relief would be provided only for the fully disclosed eligible forms of compensation, defined as "Insurance Sales Commissions," received in connection with recommendations for non-security annuity or other insurance products.

Independent Producers that sell or recommend investment products other than non-security annuity contracts or other insurance products not regulated by the SEC (e.g., mutual funds, stocks, bonds and CDs), could not rely upon PTE 84-24, but rather must rely on PTE 2020-02 or another available exemption when receiving fees or other compensation connected with investment recommendations related to those products.

The Amendment was set to go into effect on September 23, 2024, and is applicable to transactions pursuant to investment advice provided on or after the

Regulatory (cont.)

effective date. However, the challenges to the DOL's fiduciary rule regulatory package have stayed the effective date for the amendments to PTE 84-24 until the ongoing litigation is resolved. For transactions pursuant to investment advice provided before such time, the prior version of PTE 84–24 will remain available for insurance agents and insurance companies that currently rely on the exemption. The Amendment provides a one-year phase-in period beginning on the effective date, during which an Independent Producer may receive certain compensation if in compliance with the Impartial Conduct Standards condition in Section VII(a) and the fiduciary acknowledgment condition under Section VII(b)(1).

View the Amendment to PTE 84-24.

Litigation Response

See matter of FACC et al v. Department of Labor, noted herein.

Amendments to PTEs 75-1, 77-4, 80-83, 83-1 and 86-128

According to DOL, the amendments to these existing PTEs eliminate the ability of investment advice fiduciaries to obtain exemptive relief with respect to the covered transactions in each exemption (as well as make other administrative changes thereto). Instead, and to ensure a universal standard of care for the provision of investment advice, exemptive relief for investment advice fiduciaries with respect to such transactions would be provided going forward under one exemption–PTE 2020-02 (as amended).

View the Mass Amendment.

Department of Treasury

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 taken from Rev. Rul. 2025-15 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.

On October 3, 2024, the Treasury Department released the 2024-2025 Priority Guidance Plan that contains 231 guidance projects that are priorities for the agency during the 12-month period from July 1, 2024, through June 20, 2025. Included in the Guidance Plan are retirement and/or other related benefit priorities, some of which are addressed elsewhere in this Update, and include the following (a sampling):

- Regulations under Section 72(t) relating to the 10% additional tax on early distributions.
- Regulations relating to the timing of the use or allocation of forfeitures in qualified retirement plans (see below).
- Updating IRA regulations under Sections 219, 408, 408A and 4973 for statutory changes and additional issues (see below).
- Final Regulations relating to the SECURE Act and SECURE 2.0 modifications to 401(a)(9) and other issues under 401(a)(9) (see next section).
- Regulations updating electronic delivery rules (see below).
- Guidance on student loan payments, qualified retirement plans and 403(b) plans.
- Regulations relating to the SECURE Act and SECURE 2.0 modifications to certain rules governing 401(k) plans (see below).
- Guidance on missing participants, including guidance on uncashed checks.
- Guidance on contributions to and benefits from paid family and medical leave programs.
- Guidance on SECURE 2.0 changes relating to 529 college savings plans.

IRS Notice 2024-22–Guidance on Anti-Abuse Rules Under Section 127 of SECURE 2.0–Initial Guidance

On January 12, 2024, the IRS released Notice 2024-22, providing initial guidance to employers setting up "pension-linked emergency savings accounts" ("PLESAs") for their employees. PLESAs were authorized by SECURE 2.0 as "short-term savings accounts established and maintained in connection with a defined contribution plan–and are treated as a type of designated Roth account."

Regulatory (cont.)

Should an employer offer a PLESA as a part of a defined contribution plan, the plan may either offer to enroll eligible employees into the PLESA or automatically enroll such eligible participants via an automatic contribution arrangement.

A defined contribution plan that includes a PLESA must separately account for contributions to the PLESA (and any earnings thereon); maintain separate recordkeeping with respect to each PLESA; and allow withdrawals from the PLESA, in whole or in part, at least once per month. An employer that makes matching contributions to a plan that includes a PLESA option is generally required to make matching contributions to an employee's PLESA contributions at the same rate as with the plan. Such matching contributions would be deposited into the participant's plan account (not into the PLESA). The IRS guidance also highlights reasonable measures employers are permitted to take to discourage potential abuses of the PLESA matching contribution rules.

View a copy of Notice 2024-22.

Separately, on January 17, 2024, DOL issued a series of Frequently Asked Questions ("FAQs") to provide "general compliance information" under ERISA pertaining to PLESAs. The FAQs seek to address questions pertaining to: eligibility and participation in a plan's PLESA; contribution requirements for PLESAs; distributions and withdrawals from PLESAs; and administrative and investment requirements for PLESAs. DOL anticipates releasing additional guidance in the coming months.

View a copy of the FAQs.

IRS/DOL/PGBC–Joint RFI SECURE 2.0 Section 319 Effectiveness of Reporting and Disclosure Requirements

On January 23, 2024, the IRS, DOL and the PBGC jointly published in the Federal Register a RFI to develop a public record to assist the agencies in addressing the requirement, outlined in section 319 of SECURE 2.0, that they review existing reporting and disclosure requirements for certain retirement plans under ERISA and the Code to assess their effectiveness, and thereafter to make recommendations to Congress regarding such requirements.

The RFI seeks public input, via a series of questions, regarding the effectiveness of required notices and disclosures to plan participants; and separately questions regarding the effectiveness of plan reporting requirements under the Code and ERISA.

Per section 319, the agencies must report their findings and recommendations to Congress by December 29, 2025.

Comments on the RFI were due to the agencies by May 22, 2024.

View a copy of the RFI.

Additional Guidance with Respect to Long-Term, Part-Time Employees, Including Guidance Regarding Application of Section 403(b)(12) to Long-Term, Part-Time Employees Under Section 403(b) Plans

On October 3, 2024, the Treasury Department/IRS released Notice 2024-73, to provide guidance on discrete issues related to the application of the nondiscrimination rules of section 403(b)(12) with respect to long-term, part-time employees under a section 403(b) plan.

Comments on the contents of the Notice were due to the IRS by December 20, 2024. The IRS also stated separately therein that final regulations related to section 401(k) long-term, part-time employees in 401(k) plans will apply no earlier than to plan years that begin on or after January 1, 2026.

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 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

Regulatory (cont.)

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.

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 employ greater than 10 employees).
- Plans established before the date of enactment of SECURE 2.0 (December 29, 2022).

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–Required Minimum Distributions (Final Rule)

On July 19, 2024, the IRS published in the Federal Register final regulations relating to required minimum distributions from 401(a) qualified plans; 403(b) annuity contracts; custodial accounts and retirement income accounts; individual retirement accounts and annuities; and certain eligible deferred compensation plans.

The final rules address the required minimum distribution requirements for 401(a) qualified plans and to update the regulations to reflect amendments to 401(a)(9) via enactment of the SECURE Act) (P.L. 116-94), and via various sections included as part of SECURE 2.0 (Public Law 117–328).

Among the provisions of interest in the final rule are the following:

- Retention of the proposed rule's 10-year distribution requirement for "Required Minimum Distributions" of inherited assets.
- Eliminate RMDs for in-plan "designated Roth accounts" during the life of the employee.
- For annuity contracts, clarifies that the determination of status as an "eligible designated beneficiary" occurs as of the annuity starting date, not the date of the employee's death.
- For qualified longevity annuity contracts (QLACs), eliminate the percentage-based limitation on premiums; increase the dollar limitation on QLAC premiums; allow for certain free-look provisions; and clarify when a divorce occurring after the QLAC is purchased but before annuity payments begin will trigger payout changes.
- Clarifies the ability of plans to maintain different RMD rules for different types of eligible designated beneficiaries.

The final rules went into effect on September 17, 2024. The applicability date will apply for distributions made, and for distribution calendar years beginning on or after January 1, 2025. For earlier years, taxpayers must apply the final regulations published in 2002 and 2004, taking into account a "reasonable, good faith interpretation" of amendments to the RMD rules enacted as a part of the SECURE Act and SECURE 2.0.

View the Final Rule.

Miscellaneous

Simply for reference, below we provide updated inflation-adjusted amounts, applicable for the calendar year 2025, that pertain to social security benefits, retirement benefits, health savings accounts and the estate and gift tax exclusion amounts:

Social Security Benefits for 2025:

- Social Security and Supplemental Security Income beneficiaries:
  - 2.5% Cost of Living Adjustment for 2025.
- Taxable Wage Base:
  - $176,100.
- Retirement Earnings Test Exempt Amounts:
  - Under full retirement age: $23,400/year or $1,950 per month.
    - $1 in benefits withheld for every $2 in earnings above the limit.
  - The year an individual reaches full retirement age: $62,160/year or $5,180 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 2025 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 Tax Fact Sheet.

Retirement Plan Limits

For quick reference, selected 2025 plan limits are as follows:

- Elective deferral (contribution limit) for 401(k), 403(b), 457 plans: **$23,500.**
- Catch-up contribution limit for 401(k), 403(b), 457 plans: **$7,500.**
- Annual contribution to traditional and Roth IRAs: **$7,000.**
- Catch-up contribution limit for traditional and ROTH IRAs: **$1,000 (is not indexed).**
- SIMPLE employee deferrals: **$16,500.**
- SIMPLE catch-up limit: **$3,500.**
- Simplified Employee Pensions (SEPs) minimum compensation threshold: **$750.**
- SEP maximum compensation limit: **$350,000.**
- Annual contribution limit: **$70,000.**
- Annual total defined contribution plan contribution limit: **$70,000,** (with individuals age 50 and older further allowed an additional **$7,500** in catch-up contributions).
- 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: **$350,000.**
- Limit on annual benefit provided through a defined benefit plan: **$280,000.**
- Employee Stock Ownership Plan ("ESOP") maximum account balance: **$1,415,000.**

View a copy of the Cost of Living Adjustments for 2025.

Health Savings Accounts (Inflation Adjusted Amounts for 2024 and 2025)

For employees to be eligible to participate in a Health Savings Account, they must be enrolled in a High Deductible Health Plan ("HDHP"). For 2025, the limits for both HDHPs and HSAs are provided below:

- HSA contribution limit—self only:
  - **2025: $4,300**
- HSA contribution limit—family:
  - **2025: $8,550**
- HSA catch-up contribution limit (age 55+):
  - **2025: $1,000**

Miscellaneous (cont.)

- The minimum HDHP deductible—self only:
  - **2025: $1,650**
- The minimum HDHP deductible—family:
  - **2025: $3,300**
- Annual out-of-pocket expenses are capped at—self only:
  - **2025: $8,300**
- Annual out-of-pocket expenses are capped at—family:
  - **2025: $16,600.**

View the HSA inflation-adjusted amounts for 2025.

Estate and Gift Tax Exclusion Amounts

For calendar year 2025, the estate and gift tax exemption amounts are:

- **$13,990,000** per individual.
- **$27,980,000** 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 2025.

[1] On September 19, 2025, IRS released proposed regulations regarding "no tax on tips." Treasury and IRS request comments be made by October 23, 2025.

[2] During September, Senate Republicans invoked the "nuclear option" to change the chamber's rules in order to allow the en bloc processing of sub-cabinet level nominees at a majority threshold instead of the typical 60 vote threshold. The first batch of 48 nominees was confirmed on September 18, 2025.

