



# Legislative and Regulatory Report

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

## January 2023

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### Lawmakers ask GAO to review retirement plan data privacy

On December 20, then-HELP Committee Chair Sen. Patty Murray (D-WA) and Education and Labor Committee Chair Bobby Scott (D-VA) sent a request to the U.S. Government Accountability Office (GAO) to examine the need for federal data privacy laws for retirement plans. Among the reasons for the request, the lawmakers said, are the rise in data collected by retirement plan fiduciaries, service providers and advisers about plan participants and beneficiaries; the increase in the cross-selling of non-plan products and services; and arguments made in a recent lawsuit that plan participant and beneficiary data is a plan asset.

### Lawmaker introduces national sales tax proposal

On January 10, Rep. Buddy Carter (R-GA) [introduced](#) H.R. 25, the Fair Tax Act, to replace the current tax code with a national consumption tax. In addition to eliminating all personal and corporate income taxes, the estate tax, gift taxes and the payroll tax, the Fair Tax would also eliminate the Internal Revenue Service. The bill is expected to receive at least a committee vote this Congress, but it is extremely unlikely to become law.

### Congresswoman reintroduces financial exploitation bill

On January 26, Rep. Ann Wagner (R-MO) reintroduced the [Financial Exploitation Prevention Act](#). The bill would give the financial industry better tools to address suspected financial exploitation and abuse of seniors and those with mental and physical disabilities. The bill, which was first introduced in 2021, requires the SEC to report recommendations for legislative and regulatory changes to Congress on how to combat financial exploitation of seniors and vulnerable adults. The bill also permits a registered open-ended investment company or transfer agent for that company, including mutual funds, to delay the redemption period of any redeemable security if it was reasonably believed that such redemption was requested through the financial exploitation of a security holder who is a senior or an individual unable to protect their own interests.

### States challenge final DOL ESG rule

On January 26, 25 states (led by Texas) [sued to halt](#) the implementation of the Department of Labor's recently finalized "[Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights](#)" rule. Commonly referred to as the ESG Rule, the final rule reverses the Trump-era rule and clarifies that ERISA plan fiduciaries may consider climate change and other environmental, social and governance (ESG) factors when they make investment decisions and when they exercise shareholder rights, including voting on shareholder resolutions and board nominations. The final rule was to have gone into effect on January 30, 2023.

### Florida prohibits ESG investments in state's deferred comp plan

On January 23, Florida's Chief Financial Officer [issued a directive](#) barring asset managers within Florida's deferred compensation program from investing participants' compensation in financial products associated with environmental, social and governance (ESG) standards. The Florida Deferred Compensation Plan is the supplemental retirement plan for employees of the State of Florida. Earlier, on January 17, Florida Gov. Ron DeSantis and Trustees of the State Board of Administration (SBA) [formally approved measures](#) to the Florida Retirement System Pension Plan policy and SBA corporate governance proxy voting guidelines to clearly define the factors that fiduciaries are to consider in investment decisions, ensuring that ESG is prohibited from consideration.

## References and source material used in this publication

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“Paxton Sues Biden Administration to Stop It from Risking American Retirements by Promoting Woke ESG Goals,” <https://www.texasattorneygeneral.gov/news/releases/paxton-sues-biden-administration-stop-it-risking-american-workers-retirements-promoting-woke-esg>, (January 26, 2023).

“Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights,” Employee Benefits Security Administration, Department of Labor, <https://www.federalregister.gov/documents/2022/12/01/2022-25783/prudence-and-loyalty-in-selecting-plan-investments-and-exercising-shareholder-rights>, (December 1, 2022).

“CFO Patronis Issues Directive Prohibiting ESG Fund Participation for Employee Retirement Program,” [https://www.myfloridacfo.com/news/pressreleases/details/2023/01/23/cfo-patronis-issues-directive-prohibiting-esg-fund-participation-for-employee-retirement-program#:~:text=Tallahassee%2C%20Fla.,and%20Governance%20\(ESG\)%20standards](https://www.myfloridacfo.com/news/pressreleases/details/2023/01/23/cfo-patronis-issues-directive-prohibiting-esg-fund-participation-for-employee-retirement-program#:~:text=Tallahassee%2C%20Fla.,and%20Governance%20(ESG)%20standards), (January 23, 2023).

“Governor Ron DeSantis Further Prohibits Woke ESG Considerations from State Investments,” <https://www.flgov.com/2023/01/17/governor-ron-desantis-further-prohibits-woke-esg-considerations-from-state-investments/>, (January 17, 2023).

## 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](https://NRSforu.com/plansponsor).



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