



# Federal Legislative & Regulatory Report

## March 2021

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### Congress passes additional COVID relief

On March 11, President Biden signed into law H.R. 1319, the [American Rescue Plan Act](#), a roughly \$2 trillion COVID relief package that includes additional stimulus payments, expanded unemployment, more paid leave assistance, direct assistance to businesses, state/local funding and funding for vaccine distribution.

The bill also provides single employer (interest rate smoothing, longer amortization) and multiemployer (funding) pension relief. Another provision expands the SECURE Act defined benefit funding relief for community newspapers.

### Senate confirms Labor Secretary Marty Walsh

On March 22, the Senate approved Marty Walsh to lead the Department of Labor by a vote of 68-29. The Senate has now confirmed all 15 of President Biden’s major cabinet positions (i.e., those Cabinet positions included in the presidential line of succession).

Still, several agencies are operating with acting leaders, including the SEC, CFTC, CFPB, and OMB. At Labor, Biden has yet to nominate an EBSA Secretary, a position currently filled by Deputy Assistant Secretary of Labor for the Employee Benefits Security Administration Ali Khawar.

## **DOL issues nonenforcement policy for its ESG rule**

On March 10, the Department of Labor [announced](#) that it will not enforce recently published final rules on “Financial Factors in Selecting Plan Investments” and “Fiduciary Duties Regarding Proxy Voting and Shareholder Rights.” The department released the announcement as [an enforcement policy statement](#).

Commonly referred to as the ESG Rule and the Proxy Voting Rule, they were criticized by the industry for upsetting longstanding views of fiduciary responsibilities. Going forward, neither the ESG Rule nor the Proxy Voting Rule will be enforced until DOL publishes further guidance. DOL states that it intends to “revisit” the ESG Rule and Proxy Voting Rule, but there is no timeline for those decisions.

## **GAO recommends DOL issue guidance on DC plan cybersecurity**

On March 15, the Government Accountability Office (GAO) published a report titled, “[Defined Contribution Plans: Federal Guidance Could Help Mitigate Cybersecurity Risks in 401\(k\) and Other Retirement Plans](#).”

The report makes two recommendations:

1. The Department of Labor (DOL) should formally state whether it is a fiduciary's responsibility to mitigate cybersecurity risks in DC plans; and
2. DOL should establish minimum expectations for addressing cybersecurity risks in DC plans.

DOL officials told GAO that the agency intends to issue guidance addressing cybersecurity-related issues, but they were unsure when it would be issued.

## **IRS delays individual income tax filing deadline**

On March 17, the IRS announced that the federal income tax filing due date for individuals for the 2020 tax year will be automatically extended from April 15, 2021, to May 17, 2021.

This postponement applies to individual taxpayers, including individuals who pay self-employment tax. Penalties, interest and additions to tax will begin to accrue on any remaining unpaid balances as of May 17, 2021. Individual taxpayers will automatically avoid interest and penalties on the taxes paid by May 17.

[Notice 2021-21](#) confirmed that the deadline for making IRA contributions for the 2020 tax year has also been extended until May 17, 2021.

## Senators introduced FTT companion bill

On March 18, Sens. Brian Schatz (D-HI), Chris Van Hollen (D-MD), Elizabeth Warren (D-MA), Kirsten Gillibrand (D-NY), Jeff Merkley (D-OR) and Sheldon Whitehouse (D-RI) introduced [S. 817](#), the Wall Street Tax Act, which would create a 0.1% tax on each sale of stocks, bonds and derivatives.

The bill's sponsors say the new tax will discourage unproductive trading and redirect investment toward more productive areas of the economy. The new tax would apply to the fair market value of equities and bonds and to the payment flows under derivatives contracts. Initial public offerings and short-term debt would be exempted.

Rep. Peter DeFazio (D-OR) introduced a companion bill ([H.R. 328](#)) in the House in January.

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## References and source material used in this publication

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Chairman Sanders Introduces The American Rescue Plan Act

<https://www.budget.senate.gov/chairman/newsroom/press/chairman-sanders-introduces-the-american-rescue-plan-act>

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U.S. Department of Labor Releases Statement on Enforcement of its Final Rules on ESG Investments, Proxy Voting By Employee Benefit Plans

<https://www.dol.gov/newsroom/releases/ebsa/ebsa20210310>

U.S. Department of Labor Statement Regarding Enforcement of its Final Rules on ESG Investments and Proxy Voting By Employee Benefit Plans

<https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/erisa/statement-on-enforcement-of-final-rules-on-esg-investments-and-proxy-voting.pdf>

Defined Contribution Plans: Federal Guidance Could Help Mitigate Cybersecurity Risks in 401(k) and Other Retirement Plans

<https://www.gao.gov/products/gao-21-25>

Notice 2021-21: Relief for Form 1040 Filers Affected by Ongoing Coronavirus Disease 2019 Pandemic

<https://www.irs.gov/pub/irs-drop/n-21-21.pdf>

Text of S. 817, Wall Street Tax Act of 2021

<https://www.congress.gov/bill/117th-congress/senate-bill/817/text>

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Text of H.R. 328, Wall Street Tax Act of 2021

<https://www.congress.gov/bill/117th-congress/senate-bill/817/text>

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## Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, [NRSforu.com/plansponsor](https://NRSforu.com/plansponsor).

## About this report

**BOB BEASLEY**, CRC, Communications Consultant, edits this report. Beasley brings more than 30 years of financial services communications experience to your plan. He has contributed to past editions of the *Governmental 457(b) Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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