



The Golden Anniversary of ERISA: Celebrating Progress and Charting the Future of Retirement Security

As we mark the 50th anniversary of the law, it is an opportune moment to reflect on its profound impact on the American retirement landscape and consider the opportunities ahead.

Reported by [KEVIN CRAIN](#) | Art by ANTONIO UVE

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Enacted in 1974, the Employee Retirement Income Security Act set crucial standards for pension plans in the private sector, safeguarding the interests of participants and their beneficiaries, with its foundational purpose to protect employees' retirement income. Over the past five decades, we have witnessed a seismic shift from traditional defined benefit pension plans to defined contribution plans, fundamentally changing how Americans save for retirement and fund their retirement income.



Kevin Crain

A System That Must Evolve

The success of ERISA in providing a framework for retirement savings is undeniable. By establishing fiduciary standards, vesting rules and minimum funding requirements, ERISA brought much-needed stability and accountability to the pension system. As economic realities and workforce dynamics evolved, the defined contribution plan—originally an unintended consequence of ERISA—became the dominant retirement savings vehicle for millions of American workers.

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This has democratized investing, giving workers more control over their retirement savings. It has also shifted responsibility, decisions and risk from employers to employees. The success of that evolution is evidenced by close to 700,000 existing 401(k) plans with more than 70 million participants and total assets exceeding \$7 trillion.

However, as we celebrate these achievements, we must also acknowledge that there is more work to do. The transition from DB to DC plans has shifted the burden of retirement planning squarely onto individuals, who need professional advice and planning tools to navigate the complexities of savings, investing and longevity. As our population ages, the definition of retirement has changed, and life expectancies have increased; ERISA and the DC system must evolve to meet the changing needs of American workers.

'A Clear Path' to a Retirement Paycheck

First, we must address the critical issue of retirement income adequacy. While DC plans have done an admirable job of accumulating assets for participants during their working years, the evolution is just starting in terms of providing sustainable, lifetime income. To strengthen this part of the system, policymakers, industry associations and the retirement services industry must continue to work together to develop and promote robust in-plan retirement income solutions, including insured and non-insured options. The same groups also should ensure plan sponsors have comfort and confidence to adopt retirement income solutions in their DC plans.

Since the passage of ERISA in 1974, retirement saving systems have advanced because of progressive retirement legislation, such as the Setting Every Community Up for Retirement Enhancement Act of 2019, which specifically advanced retirement income solutions by providing safe harbor provisions for plan sponsors to offer annuity options within DC plans. However, more can be done to incentivize the adoption of the growing inventory of in-plan retirement income solutions; educate participants about their benefits; encourage the adoption of retirement income options in all DC plans; and give participants a clear path to convert their retirement savings into a predictable post-retirement paycheck.

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Another crucial area for improvement is pre-retiree education and retirement income planning tools. Many workers need help understanding how to transform retirement savings into sustainable income. Plan sponsors and service providers should offer comprehensive pre-retiree education programs that start at age 50, well before retirement. These programs should cover topics such as converting retirement savings into ongoing income, strategies for claiming Social Security, Medicare and post-retiree health care expenses planning, and broader financial planning and budgeting.

Furthermore, sophisticated yet user-friendly digital planning tools should be available to all DC plan participants. These tools will allow workers to model different retirement scenarios, considering factors such as part-time work in retirement and varying investment and withdrawal strategies. By empowering participants with knowledge and tools, we can help ensure that the transition from saving to spending in retirement is as smooth and successful as possible.

How to Integrate Social Security

Perhaps most critically, we must recognize the vital role that Social Security plays in retirement security and work to integrate it more fully with DC retirement income projections. The average retiree receives about 40% of their pre-retirement income from Social Security, making it an essential pillar for retirement income alongside retirement savings. Yet many Americans still need to fully understand the long-term implications of when to claim Social Security. This is evidenced by nearly 40% of Social Security-eligible individuals electing to start it at 62, the earliest age available. Only 10% elect it at the maximum benefit age of 70.

To address this, recent regulations mandating retirement income projections on DC participant statements should be broadened to integrate projected Social Security benefits information. This integrated approach would give participants a more holistic view of their projected retirement income. Additionally, planning tools and education programs should emphasize integrated decisionmaking for defined contribution savings and Social Security benefits, helping workers optimize their claiming strategies and overall retirement income.

A Call to Action

The retirement landscape will continue to evolve as we look to the next 50 years of ERISA. With new legislation, changing regulations and industry product advancement, retirement savings will continue to align with the spirit of ERISA.

By focusing on retirement income solutions, enhancing education and planning tools, and integrating Social Security into the broader retirement planning picture, we can build on ERISA's legacy and ensure that it remains a cornerstone of retirement security for future generations.

The golden anniversary of ERISA is not just a time for reflection, but a call to action to secure the financial future of all Americans.

Kevin Crain is the executive director of the Institutional Retirement Income Council, a nonprofit think tank serving the retirement income planning community.

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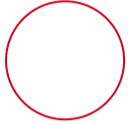
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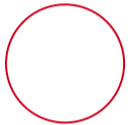
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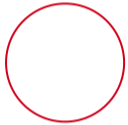
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District Court Strikes Down Missouri Anti-ESG Rules, Grants Statewide Injunction

Reported by [REMY SAMUELS](#)



- ✉ A federal court in Missouri [ruled](#) Wednesday in a favor of the Securities Industry and Financial Markets Association’s lawsuit against two regulations enacted by the state that require additional recordkeeping for advisers and brokers recommending or selecting investments with a “nonfinancial objective.”
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- The Missouri rules, which took effect on July 30, 2023, required financial professionals who consider “a social objective or other nonfinancial objective”—such as environmental, social and governance factors—in their investment advice to disclose this to their clients and obtain their clients’ written consent to state-mandated language in the rules. In the order filed Wednesday, U.S. District Judge Stephen Bough issued a statewide permanent injunction halting the rules.

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In those rules, an investment adviser’s client would be required to re-sign the document at least once every three years and every time new advice is given.

In *SIFMA v. John R. Ashcroft, Secretary of State of Missouri; and Douglas M. Jacoby, Missouri Securities Commissioner*, filed in U.S. District Court for the Western District of Missouri, SIFMA [argued](#) that federal law already required advisers to act in their clients’ best interest and that the regulation would restrict that ability because it does not precisely define what a “financial objective” means.

The first Missouri rule states that a “nonfinancial objective” is “the material fact to consider criteria in the investment or commitment of customer funds for the purpose of seeking to obtain an effect other than the maximization of financial return to the customer.”

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to the complaint, the state-mandated scripts require financial firms and clients to acknowledge that incorporating these objectives will result in advice and investments “that are not solely focused on maximizing a financial return” for the client.

The court ruled in favor of SIFMA on all counts, stating that “the rules are preempted by [the National Securities Markets Improvements Act (NSMIA)] and [Employee Retirement Income Security Act (ERISA)], are unconstitutional under the First and Fourteenth Amendments of the United States Constitution, and are impermissibly vague under the Fourteenth Amendment of the United States Constitution.”

Because the plaintiff showed a violation of constitutional rights and that those violations would “be suffered by others in the future,” the court also ordered a statewide permanent injunction prohibiting the implementation, application or enforcement of the rules.

SIFMA’s president and CEO, Kenneth E. Bentsen, wrote in a statement: “Congress enacted NSMIA to alleviate the redundant, costly, and ineffective dual federal/state regulation of our securities market system. Today’s ruling was necessary to prevent Missouri from violating NSMIA, among other things, and from hindering communications between Missouri investors and the financial professionals who serve them. This decision marks a major victory not only for our national securities market system, but also for our nation.”

Bentsen also stated that federal securities laws already require financial professionals to provide investment advice and recommendations that are in their clients’ best interest, thus rendering the Missouri rules “unnecessary” and responsible for confusion.

The Investment Adviser Association applauded the court’s decision, stating in a press release that “allowing Missouri to impose obligations on SEC advisers or their adviser personnel would have had widespread negative consequences for investment advisers with a national business.”

The Department of Labor also has litigation pending on its ESG rule issued in 2022 regarding investing in DC retirement plans. That rule allows for ESG factors to be considered but does not require them. The lawsuit, *Utah v. Su*, was from the U.S. 5th Circuit Court of Appeals.

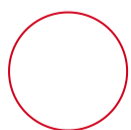
Any appeal of the Missouri decision would be made to the 8th Circuit Court of Appeals.

Tags [ESG](#), [ESG investing](#), [SIFMA](#)

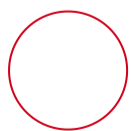
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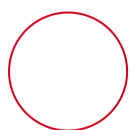
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