Nationwide Retirement Solutions

Legislative and Regulatory Report

A monthly review of the latest information of importance to retirement plan sponsors

September 2025

Inside this issue

DOL issues advisory on lifetime income investments 1
GOP lawmakers urge SEC action on 401(k) alternatives 1
Aronowitz confirmed to lead EBSA 2
House panel advances EBSA oversight bills during markup 2
Treasury and IRS issue final regulations on Roth Catch-up rule 2
Agencies release spring 2025 regulatory/deregulatory agendas 2

DOL issues advisory on lifetime income investments

On September 23, 2025, the Department of Labor issued Advisory Opinion 2025-04A, clarifying that certain lifetime income investment options such as those offering guaranteed monthly payouts through annuity contracts can qualify as default investment choices in retirement plans under ERISA. The opinion responded to a request about AllianceBernstein's Lifetime Income Strategy, which includes a guaranteed lifetime withdrawal benefit (GLWB). The DOL confirmed that this type of product can be treated as a qualified default investment alternative (QDIA), as long as it's managed prudently and meets regulatory standards. The agency also noted that plan sponsors can rely on existing safe harbor rules when selecting insurers to provide the income guarantees. This guidance follows a White House directive to reexamine how alternative investments fit into retirement plans, and the DOL plans to issue further rules to clarify fiduciary responsibilities in this area.

GOP lawmakers urge SEC action on 401(k) alternatives

On September 22, House Financial Services Chairman French Hill and eight other Republicans sent a letter to SEC Chairman Paul Atkins urging quick action to support President Trump's Executive Order promoting access to alternative investments in 401(k) plans. They asked the SEC to revise rules about accredited investors and work closely with the Department of Labor to expand retirement investment options. The letter also encouraged review of bipartisan legislation in Congress aimed at broadening investor eligibility.

Tip: Click on highlighted words to go to the topic being discussed. **FOR PLAN SPONSOR USE**
Information presented in this newsletter was current and accurate as of the date of publication. This information is of a general and informational nature and is NOT INTENDED TO CONSTITUTE LEGAL OR INVESTMENT ADVICE. Rather, it is provided as a means to inform you of current information about legislative and regulatory changes and other information of interest. Plan Sponsors are urged to consult their own counsel regarding this information.

Aronowitz confirmed to lead EBSA

On September 18, the Senate voted 51–47 to confirm Daniel Aronowitz as Assistant Secretary of Labor for the Employee Benefits Security Administration (EBSA). Aronowitz has outlined his priorities as ending open-ended audits and litigation abuse, promoting regulatory clarity, restoring fiduciary discretion, and expanding access to retirement and health benefits for American workers.

House panel advances EBSA oversight bills during markup

On September 17, the House Committee on Education and the Workforce held a markup session where it advanced six bills, including two focused on Department of Labor oversight. The Balance the Scales Act (H.R. 2958), introduced by Rep. Mike Rulli (R-OH), would require the DOL to disclose to affected employers, plan sponsors or fiduciaries any agreements it enters into that assist plaintiffs' attorneys in litigation. The EBSA Investigations Transparency Act (H.R. 2869), introduced by Rep. Lisa McClain (R-MI), would mandate that the Employee Benefits Security Administration (EBSA) submit an annual report to Congress detailing the status of all ongoing investigations, with special attention to those lasting more than 3 years. Both bills were approved along party lines, 19–16.

Treasury and IRS issue final regulations on Roth catch-up rule

On September 15, the Treasury Department and IRS released final regulations implementing the Roth catch-up contribution requirement under the SECURE 2.0 Act. These rules generally apply to catch-up contributions made in taxable years beginning after December 31, 2026. Under the new framework, employees age 50 or older who earned more than $145,000 in wages from their employer in the prior year must make catch-up contributions to Roth accounts rather than traditional pre-tax retirement accounts. The regulations apply to qualified retirement plans such as 401(k), 403(b) and governmental 457(b) plans. The final regulations also provide a later applicability date for certain governmental plans and plans maintained under collective bargaining agreements.

Agencies release spring 2025 regulatory/deregulatory agendas

On September 4, the Office of Information and Regulatory Affairs released the Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions. The SEC's agenda includes proposed rules related to the offer and sale of crypto assets, aiming to clarify the regulatory framework and provide market certainty. Chairman Paul Atkins stated that a key priority is establishing clear rules for the issuance, custody and trading of crypto assets while discouraging unlawful activity. Other SEC items include amendments to Form N-PORT, Rule 17a-7 under the Investment Company Act, custody rules and regulations for transfer agents. The Department of Labor's agenda indicates that rules on Investment Advice Fiduciary under ERISA and Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights are in the final rule stage, scheduled for May 2026.

References and source material used in this publication

"Advisory Opinion 2025-04A," dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/advisory-opinions/2025-04a (Sept. 23, 2025).

"Chairman Hill, Committee Members Express Support for President Trump's EO to Allow 401(k) Investors to Access Alternative Assets," financialservices.house.gov/news/documentsingle.aspx?DocumentID=410886 (Sept. 22, 2025).

"Daniel Aronowitz Confirmed to Lead DOL's EBSA," planadviser.com/daniel-aronowitz-confirmed-to-lead-dols-ebsa/ (Sept. 18, 2025).

"119th Congress, 1st Session, H. R. 2958," congress.gov/119/bills/hr2958/BILLS-119hr2958ih.pdf (April 17, 2025).

"119th Congress, 1st Session, H. R. 2869," congress.gov/119/bills/hr2869/BILLS-119hr2869ih.pdf (April 10, 2025).

"Treasury, IRS issue final regulations on new Roth catch-up rule, other SECURE 2.0 Act provisions," irs.gov/newsroom/treasury-irs-issue-final-regulations-on-new-roth-catch-up-rule-other-secure-2point0-act-provisions (Sept. 15, 2025).

"Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions," reginfo.gov/public/do/eAgendaMain (Sept. 4, 2025).

Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, NRSforu.com/plansponsor.

Nationwide®

Nationwide and the Nationwide N and Eagle are service marks of Nationwide Mutual Insurance Company. © 2025 Nationwide

NRM-22997AO (10/25)

Tip: Click on highlighted words to go to the topic being discussed. **FOR PLAN SPONSOR USE**
Information presented in this newsletter was current and accurate as of the date of publication. This information is of a general and informational nature and is NOT INTENDED TO CONSTITUTE LEGAL OR INVESTMENT ADVICE. Rather, it is provided as a means to inform you of current information about legislative and regulatory changes and other information of interest. Plan Sponsors are urged to consult their own counsel regarding this information.