Wilshire

2023 Mid-Year Fiduciary Update

for Defined Contribution Plan Sponsors

Julija Kod, CFA, Senior Vice President

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Fiduciary Updates for DC Plan Sponsors

Agenda:

- Regulatory Landscape
- Judicial Activity
- Trending Topics

Contact: jkod@wilshire.com

Presenter

Julija Kod, CFA, Senior Vice President

Julija is a Senior Vice President with Wilshire's institutional client solutions team. Julija has over 10 years of experience providing investment consulting services to public and private DC plans.

Wilshire Firm Overview

Since 1972, Wilshire has been dedicated to improving investment outcomes for institutional investors and financial intermediaries worldwide.

- Institutional advisory & OCIO services
- Discretionary & advisory solutions for financial intermediaries
- Full spectrum provider of alternative investment solutions
- Multi-asset analytics

500+
clients

$100 Billion
in assets under management[1]

$1.3 Trillion
in assets under advisement[1]

$4.9 Billion
in **alternative** assets under management[1]

$62.4 Billion
in **alternative** assets under advisement[1]

[1] As of 3/31/2023. Assets under advisement includes assets under management.

Defined Contribution Expertise

DC plan sponsors utilize Wilshire's independent expertise to navigate the complex fiduciary landscape and drive better outcomes for plan participants

- Spectrum of services, from non-discretionary advice to discretionary investment management
- Dedicated DC resources and thought leadership
- Focus on strong governance and fiduciary education
- Customized portfolio solutions, including custom target date funds, multi-manager funds, managed accounts
- Time-tested investment manager research used by some of the largest plan sponsors in the world
- Extensive knowledge and network of recordkeepers

Serving retirement plans since

1981

$209 Billion

in DC plan assets

Servicing more than

70,000

DC plan sponsors

[1] As of 3/31/2023. Assets under advisement includes assets under management.

Regulatory Landscape

SECURE 2.0: What might be next?

- Technical corrections likely
- House bill permitting 403(b) plans to use CITs
- ESG as a theme for future federal legislation
- Continued scrutiny from Congress on non-traditional investments
- No current expectation for a “SECURE 3.0”

Department of Labor (DOL): Key Areas of Focus

DOL's regulatory agenda for 2023

- Participant disclosures
- Prohibited transactions
- Definition of "fiduciary"
- Modernization of Form 5500
- Amended voluntary correction program
- Pooled Employer Plan (PEP) rules

Recent DOL audits

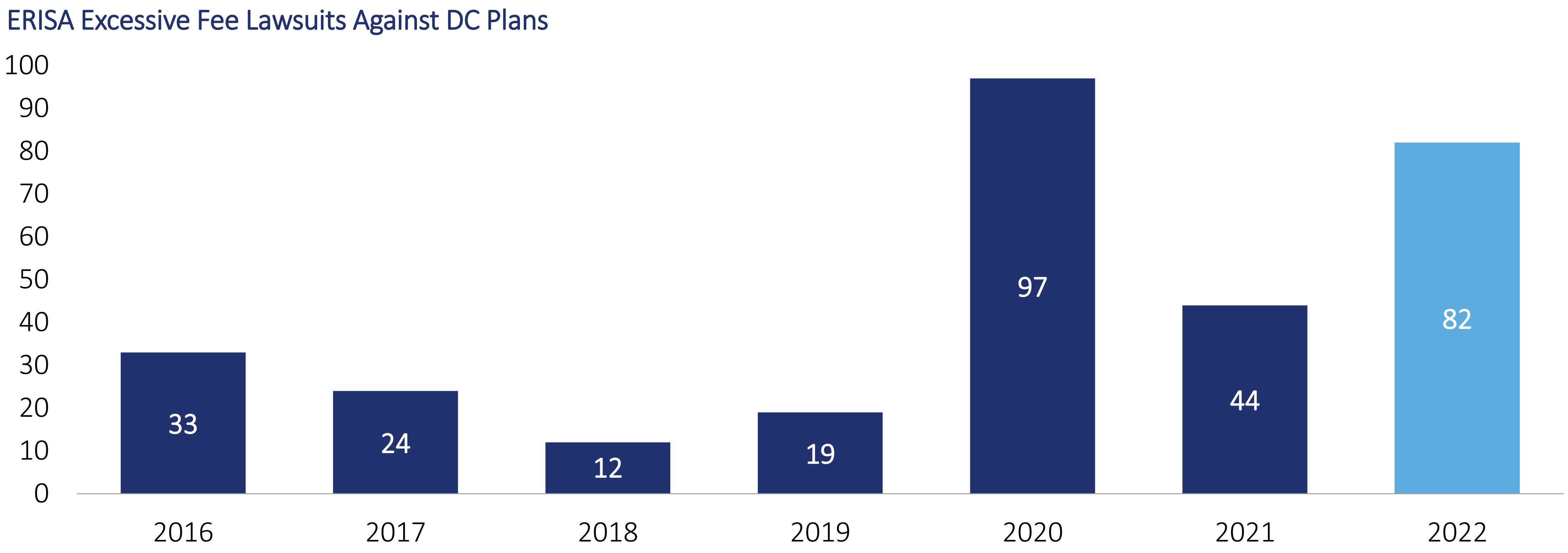
- Key focus: Missing participants
- NEW: Cybersecurity
- NEW: Crypto investments
- NEW: ESG investments

Source: Morgan Lewis, https://www.morganlewis.com/blogs/mlbenebits/2023/03/the-dols-2023-regulatory-agenda-for-retirement-plans-at-a-glance.

Judicial Activity

Highly litigious environment for ERISA DC plans continues

2022 saw the second highest case count on record – an 86% increase from 2021



Data source: Groom Law as of 12/31/2022. https://www.ignites.com/c/3921644/509364/suit_filings_surged?referrer_module=issueHeadline. Groom's 2022 tally does not include 11 nearly identical suits filed by law firm Miller Shah against plan sponsors who used BlackRock LifePath Index Funds.

Recent Target Date Fund (TDF) Litigation

Fidelity Freedom Target Date Fund (active) series

- Target of several excessive fee lawsuits over recent years
- June 2022 court ruling in favor of the plan sponsor in *Smith v. CommonSpirit Health*

New wave of lawsuits in August 2022:

- Targeting plans offering BlackRock LifePath Index Funds
- Claim "vastly inferior" performance; allege funds chosen based on low fees without consideration of returns
- As of March 2023, three of 11 lawsuits dismissed (Microsoft, Booz Allen Hamilton and Capital One)

Considerations

- Prudent oversight process is key: follow DOL's 2013 TDF guidance
- Fiduciaries must act prudently and should not make decisions solely based on litigation risk
- Key finding: "ERISA simply does not provide a cause of action for fiduciary breaches based solely on a fund participant's disappointment in the fund's performance."[1]

[1] Eastern District of Virginia Court.

Recent ESG-related Activity

Despite congressional challenge, DOL's "ESG Rule"[1] stands

Congress

- The House and Senate voted to overturn the ESG Rule via the Congressional Review Act
- President Biden vetoed in March 2023

DOL Lawsuits

- Coalition of 25 attorneys general alleged the rule oversteps DOL authority
- Two 401(k) plan participants argued the rule violates ERISA

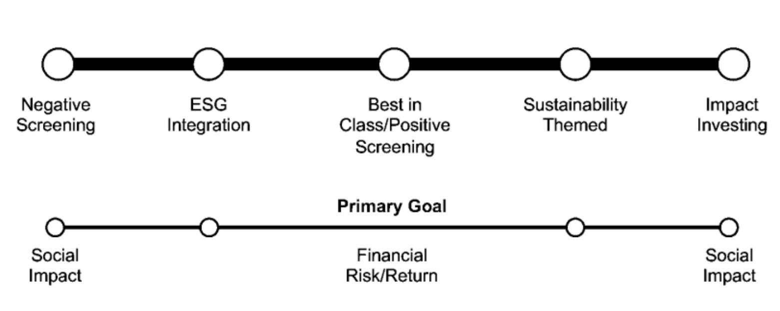
States

- 26 states proposed ESG investing regulations, 23 seeking to limit/restrict ESG factor consideration by state funds and/or their fiduciaries

[1] Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights.

Considerations

- The rule is neutral: fiduciaries MUST engage in robust risk and return analyses, which MAY include ESG considerations in the process
- Fiduciaries must prioritize ESG strategies which put financial risk and return objectives first, and document why these ESG factors are financially relevant to an investment's risk/return characteristics



Trending Topics

Portability Services Network Gains Momentum

Auto-portability solution for small account balances

- TIAA and Empower – latest recordkeepers to join an industry consortium with Retirement Clearinghouse, LLC (“RCH”)
- Consortium formed in October 2022 by Fidelity, Vanguard, Alight and RCH to address cash out leakage for small accounts (<$5,000) due to mandatory distribution upon job change
- Participants cashing out are taxed on distributions and charged a 10% early withdrawal penalty if under the age of 59½
- Most prominently affects lower-income and minority participants
- Participants pay a one-time transaction fee based on account size for balances successfully rolled into new employer's plan

Considerations

- Fiduciary duty to perform due diligence
- No cost to plan sponsors
- Potential benefits:
  - Higher average plan account balances
  - Reduction of lost participants and uncashed check issues
  - Preservation of retirement savings for participants
- Especially useful for employers in high turnover industries

QDIA Evolution: Focus on Personalization and Retirement Income

Auto-personalization

- Recordkeeper technology advances enable personalization of target date funds (TDF) beyond participant age and retirement year
- Use of recordkept datapoints such as salary, account balance, savings rate, gender, marital status without additional input from the participant
- Examples: PIMCO myTDF, American Funds Target Date Plus

Target date funds w/ integrated lifetime income

- Currently, one quarter of TDF managers offer a TDF with annuities; more solutions continue to be brought to market
- Recordkeeping infrastructure and participant interfaces still under development
- Examples: BlackRock LifePath Paycheck, SSgA IncomeWise

Managed accounts w/ enhanced retiree experience

- Guidance on optimal decumulation strategies that include guaranteed and non-guaranteed sources of retirement income
- Examples: Income America 5ForLife in Nationwide ProAccount, Edelman Financial Engines' Income Beyond Retirement

Dynamic QDIA

- Typically, a TDF automatically transitions to a managed account upon reaching a certain threshold
- Ideally, it should be at a time the participant is more likely to engage
- Examples: Empower, Fidelity

2022 Active Management Review

The table represents the index percentile ranking in the respective universe:

1st Quartile (red cell) means active managers had a difficult time producing excess returns

4th Quartile (green cell) means active managers were able to outperform the benchmark

Index Quartile: 1st Quartile / 2nd Quartile / 3rd Quartile / 4th Quartile	Index Percentile Ranking (thru 2022)			
	1 Year	3 Years	5 Years	10 Years
Equity Segments				
Large Core Wilshire US Large Cap Index	84	49	43	41
Large Growth Wilshire US Large Growth Index	54	33	42	32
Large Value Wilshire US Large Value Index	54	44	39	38
Small Core Wilshire US Small Cap Index	77	79	68	74
Small Growth Wilshire US Small Growth Index	24	77	88	91
Small Value Wilshire US Small Value Index	84	70	61	70
REIT Wilshire REIT Index	77	89	93	89
EAFE MSCI EAFE Index ($N)	34	49	40	84
EAFE Small Cap MSCI - EAFE Small Index ($Net)	52	70	51	68
Emerging Markets MSCI Emerging Markets Index ($N)	51	64	71	91
Global MSCI - AC World Index ($N)	69	49	40	48
Fixed Income Segments				
Core Fixed Income Bloomberg US AG Index	85	96	97	80
US High Yield Bloomberg Barclays US HY Index	88	76	74	49

Source: Wilshire Compass. As of December 31, 2022. Gross of fees. The full report from Wilshire can be found here.

Conclusions

- Little evidence of manager consistency beyond what would be expected from random outcomes
- Successful use of active management cannot solely rely on picking past winners
- It requires robust qualitative analysis to properly interpret quantitative results
- Rigorous manager due diligence is critical within active management

Appendix

Big Themes for 2023 and Beyond

SECURE Act 2.0 and Financial Wellness

Emergency savings

Student loans

Leakage/Auto-portability

Re-imagined Default Investments

Positive equity/bond correlations

Need for diversifiers

Hybrid QDIA
[TDF + managed accounts or annuities]

Retirement Income

One size does not fit all

Guaranteed/non-guaranteed solutions

Recordkeeper integration is key

Personalization

Value add from managed accounts

Personal Target Date Funds (TDF)

Data security and privacy issues

ESG and Climate Change

Prudent risk management to consider economic effects on retirement assets

Outsourced Investment Management (OCIO)

When investment committee’s time and resources are limited

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