



Federal Legislative & Regulatory Report

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DOL releases final ESG rule

On October 30, the Department of Labor released a [final rule](#) amending its “investment duties” regulation to address financial factors in selecting plan investments.

The amendments made by the final rule require ERISA plan fiduciaries to select investments and investment courses of action based solely on financial considerations relevant to the risk-adjusted economic value of a particular investment or investment course of action.

The amendments also address the scope of fiduciary duties surrounding nonpecuniary issues when making investment decisions.

The final rule is effective on January 12, 2021.

DOL releases final PEP rules

On November 12, Department of Labor released [final registration rules](#) for pooled plan providers (PPPs) that will offer pooled employer plans (PEPs). The rule implements the registration requirements for pooled plan providers pursuant to the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act). The final rules adopt registration requirements essentially as they were proposed earlier this year, with a few mostly modest changes.

According to the DOL [news release](#) accompanying the final rules, the system for filing PPP registration statements were available starting on November 25, 2020.

Congressmen introduce FTT prohibition bill

On October 27, Reps. Patrick McHenry (R-NC) and Bill Huizenga (R-MI) introduced [H.R. 8695](#), the Protecting Retirement Savers and Everyday Investors Act, which would prohibit states from imposing a Financial Transaction Tax (FTT) on certain industry participants.

The bill is primarily a messaging device to push back against the FTT idea generally and the recent state efforts in New Jersey to enact an FTT.

POTUS restricts investment in certain Chinese firms

On November 12, President Trump signed an [Executive Order](#) (EO) to prohibit, by any U.S. person, “any transaction in publicly traded securities, or any securities that are derivative of, or are designed to provide investment exposure to such securities” of [certain identified Chinese companies](#) that have been tied to the People’s Liberation Army (PLA).

The ban on such transactions takes effect January 11, 2021. U.S. persons have until November 11, 2021, to divest any holdings in the identified companies that were held as of January 11, 2021. Any sales of those holdings would need to be to non-U.S. persons.

The EO does not explicitly require divestment but suggests that any U.S. person continuing to hold securities after November 11, 2021, would subsequently be unable to divest those securities or conduct any new transactions involving those securities, effectively freezing the holding.

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References and source material used in this publication

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Financial Factors in Selecting Plan Investments

<https://www.dol.gov/sites/dolgov/files/EBSA/temporary-postings/financial-factors-in-selecting-plan-investments-final-rule.pdf>

Final Registration Rules for Pooled Plan Providers

<https://www.dol.gov/sites/dolgov/files/EBSA/temporary-postings/registration-requirements-for-pooled-plan-providers-final-rule.pdf>

DOL News Release Accompanying Final Rules for PPPs

<https://www.congress.gov/bill/116th-congress/house-bill/8440>

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Text of H.R. 8695, Protecting Retirement Savers and Everyday Investors Act

<https://www.congress.gov/bill/116th-congress/house-bill/8695/text>

Executive Order on Addressing the Threat from Securities Investments that Finance Communist Chinese Military Companies

<https://www.whitehouse.gov/presidential-actions/executive-order-addressing-threat-securities-investments-finance-communist-chinese-military-companies/>

DOD Releases List of Additional Companies, in Accordance with Section 1237 of FY99 NDAA

<https://www.defense.gov/Newsroom/Releases/Release/Article/2328894/dod-releases-list-of-additional-companies-in-accordance-with-section-1237-of-fy/>

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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.

About this report

BOB BEASLEY, CRC, Communications Consultant, edits this report. Beasley brings more than 30 years of financial services communications experience to your plan. He has contributed to past editions of the *Governmental 457(b) Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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