



1. NEW YORK STATE PENSION FUND SAYS IT'S SELLING OFF A \$7M STAKE IN OILSANDS:

New York's multi-billion-dollar government-run pension fund announced that it is pulling investments worth more than \$7 million out of some of Canada's major players in the oilsands.

The New York State Pension Fund -- the third largest such fund in the United States -- said it would be selling off securities in several Canadian oilsands companies and would not make future investments in them.

The seven companies are:

- Imperial Oil Ltd.
- Canadian Natural Resources Ltd.
- Cenovus
- Husky Energy Inc. (acquired by Cenovus)
- MEG Energy Corp.
- Athabasca Oil Corp.
- Japan Petroleum Exploration Ltd.

Suncor, one of the oilsands' largest players, was not on the list.

The New York State Common Retirement Fund, worth \$247.7 billion, manages over a million state and municipal employees' pensions. In December 2020, the [fund announced](#) it would transition its financial portfolio to net-zero friendly investments by 2040.

State comptroller Thomas DiNapoli said [in a media statement Monday](#) the fund is pulling out of companies that don't have viable plans to adapt to a "low-carbon future."

"As nations around the world become increasingly serious about addressing the threat of climate

change, and as market forces drive a low-carbon economic transition, we need to make sure our investments line up with this reality," DiNapoli said. "Companies responsible for large greenhouse gas emissions like those in this industry pose significant risks for investors."

Recently, [Sweden's central bank](#) and [Norway's sovereign-wealth](#) fund announced similar moves. In May, after Norway's decision, Prime Minister Justin Trudeau said investors worldwide have been looking at the risks associated with climate change.

"That is why it is so important for Canada to continue to move forward on fighting climate change and reduce our emissions in all sectors," Trudeau said.

Trudeau also said companies in Canada's energy sector understand that the way that people invest is changing, and they'll have to change as well.

After the New York fund announced it was divesting, Natural Resources Minister Seamus O'Regan defended the oil and gas works saying

that they will lead Canada's clean energy transition.

"The Canadian energy workers who figured out how to pull oil out of sand in the Prairies and out of the treacherous North Atlantic off of Newfoundland are the same people who will build our low-emissions energy future," O'Regan said in a statement.

Energy companies such as [Cenovus](#) have committed to either achieving net-zero emissions or adopting what's known as ESG (environment, sustainability, governance) policies.

Cenovus said in a statement it committed to achieving net-zero emission by 2050, adding it "reflects our commitment to doing our part to address Canada's Paris commitments, along with the rest of society." Cenovus recently purchased Husky Energy; in the wake of the merger, Cenovus said, it will be setting "new near-term targets."

Environmental groups applauded the pension fund's decision. Richard Brooks, Stand.earth's climate finance director, said it's the first state fund to divest from the oilsands and it's "no small matter."

"It's time to pivot to clean, safe renewable energy. That's where the smart money, led by New York, is headed," Brooks said in a media statement.

Meanwhile, the Canadian Association of Petroleum Producers was critical of the announcement coming out of New York.

"Attempts to stifle Canadian production by restricting financing can have only one effect; countries with lower environmental standards -- and in many cases lower social, human rights and governance standards -- will fill the void. We should be supplying Canadian energy to the world," said Tim McMillan, the president and CEO of CAPP. David Thurton, CBC News, <https://www.cbc.ca>, April 12, 2021.

2. PUBLIC PLAN FUNDING INCHES UP IN FIRST QUARTER:

The overall funding ratio of the 100 largest U.S. public pension plans rose to 79% as of March 31 from 78.6% the quarter before, according to the Milliman 100 Public Pension Funding index.

The funding ratio is the highest recorded since the inception of the index, according to a news release.

It also represents the breadth of the recovery in the year since the overall funding ratio fell to 66% on March 31, 2020. That ratio had reflected plummeting returns following the emergence of the [COVID-19 pandemic](#).

Since then, however, public pension plans have recovered, although the long-term impact of the pandemic has yet to be seen.

"While 2021 has proven to be a strong year for public pensions so far, there are still lingering questions around the impact of the COVID-19 pandemic on these plans," said Becky Sielman, principal, and consulting actuary at Milliman and

author of the Milliman 100 Public Pension Funding index, in the news release. "The past year has seen workforce volatility and strain on state budgets which could put downward pressure on funding in the future."

During the quarter ended March 31, Milliman estimates the public pension plans had an aggregate investment return of 1.95%, with an estimated range of -0.95% to 4.79%. For the 12 months ended March 31, the annualized return was 27.7%.

As a result of the aggregate investment returns, estimated assets rose to \$5.555 trillion from \$5.513 trillion as of Dec. 31, while estimated liabilities also rose to \$4.389 trillion from \$4.335 trillion.

Of the 100 plans measured by the index, 31 plans had funding ratios above 90%, while 22 plans remained below 60% funded. A total of nine plans had ratios between 60% and 70%, 17 plans were between 70% and 80% and 21 plans were between 80% and 90%.

Further information on the index is available on [Milliman's website](#). Rob Kozlowski, *Pension & Investments*, www.pionline.com, April 19, 2021.

3. FLORIDA GETS 'C' ON FEDERAL INFRASTRUCTURE REPORT CARD:

The White House is schooling states in Infrastructure 101 by assigning them grades A through F based on their needs and investments.

"I think everyone acknowledges we need a significant increase in infrastructure," President Joe Biden told reporters during a bipartisan meeting in the Oval Office.

The White House gave Florida a C. "For decades, infrastructure in Florida has suffered from a systemic lack of investment," the report reads.

As part of the report card, each state was graded based on 12 infrastructure categories ranging from road and bridges to broadband internet to veterans' health.

President Biden held a bipartisan meeting in the Oval Office making it clear he's willing to work with Republicans to get the American Jobs Plan passed. "I'm prepared to negotiate as to the extent of my infrastructure project as well as how we pay for it," Biden said.

Statewide the report card shows there are at least 408 bridges in poor condition. That's up from the 265 bridges the American Road and Transportation Builders Association marked as "structurally deficient" in a 2018 report. As the Bay Area population booms, road construction crews are staying busy. Here's a look at some of the biggest projects on our roadways in 2021.

Under the [American Jobs Plan](#), \$115 billion would be devoted to repairing roads and bridges, but the White House isn't yet saying how much of that money would go to Florida.

According to White House officials, funds may be distributed through a mix of competitive grants. Congress could also choose to come up with a

formula allocation based on the needs in each state.

Florida officials are hopeful the state won't lose out on funds. "Florida is a nationwide leader when compared to other states' infrastructure, and the department hopes its proactive approach is rewarded, not penalized, should the new funding proposal become law," an FDOT spokesperson wrote in a statement released.

The 408 bridges considered in poor condition are only about 3% of the state's more than 12,000 bridges, which puts Florida among the top 10 states with the lowest percentage. Jordan Bowen, Fox 13 News, <https://www.fox13news.com>, April 14, 2021.

4. PENSION RESTORED FOR FORMER BUFFALO COP WHO WAS FIRED FOR INTERVENING IN USE-OF-FORCE SITUATION:

The New York State Supreme Court has [reinstated the pension of a former Buffalo police officer](#) who

was fired after intervening when she says an officer put a man in a chokehold in 2006.

Cariol Horne will receive a full pension, backpay and benefits, following a decision by Justice Dennis E. Ward.

The ruling comes less than six months after "[Cariol's Law](#)" was signed by Buffalo Mayor Byron Brown. The law states that officers who reasonably believe a colleague is using excessive force have a duty to step in and stop it. Failure to intervene can lead to criminal charges.

In his ruling, Ward quoted the Rev. Dr. Martin Luther King, Jr., writing "the time is always right to do right."

Ward vacated a State Supreme Court's 2010 decision. In addition, the court ruled that the city must reinstate Horne as a police officer for the period of July 26, 2008 to August 4, 2010 and pay Horne back wages and benefits for that time period.

The city must also "make any required pension contributions for that period of time."

[Read the full ruling here.](#)

"As the court notes in its opinion, 'The legal system can at the very least be the mechanism to help justice prevail, even if belatedly.' After many long years, that is what has happened here," Neil Eggleston, an attorney representing Horne, said in a statement.

"This is a significant step in correcting an injustice that occurred 15 years ago when Officer Cariol Horne intervened to protect an unarmed civilian," said Ronald Sullivan, Jr., a second attorney representing Horne. "As recent events have sparked national outrage over the use of excessive force by police, we are grateful to the court for acknowledging that 'police officers who intervene [are] now being seen as heroes,' and 'to her credit Officer Horne did not merely stand by, but instead sought to intervene, despite the penalty she ultimately paid for doing so.'"

"The City has always supported any additional judicial review available to Officer Horne and respects the Court's Decision," city of Buffalo spokesperson Michael J. DeGeorge said in an e-mailed statement. August Erbacher, [WKBW](#), April 16, 2021.

5. GEORGIA STATE PENSIONERS GET A BONUS OF UP TO \$1,800, BUT NO COLA, AGAIN:

More than 50,000 retirees from state government jobs in Georgia will receive bonuses of up to \$1,800 this year, following a vote by the Employees Retirement System board.

But they again won't get what state retiree groups have requested for years: a cost-of-living raise that would permanently be built into how much they receive.

They got the last COLA more than a decade ago.

Jim Potvin, executive director of the Employees Retirement System, said close to 54,000 former

state workers currently receive pensions, which average about \$26,400 a year.

The ERS has about \$16.2 billion in assets and -- with gains in the stock market -- its worth has increased more than 20% since the fiscal year began July 1.

The ERS board voted to give the former state workers two 3% bonus checks, capped at a total of \$1,800 for ex-staffers with pensions at or above \$30,000. Retirees have received similar bonuses in recent years. The checks generally go out in January and July.

While bonus checks are nice, ex-employees have been pushing hard for years to get the board to approve COLAs because they are permanently built into their pensions. Bonus checks, meanwhile, require a board vote every year.

“Retired state employees in the Georgia State Retirees Association are thankful for the ERS board’s granting the two non-compounded payments for next fiscal year, especially since the

inflation rate is rising faster this year,” said Jim Sommerville, president of the Georgia State Retirees Association. “However, we cannot help but to be disappointed that the board chose once again to not grant a full cost-of-living adjustment when conditions so favor it.”

Sommerville noted the investment growth this year, improving state tax revenue and the \$4.7 billion the state is expected to receive from the latest federal stimulus package.

“Including the rising cost of medical services as individuals age, retirees’ cost of living has increased by upward of 30% since we last received a COLA in 2009,” he said. “More than half of almost 54,000 ERS retirees continue to receive less than \$22,000 annually. Many retirees are now struggling to keep pace with rising expenses.”

Retired employees have said they feel mistreated by the annual decision not to provide cost-of-living adjustments. They note that retired teachers receive 3% annual increases to their pensions.

The difference is significant. A \$30,000-a-year pension in 2009 would be worth more than \$44,000 next year if ex-state workers had received the same COLA as Georgia's retired educators.

The Georgia State Retirees Association, which represents state pensioners, [has unsuccessfully lobbied the General Assembly](#) to include money in the budget to jump-start the COLAs that retirees had received for decades before the late 2000s.

Much of private industry long ago eliminated pensions for workers, but they've long been seen as an important recruitment and retention tool for governments such as the state of Georgia.

Supporters say the guarantee of a monthly check upon retirement makes up for years of working jobs that often pay less than similar ones in private industry.

The state has several pension systems, but the two biggest are the ERS and the Teachers Retirement System. Combined, they have more than \$100 billion in assets.

As in any pension system, the payouts that former state staffers receive vary, based on their length of service and top salaries while on the job. Lower-paid workers, such as prison guards, receive much smaller pensions than somebody who retired after running a state agency and was making a big salary.

Pensioners can also receive Social Security.

While some former employees receive six-figure pensions, ex-state patrolmen, agricultural inspectors, staff secretaries and child welfare workers are more likely to receive payouts in the range of \$15,000 to \$30,000 a year.

For decades, Georgia granted COLAs to state retirees.

The situation for ERS retirees changed in the late 2000s, when concerns were raised that the system was unsustainable. The ERS director in 2007 told lawmakers the system faced a potential \$16 billion shortfall in coming years as baby boomers continued to retire. Investment returns during the

Great Recession additionally strained the system's finances.

Lawmakers agreed to change it so that new employees received a lower pension and a 401(k)-type retirement plan. A vast majority of new staffers don't stay long enough to vest and receive the full benefits of the plan. James Salzer, *The Atlanta Journal-Constitution*, www.ajc.com, April 16, 2021.

6. FOUR WAYS COVID-19 HAS CHANGED RETIREMENT:

The Covid-19 pandemic is triggering a retirement rethink for many Americans.

A survey by the National Institute on Retirement Security (NIRS) found that about half of Americans are now more concerned about their retirement security in light of the Covid-19 pandemic and are considering the possibility of working longer.

At the same time, the pandemic has triggered a desire to retire earlier among other survey

respondents. After all, Covid-19 has reminded everyone that life can be shorter than anticipated.

The fallout extends to retirement portfolios as well. The Federal Reserve's policy response to the crisis has extended the era of ultra-low interest rates on cash and high-quality bonds.

Meanwhile, the sustained upswing in the U.S. stock market--which seems to be benefitting from stimulus--makes it ever more important for anyone nearing retirement or in the early years of retirement to be on high alert for a bear market, which could shave years off an investment portfolio.

Let's take a closer look at these changes to the retirement landscape during Covid-19 and examine what you should do if they apply to your particular situation.

Some Americans Want to Retire Earlier Than Planned

The gain in the number of Baby Boomers who retired in 2020 was [more than double](#) the increase a year earlier, according to Pew Research. Whether you unexpectedly stopped working last year or you've accelerated your planned exit date, you want to nail a few crucial moves.

Don't Immediately Claim Social Security Benefits

Recent academic research shows that it can be financially advantageous for the highest earner in a household to delay [taking Social Security](#) benefits until age 70--when the monthly payout will be highest--and tap individual retirement account ([IRA](#)) and [401\(k\)](#) savings before then.

Yet most people claim Social Security earlier, often as soon as they retire.

“When you retire and when you start Social Security are not in any way married,” says Greg Hammer, a [financial advisor](#) in Schererville, Indiana. “In fact, if you retire in your early 60s, it can be a great opportunity to make some tax planning moves, such as a Roth conversion, before

you have income from Social Security,” says Hammer.

Review Your Asset Allocation

If you aren't yet tapping guaranteed income sources--a pension, Social Security, annuities--or if those income sources don't cover all your monthly living expenses, you need to have ready cash to pay essential bills. Retirement income pros typically advise that for expenses not yet covered by guaranteed income sources you want to have a stash of cash or ultra-short bond funds that can cover those bills for at least two years.

And if you've moved up retirement by a few years, take another spin through your [asset allocation](#) of stocks and bonds to make sure it is appropriate for a retired you. “If your time horizon is changing, you want to make sure your allocation reflects that change,” says Hammer.

Plan for Sequence of Returns Risk

Bear markets early in retirement can reduce the number of years your stock portfolio can support you, if you continue to make withdrawals when stocks are down. This is known as [sequence of returns risk](#).

With the stock market at record highs, it wouldn't exactly be a shocker if there were a bear market on the near-term horizon. Anyone retiring soon, or newly retired, should therefore carefully consider how to avoid drawing down their stock portfolio during a bear market. This is where that cash hoard of at least two years of expenses can ride to the rescue.

Another strategy you might consider is to open a [reverse mortgage](#) line of credit and only tap it during bear markets so you can avoid stock withdrawals.

Be Careful with COBRA for Healthcare If You're Turning 65

If you've stopped working but continue to have health insurance through your old employer, don't delay signing up for Medicare when you turn 65.

Once you are 65 and using COBRA, private health insurers presume that Medicare is your "primary" coverage. That means your COBRA insurer doesn't have to cover your claim, regardless of whether you signed up for Medicare or not. That could leave you with some big bills to pay out-of-pocket if you need healthcare. Moreover, if you are on COBRA and miss your initial Medicare enrollment window at age 65, you will be penalized with a higher premium for Part B coverage the rest of your life once you do sign up.

Other Americans Are Delaying Retirement

The NIRS survey also found that nearly one third of respondents were rethinking when they plan to retire--and the vast majority of them were considering working for longer.

Are You Sure You Really Need to Work Longer?

Kimberley Foss, founder of Empyrion Wealth Management, says fear is trumping finances for some of her clients. “I’ve shown them the numbers, I’ve re-run the simulations, and they still can’t accept that they have the assets they need to continue living their chosen lifestyle,” she says.

If you feel good about continuing to work, then there’s no harm in that decision. But if you’d really prefer to retire, maybe you should think about whether you’re being held back by pandemic worries.

Watch Out for Potholes When You Work Longer

Research by the Urban Institute found half of people with a full time job in their early 50s are eventually laid off, and the majority never earn as much at subsequent jobs. Other research finds that many folks who intend to work longer end up retiring sooner than planned due to layoffs, illness, or caretaking responsibilities.

These are arguments for saving as much as you possibly can right now, in case you do end up retiring earlier, not later.

Real Savings Rates Are Even Worse Now

It's not as if safe investments paid much before Covid-19 struck. The yield on a 10-year Treasury note in February 2020 was less than the rate of inflation. In technical terms, the real--[inflation](#)-adjusted--yield was -0.30%. In mid-April 2021 the real return for the 10-year Treasury note was -0.64%.

Beware the Risk of Reducing Cash & Bond Allocations

It's undeniably frustrating to have a chunk of money not earning a real return. If you have all your essential living costs covered by guaranteed income sources--pension, Social Security, income annuities--shifting some money out of cash and bonds might make sense.

But if you're relying on your investments to generate income to cover basic living expenses,

taking on more risk could be a dangerous gambit. If you've got a decade or more until retirement, the decision to scale back on bonds comes down to a gut check on the primary reason to own them: Bonds tend to rise in value (if only a little, given current low yields) when stocks fall in value, adding [diversification](#) protection to your portfolio.

Run Your Retirement Numbers with a Lower Expected Return

The current yield of a bond is a solid predictor of the annual return it will generate for the next 10 years. The current yield on a high-quality [bond index fund](#) or bond exchange traded fund ([ETF](#)) is less than 1.5% right now, yet many retirement income calculators assume a historical bond return of around 5%. That means you need to run the numbers on your retirement plan with a lower expected [return on investment](#).

More Americans Want to Age in Place

Even before Covid-19 most people within 10 years or so of retirement said they intended to stay in

their own homes throughout retirement. Given the wrenching experience many inhabitants of nursing homes and assisted living facilities faced during the pandemic, the “age in place” movement is likely to become even more popular. But to pull it off requires careful planning today.

- Can you afford to stay in this home? Ideally you want to be mortgage-free when you retire. Even then, you need to run the numbers and make sure you can comfortably afford the property tax, insurance, and maintenance costs. If it’s not going to be feasible, consider leveraging the strong housing market and making a move now.
- Is this the right setting for an older you? Driving 20 minutes to visit friends or go downtown is no big deal today, but for an older you it might be a bit too much. That can lead to unintended isolation. Now could be a smart time to move to a home that is set up to make aging in place financially and emotionally viable.

- Is this home ready for an older you? If you are sure, you are in your forever home, consider renovation projects to make it more viable. For instance, think about whether a room can work as a bedroom on the first floor or if you can reconfigure your shower/bath not to require a step in and to have room for a bench or stool. “Make those changes while you are working and have income to help pay for it,” advises Hammer. Carla Fried and Benjamin Curry, *Forbes*, www.forbes.com, April 15, 2021.

7. SWEENEY UNVEILS LEGISLATION TO ENABLE PENSION SYSTEMS TO ADD INFRASTRUCTURE ASSETS TO HOLDINGS:

Senate President Steve Sweeney today unveiled legislation that would enable pension systems to add revenue-generating assets like water utilities, toll lanes and parking lots to diversify and strengthen their portfolios.

“Forward-looking pension systems are increasingly looking to invest in revenue-generating infrastructure to diversify their portfolios in the face

of high stock market volatility and minimal return on cash and bond funds due to historically low interest rates,” said Senator Sweeney (D-Gloucester/Salem/Cumberland).

“The state and local governments own water systems, reservoirs, real estate and parking lots that could generate stable revenue for pension systems in the same way that the New Jersey Lottery revenues we dedicated to the pension system provided stability amid the market turbulence of 2020. Pension systems could also contract for the construction and maintenance of High Occupancy Toll lanes like those in Maryland and Virginia,” he noted.

The Sweeney bill, S-3637, would create the Retirement Infrastructure Collateralized Holdings Fund – RICH, for short – as an infrastructure trust fund to hold and manage assets transferred to the public corporation by the state and local governments for the benefit of New Jersey’s public employee pension funds. The value of the assets, including their future revenue-generating potential,

would be determined by expert third-party evaluators.

“This is ground-breaking legislation that would have multiple benefits,” Senator Sweeney said. “State and local governments, and their taxpayers, would be able to lower their annual pension contributions based on the value of the asset transferred. The assets would be professionally managed in the RICH Fund, with the state’s Infrastructure Bank serving as trust administrator safeguarding the interests of the public, the customers, and the pension funds.

“Furthermore, it gives municipalities that don’t want to consider privatization of a key asset, such as a water utility, the option of a public-to-public transfer to an infrastructure trust fund that can make the long-term investments needed to improve the quality of service while realizing a fair return over 30 years and longer,” he said.

Like President Biden’s proposed infrastructure plan, the increased investments in New Jersey

infrastructure created through the RICH Fund will generate good-paying jobs that will boost the state's economic recovery from the Covid-19 pandemic and bolster state revenues needed for future pension payments.

The blue-ribbon Economic and Fiscal Policy Workgroup, co-chaired by Senate Budget Chair Paul Sarlo (D-Bergen) and Senator Steve Oroho (R-Sussex), recommended leveraging assets as a strategy to stabilize New Jersey's underfunded pension system, which is saddled with a \$40 billion unfunded liability, even with the state making its full Actuarially Required Contribution for the first time in two decades in the upcoming budget.

The senator said the RICH Fund could attract investment capital from other pension systems, which is a frequent occurrence with infrastructure assets. Leading pension funds like the California Public Employees Retirement System (CALPERS) have invested billions of dollars in water and wastewater infrastructure, toll roads and forests,

and Canada's Ontario Municipal Employees Retirement System has 20 percent of its holdings in infrastructure assets.

The RICH program was developed in consultation with the New Jersey Infrastructure Bank and with national pension and infrastructure financing experts.

“This is an innovative proposal that promises to simultaneously improve the health and stability of our pension system, generate new infrastructure investment, and save money for taxpayers,” Senator Sweeney said. “It will put New Jersey on the cutting edge of government fiscal reform.” Insider NJ, www.insidernj.com, April 15, 2021.

8. SIMPLIFYING THE RETIREMENT PLANNING MESSAGE:

As inevitable as retirement is, why is properly preparing for it so difficult?

It could be that participants are preoccupied with other concerns. Most (70%) of the respondents to a recent Schroders retirement survey said they don't have enough savings to add to a retirement plan, while others reported that they have other financial priorities (60%) or that the future is too uncertain to plan for (50%).

And as industry professionals encourage participants to prepare for their future, many people are reluctant to add what they believe is an insufficient amount to their retirement plans. Instead of adding what they can afford to, they fail to add anything at all, the survey found.

To combat this, Juan Carlos Cruz, founder of Britewater Financial Group in Brooklyn, New York, suggests plan administrators work to simplify the retirement plan message by helping participants monitor living expenses and 401(k) contributions simultaneously.

“One way is to offer a monthly monitoring service to see how the employee is adjusting and handling

their living expenses,” he recommends. “A more hands-on approach would help the saver make adjustments and will help the employee see that saving is not that difficult.”

Robert Dunn, president and managing partner of Novi Wealth Partners in Princeton, New Jersey, says plan sponsors should understand where their employees are financially. Especially during the pandemic, many [are looking to grow their emergency savings](#) rather than their retirement accounts, for example.

“Life is difficult, and in the face of COVID-19, certainly unpredictable,” Dunn notes. “But once someone has accepted their personal situation, they can begin to evaluate their options, whether it is attempting to earn additional income or spending less.”

While it can be difficult to plan during an uncertain period, Dunn suggests that participants look to their futures and understand what expenses may be

required. One common example is preparing for any future college expenses, he says.

Cruz says many forego saving for retirement on the common belief that Social Security will provide enough retirement income. Others believe they'll continue working well into their retirement years. The Schroders study found 53% of respondents believe they will continue working during retirement in order to cover basic living expenses.

On top of these [common misconceptions](#), other financial responsibilities, including [paying down student loan debt](#), are likely to take priority over retirement for some workers. These participants might also believe they'll earn more in the future and can save more then, "but that is not always the case," says Dunn. As participants grow their income, their spending needs are likely to increase as well, he contends.

Enabling plan design features, such as a "set-it-and-forget-it" options like automatic enrollment and automatic escalation, along with an emergency

savings vehicle, can help participants gradually save over time, suggests Harry Dalessio, head of institutional retirement plan services at Prudential Retirement in Hartford, Connecticut.

Sponsors can also help participants manage short-term money stressors by providing a range of financial wellness tools and resources, including but not limited to student loan programs, debt and credit management tools and budget development programs, Dalessio adds.

Employer communication and education can also contribute to participants' financial wellness.

“Sponsors shouldn't underestimate the value of offering communications on plan features, the long-term impact of compound interest and understanding the importance of transitioning their accumulated savings into a guaranteed income stream as they are approaching retirement,” Dalessio says.

Communicating with participants on the importance of savings and accumulation, if possible, is key,

Cruz says. From there, employers and financial advisers can work with participants to adjust their savings goals.

Additionally, speaking to employees about the basics of retirement planning can ease any apprehensions they may have. He notes that many savers believe that once they save money into a defined contribution (DC) plan, the money is unavailable until retirement. But in the case of an off-chance emergency, the money is still accessible, though withdrawal penalties will apply.

“This can make people more reluctant to save, as they believe the money is gone and never to be seen again,” Cruz says. “Explain how these plans can be helpful in case of an unforeseen emergency, and how easily this money can be accessed. An explanation of the taxes and penalties and how withdrawing may impact their savings in the future must also be provided.”

Implementing a proper plan design is also imperative to creating a successful retirement

income strategy, Dalessio says. Plan sponsors are responsible for enabling individuals with a mechanism to create a steady income stream that will last in retirement, he notes.

“Saving and accumulation should still be a key focus for participants,” Dalessio says. “But making sure they understand the importance of creating that income plan for later is also a critical component to successful financial planning.” Amanda

Umpierrez, *PLANSPONSOR*, www.plansponsor.com, April 16, 2021.

9. NEW GUIDANCE FOR MITIGATING RETIREMENT PLAN CYBERSECURITY RISK:

On April 14, 2021, the U.S. Department of Labor’s (“DOL’s”) Employee Benefits Security Administration (“EBSA”) issued its first cybersecurity best practices guidance for retirement plans. The guidance is set forth in three parts and emphasizes that plan sponsors and fiduciaries must take steps to mitigate

cybersecurity risks as part of the fiduciary obligations imposed on them by the Employee Retirement Income Security Act of 1974 (“ERISA”). To assist plan sponsors and fiduciaries with their responsibilities to prudently select and monitor service providers, the guidance outlines considerations they can use to determine that service providers follow strong cybersecurity practices. EBSA views this guidance as a complement to its regulations on electronic records and disclosures to plan participants and beneficiaries (i.e., that electronic recordkeeping systems have reasonable controls, that adequate records management practices are in place, and that electronic disclosure systems follow measures that protect personally identifiable information).

Cybersecurity guidance has long been anticipated by the benefit plan community as a result of numerous informal discussions and programs with EBSA representatives regarding cybersecurity for benefit plans, ERISA Advisory Council reports on plan cybersecurity, security and safeguard actions

taken by industry service providers, and emerging litigation. Both reported and unreported cybersecurity breaches, as well as incidences of fraudulent retirement plan distributions, have raised questions concerning the scope of ERISA fiduciary responsibility for the cybersecurity of plan participant information, plan asset data, and accounts. Recently, in its [February 2021 report](#), the U.S. Government Accountability Office (“GAO”) further urged the DOL to issue cybersecurity guidance, and recommended that the DOL formally state whether it is a fiduciary’s responsibility to mitigate cybersecurity risks in defined contribution plans and to establish minimum expectations for addressing cybersecurity risks in defined contribution plans. The DOL agreed with GAO’s second recommendation but did not state whether it agreed or disagreed with the first one.

With the advancements in technology (including technological tools that have emerged to aid in the administration and delivery of employee benefits), the novel cybersecurity risks that those

advancements bring, and the trillions of dollars in employer-sponsored retirement plan assets alone, there is ongoing concern for both (i) the security of the plan participant data that is collected, transmitted, processed, and stored for employee benefit plans and (ii) the security of the assets in participant accounts. The new guidance is a step forward as it provides best practices and approaches to mitigate cybersecurity risks and further validates steps that have already been adopted by plan fiduciaries and service providers.

The first piece of guidance issued by EBSA contains [“Tips for Hiring a Service Provider with Strong Cybersecurity Practices.”](#) An overarching takeaway from these tips is that fiduciaries (i) must be prudent in selecting plan service providers, (ii) should review the service providers’ cybersecurity practices when selecting them, and (iii) should develop ongoing monitoring practices. In this guidance, EBSA has outlined considerations for due diligence items, and service agreement provisions, to ensure *“ongoing compliance with*

cybersecurity and information security standards,” and to establish contract terms for data breach notifications; compliance with all applicable federal, state, and local laws, rules, regulations, directives, and other governmental requirements pertaining to the privacy, confidentiality, or security of participants’ personal information; and insurance.

The second piece of guidance issued by EBSA is “[Cybersecurity Program Best Practices](#),” which states that “[r]esponsible plan fiduciaries have an obligation to ensure proper mitigation of cybersecurity risks.” This is the first formal pronouncement from EBSA that plan fiduciaries are at least obligated to ensure proper mitigation of cybersecurity risk. The guidance is carefully worded, but, by implication, it appears to impose upon plan fiduciaries the obligation to conduct proper due diligence to confirm service provider adherence to prudent cybersecurity practices and procedures to indicate that plan participants’ information, data, and accounts will be

safeguarded on an ongoing basis and appropriate controls are in place, and that responsible cybersecurity breach response procedures are followed. Among other best practices, this guidance provides that plan service providers should have formal, well- documented cybersecurity programs; “conduct *prudent annual* risk assessments”; obtain “reliable annual third party audits of security controls”; “conduct periodic cybersecurity awareness training”; and “implement and manage a secure system development life cycle (SDLC) program.” Plan sponsors and fiduciaries should also determine how to evaluate their service providers based on these best practices.

The third piece of guidance issued by EBSA is directed towards employee benefit plan participants, containing “[Online Security Tips](#),” advising how participants can help reduce the risk of cybersecurity attacks and threats to their retirement accounts. Among these tips, EBSA advises plan participants to use strong passwords

and multi-factor authentication, as well as how to be aware of possible phishing attacks that may expose their retirement accounts to cybersecurity breaches. Although directed at plan participants, plan fiduciaries should be cognizant of what tools, procedures, and possible educational trainings they can offer to their plan participants to aid in mitigating cybersecurity risks.

Considerations and Next Steps for Retirement Plans

At this stage, the guidance set forth by EBSA is a step forward in expressing its view on the respective responsibilities among plan sponsors, fiduciaries, service providers, and plan participants when it comes to cybersecurity and retirement plans. The concept that plan sponsors and fiduciaries have a responsibility to mitigate cybersecurity risk should serve as a call to action to revisit existing service provider relationships and request the necessary information to evaluate the state of their benefit plan cybersecurity practices and procedures, and to incorporate this type of

review on a go-forward basis with new and existing service providers. Undoubtedly, litigation will evolve in this area as the scope of plan fiduciary responsibility is further shaped. New laws and regulations will also evolve in this area and will need to be addressed.

To that end, as we have advised, plan sponsors and fiduciaries should (i) establish strong procedures, protocols, policies, and other safeguards to protect participants' data and their retirement accounts, and (ii) develop a process for prudent selection and monitoring of their plan service providers to ensure that they also maintain and follow strong cybersecurity and breach response procedures. If cybersecurity breaches do occur, plan fiduciaries should have an established response plan with their service providers so that they are better equipped to swiftly respond and mitigate damages. In the event that litigation ensues, plan sponsors and fiduciaries will be better able to defend against potential fiduciary breach claims if they can demonstrate that they followed

prudent policies and procedures to mitigate cybersecurity risks.

Many plan sponsors and fiduciaries, as well as plan service providers, have already developed such policies and procedures, cognizant of the risks in administering their retirement plans. These policies and procedures, service agreements, overall safeguards, protocols, and breach response procedures should be reviewed and updated, or established if not yet in place, to reflect the desired aspects of EBSA's cybersecurity best practices guidance, which will serve to protect the plan participants, and withstand scrutiny. Michelle Capezza and Christopher Lech, www.ebglaw.com, April 16, 2021.

10. DO'S AND DON'TS FOR TAXPAYERS WHO GET A LETTER OR NOTICE FROM THE IRS:

The IRS mails letters or notices to taxpayers for a variety of reasons including if:

- . They have a balance due.

- They are due a larger or smaller refund.
- The agency has a question about their tax return.
- They need to verify identity.
- The agency needs additional information.
- The agency changed their tax return.

Here are some do's and don'ts for taxpayers who receive one:

- **Don't ignore it.** Most IRS letters and notices are about federal tax returns or tax accounts. The notice or letter will explain the reason for the contact and gives instructions on what to do.
- **Don't panic.** The IRS and its authorized private collection agencies generally contact taxpayers by mail. Most of the time, all the taxpayer needs to do is read the letter carefully and take the appropriate action.
- **Do read the notice.** If the IRS changed the tax return, the taxpayer should compare the information provided in the notice or letter with the information in their original return. In

general, there is no need to contact the IRS if the taxpayer agrees with the notice.

- **Do respond timely.** If the notice or letter requires a response by a specific date, taxpayers should reply in a timely manner to:
 - minimize additional interest and penalty charges.
 - preserve their appeal rights if they don't agree.
- **Do pay amount due.** Taxpayers should pay as much as they can, even if they can't pay the full amount. People can pay online or apply for an Online Payment Agreement or Offer in Compromise. The agency offers several [payment options](#).
- **Do keep a copy of the notice or letter.** It's important to keep a copy of all notices or letters with other tax records. Taxpayers may need these documents later.
- **Do remember there is usually no need to call the IRS.** If a taxpayer must contact the IRS by phone, they should use the number in the upper right-hand corner of the notice. The

taxpayer should have a copy of their tax return and letter when calling. Typically, taxpayers only need to contact the agency if they don't agree with the information, if the IRS request additional information, or if the taxpayer has a balance due. Taxpayers can also write to the agency at the address on the notice or letter. If taxpayers write, they should allow at least 30 days for a response.

- **Do avoid scams.** The IRS will never contact a taxpayer using social media or text message. The first contact from the IRS usually comes in the mail. Taxpayers who are unsure if they owe money to the IRS can view their [tax account information](#) on IRS.gov.

More Information:

[Understanding Your IRS Notice or Letter](#)

[Tax Topic 651, Notices – What to Do](#)

[Tax Topic 653, IRS Notices and Bills, Penalties, and Interest Charges](#)

[Tax Topic 654, Understanding Your CP75 or](#)

CP75A Notice Request for Supporting Documentation

IRS Tax Tip 2021-52, www.irs.gov, April 19, 2021.

11. FOR THOSE WHO LOVE WORDS:

'Born' versus 'Borne'. Click [here](#) to learn how one vowel can mean a big difference.

12. QUOTE OF THE WEEK:

“Be the change you wish to see in this world.” -
Gandhi

13. TODAY IN HISTORY:

On this day in 1969, the first human eye transplant was performed.

14. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.