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## Legislative Insights

Center for Due Diligence

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### January 2012

2011 has not been an active year for retirement-related legislative initiatives. Much of the discussion concerning retirement has centered on the effectiveness of 401(k) plans and retirement savings incentives in the context of the deficit reduction debate. This edition of Legislative Insights reviews a number of topics that shared the spotlight in 2011 and the prospects for their further development in 2012.

#### Upcoming in 2012

- **Fee disclosure** — The effective date of the “interim final” plan sponsor fee disclosure regulations was extended from July 16, 2011 to April 1, 2012, although at the time of writing, it may be pushed back even further depending on when the “final” regulations are issued. The participant-level fee disclosure regulations are effective for plan years beginning after Nov. 1, 2011 (Jan. 1, 2012, for calendar-year plans); a transitional rule issued in 2011 extended the due date for initial disclosures for calendar-year plans to May 31, 2012 and for quarterly disclosures for these plans to Aug. 14, 2012. [These dates may change, since they are currently tied to the plan sponsor disclosure effective date.].
- **Executive pay** — The Securities and Exchange Commission (SEC) rules for public companies are anticipated in early 2012. They are expected to address company disclosures of the ratio between their chief executive’s pay and that of their median employee, and disclosure of executive pay compared to a company’s performance.
- **Target date funds** — The proposed rules from both the SEC and the Department of Labor (DOL) originally issued in 2010 would provide for an explanation of the asset allocation of these funds, and include a chart or graph detailing how the asset allocation would change over time. The DOL is on track to publish their final rules in the near future.
- **Mandatory payroll deduction IRAs** — Under a pending bill in Congress, companies that don’t currently offer a tax-deferred retirement savings plan would funnel employee contributions into IRA accounts through direct payroll deposit. If the mandate is changed to a voluntary initiative, this measure has a chance of passage in 2012.
- **Lifetime income options in defined contribution plans (such as 401(k)s)** — The DOL is expected to demonstrate sample lifetime income illustrations in their regulations on benefit statements due in early 2012.
- **Uniform standard on provision of advice** — The SEC is expected to issue guidance in early 2012 which will craft a fiduciary standard that can be applied to brokers as well as advisors.
- **Fiduciary definition** — In October 2010, the DOL issued a proposed rule to more broadly define the circumstances under which a person is considered a fiduciary under ERISA as a result of providing investment advice. This controversial regulation was withdrawn in September 2011 and will be revised and re-proposed early in 2012.
- **Deficit reduction** — A common theme among deficit reduction proposals made in 2010 and 2011 has been to simplify the tax code by reducing the overall tax rates and reducing or eliminating most deductions, credits and exemptions. While there is bipartisan support for tax reform, it is more likely that we will see a final resolution after the 2012 presidential election.

- **Social Security** — In 2011, Congressman Ryan (R-WI) proposed optional partial privatization in which taxpayers under the age of 55 would be permitted to direct a portion of their payroll tax into personal accounts. Opponents of the measure want to strengthen the current format. Social Security will continue to be a contentious issue in 2012.

Source: Library of Congress, as of Dec. 13, 2011  
IRA = Individual Retirement Account  
ERISA = Employee Retirement Income Security Act

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