# 2023 Employee Benefit Plan Industry Updates

November 30, 2023

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# Introductions:

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**BY THE NUMBERS**

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private households served

**73K+**
private businesses served

**$10+ billion**
of client assets under advisement

**6.8K+**
clients engaging with wealth advisory capabilities

*As of 12/31/21*

TOP 100 BARRON'S RIA Firms 2022

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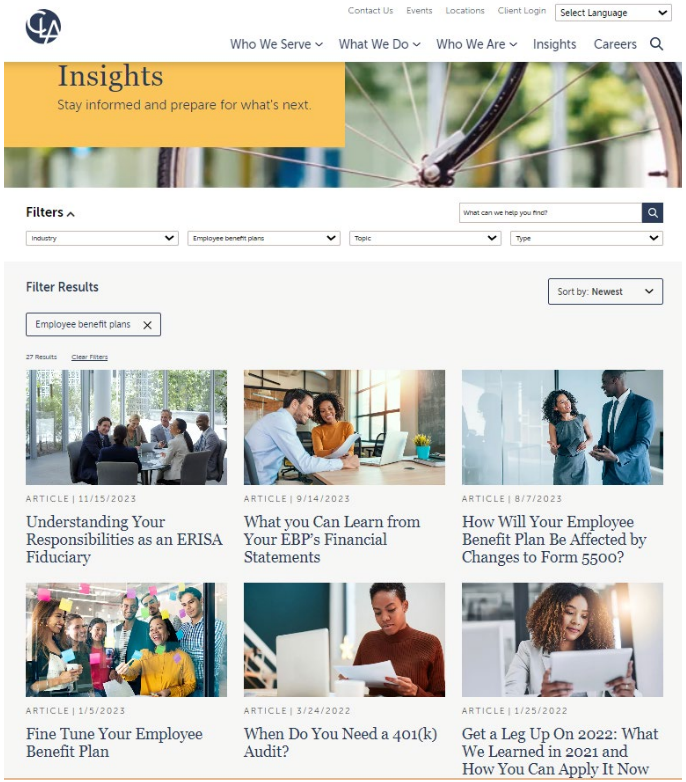
## Previous Articles:

- Understanding Your Responsibilities as an ERISA Fiduciary
- When Do You Need a 401(k) Audit?
- How Will Your Employee Benefit Plan Be Affected by Changes to Form 5500?
- New articles coming in 2024!



# Learning Objectives

- Recognize trends and regulation updates that may impact employee benefit plans
- Outline recommended practices regarding employee benefit plan compliance
- Identify plan fiduciary considerations

# Hot Topics

2023 Form 5500 Changes

SECURE ACT 2.0

New Contribution Limits

# 2023 Form 5500 Changes

In February 2023, the IRS, DOL, and PBGC announced their annual revisions to the 2023 Form 5500 Series, to be used by employee benefit plans with plan years beginning on or after January 1, 2023.

Some of the most significant changes to the 2023 Form 5500 are as follows:

1. Participant Count Methodology - Under the new methodology, only employees with an account balance will be considered a participant.

2. New Schedules for multiple employer plans and defined contribution groups, appropriately named Schedule MEP and Schedule DCG, respectively.

3. Updates to Existing Schedules: The new form includes changes to existing Schedules SB and MB as well as Schedule R associated with defined benefit plan reporting.

# SECURE ACT 2.0 – Significant Provisions

Some of the most significant provisions of this new legislation include:

1. Requiring most employers to automatically enroll employees in their retirement plan at a rate of at least 3%, but no more than 10% for any plans established after December 29, 2022. After the first year, the default automatic enrollment rate must increase by a minimum of 1% annually, to at least 10%, but no more than 15%. Employees can opt out of these provisions if they choose.
2. Increasing the age required minimum distributions (RMDs) start from 72 to 73 in 2023 and then to 75 by 2033.
3. Establishing an enhanced catch-up contribution for people between 60 and 63. Under previous law, retirement plan participants over 50 could contribute an additional $6,500 per year in 2022 (increasing to $7,500 in 2023). Under the new legislation, employees between 60 and 63 can make a catch-up contribution equal to the greater of $10,000 or 150% of the standard catch-up contribution, starting in 2025. These amounts are subject to inflation adjustments annually, similar to other contribution limits.

# SECURE ACT 2.0 – Significant Provisions (cont.)

Some of the most significant provisions of this new legislation include:

4. Allowing employers to add a provision to their plan document to make matching contributions on behalf of their employees making student loan repayments, instead of matching retirement plan contributions. These changes go into effect for plan years beginning after December 31, 2023.
5. Providing an option for employees to elect employer matching or nonelective contributions to be Roth contributions, provided such employer contributions are nonforfeitable.
6. Requiring plan sponsors who employ part-time employees who work between 500 and 999 hours annually to become eligible to participate in the company’s retirement plan after no more than two consecutive years. The current waiting period is three years. These changes go into effect for plan years beginning after December 31, 2024.
7. Allowing penalty-free access to retirement accounts for qualifying emergencies, up to $1,000 annually, starting in 2024. Participants taking such distributions are allowed to repay these amounts within three years from the date of distribution.

# Reportable Findings

REPORTABLE FINDINGS

COMMON REPORTABLE FINDINGS

# Reportable Findings

After testing relevant plan provisions, the auditor will evaluate the results and determine whether the matters are reportable findings:

- An identified instance of noncompliance or suspected noncompliance with laws or regulations
- A finding that is significant and relevant to those charged with governance regarding their responsibility to oversee the financial reporting process
- An indication of deficiencies in internal control identified during the audit that have not been communicated to management by other parties and that are of sufficient importance to merit management's attention

# Common Reportable Findings

ERISA audits often uncover common reportable findings that require corrective actions. Some of these findings include:

- Lack of review of autoenrollment implementation
- Errors originating from missed deferral opportunities
- Definition of eligible compensation

# Strong Practices for Plan Management

# Cybersecurity and Employee Benefit Plans

**In 2021 the U.S. Department of Labor announced guidance for plan sponsors, record keepers, plan fiduciaries, and plan participants on the best practices for maintaining cybersecurity.**

**Retirement plans often hold millions of dollars or more in assets and maintain personal data on participants, which can make them attractive targets for cybercriminals.**

# Cybersecurity– Make Sure Your Plan Includes:

Cybersecurity program and awareness trainings including definition of roles and responsibilities for the plan's information security, cybersecurity or security controls and details regarding encryption of sensitive data, stored and in transit.

Business resiliency program or business continuity program, disaster recovery, and incident response.

Contracts with any third-party service providers that provide services relating to the plan's information security, cybersecurity, or security controls.

Monitoring access to the Plan's service provider and payroll systems/portals is granted to active and authorized individuals and access to terminated and/or unauthorized individuals is timely terminated.

# Annual Cost of Living Adjustments

In November 2023, the IRS released the 2024 contribution and income limits for retirement accounts.

These limits typically increase annually to reflect cost-of-living adjustments.

| | 2023 | 2024 |
|---|---|---|
| Elective Deferrals (402(g)) | $22,500 | $23,000 |
| Age 50 Catch-up | $7,500 | $7,500 |
| Annual Contribution Limit DC Plans (415) | $66,000 | $69,000 |
| Compensation Limit (401(a)(17) | $330,000 | $345,000 |
| Defined Benefit Limit | $265,000 | $275,000 |
| IRA Contribution Limit | $6,500 | $7,000 |
| IRA Catch-up Contributions (50+) | $1,000 | $1,000 |

# Annual Cost of Living Adjustments (cont.)

| | 2023 | 2024 |
|---|---|---|
| Flexible Spending Account | $3,050 | $3,200 |
| Dependent Care | $5,000 | $5,000 |
| Health Savings Account – Self | $3,850 | $4,150 |
| Health Savings Account – Family | $7,750 | $8,300 |
| Health Savings Catch-up | $1,000 | $1,000 |

# Diversity, Equity, and Inclusion (DEI)

Look at your company's demographics to spot employees who aren't saving enough (participation, contributions, asset allocation) and implement a targeted action plan to assist.

Some areas to review for DEI considerations include:

- Create a deeper understanding of your employees' savings experience by expanding the retirement plan committee to mirror your workforce.
- Review your investment menu and consider how a DEI strategy could be reflected throughout your retirement plan's offerings.
- Talk with your service providers to learn what resources are readily available (e.g., financial wellness programs, plan data, different language options).

# Diversity, Equity, and Inclusion (DEI)

Some areas to review for DEI considerations include (continued):

- Automatic enrollment, escalation, and re-enrollment can help increase participation, encourage higher deferral rates, and re-engage employees who may have opted out of the plan.
- Automatic reallocations can help keep participants on track to achieve retirement goals.
- Automatic portability/rollovers can discourage employees from distributing funds when changing jobs.
- Adjusting eligibility requirements can open the plan to part-time employees or others.
- Use a variety of retirement education resources —brochures, emails, videos, infographics, articles, online calculators — to provide information to different demographic groups.

# Best Practices for Year-End

### Reconcile Recordkeeper Reporting

Do payroll and participant records match trust statements and TPA reports?

Were there any payrolls that were not remitted to the Trust?

### Definition of Compensation

Are all pay codes setup appropriately in your payroll system?

Were new payroll codes created properly?

Was commissions/ bonuses paid but improperly excluded?

### Defined Contribution Plan Loans

Is there a loan policy in place?

Are delinquent loans properly tracked and defaulted?

Is the interest rate being charged appropriate?

### Required Minimum Distributions

Who is in charge of monitoring RMD compliance?

### Internal Controls

Segregation of Duties wherever possible

Review SOC1 Reporting and ensure complimentary user entity controls are implemented

### Website Users Review

Remove terminated or unauthorized Personnel

Ensure proper “super admin” access is restricted to the proper person.

# Participant Contribution Remittances

The DOL continues to emphasize the importance of timely remittance of participant withholdings into the plan.

While there is a safe harbor of seven business days for small plans (plans with under 100 participants), the guideline for large plans continues to be "as soon as administratively feasible."

The DOL interpretation of this regulation is generally within a few business days and is expected to be done consistently.

# Plan Merger/Acquisition Activity/New TPA

- Ensuring all assets transferred appropriately
- New Amendments and/or Plan Documents/SPD are appropriate
- Eligibility considerations
- New pay code considerations
- Roles and responsibilities defined
- Brokerage accounts
- Certification
- Due diligence

# Refresher: ERISA is a Process Code

## DOL lists the following responsibilities for a 401(k) fiduciary:

- Acting solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them.
- Carrying out duties prudently.
- Following the plan documents (unless inconsistent with ERISA).
- Diversifying plan investments.
- Paying only reasonable plan expenses.

## A prudent process and documentation includes:

- Governance through periodic committee meetings, use of an IPS and minutes.
- Monitoring and curating the investment menu.
- Paying particular attention to share classes, fees and administrative expenses.

# Questions?

# Thank you for joining us!

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