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THE DCIO MARKET SHARE SUMMIT

Proven Distribution Strategies to Amplify Sales in Defined Contribution

Regulatory Townhall: Update and Forecast

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Bradford P. Campbell
Drinker Biddle & Reath
bradford.campbell@dbr.com
202/230-5159

Marla J. Kreindler
Morgan Lewis & Bockius
mkreindler@morganlewis.com
312/324-1114

What policy voices are we hearing from?

- Congress
 - GAO
- Obama Administration
 - President's Budget
 - DOL
 - Treasury/IRS
 - SEC/CFTC/FINRA
- ERISA Litigation
- The Press

A Key Question: How different will 2014 be from 2013 on the policy front?

Administration's Budget Proposals

- New budget coming soon—new surprises?

Last Year:

- \$3mx approx (\$205k annual benefit) accrual cap
 - Limits contributions, not tax deferral on earnings
- Employer-sponsored auto-IRAs
 - Auto-enrollment & universal coverage
- Cap on “grab-bag” of deductions at 28%
- No RMDs for balances under \$75,000
- \$\$ for SEC enforcement

Possible Steps on Legislative Front

- Election Year Usually Results in Debates Rather than Laws, but...
- Risks Posed by Tax Changes in Budget Deals or Comprehensive Tax Reform
 - Comprehensive reform unlikely, but retirement plans remain tempting source for revenue
- Nostalgia for DB Plans
- Universal Coverage
- Miscellaneous Bills
 - ✓ Lots of focus still on healthcare

Department of Labor—2014 a Key Year?

- Role of Secretary Perez in benefit plan policy
- EBSA leadership—Borzi joined by Mares, Hauser
- Focus on enforcement, transparency, and accountability (healthcare, too)
- Ambitious Regulatory Agenda includes:
 - Reproposed Fiduciary Rule—what changes?
 - New 408b-2 Summary—compliance issues?
 - New Brokerage Window Rule—fiduciary concerns?
 - New Annuity Safe Harbor Amdt.—easier to use?
 - Lifetime Income Projections—mandate, method?

IRA Issues—Old news: GAO Report and Fiduciary Rule

- Congress commissioned GAO report
- Focus on relative difficulty of plan-to-plan transfers, “Investigation” of IRA rollover process
- Recommendations to DOL & Treasury to:
 - Address disclosure and communication concerns in the context of the fiduciary rule
 - Simplify plan-to-plan rollovers, prevent “leakage”
- DOL may propose to restrict/regulate IRA rollovers in fiduciary rule—sought input in 2010 proposal

IRA Issues—December 2013: FINRA Regulatory Notice 13-14

- “FINRA reminds firms of their responsibilities concerning IRA rollovers.”
- A b/d’s recommendation that an investor roll over retirement plan assets involves securities recommendations subject to FINRA rules as does a firm’s marketing of its IRA services generally.
- Focus on “suitability for the customer,” sales information must be “fair, balanced and not misleading,” conflicts of interest, policies and enforcement.

Fees and Expenses

- 408b-2 Summary Disclosure—proposal scheduled to be published in January:
 - Current 408b-2 regulation deferred the issue—information can be provided in multiple documents.
 - Proposal would require a guide or summary of the 408b-2 information disclosed.
 - Intent is to help less sophisticated plan fiduciaries and prevent obfuscation.
 - How burdensome? Depends on what DOL requires.
- DOL enforcement staff collecting 408b-2 disclosures as standard request in all plan/service provider investigations

DOL Enforcement Focus on Service Providers

- Major Case Enforcement Priority — “EBSA is strategically focusing...on professional fiduciaries and service providers with responsibility for large amounts of plan assets”
 - ING Settlement—abandoned plans and trading error correction policies/proceeds
- Fiduciary Service Provider Compensation Project — “EBSA will continue to investigate the receipt of improper or undisclosed compensation...This project complements the Department’s regulatory and reporting initiatives intended to ensure...comprehensive disclosure about service provider compensation and conflicts of interest.”

DOL Regulatory Projects

The schedule is likely to slip—expect delays

- 408b-2 Summary—Proposal, January
- TDF Disclosures—Final, March
- DB Plan Annual Funding Notice—Final, March
- Abandoned Plan Rule Amdts.—Final, April
- Brokerage Window Project—RFI, April
- Lifetime Income Statements—Proposal, August
- Fiduciary Rule—Reproposal, August
- Annuity Provider Safe Harbor Amdt.—Proposal, October

Treasury/IRS

- Treasury Secretary Lew
 - Numbers focused/focus on broader issues, maybe pensions or executive comp.?
 - See President's budget
- Continued support of auto-enrollment and auto-features
- Rollover substantiation rules
- Roth fixes?
- Additional support of retirement income/annuity rules?

SEC/CFTC

- Chairman White (ex-prosecutor)
- SEC in transition; CFTC digesting Dodd Frank
- Prior Money Market Fund Rule Proposal:
 - Floating NAV for “prime institutional” funds
 - \$1mx per day “retail” definition
 - Other alternative proposals
 - Potential impact on DC plans

SEC/CFTC Initiatives on the Horizon

- SEC Final Money Market Fund Rule – October
- SEC fiduciary definition for advisers – Long-term action
- SEC Final Target Date Fund Regulations – October
- SEC/CFTC Stable Value Study
- CFTC CPO rules

ERISA Litigation

- “Fee” litigation
 - Impact of recent decisions & \$\$ settlements
 - Focus on operational
 - Fees and expenses
 - Float income
 - Error correction policies
 - Emphasis on records and documentation
 - Plan documents
 - Formal records of fiduciary decisions
 - Emails & internal communications
 - Focus on provider’s proprietary plans
 - Stable value litigation

Thinking Ahead

- Focus on bettering participant outcomes
 - Improved plan design
- Consider impact of plan changes, auto-features, demographics, etc. on DC plans
 - Role of QDIA
- Add in policy considerations of transparency, accountability and disclosures of conflicts of interest