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# Aon Publications on Federal Developments in 2022

*January 2023*

## Insights and Summaries

Aon provided insights into numerous developments last year that had an impact on employer-provided health and retirement plans and human resources policies and practices. Aon bulletins highlighted issues for employers arising out of the Inflation Reduction Act of 2022 and regulatory guidance issued under the No Surprises Act (NSA). They also provided analysis of developments involving COVID-19 vaccination requirements, ERISA fiduciary investment regulations, telehealth for high-deductible health plans (HDHPs), Affordable Care Act (ACA) requirements for transparency in coverage, health care nondiscrimination rules, filing and reporting requirements, mental health parity, crypto risks and cybersecurity in retirement plans, the impact of the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* on employers and health insurers, and many other matters affecting the workplace and employee benefits. In addition, the 2022 Aon Compliance Calendar alerted employers to significant compensation and benefit due dates for retirement and health and welfare plans and Retirement Legal Consulting & Compliance Quarterly Updates kept employers on top of new regulatory guidance, court rulings, and hot topics in the retirement plan arena. This report gathers together 2022 U.S. Aon bulletins, with direct links to the publications.

## January 2022

### ***IRS Permanently Extends Due Date for Sending Form 1095-C to Individuals***

The Internal Revenue Service (IRS) published a Proposed Rule in the *Federal Register* which permanently provides employers and insurers a 30-day extension to furnish Forms 1095-B and 1095-C to individuals.

For the 2021 reporting year and all subsequent years, the federal deadline for furnishing the Form 1095-C to individuals is March 2, except for leap years (in which case the deadline is March 1) and years in which the deadline falls on a weekend. While the Proposed Rule is not final, the IRS has indicated that employers may rely upon the Proposed Rule until it is finalized.

The Aon bulletin is available [here](#).

### ***DOL Announces Temporary Reasonable Good Faith Standard for Disclosures by Group Health Plan Service Providers***

The U.S. Department of Labor (DOL) announced a temporary enforcement policy applying a reasonable good faith standard for disclosures required to be made by certain health plan service providers to plan fiduciaries under the Consolidated Appropriations Act of 2021.

The policy, announced in Field Assistance Bulletin (FAB) No. 2021-03 on December 30, 2021, provides that a covered service provider will not be treated as having failed to make the required disclosures as long as the service provider makes disclosures in accordance with a reasonable good faith



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interpretation of the requirements. The FAB also provides additional guidance for plans and service providers on what constitutes reasonable good faith interpretations.

Employers who are group health plan fiduciaries should be receiving these disclosures from their covered service providers. If not, employers/plan fiduciaries should be prepared to ask their covered service providers for this information.

This bulletin discusses:

- The background to the disclosure rules;
- The DOL's temporary enforcement policy; and
- The DOL's guidance on reasonable, good faith interpretations.

The Aon bulletin is available [here](#).

### ***Departments Require First-Dollar Coverage of OTC COVID-19 Tests***

Employer group health plans and health insurance issuers must provide first-dollar coverage of over-the-counter (OTC) COVID-19 tests, regardless of an order or clinical assessment, starting January 15, 2022, according to guidance released by the U.S. DOL, Treasury, and Health and Human Services (the Departments). The guidance, issued as frequently asked questions (FAQs), contains two safe harbors that plans can adopt to avoid enforcement actions, one covering delivery and pricing of the OTC COVID-19 tests, and one covering number and frequency of such tests.

This Aon bulletin discusses:

- First-dollar coverage of OTC COVID-19 tests without a clinical assessment;
- Safe harbor one: Plans cannot limit coverage to preferred pharmacies;
- Safe harbor two: Limits on number and frequency of OTC COVID-19 test purchases;
- Preventing fraud and abuse; and
- What employers should do now.

The Aon bulletin is available [here](#).

### ***2022 Aon Compliance Calendar: Significant Retirement and Health & Welfare Due Dates***

Aon is pleased to present its 2022 *Compliance Calendar* to help plan sponsors identify significant compensation and benefit due dates for retirement and health and welfare plans. This *Compliance Calendar* includes relevant dates involving plan disclosures, contribution and distribution requirements, and various plan-related regulatory filings.

This *Compliance Calendar* assumes a plan administered on a calendar year basis by an employer with a calendar fiscal year. In general, the information for pension plans applies to single employer plans; other plans, such as multiemployer plans (e.g., Taft-Hartley plans) or government plans, may be subject



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to different requirements, and are not included. Additionally, certain compliance dates related to group health plan coverage or retiree prescription drug coverage have been included where applicable.

The *Compliance Calendar* is intended to alert the reader to some of the more significant dates for 2022 and is not intended to identify all compliance obligations or due dates.

The *2022 Aon Compliance Calendar: Significant Retirement and Health & Welfare Due Dates* is available [here](#).

### ***Supremes Block OSHA Vax-or-Test Mandate for Private Employers but Allow CMS's Vax Mandate for Federal Health Care Workers***

The U.S. Supreme Court issued a split decision in the challenges to the federal government's vaccine mandates, issuing a stay of the Occupational Safety and Health Administration (OSHA) vaccine-or-test requirement for private employers, but allowing the Centers for Medicare & Medicaid Services (CMS) vaccination requirement for health care workers in facilities participating in Medicare and Medicaid programs to remain in place while challenges to both mandates proceed. The decisions mean that, while the legal challenges proceed, the OSHA vaccine-or-test requirement for employers will not go into effect, but the CMS mandate for health care workers in Medicare and Medicaid facilities will remain in effect.

The Aon bulletin is available [here](#).

### ***Medicare Part D Disclosure Reminder***

This Aon bulletin is a reminder of an annual disclosure requirement applicable to most employers that provide prescription drug coverage to individuals who are Medicare Part D-eligible. This disclosure is not new and should have occurred each year since 2006. The disclosure applies regardless of whether an employer provides retiree prescription drug benefits.

For 2022 calendar year plans, the disclosure must occur no later than March 1, 2022. The annual disclosure must occur for any employer that provides prescription drug coverage to anyone who is Medicare Part D-eligible.

The Aon bulletin is available [here](#).

### ***Aon Publications on Federal Developments in 2021***

The year 2021 marked the second year profoundly impacted by the COVID-19 pandemic. Aon provided insights into numerous legislative and regulatory developments throughout 2021 that affected employers. Many of the developments consisted of efforts by the U.S. federal government and employers to ameliorate the impact of COVID-19 on the nation's economy, workforce, and health systems. As the year closed, the federal government's vaccine-or-test/mask mandate for employers with 100 or more employees, its federal contractor vaccination mandate, and its vaccination mandate for health care workers were still mired in litigation. Earlier in the year, employers grappled with whether to provide incentives for COVID-19 vaccinations, requirements for covering COVID-19 diagnostic testing and preventive services, providing employee leave for COVID-19 vaccinations, and many other COVID-19-related matters that affected the workplace.

In addition to pandemic issues, Aon tracked other developments in human resources and employer-provided health and retirement plans. The topics covered in Aon U.S. bulletins and white papers in 2021 included pooled employer plans, “no surprises” medical billing, pension funding relief, mental health parity, defined contribution plan fee litigation, health plan price transparency, pension risk transfer, USERRA paid military leave, prescription drug cost reporting requirements, alternative-type investments in retirement plans, nondiscrimination rules on sexual identity and gender identity, health savings accounts (HSAs), and HDHPs. This bulletin gathers together Aon bulletins and white papers that highlighted significant developments in 2021, with direct links to the publications.

The Aon bulletin is available [here](#).

### ***HHS Yet Again Renews COVID-19 Public Health Emergency Declaration***

On January 14, 2022, Secretary of Health and Human Services (HHS) Xavier Becerra again renewed the public health emergency (PHE) declaration. The renewal extends the PHE for another 90 days, effective January 16, 2022, although the Secretary has the right to terminate the declaration prior to its expiration date.

The Aon bulletin is available [here](#).

### ***Updates Released for ACA Preventive Services***

On January 10, 2022, the U.S. Preventive Services Task Force and the Health Resources and Services Administration released updated guidance on ACA preventive services with respect to colonoscopies and services for women and children.

The Aon bulletin is available [here](#).

## **February 2022**

### ***Retirement Legal Consulting & Compliance Quarterly Update***

Our Retirement Legal Consulting & Compliance practice group's *Quarterly Update* highlighted legal developments for the first quarter of 2022 and included the following articles:

- Pooled Employer Plans Launched and Ready for Acceleration
- Plaintiffs and Regulators Take Aim at Cross-Selling Participant Data
- Litigation May Result if Plan Governance Rules Not Followed
- Do Not Ignore Compliance Regulations in 2022
- Proposed Rule on ESG Considerations and Investment Duties
- IRS Provides FAQs Regarding Rehiring or Retaining Retirees
- Recently Released EBSA Fact Sheet Provides Summary of Enforcement Efforts
- IRS Clarifies Ability to Rely on IRS Answers to Frequently Asked Questions

- Quarterly Roundup of Other New Developments
- Recent Publications

The first quarter 2022 issue of the *Retirement Legal Consulting & Compliance Aon Quarterly Update* is available [here](#).

## ***Departments Clarify Guidance on Coverage of OTC COVID-19 Tests***

On February 4, 2022, the Departments issued further guidance on the requirement that health plans offer first-dollar coverage of OTC COVID-19 tests without a prescription, individualized clinical assessment from a provider, prior authorization, or other medical management requirements.

This Aon bulletin discusses:

- Background on coverage of OTC COVID 19 tests, including the two safe harbors for implementing this coverage;
- Employer flexibility in designing direct coverage of the OTC COVID-19 tests for plan participants under the safe harbor;
- Compliance with the safe harbor when faced with a shortage of OTC COVID-19 tests;
- Issues of fraud and abuse in reimbursing OTC COVID-19 tests;
- Miscellaneous issues, including prohibitions against double-dipping; and
- What employers should do now.

The Aon bulletin is available [here](#).

## ***Report to Congress Highlights Health Plan Violations of Mental Health Parity Law***

In January 2022, the Departments submitted a report to Congress (*2022 MHPAEA Report to Congress*) on their activities related to the Mental Health Parity and Addiction Equity Act (MHPAEA). The report focused on the Departments' MHPAEA enforcement activities and included details regarding group health plan violations of MHPAEA.

This Aon bulletin discussed:

- Background
- The DOL's Findings on NQTLs and Violations
- Analysis
- What Employers Should Do

The Aon bulletin is available [here](#).

## March 2022

### ***EEOC Updates Employer Guidance on Religious Objections to Employer COVID-19 Vaccine Mandates***

The Equal Employment Opportunity Commission (EEOC) has issued updated guidance for employers on how to handle religious objections to COVID-19 vaccinations and requests for accommodation under Title VII of the Civil Rights Act of 1964.

This Aon Bulletin discusses:

- Background
- The EEOC's Updated FAQs
- What Employers Should Do
- Resources

The Aon bulletin is available [here](#).

### ***CAA 2022 Temporarily Revives Telehealth Relief for HDHPs While Creating Coverage Gap for 2022***

The Consolidated Appropriations Act 2022 (CAA 2022 - H.R. 2471) signed into law by President Biden on March 15, 2022, temporarily revives the provision allowing an HDHP to offer access to telehealth coverage and other remote care without adversely impacting an HDHP participant's ability to make or receive contributions to an HSA. This relief provision is effective on a prospective basis starting April 1, 2022, and ending December 31, 2022.

The Aon bulletin is available [here](#).

### ***Department of Labor Issues Guidance on Prohibited Retaliation Under the FMLA***

The DOL recently published FAB 2022-2, which provides information about worker protections from interference and retaliation under the Fair Labor Standards Act and the Family and Medical Leave Act (FMLA). This Aon bulletin covers the FMLA guidance in FAB 2022-2.

The Aon bulletin is available [here](#).

## April 2022

### ***Biden Administration Proposes Regulations Fixing "Family Glitch" in Eligibility for Exchange Subsidies***

On April 4, 2022, the Biden Administration proposed new regulations that would expand the rules on eligibility for premium tax credits when individuals who have not been offered "affordable coverage" from an employer purchase health care coverage from a public health insurance Exchange (the "public Exchange"). The proposed regulations, if adopted in final form, would revise the definition of "affordable coverage" to include the cost of family coverage offered by an employer.

This Aon bulletin addresses the following:

- Background on the existing requirements;
- What the proposed regulations would do;
- Employer impact; and
- Next steps.

The bulletin is available [here](#).

### ***HHS Again Renews COVID-19 PHE Declaration***

On April 12, 2022, Secretary of HHS Xavier Becerra again renewed the PHE declaration. The renewal extends the PHE for another 90 days, effective April 16, 2022, although the Secretary has the right to terminate the declaration prior to its expiration date.

The Aon bulletin is available [here](#).

## **May 2022**

### ***IRS Issues 2023 HSA Limits***

On April 29, 2022, the IRS issued Revenue Procedure 2022-24, inflation-adjusted limits for contributions to an HSA for the 2023 calendar year. The IRS also issued updated minimum deductible amounts and maximum out-of-pocket (OOP) limits. This bulletin contains a chart providing the limits for calendar years 2021 through 2023.

The Aon bulletin is available [here](#).

### ***Employer Group Health Plans and Insurers Face July 1 Date for Implementing Phase 1 of Transparency in Coverage Rule***

The federal government's years-long effort to foster transparency in employer group health plans begins in less than two months, with group health plans and health insurers facing a July 1, 2022, compliance date to publish certain price information in machine-readable files on a public website.

This bulletin discusses:

- Background to the Transparency in Coverage Rules
- Phase 1—What Are Machine-Readable Files?
- Plans That Must Publish Machine-Readable Files Under Phase 1
- The Rules for Publishing Machine-Readable Files

The Aon bulletin is available [here](#).

## **Retirement Legal Consulting & Compliance Quarterly Update**

Our Retirement Legal Consulting & Compliance practice group's *Quarterly Update* highlighted legal developments for the second quarter of 2022 and included the following articles:

- DOL Warns 401(k) Plan Fiduciaries About Crypto Risks
- Lots of Choice Does Not Save Imprudent Plan Investments from Lawsuit
- Actuarial Equivalence Lawsuits: Current State of Play
- Poorly Drafted SPD Language Can Result in a Fiduciary Breach
- Proposed Regulations Limit Tax Deferral Strategies
- Proposed RMD Rules Bring Changes to 403(b) Plans
- Quarterly Roundup of Other New Developments

The second quarter 2022 issue of the *Retirement Legal Consulting & Compliance Aon Quarterly Update* is available [here](#).

## **Employer Considerations in Anticipating a Post-Roe World**

With national attention focused on whether the U.S. Supreme Court (SCOTUS) will overturn *Roe v. Wade* when it issues its decision this term in *Dobbs v. Jackson Women's Health Organization*, employer plan sponsors are considering various approaches if the SCOTUS decision, expected by the end of June, leads to disparate state laws regarding reproductive services like abortion.

This bulletin addresses:

- State of the States;
- Travel Benefits;
- Taxability;
- ERISA Preemption; and
- Other Considerations.

The Aon bulletin is available [here](#).

## **June 2022**

### ***U.S. Supreme Court Overrules Roe v. Wade and Planned Parenthood v. Casey***

In a landmark ruling, the U.S. Supreme Court held in *Dobbs v. Jackson Women's Health Organization* that the U.S. Constitution does not confer a right to abortion and that states may regulate the practice of abortion. In doing so, the Court overturned *Roe v. Wade* and *Planned Parenthood v. Casey*, two cases that had governed legislative restrictions on abortion services, and upheld a Mississippi law that generally prohibited abortion services after the fifteenth week of pregnancy.



This bulletin addresses:

- The *Dobbs* Decision
- State Laws Regulating Abortion Services
- Adopting and Expanding Travel and Lodging Benefits for Abortion Services
- Tax Implications for Travel and Lodging Expenses
- Next Steps for Employers

The Aon bulletin is available [here](#).

## July 2022

### ***CMS Forecasts Upcoming Guidance on ACA Transparency Machine Readable Files***

The ACA Transparency in Coverage provisions require that most group health plans and insurers post Machine Readable Files (MRFs) by July 1, 2022. The CMS recently posted an FAQ that could mean a relaxation of certain requirements for a subset of employers and that the Departments would be issuing formal guidance “soon.”

This Aon bulletin addresses:

- Overview of the ACA transparency MRF requirements;
- Who is responsible for implementation;
- The CMS FAQ that provides insight into future official guidance, including what is missing; and
- Next steps for employers.

The Aon bulletin is available [here](#).

### ***HHS Renews Public Health Emergency Declaration . . . Again***

On July 15, 2022, Secretary of HHS Xavier Becerra once again renewed the PHE declaration, extending the PHE for another 90 days, effective July 15, 2022, although the Secretary has the right to terminate the declaration prior to its expiration date.

The Aon bulletin is available [here](#).

### ***EEOC Tightens Up Guidance on COVID-19 Workplace Testing***

The EEOC recently updated its guidance document entitled *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws*. The newly revised guidance is effective as of July 12, 2022.

The Aon bulletin is available [here](#).

## August 2022

### ***After Dobbs, Departments Emphasize ACA Contraceptive Coverage Requirements***

In the wake of the Supreme Court decision in *Dobbs v. Jackson*, newly issued FAQs from the U.S. government emphasize that health insurers and employers sponsoring non-grandfathered group health plans must provide coverage for contraceptive items and services, including Food and Drug Administration-approved products and emergency contraceptives under the ACA preventive care requirements.

The FAQs, issued by the Departments, contain guidance to assist plans and issuers to help individuals obtain access to such services without cost-sharing.

The Aon bulletin is available [here](#).

### ***HHS Proposes New Section 1557 Health Care Nondiscrimination Rules***

HHS released a proposed rule on July 25, 2022, (the 2022 Proposed Rule) that would reinstate and broaden the protections under the ACA's Section 1557 prohibition against discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs and activities. While similar to the original rules issued in 2016, the 2022 Proposed Rule is not identical. If finalized in its current form, the regulations aim to enhance health care protections for the LGBTQ community, women who need access to reproductive health care, and expand access to health care for individuals with limited English proficiency and disabilities.

The Aon bulletin is available [here](#).

### ***IRS Announces Lower 2023 Affordability Percentage for ACA Employer Mandate***

On July 29, 2022, the IRS announced that the required contribution percentage used by employers for complying with the ACA's employer mandate will again decrease for plan years beginning in calendar year 2023.

The Aon bulletin is available [here](#).

### ***Retirement Legal Consulting & Compliance Quarterly Update***

Our Retirement Legal Consulting & Compliance practice group's *Quarterly Update* highlighted legal developments for the third quarter of 2022 and included the following articles:

- Supporting DEI in Retirement Plans
- Cybersecurity Continues to Be a Hot Topic: DOL Audits and Litigation on the Rise
- IRS Pre-Audit Notification and Self-Correction Program for Retirement Plans
- Pooled Employer Plans Provide Cost Savings and Fiduciary Risk Reduction Opportunities
- Federal Court Declines to Enforce Specified Limitation Period
- Sixth Circuit Rejects Employer Attempt to Compel Arbitration

- Quarterly Roundup of Other New Developments

The third quarter 2022 issue of the *Retirement Legal Consulting & Compliance Aon Quarterly Update* is available [here](#).

## ***Congress Passes Inflation Reduction Act of 2022***

President Biden is expected to sign into law the Inflation Reduction Act of 2022, which was passed by Congress on August 12, 2022. While the Act addresses tax policy, climate change, and other provisions, it also includes certain health provisions that will impact employers and employer group health plans.

This Aon bulletin discusses the following:

- **Medicare Drug Pricing.** The Act enables HHS to negotiate Medicare prescription drug prices with drug manufacturers and caps the cost of insulin for Medicare beneficiaries.
- **Drug Manufacturer Rebate Payments to Medicare.** The Act requires drug manufacturers to pay rebates to Medicare if they charge certain prescription drug prices higher than the cost of inflation.
- **Cost of Insulin.** The Act includes a \$35 monthly cap on OOP spending on insulin for Medicare beneficiaries.
- **Medicare Part D Prescription Drug Cap.** The Act establishes an annual OOP spending cap of \$2,000 for Medicare beneficiaries.
- **Part D Reinsurance Subsidy Reduced.** The Act reduces the federal government's reinsurance subsidy from 80 percent to 20 percent starting in 2025.
- **Part D Premium Stabilization.** The increase in the base Medicare Part D premium is limited to 6 percent annually from 2024 through 2029.
- **Extension of ACA Premium Tax Credits.** The Act extends the expanded ACA premium tax credits until 2025.
- **HDHP Safe Harbor for Insulin Coverage.** The Act codifies that an HDHP that does not impose a deductible for insulin-related products can still be treated as an HDHP.
- **Impact on Employer Group Health Plans.** This Aon bulletin addresses these health-related provisions and any potential impacts on employer-sponsored health plans.

The bulletin is available [here](#).

## ***Employer Health Plans Face December 27 Deadline for Submitting Rx Data to CMS***

Employers sponsoring group health plans must begin preparing for the first Prescription Drug Data Collection (RxDC), which is due on December 27, 2022. The RxDC submission includes medical, prescription drug, and premium/premium equivalent information and likely will require assistance from more than one vendor.

This Aon bulletin discusses:

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- RxDC Submission Dates;
  - Plans and Insurers Subject to the RxDC Submission Requirements;
  - Elements of the RxDC Submission—Plan Files, Data Files, and Narrative Responses;
  - Submitting the Plan Files, Data Files, and Narrative Responses to CMS;
  - Impact on Employers, including certain compliance issues, such as collecting and filing data from the pharmacy benefit manager and third-party administrator; and
  - Evolving Guidance.

The Aon bulletin is available [here](#).

## September 2022

### ***Departments Issue Transparency FAQs Limiting Employer Responsibility for Posting MRF Links***

FAQs issued by the Departments last month narrow an employer's responsibility for posting links to MRFs as part of the Transparency in Coverage requirements of the ACA.

While most employers sponsoring self-insured medical plans can rely upon third-party administrators and other service providers to post the MRFs on the plan's behalf, the Departments' guidance makes clear that employer plans with a public website must post their own links to MRFs in certain circumstances.

The Departments also have included in the new Part 55 FAQ a minor FAQ on the upcoming internet-based self-service tool for participants. The CMS updated its list of technical FAQs to clarify that, while there is no requirement for plans to retain copies of the MRFs that are updated monthly, plans are encouraged to retain records to demonstrate compliance.

The Aon bulletin is available [here](#).

### ***Departments Issue Final Regulations and Additional FAQs Regarding the No Surprises Act***

On August 26, 2022, the Departments published final regulations under the NSA passed by Congress in late 2020. In addition, on August 19, 2022, the Departments issued guidance on the NSA in FAQs Part 55. These FAQs address a number of questions regarding the application and implementation of the NSA.

This Aon bulletin addresses the following:

- Background;
- Final Regulations Under the NSA;
- FAQ Guidance Under the NSA; and

- Employer Actions.

The Aon bulletin is available [here](#).

## October 2022

### ***SSA Releases 2023 Indexed Figures; Announces 8.7% Benefit Increase***

The Social Security Administration (SSA) released the Social Security 2023 indexed figures on October 13, 2022. The SSA announced that there will be an 8.7% Cost-of-Living Adjustment (COLA) for 2023. Some other changes that take effect in January of each year are based on the increase in average wages.

The Aon bulletin that covers the 2023 COLA and other relevant figures is available [here](#).

### ***IRS Issues Final Regulations Fixing “Family Glitch” in ACA Subsidies, Adds New Cafeteria Plan Change in Status Rule for Exchange Eligibility***

On October 11, 2022, the IRS issued final regulations that expand the eligibility rules for family members to obtain subsidies on the public health insurance Exchange when they have not been offered affordable employer-sponsored health plan coverage. Separately, the IRS also expanded the cafeteria plan change-in-status rules to permit employees to change elections mid-year to allow family members to enroll in health care coverage on the public Exchange.

The final regulations fixing the “family glitch” and the guidance on the new change-in-status rules are effective starting after 2022.

This Aon bulletin addresses the following:

- Background on ACA Subsidies and “Family Glitch”
- Final Regulations Fix “Family Glitch”
- IRS Expands Cafeteria Plan Rules to Permit Enrollment in Public Exchange
- Employer Impact
- Next Steps

The Aon bulletin is available [here](#).

### ***Retirement Legal Consulting & Compliance Year-End Update***

Aon’s Retirement Legal Consulting & Compliance practice presented its *Year-End Update* of recent developments and risk mitigation strategies for retirement plan sponsors and fiduciaries to consider.

The summary highlighted several key considerations including:

- Risk mitigation strategies for plan sponsors and fiduciaries to consider in 2022
- Discretionary amendments for defined benefit and defined contribution plans that may prove helpful to avoid or limit litigation exposure

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- Description of the now-delayed SECURE Act, CARES Act, and Miners Act changes and a reminder that while plan amendments are delayed, operational compliance is presently required
  - Opportunities to streamline DB plans in anticipation of a future plan termination

The *Year-End Update: Recent Developments and Risk Mitigation Strategies for Plan Sponsors and Fiduciaries* is available [here](#).

### ***Once More With Feeling?—HHS Renews Public Health Emergency Declaration***

HHS Secretary Xavier Becerra once again renewed the PHE declaration, effective October 13, 2022. The declaration extends the PHE for another 90 days, although the Secretary has the right to terminate the declaration prior to its expiration date, with 60 days' advance notice.

The Aon bulletin is available [here](#).

### ***IRS 2023 Official Indexed Figures for Retirement Plans and Other Employee Benefit Plans***

The IRS issued Information Release 2022-188 on October 21, 2022, providing the 2023 official indexed figures for retirement plans and other employee benefit plans. The IRS issued technical guidance detailing these items in Notice 2022-55.

The Aon bulletin, which provides the official limits of most interest to large and medium employers, as well as the official 2023 key employee pay thresholds for top-heavy plans, is available [here](#).

### ***IRS Issues 2023 Benefit Contribution Limits***

On October 18, 2022, the IRS issued Revenue Procedure 2022-38, updating the indexed contribution limits for certain employee benefit programs.

The Aon bulletin is available [here](#).

## **November 2022**

### ***Retirement Legal Consulting & Compliance Quarterly Update***

Our Retirement Legal Consulting & Compliance practice group's *Quarterly Update* highlighted legal developments for the fourth quarter of 2022 and included the following articles:

- Living by Proxy: New SEC Pay Versus Performance Disclosures
- A Look Ahead: What's in Store for Plan Amendments?
- Cryptocurrency Funds: Should 401(k) Plans Consider?
- DOL Proposes Amendments to QPAM Exemption
- New Court Decision Reflects Possible Post-*Hughes* Emerging Consensus
- Don't Buy Retail When Plan Can Buy Institutional

- Plan Sponsor Wins Dismissal of Stock-Drop Allegations
- Quarterly Roundup of Other New Developments

The fourth quarter 2022 issue of the *Retirement Legal Consulting & Compliance Aon Quarterly Update* is available [here](#).

### ***IRS Clarifies Earlier Guidance on New Cafeteria Plan Change in Status Rule for Exchange Eligibility***

The IRS amended its cafeteria plan election change guidance under Notice 2022-41 to clarify that the new rule also applies to *all cafeteria plans, including calendar year cafeteria plans*.

The Aon bulletin is available [here](#).

### ***IRS Announces Increased PCORI Fee***

On November 14, 2022, the IRS issued Notice 2022-59 announcing the applicable Patient-Centered Outcomes Research Institute (PCORI) fee for plan years that end on or after October 1, 2022, and before October 1, 2023 (e.g., the applicable PCORI fee for 2022 calendar year plans).

The Aon bulletin is available [here](#).

### ***2023 Limits for Benefit Plans***

Each year, the U.S. government adjusts the limits for retirement plans, Social Security, Medicare, and other benefit programs to reflect price and wage inflation, and changes in the law. As a result, employee benefit plans must be adapted annually to accommodate the new limits. All of the numbers in this report are official unless otherwise indicated.

The Aon bulletin is available [here](#).

## **December 2022**

### ***Client Alert: New ESG and Proxy Voting Guidance—Highlights and Next Steps for Plan Fiduciaries***

On November 22, 2022, the DOL's Employee Benefits Security Administration issued final regulations relating to a fiduciary's investment duties under ERISA. This Aon Client Alert provided highlights of the final fiduciary investment regulations and next steps for plan fiduciaries.

The Client Alert: *New ESG and Proxy Voting Guidance—Highlights and Next Steps for Plan Fiduciaries*, is available [here](#).

### ***IRS Permanently Extends Due Date for Sending Form 1095-C to Individuals***

The IRS is permanently extending by 30 days the reporting deadline for employers and insurers to furnish Forms 1095-C and 1095-B to individuals. The IRS by final rule adopts the 30-day extension and also marks the end of penalty relief for information reporting errors that were made in "good faith."

The Aon bulletin is available [here](#).



## About Aon:

[Aon plc](#) (NYSE: AON) exists to shape decisions for the better — to protect and enrich the lives of people around the world. Our colleagues provide our clients in over 120 countries and sovereignties with advice and solutions that give them the clarity and confidence to make better decisions to protect and grow their business.

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