

City of Sacramento
Defined Contribution Plans Committee Report
915 I Street Sacramento, CA 95814
www.cityofsacramento.org

File ID: 2026-01181

6/17/2026

Fiduciary Review

File ID: 2026-01181

Location: Citywide

Recommendation: Review and file.

Contact: Samantha Hardy, Interim Director, (916) 808-7657, shardy@cityofsacramento.org,
Department of Human Resources

Presenter: None

Attachments:

1-Description/Analysis

2-2026 1st Quarter Plan Fiduciary Advisor Newsletter

3-2025 4th Quarter Plan Fiduciary Advisor Newsletter

Description/Analysis

Issue Detail: Fiduciary Consulting Group provides a quarterly newsletter focused on fiduciary-relevant items for public agency plans.

Policy Considerations: None.

Economic Impacts: None.

Environmental Considerations: This action is not subject to the California Environmental Quality Act (CEQA) because it is not a "project" as defined in section 15378 of the CEQA Guidelines.

Sustainability: None.

Commission/Committee Action: None.

Rationale for Recommendation: The City contracts with Fiduciary Consulting Group to provide retirement plan consulting services, including providing legal and regulatory updates relative to the City's deferred compensation plans.

Financial Considerations: None.

Local Business Enterprise (LBE): Not applicable.

Fiduciary Consulting Group

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1Q | 2026 The 457(b) Plan Fiduciary Advisor Newsletter

Newly Proposed Rule is Unveiled to Remove Restrictions on Alternative Investments in Retirement Plans

“The proposed rule, titled “Fiduciary Duties in Selecting Designated Investment Alternatives,” establishes a process-based safe harbor for fiduciaries’ duty of prudence under the Employee Retirement Income Security Act (ERISA) in selecting investment options for participant-directed individual account plans. The proposed rule aims to “alleviate certain regulatory burdens and litigation risk” with alternative investments—including alternative assets such as private equity, real estate, digital assets like cryptocurrency, commodities, infrastructure, and lifetime income strategies.

The DOL [Department of Labor] accomplishes this by removing the focus on alternative investments and returning to the U.S. Securities and Exchange Commission’s (SEC) 1979 investment duties regulation, expanding on that guidance. If the proposal is finalized, it would provide greater clarity and reduce the legal risk for plan fiduciaries that include alternative assets in employer-sponsored retirement plans.” [Read more here.](#)¹

House Passes Bill to Restrict ESG Investment in Retirement Plans

“The House of Representatives passed, by a 213 to 205 vote on Thursday [January 15, 2026], legislation that would make it harder for fiduciaries to consider environmental, social and governance factors when making investment decisions.

The Protecting Prudent Investment of Retirement Savings Act, introduced by Representative Rick Allen, R-Georgia, would limit fiduciary consideration of “nonpecuniary factors” such as ESG factors when managing retirement accounts under the Employee Retirement Income Security Act, requiring fiduciaries to instead focus solely on maximizing returns.” [Read more here.](#)²

Fiduciary liability: A look ahead to 2026

“In 2025, we saw both positive and negative developments in fiduciary litigation and enforcement, and, as a result, the fiduciary insurance market remained stable. Premiums largely remained flat, with some insurers willing to offer improved terms to insureds with positive or improved risk profiles. Plaintiff lawyers continued to pursue relatively new theories of liability, including one new

type of fiduciary class action in the final days of 2025 (four novel class actions relating to voluntary benefit programs, which may or may not be subject to ERISA regulation).” [Read more here.](#)³

2024 Fiduciary Rule are Rolled Back, Redefining 2020 Interpretation of Five-Part Test

“Texas federal district courts entered orders vacating the Department of Labor’s (“DOL”) 2024 regulation (the “2024 Fiduciary Rule”) re-defining the circumstances under which a person will be deemed to act as a fiduciary under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), by reason of providing investment advice. The DOL’s related 2024 prohibited transaction exemption (“PTE”) amendments were also vacated.[1] The DOL then quickly moved, on March 18, to re-codify the DOL’s 1975 regulation providing that a person will be deemed an investment advice fiduciary if all elements of a five-part test are met (the “Five-Part Test”) and confirm that the pre-amendment versions of the PTEs will be restored. At the same time, the DOL withdrew its preamble to PTE 2020-02, which contained an interpretation of the Five-Part Test that also gave rise to litigation.” [Read more here.](#)⁴

IRS Postpones Proposed RMD Rules

“The IRS announced on Feb. 23 that it is extending the applicability date of the proposed required minimum distribution (RMD) regulations. It said so in Announcement 2026-07.

The IRS says it anticipates that the applicability date will be extended until the distribution calendar year that begins no earlier than six months after final regulations are published in the Federal Register. In the meantime, according to the announcement, taxpayers must apply a reasonable good-faith interpretation of the statutory provisions underlying the regulations.” [Read more here.](#)⁵

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¹Source: March 30, 2026, Ogletree Deakins: "DOL Unveils Proposed Rule to Remove Restrictions on Alternative Investments in 401(k) Plans"

²Source: January 15, 2026, PlanSponsor: "House Passes Bill to Restrict ESG Investment in DC Plans"

³Source: February 03, 2026, WTW: "Fiduciary liability: A look ahead to 2026"

⁴Source: March 23, 2026, Groom Law: "DOL Rolls Back 2024 Fiduciary Rule and 2020 Interpretation of Five-Part Test"

⁵Source: February 26, 2026, Plan Sponsor Council of America: "IRS Postpones Proposed RMD Rules"

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ESG investments in a portfolio may experience performance that is lower or higher than a portfolio not employing such practices. Portfolios with ESG restrictions and strategies as well as ESG investments may not be able to take advantage of the same opportunities or market trends as portfolios where ESG criteria is not applied. There are inconsistent ESG definitions and criteria within the industry, as well as multiple ESG ratings providers that provide ESG ratings of the same subject companies and/or securities that vary among the providers. Certain issuers of investments may have differing and inconsistent views concerning ESG criteria where the ESG claims made in offering documents or other literature may overstate ESG impact. As a result, it is difficult to compare ESG investment products or to evaluate an ESG investment product in comparison to one that does not focus on ESG.

There is no assurance that an ESG investing strategy or techniques employed will be successful. Past performance is not a guarantee or a dependable measure of future results. show less

Alternative investments are often speculative and include a high degree of risk. Investors can lose all or a substantial amount of their investment. They may be highly illiquid, can engage in leverage, short-selling and other speculative practices that may increase volatility and the risk of loss, and may be subject to large investment minimums and initial lock-ups. They may involve complex tax structures, tax inefficient investing and delays in distributing important tax information. They may have higher fees and expenses than traditional investments, and such fees and expenses can lower the returns achieved by investors. show less

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Fifth Circuit Grants DOL's Request to Dismiss Fiduciary Rule Case

“In a move that wasn’t unexpected, the U.S. Court of Appeals for the Fifth Circuit granted the Labor Department’s motion to withdraw its appeal of a court challenge(s) to the so-called fiduciary rule issued during the Biden administration.

The Labor Department’s Employee Benefits Security Administration (EBSA) had filed a motion withdrawing its appeal on Nov. 24. The motion to dismiss the appeal was unopposed by the other parties.” [Read more here.](#)¹

Supreme Court is Asked to Affirm Validity of Benchmarks in DC Plan Mismanagement Lawsuits

“Supreme Court justices are scheduled to meet Jan. 9 to decide if they will review a lawsuit representing a retirement plan management debate that has bedeviled defined contribution sponsors for years.

The issue known as “meaningful benchmarks” has been the subject of different appeals courts’ rulings on ERISA lawsuits, adding uncertainty and cost to plan management. If the Supreme Court decides to review the case, the implications could go well beyond the facts of Parker-Hannifin Corp. et al. vs. Michael D. Johnson et al., according to the Department of Labor, which supports Parker-Hannifin.

The key legal question is whether such comparisons require more than just numbers to prove ERISA violations.” [Read more here.](#)²

Annuities Options Get Bipartisan Backing in House Hearing

“Lawmakers and industry leaders emphasized that expanding retirement income options—particularly by increasing access to annuities—would benefit American workers, stressing the importance of giving workers more choice in planning for retirement during a congressional hearing on Wednesday (January 7, 2025).

Witnesses recommended that any future policy changes should build on existing safeguards, focusing on clearer fiduciary standards and default investment rules, rather than steering retirees toward one-size-fits-all products.” [Read more here.](#)³

DOL Shifts Position on ERISA Litigation Burden of Proof

“Earlier this year, the nation’s highest court asked for the Labor Department to weigh in on a case involving the burden of proof in ERISA cases — and the response is a complete reversal of its previous position.

In an amicus (“friend of the court”) filing in response to a request from the United States Supreme Court, the Labor Department commented that “Following the change in Administration and this Court’s invitation, the government has reviewed its position and concluded that the relevant authorities are better understood as leaving the burden of proving causation on ERISA plaintiffs.””

[Read more here.](#)⁴

Crypto Bill Has ‘Strong Momentum’ in 2026, While Retirement Legislation Groundwork Continues

“There’s strong momentum going into 2026 for a bill regulating cryptocurrency, industry experts said, and there’s still hope for other retirement legislation. But those hopes are tempered by the midterm elections in the fall, which could throw uncertainty into the mix.

In July (2025), the House passed the CLARITY Act — a bill to split digital asset regulation between the SEC and Commodity Futures Trading Commission — in a 294-134 vote, sending it to the Senate. While Senate Banking Committee Chair Tim Scott, R-S.C., originally called for advancing the Senate’s version of such legislation by October, the timeline for the bill has been unclear, as lawmakers on both sides of the aisle continue to iron out the details.” [Read more here.](#)⁵

Does Revenue Sharing Distort Investment Menu Decision-making?”

“A study published in Management Science examined the impact of revenue sharing arrangements on investment menu design in defined contribution (DC) plans, suggesting these arrangements may have influenced plan design in ways that could be to the detriment of participants.

The study found that funds paying revenue sharing are significantly less likely to be removed from menus and more likely to be added in plans that use revenue sharing, even when accounting for performance and other metrics.” [Read more here.](#)⁶

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¹Source: December 01, 2025, National Association of Plan Advisors: "Fifth Circuit Grants DOL's Request to Dismiss Fiduciary Rule Case"

²Source: January 08, 2026, Pensions & Investments: "Supreme Court is asked to affirm validity of benchmarks in DC plan mismanagement lawsuits"

³Source: January 07, 2026, PLANADVISER: "Annuities Options Get Bipartisan Backing in House Hearing"

⁴Source: December 10, 2025, Plan Sponsor Council of America: "DOL Shifts Position on ERISA Litigation Burden of Proof"

⁵Source: January 02, 2026, Pensions & Investments: "Crypto bill has 'strong momentum' in 2026, while retirement legislation groundwork continues"

⁶Source: November 13, 2025, National Association of Plan Advisors: "Does Revenue Sharing Distort Investment Menu Decisionmaking?"

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