

# Legislative and Regulatory Report

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

## October 2024

### Inside this issue

GAO releases report on 401(k) fee disclosures .....	1
IRS issues guidance on benefit overpayments .....	1
Chair Gensler uses fireside chat to discuss SEC's role .....	2

### GAO releases report on 401(k) fee disclosures

On October 28, the Government Accountability Office (GAO) released a [report](#) indicating that over a decade of 401(k) fee disclosure regulations has had positive effects on plan sponsors and participants. The regulations have improved sponsors' awareness and management of retirement plans, especially for smaller plans, while participants have gained better insights into their options. However, concerns persist about the understanding of fee information. The report suggests that reductions in fees are due more to competition and litigation than the disclosures themselves. Additionally, the number of investment options has increased. The Department of Labor (DOL) is expected to provide further updates on these regulations by December 2025.

### IRS issues guidance on benefit overpayments

On October 15, the IRS issued guidance to clarify the treatment of inadvertent benefit overpayments as well as contributions to correct them. The guidance comes in [Notice 2024-77](#). The notice provides guidance on Internal Revenue Code (IRC) Sections 414(aa) and 402(c)(12). The former addresses the requirements of IRC Sections regarding inadvertent overpayments; the latter addresses the treatment of certain inadvertent benefit overpayments as eligible rollover distributions. Both were added to the IRC by the SECURE 2.0 Act. The Department of the Treasury and the IRS will accept comments on the notice in writing through Dec. 16, 2024.

### Chair Gensler uses fireside chat to discuss SEC's role

On October 9, in a [discussion](#) at the New York University Law Institute for Corporate Governance & Finance, SEC Chair Gary Gensler addressed judicial challenges to Commission rules, emphasizing the importance of the judicial system in shaping market behavior. He acknowledged the evolving stance of the Supreme Court regarding the “administrative state” and highlighted the need for the Commission to adapt if courts interpret the law differently, despite his disagreement with some recent 5th Circuit rulings. Regarding Congress's role, Gensler noted that lawmakers often leave regulatory questions to agencies and the judiciary. When it comes to climate and social issue disclosures, he reiterated that the SEC's primary focus is on securities regulation but acknowledged that these issues significantly impact investors and corporate governance. Gensler affirmed the Commission's responsibility to oversee relevant corporate governance mechanisms within public companies.

### References and source material used in this publication

“401(k) Plans: Reported Impacts of Fee Disclosure Regulations, and DOL Efforts to Support Implementation of Regulations,” <https://www.gao.gov/products/gao-24-107125> (Oct. 28, 2024).

“Guidance Under Sections 414(aa) and 402(c)(12) of the Internal Revenue Code with Respect to Inadvertent Benefit Overpayments,” <https://www.irs.gov/pub/irs-drop/n-24-77.pdf> (Oct. 15, 2024).

“Fireside Chat at the NYU Law Institute for Corporate Governance & Finance,” <https://www.sec.gov/newsroom/meetings-events/fireside-chat-nyu-law-institute-corporate-governance-finance> (Oct. 9, 2024).

### 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](https://nrsforu.com/plansponsor).



Nationwide and the Nationwide N and Eagle are service marks of Nationwide Mutual Insurance Company. © 2024 Nationwide  
NRM-22496AO (11/24)

2

**Tip: Click on highlighted words to go to the topic being discussed.**

**FOR PLAN SPONSOR USE**

Information presented in this newsletter was current and accurate as of the date of publication. This information is of a general and informational nature and is NOT INTENDED TO CONSTITUTE LEGAL OR INVESTMENT ADVICE. Rather, it is provided as a means to inform you of current information about legislative and regulatory changes and other information of interest. Plan Sponsors are urged to consult their own counsel regarding this information.