AMERICAN RETIREMENT ASSOCIATION
Working for America's Retirement

Lowering Investment Fees for Participants in 403(b) Retirement Plans

PASS THE RETIREMENT FAIRNESS FOR CHARITIES AND EDUCATIONAL INSTITUTIONS ACT

A 403(b) retirement plan is a tax-advantaged retirement savings account available to employees of certain tax-exempt organizations, such as schools, hospitals, and nonprofit organizations. These plans are like 401(k) plans offered to workers at for-profit companies but are specifically designed for employees in the nonprofit sector.

The types of workers who benefit from 403(b) plans are employees in the nonprofit sector, including:

- educators
- healthcare professionals
- employees of nonprofit organizations, such as charitable foundations, social service agencies, and religious institutions.

Congress is working to pass the ***Retirement Fairness for Charities and Educational Institutions Act*** that would fix a quirk in the Securities laws that unnecessarily restricts the types of investments that can be made in a 403(b) plan. The bill would allow a collective investment trust (CIT) to be made available to 403(b) plans across the nation. The bill is seeing bipartisan support and has a path forward to success.

A collective investment trust (CIT) is a tax-exempt investment vehicle that pools assets from multiple investors and is maintained by a bank or trust company. CITs are like 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. In 1963, the OCC adopted a comprehensive

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regulation which addressed the fiduciary activities of national banks, called Regulation 9. Regulation 9 also covered the operation of pooled investment trusts, which allowed for the emergence of modern CITs. Today, banking regulators at both the federal and state levels look to Regulation 9 and its fiduciary principles as the prevailing regulatory standard for the oversight of CITs.

Since CITs are exempt from SEC registration requirements, they typically have lower fees compared to mutual funds. According to the Retirement Plan Advisory Group (RPAG), CIT fees are as much as 53% lower than mutual fund fees, which can help maximize returns for retirement plan participants. CITs also typically have lower administration and marketing and distribution costs as 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.

Under current law CITs are not allowed in 403(b) plans. There is no rational basis why CITs are not allowed in 403(b) plans. Including CITs in 403(b) plans will create greater equity among retirement programs. For example, CITs have been made available in 401(k) plans for years now. Congress can correct this issue with the enactment of the bipartisan ***Retirement Fairness for Charities and Educational Institutions Act***.

With the options in 403(b) plans and the ability for 403(b) plan participants to choose an advisor to support their retirement planning, it is vital to provide lower-cost options for participants. Some participants focus their choices based off service and others based on fees. CITs will provide an option for participants to receive another mix of service and lower fee products. The ***Retirement Fairness for Charities and Educational Institutions Act*** will greatly increase the number of Americans that will have access to funds with lower fees through the use of CITs in 403(b) plans.

CIT fees are as much as 53% lower than mutual fund fees

The American Retirement Association is releasing new data from former Joint Committee on Taxation economist Judy Xanthopoulos who used the Internal Revenue Service's Form W-2 Wage date to estimate that, as of 2022, ***14.5 million American workers in the nonprofit sector currently use 403(b) plans to help save for their retirement***. This new data is also broken out by state through an analysis of state-level nonprofit organization data from Statistica. Should this bill become law, those 14.5 million American nonprofit sector workers could gain access to lower cost investments through CITs.

NUMBER OF 403(b) PARTICIPANTS: ACTIVE, RETIRED, AND SEPARATED