

# HICKS NOTES

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## 2022 – WHAT CAN WE EXPECT

As we enter a new year, here's what I believe we can expect to see in terms of issues and trends in the qualified plan market.

**NEW LAWS AND REGULATIONS:** While COVID continues to be an issue, I don't believe we will see any new COVID relief like we saw with the CARES ACT. Legal challenges over mandates clearly will continue, but I just don't believe Congress will waste their time with a specific COVID bill. To review prior Covid relief bills, [click here](#).

As far as new regulations, I believe the FIDUCIARY rules may be the area that we could see some movement. After Obama's BICE regulations were found to be an overreach, we have been in limbo on what exactly are the rules. The Department of Labor (DOL) has expressed an interest in clarifying the issues regarding those who work and give advice to plans and their participants. For more on this, [click here](#).

**LITIGATION:** Lawsuits will continue to be filed on fiduciaries and plan sponsors for subpar investment choices, excessive fees, and other breach of fiduciary duties. This area is ripe as greed and lack oversight is prevalent in many plans. For the latest on lawsuits, [click here](#).

**3(16) FIDUCIARIES:** Some plan sponsors are opting to outsource their Fiduciary functions to independent 3(16) Fiduciaries. They are being sold on the idea that they can protect themselves from liability by hiring the "experts" to make decisions for them. Many investment companies are trying to "buy cover" by requiring 3(16) services on their 401(k) plans. I expect this trend to continue.

**MEPS, PEPS AND OTHER GROUP PLANS:** There are some investment companies trying to disrupt the small plan market by offering these multiple employer plan arrangements. They tout low cost plan documents, administration, compliance, and fiduciary services for small employers. While these arrangements may sound appealing, it has yet to be seen if they are able to bring the ease and savings they are selling.

In my opinion, they are taking the value of individual plan design without replacing any of the administrative burden or costs with anything different. We shall see how this plays out in 2022. For more in this topic, [click here](#).

**BUNDLED VS UNBUNDLED:** The debate over these various arrangements will continue as market players try to gain an advantage. This is tied into plan design expertise, investment and fiduciary issues, and administrative functions as these providers think they can do it all and be it all. This battle has been going for years as payroll companies have tried to capture their clients' retirement plan business.

**DEFINED BENEFIT/CASH BALANCE PLANS:** We are installing traditional defined benefit or cash balance plans for small employers because of the substantial tax benefits they offer. Many real-estate agents, builders and other professionals are doing well in this current economy and are installing these plans for the tax savings.

In addition, defined benefit plans can now be set up after the end of the year but prior to the due date of their tax returns. This has kept us busy throughout the year as we were installing plans in September for the prior tax year. I expect this trend to continue in 2022. For more on this, check out our defined benefit plan [newsletter](#).

**DC RESTATEMENTS:** All defined contribution plans must be amending, restated, and adopted by July 31, 2022. While many plan documents have already been done, this will be an issue as this deadline nears. Some companies will be overcharged or miss this plan redesign opportunity. We use this as a marketing opportunity to add value because of price and expertise. These applies to all defined contribution contributions, even those owner-only solo plans. For more on how you can too, [click here](#).

**CALSAVERS:** For California employers with 5-49 employees, CalSavers Retirement Savings Program requires them to enroll in CalSavers or adopt a retirement plan by June 30, 2022. These employers are shopping their options. This has created a great opportunity to show how safe harbor and class allocation 401(k) plans can benefit these business owners. We have already seen and expect more questions and activity as this deadline approaches. For more on the CalSavers program, [click here](#).

IN CONCLUSION, I expect more of the same as no major changes as Congress is concerned with mid-term elections and working on Biden's agenda. These are just my opinions, but these are the issues I see on the horizon. As always, we shall see.