



Defined Contributions Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2022-01271

June 29, 2022

Title: Legal and Regulatory Updates

Location: Citywide

Recommendation: Receive and file.

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Attachments:

1-Description/Analysis

2-2022 1st Quarter Fiduciary Newsletter

Description/Analysis

Issue Detail: Hyas Group will present legal and regulatory updates to the Committee on an as needed basis.

Policy Considerations: None.

Economic Impacts: None.

Environmental Considerations: None.

Sustainability: None.

Commission/Committee Action: None.

Rationale for Recommendation: The City contracts with Hyas Group to provide retirement plan consulting services, including providing the Committee with legal and regulatory updates.

Financial Considerations: None.

Local Business Enterprise (LBE): Not applicable.



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1Q | 2022 THE 457 PLAN FIDUCIARY ADVISOR

Supreme Court Rules in Hughes vs. Northwestern, Reaffirming the Duties of Retirement Plan Sponsors to Monitor and Update Investment Options

"The most important part of the opinion probably will be its rejection of the 7th Circuit's 'exclusive focus on investor choice,' which reflects a decisive holding that it is not enough to insulate sponsors from liability to identify well-designed options that employees could have chosen. Rather, sponsors have an ongoing duty to protect employees from making poor investment choices by monitoring and removing those choices from the menu of the plan." [[Hughes v. Northwestern Univ.](#), No. 19-1401 (S. Ct. Jan. 24, 2022)] [Details from SCOTUSblog are here.](#)

House Overwhelmingly Passes "SECURE ACT 2.0" Retirement Bill that Includes Provisions on Roth Contributions, Auto-Enrollment, the RMD Age, and More

"[The Securing a Strong Retirement Act of 2022 ([HR 2954](#))] includes provisions that would require 401(k) and 403(b) plans to automatically enroll participants upon becoming eligible; allow 403(b) plans to participate in multiple employer plans and invest in collective investment trusts; create a national online database of lost retirement accounts ... and make changes to qualified longevity annuity contracts, or QLACs, by removing the 25% cap[.]" [More from Pensions & Investments here.](#)

The Department of Labor Issues a Strongly Worded Release about Offering Cryptocurrencies as 401(k) Investment Options

Text of DOL Compliance Assistance Release No. 2022-01: Cryptocurrencies as 401(k) Investment Option: "At this early stage in the history of cryptocurrencies, the Department has serious concerns about the prudence of a fiduciary's decision to expose a 401(k) plan's participants to direct investments in cryptocurrencies, or other products whose value is tied to cryptocurrencies. These investments present significant risks and challenges to participants' retirement accounts, including significant risks of fraud, theft, and loss, for all the following reasons: [1] Speculative and volatile investments ... [2] The challenge for plan participants to make informed investment decisions ... [3] Custodial and recordkeeping concerns ... [4] Valuation concerns ... [5] Evolving regulatory environment ... EBSA expects to conduct an investigative program aimed at plans that offer participant investments in cryptocurrencies and related products, and to take appropriate action to protect the interests of plan participants and beneficiaries with respect to these investments. The plan fiduciaries responsible for overseeing such investment options or allowing such investments through brokerage windows should expect to be questioned about how they can square their actions with their duties of prudence and loyalty in light of the risks described above." [More from the Employee Benefits Security Administration here.](#)

Fiduciary Liability Insurance Costs Have Increased Substantially- Review these Strategies to Manage the Impact

"[T]here are several alternatives to dropping your insurance that can be pursued independently or in combination with one another ... [1] Use plan assets to pay for the insurance... [2] Negotiate... [3] Shop around... [4] Consider a 3(38) investment manager ... [5] Consider adding provisions to your plan document that might reduce litigation risk ... [6] Consider adding cybersecurity insurance to your general policy (if possible)." [More from Groom Law Group via PLANSPONSOR here.](#)

The Department of Labor is Seeking Input on Including Climate Risk Information in Retirement Plan Disclosures

"[EBSA] is issuing this Request for Information (RFI), in furtherance of the [Executive Order on Climate-Related Financial Risk](#), to solicit public input on EBSA's future work relating to retirement savings and climate-related financial risk. EBSA's efforts will focus on agency actions that can be taken under [ERISA], the Federal Employees' Retirement System Act of 1986 (FERSA), and any other relevant laws, to protect the life savings and pensions of U.S. workers and families from the threats of climate-related financial risk." [Read the release from the Employee Benefits Security Administration here.](#)

Conferences are Back in Vogue and the 2022 NAGDCA Conference is Planned for September 18-21 in Baltimore, Maryland

National Association of Governmental Defined Contribution Administrators (NAGDCA) conference planners, past attendees, and industry members are expecting that the conference will return to its traditional, full in-person experience for 2022. Information about the event will be available at NAGDCA.org in the coming months.

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