

CERINI & ASSOCIATES, LLP | CERTIFIED PUBLIC ACCOUNTANTS  
PRESENTS



# PENSION PLANNER

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**B**y now, many of us are familiar with the SECURE Act and the changes it brought to defined contribution plans; and in 2024, the SECURE Act brings another round of provisions that are in effect for your retirement plan.

Here are a few of the SECURE Act 2.0 summary of provisions effective in 2024:

- ▶ Up to \$1,000 withdrawal for emergency expenses.
- ▶ Certain early withdrawals in the case of domestic abuse, subject to limitations.
- ▶ For employers without a retirement plan in place, there are two new plan designs for employers that do not sponsor a retirement plan: a “starter 401(k) deferral-only arrangement” and a “safe harbor 403(b) plan.”
- ▶ Increases involuntary cash-out limit to \$7,000.
- ▶ Employer matching contributions could be made on qualified student loan payments.

The Internal Revenue Service, **Department of Labor (DOL)** and Pension Benefit Guaranty Corp announced its third and final phase of the SECURE Act. The noticeable change that has a significant impact on plan sponsors is the method in which plan participants are counted for determining if the plan is reported as a small or large plan. The benefit of falling under the category of a small plan is that there is no requirement to undergo an audit of the plan’s financial statements. This change was to provide some financial relief to smaller plans that were reported as large plans due to including eligible but not participating employees, which according to the DOL, the reduced filing costs is estimated to be around an annual \$95 million.

Other changes to form 5500 include:

- ▶ A consolidated Form 5500 reporting option for **defined contribution group (DCG)** reporting arrangements. This is a new schedule to the 5500.
- ▶ Improved reporting by **multiple-employer plans (MEPs)**, including **pooled employer plans (PEPs)**. The 5500 includes a new schedule, MEP.
- ▶ A breakout of reporting of administrative expenses paid by the plan on a plan’s financial statements. Schedule H to Form 5500 lists several categories to report different types of administrative expense for greater transparency.
- ▶ Further improvements in financial and funding reporting by PBGC-covered defined benefit plans. This is included on Schedule R and Schedule SB to the Form 5500.
- ▶ The addition of selected Internal Revenue Code compliance questions to improve tax oversight and compliance of tax-qualified retirement plans; and
- ▶ Technical and conforming changes as part of the annual rollover of forms and instructions.

In addition, plan sponsors should take note of the change to the access EFAST2 website that is used to file Form 5500. EFAST2 is using [login.gov](https://www.login.gov) to sign into your EFAST2 account. We encourage plan sponsors to access their account through login.gov so that their account is already set up when it’s time to file your plan’s 5500. The form 5500 filing due dates and other reporting deadlines are provided on [page 11](#).

Equally important to the SECURE Act and Form 5500 updates is ensuring your plan’s participant data is properly secured. Consider reevaluating your cybersecurity policies and procedures, service providers, and insurance policies to ensure your organization and retirement plan are properly secured and set up to identify and detect any potential security threats.

Lastly, selecting the right third party administrator is a key part of successfully managing your retirement plan.

As always, please reach out to us if you need assistance in navigating through these changes.





# HOW TO PICK A THIRD-PARTY ADMINISTRATOR

**A** third-party administrator (TPA) significantly supports employee benefit plans. They offer various services that aid in managing and administering many processes of the plan and takes the burden of these tasks off of the employer, however they don't alleviate liability. TPAs handle enrollment and eligibility for employees, processing of transactions such as contributions, distributions, and managing investment options, as well as compliance and related reporting. Selecting a TPA for your employee benefit plan can be a daunting task, but there are some things to look for when considering engaging someone for these services.

## COMPLIANCE AND REGULATORY KNOWLEDGE

It is crucial that employee benefit plans remain in compliance with various laws, regulations, and governing bodies. Frequently, TPAs assist with this area of plan administration, therefore it's important to understand what services they will be performing, as well as their processes for correcting errors in the event of non-compliance.

**The Employee Retirement Income Security Act (ERISA)** outlines requirements that employee benefit plans must adhere to, including having a written and current plan document, having a **Summary Plan Description (SPD)** that is digestible to plan participants, avoiding conflicts of interest, remitting contributions to the plan in a timely manner, providing required notices to participants, timely filing of annual reports to the proper governing bodies, performing annual nondiscrimination testing, and ensuring the plan is protected by an ERISA bond.

**The Department of Labor (DOL)** requires annual filings of Form 5500 for certain employee benefit plans. These filings have deadlines that must be met to avoid penalties. Additionally, having over a certain number of participants at the beginning of each plan year can generate the requirement for an independent audit. TPAs may prepare and file this Form 5500 with the DOL on behalf of the plan.

**The Internal Revenue Service (IRS)** requires annual nondiscrimination testing to ensure that benefits provided by the plan are not disproportionately benefiting certain employees, particularly highly compensated employees. These tests may be prepared by the TPA and can include review of employee salary deferrals and employer contributions of non-highly compensated employees in relation to that of highly compensated employees. These tests may also identify plans where plan assets of key employees are excessive, requiring minimum contributions from non-highly compensated employees. Additionally, these tests identify when contributions have exceeded IRS annual contribution limits at the individual participant level. Lastly, the TPA may provide services that ensure compliance with IRS rules that govern distributions and require Form 1099-R filings for participants that received distributions in a given tax year.

## TECHNOLOGY AND QUALITY CONTROL

The goal of a retirement plan is to get employees to save for their retirement so that they can live comfortably in that stage of their life. In order for them to achieve this, they may look to participate in the plan that you offer, therefore you want to make the process of enrollment and maintaining an account as simple as possible. Most people seek simplicity and easy access – this is obtained through online access and mobile apps. *Will employees be overwhelmed or frustrated using the TPA's website or mobile app or is it user-friendly? Are their retirement plan options at the tip of their fingers or do they have to complete paper forms for every change or requested transaction?* It's effortless to log onto an online account or open a mobile app to make changes to elective deferral rates or investment options. Employees may be less inclined to participate in a plan where they need to complete a ton of paperwork or jump through hoops to request a simple change to their account.

*Can the TPA integrate with the providers you already use (i.e. recordkeeper or payroll service provider)?* This integration makes things like employee elective deferrals, employer contributions, and loan repayments a simpler process and helps to avoid errors and conflicting information between service providers.

*What kind of data security does the TPA have in place?* They handle sensitive information and data, therefore it's imperative that they have superior quality control processes in place to ensure data remains private and participant information remains protected.

## CUSTOMER SERVICE, PRICING TRANSPARENCY, AND REPUTATION

It is ideal to select a TPA with exceptional customer service. TPAs need to resolve inquiries and issues in a timely manner, therefore, responsiveness is key. *Do they process claims efficiently and accurately? Has it been clearly communicated to you what services they will be engaged to provide, as well as what processes you are responsible for carrying out?* Review the pricing structure in detail to ensure it is clear, fair, and there are no hidden fees. Consider reading reviews on the TPA and obtain references if you can.

## PLAN CUSTOMIZATION AND FLEXIBILITY

Every organization has unique needs and things can change from time to time, warranting changes to plan documents and provisions of the plan. *Does the TPA offer customization of the pension plan and, are they flexible and able to make changes to those plan documents with ease?*

## EDUCATION

*Does the TPA offer assistance to your employees to help them understand their investment options and assist them in making educated decisions? Is this assistance only provided upon enrollment or does the TPA provide this education to ongoing employees on a regular basis?*

*Additionally, is the TPA educating you, the Plan Sponsor, and keeping you informed on upcoming changes to compliance or legislative requirements that could directly impact your plan? Do they clearly explain the various plan provisions that your plan offers so that you can make the most informed decisions that you can for your employees?*

There are so many things to consider when seeking a TPA for your employee benefit plan. What works for a similar organization might not work for yours, so it's important to do your research and ask questions. Taking the areas above into consideration should help you create a well-rounded and thoughtful decision.



**CRYSTAL HARVEY**  
SUPERVISOR



# DEFINED CONTRIBUTION PLAN AUDIT REQUIREMENTS: 2024 UPDATE

Under the new guidance for defined contribution plans, the number of participants with account balances at the beginning of the plan year will be used to determine the size of the plan and if an audit is required or not. The determination no longer includes the eligible but not participating employees. Under both the previous and revised guidance, there is an 80/120 exception to the rule. This exception states that if the number of participants is between 80 and 120 and a form 5500 was filed for the prior plan year, you may elect to complete the form 5500 in the same category.

Newly formed plans, with an effective date during 2023, will use the number of participants with account balances at the end of the year to determine if they are a large or small plan. For over 19,000 plan sponsors, this change means that they will no longer have to bear the cost of an audit. Plan sponsors may want to review participants with account balances to determine if this number can be reduced.

One way to reduce the number of plan participants is to review the plan for terminated employees. If a terminated employee has a balance less than \$7,000, you may be able to force them out of the plan. If this ability is not already allowed per the plan document, the plan document can be amended to include it. After a 30-day written notice, the third-party administrator and recordkeeper will coordinate the roll out of the balance from the plan. When this occurs, the participant's balance is automatically rolled into an IRA in their name. For employees with balances greater than \$7,000, an outreach program can be implemented to provide them information about rolling out the plan.

**F**or plan years beginning on or after January 1, 2023, The United States **Department of Labor (DOL)**, **Internal Revenue Service (IRS)**, and Pension Benefit Guaranty Corporation have announced changes to the form 5500 which impact the methodology for determining the size of a plan (*large or small*) and thus if an audit of the retirement plan is necessary.

Previously, a defined contribution plan with 100 or more participants at the beginning of the plan year was considered a large plan, and was required to submit audited financial statements with their form 5500 filing. Participants were defined as participants with an account balance and employees that were eligible but elected not to participate.

**MAHNAZ CAVALLUZZI, CPA**  
DIRECTOR



# SAFEGUARDING RETIREMENT PLAN DATA: NAVIGATING THE LANDSCAPE OF DATA PRIVACY AND SECURITY IN THE WAKE OF THE MOVEIT DATA BREACH



**I**n an era where technological advancements are rapidly transforming, the protection of participants data in your retirement plan is an increasing concern. The urgency of implementing robust data security measures has been underscored by recent events, such as the MOVEit data breach.

In late May, Progress Software Corporation's MOVEit file transfer software was breached, impacting over 40 million individuals and at least 1,000 organizations. The data breach affected all types of entities, including companies that maintained personal information for retirement plans. As the software was used by organizations to securely transfer sensitive files, the breach exposed personal information such as social security numbers, mailing addresses and dates of birth. The Russian ransomware group Cl0p claimed responsibility for the breach.

In response to the widespread cyber incident, legal actions are rapidly proliferating. Progress Software Corp is facing dozens of class action lawsuits across various federal courts in the United States. The fallout from this cyber incident underscores the urgent need for heightened cybersecurity measures across industries, particularly within sectors dealing with sensitive personal and financial information. In 2021, the DOL issued cybersecurity guidance for plan sponsors, fiduciaries, record keepers and plan participants. This guidance includes tips for hiring a service provider, cybersecurity program best practices and online security tips. These guidelines can help strengthen your organization's practices in preventing and detecting a potential threat.

## KEY LESSONS FROM THE MOVEIT INCIDENT

The MOVEit data breach exposed critical vulnerabilities that organizations must consider fortifying their systems against similar threats. Incorporating key lessons learned from this incident, the following aspects should be considered when establishing and enhancing data security programs:

### 1. INCIDENT RESPONSE READINESS:

The MOVEit breach emphasized the importance of having a robust incident response plan in place. Plan sponsors should ensure that they have clear protocols for detecting, responding to, and mitigating the impact of security incidents.

### 2. CONTINUOUS MONITORING AND ANALYSIS:

The incident highlighted the need for continuous monitoring and analysis of network activities.

### 3. ENHANCED AUTHENTICATION MEASURES:

The MOVEit breach underscored the significance of implementing enhanced authentication measures. Multi-factor authentication and strong access controls should be integrated to prevent unauthorized access to retirement plan data.

### 4. REGULAR SECURITY AUDITS:

The aftermath of the MOVEit incident emphasized the importance of regular security audits.

### 5. COLLABORATION WITH SERVICE PROVIDERS:

The incident highlighted the interconnected nature of retirement plan systems and the role of third-party service providers. Ensuring your third-party service providers have security policies in place and undergo their own security audits and risk assessments is important to protecting your participants personal data.

## IMPLEMENTING COMPREHENSIVE DATA SECURITY MEASURES

To safeguard retirement plan data effectively, plan sponsors should consider a holistic approach that encompasses the following components:

### 1. FRONTLINE CYBER AND FRAUD PROTECTION:

Implementing cyber and fraud protection measures is critical for preventing unauthorized access and malicious attacks before they can compromise sensitive retirement plan data. In addition, plan sponsors should conduct cybersecurity awareness training so that your employees are able to identify possible threats or suspicious activity and know how to report them.

### 2. AUTHENTICATION AND AUTHORIZATION CONTROLS:

Enhanced authentication and authorization controls, including multi-factor authentication, should be employed to restrict access to only to authorized personnel.

### 3. CONTINUOUS MONITORING AND ANALYSIS:

Plan sponsors should regularly monitor its network activity as well as conduct a risk assessment of its security program and policies. This can identify areas of higher risk for a potential security breach.

### 4. INCIDENT RESPONSE PLANNING:

Establishing clear incident response plans ensures that organizations can respond swiftly and effectively in the event of a security breach, minimizing the impact on retirement plan data.

### 5. REGULAR SECURITY AUDITS:

Retirement plan sponsors should conduct an audit of their security controls by a third party and implement any necessary improvements.

The MOVEit data breach serves as a reminder for plan sponsors, to reevaluate and if needed, strengthen their data security measures. By incorporating the key lessons learned from this incident and adopting a comprehensive approach to data security, your organization can improve safeguards against evolving cyber threats, ensuring the continued safety and privacy of sensitive data.



**TANIA QUIGLEY, CPA**  
PARTNER

# 3 BEST PRACTICES FOR AVOIDING A FIDUCIARY BREACH



GIVEN THE MANY LAWSUITS FILED AGAINST RETIREMENT PLAN SPONSORS IN RECENT YEARS FOR BREACHING THEIR FIDUCIARY DUTIES, HERE ARE THE STEPS PLAN COMMITTEES SHOULD BE TAKING TO MITIGATE RISK.

Lately the news cycle has been riddled with stories of retirement plan committees [being sued](#) for breaching their fiduciary duties. While the first wave of lawsuits concerned defined-contribution plans at for-profit companies, the trend has since pivoted to target not-for-profit companies and institutions of higher education.

While it's true that the majority of the [lawsuits](#) have targeted larger retirement plans, the lessons that plan sponsors and retirement plan advisors can learn from the mistakes of those plan committees are applicable for plans of all sizes. All committees are subject to the same standards of [fiduciary conduct under ERISA](#), and the [lawsuits](#) in question can serve as a blueprint for what not to do as a retirement plan committee member.

By employing certain fiduciary best practices, you can help mitigate your risk as a retirement plan fiduciary while simultaneously making your retirement plan more efficient and responsive to your employees. Consider implementing these three strategies when evaluating your own standards of care as a fiduciary.

## ASSESS THE INVESTMENT LINEUP ON A REGULAR BASIS

### ASSESS THE INVESTMENT LINEUP ON A REGULAR BASIS

Operating as a “*prudent man*” is one of the guiding principles under ERISA, and it's hard to argue a plan is acting prudently when most of its investments are selected from a single investment company or mutual fund family. This practice would assume one investment manager has the best performing fund in every asset category, which is rarely the case.

A fiduciary should instead diversify their investment lineup by picking an optimal fund in every asset category from a large universe of investment managers or fund families, as opposed to restricting their selection to those available in a single company. The goal of this practice is to open up the architecture of the investment universe to ensure participants are receiving a wide range of high-quality funds.

Many of the retirement plan committees currently embroiled in lawsuits failed to diversify in this manner. To make matters even more suspicious, many of their investments also happened to be manufactured or distributed by the firm they used for [record keeping](#). Consider regularly vetting an investment lineup on a quantitative and qualitative basis.

### OFFER LESS EXPENSIVE ALTERNATIVES

Another key principle of ERISA is that fiduciaries must manage the retirement plan for the benefit of participants, which means acting in the plan's best interest should be a top priority. Some retirement plan committees are being sued for picking [higher share classes](#) to reduce the plan sponsor's operating costs, hence acting in the sponsor's own best interest as opposed to that of participants.

By failing to select the lowest-cost version of the funds being offered, plan committees inherently breach their duty under ERISA. Fiduciaries must be sensitive to the share class of the investments offered to plan participants. Selecting the lowest-cost version of the plan's investments is a crucial step to help mitigate the risk of an ERISA lawsuit. If one fails to do so, it can be argued that they have inherently failed to operate the plan for the exclusive benefit of the participants and legal action may be taken.

### DETERMINE REASONABLENESS OF ADMINISTRATIVE FEES

A frequent finding in fiduciary breach lawsuits is that plan committees imposed unreasonable administrative fees and forced participants to overpay for plan expenses. By failing to regularly vet a [plan's fees](#), retirement plan committees can find themselves subject to the same fate. However, this mistake is avoidable.

Regularly assessing the magnitude and reasonableness of a plan's fees is a primary fiduciary responsibility under ERISA. Such assessments should be conducted at least annually to see exactly how much participants are being charged.

Several years ago, the Department of Labor mandated that all service providers to participant-directed plans that were paid from plan assets disclose their annual fees. These fees should be regularly benchmarked in comparison to a representative sample of plans similar in both assets and participants to ensure participants are not overpaying.

## SUMMARY

While the number of lawsuits in the news may be alarming, the mistakes made by key players are also avoidable. Employing best practices and prioritizing the needs of plan participants are crucial steps to help mitigate risk of a [fiduciary breach](#). Knowing your duty of loyalty as an ERISA fiduciary is essential to successfully operating in the role.

If plan committees are unsure of the details of their specific duties and responsibilities under ERISA, they should consider working with an outside fiduciary who has a proven expertise in retirement plan governance matters.

## THIS ARTICLE WAS ALSO FEATURED IN INVESTMENTNEWS



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INTERACTIVE CALENDAR: CLICK ON THE DATES TO VIEW THE DEADLINES

# 2024 KEY DATES FOR DEFINED CONTRIBUTION CALENDAR YEAR PLANS

HAVING TROUBLE VIEWING? PLEASE CLICK HERE FOR A VIRTUAL CALENDAR.

# 2024 RETIREMENT PLAN LIMITS

So, you are the plan sponsor of a 401K and or Profit-Sharing Plan. An excellent way to attract and retain top talent and receive significant tax deductions for your business! **Please note this is for a December 31st year-end, if your year-end is June 30th add 6 months.**

Self-employed (*sole proprietor or partners*) owners must make cash or deferred elections no later than the last day of tax year (e.g., by December 31, 2024, for a 2024 calendar tax year). The timing is connected to when the individual's compensation is "deemed currently available."

401K deferrals deducted from a participant's pay must be deposited to the participant's 401(k) investment account as soon as administratively feasible (*as soon as possible*).

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	2022	2023	2024
<b>401(K)/403(B)/457(B) ELECTIVE DEFERRAL LIMIT</b>	\$20,500	\$22,500	\$23,000
<b>CATCH-UP CONTRIBUTION LIMITS (FOR PLAN PARTICIPANTS AGE 50 AND OLDER):</b>			
401(K)/403(B)/457(B) PLANS	\$6,500	\$7,500	\$7,500
SIMPLE PLANS	\$3,000	\$3,500	\$3,500
TRADITIONAL IRA/ROTH IRA	\$1,000	\$1,000	\$1,000
<b>DEFINED CONTRIBUTION PLAN CONTRIBUTION LIMITS (THE MAXIMUM 'ANNUAL ADDITION' IS THE LESSER OF 100% OF COMPENSATION OR THIS DOLLAR AMOUNT).</b>			
	\$61,000	\$66,000	\$69,000
<b>HIGHLY COMPENSATED EMPLOYEE INCOME LIMITS</b>			
ANY PERSON WHO OWNS MORE THAN 5% OF THE COMPANY OR WHO EARNED MORE THAN THIS AMOUNT IN THE PRIOR YEAR:			
	\$135,000	\$150,000	\$155,000
COVERED COMPENSATION LIMIT	\$305,000	\$330,000	\$345,000
SIMPLE ELECTIVE DEFERRAL LIMIT	\$14,000	\$15,500	\$16,000
INDIVIDUAL RETIREMENT ACCOUNT (IRA) CONTRIBUTION LIMIT	\$6,000	\$6,500	\$7,000
<b>DEFINED BENEFIT PLAN LIMIT THE MAXIMUM ANNUAL BENEFIT ALLOWED AT SOCIAL SECURITY RETIREMENT AGE IF THE LESSER OF THE HIGHEST THREE-YEAR AVERAGE COMPENSATION OF THIS ADJUSTED LIMIT.</b>			
	\$245,000	\$265,000	\$275,000
<b>FICA TAXABLE WAGE BASE</b>	\$147,000	\$160,200	\$168,600

**DEDUCTIBILITY DEADLINES:**

To deduct the employer contributions made to a Defined Contribution plan for a given year, the deposit must be made no later than the due date (*including extensions*) of your federal tax return.

TAX STATUS	DEADLINE	ON EXTENSION
C-CORPORATION (OR LLC TAXED AS C-CORP)	APRIL 15	OCTOBER 15
S-CORPORATION (OR LLC TAXED AS S-CORP)	MARCH 15	SEPTEMBER 15
PARTNERSHIP (OR LLC TAXED AS A PARTNERSHIP)	MARCH 15	SEPTEMBER 15
SOLE PROPRIETORSHIP (OR LLC TAXED AS A SOLE PROPRIETORSHIP)	APRIL 15	OCTOBER 15

**11 CHECK OUT THIS SUMMARY OF THE POSSIBLE DEADLINES FOR A CALENDAR YEAR TAX FILER:**



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