AMERICAN RETIREMENT ASSOCIATION

4401 N. Fairfax Drive | Suite 600 | Arlington, VA 22203
P 703.516.9300 | F 703.516.9308 | info@usaretirement.org | usaretirement.org

Working for America's Retirement

The Retirement Fairness for Charities and Educational Institutions Act Levels the Playing Field for Savers at Non-Profit Organizations

The *Retirement Fairness for Charities and Educational Institutions Act* will ensure workers with a 403(b) plan maximize their retirement savings through Collective Investment Trusts (CITs). Current securities law unnecessarily prohibits participants in 403(b) plans from accessing the benefits of CITs.

WHAT IS A 403(B) PLAN?

A 403(b) plan is a type of retirement plan available to employees of certain non-profit organizations like public schools, universities, churches, and charities. Like a 401(k) plan, these employees can contribute a portion of their salary on a tax-advantaged basis to a 403(b) plan for their retirement. Under current securities laws, 403(b) plan sponsors - unlike 401(k) plan sponsors - cannot use CITs as an investment option in their plan.

WHAT ARE CITS AND HOW DO THEY HELP SAVERS MAXIMIZE THEIR RETIREMENT SAVINGS?

A CIT is a tax-exempt investment vehicle that pools assets from multiple investors and is maintained by a bank or trust company. CITs are similar to mutual funds or exchange-traded funds (ETFs) in that they allow investors to diversify their holdings across a range of securities, such as stocks and bonds. Unlike mutual funds or ETFs - which must register with the Securities and Exchange Commission (SEC) - CITs are regulated under the Office of the Comptroller of the Currency (OCC), a federal banking agency in the U.S. Treasury Department.

Since CITs are exempt from SEC registration requirements, they typically have lower fees compared to mutual funds. On average, CIT fees can be 25 to 40 basis points less than mutual fund fees, which can help maximize returns for retirement plan participants. CITs also typically have lower administration and marketing and distribution costs compared with mutual funds. These features often result in cost savings for the CIT which are then passed on to plan sponsors and participants. CITs are only offered to institutional investors, like sponsors of retirement plans. For example, CITs are widely available in 401(k) plans. According to Cerulli Associates, total CIT assets reached slightly above $3 trillion in 2018, compared to total CIT assets of approximately $1.87 trillion in 2011 - a 64% increase in total CIT assets over seven years.

HOW ARE RETIREMENT PLAN INVESTORS PROTECTED?

The Employee Retirement Income Security Act (ERISA) requires fiduciaries - those who manage and control the assets of a retirement plan covered under the law - to be held to the highest standard of conduct known to law. Therefore, fiduciaries that choose CITs for a retirement plan are required to follow a detailed process to ensure and clearly document that they act in the best interests of retirement plan participants.

WHY ARE CITS NOT ALLOWED IN 403(B) PLANS?

There is no rational basis why CITs are not allowed in 403(b) plans covered under ERISA where the employer agrees to serve as a fiduciary for the plan with respect to the selection of the plan's investments. Congress has recently taken steps to level the playing field between 403(b) and 401(k) plans. Specifically, the House of Representatives passed H.R. 2799, the Expanding Access to Capital Act of 2023, which was amended to include **H.R. 3063**, the Retirement Fairness for Charities and Educational Institution Act. The American Retirement Association encourages the Senate to swiftly take up this legislation and ensure its passage into law.

The American Retirement Association (ARA) is a non-profit education and advocacy organization for retirement plan and benefits professionals. Our mission is to advocate for policies that give every working American the ability to have a comfortable retirement.