NAPA 401(k) SUMMIT

INSIDER

SPECIAL SUPPLEMENT TO NAPA NET THE MAGAZINE

2018

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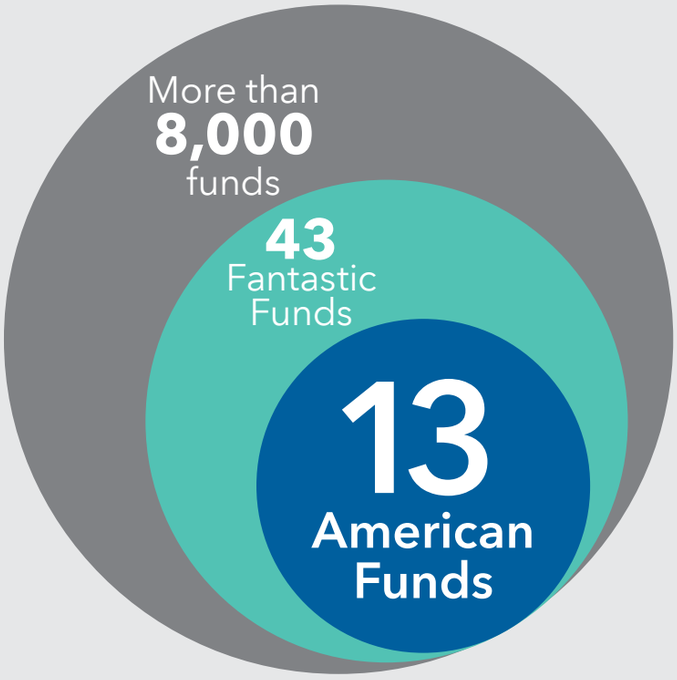

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* Source: Morningstar, Fund Spy, "Kinnel: 43 Fantastic Funds," September 2017. Morningstar's criteria for the Fantastic lists included: cheapest quintile of category, manager investment of more than $1 million in the fund, Morningstar Risk rating below the High level, Morningstar Analyst Rating of Bronze or higher, Parent rating of Positive, and returns above the fund's benchmark over the manager's tenure. Fantastic criteria has changed over the years. Visit **www.capitalgroup.com/us/insights/defined-contribution/fantastic.html** for more details. Not all 13 funds listed in the "Fantastic 43" are in each target date fund. Underlying funds may change over time.

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NAPA 401(k) SUMMIT INSIDER

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Inside the *Insider*

I've always come away from the NAPA 401(k) SUMMIT with fresh information, amazing insights, and new friends, not to mention the experience of connecting and reconnecting with the nation's leading minds and voices.

It was, in fact, thinking about all the talent, experience, and insights that were all going to be in one place at the 2018 NAPA 401(k) SUMMIT that inspired this report – the *SUMMIT Insider.* Quite simply, we wanted to take advantage of this largest gathering of retirement plan advisors in the nation to get their sense – *your* sense – of the industry landscape, the challenges – and opportunities – that they see ahead, and what trends they consider to be "overhyped."

In sum, it's the kind of things that I talk with advisors about all the time. I hope you will find the questions – and more importantly, your chance to contemplate the answers – productive.

On the pages that follow, you'll find additional insights and perspectives – including verbatim comments from advisors on what they'd like plan sponsors – and regulators – to know. The challenges outlined are real – as is to be expected in an industry as complex, and yet critical, as the one in which we labor.

A special thanks to the hundreds of retirement plan advisors who took the time to provide such thoughtful responses – and to the sponsors of this inaugural edition.

We look forward to building on this foundation in the years to come with future editions of the *SUMMIT Insider.*

More than 500 retirement plan advisors participated in this first-ever *SUMMIT Insider.* A wide range of experience and target-market focus is represented in the data on the pages that follow – and yet, through it all, a remarkable consistency emerges.

Among the key findings:

- Client retention was the biggest advisor issue cited; nearly a quarter (24%) said it was "very important," and another third (33%) rated it as an "important" consideration.
- Cybersecurity ranked second among plan sponsors with over $100 million in assets.
- Robo-advice was deemed the most "overhyped" industry trend.
- More than half (56%) said they would like more information about HSAs.
- The most common reason cited for shifting to passive options was a desire to reduce plan costs (34%), but the second-most cited (22%) was plan sponsor demand.
- A third (31%) are currently tracking profitability on a per plan basis – another quarter (27%) are doing so "sometimes."
- Nearly four in ten (39%) said that litigation trends are influencing plan sponsor receptivity to their design recommendations.

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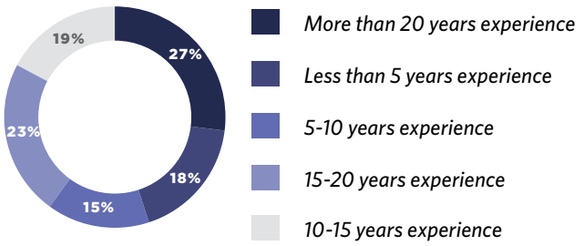
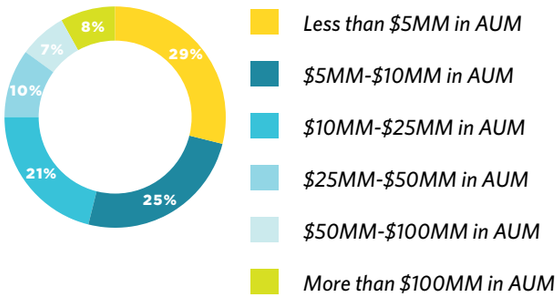
RESPONDENT DEMOGRAPHICS





Insider INSIGHTS

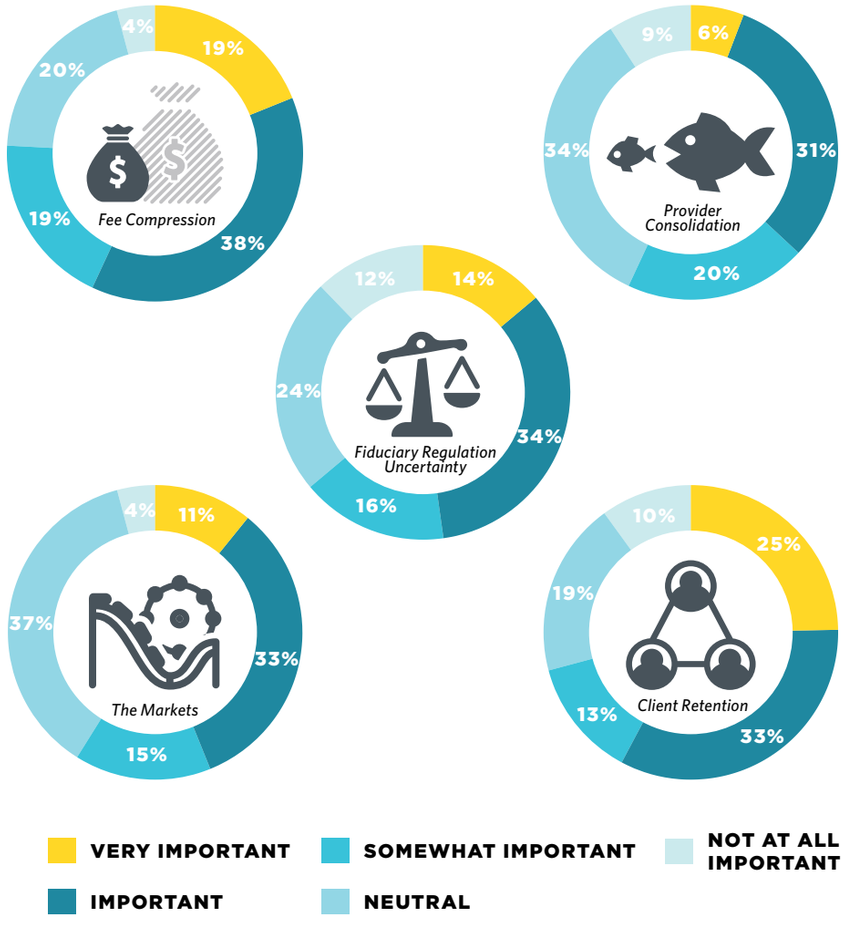
Advisors had a lot to say in our inaugural survey of NAPA 401(k) SUMMIT advisors.

Advisors participating in the nation's retirement plan advisor convention brought a lot to the sessions, networking – and for the first time ever, shared valuable insights via a new medium: the *NAPA 401(k) SUMMIT Insider.*

While there was no shortage of big issues to focus on, "client retention" loomed largest for survey respondents. Nearly a quarter (24%) said it was "very important," and another third (33%) rated it as an "important" consideration. That wasn't far ahead of fee compression, which was "very important" to nearly one in five (19%) and "important" by 38%, though the two stood out among the issues cited.

The fiduciary regulation – whose ultimate status was still very much in flux while the survey was fielded – ranked a distant third (14% very important, 34% important), just ahead of the markets (11% very important, 33% important), outdistancing provider consolidation, which was rated as very important by just 6% and important by 31%.

Interestingly enough, those priorities held up pretty consistently regardless of the target market of the advisor.



Other Issues

Those were the big issues, but not the only ones. Concerns related to business growth were cited frequently: the ability to attract (and retain) talent, the challenges of advisor group consolidation, keeping up with technology, compliance, issues of cybersecurity, and the reality that, as one respondent noted, "the competition keeps getting better." Growth issues also manifested themselves in concerns about managing growth, maintaining that growth, and practice management generally, as well as scaling their practice to maintain service levels even as consolidation and support compression continues.

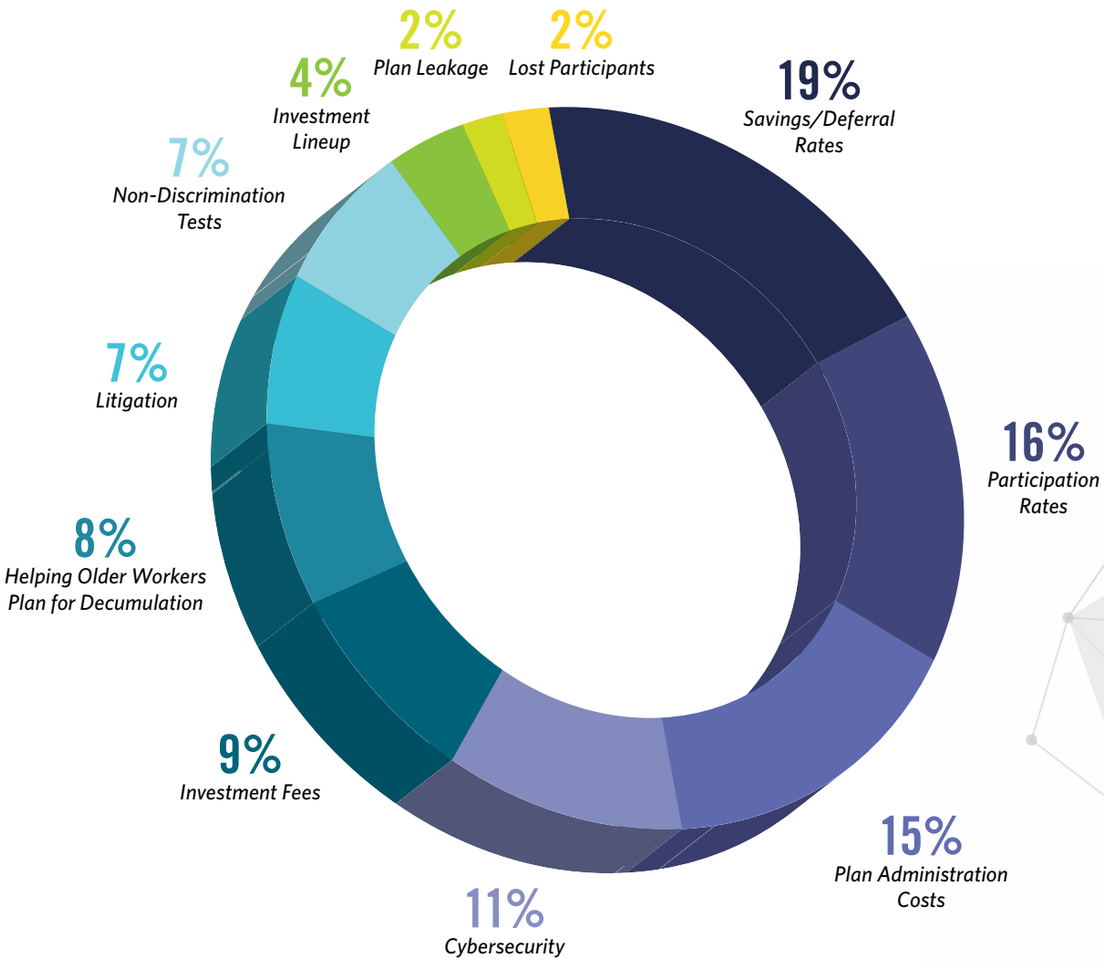
Not surprisingly, succession planning also emerged as a predominant concern, and there was a palpable sense that many respondents were contending with all of these challenges. As one respondent explained, "Our industry is currently changing at a rate faster than it ever has. This is leading to all kinds of confusion at the service level, compensation level, keeping up with the changes, etc. But the biggest problem because of this change that I face is trying to attract new talent to this business so that eventually I can sell my business. To me it's actually affecting the value of my business."

Plan Sponsor Perspectives

If advisors are being confronted with a host of new challenges, the plan sponsors they support – at least in the eyes of their advisors – are still mostly dealing with classic issues. Asked to pick the three most significant concerns for their plan sponsor clients, savings/deferral rates, participation rates, and plan administration costs dominated the responses. Cybersecurity, a relatively new concern, was a close fourth – though it came in higher (second) among advisors who primarily work with plans above $100 million in assets, pushing aside participation rates.

In the "ad hoc" category, financial wellness popped up, as did "outcomes" generally. But perhaps the most surprising (at least because of its frequency) was general plan administration – or, as most termed it, "administrative burdens." As one respondent explained, "As recordkeeping costs decline, so does the service level. Recordkeeping business models have become segregated, so the primary relationship manager is less involved with plan details since he/she is now managing significantly more plans." Another cited the "increased administrative burden of administrating plans," saying, "Plan providers are providing less and less service. HR managers are buried and it's getting worse." Another commented, "I find most sponsors have very rudimentary knowledge of their plan document provisions and even less about their responsibilities."

"It varies from plan to plan, but I commonly hear complaining about the complexity of running a plan – rules, regulations, disclosures, fees, fear of litigation, etc.," explained another. "Most would refer to those things as the necessary evil for trying to help employees out."



It's Time to Acknowledge Healthcare Costs for Retirement

Health Savings Accounts (HSAs) are an increasingly important piece of retirement strategies:

- **$280,000**: Amount an average retired couple over 65 may need for healthcare costs
- **38%**: Number of individuals concerned about paying for healthcare in retirement
- **54%**: Individuals who are not aware of HSA investment options
- **$60 billion**: HSA assets forecast for 2019

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SOURCES: WEX Health. 2018. "2018 WEX Health Clear Insights Report."
Fidelity. 2018. "A Couple Retiring In 2018 Would Need an Estimated $280,000 to Cover Health Care Costs In Retirement - Fidelity."

‘Hype’-o-chondria?

Ours is, of course, an industry in which staying current, much less getting ahead, can be a more than full-time focus. There are, however, things that constitute trends that bear watching, and then there are what might kindly be called “distractions,” some of which start out in the former category before fading. Asked to name the most “overhyped” trend in our industry, survey respondents proved to be somewhat split in their responses – and yet robo-advice stood out, cited by a full quarter of the respondents (and nearly a third of advisors who focus on plans with more than $100 million in assets).

The next five were grouped rather tightly, with Environmental, Social & Governance (ESG) investments cited by 16% (and nearly a quarter of those who focused on larger plans), collective investment trusts (CITs) and managed accounts (each cited by 12%), and 3(38) services and exchange traded funds (ETFs) named by roughly 1 in 10 each (11%).

But if some trends were deemed overhyped, they nonetheless had already taken root at a notable number of advisor practices. CITs were already in use with plan sponsor clients of more than half (55%) of advisor respondents, and managed accounts at 51%. ESG investments were not nearly as prevalent, but still already in place with clients of 26% of survey respondents.

That said, financial wellness and 3(38) services were the most widespread – with 75% and 71%, respectively, of advisors noting that they were already using those with current clients.

Robo-advice

Usage 2%

ETFs

Usage 1%

ESG Investments

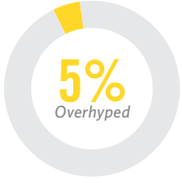
Usage 26%

Financial Wellness

Usage 75%

Collective Investment Trusts (CITs)

Usage 55%



Health Savings Accounts

Usage 26%

Managed Accounts

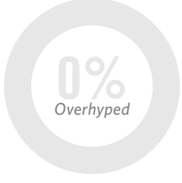
Usage 51%

Retirement Income Strategies

Usage 41%

3(38) Services

Usage 71%



Alternative Investments

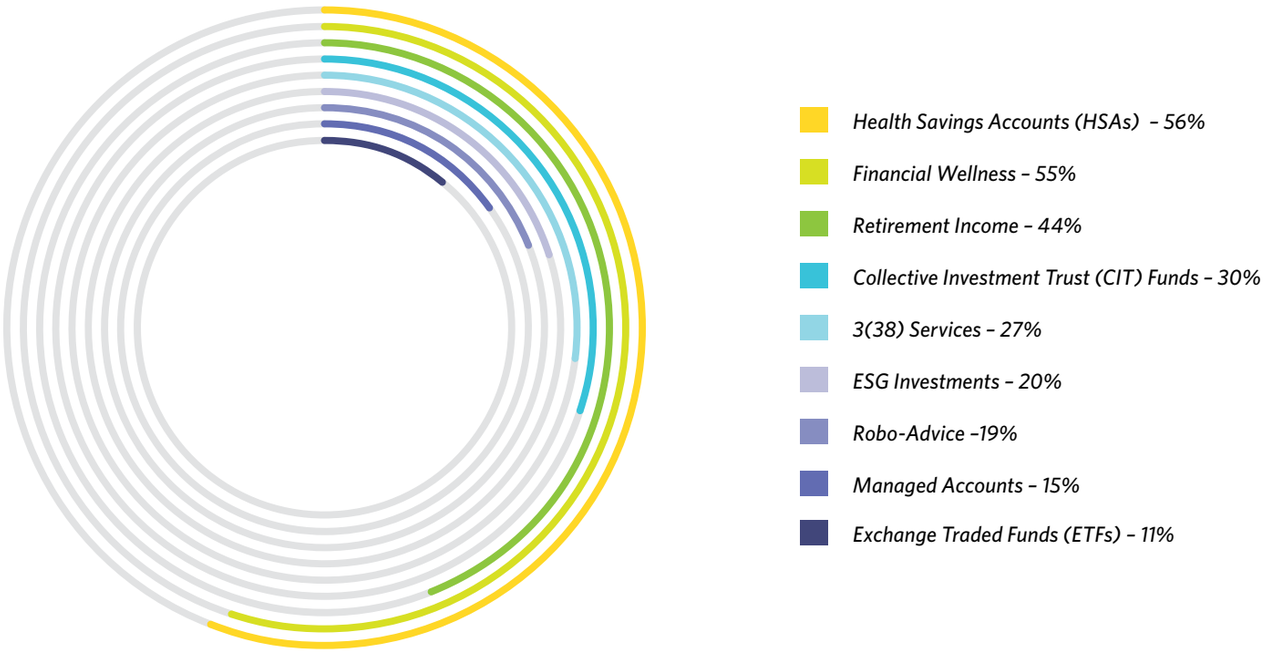
Usage 28%

Topics 'Cull'

Interestingly enough, even though some topics were deemed overdone, there appeared to be appetite among advisors for more information – even on "those" topics. Consider that more than half (56%) said they would like more information about health savings accounts (HSAs) – and here we're talking about white papers, email newsletters, online articles, and webinars.

Right behind that was financial wellness, which, despite its apparent widespread availability, was cited by 55%. Information about retirement income, which industry surveys indicate hasn't made much penetration and when offered doesn't enjoy high take-up rates, nonetheless registered interest among 44%. Did that ranking vary based on the target market focus of the advisor? As it turns out, the interest levels were remarkably consistent across the groups.

Relatively high in the "hyped" category, but not-so-high in the "recently recommended" list, information on CITs was desired by just 30% of respondents, and on 3(38) services by only 27%. Just one in five were interested in information about ESG investments and even fewer about robo-advice (19%), managed accounts (15%), and ETFs (11%).



For providers and DCIOs looking for some fresh material, other topics of interest cited were:

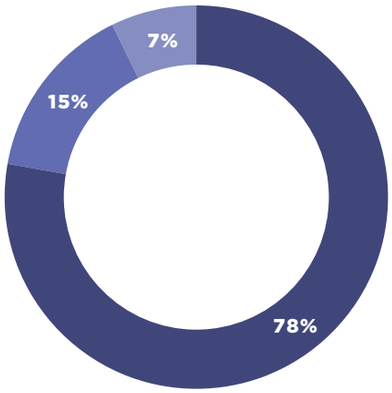
- Practice Management
- The Intersection of Fintech with the Retirement Plan World
- Cybersecurity
- Sales/Marketing Lead Generation
- Nonqualified Deferred Compensation Plans
- 3(16) Services
- Plan Operations
- Compliance Issues
- Advisor Benchmarking
- Diversity and Inclusion
- Behavioral Finance

Passive Aggressive?

Turning to investments, amid the perennial debate over active versus passive fund management – albeit with perhaps a more strident emphasis in view of recent excessive fee litigation – advisors were asked if they were currently favoring passive fund options over active ones in their recommendations. Their response? The vast majority (78%) opted for the equivalent of "it depends," more precisely "sometimes – depending on the situation." However, 15% said "yes – nearly all the time," while only 7% said "no – never."

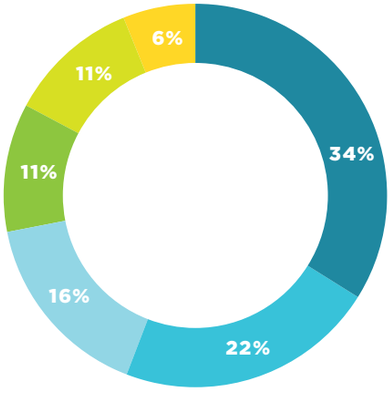
For those who were, we asked about the primary driver behind that decision. Perhaps not surprisingly, the most common response was a desire to reduce plan costs (34%). But the second-most cited (22%) was plan sponsor demand.

Advisors were pretty open-minded when it came to the notion of considering blended, or hybrid, TDFs that had a combination of active and passive underlying investments; more than half (58%) already have, and 29% said they would consider that option. About 1 in 10 (11%) indicated they would "possibly" consider that approach, and only 2% said they wouldn't.



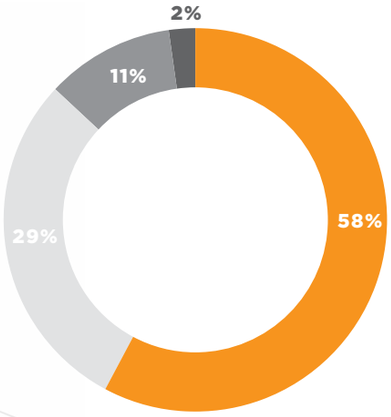
FAVORING PASSIVE OVER ACTIVE FUNDS

- *Sometimes, Depending on the Situation*
- *Yes, Nearly all the Time*
- *No, Never*



PRIMARY DRIVER BEHIND DECISION

- *Desire to Reduce Plan Costs*
- *Plan Sponsor Demand*
- *Not Seeing the Value in Active Management*
- *Not Currently Favoring Passive Fund Options over Active*
- *Something Else*
- *Fiduciary Concerns*



BLENDED OR HYBRID FUND CONSIDERATION

- *Yes, Have*
- *Yes, Would*
- *Possibly*
- *No*

HSA Ways

The cost of health care in retirement is a growing concern – and little wonder: Fidelity's Retiree Health Care Cost Estimate recently said that a 65-year-old couple retiring in 2017 will need an estimated $275,000 to cover health care costs in retirement, up from an estimated $245,000 in 2015. At the same time, HSAs – long relegated to the realm of benefit advisors – have erupted on the radar screens of retirement plan advisors. It's not just the triple tax advantage of these accounts (pre-tax contributions, taxes deferred while in the account, and no taxes applied when withdrawn for designated purposes), though it certainly doesn't hurt.

Two dynamics likely explain the surge: continued concern about health care costs, particularly on the part of employers, and the expanding availability of high-deductible health plans. Even as the potential opportunities – and plan sponsor interest – in HSAs expand, certain obstacles remain. Asked to outline their biggest challenges when it comes to advising clients about utilizing HSAs for retirement planning, the most commonly cited reason was that those HSA services are typically included with health plans. In fact, nearly half of the respondents cited that as one of the biggest challenges.

However, that wasn't far ahead of the difficulties in finding trusted HSA administrator partners for their clients, cited by more than a third (36%) of advisor respondents. In fact, the challenges mentioned were quite varied, ranging from the third (32%) that cited issues with understanding compliance regulations to the 30% that noted "low investment opportunity and potential," to the quarter (27%) that expressed concern regarding consumers' ability to save health care dollars.

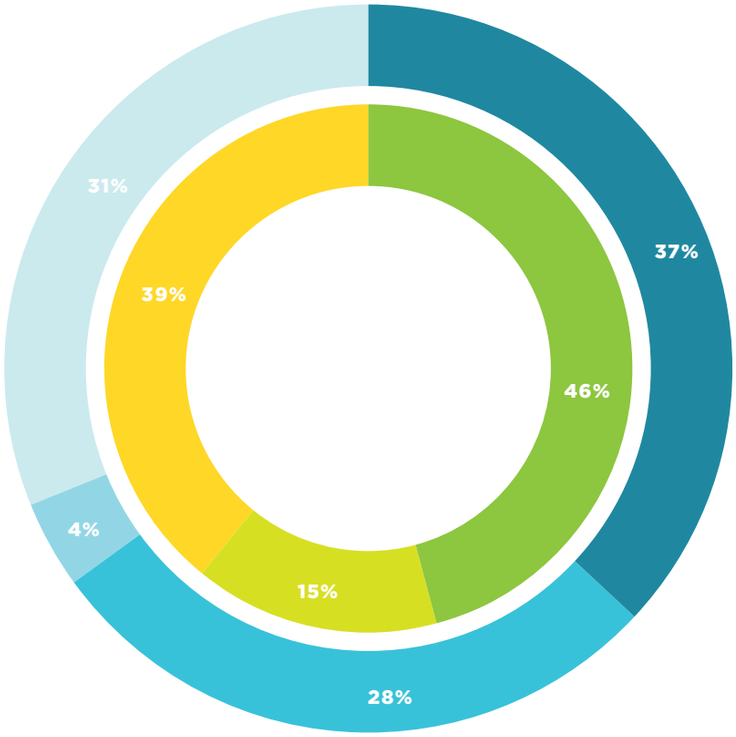
- *HSA services included with health benefits plans – 42%*
- *Finding trusted HSA administrator partners for my clients – 36%*
- *Understanding compliance regulations – 32%*
- *Low investment opportunity and potential – 30%*
- *Consumer ability to save health care dollars – 27%*
- *Consumer eligibility – 14%*
- *Something else – 14%*

Suit 'Spots'

Litigation dominates the headlines, and a plethora of suits involving what are admittedly a relatively small subset of the nation's largest retirement plans nonetheless serves as a regular, if not constant, reminder of the obligations that ERISA places on fiduciaries. That said, those portents don't seem to be casting a very big shadow on plan sponsor receptivity to recommendations on plan design, though it's a different matter when it comes to the investment recommendations by advisors.

However, nearly four in ten (39%) advisor respondents said that litigation trends are influencing plan sponsor receptivity to their design recommendations, though whether it is enhancing or limiting their receptivity wasn't clear – nearly half (46%) qualified it by saying "not generally," and another 15% said it wasn't.

As for the investment recommendations by advisors, litigation appeared to be having a greater impact. Roughly 4 in 10 (38%) indicated it had, 28% said it had "sometimes," and another 4% noted it had had an influence "on some issues." However, nearly a third (31%) said it had had no effect.



TRENDS INFLUENCING INVESTMENT RECOMMENDATIONS

- *Yes*
- *Sometimes*
- *On Some Issues*
- *No*

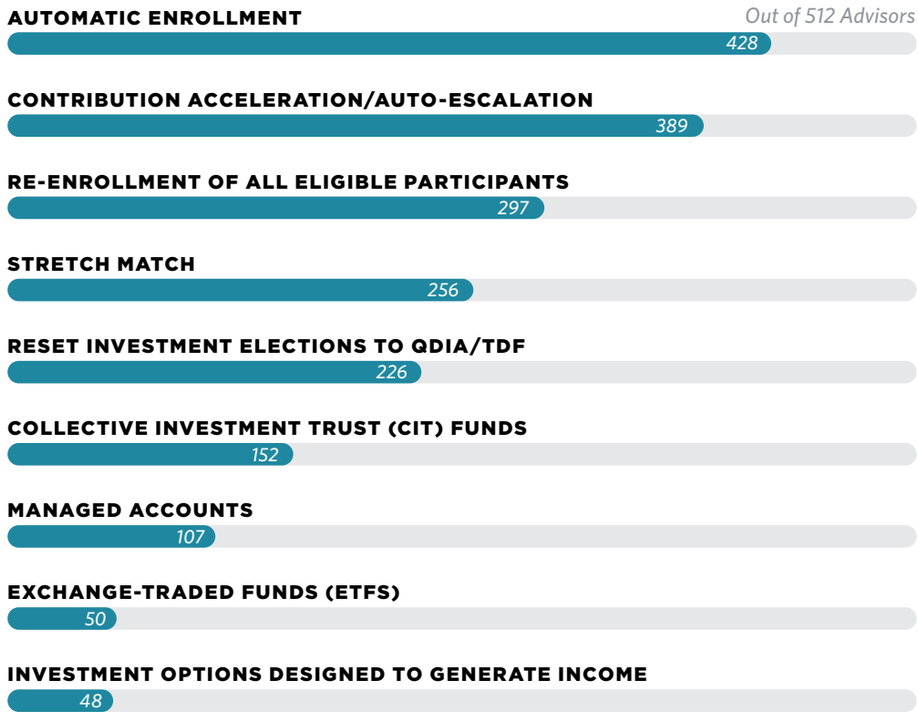
TRENDS INFLUENCING PLAN DESIGN RECEPTIVITY

- *Not Generally*
- *No*
- *Yes*

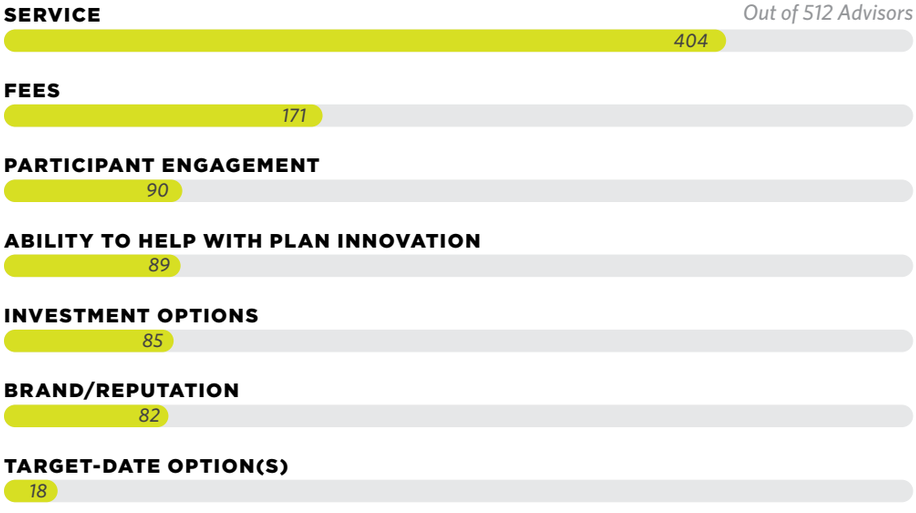
Recommend 'Ed'

What design features are most recommended? Well, for advisor respondents, contributions topped the list. Whether it was automatic enrollment (84%), contribution acceleration (76%), reenrollment of all eligible participants (58%), or touting a stretch match (50%), plan design options that involved encouraging higher levels of participation dominated this list.

Recommendations on the investment front were much less common. While 44% said they had recommended a reset of investment elections to a QDIA/target-date fund, just 30% had recommended CITs, only 21% had touted managed accounts, a mere 10% encouraged ETFs, and even fewer – 9% – had recommended investment options designed to generate income in retirement.



Service 'Stantions'



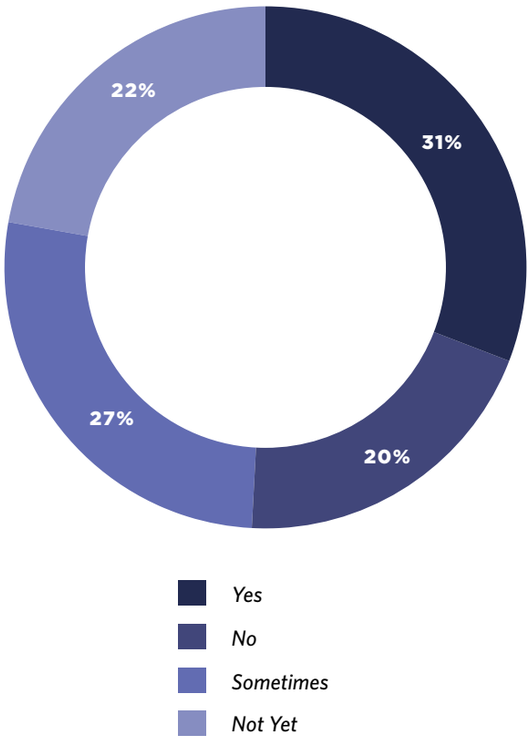
Perhaps no function is as integral to the successful operation of a plan as that of the recordkeeper. Of course, nothing can so completely or rapidly sour a relationship as bad recordkeeping, and therefore it's no real surprise as to what survey respondents said was their primary consideration in selecting a recordkeeper.

Quite simply, it's service, and that was cited more than twice as frequently as the distant number two: fees. Not that other criteria weren't on the board – but nothing else really seemed to matter, and certainly didn't matter as much.

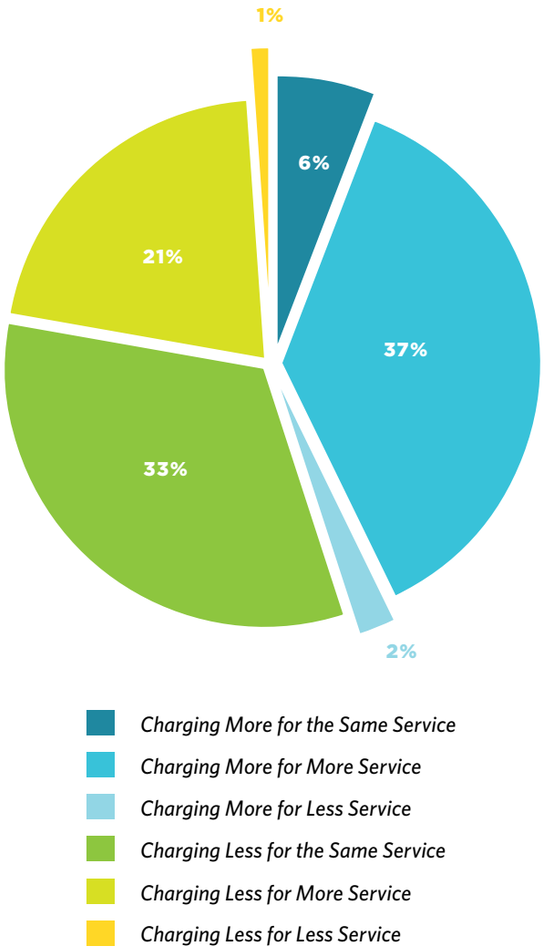
Profit Ability?

So, if client retention looms large, and fee compression is a growing concern, are advisors tracking profitability on a per plan basis? A slight plurality (31%) said they were, and nearly as many (27%) said that they were... sometimes. However, 42% weren't, split between 20% who said they weren't and 22% who indicated they weren't... yet.

We also asked advisors about the proportion of fee/service compared with two years ago. Considering the concerns about fee compression, one might expect that "less fee for more service" would have been the norm.



However, only about one in five (21%) indicated that status. The most commonly cited was "charging more for more service," per 37% of the respondents, though nearly as many (33%) were charging less for the same service.



The Road Ahead?

Challenging as the current environment seems – and as the environment of the past several years certainly has been – there doesn't seem to be any relief in sight. But then, those challenges should help further winnow out the "two-plan Tonys," and with any luck at all, continue to position the advisors who are truly committed to the retirement plan business to succeed in helping to expand, enhance, and enrich the nation's employment-based retirement system.

– Nevin E. Adams, JD

There's an old adage that "the customer is always right," and even though sometimes we might be inclined to add "even when they aren't," no one has a better appreciation for the complexities and challenges of the plan sponsor role than the advisors who work with them.

However, the job of a plan sponsor is frequently just part of a larger array of responsibilities, and one in which, more often than not, they are assigned without training or education. Alongside the personal responsibility that attaches to the plan sponsor role, ERISA requires that the plan fiduciary conduct themselves at the level of an expert in such matters – and when they lack that expertise, they are admonished to seek out and engage the services of those who possess it.

That is, of course, where the retirement plan advisor plays such a vital role – on matters both tactical and strategic. As part of this inaugural ***SUMMIT Insider****, we asked advisors to share what they wish plan sponsors understood (better).*

Nearly every respondent had something to share on this open-ended question, and while there was a wide range of perspectives, certain "themes" emerged – themes under which we've condensed and organized the hundreds of comments from some of the nation's leading retirement plan advisors.

I Wish Plan Sponsors (Better) UNDERSTOOD...

...The importance of plan design – and their engagement in decisions that impact it.

"How important it is for their employees to save more. I don't think plan sponsors understand how much it helps the company. They have an idea of how much it will help the participant but the employer is benefited as well.

"I wish they understood the amazing effect of auto-enrollment and auto-increase.

"The cost of a poorly designed 401k plan to their employees' retirement savings.

"It is worth the time, money and effort to help employees save more. It is the right thing to do, and the long-run cost of time, money and effort is much greater!

"The importance of the plan to participants.

"I wish plan sponsors would be more engaged in their current plan and look at if their benefit spending matches the needs of their employees.

"They shouldn't be afraid to automatically enroll participants and automatically escalate their contributions. Many feel they are "forcing" them to enroll even though you tell them the employees may opt out but usually don't. They typically want to join the plan. Nine times out of ten when I conduct follow-up one-on-one meetings the employees tell me they forgot to enroll when first eligible. In some cases they were eligible years ago so it's a lot of lost time.

"That making a change is not the worst thing in the world.

…Their fiduciary liability.

"That the plan is for the exclusive benefit of participants.

"The liability of not doing it right. Many of them are concerned about running the business and do not understand the needs for this to be done right.

"I think most plan sponsors understand quite a bit, however, it's more about lacking time or having inclination to focus on being a prudent fiduciary or plan manager.

"Operation of the plan and the real liability they have. I am not telling you anything you haven't heard, but can't tell you how many prospective clients I have met with that say they don't have any liability. Just really shocking.

"That they are fiduciaries.

"Their personal liability.

"The liability they have for not following the DOL process.

"Their fiduciary responsibility – still a good deal of fog about what that really means.

"I still find plan sponsors who don't understand how distributing notices on time or at all is part of their fiduciary responsibility.

"I wish they had a better understanding of their responsibilities… if they knew how many responsibilities they actually have, I think they'd be more inclined to hire us sooner. Right now it's a long education process…

"The problems they will have when their employees are at the age of retirement and cannot retire.

"That they should spend at least as much time on their 401(k) as they do with their health insurance.

"Importance of managing transitions of employees handling the 401(k).

"I still find plan sponsors who don't understand how distributing notices on time or at all is part of their fiduciary responsibility.

"Most sponsors indicate that their plans are not a priority in any given year. That is, until something is broken or the DOL is knocking on their door.

…That it's not just about fees.

"Revenue sharing and their fees in general.

"Plan sponsors need to understand that they don't know what they don't know. Low cost typically means low service.

"How much work it does take for plans to be implemented and serviced ongoing. The amount of work we do to make sure they stay within regulations and abreast of legal issues.

"The benefits of thoughtful plan design and implementation.

"The importance of every dollar spent in their plan and the future value of dollars invested today implementing better plan design.

…The difference between a retirement plan advisor and an investment advisor.

"The difference between a generalist advisor and a specialist.

"The difference between advisors and recordkeepers, and the value of independent advisors for those who are using a packaged solution.

"That the 2 plan tony (fraternity brother, good friend, bank trust officer, etc.) is not serving as a fiduciary, is overcharging, and bringing little value to the participants.

"How much time we spend with their employees.

"The services their current advisor should be providing and are not. How easy it is to replace their current advisor. The liability associated with sponsoring a plan.

…That not all advisors are equal.

"How poor of a job their current advisor is doing.

"Trusting sales people is often a bad idea.

…What advisors do – and should do. And the value of those services.

"The services they are receiving for the fees they are paying.

"Value vs. low cost. I also wish they better appreciated the cost (to us) of complying with regulation, keeping up with technology and staying up to speed with the ongoing changes in our industry.

"All the work and time that goes in behind the scenes to service their plan.

"How to contact their senator and members of congress to complain directly about legislation. They think we make up the rules.

"How much time all this takes.

…The impact plan sponsors have on participant decisions – and the impact they could have on outcomes.

"The importance of their support and promotion of the plan and the need of participants to save.

"Importance of employees' retirement readiness both as public policy and as a way to reduce health care costs for employers.

"The importance of their efforts in promoting participation internally.

"That they have more influence over the success of their employees' well-being than they think.

"The significance of their role and their ability to make a difference.

"That if they (the plan sponsor) could behave like a "cheerleader" when it comes to participation in the 401(k) plan, ultimately they are going to have employees who achieve better outcomes and be able to retire sooner rather than later.

"Without their support on buy-in, their plan will not be successful. In other words, we can champion the cause through participant education until we're blue in face, but without their support either through plan design or encouragement or both, it is difficult for us to be successful.

"That participants will follow their lead (and actually, they prefer for plan sponsors to lay out the path to success).

"For the vast majority of American workers, the employer-sponsored retirement plan is the only way that they are going to save for retirement. The plan must be designed in such a way that increased savings is encouraged (and rewarded via stretched match), quality education must be delivered on a consistent basis (not just once when an employee becomes eligible) and that they must engage with a competent advisor they trust and give that advisor access to the employees during working hours (and pay the employee while they are meeting with that advisor!) Not only is a retirement-ready workforce good for the employees, but it is a sound business investment for the company.

I Wish Regulators (Better) UNDERSTOOD...

Advisors are, of course, both guided and hemmed in by laws, rules, and regulations. As part of this year's inaugural ***SUMMIT Insider****, we asked advisors to share what they wish regulators understood (better). Nearly every respondent had something to share on this open-ended question, and while there was a wide range of perspectives, certain "themes" emerged.*

One of the most common areas mentioned by advisors was disclosures. Here's a sampling of what respondents said they wished regulators understood (better) about...

...The impact of disclosures.

"You cannot protect everything by using disclosures. Too much creates confusion and plan sponsors become frustrated.

"That sponsors and participants do not understand legal disclosures, therefore they are ignored altogether and ineffective.

"We need an "EASY button" for both plan sponsors and participants – no one really reads or appreciates the required notices.

"The impracticality of certain regulatory requirements – especially for smaller organization – and particularly as it relates to the number, frequency, and method of regulatory notice disclosures that must be pushed out EVERY YEAR even when there have been no material changes from prior distributions.

"Participants don't read all the paper that must be distributed to them.

"The cost in time and materials for required disclosures, which are so extensive that no one ever reads them.

"How hard it is to get people to focus on what is important (saving) with pages and pages of disclosures no one understands.

"How costly and time consuming complying with all of the required disclosures has become for the typical plan sponsor.

"That many disclosure and notice requirements are a burden on many plan sponsors and provide little or no value to plan participants.

"How little plan participants care about all the notices they have to receive. A very common discussion I have with everyone, plan sponsors and plan participants, is how no one reads the announcements, the notices, the disclosures, etc. The government is trying to help the average participant be better informed but, the problem is, the average participant doesn't give a rip about all that information. They don't understand it and they don't want to understand it.

"No one reads the disclosures except the lawyers and financial advisors.

"Participants don't read the lengthy notices that plan sponsors are required to provide.

On the issue of **regulatory burdens**…

"The impact of the rules they create.

"What they believe is for the betterment of participant knowledge and access of information has significantly increased the costs of running a retirement plan.

"The difficulty of maintaining a compliant plan and the associated high cost of plan corrections for small plans with recent legislation.

"The administrative impact regulations have on plan sponsors.

"How difficult it is for plan sponsors to comply with all the rules (e.g., DOL vs. IRS rules) and the complexities of the plan. Some of the penalties for plan operation errors should be more lenient.

"We do need regulations for the bad actors but it needs to be streamlined and relevant.

"In some ways, complying with regulations has become so complex that potential plan sponsors are deterred from starting plans.

"The amount of paperwork that we have to complete for even a minor change and how much time it takes. Also the amount of work we actually do for our clients (for fee purposes).

"That there are a lot of regulations that simply don't help anyone with the administration of the plan.

"The importance of employer-sponsored plans and the cost of silly regulation.

"We do not have extra time for compliance and paperwork; we need to be out seeing our clients!

"While on the surface their ideas make sense, they don't appear to understand the ultimate impact the regulation will have. The more complicated things are, people will end up just giving up and not doing what they need to do.

Advisors specifically called out for attention the impact of **nondiscrimination testing**, opining that they wished regulators (better) understood:

"How the nondiscrimination rules are negatively impacting highly compensated employees by often limiting the amount they can contribute to a plan, even when they are offering generous contributions to all employees.

"The detriment of ADP/ACP testing.

"(That) 401(k) discrimination tests are useless.

Survey respondents also had some recommendations for regulators on the subject of **plan audits**…

"Give a "pass" in areas that do not cause harm when a plan sponsor (or advisor) failed to cross a 'T' or dot an 'I.'

"Go after employers that mismanage the retirement plan in the micro market. So much is focused on public traded companies while the majority of abuse in America today is in the micro market of 401(k) plan delivery systems.

"Walking in the office with a checklist of items they need doesn't prove compliance. Be willing to explain why you need the items you request.

"The audit timing is very short, which impacts business planning. Every audit notice becomes a "fire drill" due to the lack of warning. This causes losses, not only of revenue, but also of our ability to effectively work with our plans.

"Regulators, when discussing an audit or investigation, again, do not always seem to understand that not everything is intentional, and their guidance is not a specific checklist that can be used to confirm all is well with a plan. If a problem is found, there should be more discretion in any penalty or fine imposed so that the issues can be corrected and not burdensome.

"The young auditors of the different regulatory bodies are not knowledgeable of our industry. At my prior firm, a regional broker-dealer, we had to school the SEC auditor on what revenue sharing was. She didn't know.

On the topic of the Labor Department's **fiduciary rule**… advisors wanted regulators to understand…

"The Fiduciary Rule is better for participants and should be enacted.

"How many hundreds of thousands of dollars the industry has wasted in the last three years debating the fiduciary rule. We do great work, leave us alone and let us do it.

"That new regulations force out the small advisory practices and that with some of the new regulations they will essentially force out good advisors because the cost to do business will rise and become a headache they don't want to deal with.

"There are too many wealth advisors who maintain one to two retirement plans and consider themselves experts. We need more regulations around who is allowed to consult on retirement plans.

Perhaps not surprisingly, advisors were sensitive on the subject of **fees** – and wanted regulators to understand (better):

"That it's net cost not just lowest cost. Finds that credit rev. sharing can sometimes cost the participant less.

"That the biggest risk to our retirement has nothing to do with fees. Only deferral rates.

"That some mutual funds with a higher expense ratio have lower net, net cost and that is ridiculous for sponsors to understand and us to explain.

"How to solve for better outcomes… there are more levers than just fees. The rush to the bottom has unintended negative consequences.

"It seems that regulators are still not clear on how revenue sharing is used by plans. There is a lot of regulatory pressure to move to zero rev. share, not understanding that this may be a less efficient approach than using the lowest "net" rev. share after returning rev. share to participants.

"That cost is not the driver of better outcomes for participants, it is just one factor.

Advisors were cognizant of the challenges of serving as a plan sponsor, but wanted regulators to appreciate:

"That participants and plan administrators do not understand all the rules and reasons.

"That plan sponsors are busy and are doing 100 other things to keep their companies afloat.

"Plan sponsors do not have the resources to be specialists in ERISA requirements.

"Most plan sponsors are not shysters trying to screw their participants. Most of them are good people with good intentions.

"How hard it is for small business owners to meet their responsibilities to the plan.

"Plan sponsors that use an advisor have an overall more successful plan than those who do not.

"That plan sponsors should have to attest that they understand clearly in plain language the responsibility of being a fiduciary when they start the plan.

"Companies aren't trying to get one over on employees and cheat them out of plan benefits. They are just overworked and have too many hats to wear to get everything done.

As for the private retirement system overall, advisors wanted regulators to know that:

"The positive outcomes that occur every day to help Americans prepare for and live in retirement.

"That too many attorneys and accountants don't make plans better.

"That this is a valuable service and we get people to retirement who otherwise would not.

"That they are terribly over-regulating the retirement plan industry.

"These are still voluntary plans. To quote Luke Bryan's song, "Most people/plan sponsors are good." I'm amazed at how engaged Committees are today and how they really are trying to do their best to help their employees. I think more and more of them feel like they just keep getting hammered with new requirements and regulations and their liability keeps getting larger.

"The 401(k) is still the most, if not only, efficient and beneficial vehicle for retirement savings. Making things easier, like the NDT rules. Being practical about what the 401(k) plan is and how any "proposals" actually impact people. Think before they act... not just number crunch.

"There are some great consultants and great plan sponsors with the best interests of helping employees. Rushing through broad sweeping rules/bills without speaking with experts, like all bills in Washington, is detrimental to the job we are trying to do.

"That there is a major in difference in theory and in practice and that generic rules tend to hurt more individuals than help.

Perhaps the most common refrain had to do with the perception that advisors have about the perception that regulators have about advisors, who, in turn, wish that regulators understood:

"That we are not the enemy but an instrumental piece that provides structure, stability and efficiency to the retirement plan marketplace.

"That, as a fiduciary, my goal is to do whatever I can to help clients and their employees – not take advantage of them.

"That the majority of advisors working with retirement plans are working for the benefit of the plan and not for their pockets, and doing so falls in place with best practices.

"We are not the enemy. We are helping to change lives.

"We are in the business of helping Americans to retire successfully and become financially secure.

"That most of us are doing the right thing and weighing us down with burdensome regs actually take away from the help we're trying to provide.

"That we are not the bad guys. Most advisors are working towards bettering participant outcomes and doing what's right for their clients.

"That the vast, vast, VAST majority of plan advisors are great people who are trying to help America's workers prepare for a dignified retirement, on time and on their own terms. The crooks are the outliers, not the rule.

"There are a lot of us who are doing everything in our power to look out for participants and their beneficiaries.

"That there are some good people in this business always doing the right thing... but at the same time, there are some who should be taken out of the business due to shady practices.

"That advisors mostly have a desire to better their clients. It almost seems like you're "guilty" until proven innocent.

"That we're not all out to screw participants. We actually really care about them and are genuinely trying to help.

But if there was a sense that the role of the advisor was not fully appreciated, there was also a desire for regulators to understand that not all advisors are "equal," specifically that:

"There is a difference between institutional advisors/consultants and individual wealth advisors/brokers.

"The difference between a $500mm plan and $500k plan.

"Not every advisor focuses exclusively on individual wealth management. Some advisors are plan specialists.

"Not everyone is out to charge high fees and a lot of us are out to help sponsors and participants. They also should go after the advisor that has 1-5 plans.

"That wealth management for individual investors is different from institutional retirement plan advisory. That the regulation of the two should be different.

"(There is a) difference between a retail/wealth management shop and a retirement plan advisor shop that focuses solely on corporate plans. Some B-Ds/RIAs don't even know the difference.

When all was said and done, the advisor respondents to the survey seemed to both appreciate the complexity of the regulator role, while nonetheless longing for a stronger connection between that perspective and the realities advisors confront every day. Some closing thoughts…

"We are not the bogey man (or woman), most of us are truly trying to help create better outcomes for employees. Our system is not perfect, but it is not broken; help us make it better with common sense regulations that make it easier for plan sponsors to offer plans to employees. And it is OK for us to earn a living helping others save for retirement.

"I think regulators sometimes believe that the general public loves to manage their own money, read countless disclosures, embrace online tools, etc. The reality is they hate all that stuff. They have other things to do. So plans and participants need good advisors to manage the investment decisions for plan sponsors and plan participants. What we do is a good and noble thing.

"Regulators, when discussing DOL or IRS proposed or published regulations, do not understand how their decisions actually impact the end user and that their decisions sometimes come out with the opposite expected outcome. I always tell people there are two different worlds – academic and reality – and they do not always work parallel to each other.

"Though likely a minority opinion, I do think they are trying to get plans in a better place and using "experts." Each time we get hired to take over from a prior "advisor," it's disheartening to see what was put in place (e.g., buried fees, disproportionate allocation of fees – oftentimes favoring the HCEs, no discussion with client as to how/why to pick a fund…).

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