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NATIONAL ASSOCIATION OF PLAN ADVISORS

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FLIGHT "CLUB"

THE NATION'S TOP DC WHOLESALERS

Looking Back at the 2008 Crash

Preparing Clients for a DOL Audit

NAPAnet
the magazine
FALL 2018

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FLIGHT 'CLUB'

by Judy Ward

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« OPENING THE BOOKS

by Judy Ward

Here's how to help your plan sponsor clients prepare for a DOL audit.

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NAPA
National Association of Plan Advisors
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EDITOR-IN-CHIEF
Nevin E. Adams, JD

COPY EDITOR
John Ortman
jortman@usaretirement.org

ART DIRECTOR / DESIGNER
Ethan Duran
eduran@usaretirement.org

PRODUCTION MANAGER
Steve Fox
sfox@usaretirement.org

NAPA OFFICERS

PRESIDENT
Jeff Acheson

PRESIDENT-ELECT
Jania Stout

VICE PRESIDENT
Pat Wenzel

IMMEDIATE PAST PRESIDENT
Paul D'Aiutolo

EXECUTIVE DIRECTOR
Brian H. Graff, Esq., APM

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The 'Storm' of Your Lifetime

Getting ready for that retirement 'landfall'

As we head to press, the tail end of hurricane season — and more specifically the potential impact of Hurricane Florence — brings to mind my last serious brush with nature's fury.

It was 2011, and we had just dropped our youngest off for his first semester of college in North Carolina, stopped off long enough in Washington, DC to check in with our daughters (both in college there at the time), and then sped home up the east coast to Connecticut with reports of Hurricane Irene's potential destruction and probable landfall(s) close behind. We arrived home, unloaded in record time, and rushed straight to the local hardware store to stock up for the coming storm.

We weren't the only ones to do so, of course. And what we had most hoped to acquire (a generator) was not to be found — there, or at that moment, apparently anywhere in the state.

What made that situation all the more infuriating was that, while the prospect of a hurricane landfall near our Connecticut home was relatively rare, we'd already had one narrow miss with an earlier hurricane and had then, as on several prior occasions, been without power, and for extended periods. After each I had told myself that we really needed to invest in a generator — but, as we know, inertia is a powerful force, and reasoning that I had plenty of time to do so when it was more convenient, I simply (and repeatedly) postponed taking action. Thankfully my dear wife wasn't inclined to remind me of that at the time, but the regrets loomed large in my mind.

Retirement Ratings?

People often talk about the retirement crisis in this country, but like a tropical storm still well out to sea, there are widely varying assessments as to just how big it is, and — to borrow some hurricane terminology — when it will make "landfall," and with what force. Most of the predictions are dire, of course — and while they often rely on arguably unreliable measures like uninformed levels of confidence (or lack thereof), self-reported financials and savings averages — it's hard to escape a pervasive sense that as a nation we're in for some rough weather, particularly in view of the objective data we do have — things like coverage statistics and retirement readiness projections based on actual participant data.

> "As I was reminded when Irene struck, sometimes you don't have as much time as you think you have."

Life is full of uncertainty, and events and circumstances, as often as not, happen with little if any warning. Even though hurricanes are something you can see coming a long way off, there's always the chance that they will peter out sooner than expected, that landfall will result in a dramatic shift in course and/or intensity, or that, as with some (apparently including Florence) — the most devastating impact is what happens afterward. In theory, at least, that provides time to prepare — but, as I was reminded when Irene struck, sometimes you don't have as much time as you think you have.

Doubtless, a lot of retirement plan participants are going to look back at their working lives as they near the threshold of retirement, the same way I thought about that generator. They'll likely remember the admonitions about (and their good intentions to) saving sooner, saving more, and the importance of regular, prudent reallocations of investment portfolios. Thankfully — and surely because of the hard work of advisors and plan sponsors — many will have heeded those warnings in time. But others, surely — and particularly those without access to a retirement plan at work — may find those post-retirement years (if indeed they can retire) to be a time of regret.

As retirement advisors are well aware, the end of our working lives inevitably hits different people at different times, and in different states of readiness. But we all know that it's a "landfall" for which we need to prepare while we still can.

NEVIN E. ADAMS, JD » Editor-in-Chief
nevin.adams@usaretirement.org

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BY JEFFERY ACHESON

What Got Us Here Won't Get Us There

Much remains to be done to ensure a dignified retirement for all Americans.

In my previous column, "Innovate or Evaporate," I outlined all the things NAPA has done and must continue to do to stay relevant as an organization in the retirement security discourse taking place at many levels today. This dialogue is being assessed from a plethora of different and at times conflicting perspectives, so there is much work to do in sorting it all out in a favorable fashion for our membership. In assessing where we are now and what is at hand, I was struck by how far we have come — but even more so by how much farther we must go.

Applying a bit of wordsmithing to the title of a book in my library by Marshall Goldsmith, let me suggest that "What got us here, won't get us there." So, where did we come from? For some of us, it was the Stone Age. I remember installing my first 401(k) plan in 1982 using individual fixed annuity contracts sold one at a time.

Where are we now? As an industry and as individual advisors, we have helped working Americans accumulate within their 401(k) plans more than $5 trillion since the early '80s, and that doesn't even count balances already rolled out to IRAs by terminated or retiring participants. Yet some would still claim that our efforts were a "failed experiment" even after considering the success metrics of other methods of saving also available over the same timeframe. In fact, when you factor in a comparative of the current industry environment to the complexity, cost, technology and lack of transparency of the early '80s, today's retirement plan and planning landscape is a far cry from that not-too-distant past. We have much to be proud of!

But much work remains to be done in ensuring a dignified and comfortable retirement for all Americans. So, where do we go from here? Will today's industry service providers and advisors be deemed relevant in the future due to their value propositions built around vendor packaging and selection, cutting edge platforms and mobile technologies, offering even deeper pricing discounts, delivering superior investment vehicle performance or being recognized for unique fiduciary guidance services? While these are all important attributes that we must continue to improve upon, will they be the differentiators deemed most critical in the selection process? Could commoditization and fee compression favor the deep-pocketed giants in the industry and drive further consolidation? And where would that leave retirement plan advisors?

> "Will today's industry service providers and advisors be deemed relevant in the future?"

From an advisor's perspective, I believe the future will shift and belong to those who can prove they can move the needle in the coverage dilemma and at the same time drive improved participant outcomes, not just at retirement but through retirement. To do that we will need to develop a methodology and technology that can measure and communicate our ability to not only have an impact on projected and realized outcomes but also coverage statistics that haven't changed in more than 40 years. Why? In the big picture, if we as an industry and as advisors can't document and communicate our ability to positively impact the social concerns inherent within the nation's retirement picture, we will be viewed as just another self-serving special interest group, part of the problem rather than part of the solution. Historically, that conclusion never bodes well for those being assessed.

So, what to do? First, we must all support NAPA as well as our sister organizations and parent, the American Retirement Association. We must support them with our confidence in their advocacy on our behalf, our time in volunteering and providing both conceptual and anecdotal thought leadership, our money funding the PAC to enhance access to legislative and regulatory bodies, and finally, by communicating our pride of association with NAPA. It is critically important that we let our plan sponsors and participants know of our collective efforts as an organization and as individual members on behalf of all Americans to secure retirement dignity and independence. **That's how we get from here to there!**

» Jeffery Acheson, CPFA, is the founder of Advanced Strategies Group, LLC. He serves as NAPA's 2018-2019 President.

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on Ethics

Risking Retirement

A Senate bill would put small business employees at risk for excessive fees, bad investments and potential fraud.

BY BRIAN H. GRAFF

ERISA was enacted to provide national protections for participants in employer-sponsored retirement plans — but recently proposed legislation would undermine those protections.

A bill introduced in the Senate in July would create a new type of "open" multiple employer plan (MEP), an employee benefit plan that can be maintained as a single plan in which two or more unrelated employers participate. This is a concept that has received bipartisan support on Capitol Hill, and of which the American Retirement Association has been largely supportive, viewing it as a device that could broaden coverage by encouraging employers to offer a plan and provide a more cost-effective way to serve plans in the small market.

Unfortunately, the ironically named Small Business Employees Retirement Enhancement Act would eliminate the fiduciary role of small employers in considering cost, competency, financial stability or the likelihood of fraud in choosing a pooled plan service provider or the plan's investments under the bill.

It's hard to imagine how the elimination of the employer oversight that has been part and parcel of the employer-sponsored retirement system would be an "enhancement" for small business workers, who would, under such a scheme, be left at risk for excessive fees, bad investments and potential fraud. In fact, a MEP provider in Idaho is serving time in federal prison for crimes that had nothing to do with the fees that were charged. Significantly, it wasn't a regulator that detected those criminal acts, and it sure wasn't the MEP he was running — it was a plan sponsor.

Doubtless, those looking to insulate the plan sponsor from fiduciary liability are focused on removing what they think — or have been told — is a barrier to plan adoption, and thus see the elimination of that role as a step on the path to increasing retirement plan coverage. And doubtless there are MEP providers willing to assume the "transfer" of that responsibility.

Indeed, the bills' sponsors cite "fiduciary risk" as a major reason employers do not offer a plan. There's just one problem: That doesn't seem to be the case when you actually survey employers who aren't offering a plan as to why that's the case. A 2017 survey of employers by Pew Charitable Trusts found that 37% cited "too expensive to set up" as a "main" reason, and 71% as a reason. A lack of resources to administer the plan was cited by 22% as a main reason, and 63% as a reason. "Employees not interested" was a reason for half the respondents, and a main reason for 17%. Nearly a quarter (22%) noted they hadn't even thought about it. Concerns about fiduciary liability? Not even on the list.

One place where fiduciary concerns were mentioned was a 2015 survey by the Transamerica Center for Retirement Studies. However, that survey found that concerns about fiduciary liability was cited by just 13% of employers — the very last item on their list of reasons (except for "other"). It was dwarfed by reasons like "company is not large enough" (58%), cost concerns (50%), employees not interested (32%), company/management not interested (27%), and administrative complexity (19%).

In sum, the issues that are holding employers back — and that have long held employers back — don't have anything to do with fiduciary liability.

It's not like there aren't other, better options. Pooled employer plans, such as those included in the Retirement Enhancement and Savings Act (H.R.5282), would address the concerns small employers actually have cited as impediments to offering a retirement plan, while still providing the essential employer role in reviewing and monitoring the reliability, integrity and competitiveness of the institution to which they will entrust their workers' life savings.

> "The issues that are holding employers back — and that have long held employers back — don't have anything to do with fiduciary liability."

The Department of Labor's website says it best: "Plan sponsors and other fiduciaries have a solemn responsibility to protect the interests of the workers and retirees in their benefit plans."

It is one thing to consolidate routine plan administrative functions, and something else altogether to relinquish all responsibility for selection and oversight of an entity that will control a workforce's lifetime of retirement savings.

Legislation that stands between employers and the protection of those interests puts retirement plans, retirement plan investors — and the nation's retirement security itself — at risk.

» Brian H. Graff is the Executive Director of NAPA and CEO of the American Retirement Association.

Trends 'Setting'

New research indicates that 401(k)s may be undervalued — by employers — while Millennials are (apparently) better savers than thought, (some) loan takers become non-savers, retirement projections may have a big blind spot, and retirement decisions may be driven by… personality?

'UNDER' VALUED?

Employers may be underestimating the importance of 401(k)s.

While a majority of employers believe that offering a 401(k) plan is important for attracting and retaining employees, some may be underestimating their significance, according to a recent study.

The Transamerica Center for Retirement Studies' 18th Annual Retirement Survey finds that the vast majority of workers (88%) view a 401(k) or similar plan as an important benefit. Yet, only 75% of employers believe that their employees see such a benefit as important. Additionally, more workers (62%) than employers (45%) see this benefit as being "very important."

Based on a survey of more than 1,800 for-profit employers with five or more employees, TCRS' study – "Striking Similarities and Disconcerting Disconnects: Employers, Workers, and Retirement Security" – seeks to better understand employers' views on their employees' future retirement and how they are helping them prepare for retirement. The study also provides context by comparing the employer survey findings with TCRS' survey of 6,372 workers.

Starting 'Blocks'

Among employers that do not offer a 401(k) or similar plan, only 27% say that they are likely to begin sponsoring a plan in the next two years. The most often cited reasons among employers that are not planning to do so include:

- Company is not big enough (58%)
- Concerns about cost (41%)
- Employees are not interested (22%)

However, 25% of employers that are not likely to offer a plan say they would consider joining a multiple employer plan (MEP) offered by a reputable vendor who handles many of the fiduciary and administrative duties at a reasonable cost.

'Diss' Connects

Another surprising disconnect between employers' perceptions and workers' retirement-related preparations is that 72% of employers believe their employees prefer not to think about retirement until they get closer to their retirement date, compared to only 40% of workers who feel this way.

Moreover, only half of employer respondents think employees are very

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involved in monitoring and managing their retirement savings, compared to 65% of workers who say they are. In fact, 66% of workers say they would like more information and advice from their employers on how to reach their retirement goals, yet only 52% of employers believe this to be the case.

Meanwhile, mobile apps that project retirement savings and income needs (74%) and that manage accounts (73%) have gained popularity in recent years, as well as information on social media platforms (53%).

Advisory Opinions

Other findings show that 68% of all employers report using a professional advisor when selecting their company's retirement plan. Not surprisingly, medium (76%) and large companies (73%) are more likely to do so than small companies (66%). The most common types of advisors used when selecting a plan include:

- Financial planners/brokers (38%)
- Investment advisors (35%)
- Accountants/CPAs (25%)

Also not surprisingly, large and medium companies are more likely to utilize a benefits consultant (37% and 33%, respectively) than small companies (13%).

Retirement Transition

The study further emphasizes that employers offering a 401(k) or similar plan have a huge opportunity to work with their retirement plan providers to supply their participants with resources. Yet, one in five plan sponsors (22%) report that they do "nothing" to help employees transition their savings and finances into retirement. Moreover, fewer than two in five provide assistance in the form of educational resources, information about distribution options, retirement planning materials, ability to make systematic withdrawals, referrals or offer an annuity as a payout option.

— Ted Godbout

PERSONALITY 'TRAITS'

Are retirement decisions driven by personality?

New research finds that fewer than 40% of American workers follow the "standard" pattern of retiring directly and completely from a full-time job. But you might be surprised to find the impact that personality traits had on that decision.

The study, by RAND, found that some transition to part-time work (13.6% of respondents in the study sample), while others leave the workforce and subsequently reenter it (16.9%). While about a quarter (25.7%) remain in part- or full-time jobs past age 70, fewer than half of these (9.8% of the total sample) stay in full-time positions.

The study included an examination of the role of cognitive abilities and five personality traits (such as extroversion, neuroticism and conscientiousness), and found that seniors with better cognitive ability (as measured by an assessment emphasizing working memory) were more likely to follow nonstandard retirement paths: 59.1% of those with high cognitive ability had jobs after age 65, while only 51.6% of those with low cognitive ability did. The researchers also noted that high scorers also were more likely to stay in the workforce after age 70, in part- or full-time work.

After the researchers controlled for other possible factors, they found that extroverts were more likely to follow "nonstandard" paths and work after age 65. On the other hand, they appeared more likely to move into part-time jobs without retiring fully by age 70.

Those scoring higher on agreeableness and those scoring lower on conscientiousness tended to leave the workforce sooner, although the researchers noted that those effects were weaker and less consistent.

Not surprisingly, individuals' health status and economic preparedness were also "strong predictors" of retirement, and the researchers note that a traditional retirement path (retiring fully from a full-time job) was most common among those who had access to defined benefit pensions.

The report concludes by acknowledging that more research is needed to understand the links between psychological factors and work-to-retirement pathways, as well as how these links vary by occupations and other work characteristics, and that the findings may be helpful in informing policies to help people work longer.

— Nevin E. Adams, JD

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TAKE DOWN?

Report: 15% of loan takers become non-savers.

It's not exactly a shocker that participants with an outstanding 401(k) loan save less — but a surprising number quit saving altogether.

According to Alight Solutions, because workers with loans are allocating funds to repay the loan, they save about 20% less than those without loans — deferring 6.7%, compared with 8.3% for those without loans.

However, Alight notes that roughly 15% of workers with loans stop their retirement contributions. Moreover, they note that workers with the smallest balances are the most likely to stop contributing.

The report also notes that 60% of the time when workers with loans leave their employer, they "default" on the loan — and in the process trigger additional taxes and possible penalties that can amount to thousands of dollars in unplanned expenses.

Alight also cautions that plans that allow for multiple loans have higher loan usage, on average. Additionally, when participants are allowed to take out multiple loans, most loan users have more than one outstanding loan.

'OUT' TAKES?

Are early retirement account withdrawals the new norm among the young?

Whether it's overconfidence or something else at work, a recent study reveals that early retirement account withdrawals among young investors have been trending upward over the last few years.

E*TRADE Financial Corporation's most recent issue of StreetWise, the firm's quarterly tracking study of experienced investors, finds that nearly 60% of young investors admitted they had made an early withdrawal from their retirement account in 2018.

In fact, the results show a sharp upward swing over the past three years in early withdrawals among young investors — defined as those between ages 18–34 — increasing from 31% in 2015, to 50% in 2017 to the current level of 59%.

E*TRADE suggests that these young investors may be overly secure about achieving their desired retirement and are in critical need of retirement savings knowledge. According to the findings, nearly all of the young investors surveyed (89%) feel somewhat-to-very confident that they will save enough to enjoy their retirement.

While this level is consistent with the other age groups in the survey, younger investors don't think they'll need as much as their older peers. They are most likely to think they'll only need between $250,000 and $999,999 for a successful retirement (49%). Boomer investors, meanwhile, tend to disagree, with more of these respondents believing they will need between $1 million and $2 million for a successful retirement (43%).

Perhaps one positive finding from the study is that 38% of young respondents say they are saving between 6–10% of their income for retirement, and another 24% say they are saving between 11–16%. More concerning might be the low end of this group; the findings show that 20% of younger investors say they are saving only between 1–5% of their income.

This wave of the survey fielded by Research Now was conducted July 1-11, 2018, among an online U.S. sample of 940 self-directed active investors, with a sample of 284 young investors between the ages of 18 and 34 who manage at least $10,000 in an online brokerage account. The panel is broken into thirds of active (trade more than once a week), swing (trade less than once a week but more than once a month), and passive (trade less than once a month).

— Ted Godbout

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DIGITAL DEVISE?

Millennials have unexpected retirement savings and advice preferences.

Despite assumptions that Millennials are not focused on saving for retirement, a new study uncovers unexpected wealth management trends among the generational cohort.

According to a national study conducted by the Center for Generational Kinetics on behalf of Broadridge Financial Solutions, a large majority of Millennials say they are actively saving and prefer more regular communications with financial advisors, even though most admit they are not working with one.

In fact, two-thirds of Millennials surveyed report that they are actively saving for retirement, though nearly 70% of respondents acknowledge they are not currently working with an advisor.

Personal Preferences

Notwithstanding the perception that Millennials operate strictly in a digital world, the findings show that this group finds in-person meetings and phone calls to be the best way to build trust with a financial advisor. Only 17% of Millennials view texting and only 9% view social media as trust-building communications.

In addition, 67% of Millennial respondents prefer communication from a financial advisor at least monthly, while 28% prefer contact on a daily or weekly basis.

Of the survey respondents, 55% indicated they would consider or use their parents' financial advisor, but only one in five Millennials whose parents have a financial advisor have actually met their parents' advisor. Broadridge notes that Millennials are the only generation found to trust retirement advice from family and friends more than advice from a financial professional or advisor.

When asked about preferred financial advisor traits, Millennials say that their first priority is experience, albeit less so than older respondents. Compared to older generations, Millennials are more likely to seek advice from a professional who has similar demographic qualities as themselves, such as gender, socio-economic status and financial history.

Savings Vehicles

Millennials are more confident investing in savings accounts than workplace retirement plans, tax advantaged plans or real estate, according to the findings. In contrast, older survey respondents are most likely to trust workplace retirement plans and tax advantaged plans.

"Millennials would rather put their money in a savings account than a workplace retirement plan, effectively 'pushing pause' on the potential for qualified plan growth," Dash noted. "This demonstrates a significant need for financial guidance. The good news is that advisors don't need to completely reinvent the wheel to meaningfully engage the next generation of clients. They just need to know and take action on what Millennials actually want," she further emphasizes.

Health savings accounts (HSAs) apparently are also a "blind spot" for Millennials. The findings show that more than half of Millennial respondents are interested in HSAs, but only one-third are taking advantage of them. Moreover, 43% of Millennials surveyed are not familiar with HSAs, highlighting another opportunity for advisors, the authors note.

"By delineating what is specific to Millennials and what rings true for Americans across generations, we've uncovered significant, immediate opportunities for financial advisors to grow their practices," explains Jason Dorsey, President of The Center for Generational Kinetics. "The key is that financial advisors need to evolve their practices starting today — and adapt along with technology and communication trends — to build trust and benefit clients and prospects."

The study included a 25-question survey conducted July 10-16, 2018, administered to more than 1,000 U.S. respondents ages 22-59, weighted to current census data for age, region and gender.

The 3 Golden Rules of Marketing

Which forms of marketing are best for you, and where should you focus your energy and budget?

BY REBECCA HOURIHAN

If you were to ask three different advisors what marketing is, you would get three different answers — and they would all be right! To most people, marketing can be a pretty vague term used to describe a number of things.

From business cards to blogs, everything you could, should or would share with a plan sponsor client or prospect is considered marketing. Additionally, the way you distribute these items may be considered marketing as well. We like to refer to this as your distribution or marketing strategy. So, with all of the different types of marketing out there, which forms are best for advisors, and where should you focus your energy and budget? What is the best strategy, and how do you get started?

When a new prospect views your LinkedIn profile or website, or receives a piece of your marketing content, what is it like? We challenge you to think about creating an experience: the 401(k) client journey. Stepping into your clients' shoes and assessing the experience from their points of view may provide insights into how you can strengthen your brand, demonstrate your expertise, and increase the long-term profitability of your practice.

We believe in these principles: the three Golden Rules of Marketing.

1. Know What You Stand For

What is your "why"? Why did you get into the retirement plan business? What is that powerful moment that stands out in your mind that led you to confidently say, "Yes, I'm a retirement plan advisor."

That is your ultimate "why." It's your unique passion for this industry. What is that story? Why does it mean something to you? How are you upholding your mission with your clients, prospects and centers of influence?

Write it down. Write down what you stand for, then shout it from the mountaintops. When your marketing message is pure and truly comes from a place of heart, it is authentic — and authentically you.

Next, talk with your team. Be sure that everyone in your office can articulate why the company was founded, and its mission statement and purpose. It is recommended that your prospects hear a consistent brand message, starting from their first touchpoint and throughout every subsequent discussion, from the receptionist all the way up to the president. Get your whole team singing the same song.

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2. Content Is King

Who enjoys robo calls? Spam emails? Unsolicited sales pitches? No one, right? That's because thanks to the abundance of online education, the influence of social media, and a more informed consumer, marketing techniques have had to evolve. *The days of interruption marketing are dwindling.*

Plan sponsors can research their problems and select content that speaks to their needs (fiduciary governance, investment knowledge, plan design options, financial wellness programs, and much more). This means that your messages have to be relevant, helpful and interesting.

If plan sponsors don't see the benefit of what we have to say, they're not going to listen. This is why content marketing has become such an important strategy.

So, what is content marketing? It is a consistent marketing strategy that revolves around the creation, publication and distribution of content that demonstrates to plan sponsors that you are an experienced retirement plan advisor. It is primarily distributed through online channels such as search engines, social media, emails, blogs, videos, infographics and other downloadable or interactive pieces that share your brand and expertise with your ideal 401(k) client.

The more content you share with your target audience, the clearer it becomes that you are an authority in your field. Yet, content marketing is a softer sell, but much more effective at building loyalty and trust. People trust experts and hire them to help solve their problems.

In its recent 2018 RIA Benchmarking Study, Charles Schwab found that 46% of advisory firms had created a documented marketing plan and 49% had a marketing budget. It also found that in addition to referrals, firms are leveraging a range of digital marketing channels to help their firms grow: email newsletters (62%), social media (58%) and video (22%).[1]

Additionally, the fastest-growing RIA firms found more new client assets coming from a combination of business partner referrals and other marketing (60%) than from existing client referrals (40%). One might say that the times are changing and content marketing is riding high.[2]

3. Future Fortune Lies in Following up

Did you know that only 2% of sales occur at the first meeting?[3]

There are the fabled stories: "I sold a plan on the back of napkin," "In the first meeting, they appointed me broker of record," and "I was sitting on a plane next to the CEO and by the time the plane landed, he was a new client." Sure, they happen; but they are the exception — not the rule.

WERAYUTH TES / SHUTTERSTOCK.COM

> The days of interruption marketing are dwindling."

Instead, most retirement plan clients are courted for months and sometimes years, which is why it is important to know your numbers and how to follow up.

Know Your Numbers

- Email campaigns: Track email interactions (open rates, click-through rates). These are your hottest prospects who are genuinely interested. An average open rate is about 10%, a good open rate is 15%, a great open rate is 25%, and above that is exceptional.
- LinkedIn posts: Understand your engagement with your connections (views, likes, comments, shares). Respond to comments in a timely manner and thank those who share your article with a personal message.

How to Follow up

- Email: Send an automated email to "opens" and "clicks" thanking these contacts for taking the time to read your email. Suggest another relatable piece of content, such as a checklist. Then track those email interactions and watch how the open rates become exceptional because you are now communicating with qualified prospects.
- LinkedIn: Timely comments and personal messages. Ask for thoughts and feedback. Let responders know they can find more plan sponsor information on your blog. This is a great way to begin a conversation.
- Direct mail: Once you realize that some contacts are consistently engaging with your content, go the extra mile by sending them a direct mail piece.

Then, keep delivering value and be consistent and always deliver on content. In a business study, it was found that 80% of sales require at least five follow-ups.[4] Instead of pushing for the meeting in the first follow-up, try adding more value before asking for your prospect's time.

Taking Action for Success

As we know, more and more clients are self-educating online (Googling you in advance), and this means that marketing techniques need to evolve. Each and every time your brand is in front of the 401(k) plan audience, you are building more awareness. More and more professionals are learning about your retirement plan expertise. The more content you share, the more plan sponsors are going to start thinking of you when they need help.

As you continue to educate, entertain and inform your clients, prospects and centers of influence, they will sing your praises. Put that all together with a consistent, compelling marketing campaign and, wow, that's when the magic happens.

Hope this was helpful and inspires you to apply the three Golden Rules of Marketing within your business to strengthen your brand, demonstrate your expertise, and increase the long-term profitability of your practice.

Thanks for reading and happy marketing!

» Rebecca Hourihan, AIF, PPC, is the founder and CMO of 401(k) Marketing, which she founded to assist qualified experts operate a professional business with professional marketing materials and ongoing awareness campaigns.

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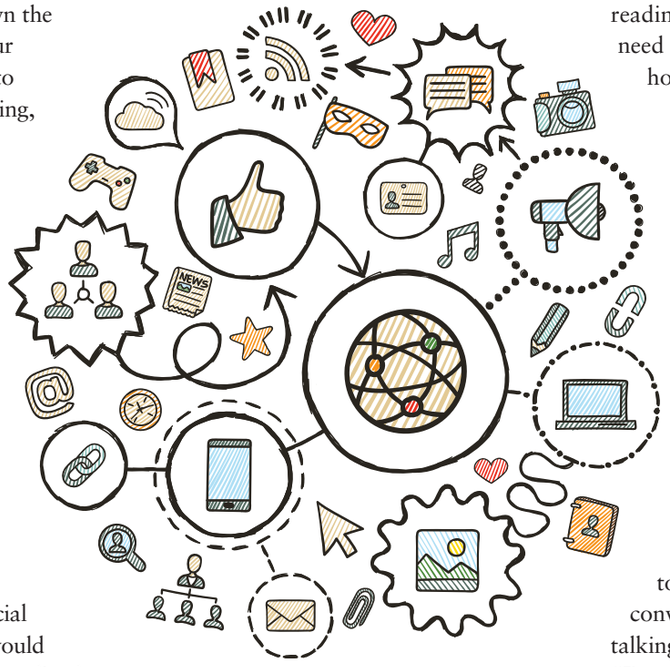
Dig Through Your Customers' Garbage

Not really. Try this instead.

BY SPENCER X SMITH

Imagine someone walking down the street wearing a t-shirt for your favorite band. How easy is it to start up a conversation by saying, "That's my favorite band! Have you seen them live?" Your shared love of that band will provide a subject over which to connect, instantly establishing rapport.

What's the modern-day equivalent of this phenomenon? Public-facing social media posts from your customers and prospects. Social media gives you the tools to instantly build rapport with people — without seeing what they're wearing that day.



Before social media, this was harder. When I would call on financial advisors as a 401(k) wholesaler, I would walk into a prospect's office and immediately start scanning their walls and their desk for something to connect on in a non-creepy way. Sometimes, I'd notice some photos from the golf course. *"Hey, I see you like golf. What's your home course?"* Once we got started into an interest we shared, it would often lead into a more intimate conversation.

Seeing someone's public profile on social media is like seeing the inside of their office. It's not like looking inside their house, it's not like digging through their garbage. The interests, photos and articles they post publicly are the things they're okay with people seeing in public. You never want to weird-out a client, and it's not weird to refer to something that's on their profile.

If you Google someone, you'll almost always find something about them that's publicly available. They might have shared some photos on Facebook or Instagram, or listed interests or community involvement on LinkedIn. They'll have something that indicates who they are and what they care about.

I know the idea of cyberstalking your prospects still makes many people uncomfortable. You think you'll catch them off-guard if you mention something from their social media profile, right?

Here's what you can do to assuage your concerns: Before you meet someone in person, while you're checking out his profile, give him a quick "like" or "share" on that social media platform. Let him know that you're listening to what he put out there. It could be a week before you meet him or a few hours before. Either way, when you bring it up in person, he will already know you're aware of his rock climbing trip to South Africa.

But here's another caveat — you want to build rapport, but you don't want to seem phony. Whether you're looking around the walls of someone's office or reading about their interests online, you need to find something that you can honestly appreciate.

So, what if you're looking around the office, or on their public profile, and you don't find anything in common? They're super into hunting, or golf, or opera music. You're into none of those things.

You can still find common ground, but you might need to think of their interests in a broader sense. Hunting becomes traveling. Golfing becomes the outdoors. Opera becomes live music.

At that point, don't be afraid to be honest. Here's a sample conversation starter when you're talking to the person with golfing photos: "I've never been into golf, but I love the outdoors. What do you like most about golf?" The person might then respond, "I actually stink at golf, but I like that it gets me outside." You don't need to have an in-depth knowledge of the subject they're interested in, and you definitely don't want to fake it, because there's a very real possibility that they'll test you on the topic.

The goal isn't to just break the ice. The goal is to genuinely find out something about that person that gives you a touchstone. It will help you close deals, but more importantly, it will help you be a better service provider. Spend a few minutes on social media to do research before your meetings, and enjoy better and more meaningful conversations.

» Spencer X Smith is the founder of spencerXsmith.com. He's a former 401(k) wholesaler, and now teaches financial services professionals how to use social media for business development. He may be reached at spencerXsmith.com.

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10 YEARS AFTER

Seven of the nation's leading advisor voices look back at the 2008 financial crisis, and how to blunt the impact of a recurrence on retirement savings.

By Judy Ward

Ask Bill Chetney what he remembers plan sponsors saying during the dark days of the 2008 stock market crash, and he responds with a string of expletives that a respectable publication can't print. "And I left out all the words that start with F,"

adds Chetney, founder of Carlsbad, California-based GRP Advisor Alliance, with a laugh.

More seriously, Chetney does have vivid memories of how the crash impacted sponsors and participants. "Everybody was really in shock," he says. "Plan sponsors realized, 'Wait a second, this is not always as simple and clear as it seemed.'"

Ten years later, J. Fielding Miller remembers that the average 401(k) participant's account balance dropped 35% during that time, and the stress that caused. Miller, the Raleigh, North-Carolina-based chief executive officer and co-founder of CAPTRUST Financial Advisors, also recalls the opportunities the crash created for advisory firms.

"I've been doing this for 30 years, so I've been through the '87 market crash, the tech crash in 2000, and then '08-'09," Miller says. "The advisory industry recoiled each time, and advisory firms laid people off during those times. But in all three instances, we viewed that time as a great opportunity." Sponsors became more aware of their fiduciary responsibilities and their need to get help fulfilling them, while more advisors felt motivated to switch to another firm. "Those are great times to prospect for business, because everybody is like a deer in the headlights," he says. "So we expanded during those times. And if it happens again, we'll run the same play."

Memories of the Crisis

We truly live in a global economy. That's what sticks out in Randy Long's mind 10 years later, along with how quickly information spread around the world. "It was unprecedented, how far-reaching the economic crisis was, in the United States and around the globe," says Long, founder and managing principal at SageView Advisory Group in Irvine, California. "For many American companies, things came to a halt. A lot of our clients' business credit got tightened up, and it really put a damper on their plans."

The market crash had a far-reaching impact. "It was definitely a cloud hanging over the economy, the markets, and business in general," remembers Vince Morris, Leawood Kansas-based president, financial services at Bukaty Companies. "At the time, it seemed like a doomsday scenario. In '07, we started to feel an impact on the economy, and in early '08 the markets went down. But it was not until September '08 that things really got more depressing, talking to sponsors and participants."

Bukaty fielded many calls during the crisis from participants who wanted to abandon equities and run to the sidelines. In his conversations with participants, Morris struck a balance between emotionally connecting and empathizing with what a participant felt, but also focusing on the participant's long-term goals and likely outcomes. "You need to recognize their fear. You can tell them, 'I totally understand how you feel: Your $100,000 account balance is now down to $80,000.' That way, you're acknowledging their loss," he says now. "But then you can talk about, 'What was your goal for retirement yesterday versus today: Has it changed? Do you now want to work forever?' Once

From left: Bill Chetney, GRP Advisor Alliance; J. Fielding Miller, CAPTRUST Financial Advisors

they realize their goal is the same, then you can talk about, 'How will it impact your account if you pull out today, and then the market goes up again? How would that make you feel?'"

Most participants ended up staying in equities, but not all, recalls Steve Ulian, Boston-based managing director at Bank of America Merrill Lynch. "I remember realizing that people who moved their money to more-conservative vehicles, if they missed out on the first 6 to 12 months of the market's recovery, missed out on a lot of upside," he says. "Especially for people nearing retirement, I remember thinking, 'That's incredibly sad.'"

A decade later, the crisis almost seems like a dream to Jim O'Shaughnessy, managing partner of Northbrook, Illinois-bases Sheridan Road. "But I can remember very clearly the amount of concern and tension, and how scared people were," he says. "The conversations we had with clients near the end of 2008 were about their feeling that the sky was falling. Everyone was really kind of stopped in their tracks, and people were having trouble thinking beyond the immediate crisis."

Since many employers' businesses got hurt, they soon looked to reduce their expenses. "Some not only stopped their 401(k) match, they cut back on their human resources staff, and those were often people who worked on the retirement plan," Miller says. "So that created room for advisors to come in and take that spot. The crash woke up employers to their fiduciary responsibilities, and that created a boon for our business."

Some lasting good did come out of the market crisis. Reflecting now, Troy Hammond says the industry did pretty well before then in educating participants about the inevitability of market volatility — but didn't do a good job giving people actual solutions to withstand it. "What that time taught us is that education is not enough," says Hammond, founder, president, and CEO of Pensionmark Financial Group in Santa Barbara, California. "We needed to do more to build backstops, and it drove us to think about protective solutions that help us to manage participant behaviors."

That realization coincided with the arrival of the Pension Protection Act of 2006 (PPA), which gave employers a clearer pathway to implement automatic enrollment and a QDIA (qualified default investment alternative). "Automatic plan features have done wonders," Hammond says now. "There is probably no single set of tools we as advisors use that has had more of an impact on plan success than those."

And Ulian traces the roots of employers' current interest in employees' holistic financial wellness to the market crash. "Prior to the crisis, when retirement providers talked to sponsors about letting us come in and talk to employees about their full financial picture, there was less enthusiasm from employers," he says. The crisis started the momentum to change that, and he calls

it the "silver lining" of the experience. "Employees did realize, 'Oh my gosh, this 401(k) account is the biggest savings vehicle I have, and I need help.' And employees made clear to their employers that they expected help from them. All the talk now about financial wellness is a result of the crisis, and employees asking for help from their employers. Now, plan sponsors are much more open to letting us provide that help."

Bracing for the Next Crash

Ulian sees keeping participants focused on long-term outcomes, not short-term results, as the key to limiting the harm of the next market crash when it happens. "The biggest thing we can do is continue to find ways to reinforce with participants that the market goes up, and the market goes down, and these are long-term investment vehicles for their retirement," he says.

What else can plan advisors do proactively to limit the impact of the next market crash on participants? Consider these ideas:

Help sponsors understand their QDIA's volatility potential

Equities have volatility, and won't go up forever, as Long says. Many participants got hit hard in the 2008 market crash because of their overweighting to equities, which he traces to the market rising steadily prior to that. "You could say that participants have that same sense of comfort today, because they have seen a nine-year bull market," he adds.

In the past decade, target date funds have put many Americans in better shape to withstand volatility, because of these funds' professional management and investment diversification. "But we are approaching the longest bull run in the history of the U.S. markets," O'Shaughnessy says. "Target date funds really came into vogue because of the PPA. The majority of people in target date funds now have been put in there since '08, so these people have not experienced a major market correction in them."

Some automatically enrolled participants 100% invested in a target date fund likely will get a shock when the next major market correction happens. "One of the biggest revelations after '08 was about the 'set it and forget it' investment environment we were in at the time," Chetney says. "The thing is, the disparity of returns in the 2010 target date funds was a 20-point spread. The SEC got very much up in arms about that, and target date funds were in the crosshairs. What happens if there's another major break in the market in 2020, and many target date funds still have that kind of exposure?"

Many sponsors still don't understand the potential disparity of returns for their plan's default investment, Chetney believes. They'd be smart to learn more about that, he says, and to determine the disparity of QDIA returns that they feel comfortable accepting. "If you ask the average committee member, they'd probably say that their plan's QDIA is risk-averse," he says. "But if you look at what they actually use as the QDIA, they often aren't."

Sponsors may get a surprise when they learn more about their QDIA's potential for volatility. "If you look at how target date funds are graded on the scoring systems, you see that managers are rewarded for taking risk and participating in the bull market," Chetney says. "So people are being told, at the end of the bull market, 'Jump in.'"

Advisors can play a big part in helping sponsors better understand their QDIA's risks, Chetney says. "I see some of the better advisors going beyond just looking at the scoring systems, and modeling for sponsors their target date funds' potential returns," he says. "They will model, 'If your default investment goes up 20%, this is what the range of outcomes could be, and if it goes down 20%, this is what the range of outcomes could be.' Some of the higher-flying target date funds do not look as good when you look at them that way."

Offer participant-level fiduciary advice

Plan advisors can add a lot of value by figuring out a scalable way to give participants individualized advice in areas including investments and deferral rates, Chetney says. "That is the next frontier of what we need to do," he says. "We've automated everything: auto enrollment, auto increases, auto investment. We 'auto' be talking to them."

But current fee levels don't usually support in-depth, one-on-one advice from a plan advisor. "We've priced that out of the market," Chetney says. "Back when I started as a plan advisor, we used to do 20-minute, one-on-one meetings with every single employee of every single client. The economics are gone for that now." Advisory firms that lack the size to do it can align with an outsourcer that offers a call center staffed by CFPs (certified financial planners), he says.

Some advisory firms have built the capabilities in-house. CAPTRUST gives participant-level 3(21) fiduciary advice, and Miller thinks of it as a key competitive differentiator. "But it is a hard and expensive thing to do," he says. "It took us years to get it to scale. We have invested more in that part of our business in the past three years than any other — and it's the fastest-growing part of our business now. The margins aren't as good, but they're getting better. And the impact is incalculable. It is the only thing that moves the needle: giving participants actionable advice, and then making sure that they carry through with it."

Instead of having CAPTRUST advisors give participants recommendations, the firm has hired

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— Randy Long, SageView Advisory Group

Clockwise from top left: Jim O'Shaughnessy, Sheridan Road; Vince Morris, Bukaty Companies; and Steve Ulian, Bank of America Merrill Lynch

NORMAN CHAN / SHUTTERSTOCK.COM

what it calls "retirement counselors" to do this work full time, traveling to client sites nationwide. The 28 retirement counselors include CFPs, former education specialists at providers, and ex-school teachers. CAPTRUST built out tablet technology so that the retirement counselors have a structured way to provide customized recommendations for participants. The advisory firm also hired staff for an "advice desk" so that participants can call in and get recommendations.

Pensionmark introduced its participant-level fiduciary advice offering earlier this year, after years of thought, legwork, and getting big enough to make it viable. "Where we can really move the needle as advisors is in offering much more robust financial-planning help for participants," Hammond says. "But the barrier to entry is tough, if you want to do it right: You've got to hire the right people, build some technology, and buy some technology."

Pensionmark has been very strict about providing participant-level fiduciary advice only if it's an employer-paid benefit and offered to all employees (not just senior executives), Hammond says. "In terms of employees who are going to really dig into a program like this, you are probably talking about 10% to 30% of an employee population," he says. "We feel that if you're providing a benefit paid by plan assets that only benefits 10% to 30% of participants, it generally doesn't pass the 'smell test' for us."

Ramp up help for participants nearing retirement

Most companies that implemented auto-enrollment did it just for new hires, which means that their newer employees — in a QDIA and deferring at healthy

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"WE NEEDED TO DO MORE TO BUILD BACKSTOPS, AND IT DROVE US TO THINK ABOUT PROTECTIVE SOLUTIONS THAT HELP US TO MANAGE PARTICIPANT BEHAVIORS."

— *Troy Hammond, Pensionmark Financial Group*

rates — can better withstand a big market downturn. "Many longer-tenured employees still are vulnerable, because of their asset allocations and because they haven't saved enough," Long says. "Putting in 4% a year isn't going to get you to a safe and comfortable retirement." Reenrolling existing employees into a plan's default investment has gained some traction the past few years, but many sponsors still see changing a long-time participant's chosen asset allocation as too heavy-handed, he says.

If many employers won't go for reenrollment, Morris is asked, what can advisors do to help protect employees nearing retirement? "I think we need a service model for participant advice that incorporates more than just investments," he says. "It needs to include not only the accumulation phase, but the deccumulation phase, and things like Social Security optimization."

The 2008 crash put a spotlight on sequence-of-returns risk, especially for people close to retirement, O'Shaughnessy says. Sheridan Road has a service it calls Income Lens in the works, focused on individualized distribution-phase advice for participants. This service, costing $500 to $750 per person, primarily will target participants within seven to 10 years of retirement.

Income Lens will include investment advice but not related investment products, as it will be agnostic about the investments a participant utilizes, O'Shaughnessy says. The program will utilize a "bucket" approach to asset allocation for retirement. "We are trying to take out some of the sequencing risk for participants close to retirement," he says. "Our experience is that when people go into retirement or are nearing retirement, they want very little risk."

The service also will offer individualized advice on key decisions such as drawdown strategies. "These assets are to be used to create income. It's just that, as an industry, we haven't really worked with participants to help them understand how they can implement that," O'Shaughnessy says. "We are trying to give these participants the hand-holding they need, and to help them look at their situation holistically."

Incorporate participants' actual risk-tolerance levels more

The biggest problem in a market crisis comes from participants panicking and deciding to abandon the stock market entirely, Morris says. "I see a solution in having customized portfolios, so participants have more of a managed account-type allocation," he says. They would get an allocation matching their personal risk profile, plus access to professional advice and counsel, as investors long have had on the wealth-management side. "When the '08 crash happened, a lot of concerned wealth-management clients called us and said, 'What's going on with the market? This looks crazy.' And we could talk them off the ledge. We can tweak someone's allocation to be less volatile, but going to cash is never a good option."

Bank of America Merrill Lynch sees growing interest in managed accounts among sponsors who want a more-individualized solution for participants, Ulian says. "A managed account is much more of a risk-based tool than a target date fund," he says. Participants in one of its client plans can sit down with a financial advisor, or talk with a registered rep on the phone, to learn more about their individual risk tolerance and about where they stand with their retirement savings. "We help walk them through the managed account (risk profile) questionnaire, and where they are today," he says. "When it comes to participants truly understanding their situation and their risk tolerance, it's that one-on-one dialogue that makes the biggest difference."

And some target date funds now put a lot of emphasis on downside protection. In 2015, Pensionmark partnered with BlackRock to launch custom target date funds called the Pensionmark SmartLifecycle Funds. "We had surveyed our employer clients and their employees about what they want," Hammond says. "We learned that consistently, participants have 10 times the aversion to a loss than their attraction to a gain. Participants kept saying to us, 'I just hate losing money.' So we started to think through, 'How can we better protect participants from a loss?'"

Pensionmark Smart Lifecycle Funds have 50% to 60% of the volatility of a typical target date fund, Hammond says. The index-based target date funds utilize the "smart beta" strategy to limit risk on the downside. The asset-allocation pie looks similar to other target date funds. But rather than having cap-weighted indexes, the "smart beta" approach removes the most-volatile stocks within an index from that index fund.

Hammond says he 100% thinks it's worth sacrificing a little upside to get more protection and participant comfort on the downside. "What I have at the end of 30 years of saving as a participant is based on my compound return, not my average returns," he says. "And every ounce of volatility that you add to a fund decreases your compound return." Even more importantly, he says, the "smart beta" approach aims to keep participants calm enough to stay invested during a downturn, and not go to cash. "If the alternative is for someone to sell at the bottom and then buy again at the top, you may have saved that person 25% of their account value by staying in the fund," he says. "The true benefit is the behavioral part of it."

» Judy Ward is a freelance writer who specializes in writing about retirement plans.

COVER

INTRODUCING THE TOP NAPA DC WHOLESALERS OF 2018

BY NEVIN E. ADAMS, JD

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ONLY

retirement plan advisors fully appreciate just how important their DC wholesaler can be in building, managing and growing an advisor's practice. We call them "DC Wingmen" because if they are doing their job, they have your back.

And only advisors know which Wingmen are best qualified for that recognition.

That's why NAPA set out to identify the top wholesalers who serve the DC market — the truly elite Wingmen. Our first annual Top DC Wholesalers list, published in March 2014, quickly became an industry staple.

The 2018 list presented in this issue — our fifth annual — of the top 100 DC wholesalers is no exception.

The wholesalers who made the cut as "wingmen" this year cover a lot of ground, measured by territory, number of advisors, and — in many cases — both. The median number of advisors supported was somewhere in the 200-300 range, though it wasn't unusual to find counts two and three times that number.

It's no surprise that supporting advisors was a common refrain among these professionals — "The most important aspect of what I do as a DC wholesaler is helping advisors grow and retain their retirement plan business, while keeping the advisors current with changes in the industry," noted one. "The most important aspect of my work is empowering the best DC advisors, those who care deeply about the American worker, reach their objectives and help more business owners and participants," noted another top wholesaler. But it was striking how many times helping the participants those advisors support emerged as a focus. "Being able to impact the retirements of thousands of Americans," was what one top wholesaler noted as the most important aspect of their work. "Not everyone loves what they do... I am lucky enough to be one of the few that do. I love helping people and I love encouraging people to take actions today that will impact their lives in the future," they continued.

"Service is the most important item that I sell," commented another. "The specific product and solution is always important, but never more important than being engaged, responsive and creative when it comes to working with advisors and their clients."

IMAGEFLOW / SHUTTERSTOCK.COM

Challenges abound, however. As one explained, "We live in an age where access to information is expanding exponentially, but where clarity can be challenging to find. Helping the marketplace and the advisors with whom we work separate the signal from noise, and derive true value from the overwhelming amounts of information being made available on a daily basis, is a tremendous responsibility and an outstanding source of gratification."

"The advisors, DCIOs, and TPAs with whom I work are individuals that conduct themselves with integrity and professionalism," noted another. "My competitors are elite — I like them, respect them, and they make all of us better, which pushes our industry forward."

That said, anyone who has ever been — or been with — a DC wholesaler knows that they have some great stories — though sometimes tinged with disappointment — that not only keep them humble, but hungry for more. "I have many stories about hard fought wins, unexpected travel delays with extra effort that pays off to help advisors win," said one of those Wingmen, going on to note that, "Appreciation emails from advisors and sponsors discussing what we do to help them. Those stories keep us going each day to do what we do."

In that spirit, we asked our Wingmen nominees to share some of those stories…

- *Being boo'ed in Detroit when I was introduced by the speaker as being from Columbus. Those in the Big10 know... Michigan and Ohio State are not very fond of each other. Being from Boston, I had no idea what was going on.*

- *During my first few years, I was called "Son" by more than one advisor — and usually not in a good way. Many of those advisors have now come to know me, trust me to help their clients, and consider me one of the more experienced retirement plan experts they know. It's funny how much difference a decade can make.*

- *Six months into my job, I got into Memphis at night for meetings the next day. From the time I got off the plane to the end of my breakfast the next morning, all five of my meetings cancelled. I had never had a day that full of meetings before and they all cancelled when I was already in town. I got back on the plane and came home. I thought I was going to get fired. I didn't and I remind myself of that when there is a tough day/week/month.*

- *There are many. But something that happened to me recently is that the wrong presentation was sent in by my back office. I got up and started doing the presentation, but knew it was the wrong one from the start. I tried to fake it, and even got to the 10th slide, before pausing and finally turning to the audience and saying, "this is the wrong presentation. I was trying to get through it, but I have no idea what it's about at all." After some laughs, I recited my presentation from memory without slides. Many were so impressed, I left with new opportunities.*

- *It's fun to visit an architect and alligator farm in the same day solving for the same retirement goals.*

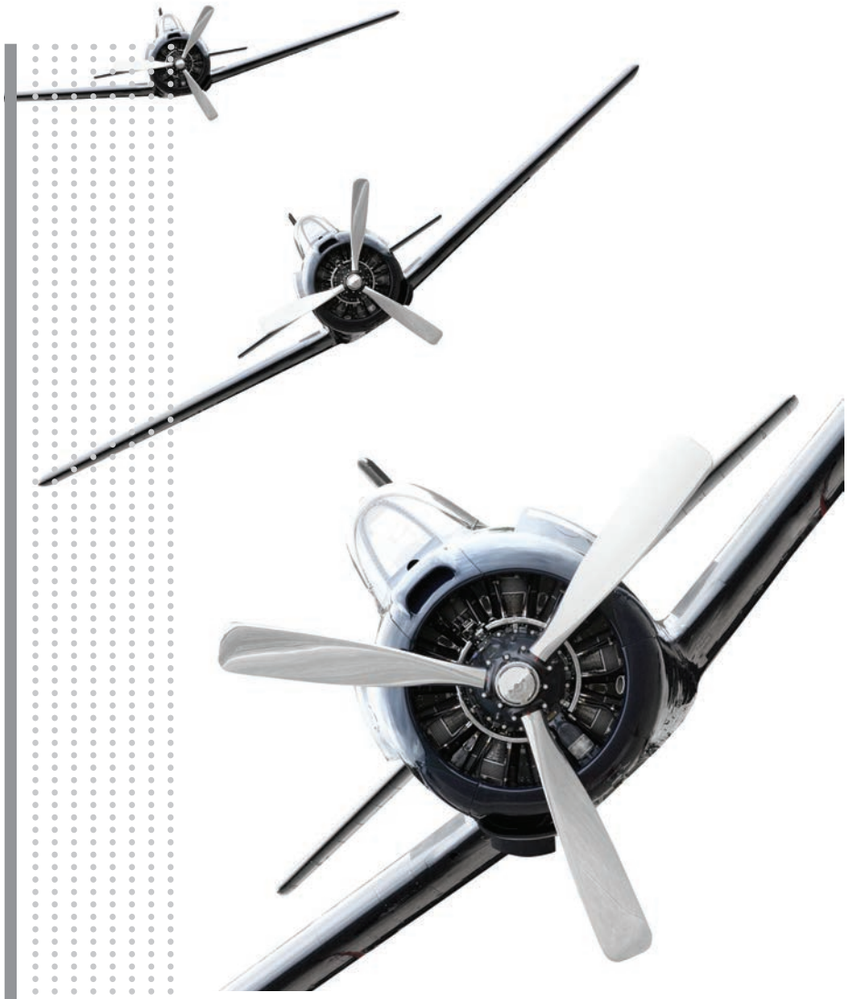
- *Many are off-color that make me laugh such as when I did enrollment years in the early years — some of my best memories were dealing with the participants.*

- *Too many to mention, but all bring a smile.*

- *Tough question, have had some outstanding experiences over the past 20 years. Collectively, with a platform partner put on a tailgate party before a playoff game. Each advisor thanked me and said it was the best atmosphere and overall pregame experience they had.*

- *Winning a finals presentation from the parking lot of the plan sponsor's office after the building was evacuated due to a fire alarm.*

- *I'll share with you a recent story that every road warrior can relate to. It was a blazing hot day in North Carolina this summer and I had just finished a day's worth of meetings in Raleigh and was heading back to a Family Night Out at the Knight's Game in Charlotte that I put together for advisors and their families to attend. I'm about half way back on Interstate 40 all of a sudden the tire pressure sensor starts sending me warning signs so I pull over and I have a 3" nail sticking out of my rear passenger tire. The shoulder was barely large enough for to pull off let alone to change a tire with trucks blasting by at 70 mph so I decide to try and make the next exit. Now I'm driving 50 mph, hazards going, cars blowing by and there's the sign — exit is in two miles. Get a mile closer and the psi reading is 8 (normally its 35) and dropping quick. Get to the exit and the reading is 1 now, up the ramp thinking as soon as I get to the top I'll change the tire. When I arrive the exit is on a big hill and*



that's the best I'm going to get. Pop the trunk and luckily I had my wife's yoga mat, which should help, and then dig through all marketing info, coffee cups, etc. to get to the spare. Get the tire changed, lose about 5 pounds in sweat and I'm back in business. Just cleaning up and go figure a tow truck pulls up to offer help with I'm guessing all the quick change equipment on board. I thank the kind gentlemen and hit the road. With the donut on and a slow drive back I made it to the game and the event was a success. Life as a wholesaler!

- *Way too many to pick one... every time you think you've seen and/or heard it all... someone amazes you.*

- *One of the most memorable is when I flew into a remote part of North Carolina and they lost my luggage. I had to buy a full suit and wardrobe at a Walmart at 2 a.m. for a presentation that I won at 8 a.m.*

- *Recently I joined an advisor on a finals presentation to a custom firearms dealer. It was early in the a.m. and the walls were void of something. The owner opened a door to a concealed room you might see in a spy movie full of weapons. I was shocked and amazed. I walked over to look at a rifle on the wall and did not realize that the floor was covered in assault rifles from the void walls. Luckily I did not fall but was dancing on the rifles to get back to open space...We all had laughs and closed the deal!*

- *My very favorite is when I was closing a large medical group plan and at the document signing meeting the head doctor paused and said that he only wanted to proceed if we could ensure that the funds would be liquidated and reinvested on the same day from the current recordkeeper to us. The advisor shot me a look like uh-oh what do we do now but sat silent. I certainly wasn't going to promise something that I couldn't deliver so I paused and politely and calmly closed the documents and smiled at the doctor and said that perhaps we needed to revisit the timing and why that wasn't possible. After what felt like a long staredown he agreed to move forward. The lesson was that sometimes you are put in tough situations and it would be easy to just agree but when you know you can't deliver it is so much better to clarify and set appropriate expectations.*

- *One of my favorite stories is about a recent interaction with a business owner. We were talking about the interrelation between Wealth and Health and how one's financial well-being is very much tied to their physical well-being and vice versa. We were showing that if someone starts to improve one the other improves as well. They are intrinsically linked. Our story resonated so well with the business owner that we not only earned the privilege to work with them but he then turned to his head of HR and said, "By the way, I want to buy a Fitbit for everyone single one of our employees!" That is making an impact!*

- *Long ago I offered to help a new FA with her door knocking obligation. We came across this prospect woman who turned out to be the head of HR at one of the most prestigious country clubs in the area. We had a nice introductory chat and then we later discussed a strategy to drip on her. I convinced this FA to target*

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TOP 10 RK WINGMEN

DENNIS BEAUDET
JOHN HANCOCK RPS

DOUG ALLEN
NATIONWIDE

BRADFORD BONEY
JOHN HANCOCK RPS

MICHAEL MOSCHETTA
CUNA MUTUAL
RETIREMENT SOLUTIONS

TRAVIS GAVINSKI
LINCOLN FINANCIAL

MIKE PALACE
T. ROWE PRICE

BOB STERNFELD
JOHN HANCOCK RPS

DONNY SHEINWALD
LINCOLN FINANCIAL

SCOTT WARD
JOHN HANCOCK RPS

DAN ZIBATIS
JOHN HANCOCK RPS

the 401(k) first before any of the ancillary opportunities. It's a less invasive prospecting strategy. Before long we had secured a meeting with the board of directors at the club. My team analyzed their existing plan and counseled the FA on how to pitch her value proposition. We ended up winning the plan and it's one of her largest most profitable relationships to date. This was her very first plan and she didn't even golf. I reminded her of the # of financial advisors that belonged to the country club and the fact that not one had thought about asking for the business! It's all about thinking outside the box, leveraging relationships, and asking for the business!

- *The Road Warrior Experience! As you know we are extremely busy, sometimes crazy as we drive, talk to clients, talk to our internal sales support, listen or present on conferences calls etc... My favorite all time experience was traveling on a joint meeting in California. My colleague was driving and I was the passenger. We were heading to a meeting plus listening to a conference call. My colleague stopped to fill up gas which was needed, paid, and got back in his car. We drove off and immediately got back on our conference call. I heard clucking in the back and thought he hit something, He said it's nothing. Then it started people pulled up to him and yelled nice car — which it was at the time a brand new sporty Nissan. Then another car yelled something sticking out… and another till one other driver pulled over and said stop driving and get out. We did to our surprise — the gas nozzle and hose was still in his gas tank hanging out and was dragging down the road. Yes the ultimate in distraction as the Road Warrior Wholesaler — my colleague forgot to take the gas nozzle out — find a story that tops that one.*

And then there were the stories that… well, apparently couldn't be shared. "Ask me about the Pager Company I sold and enrolled years ago," teased one. Another wingman commented "So many great stories..."

Many couldn't narrow it down to just one — or as one explained, "I guarantee you that it would make you laugh, but one that I just cannot put in writing (not really appropriate)... trust me... lol!!!" Apparently we'll have to.

But, while it's fun to consider all the things that can (and have) gone wrong for these pros — there's also an awful lot that goes "right":

- *I will often assist my advisors with education meetings. Although not really a core part of my job, I have always loved meeting with the actual participants and conducting these meetings. This past year, I had a meeting where a lady sat down with me and I spent about an hour walking her through planning tools and helping her answer many questions about saving for retirement. At the end of our talk, she just broke down crying. It turned out that she was just so thankful for my time and help and it meant that much to her. It is something I'll never forget. When I'm having a tough day, I always think back to that meeting and others and remind myself how much we are truly doing to help others!*

- *One of my favorite memories is about a target date finals presentation to an investment committee. After being grilled for 45 minutes on all aspects of our strategies, the committee took the time to stay late and engage in a completely separate conversation about their employees, one that had nothing to do my presentation. We appreciated each other's passion for the subject matter, which is what makes that memory stand out — because it wasn't about a product, it was about people. And that's what makes our industry great, the huge number of ways we collectively have to help make meaningful impacts in peoples' lives.*

Continued on pg. 38

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TOP 10 DCIO WINGMEN

CHRIS BILELLO
AMUNDI PIONEER

RYAN FAY
JOHN HANCOCK INV.

VAL FERRARA
WILMINGTON TRUST

MATT KASA
NUVEEN

AARON HASSINGER
PIMCO

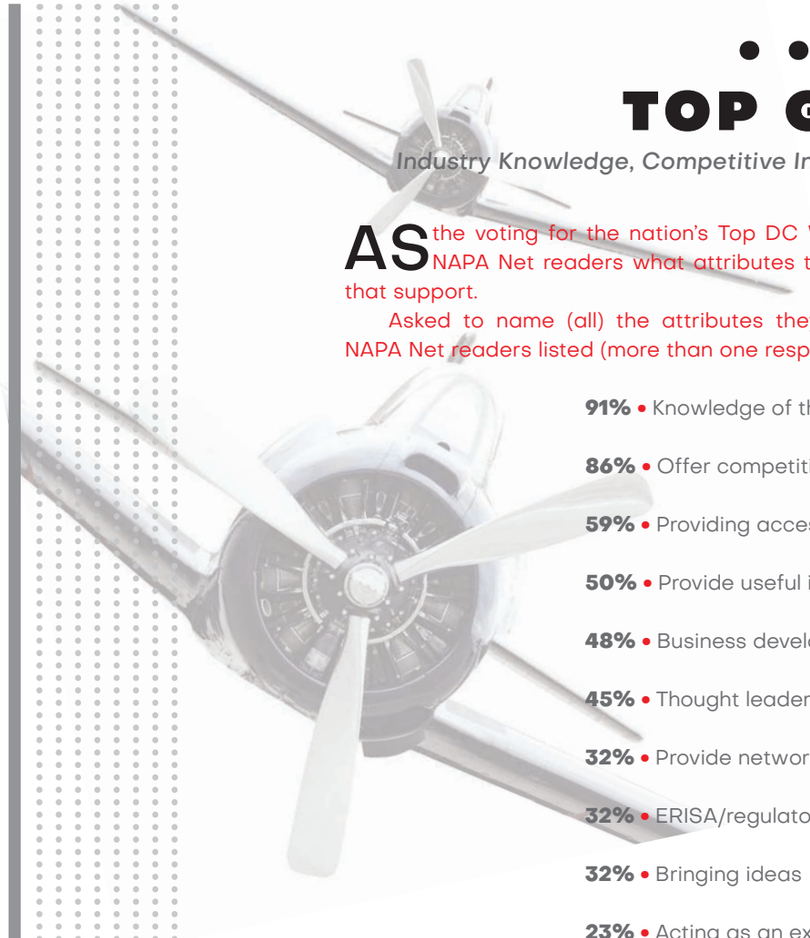
GREG KOLENO
NUVEEN

TODD MATLACK
INVESCO

JOHN KUTZ
LEGG MASON

ERIC MILANO
T. ROWE PRICE

KEITH NEAL
MFS INVESTMENT MANAGEMENT



TOP GUNS

Industry Knowledge, Competitive Insights Top Wholesaler Attributes

AS the voting for the nation's Top DC Wholesalers wound to a close, we asked NAPA Net readers what attributes they prized in the individuals who provide that support.

Asked to name (all) the attributes they prize in their DC wholesaler partners, NAPA Net readers listed (more than one response was permitted):

91% • Knowledge of the industry

86% • Offer competitive insights

59% • Providing access to tools

50% • Provide useful information about their products

48% • Business development insights

45% • Thought leadership

32% • Provide networking opportunities

32% • ERISA/regulatory expertise

32% • Bringing ideas

23% • Acting as an extension of your practice

14% • Act as a sounding board

9% • Offer plan design guidance

Additionally, there were a number that prized attributes in an "other" category, including: funding for events and seminars, providing direct access to internal resources such as Portfolio Managers, and making sure the recordkeeper does their job. There was also a consistent sense of interest in *how* they provided, specifically "a high level of service and assistance," "responsiveness," and "Integrity, on-time, respect for peers." Readers also expressed a preference for wholesalers who "know me and my business well enough to serve my needs," and "someone who is not afraid to ask questions." One reader explained, "while I value all the boxes I checked only use funds that score well for my clients, it's important to work with partners I like and consider friends."

SINGLE BEST?

Asked to narrow those attributes down to a single one — well, the aforementioned diversity of perspectives came through loud and clear, though the field was narrowed. The top two were:

18% • Offer competitive insights

18% • Provide useful information about their products

While #3 went to business development insights (14%), followed by knowledge of the industry (9%), acting as an extension of your practice (9%), and providing access to tools (9%). Providing networking opportunities was cited by less than 5%, as was "bringing ideas."

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Flight Club from on pg. 34

- *One of my favorite stories is about an individual that I helped set up a 401(k) plan for his company, sat with him over the years to make sure he was saving properly and just within the last year I was invited to his retirement party. This experience makes being a DC wholesaler fulfilling and reminds me of what our industry is all about.*

- *Winning a plan after walking into a finals presentation being told that the client already made the decision to move to another major provider, but as a courtesy, they will still see my team's presentation... we won the plan!*

- *I shared a vision with a consultant in Starbucks. My vision was around getting people to retirement and thinking about the world differently. We discussed many ideas including managed account, HSA, student loans, and the idea the employers embrace the right education. After the advisor left the employer came by and told me that he listened to my entire meeting and shared the same vision. A few months later I ran into him again and he explained the different things he started to incorporate with his advisor as a result of the conversation he overheard. It was a great experience to meet an employer that embraces new ideas for the benefit of his employees.*

- *My favorite story is the one still being written. It's spending time with clients out of the office. It's truly rewarding getting to know folks personally, and their families where appropriate too. It's meaningful to know what makes them tick at home... refreshing to learn about folks' passions, and the lens through which they look when outside the office.*

- *There are so many, it is difficult to narrow it down. However, they all have a common theme — taking care of the client in a way that they did not expect.*

Indeed. As one wingman noted, "My favorite story/experience as a DC wholesaler is the old 'meme' about 'What my family thinks I do,' 'What my friends think I do,' 'What my clients think I do,' and 'What I REALLY do.' None of it is correct and all of it is correct. I could not script a more rewarding career and yet describing it to others is almost impossible."

THE PROCESS

How the wingmen are selected

ONE of the things that sets the Wingmen list apart is that it is based on a nominating/voting/selection process that taps the experience and perspective of NAPA's plan advisor members. Here's how the three-part process works:

NOMINATIONS: The process starts with NAPA's DCIO and record keeper Firm Partners submitting their wholesalers for nomination. Wholesalers who work directly in the field with plan advisors are eligible for nomination; internal relationship managers are not eligible.

VOTING: NAPA members and other advisors vote for their favorites using our online voting tool. Only votes from advisors submitted from a corporate/business email account are tallied.

SELECTION: The final vote tallies are reviewed by the NAPA Top Wholesalers Blue Ribbon Committee, which selects the top wholesalers.

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WING MEN 2018

NAPA W 2018
DC TOP INDUSTRY WHOLESALERS

JEFF ABELLI [DCIO] • AMUNDI PIONEER

DOUG ALLEN [RK] • NATIONWIDE

CHRIS AUGELLI [DCIO] • T. ROWE PRICE

STACI BAKER [DCIO] • JP MORGAN

DENNIS BEAUDET [RK] • JOHN HANCOCK RPS

RHEA BERGLUND [DCIO] • OPPENHEIMER

CHRIS BILELLO [DCIO] • AMUNDI PIONEER

KEITH BLACKMON [DCIO] • T. ROWE PRICE

MATT BODNAR [RK] • JOHN HANCOCK RPS

BRADFORD BONEY [RK] • JOHN HANCOCK RPS

LARRY BOURGET [RK] • MUTUAL OF OMAHA

SALLY BOWEN [RK] • NATIONWIDE

SHAUN BROMLEY [DCIO] • JP MORGAN

MICHAEL BUTLER [RK] • NATIONWIDE

ANGELO CABRAL [RK] • JOHN HANCOCK RPS

TRAVIS CAMPBELL [RK] • FIDELITY

DAVID CASTINA [RK] • NATIONWIDE

BRUCE COBEY [RK] • JOHN HANCOCK RPS

CLAYTON COLLINS [DCIO] • AMERICAN CENTURY

MARK CONROY [DCIO] • LEGG MASON

ZAAC COOK [DCIO] • IVY INVESTMENTS

LEE COPSON [RK] • CUNA MUTUAL RETIREMENT SOLUTIONS

MARTY COURAGE [DCIO] • COLUMBIA THREADNEEDLE

ANDY CUNNINGHAM [DCIO] • COLUMBIA THREADNEEDLE

ROBERT DUFFEY [DCIO] • OPPENHEIMER

LEGEND

TOP 10 DCIO WINGMEN

TOP 10 RK WINGMEN

WINGMEN 2018

LAURA DURKIN [RK] • NATIONWIDE

DREW FAIRLEY [RK] • AMERITAS

RYAN FAY [DCIO] • JOHN HANCOCK INV.

VAL FERRARA [DCIO] • WILMINGTON TRUST

TRAVIS GAVINSKI [RK] • LINCOLN FINANCIAL

BRODY GEIST [RK] • SECURIAN

GARY GIFFEN [DCIO] • FRANKLIN TEMPLETON

CHRIS GIOVINAZZO [RK] • TRANSAMERICA

GLENN GODIN [DCIO] • AMERICAN CENTURY

JOSH GOMEZ [RK] • TRANSAMERICA

JOHN GONSIOR [RK] • FIDELITY

MATTHEW GRANDONICO [RK] • PRUDENTIAL

JASON GREENBERG [RK] • CUNA MUTUAL RETIREMENT SOLUTIONS

TIMOTHY HARKLEROAD [DCIO] • DWS

AARON HASSINGER [DCIO] • PIMCO

AMI HINDIA [DCIO] • FIDELITY

RYAN HINES [RK] • JOHN HANCOCK RPS

BRYSON HOPKINS [RK] • LINCOLN FINANCIAL

JOHN JESSEE [DCIO] • MFS INVESTMENT MANAGEMENT

ADAM JOHNSON [RK] • JOHN HANCOCK RPS

MICHAEL JOHNSON [RK] • JOHN HANCOCK RPS

ERIC JONES [RK] • CUNA MUTUAL RETIREMENT SOLUTIONS

MATT KASA [DCIO] • NUVEEN

DANNY KLING [RK] • TRANSAMERICA

GREG KOLENO [DCIO] • NUVEEN

LEGEND

TOP 10 DCIO WINGMEN

TOP 10 RK WINGMEN

Retirement plans for your exceptional service side.

Six of our wholesalers brought home the prize, but all 40 made the difference.

Congratulations to the Nationwide® RVPs who made NAPA Net the Magazine's Top Industry Wholesalers list.[1] And congratulations to our entire wholesaler network, who gave everything to help their clients find success.

Doug Allen[2]
Louisiana and Mississippi

Sally Bowen
East Massachusetts, Rhode Island, New Hampshire and Maine

Michael Butler
New York (LI NY)

David Castina
Southeastern Pennsylvania

Laura Durkin
Michigan

Bill Vassas
South New Jersey

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[1] Source: NAPA, September 2018

[2] Doug Allen was recognized in the top 10 for Recordkeeper Wingmen

[3] DALBAR Plan Participant Service Award, 2014-2017

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The Nationwide Group Retirement Series includes unregistered group fixed and variable annuities and trust programs. The unregistered group fixed and variable annuities are issued by Nationwide Life Insurance Company. Trust programs and trust services are offered by Nationwide Trust Company, a division of Nationwide Bank. Nationwide Investment Services Corporation, member FINRA. Nationwide Mutual Insurance Company and Affiliated Companies, Home Office: Columbus, OH 43215-2220.

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WING MEN 2018

NAPA W 2018
DC TOP INDUSTRY WHOLESALERS

MICHAEL KONET [RK] • TRANSAMERICA

KRIS KRIKORIAN [RK] • PENTEGRA

ERIC KRISTENSON [DCIO] • OPPENHEIMER

KYLE KUNDE [DCIO] • NUVEEN

JOHN KUTZ [DCIO] • LEGG MASON

TOM LONCAR [DCIO] • OPPENHEIMER

MIKE MANOSH [DCIO] • FIDELITY

TODD MATLACK [DCIO] • INVESCO

MATTHEW MAY [RK] • FIDELITY

CASEY MCCARTHY [DCIO] • AMERICAN CENTURY

CHRIS MCDAVID [RK] • JOHN HANCOCK RPS

ERIC MILANO [DCIO] • T. ROWE PRICE

NANCY MIRANDA [RK] • ASCENSUS

KEVIN MORGAN [DCIO] • JP MORGAN

MICHAEL MOSCHETTA [RK] • CUNA MUTUAL RETIREMENT SOLUTIONS

BRIAN MUNN [DCIO] • AMERICAN CENTURY

KEITH NEAL [DCIO] • MFS INVESTMENT MANAGEMENT

MARK NEEDHAM [RK] • JOHN HANCOCK RPS

BARRY NEWMAN [RK] • AMERITAS

MIKE PALACE [RK] • T. ROWE PRICE

STEVEN PERSON [RK] • JOHN HANCOCK RPS

JEFF PETERSEN [DCIO] • FRANKLIN TEMPLETON

GREG POPLARSKI [DCIO] • ALLIANZ

BRANDON RADACH [DCIO] • JOHN HANCOCK INV.

STEWART RAUCHMAN [RK] • LINCOLN FINANCIAL

LEGEND

TOP 10 DCIO WINGMEN

TOP 10 RK WINGMEN

Congratulations to Ameritas' Top Wingmen

	Drew Fairley	**Tennessee, Louisiana, Mississippi**	901-277-5949 drew.fairley@ameritas.com	13 years of qualified retirement plan experience
	Barry Newman	**California, Nevada**	310-310-9600 bnewman@ameritas.com	18 years of qualified retirement plan experience
	Adam San Juan	**Chicago, Michigan**	248-425-8550 adam.sanjuan@ameritas.com	20 years of qualified retirement plan experience

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WING MEN 2018

JOHN ROBERTSON [RK] • JOHN HANCOCK RPS

ADAM SAN JUAN [RK] • AMERITAS

GREG SCHONAUER [RK] • CUNA MUTUAL RETIREMENT SOLUTIONS

DONNY SHEINWALD [RK] • LINCOLN FINANCIAL

LLOYD SILK [DCIO] • INVESCO

CHRIS SLEGGS [DCIO] • PIMCO

JAY SLUSHER [DCIO] • PIMCO

BOB STERNFELD [RK] • JOHN HANCOCK RPS

LUKE SZAFRANSKI [RK] • TRANSAMERICA

NANCY TASSIELLO [DCIO] • LEGG MASON

CARRIE TEMKIN [DCIO] • LEGG MASON

LEE TENNEY [DCIO] • ALLIANZ

EDWARD THURMOND [RK • JOHN HANCOCK RPS

JEFF TRULL [RK] • CUNA MUTUAL RETIREMENT SOLUTIONS

MATT VANAMAN [DCIO] • PIMCO

BILL VASSAS [RK] • NATIONWIDE

ART VILLAR [DCIO] • BLACKROCK

SCOTT WARD [RK] • JOHN HANCOCK RPS

SCOTT WATERMAN [RK • JOHN HANCOCK RPS

JEFFREY WEAVER [DCIO] • JP MORGAN

BARBARA WILDERMAN [RK] • JOHN HANCOCK RPS

JONATHAN WILKINSON [DCIO] • T. ROWE PRICE

JASON YEPKO [RK] • JOHN HANCOCK RPS

DAN ZIBAITIS [RK] • JOHN HANCOCK RPS

KIM ZOOK [DCIO] • VICTORY CAPITAL

LEGEND

TOP 10 DCIO WINGMEN

TOP 10 RK WINGMEN

OPENING THE BOOKS

HOW TO HELP YOUR PLAN SPONSOR CLIENTS PREPARE FOR A DOL AUDIT.

BY JUDY WARD

LOTUS_STUDIO / SHUTTERSTOCK.COM

When advisor Doug Prince picked up a new client that had recently been through a U.S. Department of Labor (DOL) audit, he heard for the first time about the agency scrutinizing financial wellness expenses. The sponsor had used $3,000 of plan assets to pay for a financial wellness program, and the DOL questioned spending participant money on a program that only a portion of participants actually utilized.

"They were looking for money that has been paid out of plan assets that shouldn't be," says Prince, chief executive officer and a principal at ProCourse Fiduciary Advisors, LLC in Carmel, Indiana. "Because the education was not specifically related to the 401(k) plan, the DOL claimed that it was a prohibited transaction." The employer saw it differently but agreed to pay a fine after their attorney advised that it would cost more to dispute that finding.

When sponsors receive a letter from the DOL informing them of a plan audit, it kicks off a process that can be stressful and confusing for them. "I've

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heard the letter referred to, ironically, as a 'love letter,'" says Dave Leising, national employee benefit plan audit director at CPA firm BKD, LLP in Indianapolis. "Their first reaction is, 'Why me? Did we do something that was a red flag in any of our filings?'"

Pre-Audit Prep

The DOL's initial letter to a plan sponsor about doing an audit may include the areas to be addressed, but usually won't specify the reason the plan was selected for audit, explains Kimberly Moore, a Fort Wayne, Indiana-based partner at Summit CPA Group. "There is a reason. They just won't tell the sponsor why," she says. "Sometimes it is just out of the blue: Their number is up for a random audit."

DOL audits can happen because of a participant complaint, because of a national or local DOL investigative initiative, or as part of the agency's random audit program. Although the DOL generally won't tell a sponsor which of those three scenarios motivated the audit, Leising says, "I have heard from a DOL auditor that the No. 1 driver of audits is participant complaints."

At this point, advisors can help their sponsor clients by explaining how the DOL process works. "Advisors can do a lot to help manage the expectations of the employer," says Elizabeth Allen, vice president, benefits compliance and counsel at NFP, and a former DOL investigator. She recalls that soon after joining NFP, she heard from an advisor about a sponsor client currently undergoing a DOL audit and worried that it hadn't heard back from the auditor about the results. She asked the advisor when the auditor's examination happened, and the advisor said three weeks earlier. "I told the advisor that audits could take as little as three months, while others go as long as three years," she says.

The examination's pace can surprise sponsors. "It is not like the auditor just comes in there, examines the documents, then leaves," Moore says. "The auditor usually doesn't come in Monday and work all day

"WHEN SPONSORS RECEIVE A LETTER FROM THE DOL INFORMING THEM OF A PLAN AUDIT, IT KICKS OFF A PROCESS THAT CAN BE STRESSFUL AND CONFUSING FOR THEM."

there, then come in Tuesday and work all day there. It can take months (of periodic visits). They are going back and forth between their other auditing projects, so the audit can drag on for a while."

And it can take months to hear about the findings once the DOL completes its audit, says Daniel Janich, resident partner in the Chicago office of law firm Holifield Janich Rachal Ferrera, PLLC. "So a plan sponsor needs to be patient," he says. "It doesn't necessarily mean anything bad will come back from the DOL."

It also helps to explain to sponsors at the outset that DOL audits aren't typically an adversarial process. "The end goal of the audits is that the plan operates properly, and that participants get everything that they should," Moore says. "The DOL understands that people make mistakes." When an audit reveals a sponsor's inadvertent error, she says, it's generally an amicable process to get it fixed to the DOL's satisfaction. "It's when an employer, on purpose, is not doing something that it's supposed to (like remit contributions) that there's a big problem," she adds.

Once sponsors understand how the process works, they need to gather the documents the DOL requested in its notification letter. "Usually the letter is pretty self-explanatory about the documents that the DOL wants," Leising says. "What's overwhelming to the client is the sheer volume of information that they ask for. It will say, 'Here are the 32 items that we need when we do your audit.'"

The biggest audit-preparation problem for many sponsors is that they don't have all the requested documents in one place, Prince says. It can make a big difference when an advisor maintains an online "fiduciary vault" for each client on an ongoing basis. That vault should include all plan documents, plan amendments, service agreements and notes of plan committee meetings, he says. "We set up documents in the fiduciary vault the way that the DOL wants them," he adds. "An advisor also can help the sponsor coordinate the additional information it needs to get from the recordkeeper. And the advisor can help identify potential problems in those documents."

Before the audit begins, an advisor also can help the key point-person working on a plan at an employer to review the plan's main provisions. "Most of the time, for the people working on the plan at an employer, that is not their full-time job. They should refresh their memory," Moore says. "Also, the key person should ask around to the other people at the company who work on the plan, and find out if there is anything they need to know about a problem. And if there is, they should be upfront with the auditor about it."

If time permits, an employer can work with its advisor and its audit firm to do an internal review of plan operations. "If you have the time to do a 'mock audit,' there's no downside to that," Leising says. "It gives you the ability to look at what 'skeletons' your plan has. If the auditor brings something up, it is better to say, 'We've identified that problem, and here is our plan to fix it.' It is better for the DOL auditor to have a sense that the plan sponsor is taking ownership of the plan. They don't want to see employers washing their hands of their fiduciary responsibility."

Fixing Problems

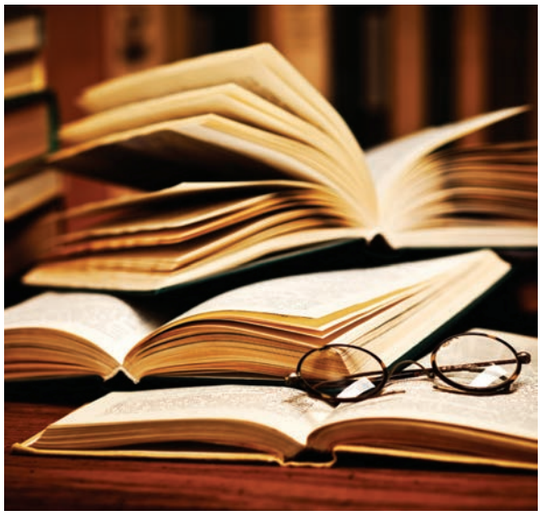
A sponsor that has received a Labor Department audit notice and then identified a plan problem may have the inclination to utilize the DOL's Voluntary Fiduciary Correction Program (VFCP) or Delinquent Filer Voluntary Correction Program (DFVCP) to fix it before the auditor does the examination. But most of the time, sponsors can't utilize a self-correction program once they've gotten the audit notice, says

Jeffrey Holdvogt, a Chicago-based partner at law firm McDermott Will & Emery. "Even if you can't use that program, it's still better to try to identify a problem before an agent finds it," he says.

Holdvogt recalls a sponsor client with a looming DOL audit that found an obvious error on its Form 5500 filing. The sponsor told the auditor upfront that it planned to fix the error and submit a corrected filing. "When the audit was completed, the DOL noted in its letter that the Form 5500 issue was brought up and resolved by the sponsor," he says. "There was no penalty assessed, and no finding that the sponsor was not in fiduciary compliance."

When it comes to counseling a sponsor on fixing something the DOL might find problematic, it's best for an attorney rather than an advisor to take the lead role. "When the plan sponsor gets the notification letter, they should immediately contact their ERISA attorney," Janich says. "An attorney has the benefit of attorney-client privilege that consultants or accountants don't have. So the client can be candid with its attorney about any plan deficiencies without risking public disclosure. A DOL audit is not adversarial, but it is a legal investigation: It relates to whether the plan is, in its documentation and operations, in compliance with the law."

Advisors should avoid anything that gets them to a decision-making point about the audit, Allen recommends. "I'd suggest that the employer find ERISA counsel that has dealt frequently with DOL audits," she adds. "If the employer retains an attorney who has not been through the process much, it's not going to be much help to the employer."



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An ERISA attorney needs to take on the lead role at some key points of the audit, such as helping a sponsor prepare for an interview with the auditor, or negotiating with the DOL, Holdvogt says. "Advisors definitely have a role in terms of counseling a plan sponsor on what they have seen happen when other clients have gone through an audit," he says. "But when you are under the threat of an audit, you want to at least get a confirmation from an ERISA counsel that what you are doing to resolve an issue is appropriate."

Setting the Right Tone

When the audit examination time comes, a sponsor can help itself by ensuring a smooth process. "I had a couple of times when an employer basically put me in a closet, or did things to make the process unpleasant for me," Allen remembers about her time as a DOL investigator. "The employer needs to see the DOL investigator as a human being, and someone who is dealing with multiple investigations at different stages. And when the investigator has questions, the employer should respond quickly. You don't want to make it difficult for an investigator to do his or her job."

After the examination, the sponsor can only wait for the Labor Department's findings. "The DOL finds issues in about 60% to 70% of the plans that it audits," Prince says. "At the end of the day, for plan sponsors that are following good prudent processes, it gives them reassurance if they go through the audit and there are little or no problems. And if there are problems, the DOL gets those sponsors to improve what they are doing."

Research has found that an employer interviewing a job candidate decides in the first 45 seconds if the candidate will get the job, Leising says. "To some extent, I think it's the same with a DOL audit: It's all about setting the right tone," he says. "When the auditor arrives, the employer needs to say something like, 'Here are three boxes that have all the documents you requested, and each is labeled in the order of the documents that you requested.' If you set a tone that, 'We've got this under control,' it helps the auditor understand that you're on top of this. The time that a sponsor invests upfront in getting this information together will save time on the back end."

» Judy Ward is a freelance writer who specializes in writing about retirement plans.

Add Value with Financial Wellness

The growing acceptance of financial wellness programs creates an opportunity for advisors to present their value in a new way.

BY STEFF CHALK

There is an awakening taking place in C-suites and HR departments across the country: Research supporting the benefits of financial wellness is continuing to mount, and rudimentary ROI calculations are surfacing.

The same plan sponsors that advisors schooled on the financial impact of employing a workforce beyond normal retirement age can no longer ignore the organizational benefits of a carefully constructed financial wellness program. The favorable outcomes associated with selecting and installing the correct financial wellness program accrue to both employees and to the overall company.

While investments remain an important component of every retirement plan, it is difficult for most plan advisors to differentiate their value on the basis of investments alone. Today, that can mean engaging in a high-level discussion on the topic of financial wellness. Here's why:

Outcomes

There is now sufficient data supporting the benefits of a well designed and well executed financial wellness program. Such outcomes accrue to the benefit of both the workforce and the company. It just makes sense from every vantagepoint — productivity, physical health, building a retirement-ready workforce, creating upwardly mobile opportunities within an organization, etc.

Confusion

Financial wellness is still in an embryonic stage. The term is nebulous, carrying different intentions for employers, employees, academics, associations, authors and government regulators. The lack of consistency in financial wellness objectives make this fertile ground for the astute advisor.

Crowded Space

The sheer number of financial wellness providers make this buying decision more difficult than "which TDF-suite does a plan sponsor choose?" Any company representative charged with such a daunting task would prefer to begin by talking with a knowledgeable and trusted individual.

Learning the ABCs

All financial wellness programs are not created equal — a fact that reinforces what a golden opportunity financial wellness is for retirement plan advisors to shine. Advisors are the likely first choice of any plan sponsor that is struggling with the task of selecting and implementing a financial wellness program.

Here's a simplified overview of three phases the advisor and employer must consider:

A: Assessment Phase

There is a clear distinction between financial literacy and financial education. Financial literacy must be a starting point. If employees cannot comprehend the education "language" being spoken, there is no chance of a behavioral change.

B: Building Phase

Next there needs to be an "ah-ha moment" where employees become aware of what they do know and what they can control — and also what they have not yet mastered. Possessing this knowledge gives an employee the tools to consciously start making good financial decisions. Then they are truly building — creating a plan for their future, building confidence in their skills, and envisioning a path to a better outcome.

C: Change Phase

The final phase in a successful financial wellness program is to have employees modify their behavior in the interest of achieving better outcomes. The change occurs when an employee makes the decision by *modifying* behavior instead of merely *thinking* about it as a decision.

» Steff C. Chalk is the Executive Director of The Retirement Advisor University (TRAU), The Plan Sponsor University (TPSU) and 401kTV.

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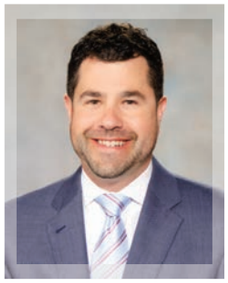

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MEPs: How Do Advisors Fit In?

Now is the time to consider how open MEPs will impact your business.

BY DAVID N. LEVINE

So-called "open" multiple employer plans (MEPs) allow unrelated and unaffiliated employers to participate in a single plan that is recognized as such by both the IRS and DOL. In 2012, however, the DOL issued two Advisory Opinions that effectively closed the door to open MEPs.

Since then, there have been lots of legislative proposals from both Democrats and Republicans that would allow open MEPs, but none has made it through Congress.

While there are some variations on the open MEP proposals introduced in Congress, there is significant agreement in two important areas:

- an open MEP should allow a plan sponsor to offload significant plan fiduciary responsibilities to an open MEP and its service providers; and
- there needs to be regulatory oversight of open MEPs and their providers to help protect against potential abuses.

Where disagreement arises, it often relates to which employers (small employers only?) should be allowed in an open MEP and whether employers should have any fiduciary responsibilities with respect to their participation in a MEP.

NAPA and its membership have taken a strong stance that employers participating in open MEPs should continue to have some responsibility to monitor the open MEP. In fact, in the most notable case involving abuse of an open MEP, one of the employer members was actually the party that found the abuse.

Whoever is in charge of Congress come January 2019, it is likely that open MEP legislation or regulation will move forward in the next year or two (of course subject to the normal changes in the political winds). Given this fact, plan advisors are now wise to consider how open MEPs will impact their business. Some considerations include:

- **Choosing an Open MEP.** While open MEPs will not be the solution for all clients, they are likely to be of significant interest to many small employers. Does the plan advisor have an open MEP with their broker-dealer or RIA? Does the advisor have a choice of open MEPs? There is no one right answer — but there are costs, controls and long-term business needs to consider. In addition, if you are tied to a particular MEP, don't be surprised if a competitor comes along and pitches your plan sponsor client on a service to monitor you (which I call "mind the minder"). This is already happening in some areas of the industry.
- **Creating Your Own Open MEP.** A key question is: "Do I create my own open MEP for my clients?" A key issue is how to select your own open MEP when you are advising a fiduciary without triggering potential liability. There are solutions, but beware statements that it is "ultra-easy" and without risk because, as I have seen in practice, DOL investigations of open MEPs can be costly and complex at a minimum.
- **Providing Services to an Open MEP.** Open MEPs will require a wide range of advisors, from investment managers (such as 3(38) investment managers) to recordkeepers, administrative fiduciary providers, and more. Is there a place for your services in one or more open MEPs?
- **Focusing on Compliance.** When you are creating or providing services to a MEP, you may be wearing multiple hats. Given the DOL's Plan Investment Conflicts project, it is essential to consider the easily missed question, "Will I have prohibited transactions or other self dealing?" Having worked with many advisors on existing "closed" and already-permitted MEP structures, I can confirm that the "foot faults" and exposures created by inadvertent errors are often complex, burdensome and costly.

At the same time, as with any new line of business, there will be new risks and exposures moving into the world of open MEPs. In the end, however, open MEPs hold much potential for advisors and many plan sponsors.

» David N. Levine is a principal with the Groom Law Group, Chartered, in Washington, DC.

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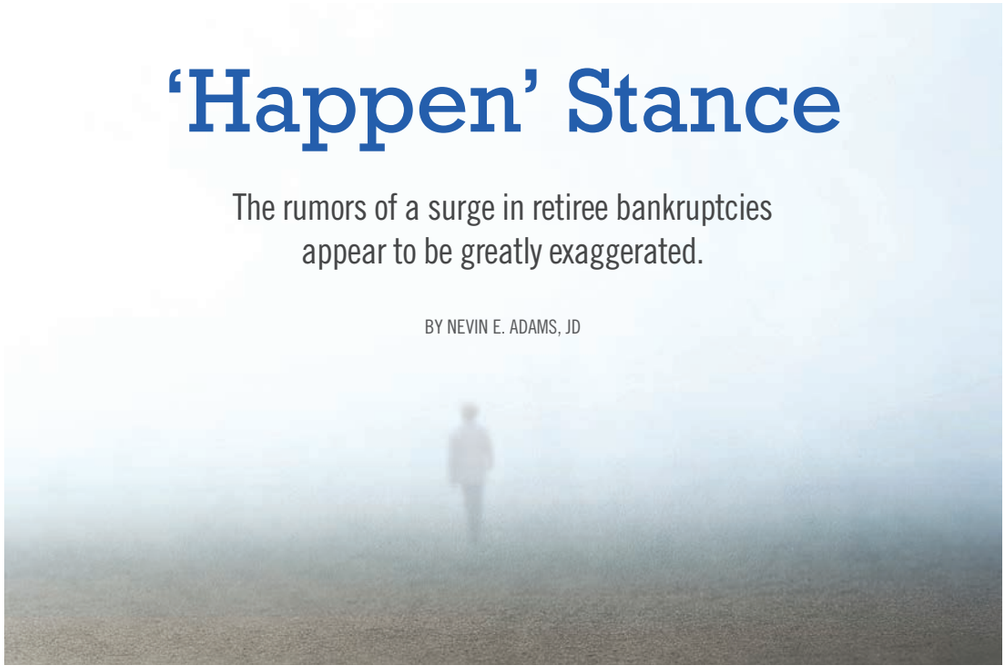
'Happen' Stance

The rumors of a surge in retiree bankruptcies appear to be greatly exaggerated.

BY NEVIN E. ADAMS, JD



You may have seen coverage in mid-August of a new "study" that found a surge in bankruptcy filings among retirees.

The *New York Times* led the charge with "Too Little Too Late: Bankruptcy Booms Among Older Americans," and the *Wall Street Journal* jumped in with "Bankruptcy Filings Surge Among Older Americans," with a tagline that proclaimed: "Authors of recent study cite reductions to social safety net, shift from pensions to 401(k)s." Which, of course, they had. Indeed, some industry publications dutifully picked up the report (entitled "Graying of U.S. Bankruptcy: Fallout from Life in a Risk Society") and faithfully repeated the conclusions of those same authors.

The "culprits" of this bankruptcy "boom" are, as you might suspect, the usual suspects: "vanishing pensions, soaring medical expenses, inadequate savings" — and "a three-decade shift of financial risk from government and employers to individuals."

Disappearing 'Axed'

Now, pensions surely have been "disappearing," but slowly. What's even slower is for folks like those at the *Times* to realize they were never all that common — as the data shows — and even those workers who had a pension weren't likely to get the full potential benefit because many didn't work long enough to vest in those benefits. Moreover, while some workers did spend their working career at a single employer (and some still do, particularly in the public sector), the data show that for the very most part we have long been a nation of relatively short-tenured workers. How short? Well, the median job tenure in the United States — how long workers stay at one job — has hovered around five years for the past three decades.

What that means is that even workers who were "covered" by a pension plan in the private sector often didn't accumulate enough service to vest in that promised pension benefit. And that's been true… well, pretty much as long as there have been DB pensions.

'Primary' Colors

As for the issue of bankruptcy, we should start by noting that this "study" was based on a pretty small sample of personal bankruptcy cases and questionnaires completed — 895 filers aged 19 to 92. In fact, the *Times* acknowledges that "the actual number of older people filing for bankruptcy was relatively small" during the period in question — though it reports that "the researchers said it signaled that there were many more people in financial distress."

And it's not really surprising that a study "based on data collected through the Consumer Bankruptcy Project" would focus on (and find) troubling trends in bankruptcy. But what's really weird here is that that "boom" in Boomer bankruptcies doesn't even seem to exist in in the data presented in the "study."

Setting aside for a second the relatively small size of the over age-65 group (a whopping 120 folks) that the authors relied upon, they note what could fairly be described as a "substantial increase" — rising from 0.8 per thousand people to 2.7 per thousand people. But that's between 1991 and 2001. Since 2001… well, it's been pretty steady. The *Times* glosses over this by comparing the 2016 number to… the 1991 number.

Now, that's not to say that there aren't individuals out there who, for a variety of unique, personal and perhaps even systematic reasons, don't find themselves struggling financially in retirement.

But basically, the "boom" in bankruptcies cited in the study happened… 17 years ago.

And as news reporting goes, I'd call that a "bust."

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Case(s) in Point

Defendants win another excessive fee suit, as process prevails despite judicial concerns about committee conduct… but advisors could increasingly find themselves in the crosshairs of this litigation, according to a noted ERISA attorney…

COMMITTEED CONCERNS

But NYU excessive fee suit gets failing grade anyway.

Another 403(b) excessive fee suit has had its day in court — and walked away empty-handed.

This time it was a suit brought by participants in plans of New York University (NYU). It was one of the first excessive fee suits filed against university 403(b) plans by the law firm of Schlichter, Bogard & Denton in August 2016.

Case Background

The plaintiffs here alleged that the university, as employee retirement plan sponsors, breached their duties of loyalty and prudence under ERISA by "… causing plan participants to pay millions of dollars in unreasonable and excessive fees for recordkeeping, administrative, and investment services of the plans." Moreover, that they breached their fiduciary duties by selecting and retaining numerous high-cost and poor-performing investment options compared to available alternatives, which they claim "substantially reduced the retirement assets of the employees and retirees." They also charged that employees paid excessive recordkeeping fees in addition to selecting and imprudently retaining funds which the plaintiffs claim have historically underperformed for years, and raised a claim unique to the 403(b) suits that the use of multiple recordkeepers, rather than a single recordkeeper "… caused plan participants to pay duplicative, excessive, and unreasonable fees for plan recordkeeping services."

The plaintiffs alleged that NYU's imprudence resulted in losses totaling more than $358 million to the plans, which had over $4.6 billion in combined assets.

The ruling (*Sacerdote v. N.Y. Univ.*, S.D.N.Y., No. 1:16-cv-06284-KBF, judgment 7/31/18), issued July 31 by Judge Katherine B. Forrest of the U.S. District Court for the Southern District of New York, found for the plan fiduciaries on every claim in the case, which went to trial in April for eight days.

Judge Forrest began by noting that to prove a breach of the duty of prudence, plaintiffs bear the burden of showing:

(1) that NYU failed to engage in a prudent process (here, with specific regard to how it monitored recordkeeping fees and certain investment options); and

(2) that, on an objective basis, such breaches led to plan losses.

That said, she concluded that the plaintiffs have "failed to carry their burden."

'Loss' Leaning

In language that would be repeated throughout the ruling, she noted that "even if plaintiffs had established that NYU did not follow a prudent process in monitoring administrative fees and investments (which, as discussed below, they have failed to do), in order to be entitled to recover damages, the Plan(s) must have also suffered a causally related loss."

On the issue of fees, she noted that ERISA does not dictate "any particular course of action" with regard to fees, but it does require a "fiduciary … to exercise care prudently and with diligence under the circumstances then prevailing." But, she noted that, as with other ERISA claims, plaintiffs must show that demonstrated imprudence in fact "resulted in monetary loss."

Committeed Concerns

Not that there weren't areas of concern. Judge Forrest noted that, during the trial, "certain witnesses testified that they — in effect — assumed that on financial issues (which constituted a significant portion of the Committee's mandate), they could defer virtually entirely to Cammack for expertise and information and rely on its recommendations," going on to bluntly state, "This is incorrect." She explained that the hiring or appointment of a co-fiduciary does not relieve the original fiduciary of its independent duties, and that "no fiduciary may passively rely on information provided by a co-fiduciary," and that a "fiduciary who delegates fiduciary responsibilities nonetheless retains a duty to exercise prudence" — a process that she likened to a "good old-fashioned 'kicking the tires'

of the appointed fiduciary's work…". She went on to clarify that, "…the role of the advisor here — Cammack — does not now and never has entitled the Committee or its members to unthinkingly defer to Cammack's expertise — even when Cammack was hired because it possessed expertise Committee members did not." Rather, she said, in order to fulfill their duties, "…the Committee members must meaningfully probe Cammack's advice and make informed but independent decisions."

Judge Forrest also specifically called out Committee Co-Chair Margaret Meager, whose testimony was "concerning" to the court, in that she "…made it clear that she viewed her role as primarily concerned with scheduling, paper movement, and logistics," and "…displayed a surprising lack of in-depth knowledge concerning the financial aspects of managing a multi-billion-dollar pension portfolio and a lack of true appreciation for the significance of her role as a fiduciary."

Meagher's deposition comments had been called out by plaintiffs in an amended complaint, but here the court noted that, "in a number of instances, she appeared to believe it was sufficient for her to have relied rather blindly on Cammack's expertise," going on to note, however, that, "As a matter of law, blind reliance is inappropriate." The court was similarly distressed by the comments of Meagher's supervisor (the "chief human resource executive for the NYU Langone Health System") who, perhaps echoing the sentiments of many a human resources official, said that she had a "big job" and that being on the plan committee was just one of her many responsibilities. Moreover, Judge Forrest said that "this under-preparedness was not limited to just these two Committee members."

That said, she noted that, "While the Court finds the level of involvement and seriousness with which several Committee members treated their fiduciary duty troubling, it does not find that this rose to a level of failure to fulfill fiduciary obligations. Between Cammack's advice and the guidance of the more well-equipped Committee members (such as CIO Surh), the Court is persuaded that the Committee performed its role adequately."

Indeed, one thing this committee did seem to have was process; Judge Forrest cited a series of meeting dates, and minutes, noting that Cammack's reports were typically distributed to all Committee members one week before a meeting, and that the evidence at trial supported receipt and review of these reports by Committee members. Moreover, she noted that at those meetings, and prior to making final decisions, Committee members asked questions about the information Cammack provided and its recommendations. She also noted that those meetings "included discussions on topics that included review of investment options and performance, recordkeeping and other fees, overviews

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of fiduciary responsibility, streamlining the fund lineup, converting to lower-cost share classes, amendments to the Committee charter, reviews of the differences between certain annuity contracts and more recently available annuity offerings" — suggesting that the committee had reviewed and considered, even if they had not made changes that the plaintiffs alleged constituted a breach of their fiduciary duties.

Recordkeeper Review

Judge Forrest also found that the "evidence supports that during the Class Period, the Committee prudently managed its recordkeepers: it ran prudent RFP processes, was able to obtain lower fees for the Faculty Plan when consolidation was impractical, and it consolidated recordkeepers for the Medical Plan (and, in 2018, the Faculty Plan). In addition, plaintiffs have not proven that the allegedly imprudent actions/inactions resulted in losses." Forrest explained that early on, "the Committee began discussing whether to consolidate recordkeepers, so that each Plan would have only one," noting that, "consolidation may lead to lower recordkeeping fees. However, recordkeepers may offer a variety of collateral services to participants which also have value. Thus, any examination of fees needs to account for total value — that is, both recordkeeping and collateral services. Finally, when reviewing a recordkeeping vendor's RFP response, a fiduciary needs to examine both fees, the services offered, and total value," and in her determination, "the Committee performed this holistic review appropriately."

With regard to the RFP process, Judge Forrest noted that, "over a period of several years, the Committee issued several RFPs regarding recordkeeping services," and that while "plaintiffs have argued that the RFP process was generally and specifically infirm and inadequate. The Court finds otherwise." Judge Forrest found good reasons for bidding out only part of plans' asset bases at a time (TIAA had a majority of the plan's assets, and there was evidence that only TIAA could recordkeep those particular annuity holdings). "The evidence at trial supports defendant's contention that technical and other requirements prevented immediate consolidation of the Faculty Plan," she wrote, and "under the circumstances, the Committee ran an appropriate RFP process both in terms of number and with regard to the asset base up for bid."

> "The plaintiffs here alleged that the university, as employee retirement plan sponsors, breached their duties of loyalty and prudence under ERISA."

Cammack Considerations

Judge Forrest was "not persuaded that the Committee was imprudent for failing to consolidate the Plans sooner" (Cammack had recommended doing so), and thus "does not view the existence of the Cammack recommendations, and any failure to follow those recommendations, as strong evidence of imprudence. Indeed, it demonstrates Committee decisionmaking independent of Cammack." She went on to note that a "change in recordkeepers would entail significant coordination with and changes to the new systems being implemented; NYU believed any recordkeeper switch could not be completed without risk of significant errors or additional changes prior to completion of this global update of NYU's systems and technology," and that the record at trial "persuasively demonstrated that NYU had particular needs, a particular technological environment, and infrastructure that made the frequency of its RFP process during the Class Period adequate." Moreover, she said that "plaintiffs ignore that over the course of several years, NYU's recordkeeping fees consistently decreased as NYU obtained repeated rate reductions.

"While plaintiffs assert that the Committee did not negotiate fee reductions zealously enough, the record reflects a number of serious — and successful — efforts by the Committee to reduce recordkeeping fees," Judge Forrest observed.

As for allegations that revenue-sharing was imprudent vis-à-vis a flat per-participant charge, here again she wrote that "the Court is also not persuaded, on the record here, that a flat rate would have been a more prudent way to collect fees than through revenue-sharing." The plaintiffs' expert witness acknowledged that as recently as 2010, 40-60% of big plans still used revenue-sharing models. "In all events, the trial record here reflects due consideration of the appropriate pros and cons and rejection of using a flat per-participant model," she wrote, noting that "the Committee considered a number of issues related to paying for services on a flat per-participant basis, including whether they thought the arrangement would be fair, given that a participant with a large account balance might pay the same as a participant with a relatively small account."

Judge Forrest also noted that while the plaintiffs asserted "that the Committee did not analyze fund performance on a regular basis and did not timely remove two funds in particular that allegedly underperformed," and that "the Committee acted imprudently by allowing the Plans to include too many investment options," she concluded that, "The evidence does not support these claims." She noted that, "this acceptance of Cammack's recommendations does not mean the Committee improperly deferred to Cammack; it could just as easily mean (and the Court views it as such) that Cammack's recommendations also happened to be appropriate."

Judge Forrest concluded, "For the reasons stated above, the Court finds in favor of defendant NYU on all claims. The Clerk of Court is directed to enter judgment for NYU, close all open motions in 16-cv-6284, and terminate the case."

— Nevin E. Adams, JD

'DO' DILIGENTS

Plan advisors face litigation landmines.

Advisors are increasingly being pulled into 401(k) plan litigation under novel theories of liability and need to pay extra attention in documenting their actions, a prominent ERISA attorney told delegates July 24 at the 2018 NAPA DC Fly-In Forum in Washington.

Tom Clark, Of Counsel at The Wagner Law Group, warned that alleged fiduciary breach litigation is not slowing down and, in addition to primary fiduciary liability, claims involving co-fiduciary and party-in-interest liability are increasingly being used by the plaintiffs' bar, as part of the three potential avenues of liability.

According to Clark, who was previously with the Schlichter Bogard & Denton law firm, the partial success of the Schlichter firm over the past decade has brought a lot of other new plaintiff firms into the fray, many of whom are testing new theories by going after church plan status, university 403(b) plans, stable value products and recordkeeping firms and their affiliates.

Lower Hanging Fruit

And while the "lowest hanging fruit," such as self-dealing suits, has been picked over, the firms are now moving onto "lower hanging fruit," such as prudence claims where the plaintiffs' bar makes allegations that firms engaged in a bad process.

Clark noted that one prime example is the Anthem case involving allegations that the fiduciaries failed to leverage the plan's size to take advantage of lower-fee investment options and failed to monitor and control recordkeeping fees.

What these cases are coming down to is proving prudence versus perfection, where the plaintiffs' bar wants perfection or else. Clark noted that the courts seem to be increasingly providing favorable decisions for defendants and plan sponsors, because the plaintiffs have not proved that there was a bad process or that there was a substantive breach.

"You've seen a whole line of cases that say simply comparing this to the cheapest Vanguard lineup we can find is not enough to demonstrate a breach to get past a motion to dismiss," Clark stated.

While this is good news overall, Clark warned that "the DOL is backfilling in where the Schlichters of the world aren't, and they remain as aggressive in the last year under this administration as they were during the last eight years."

Clark advises to have clearly defined relationships with well-drafted service agreements and to make sure you're documenting your relationship. "If you're going to do services 1, 2 and 3, you better do them," he states.

Co-Fiduciary Liability

Clark further emphasized that of all the points he made throughout his presentation, the most important point Fly-In Forum delegates should understand is the three prongs of co-fiduciary liability:

- knowingly participating in a fiduciary breach;
- breaching your own duties, which allows someone else to breach; and
- having knowledge of a breach by another fiduciary but not taking efforts to remedy the breach.

Of the three, Clark suggests that the third prong is by far the scariest. He emphasized that if you obtain knowledge of a breach by a plan sponsor client, you need to decide what you're going to do about it. "You need to have an action plan; you need to decide where your line is and whether you're willing to quit or whether you're willing to report them to the DOL if their conduct is egregious enough," he advised.

Clark also recommends that if you're approached by a troubled plan sponsor, do not sign on as a fiduciary, but rather sign on first as a non-fiduciary consultant to help them fix their issue, and then later agree to be a fiduciary.

"If they have a mess in their cesspool and you come on as a fiduciary, the stuff that happened before arguably can still follow up to you, not primarily, but by failure to fix it," Clark states. "Somebody can tag that on to you, and if you're the deepest pocket left in the room, you might get sued anyway, and then, if you get a sympathetic judge [to the plaintiffs], the rest is history."

The bottom line, according to Clark: Make sure you do your due diligence whether you're a fiduciary or not and document your process and communications, otherwise "the co-fiduciary train can come crashing down right through your office."

— Ted Godbout

ALEXANDER KIRCH / SHUTTERSTOCK.COM

'Multiple' Choices

NAPA Net Readers offer mixed messages on MEPs

BY NEVIN E. ADAMS, JD

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Multiple employer plans, or MEPs, have enjoyed bipartisan support on the Hill — have been included in various legislative proposals — and now have the impetus of an executive order from President Trump — in mid-summer (prior to the announcement of the Executive Order) we asked NAPA Net readers to weigh in with their experience, concerns and aspirations for these offerings.

MEPs were, of course, a subject of discussion in a May 2018 hearing by the House Education and the Workforce's Subcommittee on Health, Employment, Labor and Pensions alongside other legislative and regulatory solutions seen as improving retirement plan access. Enhancements to the design — specifically eliminating the "common nexus" requirement and the one-bad-apple rule — have most recently been incorporated in the Retirement Security for American Workers Act (H.R. 854).

MEP Mix

More than half of the survey respondents were working with some variety of MEP. Twenty-seven percent work with closed

MEPs (only), 23% work with both open and closed MEPs, and about 13% worked only with "open" MEPs, including some that were in the "planning" process. That said, the rest — and we're talking about more than a third (37%) — are not working with this plan design.

One reader noted, "The closed MEP's we have are more work than they are worth. Tough to administer. Also the smaller adopting employers are subject to audit requirements (auditor asking sampling questions) when they wouldn't be if a single employer plan. They get frustrated and the cost savings is not worth the effort." Another observed, "The open MEP is a no brainer — inexpensive with 3(16), 3(38), managed accounts as well as low cost indexes and ETFs. If a company has 1m or less in the plan it's the go to. Closed — yes, but getting an association or PEO to offer a closed MEP isn't the easiest sale."

We also asked those who weren't currently working with MEPs if they would like to be able to do so in the future. Just over half (54%) said "yes," and another 16% said "probably." About 1 in 20 said they weren't sure, and a similar number said it depended on the client, though nearly one-in-five said "no."

MEP 'Math'

Now, MEPs are said to have any number of advantages — and we asked readers to weigh in with what they thought was the biggest ones. More than half (55%) said combined assets/lower fees, with "administrative efficiency" ranked second (39%), just ahead of "reduced fiduciary liability," which garnered 37% (more than one response was allowed). Simplified plan audits was named by a quarter, while 14% saw no particular advantage, viewing these as "a marketing ploy." Among those was the reader who commented, "The marketing appears to oversell potential advantages without touching on responsibilities and potential complications. small employers and even MEP sponsors appear to be unaware of many compliance requirements."

Several readers went for "all of the above." As one reader explained, "I've worked on hundreds of small micro plans and 90% of the sponsors don't do what you tell them to and they don't care. With the MEP structure at least the ERISA guidelines are being followed. It's still like pulling teeth to get the enrollment/education meetings scheduled."

Access 'Able'

One of the widely touted benefits of an open MEP is the notion that it would expand access to retirement plans, presumably because those advantages would lead more employers to establish a plan. On this point, readers were of mixed opinions. Nearly 4 in 10 (39%) said it would — "definitely," but 23% said "probably not," and 12% said that it wouldn't, but that it "should make things better/less costly for plans already in existence." One reader said, "They will absolutely expand access, but whether that access will be taken advantage of enough to justify the effort is up in the air. As with a lot of governmental efforts, not only is the juice not worth the squeeze, the juice is likely to start smelling funny by the time it's available for consumption." Another commented, "It certainly will open the market up to smaller employers who did not sponsor a plan because of fees and offer those employers in states that are getting into competition get with private sector an alternative option," explained another.

"Only if they make plan sponsorship mandatory," said another reader. "SIMPLEs already exist to serve the low-cost, low-service market…" One reader in the "it depends" category said, "That will depend on the advisors who are willing to understand open MEPs and sell them."

Fiduciary 'Rue'?

We noted that the Retirement Security for American Workers Act (H.R. 854) provides for MEPs, but wouldn't require smaller employers to retain fiduciary responsibility for selecting or monitoring the MEP provider — and asked readers how they felt about that. Once again, opinions were diverse and divided. A slim plurality (35%) said, "I think it's a good idea — smaller employers shouldn't have to worry about that, and aren't really capable of making that evaluation anyway." A nearly equal 29% said "this would be a big problem," and 17% were of the opinion that it "has the potential to put retirement savings at risk." On the other hand, about 14% "didn't have an issue with it," and 5% "hadn't really thought about it."

"Terrible! Does no one remember Matt Hutchison?!," said one reader. "The client needs to retain responsibility for outsourcing this fiduciary role," commented another. "The quality of the MEP is the issue; if they don't get it right, the small plan members will suffer… but we don't know to what extent…" said another.

"This is similar to allowing a state to sponsor a plan and absolve adopters from any responsibility," added another. "There have already been MEPs with fiduciary fraud committed, so who thinks it won't happen again? Removing the buyer from any responsibility reduces their interest in making sure it's the right choice and just buying what the MEP salesperson is selling."

"I think there is a slight problem here in that the small employers, while they would struggle with the additional responsibility and cost, should still monitor all their service providers,"

> "In concept the idea is wonderful, but the reality of plan administration is much different."

commented another. "They could be taken advantage of here, and I have seen a MEP where there were serious issues and the owner/sponsor was jailed."

"I think they should have limited liability – but need to show the initial due diligence was adequate so that are reasonable person would make the same decision," concluded another.

Other Comments

Readers had a lot to say on this topic this week. Here's a sampling:

"I'm not sure how I feel about them! They have the potential to wipe out small plan business for advisors but definitely a useful tool to have for expanding coverage and getting better pricing."

"I think MEPs will make managing a retirement plan book of business much more efficient and profitable. If I can create one investment lineup and meet with one committee, and still cover multiple plan sponsors, it will make life much easier for me. Then I can focus on more meaningful discussions with my plan sponsors, like plan design, plan health, employee financial wellness, etc."

"As an advisor who has served as 3(38) fiduciary for several large MEPs, I think the primary MEP value proposition is simplicity created by outsourcing most administrative and fiduciary responsibilities. Many employers, particularly small employers, just don't want to become closely engaged with the decisions and responsibilities associated with a 401(k) plan, any more than they want to screen medical providers for their health insurance plan. Ease of use leads to more plan adoptions, which effectively results in expanded access in the marketplace. I think the employer should always retain responsibility for the prudent selection and oversight of the MEP itself, as eliminating this will more bad actors to enter the field, but that due diligence can be accomplished and documented fairly easily if the standard of prudence is set at a realistic level and proper information is made available."

"I think early adopters will distance themselves from the competition… everyone else will just be playing catchup."

"Open MEPs are good in concept, but the devil is in the details."

"The biggest issue with the '401(k) retirement system' is obviously the fact that small employers don't sponsor the plans. MEPs make it easy and affordable for small employers to have plans. This is the big deal. We have one plan with 165 contractors in a single plan. They are small employers but together the plan has almost $200 mm in assets and these small employers have the cost and operational advantages of an F500 quality plan."

> "One of the widely touted benefits of an open MEP is the notion that it would expand access to retirement plans, presumably because those advantages would lead more employers to establish a plan."

"MEPs are a great concept because they allow employers to offload administrative and most fiduciary responsibilities. Let's be honest – very few employers understand the complexities of 401(k) administration. Many have never even heard of a 408(b)2 notice or ERISA Fidelity Bond. That is problematic. With all of the positives that an MEP offers, it is still not going to solve the 'retirement crisis.' They need to look at special safe harbor rules for these small employer start-ups around nondiscrimination testing; the likelihood of them being top heavy is significantly higher than a 100 participant plan. For many small employers, nondiscrimination testing is a show-stopper!"

"We've seen several spinoffs from open MEPs and there was poor communication which led to compliance errors, and typically the individual employer had no idea what they'd signed on for and the MEP sponsor was not able to maintain/provide sufficient information to properly monitor and administer the plans."

"In concept the idea is wonderful, but the reality of plan administration is much different."

"The only benefit is lower cost on combined assets… they could also just force providers to charge a set rate for retirement plan assets. Next up, where are those Death Star plans?"

"Open MEPs are already here and will expand in the future. Cost is often cited as the biggest factor in favor of MEPs. This should change over time. The best feature of open MEPs (if designed correctly) is that they are run by trained fiduciaries who will improve compliance with the relevant laws and regulations. The vast majority of American employees employ fewer than 1,000 people. They generally don't have the knowledge and experience to meet their fiduciary obligations. Outsourcing this to trained professional fiduciaries makes sense."

"They should do away with the commonality part of MEPS — kill the open/closed. The whole idea is to make retirement plans more accessible. 99% of business owners don't have

the time or acumen to be handling the ERISA responsibilities."

"It has the potential to fundamentally change how our industry serves employers, who and how these plans are formed and sponsored. It should spur product innovation and allow new points of efficiency for project providers."

"I think that the press on retirement plans is that they are too expensive and too complicated for the smaller employer and the only answer is a MEP or state run plan. I don't think many small businesses (really small) either understand the benefit of a plan or want to share the benefit of the plan with their employees."

"It's only a matter of time. And MEPs will dominate the small to mid-sized 401k market in 5 years."

"Closed MEPs should be permitted. They will create operational efficiencies which will lead to more retirement plan coverage, lowers costs and increased professional fiduciary oversight."

"Open MEPs are a good solution for the small employer. Since 413(c) does not require the common nexus, I wish the IRS would opine on the DoL's adverse opinion. I would like to see the legislation require the DoL to fully support 413(c), but have no idea how far it will go."

"MEPs alone are not the answer. The government needs to phase out Social Security and make saving for your individual retirement mandatory. 15% of your paycheck from your first job should go to your own retirement fund. The government can't touch it, EVER. You will not ever be taxed again on it and you can't touch it unless of dire emergencies, or the age of 65. Many more details to make sure it works, but this would be a start!"

PETER ELVIDGE / SHUTTERSTOCK.COM

"Horrible idea to 'expand' employee savings."

"I've worked with MEPs (PEOs) in the past and found them complicated with many moving parts. This was with getting data from the PEO payroll sponsor. Open MEPs with independent and varied payroll will make it easier? Sorry, I don't buy it. Audit expenses for a plan that wouldn't need an audit as a stand alone, why? Exempt MEPs from audit rule, why? Provide a level playing field. My plan has $5M and 75 EEs, your plan is a start up with 25 EEs. You get better pricing because of the size of my plan? Why? I want to move my plan away from the MEP. Wait, I have to terminate and fully vest everyone because the MEP failed to deliver, why?"

"I would like to see open MEPS all be allowed to be treated as closed MEPs. I think these should be kept out of the hands of the States as well. I believe States would not have the expertise to operate these as well as problems with the investing of the plan assets. Then I think you would see an increased interest in smaller to mid-sized plans entertaining this option."

"Open MEPs will help expand the market place. Plus it would put such retirement plans for smaller employers in the hands of responsible professionals who understand what it means to be a fiduciary."

"As long as the one bad apple rule exists, MEPs are generally a terrible idea."

"Smaller employers would offer their employees access to a qualified plan, if they didn't have to worry about administrative headaches and risk of being punished by a regulator. For those organizations that offer an open MEP, I am confident that the marketplace will drive down plan costs and technology will continue to make the administrative/operating environment more efficient."

"However, I would love to see the open MEPs go away with the removal of the common nexus and the one bad apple issue. The common nexus issue adds cost to the open MEPs due to the amount of additional work required, and the individual plan audits that are required."

"I don't think companies are out there ready to sponsor a plan now and not doing so because a MEP does not exist for them. Whatever reason they have for not sponsoring a plan exists (at least in their minds) and I don't see how a MEP (which is a pretty complex concept) is the magic bullet that the sponsor is waiting for. MEPS are a marketing gimmick and will have to be sold."

Thanks to everyone who participated in this — and every — week's NAPA Net Reader Poll!

Regulatory Review

As the comment period closed — and criticism emerged — on the Security and Exchange Commission's Regulation BI, the President unveiled an executive order designed to expand retirement plan access by opening the door to "open MEPs," while the demise of the fiduciary rule left some unsettled matters in its wake…

MEP TALK

An Executive Order by President Trump outlines recommendations and timetables for action to expand retirement plan access and security.

As August wound to a close, President Trump gave a much-anticipated boost to multiple employer plans (MEPs), while also offering the prospects for some distribution relief for participants — and even some help on electronic disclosures.

That executive order signed by the President in Charlotte, NC on Friday, Aug. 31 directs the Departments of Labor and Treasury to consider changes to make it easier for businesses to join together to offer MEPs, which the order refers to as Association Retirement Plans (ARPs). President Trump also:

- directed the Department of the Treasury to review the rules on required minimum distributions from retirement plans (to see if retirees could keep more money in 401(k)s and IRAs longer); and
- directed Treasury and Labor to consider ways to improve notice requirements to reduce paperwork and administrative burdens.

"We are very glad the President has authorized the Labor Department to finally deal with the multiple employer plan issue, and we are optimistic that the language in the executive order opens the door to long-awaited and much needed relief on electronic disclosures," noted Brian Graff, CEO of the American Retirement Association upon the signing of the order.

The President, in announcing the executive order, noted that ARPs reduce the cost of offering retirement plans for businesses that join together by expanding the number of workers who participate. Secretary of Labor Alexander Acosta further noted that high costs are holding back small businesses from offering workplace retirement plans, and that workers at small businesses often have less access to workplace retirement plans compared to workers at larger businesses.

The EO notes that it "shall, therefore, be the policy of the Federal Government to address these problems and promote

retirement security for America's workers," and that accordingly, the Secretary of Labor shall examine policies that would "clarify and expand the circumstances under which United States employers, especially small and mid-sized businesses, may sponsor or adopt a MEP as a workplace retirement option for their employees, subject to appropriate safeguards" and also look to "increase retirement security for part-time workers, sole proprietors, working owners, and other entrepreneurial workers with non-traditional employer-employee relationships by expanding their access to workplace retirement plans, including MEPs."

Time, Framed

The Secretary of Labor is directed "within 180 days of the date of this order" to consider whether to issue a notice of proposed rulemaking, other guidance, or both, that would clarify when a group or association of employers or other appropriate business or organization could be an "employer" within the meaning of section 3(5) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002(5), and by the same point in time, "consider proposing amendments to regulations or other guidance, consistent with applicable law and the policy set forth in section 1 of this order, regarding the circumstances under which a MEP may satisfy the tax qualification requirements set forth in the Internal Revenue Code of 1986, including the consequences if one or more employers that sponsored or adopted the plan fails to take one or more actions necessary to meet those requirements."

Additionally, the Secretary of the Treasury is directed to consult with the Secretary of Labor in advance of issuing any such proposed guidance, while the Secretary of Labor is directed to "take steps to facilitate the implementation of any guidance, as appropriate and consistent with applicable law."

CARLOS AMARILLO / SHUTTERTOCK.COM

Notice 'Says'

On a longer term basis, while the EO notes that "reducing the number and complexity of employee benefit plan notices and disclosures currently required would ease regulatory burdens," and that the "costs and potential liabilities for employers and plan fiduciaries of complying with existing disclosure requirements may discourage plan formation or maintenance," the Secretary of Labor is, within a year of the date of the order, directed to "complete a review of actions that could be taken through regulation or guidance, or both, to make retirement plan disclosures required under ERISA and the Internal Revenue Code of 1986 more understandable and useful for participants and beneficiaries, while also reducing the costs and burdens they impose on employers and other plan fiduciaries responsible for their production and distribution."

The EO states that this review is to include an exploration of the potential for broader use of electronic delivery as a way to improve the effectiveness of disclosures and to reduce their associated costs and burdens. Should the Secretary of Labor determine that actions should be taken, they are directed — in consultation with the Secretary of the Treasury — to consider proposing appropriate regulations or guidance, consistent with applicable law and the policy set forth in the EO.

'Periodic' Tableau

Finally, the EO notes that "outdated" distribution mandates may also reduce plan effectiveness by "forcing retirees to make excessively large withdrawals from their accounts — potentially leaving them with insufficient savings in their later years." In response, the EO says that within 180 days of the date of this order, the Secretary of the Treasury shall "examine the life expectancy and distribution period tables in the regulations on required minimum distributions from retirement plans (67 Fed. Reg. 18988) and determine whether they should be updated to reflect current mortality data and whether such updates should be made annually or on another periodic basis."

Time will tell…

— Nevin E. Adams, JD

'CAPITAL' CONCERNS

The American Retirement Association weighs in on the SEC's proposed Regulation Best Interest standard.

Overall, the ARA's Aug. 3 comment letter commends the commission's efforts to tailor the proposed rules to "preserve investor choice with regard to business models and compensation practices in a manner that is workable for broker-dealers and investment advisers alike," but does offer a number of recommendations. Heading the list of concerns, the ARA argues that net capital requirements are inappropriate for the advisory business, would be particularly burdensome to small advisory firms and should not be part of the agency's final rulemaking.

The letter further contends that the problems of potential RIA misappropriation and bankruptcy are overstated. "The number of actions against RIAs is low and pales in comparison to the number of allegations brought against brokers through FINRA arbitration," the ARA says. It further notes that in 2017, over 86% of all registered RIAs reported no disciplinary history at all and only 1% of all advisers reported that they or their affiliates had been charged with a felony.

Moreover, the ARA argues that net capital requirements would stifle small business and have an anti-competitive effect, explaining that such requirements are unduly burdensome to advisory firms, many of which are small businesses with the average SEC-registered RIA employing no more than nine professionals. "It would be imprudent to impose capital requirements on these small business just to capture a few bad actors — the means doesn't justify the end," the letter argues.

The ARA letter also recommends that the SEC clarify that non-professional fiduciaries of small employer-sponsored retirement plans are covered by the "retail customer" definition, and that compliance with the Department of Labor's disclosure requirements should be deemed sufficient to satisfy Regulation Best Interest's disclosure requirements where a B-D provides recommendations to small retirement plan fiduciaries.

Finally, while the ARA agrees with the SEC that an investment adviser can and should make personalized fee information available upon request, the organization believes a mandated periodic reporting requirement as proposed is unnecessary. The letter suggests that Form ADV and the proposed Form CRS each provide investors with sufficient information to understand the types of fees charged, the compensation conflicts that exist and whether further inquiry is necessary.

The ARA comment letter is available at https://www.napa-net.org/wp-content/uploads/8.3.2018.-ARA_Regulation_Best_Interest_Comment_FINAL.pdf.

— Ted Godbout

ROLLOVER RESET?

ARA asks DOL for clarity on rollover recommendations.

The March 15 decision by the 5th U.S. Circuit Court of Appeals to invalidate the DOL fiduciary rule resolved some issues — and created some uncertainties for retirement plan advisers, most notably their status regarding rollover advice to plan participants in plans to which the adviser is currently a fiduciary investment adviser.

In the aftermath of that ruling, the Labor Department issued Field Assistance Bulletin (FAB) 2018-02, outlining an enforcement policy designed to reduce potential problems resulting from good faith compliance with the 2016 fiduciary rule and the regulatory uncertainties resulting from the return to the 1975 fiduciary regulation following the 5th Circuit's ruling.

'Back' to the Future?

As the American Retirement Association (ARA) explains in an Aug. 7 letter to Preston Rutledge, head of the DOL's Employee Benefits Security Administration (EBSA), under the 2016 regulation it was clear that essentially all recommendations to distribute or transfer assets from an ERISA plan were fiduciary advice, and that compliance with the conditions of the Best Interest Contract Exemption (BICE) would exempt any prohibited transactions that might be related to such a recommendation. But now that we're back under the 1975 regulation, many rollover recommendations may no longer be fiduciary recommendations — because, as the letter notes, such recommendations may be "one-time" advice that are not "regularly" provided for purposes of the 1975 regulation.

The Labor Department previously issued guidance (Advisory Opinion 2005-23A) indicating that most rollover recommendations are not fiduciary advice under the 1975 regulation ("merely advising a plan participant to take an otherwise permissible plan distribution, even when that advice is combined with a recommendation as to how the distribution should be invested, does not constitute 'investment advice'"). However, that same Advisory Opinion noted that "…someone who is already a plan fiduciary responds to participant questions concerning the advisability of taking a distribution or the investment of amounts withdrawn from the plan, that fiduciary is exercising discretionary authority respecting management of the plan and must act prudently and solely in the interest of the participant." Additionally, the Advisory Opinion cautioned that, "if, for example, a fiduciary exercises control over plan assets to cause the participant to take a distribution and then to invest the proceeds in an IRA account managed by the fiduciary, the fiduciary may be using plan assets in his or her own interest, in violation of ERISA section 406(b)(1)."

The Issue

Therein lies the dilemma for advisors who work with retirement plans. As the ARA letter outlines, if this guidance is applicable, "it suggests that fiduciary investment advisers to plans — advisers that already act in the best interest of participants, and that have long-term relationships with their plan clients — are ERISA fiduciaries when providing rollover recommendations to participants in those plans but are in a legal 'grey area' in which a prohibited transaction may or may not apply." Moreover, unrelated persons selling financial products in rollover transactions to those same participants would not be considered ERISA fiduciaries — and thus would not be subject to the prohibited transaction rules.

The letter goes on to suggest that the Labor Department issue either a new FAB or issue FAQs clarifying that the non-enforcement policy outlined in FAB 2018-02 applies in the context of a plan fiduciary advisor giving a rollover recommendation — and provides sample language to do just that.

As the ARA letter states, "clarification will be in the best interest of plan participants who may otherwise not have full access to professional fiduciary retirement advisers, but who likely will be actively solicited by non-fiduciary salespersons."

"By clarifying the FAB's applicability to an adviser who is a fiduciary to the plan from which the rollover comes, the Department can ensure that participants are able to receive fiduciary advice from trusted advisers," the letter concludes. "Absent this clarification, we are concerned that legal risk and uncertainty may cause many fiduciary advisers and their financial institutions to avoid such rollover recommendations."

‘BEST’ INTERESTS

SEC’s Peirce takes on critics of the Regulation Best Interest.

Speaking at the 2018 NAPA DC Fly-In Forum in Washington on July 24, Securities and Exchange Commissioner Hester Peirce argued that the proposed Regulation Best Interest would set clear standards, even though the word “fiduciary” is not directly incorporated in the proposal.

Addressing critics who remain unsatisfied, Peirce, who was sworn in in January 2018 and was speaking on her own behalf, explained that the word can carry a lot of meanings and what’s important is the context in which it is used.

Latin ‘Levers’

To make her point, Peirce told a story about how she misunderstood the Latin term, “malo malo malo malo.” For years, she thought the term meant “bad, bad, bad” or “evil, evil, evil,” but she came to find out later that the loose translation means, “I’d prefer to be a bad man in an apple tree rather than the mast of ship” or “I would rather be in an apple tree than a wicked man in adversity” or some variation thereof.

Regardless of which translation you choose, she noted that the same word can have different meanings and can lead to confusion. “For retirement investors, for example, confusion arises from the use of the word ‘advisor’ by both investment advisors and broker/dealers,” Peirce said, as she explained why the agency proposed to limit use of the term by certain broker-dealers when communicating with a retail investor.

In addition, she noted that a fiduciary under ERISA means something other than a fiduciary under the Investment Advisers Act. To that end, she lamented that the word fiduciary has become so powerful that some critics are assailing the SEC’s proposal solely on the absence of the word in the new standard. Investors are constantly told that all they need to ask of financial professionals is whether they are a fiduciary, but by suggesting that a single word will protect investors dissuades them from asking the questions they should ask before choosing a financial professional, Peirce suggests.

And further noting that some commenters would have liked for the agency to go further and require broker/dealers to call themselves “sales people,” Peirce explained that there are all sorts of tricks-of-the-trade that can be used to cultivate trust and then abuse it, no matter what title is used. “In the end, it really isn’t the title that someone uses, it’s the standard to which they are held that matters,” Peirce argued.

‘Best Interest’ Standard

Despite criticism that the SEC’s proposed best interest standard is inferior to fiduciary duty, Peirce contends that they are very similar. She notes, for example, that, while the proposed Regulation Best Interest does not include an explicit duty of loyalty, a broker/dealer would be required to have procedures in place to ensure disclosure of all material conflicts of interest and mitigation or elimination of any material financial conflicts of interest.

“Rhetoric aside, arguably the proposed Regulation Best Interest standard would subject broker/dealers to an even more stringent standard than the fiduciary standard outlined in the commission’s proposed interpretation,” she stated.

Peirce does note that she would have preferred a simpler approach in developing the standard. She explains, among other things, that she would not have referred to the standard as “best interest,” contending that it does not attempt to define the term because nobody can explain precisely what it means. More importantly, she contends, is that the proposal appears to send a message to investors that they don’t need to ask questions, which is precisely the opposite of what investors should be doing.

In addition, she suggests that, despite what critics have said, the suitability standard applicable to broker/dealers “has teeth and has been effective.” Peirce would have preferred the new standard to build on suitability as one component, while adding a second component that a broker/dealer cannot put their interest ahead of the interests of the retail customer. She believes that these changes, together with the customer relationship summary, would have sufficiently addressed conflict of interest concerns.

Proposed Interpretation and Form CRS

Peirce also says that she takes issue with part of the proposed interpretation as it relates to the advisor’s fiduciary duty. According to Peirce, the SEC states that the duty of loyalty component of an advisor’s fiduciary duty requires the advisor to acquire informed consent from its clients to any material conflict of interest that could affect the advisory relationship. But as authority for this informed consent requirement, she notes that the Commission does not cite court decisions or other legal precedents, but cites instructions to form ADV which, she said, “is not typically considered an authority.”

And while she supports the objectives of encouraging investors to ask questions regarding the services that their financial providers offer, Peirce is concerned that the approach in the Form CRS ties the hands of providers when it comes to communicating with investors.

She told the Fly-In Forum delegates that she is particularly interested in hearing whether the Form CRS is enough or does the agency need the disclosure mandated in the Regulation Best Interest standard. In addition, she’s interested in hearing how the agency can modify the rule to allow for experimentation with more multimedia-based approaches.

Comments on the Regulation Best Interest standard were due to the SEC by Aug. 7.

— Ted Godbout

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[1] J.D. Power, 2018 Group Retirement Satisfaction Study. For J.D. Power 2018 award information, visit jdpower.com/awards

[2] DALBAR Plan Participant Service Award, 2014-2017

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