



& Views



Message from the Consultants

The National Association of Government Defined Contribution Administrators (NAGDCA) is an organization that supports 457(b), 403(b) and 401(k) defined contribution retirement plans of state and local government employers. It provides education and training for all parties involved with these programs – directors, staff, board and committee members.

The 2017 NAGDCA conference is being held September 24th to 27th in Milwaukee Wisconsin with the theme “Brewing Up Retirement Success: A Closer Look at Human Behavior”. The agenda is focused on behavioral economics, benchmarking, and other topics that are designed to help your plan improve participant outcomes.

In addition to its annual conference, NAGDCA offers periodic webcasts and publishes best practice guides and issue brochures (see article this page). The next webcast is being held July 26th on the 2017 National Retirement Security Week (NRSW). This session will share NRSW campaign materials designed to educate employees across various communication mediums about the importance of retirement saving as well as to motivate participant outcomes.

SST has been a member of NAGDCA since 1999. Our consultants are available to answer any questions you have about NAGDCA and your 457, 403(b) and 401(k) retirement plans.

Sincerely,
Bill Tugaw, Paul Hackleman,
Mindy Harris & Barbara Healy
SST Benefits Consulting

Cybersecurity Concern

A growing concern for public sector plan sponsors is maintaining the security of plan information. Personal, identifiable information of employees - such as name, birthday, Social Security number, address, etc. - is often shared between plan sponsors, record-keepers, and other service providers. This information sharing causes a potential threat to the safety of this data.

Last year, the ERISA Advisory Council reviewed this issue and made [recommendations on cybersecurity](#) to the Department of Labor (DOL). Although any rules that may ultimately be established by the DOL regarding this issue would only apply to private sector employer plans subject to ERISA, they often provide best practice guidance for the retirement plans of state and local government employers.

The National Association of Government Defined Contribution Administrators (NAGDCA) has prepared an issue brochure entitled “[Cybersecurity: Are Public Sector DC Plans at Risk](#).” This brochure covers topics about this issue including:

- Types of at-risk data
- Identification of potential threats
- Current steps being taken
- Financial liability and protections

NAGDCA is an excellent resource for state and local government employers. This organization publishes periodic [issue brochures](#) as well as a [best practice guide](#) to provide guidance and information on Section 457, 401(k) and 403(b) defined contribution plans.

The “Washington Insider” offers news about recent legislative and regulatory developments that may be of interest to state and local government plan sponsors

Washington Insider

Affordable Retirement Advice for Savers Act

Representatives Phil Roe (D-TN) and Peter Roskam (R-IL) recently introduced legislation – the [Affordable Retirement Advice for Savers Act](#) (H.R. 2823) that would replace the rule issued by the Department of Labor (DOL) expanding the definition of a fiduciary (see article on page 3) with a fiduciary best interest standard focused on disclosure. Similar legislation was introduced last year in both chambers of Congress but failed to pass. This bill would also amend the Employee Retirement Income Security Act (ERISA) to provide advisors with greater latitude in regard to their communication with retirement investors.

House Hearing: “Impact of the DOL Fiduciary Rule on the Capital Markets”

A [discussion draft](#) of a bill to repeal the DOL fiduciary rule was released by Representative Ann Wagner (R-MO). A [hearing](#) was scheduled for July 13 by the Capital Markets, Securities and Investments Subcommittee of the House Financial Services Committee to discuss this proposed legislation. Instead of the DOL fiduciary rule provisions, this bill would impose a best interest standard on investment recommendations provided by broker-dealers.

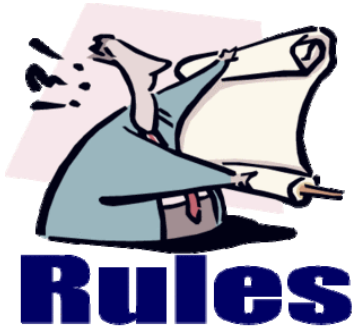
Financial CHOICE Act

On June 8, 2017, the House passed the [Financial CHOICE Act](#) on June 8, 2017 along party lines by a vote of 233-186. This Act replaces much of the Dodd-Frank Wall Street Reform and Consumer Protection Act that was signed into law by President Obama. It makes substantive changes to the Security and Exchange Commission (SEC) as well as other financial regulators and repeals the DOL’s new fiduciary rule until 60 days after the SEC issues its own fiduciary standard. It further requires that any subsequent DOL fiduciary rule would need to be “substantially similar” to the SEC’s rule.

State-Run IRA Programs

In a new final rule entitled [Definition of Employee Pension Plan Under ERISA](#), the Employee Benefit Security Administration (EBSA) of the DOL officially removed its previous final rules pertaining to government-run plans for private sector employers. The earlier rules, finalized during the Obama Administration, provided a safe harbor from liability under ERISA to states and political subdivisions that established a retirement savings program for private sector employees. The safe harbor was designed to exempt these plans from ERISA reporting and disclosure requirements that apply to plans established by private sector employers. The EBSA took this action because [resolutions](#) passed this year in the House and Senate and signed by President Trump appear to invalidate the earlier final rules.

Department of Labor Fiduciary Rule Update



The Department of Labor (DOL) has been working on a new rule to expand the “investment advice fiduciary” definition under the Employee Retirement Income Security Act of 1974 (ERISA). Because this is an ERISA rule, it does not directly impact the retirement programs of state and local governments which are exempt. However, public sector plan sponsors should be aware that many state governments adopt similar language in their statutes and may consider the new DOL rule to incorporate additional fiduciary requirements into state laws.

Many of the basic provisions of the DOL’s fiduciary rule took effect on June 9, 2017, with a transition period for application of certain exemptions to the rule extending to January 1, 2018. In general, the rule broadens the definition of a fiduciary and what is considered investment advice. It requires that investment advisors follow fiduciary principles including 1) make recommendations that are only based on the participants’ best interest; 2) compensation received must be reasonable and not based on recommendations; and 3) information provided to participants must be easily understood and not misleading.

The number of fiduciaries under this rule is expanded to include all financial professions who work with retirement plans or provide retirement planning services. These individuals must legally and ethically meet all fiduciary standards, such as to always act in participants’/clients’ best interest regardless of fees or commissions.

As background, the effort to update the DOL fiduciary definition began under the Obama administration with the final rule being issued in April 2016 with an effective date in April 2017. However, on February 3rd President Trump signed a [memorandum](#) to delay the rule’s implementation and instruct the DOL to reconsider the various rule requirements.

Several bills have been proposed this year that would repeal or further delay the effective date of the fiduciary rule (see “Washington Update” article on page 2). The Security and Exchange Commission (SEC) is also working on their own rules regarding the definition and requirements of investment advisors as a fiduciary. Some of the proposed bills would require coordination between the DOL and SEC before any updated fiduciary rule could take effect.

The Department of Labor has also released a [Request for Information](#) asking for comments on the adequacy of the transition period and if it should be extended beyond January 1, 2018. DOL is asking if a longer period would allow for more effective retirement investor assistance. The information being requested also pertains to the coordination of the DOL rule with the SEC efforts.

Information and Resources

- [DOL 2016 Fiduciary Rule: Background and Issues](#)
- [DOL Conflict of Interest Fact Sheet](#)
- [SEC Public Statement - re: Standards of Conduct for Investment Advisors](#)
- [DOL Releases Fiduciary Rule FAQ](#) (publication from Drinker Biddle)
- [DOL Fiduciary Rule Explained as of July 5th 2017](#) (Investopedia)

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