VIDEO

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Focus on Funds: Investor Protections Missing from New Retirement Plan

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New state-run retirement plans for private-sector employees will be exempt from important investor safeguards. In the October 14, 2016, edition of *Focus on Funds*, ICI General Counsel David Blass details what workers need to know.

Transcript

Stephanie Ortbals-Tibbs, ICI Director, Media Relations: Many states, including California, are trying to help their citizens save for retirement by introducing new, mandated retirement-savings programs that are run by the state. But this answer comes with many new questions about investor protection, as I learned from ICI General Counsel David Blass.

David Blass, ICI General Counsel: We need to laud California and the policymakers who are looking into the issue, because it's a very important one. We share the goal of promoting access to employer-sponsored plans for employees who want to put retirement savings away. But we have some issues with the state plans. There are a lot of issues that remain unexplored—not just unresolved, but unexplored. We have talked a lot about the costs of the plans—there are a lot of questions there—[and] the participation rates.

But there are others where we really haven't had much of a discussion among the policymakers—the investor protections. The bedrock foundation of investor protections in the US for retirement savers is a combination of the Employee Retirement Investment Savings Act [ERISA] and the federal securities laws. The Department of Labor has granted significant exemptions to the states for the retirement savings laws—ERISA—and we don't know how the federal securities laws are going to apply to these plans. What protections are there for the people who are putting their money away, their retirement savings away, in these plans? We simply don't know at this stage.

Ortbals-Tibbs: Savers in these funds could be thinking of them as being similar to mutual funds or a 401(k), but the rules governing them, in terms of investments, account balances and access, and transparency—all of that is going to be quite different.

Blass: People put their money away without really thinking about the investor protections. It's just an assumed fact that your money is going to be there invested for you, and there are protections there to make sure you get a fair deal. But that assumption may not be accurate for these state plans, especially under ERISA, because the Department of Labor's already given an exemption to the states there.

Ortbals-Tibbs: David, the other thing that's very clear from what you're saying is that this is going to result in a lot of confusion for the employer and the employee.

Blass: Several states are looking into these plans. They're looking into them, with differences amongst the plans. There's a potential for confusion on two levels. One, think if you're an employer. You've got employees in multiple states that have these plans, and maybe some employees in states that don't have these plans. How do you organize all of that for your retirement-savings offerings to your employees? You're going to have to do it in California. You're going to have to do it in Illinois and the other states that offer these plans. How do you manage how those state plans are going to function, especially if you have employees who move from one state to another?

That brings me to the second level. If you're an employee, and you're moving from California to Illinois, you've presumably saved some money for retirement savings in the California plan. When you move, what happens to that money? You're now in Illinois and you have to participate in the Illinois plan. You're defaulted into the Illinois plan. What happens to the money that you had in California? Does it come with you? There's no answer that I know of to that question.

Ortbals-Tibbs: David, it sounds like a national solution is a much better, clearer approach.

Blass: We laud the motives behind policymakers in the states who are looking to do something to promote retirement savings. We simply think the better the better approach that has the best potential to move the dial is at a national level. And that's providing better access to employer-sponsored [retirement] savings accounts. It could be through a multiple employer program that gives employers lower costs and therefore a greater incentive to offer the plans to their employees. It's at that level, so that employers who operating on a national basis [and] employees who move simply don't have problems with their accounts. And the bedrock foundations of investor protections remain.

Additional Resources

- Video: New Retirement Plan Carries Many Risks
- *ICI Viewpoints*: Secure Choice Is Risky for Workers and for the State
- ICI Urges Governor Brown to Carefully Examine Legal and Economic Risks of "Secure Choice" Retirement Program