

Executive Report

Plan Sponsor Council of America • Advocacy, Education, and Insight for America's Retirement

April 2020

The Coronavirus, Aid, Relief and Economic Security (CARES) Act

PSCA has compiled (and continues to update) a [list of resources](#) for plan sponsors regarding the impact of the Coronavirus on retirement plans.

Legislation

President Trump Signs Expanded Paycheck Protection Program

President Trump signed the Paycheck Protection Program and Health Care Enhancement Act (H.R. 266) into law on April 24, 2020 - a \$484 billion COVID-19 stimulus bill which includes funding that can be used to help pay retirement benefits. [Read more>](#)

Legislation Would Temporarily Raise DC Plan Contribution Limits

Rep. Patrick McHenry (NC), who serves as the ranking Republican on the House Financial Services Committee, introduced the Securing Additional Value for Every Retirement Saver (SAVERS) Act (H.R. 6562) to temporarily raise contribution limits for defined contribution plans, including 401(k), 403(b) and 457 plans, as well as IRAs. [Read more>](#)

Regulations

Expanding E-delivery, Deadlines EBSA Announces Filing Relief

U.S. Department of Labor's Employee Benefits Security Administration (EBSA) has issued "deadline relief and other guidance" related to the impact of the coronavirus outbreak – including expanded "good faith" application of electronic delivery. [Read more>](#)

E-Delivery Final Rule at OMB

At a time when much of the nation is working remotely, the Labor Department's final rule on electronic disclosures has been delivered to the White House's Office of Management and Budget for review. [Read more>](#)

Rutledge to Depart EBSA

Assistant Secretary of Labor Preston Rutledge is planning to leave his post at the end of May. His tenure included a number of significant regulatory advances, including Association Retirement Plans, and an e-delivery safe harbor regulation, currently under review at the Office of Management and Budget, as well as working on clarifications and regulations emerging from the passage of the Setting Every Community Up for Retirement Enhancement (SECURE) Act and, more recently the Coronavirus Aid, Relief and Economic Security (CARES) Act. [Read more>](#)



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IRS Form 5500 Extension Comes Up Short

The extension will surely be welcome news for those June 30 plan year-ends that had filed for an extended deadline of April 15 (the regular Jan. 31 deadline + 2.5 months)—and which will now have until July 15 to file. On the other hand, the news will be of little comfort to those plans with calendar year-ends—for which their July 31 deadline is fast approaching. [Read more>](#)

Coronavirus-Related Deadline Extensions in New Jersey, California

Citing the impact of the Coronavirus pandemic, the Garden State has extended the deadline for considering its proposed fiduciary rule, and the Golden State has extended the CalSavers registration deadline for large employers. [Read more>](#)

Litigation

Plan Sponsor, RK Sued for Fiduciary Breach in 401(k) Account Hack

A new suit has been filed, alleging “reckless actions in allowing an unknown individual to prey on and steal hundreds of thousands of dollars from the retirement savings of the Plaintiff...” [Read more>](#)

Suit Finds Fault with (Too) Conservative Asset Allocation

A participant suit claims that a profit-sharing plan’s investment allocation was “inappropriate” and the plan fiduciaries’ actions in establishing and maintaining it imprudent. [Read more>](#)

‘Astronomical’ RK Fees Again Cited in Suit

This time the targets were the fiduciaries of the approximately \$700 million Pharmaceutical Product Development, LLC Retirement Savings Plan in a suit filed in the Eastern District of North Carolina by plaintiffs Karl Kendall, Suzanne Rainey and Vincenzo Pernice, who are represented by Capozzi Adler PC—a name that has begun emerging in this type of litigation. [Read more>](#)

Another University 403(b) Excessive Fee Suit Settles

Approximately 20 of these suits have been filed since 2016—this would be the seventh settlement. This time the defendant is Princeton University, and the original suit was filed nearly three years ago by plaintiff Elysee Nicolas. [Read more>](#)

Court Finds Fault with Fiduciary Fee Review

A federal judge has found that a provider breached its fiduciary duty of overseeing its own 401(k) by failing to monitor proprietary funds and its recordkeeping expenses—though it was not obligated to consider options other than mutual funds. [Read more>](#)

Putnam Settles for \$12.5 Million—and Change

We now know the terms of settlement in an excessive fee suit that highlighted—but ultimately didn’t resolve—an apparent split between the nation’s courts in establishing who bears the burden of proof in ERISA litigation. [Read more>](#)

Schlichter Strikes A(nother) Deal with (Another) University

The parties in one of the first university 403(b) plan excessive fee suits brought by the St. Louis-based law firm of Schlichter, Bogard & Denton have come to terms. [Read more>](#)

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COVID-19 Doesn't Slow Schlichter Suit

America may be sheltering in place—but 401(k) excessive fee litigation continues. This time the target was the \$7 billion, 50,500+ participant plan of Liberty Mutual. The suit was filed by on behalf of a half-dozen participants and ex-participants of that plan by none other than Schlichter Bogard & Denton LLP. [Read more>](#)

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