

Legislative and Regulatory Report

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

March 2023

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President Biden releases FY 2024 budget

On March 9, President Biden [released](#) the outline of his administration’s budget request for the 2024 fiscal year (FY 2024), which begins October 1, 2023. Importantly, the President’s budget is primarily a political messaging document and will not become law. Still, the document provides an outline of the White House’s priorities. Additional details regarding the various tax provisions are available in the Treasury’s [“Green Book.”](#) A few notable tax provisions include:

- Corporate Rate Increase to 28%
- Top Individual Rate Increase to 39.6% — See Green Book Page 77
- Individual Minimum Tax on Wealth Individuals — See Green Book Page 82
- Net Investment Income Tax — See Green Book Pages 72-75
- Retirement Provisions from Build Back Better — See Green Book Pages 85-92
 - \$10 million cap on IRA and DC plan accumulations
 - Eliminating all Roth conversions for high-income taxpayers
 - Eliminating backdoor Roth contributions
 - \$1 million cap on deductibility executive compensation under Section 162(m)
- Capital Gains Taxed as Ordinary Income — See Green Book Page 79

Lawmakers push back on SEC Swing Pricing/Hard Close

On March 9, Chair Ann Wagner (R-MO) and Ranking Member Brad Sherman (D-CA) of the Subcommittee on Capital Markets of the House Committee on Financial Services [wrote to the SEC](#) raising concerns about the recently proposed Swing Pricing/Hard Close rule. The letter echoes many of the same arguments made by those who submitted comments on the proposal on February 14. The letter from Wagner and Sherman reads in part, “We are concerned that the rule will have far-reaching negative impacts without clear justification, adequate substantive economic analysis or supporting data... The rule would disproportionately impact Main Street investors who are planning for retirement, compared to more sophisticated investors who have the resources and means to deal with the cost and complexity of the rule.”

IRS issues RMD reporting relief

On March 7, the IRS issued [Notice 2023-23](#), which provides penalty relief for IRA issuers that incorrectly notified IRA owners who will attain age 72 in 2023 that they have required minimum distribution (RMD) obligations for 2023. This issue arises because of the change that SECURE 2.0 made to the RMD starting age and the short timeframe that providers had to react to that statutory change. The relief is conditioned on the IRA issuer notifying the owner no later than April 28, 2023, that no RMD is required for 2023.

Biden vetoes effort to overturn DOL ESG rule

On March 20, President Biden exercised his first veto to strike down H. J. Res. 30, a Congressional Review Act procedure to overturn the recently finalized Labor Department rule titled “Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights.” Commonly referred to as the ESG Rule, the rule reverses a 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, among other provisions. The final rule is effective as of January 30, 2023. Congress does not have the necessary votes to overturn the veto, meaning the final rule will remain in effect.

References and source material used in this publication

“Budget of the U.S. Government” The White House. <https://www.whitehouse.gov/omb/budget/> (March 2023).

“General Explanation of the Administration’s Fiscal Year Revenue Proposals.” U.S. Department of Treasury. <https://home.treasury.gov/policy-issues/tax-policy/revenue-proposals> (March 2023)

“Wagner, Sherman Call on Sec to Re-Evaluate Mutual Fund Proposed Rule” Press Release, <https://wagner.house.gov/media-center/press-releases/wagner-sherman-call-sec-re-evaluate-mutual-fund-proposed-rule> (March 9, 2023).

“Relief for Reporting Required Minimum Distributions for IRAs for 2023, Notice 2023-23.” <https://www.annuity-insurers.org/wp-content/uploads/2023/03/n-23-23.pdf> (March 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.



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NRM-22055AO (04/23)

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