

THE OFFICIAL MAGAZINE OF THE NATIONAL ASSOCIATION OF PLAN ADVISORS

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*the magazine*

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FALL  
**2022**

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# INFLATION'S LONG SHADOW

INFLATION  
SPIKE SPURS  
INTEREST IN,  
CONCERNS  
ABOUT,  
RETIREMENT  
INCOME



**plus**

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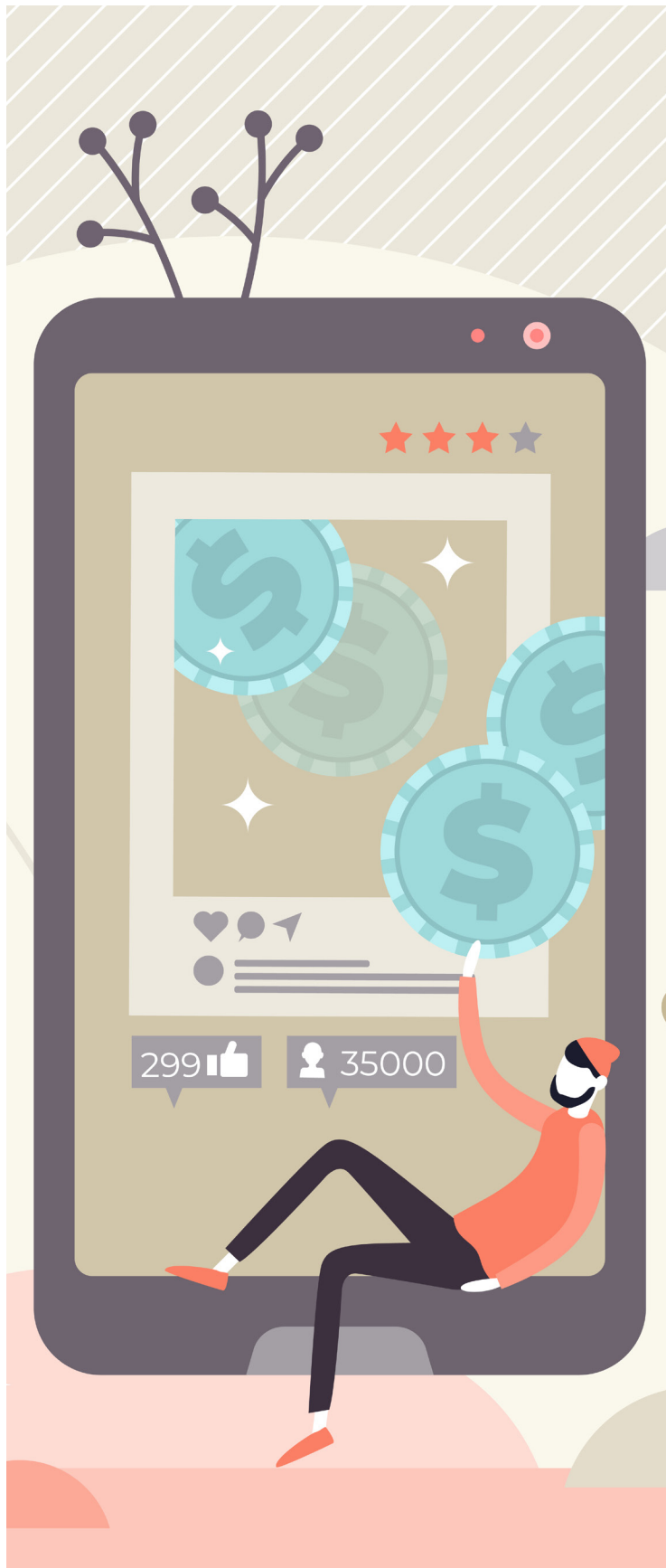
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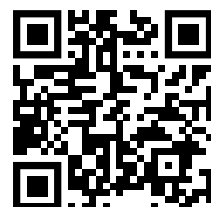
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# Changing Lanes

*What makes good, collaborative partnerships between advisors and their TPAs special?*

**T**here's a story in this month's issue ("The Bridge Builders") that you might overlook, but I hope you won't. Or if you have, you'll now go back to it. It's a story about a process—a process born out of a problem. A problem well-known and widely acknowledged—but one that most, it seemed, had given up as a lost cause, at least in the aggregate.

I'm talking about the frequent disconnects between retirement plan advisors and TPAs. It's an issue that is, perhaps, as old as ERISA itself—the "tension" between these two critical roles. Not in every case, of course—there are plenty of advisors that will tell you how many times their TPA partner has gotten them out of a real mess, and TPAs that will commend the leadership demonstrated by their advisor teammate. But that, it seems, isn't the majority experience, though it proves it can be that.

As it turns out, I've spent some time on both sides of that "divide," and a fair amount of time able to observe both from a distance. I've listened to groups of TPAs gripe about advisors who "won't stay in their lane"—and advisors frustrated with TPAs who, asked what time it is, insist first on explaining how a watch is made.

The beauty of these times—and our associations—is that I was able to reach out on an ad hoc basis to folks who I knew could also appreciate both sides of the "debate," and who cared enough to try and do something about it. This members of core group—they're named in the article—have given up a *lot* of their time and energy over the past many months. COVID helped in some ways—



nobody was travelling as much, and we're all well accustomed to meeting virtually to solve problems. It was, quite simply, a fun group to work with on a project that we all cared about.

Our collective sense was that what makes the difference in these relationships is having a shared set of goals and expectations, alongside role clarity and confidence in the perspectives and expertise of the partner(s). The process started with posts that have run on NAPA-Net on a monthly basis beginning last year, came to something of a crescendo with a special TPA panel at the

which are "extra," but ultimately—and most significantly—to align expectations. I—and indeed the entire core team—would love for you to begin using this checklist in your partner discussions—and to let us know what works—and of course, what doesn't in the days and weeks ahead.

There may well be things on this list with which you are unfamiliar—if so, this would be a good time to find out more about them, as I assure you they are important, and *somebody* should be attending to them. The core team is now working on some background explanations—if some elements jump out at you as needing a quick explanation, please let me know.

My undying thanks again to the core team for the love, humor, friendship and passion on this effort—Mary Patch, Chad Johansen, JD Carlson, Shannon Edwards, Justin Bonestroo and Amanda Iverson—and to about a

**“Our collective sense was that what makes the difference in these relationships is having a shared set of goals and expectations, alongside role clarity and confidence in the perspectives and expertise of the partner(s).”**

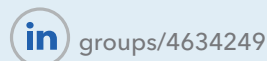
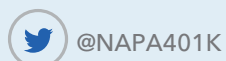
2022 NAPA 401(k) Summit, and culminated in a checklist that can be found alongside the story in this issue.

That checklist (and we're hoping you'll reconsider Compliance Administrator or Compliance Consultant as replacements for that awful TPA moniker) won't solve the issues, but we hope it will serve as a solid foundation to open a dialogue. At its most basic, it should allow you, as an advisor, the ability to find out what services potential (or current) TPA partners provide, which ones are standard, and

dozen advisors (you know who you are) who provided some terrific insights and perspective as the checklist neared completion. And to you, gentle reader, for helping us build this bridge...

**Nevin E. Adams, JD**  
Editor-in-Chief

FOLLOW THE DISCUSSION...







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# Our Seat at the Table

*As NAPA members, the impact we can have on retirement policy and regulations—not just on Capitol Hill, but also lately in state capitols across the country—is critically important.*

By Corby Dall

One of my favorite experiences in my work life has been the annual NAPA D.C. Fly-In Forums.

While it's always great to see my friends and colleagues at each of the conferences and industry functions, the Fly-In matters. Of course, being a member of this organization matters, and the difference we make in countless lives of American workers matters, but it seems that participating in the actual process of rulemaking and helping to shape those rules is increasingly important! As we join together, no longer competitors but comrades representing thousands of plan sponsors and millions of employees, working toward the same goals, we become a powerful force.

As NAPA members, along with our sister organizations in the American Retirement Association, the impact we can have on retirement policy and regulations—not just on Capitol Hill, but also lately in state capitols across the country—is critically important.

As the only advocacy group exclusively focused on the issues that matter to retirement plan advisors, we are uniquely positioned to carry the torch (or sometimes just the correct information) to those entrusted with our future. With so much pressure coming from all sides today to do the will of those carrying the biggest stick, it is incumbent on us to be a voice of reason.

I am always amazed at the amount of confusion (a polite word for B.S.) that I hear from the Hill. Perhaps that's because the information they rely on comes

from so many competing sources, most of which seem to me to be self-serving. We are fortunate to have a voice that is recognized by those decision-makers and, in fact, sought after by many of them. Brian Graff, our ARA CEO, is a trusted DC insider with myriad relationships that help us be heard.

The collective voices of a nationwide organization of nearly 18,000 advisors committed to preserving, expanding and improving the nation's retirement system has been a catalyst in moving the needle in the right direction many times over the past several years. Being a member of NAPA is already a step in the right direction, but you can do more. If you are a contributor to the ARA PAC, thank you! If you are not contributing to the PAC, please remember that this is how we fund the efforts of our Government Affairs team to educate legislators at the national and even state levels. If you'd like to help out, just go to <https://araadvocacy.org>.

Another really cool thing to come out of NAPA's greatest minds recently is the NQPA conference and new designation. A few years back, Jeff Acheson and Brian Graff, along with a few others, created the first Non-Qualified Deferred Compensation conference. That first event was a big hit and sparked a renewed—or I would say “new”—awareness of the importance of non-qual as an arrow in the quiver of advisors across the country.

That first conference seemed to be the start of something big! Non-qual has become a key talking point at every industry event, as well as an important



Corby Dall is an SVP of OneDigital's Retirement & Wealth division specializing in retirement plan consulting. He is NAPA's 2022-2023 President.

tool in more advisors' toolbox. It's great way to appeal to a different crowd than we usually associate with inside our client's hierarchy. A non-qualified deferred comp plan is typically the bridge to the business owners and key management. Not only is it a way to retain and reward their highly compensated and mission-critical employees, but it is also the right thing to do!

Now that NAPA's non-qual program has evolved from a certificate to a full-blown designation, the opportunity to learn and benefit from time spent is obvious. This designation is a symbol of your knowledge and commitment to the non-qualified deferred compensation specialty. It sets you apart and ensures that you deserve a seat at the table. As Jeff says, if you don't have a seat at the table, you might be on the menu. If you are not talking to your clients about non-qual, somebody else will.

NAPA and its passionate members have had a profound effect on the retirement plan industry over the years. There are so many great things that come from camaraderie, friendship and pulling in the same direction. I am, after all, the poster child of benefiting from the collective. It is important that each of us continue to get involved, share our time, talents, knowledge and passion to ensure the future of the American worker's best chance for financial independence in retirement. Make sure you save the date of April 2-4, 2023, for another epic NAPA 401(k) Summit—and get involved! [NNTM](#)



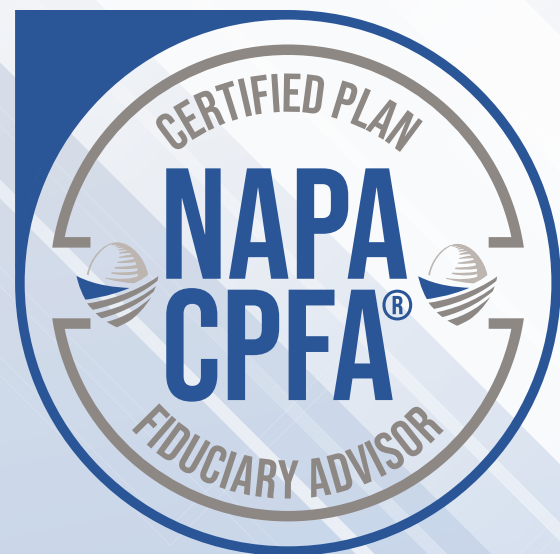
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# Common Ground(s)

*Two decades after the enactment of EGTRRA, the 'dynamic duo' of Rob Portman and Ben Cardin is still at it.*

By Brian H. Graff

**R**etirement savings has long been in the crosshairs of the nation's tax policy, but things got especially tough for retirement savings plan adoption in the late 1980s.

Sure, 401(k)s were just starting to take off, and we were already having to absorb significant tax code changes about every 18 months, but the Tax Reform Act of 1986 imposed a whole new level of change. It brought a brand-new \$7,000 limit on pre-tax contributions, introduced multiple iterations of nondiscrimination testing,

different parties—and different parts of the country (Ohio and Maryland respectively) began working together on something that would eventually become the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), commonly referred to as "Portman-Cardin" after its two architects. The legislation would substantially raise the annual contribution limits on IRAs and 401(k)s, introduce Roth contributions as well as the Saver's Credit, provide for catch-up contributions, and increase the 415(c) and maximum compensation limits—all of which

**“It seems that even in these troubled times retirement savings issues still can bring Congress together—as they did for the SECURE Act in 2019 and the CARES Act that followed.”**

imposed a limit on compensation that could be considered in such tests, created a new definition for highly compensated employees, and more. There's little question that those changes (and others) did what they were designed to do—generate additional tax revenue in the here-and-now by limiting the deferral of taxes—but they also served to dampen the enthusiasm and support of business owners—particularly small business owners—for establishing and maintaining these critical programs—then, and for years to come.

But then a couple of congressmen named Portman (Rob) and Cardin (Ben) from

set about a true golden age of retirement plan innovation and growth.

Two decades later this "dynamic duo" is still at it. Key parts of the Enhancing American Retirement Now (EARN) Act have been drawn from their Retirement Security and Savings Act, including increases in the catch-up contribution limits, enhanced start-up credits for start-up plans, expansion of the current Saver's Credit, and increases in the required minimum distribution age.

We recently had the privilege of having both men—now U.S. senators—participate in the recent NAPA DC Fly-In Forum. Separately, each commended



*Brian H. Graff, Esq., APM, is the Executive Director of NAPA and the CEO of the American Retirement Association.*

the collaborative spirit and commitment of their partnership to improving and expanding the private retirement system over their careers—despite acknowledged disagreement on some issues.

Indeed, at a time when the headlines and pundits proclaim dissent and division, with remarkably little fanfare outside of the trade press, retirement savings expansion and enhancement has progressed with an astounding level of bipartisan support. Whether it's the 414-5 House vote in support of SECURE 2.0, or the unanimous bipartisan support of the Senate Finance and Health Education Labor and Pensions (HELP) Committees for the "RISE and SHINE" and EARN acts, it seems that even in these troubled times retirement savings issues still can bring Congress together—as they did for the SECURE Act in 2019 and the CARES Act that followed.

Those margins of victory notwithstanding, the progress was hard to come by—and, as it was in 1986, could be stymied in the future. At the Fly-in Forum, Sen. Cardin cautioned that it was imperative that Congress act now, while there is momentum for action—noting that it is hard to predict what impact on the spirit of cooperation the mid-term congressional election might have—not to mention the uncertainties of action during the lame duck session that will follow the election.

For all the progress made—and the progress ahead that still seems possible—retirement plan professionals have to be concerned about the declining civility in our nation's capital—and indeed our nation. That's a particular concern as those—like Sen. Portman—who have had such a tremendous positive impact on our nation's private retirement system—head toward their own retirements. We can only hope that part of their legacy is a spirit of cooperation and civility embodied by individuals like Rob Portman and Ben Cardin.

And that retirement savings continues to be a common ground. **NTM**





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# Trends ‘Setting’

*With the COVID-19 pandemic slipping into the rearview mirror of experience—and with new (and renewed) concerns about inflation and market volatility, retirees are rethinking their distribution options, employers are rethinking their benefits, and participants are considering the need, and best structures for, emergency savings. At least that’s what this month’s Trends Setting feature finds...*

## ‘Second’ Citing?

*Are Retirees Second-Guessing That Lump-Sum Payment?*

A growing proportion of retirees are depleting their DC plan lump-sum payments at faster rates than previously seen and may be regretting that decision to withdraw all their money, a recent study finds.

On average, one in three retirees (34%) who took a lump sum from their DC plan depleted it within five years, according to MetLife’s 2022 Paycheck or Pot of Gold Study. In comparison, the firm’s inaugural study from 2017 found that one in five retirees (20%) who took a lump sum from a retirement plan depleted the balance in 5½ years, on average.

MetLife also found that a cloud of concern hangs over those individuals who still have assets remaining, with 41% of respondents expressing anxiety about their money running out. This is especially true for women, with nearly 6 in 10 (57%) concerned about depleting their lump sums, compared to about a third (34%) of men. More women have also already depleted their lump sums in retirement, with 43% of women having done so, compared to 29% of men.

For this latest study, the firm commissioned research of both pre-retirees (i.e., those within five years of retirement) and retirees. For pre-retirees, the study focused on the education and advice they are receiving from their employer, and assessed their views on the importance of guaranteed retirement income. For retirees, MetLife evaluated whether their experiences with taking a lump sum met with their expectations, as compared to those who opted

for guaranteed retirement income by purchasing an annuity.

### Current Thinking

When considering retirement, MetLife found that pre-retirees typically believe they will have about \$450,000 (median) in their DC plan, but this varies widely. About 1 in 10 (11%) believe they will have less than \$100,000 saved, while a similar proportion (14%) believe they will have saved more than \$1 million. On average, pre-retirees expect this money to last 19 years in retirement—though one in six (16%) estimate that it won’t even last a decade.

Both pre-retirees and retirees fear they may not have properly planned for the sustainability of their retirement funds. About half of each cohort think they may have underestimated the amount they should have saved, underestimated their life expectancy and overestimated how long their retirement savings will last.

For those who have not yet retired, some apparently are rethinking when they should. About a third (30%) feel it’s likely they will delay their retirement from the age they had initially set so they can continue to save





**“Among retirees, having the ability to take just a portion of their DC savings as guaranteed monthly payments is also a growing consideration (32%), up from 2% in 2017.”**

for retirement, maintain benefits and increase their Social Security monthly income.

#### **Lump Sum vs. Partial Annuity**

When it comes to retirement, about 9 in 10 retirees (89%) and pre-retirees (90%) feel it's valuable (i.e., very important or essential) to have a guaranteed monthly income to pay their bills. Nearly the same number of pre-retirees (89%) say they are interested in an option that would allow them to have both a monthly retirement "paycheck" and access to a lump sum of their retirement savings. Among retirees, having the ability to take just a portion of their DC savings as guaranteed monthly payments is also a growing consideration (32%), up from 2% in 2017.

For those who plan to take their DC plan savings as a lump sum, more Boomers than Gen-Xers (70% for Boomers versus 58% for Gen-Xers) want to maintain control over their money, whereas more Gen-Xers than Boomers would choose the lump sum because they believe they could achieve better returns on their own (64% for Gen-Xers versus 47% for Boomers). "Wanting to maintain control over their money is a main reason for those who choose not to take an annuity, so it makes sense that for a vast majority of pre-retirees, a partial annuity/partial lump sum option is appealing," the study notes.

However, if they had to choose one or the other, MetLife found that pre-retirees say they are more likely to opt for the annuity (82%) over a lump sum (18%). What's more, the survey found that 53% of pre-retirees think their employer should be required

to provide an annuity option. "Most retirees didn't have the option of taking a partial lump sum/partial annuity," observes Roberta Rafaloff, Vice President of Institutional Income Annuities at MetLife. "Looking ahead, as employers feel more comfortable offering income annuities to retiring workers following the annuity selection guidance included in the SECURE Act, pre-retirees may have more options to make their money last."

#### **Educational Efforts**

Most retirees (80%) and pre-retirees (74%) report having received some form of information about what to do with the balance of their DC plan when they retire. For retirees, most feel the amount of information they had available to them at the point of retirement was just right (77%). Pre-retirees, however, are less emphatic, but still generally see the amount of information they've received as the "right amount" for what they need (69%), though more than one in five say it's been too little (21%).

When choosing what to do with their DC balance, most retirees (81%) and pre-retirees (86%) opt to make this decision in consultation with someone else, most likely a financial planner, advisor or broker (43% retirees, 55% pre-retirees), or their spouse/partner (41% retirees, 39% pre-retirees). Among retirees, those who chose an annuity (54%) are more than twice as likely as those who chose a lump sum (25%) to have worked with a financial advisor during this decision-making process.

The survey was conducted online within the U.S. by The Harris Poll on behalf of MetLife between

Nov. 16 and Dec. 15, 2021, among 1,911 U.S. adults between the ages of 50-75 who were either retired (907) or within five years of retiring (1,004) and participate in their employer's DC plan.

— Ted Godbout

#### **'Post' Offices**

*How Employers Are Supporting Their Employees in a Post-Pandemic World*

**W**hile many employers made difficult cost-cutting decisions during the pandemic, a recent survey finds that most feel responsible for their employees and are addressing their needs through enhanced benefit offerings and business practices.

The report from the Transamerica Institute and its Transamerica Center for Retirement Studies (TCRS) reveals that 81% of employers feel responsible for helping employees maintain their long-term health and well-being, while 72% cite one or more major concerns about employees' mental health. In addition, 47% have found it difficult to recruit new employees, according to "Emerging From the COVID-19 Pandemic: The Employer's Perspective," which is based on a survey of more than 1,800 for-profit company employers.

In examining the impacts of the pandemic on employers, the survey found that more than half (56%) have reevaluated their health, retirement and other employee benefit offerings since the pandemic began. Not surprisingly, medium and large companies (83% and 81%, respectively) are more likely to have done so than small companies (50%).

Among all employers, the reasons for reevaluating benefits are to align with employees' current needs (30%), make them more competitive (25%), reduce costs (22%) and for benchmarking purposes (13%). Another 16% of employers have not reevaluated their benefits plans, but plan to do so.

By late 2021, more than two-thirds of employers (67%) had implemented one or more beneficial measures for their employees, TCRS found. The most often cited beneficial measures include:

- implemented/enhanced employee work-life balance programs (30%);
- increased salaries (25%);
- implemented/enhanced health care benefits (22%);
- implemented/enhanced retirement benefits (18%); and
- increased bonuses (18%).

And once again, medium and large companies (86% and 85%, respectively) were more likely to have implemented beneficial measures than small companies (62%).

In doing so, the survey also found that nearly two-thirds of employers (64%) believe health insurance, retirement benefits and other benefits to be very important in their ability to attract and retain employees. Yet, despite this emphasis on employee benefits, there is still a sizeable shortfall when comparing the percentage of employers that offer specific benefits with the percentage of workers who value them as important. "As employers evaluate their benefits offering, they have an opportunity to further support the physical and mental health and the financial well-being of their employees," noted Catherine Collinson, CEO and president of Transamerica Institute and TCRS. "Employer-sponsored retirement plans, including 401(k)s and similar plans, have proven to be the most effective way to facilitate long-term savings among workers. Unfortunately, not all workers have access to these benefits,

especially those working for small companies," adds Collinson.

### The Access Gap

In fact, this is a problem that has existed for many years now, as TCRS found that 55% of employers offer a 401(k) or similar plan to their employees. But when looked at by company size, these DC plans are more commonly offered by large and medium companies (92% and 89%, respectively), compared with small companies (46%) where the opportunity for expanding retirement plan coverage is greatest.

That said, more employers may offer a retirement plan in the future. Among employers that do not offer a 401(k) or similar plan, 43% say they are likely to begin doing so in the next two years. Moreover, 27% of employers unlikely to offer a plan say they would consider joining a multiple employer plan (MEP), pooled employer plan (PEP) or group of plans (GoP).

The survey also finds a sizeable gap in retirement savings among workers by company size. TCRS suggests that this gap illustrates the impact that access to workplace retirement benefits can make. For instance, workers of large companies have saved \$96,000 in total household retirement accounts and those of medium-sized companies have saved \$73,000, while small company workers have saved just \$41,000 (estimated medians).

And as pre-retirees face complex financial decisions, TCRS suggests that plan sponsors could do more to help workers financially transition to retirement. In this case, the survey found that relatively few plan sponsors provide access to a financial advisor (44%), education about transitioning into retirement (41%) and educational resources (40%).

### Multigenerational Workforce

The survey also finds many employers are embracing a multigenerational workforce in some respects but, in other ways, they have not yet addressed the opportunity. For example, 9 in 10 (92%) offer one or more types of

alternative work arrangements. In contrast, only 3 in 10 (31%) have a formal phased retirement program with specific provisions and requirements. But regardless of whether they offer a formal program, some employers have work-related programs to help pre-retirees transition, including flexible work schedules and arrangements (44%), the ability to reduce hours and shift from full-time to part-time (36%), and the ability to take on less stressful or demanding jobs (34%).

The findings in the report are based on the results of two surveys. This included an online survey conducted within the U.S. by The Harris Poll between Nov. 8-24, 2021, among a national sample of 1,874 U.S. business executives who make decisions about employee benefits at their for-profit company and employ one or more employees. A worker survey was conducted between Oct. 28-Dec. 10, 2021, among a nationally representative sample of 5,493 U.S. adults who work full- or part-time in a for-profit company employing one or more employees.

— Ted Godbout

### Savings 'Account'

*What Employees Prefer in an Emergency Saving Solution*

With the current economic environment exacerbating the financial situation of many workers, a new white paper shares insights on how emergency savings solutions designed for low- to-moderate income (LMI) workers can improve financial security and bolster retirement outcomes.

And plan sponsors and recordkeepers are uniquely positioned to build and offer high-quality emergency savings products, according to the paper by DCIIA's Retirement Research Center (RRC) and Commonwealth.

As part of their study, DCIIA's RRC and Commonwealth conducted qualitative and quantitative research in the first quarter of 2022—first with focus groups of defined contribution (DC) plan participants, followed by a survey of nearly 1,000 LMI





workers to understand what they would prefer in an emergency savings solution and to determine how emergency savings affect retirement participation.

Women made up just over half (52%) of respondents; the researchers also oversampled for black and Hispanic/Latino participants to gain better insight into how emergency savings solutions can be better tailored to meet the needs of these workers.

Previous research by the group has found that those with lower financial wellbeing scores are more likely to be interested in workplace emergency savings programs. Moreover, their research has found that individuals with emergency savings are less likely to have accumulated debt, prematurely tap retirement savings, or take actions that jeopardize their financial future.

In this latest research, DCIIA and Commonwealth find that an emergency savings tool that prioritizes low fees and fast access will tailor to the needs and interests of LMI workers and will be impactful in growing savings, protecting retirement and building financial security.

What's more, employees believe employers should be playing a leading role in this space, the paper further emphasizes.

More specifically, the researchers found that:

- workers prefer no fees, no minimum balance requirements and fast access to funds;
- incentives are valued by employees and can be leveraged by employers to encourage take-up;
- a lack of emergency savings hinders workers' retirement plan participation; and
- employers need to continuously engage employees regarding their workplace financial benefits.

#### **No Fees and Fast Access**

According to the findings, no fees (34%), no minimum balance (17%) and immediate withdrawal of funds (16%) were the most preferred features. Other preferences included the ability to move savings to other financial institutions (13%), the ability to automatically save part of a paycheck (12%) and linking to a workplace retirement account (9%). These preferences stayed

consistent regardless of race, gender or income.

Of these, they note that the biggest concept for plan sponsors and service providers to grapple with based on the research will be the demand for liquidity—access to savings must be immediate and penalty-free during a time of need.

#### **Incentivizing Engagement**

At the same time, participants, not surprisingly, are overwhelmingly interested in incentives and said that they can help motivate them to open a savings account. To that end, plan sponsors and recordkeepers have multiple options in structuring the incentive, the paper suggests.

Incentive options that were positively viewed included:

- a reward to open an account (98%);
- matching contributions (96%);
- a reward for consistent savings (93%); and
- a reward for reaching a target savings amount (92%).

#### **Hindering Retirement Participation**

The survey also found that workers with no emergency savings were significantly less likely to be contributing to a DC plan. As such, offering an emergency savings solution could be an effective mechanism to boost retirement plan participation among employees, the researchers emphasize.

Moreover, when looking at the population of those eligible but not participating in DC plans, they tended to be younger, have lower income levels, and be black or Hispanic/Latino, suggesting that an emergency savings solution for these populations should be prioritized as they remain financially vulnerable.

The paper further observes, however, that preference for an emergency savings account linked to a workplace retirement account was relatively low for LMI workers, indicating a challenge that in-plan emergency savings solutions might face with this cohort of workers. **NTM**

— Ted Godbout



# Feast or Famine?

*Here's how to create a business development process that avoids the feast-to-famine cycle.*

By Rebecca Hourihan



**E**ach spring, farmers diligently plow the land and plant seeds. Throughout the warm summer months, these plants are nurtured, and they grow. Then in the fall, the farmers harvest the bounty and enjoy the rewards of their labor.

Now, depending upon the type of crop, the farmers must repeat this seed-to-harvest cycle each year. Or they may have perennial crops—like apple trees, for example—that automatically produce so the farmer can harvest more and more fruit with each passing year.

Looking within your business, which type of farmer are you? Does your business struggle

with planting a fresh crop each year? Or do you have a perennial business development strategy that enriches over time?

Let's explore two different advisor scenarios and how they can implement an ongoing, consistent and scalable business development process.

## Planting the Seeds of Prospecting

Alex Advisor is a senior vice president at a large office who manages a team of retirement plan advisors. Even though he is part of a large firm, where many of the advisors have business owner clients, Alex is struggling because internal referrals are slow in coming. He has years

of experience and holds the CPFA designation. Business owner introductions should be blossoming left and right. But no...

Alex is caught in the famine part of the cycle. To get out of it, he needs to plant seeds. Here's how:

- **Story time.** Each month when the entire office meets, Alex needs to tell a five-minute client success story. He needs to share a before-and-after story that describes the value he has brought to the table.
- **Communicate within the company.** Treat coworkers like centers of influence and communicate with them



## “Think about how you can keep planting, nurturing and harvesting by using communication strategies, sales enablement templates and automation to manage a bountiful business.”

in the same way. Simply put, Alex needs to add his co-workers to his email campaigns. Each week, as he shares industry news, updates, articles, plan sponsor guides, newsletters, videos and more, his colleagues are gaining new knowledge about what Alex does. This gives the other advisors an inside view of what it would be like for their clients to work with him.

- **Coffee connect.** The goal of a coffee meeting is to get to know one another better and deepen relationships. Plus, as the lead retirement plan advisor, Alex may be able to help his coworkers with cross-selling opportunities.

By planting seeds within the company and cultivating them through communication and nurturing relationships, Alex is strengthening his colleagues' confidence while giving them the assurance that he is the right retirement plan advisor for their clients.

### Withering on the Vine

Jamie Independent owns her own practice and employs a team of five. She has loyal, longtime clients. Right now, she is taking on five new retirement plan clients. Everyone is busy with new business paperwork, conversion coordination and employee enrollment meetings. The meetings, phone calls and emails are nonstop.

The team needs to buckle down and handle the work in front of them. There simply isn't enough time to get everything done. So the business development

campaigns stop. The weekly emails are placed on the backburner. The blog articles go dormant. Social media activity is quiet. And, just like that, all marketing activities go into a deep freeze.

It is said that if we don't learn from our past, we're doomed to repeat our mistakes.

Jamie is in the feast portion of the cycle. She is enjoying the harvest. However, she is turning a blind eye toward the next rotation of growth.

To enjoy the feast and prevent the famine, here are some ideas:

- **Don't reinvent the wheel.** If everything you're doing for clients is custom, then you're doing too much. Why not repurpose existing materials? For example, at enrollment meetings, the majority of Jamie's presentation should be on a template. That way, she only needs to edit 10-15% of the deck to address the specific plan and company. This saves time and helps her present a unified message to all clients.
- **Automation is your best friend.** Regular communication is a business requirement. Jamie's team should take the stress out of the weekly shuffles and automate their email campaigns. Block one to two hours at the beginning of each quarter and then pre-schedule communication campaigns, including value-add content such as articles, newsletters, guides, infographics, videos, etc. This reduces weekly stress, maintains consistent

communication and keeps Jamie's firm top of mind for future business opportunities.

- **Feed the machine.** Every client, center of influence, team member and prospect should be on your email list and connected to you via LinkedIn. As Jamie onboards new clients, she should request email addresses from each decision-maker at the company. From the President, CEO, CFO and Controller on down to the entire total rewards team, all should be part of Jamie's digital communication network. This way, Jamie is always nurturing relationships, so if/when a decision-maker moves on to a new company, she has an easy introduction opportunity.

As Jamie reaps the rewards of hard work, it is important not to lose sight of the long term. By templating, automating and connecting, she is running a perennial business. These practice management efficiencies allow Jamie and the team to focus on new growth while nurturing existing business relationships.

### May You Have Bountiful Harvests

From one seedling can come hundreds of fruits; the same is true with clients. It takes time for relationships to grow and mature. That is why marketing is a process; it needs to be consistent and evergreen.

Whether you are part of a large team or an independent, it's about creating a business development process that avoids the feast-to-famine cycle. So, if you've found yourself in either quagmire, take the time to look within your business and find opportunities for improvement. Think about how you can keep planting, nurturing and harvesting by using communication strategies, sales enablement templates and automation to manage a bountiful business.

*Thanks for reading and happy marketing!* **NTM**







# 10 Ways to Join the Personal Brand Hall of Fame

*Here's how the digital version of you can help you achieve more confidence in your real-life interactions.*

By Spencer X Smith

**“I**f you get a hit three times for each 10 at bats, you'll be in the Hall of Fame.” This adage from professional baseball offers such great perspective, doesn't it? Even if you fail 70% of the time, you'll still be considered among the best to ever play.

This same philosophy applies to every one of us who owns a sales number. We know our activities determine our outcomes, and with so much rejection, the business development grind is a battle that occurs primarily between our ears. Our self-image affects every interaction between us and our prospective clients.

As in baseball, those of us in sales need to have short memories. Fail, and your next at bat is just around the corner. Unlike baseball, though, there's an additional dynamic at play—your online persona as a supplement to your in-person activities. Is there a way the digital version of you can help you achieve more confidence in your real-life interactions?

Your personal brand—a term that has grown to become an embodiment of your online and offline reputation—is simple to build through deliberate, consistent steps. Unfortunately, most people struggle to build their personal brand because:

- They don't know what to do
- They don't know how to do it
- They don't know to measure the effectiveness

These struggles lead to a vicious cycle of starting and stopping. Share content on LinkedIn, and your next post comes 10 days later. Contribute to an online group once, and forget to log in again until a month from now. Attend an in-person networking event in September, and show up again in January.

Doing new things (novelties) are fun and exciting, but extremely ineffective.

How about this approach for personal brand-building instead? I'll share 10 options for you to choose from, and you only need to do three of them consistently. Try each one, see which works best for you, and you'll see demonstrable gains in your persona.

## 1. Public Speaking

There is no better way to be seen as an expert in your field than through public speaking. Whenever you're on stage, regardless of venue or topic, the audience is thinking, “If they're good enough for the organizers of this event, they're good enough for me.”

Here's the easiest way to get speaking gigs: go where a need already exists and ask to be of help. Every organization that has in-person or online meetings has a perpetual need for speakers. Think to yourself, “Where is my ideal audience already attending events?” Reach out to those who

**“Your personal brand—a term that has grown to become an embodiment of your online and offline reputation—is simple to build through deliberate, consistent steps.”**

run the organization and offer to share your expertise. You'll hear, "Yes" to your requests more than you expect.

## 2. Publishing

Okay, maybe speaking isn't your thing. What's another great way to build your reputation with your target audience? Find a publication they're already reading and offer to contribute content.

How did I get this regular column in *NAPA Net the Magazine*? I asked to write for the NAPA Net website in a subject area I work in every day: applying technology to business development.

What's especially great about an online publication? It's infinitely easier to share a digital copy of your content with your audience instead of mailing them physical copies.

For an especially effective one-two punch, use your articles to help you get speaking gigs. Write the article, have it published, and ask to "perform" your content for the audience. Why do I get to speak at the NAPA 401(k) Summit each year? I have multiple pieces of content I've already written for the publication you're reading right now. "Performing" one of them is a natural extension of serving the target audience... you.

## 3. Presence

This is the lowest-tech version of the personal branding approach. Real-life events, now that most COVID-related restrictions have eased, are probably the most impactful to your business development goals. After leaving the NAPA 401(k) Summit, there's a conference afterglow, isn't there? Nothing online can replicate it.

Let's face it, though, moving your body from one place to

another is limiting (opportunity cost in choosing that over doing something else) and expensive. How can we ensure your investment is worth it? Build your online brand to precede your physical presence at events. And between these events, remind people about yourself and what you do.

## 4. Problem-solving

This approach consists of sharing your journey of progress. Startup companies often refer to this as "building in public." Instead of shrouding your growth, share what you're figuring out.

In an industry as sensitive as financial services, this always requires a little caution. Of course, you shouldn't divulge client information or anything else private, but you can readily share your accomplishments in solving problems.

How did you optimize your time in the office? Which video setup makes you most comfortable when doing your meetings from home? Exploring cryptocurrency and its implications for retirement plans? Share what you're discovering and help others benefit from your efforts.

## 5. Proof

This tactic is a little like problem-solving with a twist. This is where you get to show off a bit. Share what you and your team have accomplished. Pass your NAPA CPFA? Let people know about it. Did a member of your team get their MBA? Brag about them.

After you tell these stories the first time, are you done? If so, you're selling your accomplishments short. If you're active on any social network (connecting with new people, winning new followers), that

fresh audience hasn't seen your previous posts. Let them know via another post why the CPFA is important and what you learned doing it. Or share what that MBA-holding team member is working on now.

## 6. Promotion

In addition to lauding the accomplishments of yourself and your team, this is your opportunity to highlight others. We've all been in a situation where someone introduces you to a friend or colleague along with some kind words. Makes you feel great, right? Your confidence is elevated and your new acquaintance has a reason to care about you.

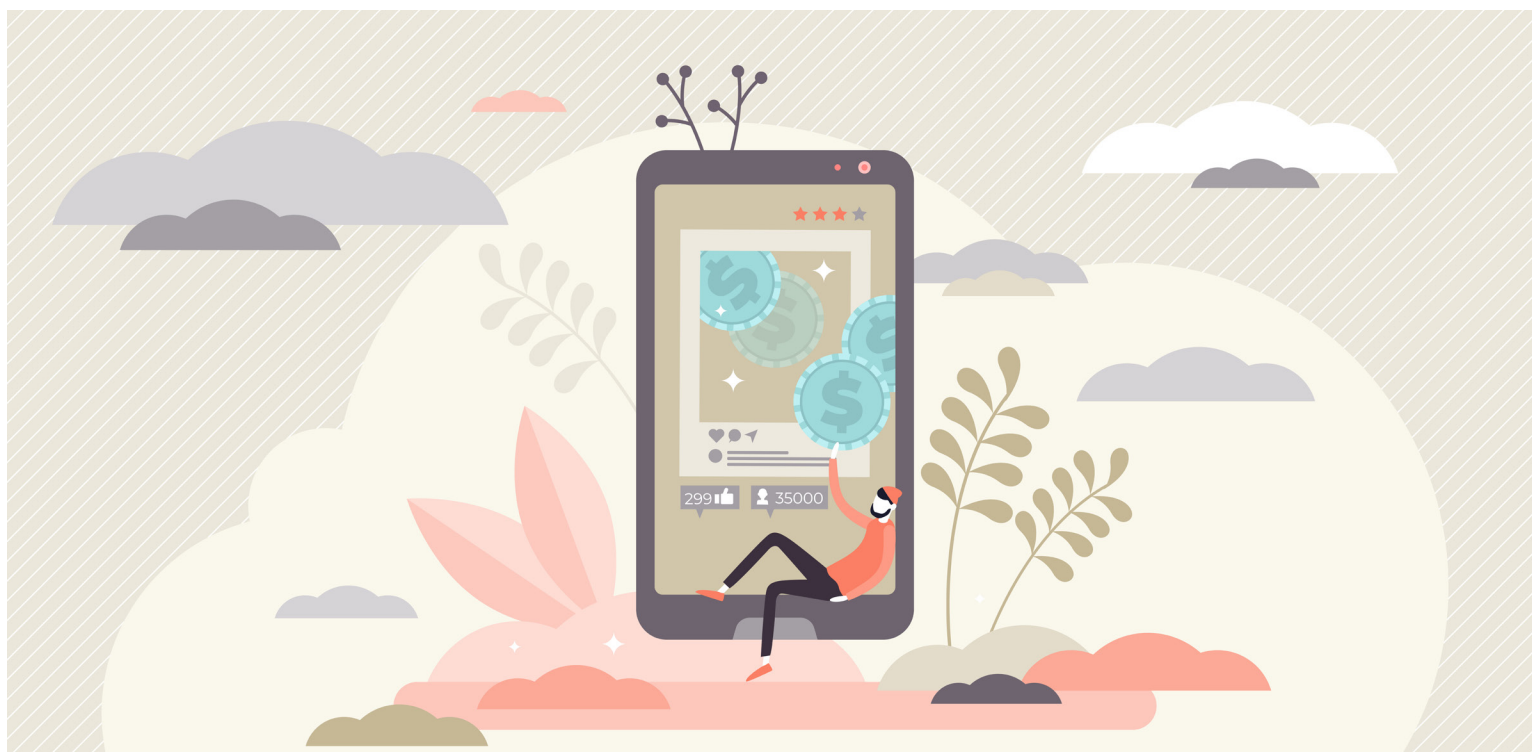
Social media could be the greatest way ever invented to pivot the spotlight from yourself to other people. All of us are jockeying for attention online, and if you show generosity via posts about others, they'll be eternally grateful.

## 7. Participation

Nothing is for everybody anymore. You and I (and everyone else) have niche interests, and through the internet, we can find people who share those passions. Participating in online communities is a simple way to engender trust with people who already believe in what you do. Do you love *Stranger Things*? Churros? Small-batch bourbon? Somewhere there's a group for you.

This approach comes with a caveat: it's a long-term play. Joining a group and shilling your 401(k) solutions in the first five minutes is—at best—a way to turn people off, and—at worst—a way to earn a ban from that group. Show others that you're listening, and offer them assistance when they ask for help. Eventually, someone





will ask, "So, what do you do?" That's when the business-building can start.

### 8. Publicity

If you check out my profile, you'll see I've been quoted/featured in *Forbes*, *Money*, *Entrepreneur* and *Inc. Magazine*. All of that PR was free, and here's how you can get the same publicity: Sign up for Help a Reporter Out (HARO)—<https://www.helpareporter.com/>. It's free, and when you register, you'll start receiving emails each day from reporters working on news stories. These reporters are all working on a deadline, and they need an expert source to quote for their piece.

Simply answer their questions and include your contact information. As of last count, I've been quoted/featured 63 times in various publications from using this simple, free tool. Respond consistently, and you'll get referred to as an expert too.

### 9. Performance

If you're at all like me, you like to keep score of some things, but not others. I've been doing the same workout for 25 years, so I don't record my gym time in a journal to keep me going. I don't keep score in golf because those numbers

would discourage me from hitting the links again.

Tracking the performance of other activities, though, furthers our desire to maintain those behaviors. This is especially true of anything we're implementing for work. Once the novelty wears off on that shiny object, many people abandon it. If you remain consistent, though, you'll win.

Once you find two of the tactics above that resonate with you, track how well they're working for you. How many followers have you gained? How many people recognize you at in-person events without needing to look at your name tag?

### 10. Protection

As Ricky Bobby's dad said so eloquently in the movie *Talladega Nights*, "If you ain't first, you're last."

"Spence," you may be thinking to yourself, "I'm okay with where my business is right now and don't need to grow." Congrats! That's a great, enviable position. What about retaining your current clients, though?

The nine tactics shared to this point are what your competitors are using to break your client relationships. Once they replace

you as top-of-mind through their constant promotions, you're playing from behind. Establish your "moat" by combining a protection stance with two of the aforementioned tactics.

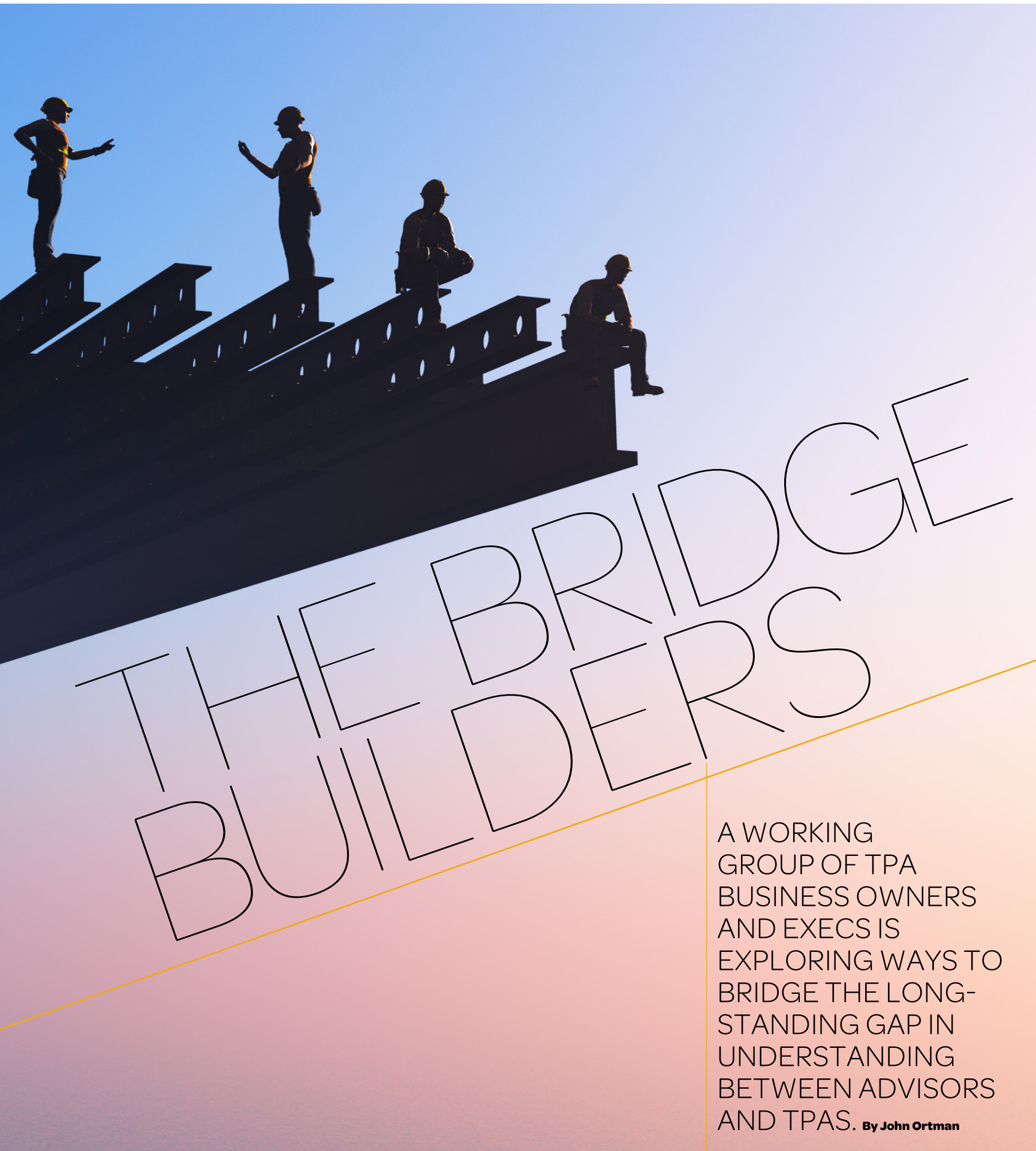
Here's a simple "choose three tactics" framework if you're already comfortable with your AUM or practice size:

- Protection—establish a strategy of maintaining your current clients.
- Promotion—of nonprofits, charities, or causes you support.
- Presence—at real-life events of the causes you support. Simply take a photo at the event, highlight the good work they're doing (the promotion tactic), and maintain first place in your clients' minds.

Think about the combination of your current online and offline persona. If you're not using at least one of the 10 options, may I propose that you go to the ballpark and get your at-bats? Once you're there, you might as well choose 3 of the 10. Do these three activities consistently, and you'll put yourself in the best position to enter the Personal Brand Hall of Fame. **NTM**







A WORKING GROUP OF TPA BUSINESS OWNERS AND EXECs IS EXPLORING WAYS TO BRIDGE THE LONG-STANDING GAP IN UNDERSTANDING BETWEEN ADVISORS AND TPAS. **By John Ortman**

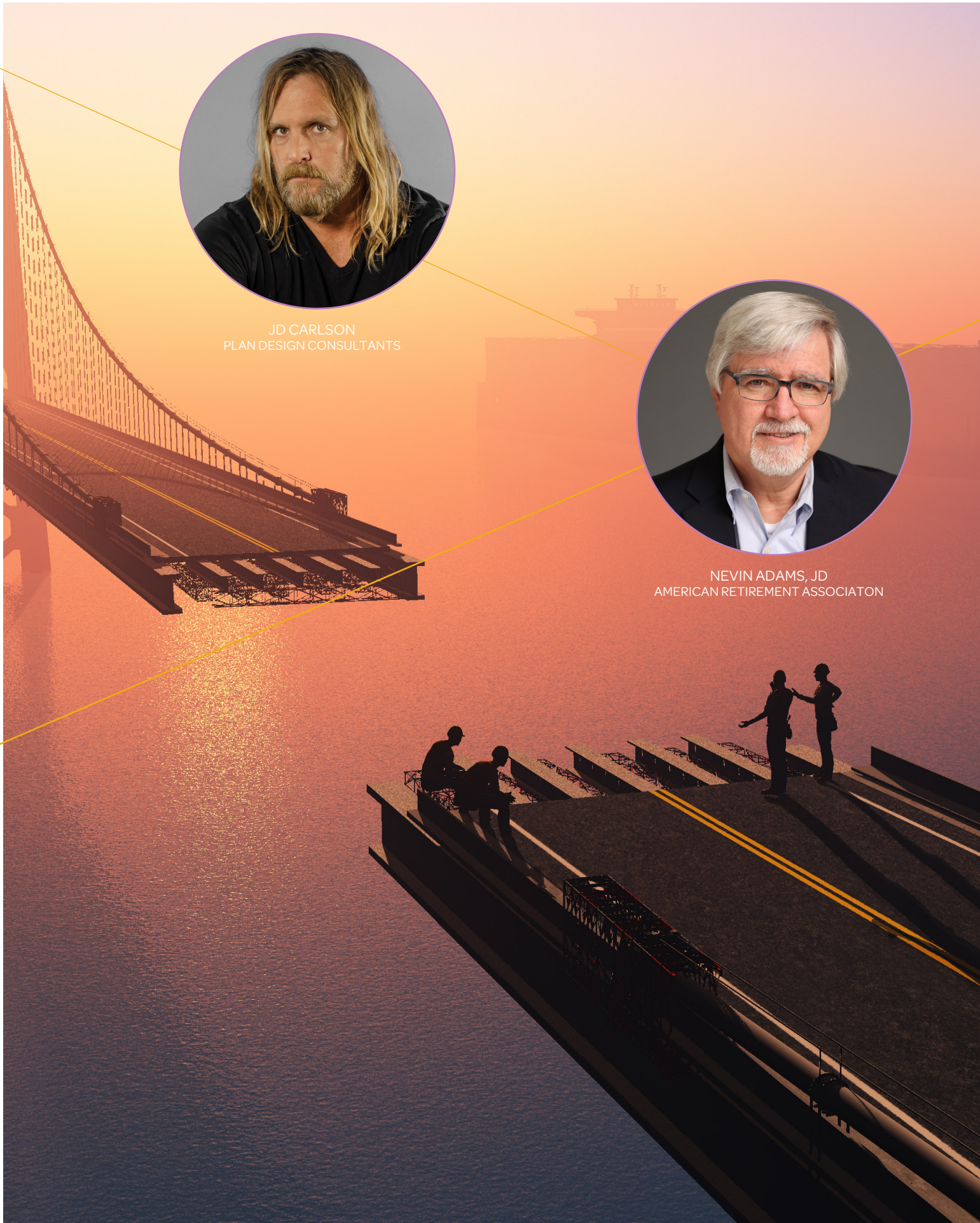




JD CARLSON  
PLAN DESIGN CONSULTANTS



NEVIN ADAMS, JD  
AMERICAN RETIREMENT ASSOCIATION





## FOR YEARS, ONE OF THE MOST PERSISTENT BARRIERS TO THE SMOOTH AND EFFICIENT OPERATION OF MANY 401(K) PLANS HAS BEEN THE NATURE OF THE WORKING RELATIONSHIP BETWEEN THE PLAN'S ADVISOR AND ITS THIRD PARTY ADMINISTRATOR, OR TPA (NOTE THAT A RECORDKEEPER CAN BE A TPA).

When the advisor/TPA partnership works as it should, typically it's characterized by:

- a clear understanding of each other's role and expectations;
- a shared dedication to ensuring that plan administration runs smoothly and the plan is in full compliance; and
- the plan's design is tailored to the plan sponsor client's needs and goals.

There are plenty of real-life examples where two (and sometimes three) of those roles work in concert—where there is no struggle for “ownership” of the relationship with the plan sponsor client, but rather both parties understand and appreciate what the other brings to the table and stay in their respective “lanes.” However, to the degree that those attributes are compromised, service and client satisfaction can deteriorate rapidly.

Like most successful relationships, it's often about aligning expectations with reality. In this case the reality is that not all TPAs (or all advisors) are identical in terms of their skills, needs and capabilities. But as human beings, we often bring to these relationships an expectation based on previous experience(s)—for good or bad. Advisors often take on tasks that a high-quality TPA firm might typically perform. Similarly, TPAs might find their expertise relegated to an after-the-fact clean-up simply because they weren't involved in the initial discussions, perhaps out of a concern that they'd derail those conversations prematurely. Since each client, each client relationship and each advisor/TPA combination is unique, how is the alignment of expectations supposed to occur?

Of course, relationships are developed and nurtured by open and honest communications. And that's why

earlier this year, a group of TPA business owners and executives—including a longtime NAPA member—came together to consider possible solutions. Here's their story.

### GETTING OFF THE GROUND

It was American Retirement Association Chief Content Officer Nevin Adams who was inspired to try and bridge the communications gap between TPAs and advisors after sitting in on several ARA Women in Retirement Conference (WiRC) “Third Thursday” sessions in 2020 and 2021. On those calls he noticed that the issue of communication issues—frustration with one or the other “not staying in their lanes”—kept coming up. The issue was something that also popped up occasionally on the *Retireholi(k)s'* vlog, Adams notes, which, though conducted by the TPAs at Plan Design Consultants, often includes advisors on “stage” as well as in the “chat bar.”

“I had good enough relationships with people on both sides of the discussion to think that we could actually bring some folks together and work on this,” Adams continues. “It helped that I didn't really have an axe to grind, just wanted to take a concern that was being expressed by both TPAs and advisors—separately—and see if we couldn't find common ground. I didn't know, at the outset, what we'd be able to do. I just wanted to bring together knowledgeable, passionate people who wanted to help solve the problem. And I think we ended up with that.”

In addition to Adams, the group consists of:

- Shannon Edwards, President of TriStar Pension Consulting
- Amanda Iverson, COO & Partner, Pinnacle Plan Design
- Justin Bonestroo, SVP with CBIZ
- Mary Patch, a plan advisor

with Independent Financial Advisors (IFP)<sup>1</sup>

- JD Carlson, owner of Plan Design Consultants (PDC)
- Chad Johansen, Partner and Director of Retirement Plan Sales at PDC

Edwards, Iverson, Bonestroo and Patch are well-known members and leaders of ASPPA, NAPA's American Retirement Association sister organization. Bonestroo is the current President-Elect; Iverson is the current Vice President, Edwards is a member of ASPPA's Leadership Council, and Patch, a member of both ASPPA and NAPA, is the longtime Chair of the *Plan Consultant* Committee. Carlson and Johansen, both ASPPA members, are perhaps best known as two of the four members of the *Retireholics*.

### 'POLLING' PLACES

“One of the things that [the group] has been talking about is, how do we help the TPA and the advisor to better communicate and recognize where the lanes are?” Adams observes. “To quit wrestling over who ‘owns’ the relationship and come together in a way that will allow that relationship to really function for the betterment of everybody—not the least of which is the plan participants and plan sponsors we're all trying to work for.”

Bonestroo notes that the group's initial focus was just getting a better understanding of the mindset on both sides. So with Adams' help, the group conducted a pair of polls: one asking TPAs about their views on advisors (see “TPAs' Views on Advisors” sidebar) and the other asking advisors about their views on TPAs (see “Advisors' Views on TPAs” sidebar).

Iverson recalls the impact that the survey results had on Edwards, Bonestroo and herself as they prepared

#### FOOTNOTES

<sup>1</sup> Investment advice offered through IFP Advisors, LLC, dba Independent Financial Advisors (IFP), a Registered Investment Advisor.





“WE ALL SEE OPPORTUNITIES FOR BETTER CLIENT SERVICE, OPPORTUNITIES FOR GROWTH, OPPORTUNITIES FOR MORE PRODUCTIVE PARTNERSHIPS. SO HOW DO WE FIND THOSE PARTNERS?” — AMANDA IVERSON, PINNACLE PLAN DESIGN

for a workshop session at the 2022 NAPA 401(k) Summit. “As we were going through the surveys and hearing from advisors and even other TPAs, it was clear that not every advisor/TPA experience has been amazing,” she says. “Sometimes we had to swallow our pride and listen, and initially we were like, ‘Oh, we would never do that.’ But we heard it happening over and over, so it was clear that there are opportunities for improvement and obstacles to overcome. We’ve spent a significant amount of time over the last year just digging into those service provider relationships, interactions and problem situations to determine, ‘How did this happen?’ ‘What can we do to prevent these kinds of scenarios from happening?’”

The group soon found that lot of the problem was caused by either not having the same expectations or having communication that wasn’t clear. “When we started to dig into this, we were surprised at some of the things that we heard from the advisory side, as far as where their frustrations came from,” Bonestroo recalls. “A lot of it came across as miscommunication or a misunderstanding of the roles on both sides. So we wanted to learn more about what’s causing frustration and figure out how we can fix those things. Instead of just accepting the existing flaws in our interactions, we can all be deliberate to identify those flaws and their origins and then address them and create meaningful improvement.”

## COMMUNICATIONS AND EXPECTATIONS

One of the first steps in that journey is “to really open up the discussion about the areas of conflict and to get

both sides to start speaking the same language and start understanding the landscape for the other party,” says Bonestroo. “From the advisor’s perspective, the idea is that if you’re intentional in creating a partnership—if you recognize where your needs or your shortfalls are, and understand how a specific TPA could interact with you in those areas, and then purposefully create the collaboration—it will lead to better overall results.”

Because of her experience as both a TPA and an advisor, Patch provided an advisor’s voice in the group’s discussions. “Mary has done a lot during her career,” says Edwards. “She brings something unique to the table because she is so familiar with the TPA world, and is also so good when it comes to the fiduciary aspects of being a good plan advisor and really taking care of her clients. She really expects a lot of value from her TPA, and she expects the job to be done right.”

“I have a lot of friends in the industry who are advisors utilizing TPAs, and I feel like there are times they become frustrated with situations that happen,” Patch says. “I feel that sometimes an advisor has so much on their plate that they just don’t have the time to engage at the level of really diving in and understanding what a TPA does and the differences between different TPAs’ business models.”

Of course, there are retirement specialists on the advisory side but also a whole lot of advisors who don’t really specialize in this space, Patch notes. “So when the TPA is answering a question, they could answer it from either end of that spectrum. A TPA may work with one advisor who is more experienced and wants to stay really involved. But

## TPAs’ Views on Advisors

*An email survey of ASPPA members asked TPAs to share their views on various aspects of their relationships with advisors.*

### Why do you work with advisors?

**74%:** Helps me win business

**72%:** Better for plan sponsor

**66%:** Helps with plan/client retention

**29%:** Assists with difficulties/difficult situations

**19%:** Makes my life easier

### What do you not enjoy when working with advisors?

**70%:** Infringes on our expertise as a TPA

**61%:** Doesn’t value what we do as a TPA

**59%:** Doesn’t understand our services

**54%:** Overpromises our services to clients/prospects

**48%:** Unrealistic deadline expectation

### Rank the four most important factors in working with an advisor (by calculated score):

**81:** Proactively communicates with me

**79:** Treats me as a partner

**79:** Helps me with new business

**76:** Assists with plan/client retentions

**74:** Dedicated to the retirement plan space

**73:** Assists with difficulties/difficult conversations



JUSTIN BONESTROO  
CBIZ

they may support another advisor who doesn't ever get involved and wants the TPA to handle everything. So communication is a challenge on both sides of the house."

Johansen agrees. "There is a certain tendency on both sides. If you've had a bad experience with somebody who wears one of those labels, it's easy to just sort of generalize and say they're all like that," he says, noting that, "ultimately, the shared goal is about being able to build and develop a trusted relationship. But the reality is that a lot of advisors don't have a full appreciation for what a good TPA will be willing to do for them as a part of their normal service."

### SHOPPING LIST

To address that gap, the group's next goal was to highlight both the areas that are critical in terms of keeping the plan in good, solid compliance, and also identifying the services to be provided, Adams explains. That way, an advisor could get a sense of what should be on their "shopping list" when it comes to looking for a TPA partner. "Do you want somebody who does this, or who knows about this, or who has experience with this—that kind of thing," Adams says, "because in a lot of cases, advisors don't even know what to expect or ask for."

The result? All too often, opportunities are wasted. "We all see opportunities—opportunities for better client service, opportunities for growth, opportunities for more productive partnerships," says Iverson. "So how do we find those partners and then ensure we are able to be the kind of partners that will create a better client, plan, advisor and TPA experience?"

SHANNON EDWARDS  
TRISTAR PENSION CONSULTING



The group started with a list of top 10 areas of plan compliance "pain points"—areas that are not only the most common problem areas, but where the best TPAs differentiate themselves—and that eventually provided the basis for a capabilities checklist that advisors can use to evaluate potential TPA partners. "One of the frustrations we've found is that ultimately, unless you have a process that identifies what the pain points are, and a process for looking at all of the ones that are important to you, it will be difficult to really put together a partnership that works," Bonestroo explains.

This led back to the notion that advisors would benefit from knowing the service/support questions to ask of their TPA partners—and that TPAs would benefit from advisors having a consistent and uniform list of potential services that would allow them to establish/validate their partnership value. And that, in turn, culminated in the checklist.

For example, for an advisor looking for a TPA partner, one of the questions to ask a TPA, Edwards notes, is: "Do you have a workflow client management system, where you have notes about how I want you to work with me, and are you able to do it that way?" That's the essence of the checklist the group has



CHAD JOHANSEN  
PLAN DESIGN CONSULTANTS

## Advisors' Views on TPAs

*A poll in the NAPA Net Daily e-newsletter asked advisors to share their views on various aspects of their relationships with TPAs.*

### Why Work with a TPA?

*Nearly all (98%) of the respondents work with one or more TPAs. Asked why they chose to do so, respondents noted the following (more than one response was permitted):*

**76%:** Assists with technical difficulties

**56%:** Overall, better for plan sponsor

**45%:** Makes my life easier

**34%:** Assists with plan/client retention

**29%:** Helps me win business

**24%:** Not really my choice/decision

### If Not, Why Not?

*While the number of respondents was much lower, those who didn't work with TPAs cited these reasons:*

**72%:** My clients don't want another party they have to talk to

**59%:** Adds a layer of complexity

**31%:** My plans don't need a TPA

**28%:** Too expensive

**7%:** Too technical, doesn't speak English to clients

### Selection Process

*As for whether they had a partner selection process in place:*

**47%:** Yes, but it's not a formal process

**30%:** No

**20%:** Yes, a formal process

**3%:** Not yet



**"I FEEL LIKE UNTIL WE FIND A GOOD WAY TO CREATE A CROSSOVER BETWEEN THE TWO ENTITIES, IT'S REALLY HARD FOR EACH OF THEM TO UNDERSTAND WHAT THE OTHER DOES."** — MARY PATCH, IFP

created—without getting overly complex or too deep "in the weeds."

The current draft version of this checklist is provided on page 55. In addition to multiple rounds of review by the core team, it was shared with about a dozen advisor volunteers who provided insightful feedback and suggestions that have now been incorporated. The next step in its development "is to actually have some advisors meet with a TPA and use it, put it into live practice and see how it flows for the advisor and for the TPA," Patch explains, adding that the group plans to tackle other deliverables in the future.

### THE IMPORTANCE OF CULTURE

Another important point in choosing a partner is to understand what the culture is in that firm, Edwards notes. "It's about knowing how information gets from the person who sells the plan to the people

who work on it and have the daily relationships. They can't read my mind; they don't know what I told the client and the advisor in that meeting, or what I promised, or how the advisor wants this plan to look," she says. "It's important for an advisor to understand, after the plan is sold, what does it look like? Where does it go in the TPA firm, and how does the information flow down?"

"It's one thing to claim to be a partner, but the fact is you have your business owner, and you have your sales team. They understand the advisor relationship," Bonestroo points out. "But it doesn't mean anything if the people who actually have boots on the ground—working with the plan moving forward, working with the plan sponsor, working with the recordkeeper—don't have that same feeling."

For a TPA, "If your culture doesn't flow through from the top all the way to the bottom, and your consultants don't feel that way—if they feel that it's always 'us-versus-them' or 'here's a chance for me to look good because I can make somebody else look bad'—you're not going to have a good experience with that," says Bonestroo. "In the end, the only enemy is things being done wrong. We just want to make sure that we can get there together."

### WHAT'S NEXT?

What does the future hold for the group? "It would be great to have this group continue to work on the objective of improved collaboration between retirement plan service providers," says Iverson. "Who knows where it'll take us? We may expand it with additional members. We could ask applicable parties additional questions, and then take on overcoming additional obstacles. We could seek feedback on what we're delivering to see how we can improve it."

Iverson also suggests adding the involvement of more NAPA members. "Mary has been the lone advisor in our group so far and she's done an excellent job—she's just been very transparent and honest in her feedback, and she hasn't worried about hurting any of our feelings, which is wonderful," she says. "It would be great to have a few additional advisors involved to help decipher the obstacles that we need to overcome."

"It's been a challenge to keep this first draft to a single page," notes Adams. "We kept circling back to things that have proven to be consistent pain points. I'm sure that some advisors—and maybe some TPAs—are going to look at this and say 'what the heck is this...'—but we're working on a 'why this matters' guide to answer those types of questions, and to help advisors and TPAs highlight the things that are important not only to them, but to individual client situations as well."

Patch sees the need for more ongoing discussions and communications—perhaps in the form of discussion opportunities at ASPPA's Annual Conference and the NAPA 401(k) Summit. "I feel like until we find a good way to create a crossover between the two entities, it's really hard for each of them to understand what the other does," she says.

No matter what the future holds, look for lots more to come from this process. "I think all of us are passionate about the industry as a whole and making us all better together, rather than just focusing on the individual ARA sister organization than I'm a member of," says Edwards. "It's about bringing us all together so that we can serve the retirement plan community even better." **NTM**

## Laying the Groundwork

*From October 2021 through January 2022, the group collaborated on a series of monthly posts on NAPA Net intended to lay the groundwork for a better shared understanding and appreciation of advisor's and TPAs' respective roles:*

- **Finding the Right TPA Partner**  
<https://napa-net.org/news-info/daily-news/finding-right-tpa-partner>
- **Bundled Versus Unbundled: 5 Myths**  
<https://napa-net.org/news-info/daily-news/bundled-versus-unbundled-5-myths>
- **Resource 'Full?'**  
<https://napa-net.org/news-info/daily-news/resource-'full'>
- **What's in a Name?**  
<https://napa-net.org/news-info/daily-news/whats-name-0>



# TPA/Compliance Administration Evaluation

## Experience/Background

1. Are you a member of the American Society of Pension Professionals and Actuaries (ASPPA)? ☐ Yes ☐ No
2. How many locations? Please list \_\_\_\_\_
3. How many plans does your firm currently support? \_\_\_\_\_
4. What is your typical plan size (assets and participants)? \_\_\_\_\_
5. Which RK platform(s) do you most commonly work with? \_\_\_\_\_
6. Which plan type(s) do you work with regularly? ☐ 401(k) ☐ 403(b) ☐ 457 ☐ NQDC ☐ Cash Balance ☐ ODB ☐ Profit-Sharing
7. Is a member of your staff the advisor of record on any plans or otherwise receiving commission or advisory fee-based compensation on any plan(s)? ☐ Yes ☐ No
8. What is your average client tenure with your firm? \_\_\_\_\_

## Staffing/Support

9. How many staff do you have? \_\_\_\_\_
10. How many client-facing/consultant versus back office/call center? \_\_\_\_\_ / \_\_\_\_\_
11. Which credential(s) do you require your staff to have/maintain? \_\_\_\_\_
12. Is there a single primary point of contact for the plan sponsor? ☐ Yes ☐ No
13. How many plans are your client-facing consultants responsible for, on average? \_\_\_\_\_

## Communication

14. What is your policy in responding to inquiries, and how is that monitored/measured? \_\_\_\_\_
15. What is your standard method of communicating important plan-specific issues with clients? ☐ Automated emails ☐ Personalized emails ☐ Phone call ☐ Other
16. Do you typically include the advisor of the plan on all correspondence to a client? ☐ Yes ☐ No ☐ Upon request

## Services

17. Is plan sponsor education (e.g., the meaning of terms in their plan document, legislative changes, plan design suggestions) part of your standard service? ☐ Yes ☐ No
18. On what frequency? ☐ Annually ☐ Upon request ☐ Upon role change
19. Do you offer 3(16) services? ☐ Yes ☐ No
20. How do you take revenue-sharing into account when pricing your services for a client? ☐ Full offset of fees ☐ Partial consideration ☐ Custom pricing ☐ No offset ☐ Other (please explain) \_\_\_\_\_
21. Will you price your services on a revenue-neutral basis and direct-bill the client? ☐ Yes ☐ No
22. With regard to drafting plan amendments, is it: ☐ Incl. in base fee ☐ Incl. in document maint. fee ☐ Billed separately ☐ Not incl. in base fee.
23. With regard to plan restatements, is it: ☐ Incl. in base fee ☐ Incl. in document maint. fee ☐ Billed separately ☐ Not incl. in base fee.

## Administration/Compliance

Do you:

24. Perform eligibility verification prior to each entry date? ☐ Yes, prior to each eligibility entry date (Prospectively incl. deferral eligibility) ☐ Yes, annually during compliance testing (Retroactively) ☐ Yes, but only upon request ☐ No
25. Provide/distribute required plan notices?  
 QDIA: ☐ EE ☐ ER ☐ RK ☐ No  
 Safe Harbor: ☐ EE ☐ ER ☐ RK ☐ No  
 Fee Disclosure: ☐ EE ☐ ER ☐ RK ☐ No  
 SAR: ☐ EE ☐ ER ☐ RK ☐ No  
 Auto Enrollment: ☐ EE ☐ ER ☐ RK ☐ No  
 Contr. Escalation: ☐ EE ☐ ER ☐ RK ☐ No
26. Do the following compliance tests:  
 ADP: ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 ACP: ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 Top-Heavy: ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 Maximum Annual Addition (415): ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 402(g): ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 Cross-Testing: ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 401(a)(26) Minimum Participation: ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 414(s) Compensation: ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 410(b) Minimum Participation: ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No  
 Combined plan testing: ☐ Yes, incl. in base ☐ Yes, extra charges ☐ No
27. Perform the following employer contribution calculations:  
 Year-end Match: ☐ Incl. in base charge ☐ Extra charge ☐ No  
 True-up: ☐ Incl. in base charge ☐ Extra charge ☐ No  
 Profit-sharing: ☐ Incl. in base charge ☐ Extra charge ☐ No  
 Corrective contribution: ☐ Incl. in base charge ☐ Extra charge ☐ No
28. Reconcile contribution deposits to participant contribution records? ☐ Yes, routinely ☐ Yes, upon request ☐ No
29. Prepare plan filings (Form 5500, 8955, 5330, etc.)? ☐ Yes, routinely ☐ Yes, upon request ☐ No
30. Prepare and/or review distribution calculations? ☐ Yes, routinely ☐ Yes, upon request ☐ No
31. Prepare and/or review QDRO analysis and process? ☐ Yes, routinely ☐ Yes, upon request ☐ No
32. Speak with participants regarding loans/distributions? ☐ Yes, routinely ☐ Yes, upon request ☐ No
33. Prepare and/or review participant loan calculations? ☐ Yes, routinely ☐ Yes, upon request ☐ No
34. Perform missed/late deferral calculations (includ. missed earnings)? ☐ Yes, routinely ☐ Yes, upon request ☐ No
35. Take the lead on any required correction filings (late deposit calculations, VCP, EPCRS, etc.) ☐ Yes, routinely ☐ Yes, upon request ☐ No
36. Work directly with the plan's auditor to resolve questions/issues? ☐ Yes, routinely ☐ Yes, upon request ☐ No
37. Any other information about your firm/practice you'd like to share?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



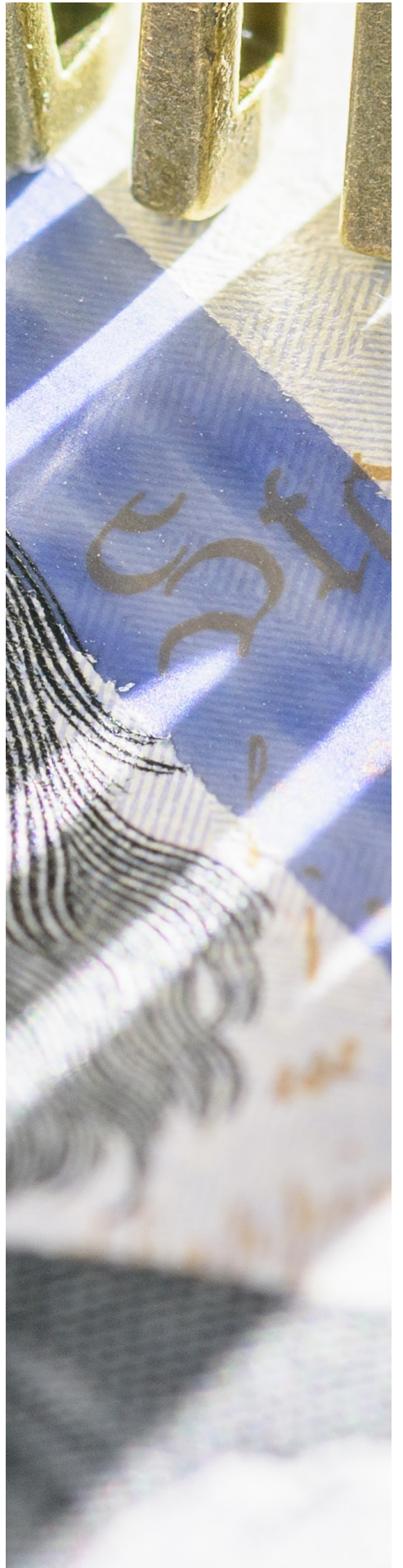
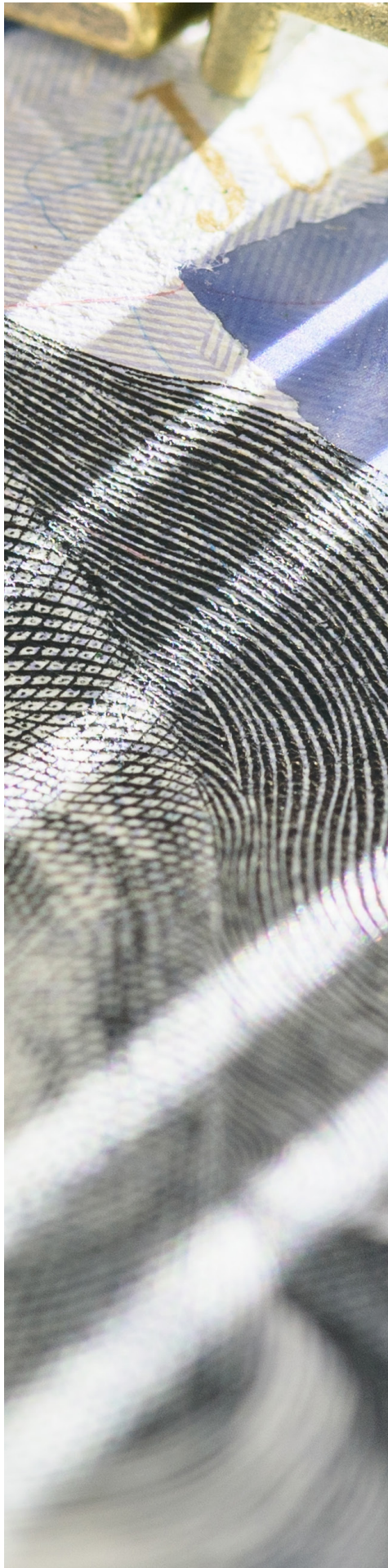


# INFLATION'S SHADOW

INFLATION  
SPIKE SPURS  
INTEREST IN,  
CONCERNS  
ABOUT,  
RETIREMENT  
INCOME

BY  
JUDY  
WARD







"FOR PRE-RETIREEES, INFLATION HAS PUT A QUESTION MARK AROUND, 'WHAT DOES MY RETIREMENT LOOK LIKE?'" SAYS JEFF CIMINI, SENIOR VICE PRESIDENT, RETIREMENT PRODUCT MANAGEMENT AT NEW YORK-BASED VOYA FINANCIAL. "WE'RE HEARING FROM BOTH PLAN SPONSORS AND PARTICIPANTS HOW IMPORTANT IT IS TO HAVE A PLAN AS A PARTICIPANT APPROACHES RETIREMENT, AND THAT PARTICIPANTS ARE ASKING FOR ASSISTANCE FROM THEIR EMPLOYER."

Two additional factors make now an even more complicated time to think about retirement-income planning, Cimini believes. The pandemic and health concerns have led some Americans to think about retiring earlier than they planned, and market volatility has heightened many pre-retirees' nervousness about a potential shortfall in their retirement income. "Pre-pandemic, these things were muted: We had reasonably steady capital markets, and low inflation," he adds.

Wylie Tollette, San Mateo, California-based executive vice president, client investment solutions at Franklin Templeton, understands why people near retirement are concerned.

"Honestly, there's good reason to be worried, as inflation stays higher for longer than virtually anyone anticipated," he says. "Now, folks are worried that it will 'settle down' at a level higher than they anticipated. Even if long-term inflation runs 1% higher than someone planned for, that extra 1% can really make a difference for a retiree."

#### PRIORITIZING RISKS AMID LIMITED CHOICES

Overall, 73% of Baby Boomers say they're worried that they might not be able to afford the lifestyle they want in retirement because of the increased cost of living, according to the "2022 2Q Quarterly Market Perceptions Study"

from Allianz Life Insurance Company of North America. And 60% of respondents from all generations say they think it's important to have some retirement savings protected from loss.

No matter the timing, those nearing or entering retirement have limited choices if they're worried that they don't have enough to fund their retirement. They can try to save more, work longer, or hope to boost their investment returns by taking more market risk—or they can cut their spending in retirement. However, the current economic and market dynamics make all four of these options especially complicated decisions now.



"The people approaching retirement are the ones who have the least amount of time to adjust for these spikes in inflation and dips in the market," says Kelly LaVigne, vice president of advanced markets and solutions at Minneapolis-based Allianz Life. "And the first years of your retirement are supposed to be the fun years: They call it the 'go-go' years. This is when you start checking off all the items on your bucket list, and spending in retirement is at its highest. That's why it's so difficult to have the decline in market returns, in addition to the inflation."

LaVigne calls the 10-year period running from five years before someone retires to five years after someone retires "the fragile decade," from a planning perspective. So for people in this timing range, the addition of surging inflation as a factor is a big concern. "Inflation risk is really top of mind, because let's face it: We haven't seen numbers like this in 40 years," he says. "Even if inflation runs at a 3% average, your cost of living would double in 24 years."

And often, few of the levers to boost retirement income are actually available to pull once someone gets to the point of retirement, Cimini says. "As long as you're not near retirement, all the

levers—working longer, being different with your investment approach, saving more—are levers you can pull to help yourself. But generally speaking, once you enter retirement, all those things are really a challenge (which may leave only budget-cutting). So I think that folks are becoming more aware of the risks they can encounter once they enter retirement."

Christopher Nikolich, head of glide path strategies (U.S.) for multi-asset solutions at Nashville, Tennessee-based AllianceBernstein, agrees that people have limited options for dealing with inflation and economic uncertainty as they near retirement. "Of the levers, there are only two that people can pull as they approach retirement: They can work longer, or they can spend less in retirement," he says. "There's the notion of saving more for retirement, but by the time you are getting ready to retire, it's too late. And you can't suddenly, immediately preceding your retirement, use a more aggressive asset allocation to get you to a better place. You've waited too long to do that, and you'd create a downside risk that isn't managed."

A lot of people probably are going to try to work a few more years, which is a good choice for those who have

the option, Tollette says. "Even a couple of years can make a real difference," he says, "because that increases the retirement 'pot' people will have once they do retire, and it shrinks the number of years that they need to use that pot of money."

People nearing or entering retirement face multiple risks, including not just inflation risk but others such as market risk and longevity risk. They need to decide how to balance the different risks, based on that individual's situation, risk tolerance, and goals.

"Inflation is at the forefront of everyone's mind now, particularly those people who are near retirement," says Jeremy Stempien, principal, portfolio manager, and strategist at Newark, New Jersey-based PGIM DC Solutions. "Inflation can force people to withdraw more of their savings than they expected, to pay for their expenses in retirement. Withdrawing more than they planned early in retirement can really impact the growth potential for someone's portfolio, and the ability to provide income later in life for that person."

But people shouldn't lose sight of other risks such as market risk, Stempien continues. "When we think about risks



JEFF CIMINI  
VOYA FINANCIAL



JEREMY STEMPIEN  
PGIM DC SOLUTIONS



CHRISTOPHER NIKOLICH  
ALLIANCEBERNSTEIN







for all individuals, how you should prioritize those risks changes over time," he says. "For somebody who is 60 years old, they may have 30 years of retirement ahead of them, so inflation risk is important. Somebody who is 70 or 75 years old probably has 20 years or less when he or she will need sustainable income." So inflation risk may be less of a factor for that person than longevity risk and market risk.

While market risk also is a significant factor now, Nikolich says that people should think of it as a two-sided factor. "You want to alleviate the impact of a downturn in equity markets as best you can. But if all you focus on is minimizing the short-term market risk (by investing very conservatively), that leaves you with a substantial long-term risk of your account value not growing enough by the time you retire. You're trading one risk for another, because there is a long-term opportunity cost to investing overly conservatively. You have to think about both sides."

Many pre-retirees worried about market risk may not understand that equities generally have been the best hedge against inflation over time, says Rob Stevens, a financial planning strategist at New York-based TIAA. Asked how he'd talk to a nervous pre-retiree about maintaining a significant exposure to market risk, he says, "It's about having a balanced approach and saying to a pre-retiree, 'You're facing a number of risks, and some of them are on the opposite ends of the barbell. If someone puts too much of their account into cash and fixed income, it will help with market risk, but hurt with inflation risk.'"

## A RETIREMENT INCOME PLAN

Once pre-retirees understand their big-picture options for dealing with a projected retirement income shortfall and their preferences for balancing inflation risk and other risks, they need a written retirement income plan. "Not enough individuals have an actual written plan for their retirement. Some surveys have found that only about 10% of current retirees have a written plan," LaVigne says. "If someone is 50 years old or older, that's the time to start putting this plan in place. Many people have

just created a plan in their head, or they went online and used a calculator tool, and they say, 'It says I'm going to be okay,' because they fudged some of the inputs."

Especially in a time of high inflation, people approaching retirement need to think about their budget in terms of what expenses they will *need* to pay—such as their mortgage and utility bills—versus what they *want* to spend money on in retirement, Stempien suggests. "There's a myriad of decisions that people need to think about," he says. "How often do they plan to go on vacation? How often do they want to go out to dinner? How nice of a car do they want to drive?"

It's become more important to not just set a retirement budget, but also to identify the steady or guaranteed income sources someone will use to pay living expenses in retirement. Pinpointing sources of guaranteed or steady income versus variable income in retirement "is really the key" to a sustainable plan, LaVigne says. "Having a plan where you've tracked all your expenses and matched them to your income sources is better than just saying, 'I need 75% of my pre-retirement income,'" he says.

Most participants who only have a defined contribution plan just know what their balance is, Cimini thinks. "They don't know how to convert that into a monthly income stream in retirement," he says. "The next step after setting a budget is to help a participant look at their sources of income. One perspective is that you need to cover all your fixed expenses with guaranteed income, such as Social Security and a defined benefit plan, and you buy a guaranteed income product to cover the 'gap,' if there is one." With that approach, a retiree would use withdrawals from their retirement savings accounts to cover discretionary expenses.

Many pre-retirees may have heard about "the 4% rule" for retirement withdrawals, and believe they're safe to take at least that much out of their account annually. "The 4% rule is not a bad starting point, but that's what it is—a starting point," Stempien says. "Some people took it too far in recent years, and made it a 'rule of thumb.' The more customization that goes into deciding on someone's withdrawal rate, the better,

"INFLATION  
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IT:  
WE  
HAVEN'T  
SEEN  
NUMBERS  
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— KELLY  
LAVIGNE  
ALLIANZ  
LIFE





"HONESTLY,  
THERE'S  
GOOD  
REASON  
TO  
BE  
WORRIED,  
AS  
INFLATION  
STAYS  
HIGHER  
FOR  
LONGER  
THAN  
VIRTUALLY  
ANYONE  
ANTICIPATED."

— WYLIE  
TOLLETTE  
FRANKLIN  
TEMPLETON



and the customization that's needed is really based on someone's expenses."

With inflation causing many everyday costs like groceries and gas to rise, pre-retirees need to evaluate whether it's worth keeping up their current discretionary spending, such as a gym membership, multiple streaming services, and getting a cell phone provider's highest-cost plan, Stevens says. "There's a conversion of mindset that needs to happen, to look more at income choices in retirement," he says. TIAA suggests that pre-retirees think of a diversified lifetime-income plan that identifies "buckets" to pull from for income in retirement. Essentially, TIAA suggests that a retiree use the steady income from Social Security and annuities to cover living expenses, creating a guaranteed income floor that's protected from market volatility. Withdrawals from a participant's retirement account would cover additional, discretionary expenses.

#### MAKING INVESTMENT AND LIFETIME INCOME CHOICES

Tollette has a background in defined benefit plan management, including serving as chief operating investment officer at the California Public Employees' Retirement System (CalPERS). Pension plan managers have learned lessons about hedging against inflation risk that can apply to defined contribution plan participants seeking to protect their portfolio and retirement-spending ability, he thinks. "The best time to prepare your portfolio for inflation is before it arrives: to buy the fire insurance before the fire arrives," he says. "But it's not too late to do anything."

One lesson to learn: Defined benefit plan investment managers utilizing a liability-driven investing (LDI) strategy typically maintain a significant exposure to equities. "Stocks are a very poor short-term hedge against inflation, but a pretty good medium-term and longer-term hedge against inflation," Tollette says. "So potentially, retirees with a defined contribution plan account will need to get more comfortable with having a little more equity in their portfolio." Participants nearing retirement also may want to learn from the pension world by increasing their allocation to inflation-

protected bonds such as TIPS (Treasury Inflation Protected Securities) and reducing their allocation to conventional bonds.

"Lastly, people near retirement may want to add some real-asset exposure," Tollette says. "Well-selected real assets, such as private real estate, provide income that's indirectly indexed to inflation." When inflation runs higher, owners of apartment buildings and commercial spaces tend to raise rents, increasing their revenues. "At CalPERS, we had extensive direct holdings in real estate," he says. "And increasingly, vehicles are coming to market that allow (average) investors to invest in direct holdings."

Pre-retirees planning for their retirement income also may be helped by utilizing a lifetime income product, although they remain a relative rarity among defined contribution plans. AllianceBernstein's Nikolich thinks that outcomes-focused sponsors will need to reevaluate their decision. "If you're a plan sponsor and your goal is to have a large majority of your participants have sustainable income for life, you have to embed it into the default investment," he says. "If you don't, typically the participant take-up rate on a lifetime income solution will be in the low single digits. And the people who need the help the most, who are not confident about making investment decisions themselves, tend to keep their assets in the default investment."

Utilizing a default investment that has a lifetime income solution embedded would, of course, require a plan sponsor to feel comfortable with the higher QDIA fee that it inherently brings, and to consider the additional benefits. "The notion of what sponsors should be looking at has to go beyond only looking at fees," Nikolich responds. "I feel like the pendulum has started to swing back from where it has been for much of the past decade. The simplest option—just offering cheap passive funds—is not always the best one. The good news about making a lifetime income solution part of the default is that it puts participants back to where they were a couple of generations ago, when people had a pension plan. As an industry, we've used the default strategy to fix everything else. Now,



ROB STEVENS  
TIAA



ROBERT CAPONE  
LGIM AMERICA



MICHAEL BARRY  
O3 PLAN ADVISORY SERVICES LLC

by incorporating a well-thought-out retirement income solution, that means that participants will have income for life, and they don't have to make decisions that they are ill-equipped to make."

Defined contribution plans need to evolve to include a sustainable and steady income in retirement, believes Robert Capone, Boston-based head of defined contribution at LGIM America. But one solution doesn't fit every participant, he says, so he believes that investment managers need to personalize some aspects of these products to incorporate an individual's preferences. "We think there are four key risks when someone is taking out retirement income, and any viable solution has to address those as best it can," he says. They include:

- investment risk and the need to be well-diversified;
- longevity risk;
- liquidity risk ("We believe strongly that participants want control and access to their wealth in retirement, with no restrictions," he says); and
- utilization risk ("The solution needs to be easy to understand and easy to use—otherwise, it becomes a lost cause," he says).

Retirement income solutions need to have a balance between the stability of income and the simplicity of the income solution, Capone says, "and participants have to understand that tradeoff between stability and simplicity." If a retiring participant wants to maximize simplicity, that could mean taking a set amount annually out of his or her target date fund—a simple solution, but one that leaves that person's assets highly vulnerable to market volatility. On the other end of the spectrum, a participant who wants to maximize stability can purchase an annuity that provides guaranteed monthly income. "But the tradeoff is that annuities are typically complex for participants to understand, and to administer with recordkeepers," he says. "They're also generally expensive and illiquid."

Michael Barry, a Chicago-based senior consultant at October Three and president of O3 Plan Advisory Services LLC, thinks that more work needs to be done on developing lifetime-income products that address the "point in time" risk for people buying one. By "point in time" risk, he means the risk of unexpected future inflation.

Someone can factor expected future inflation into the purchase of an

annuity, but not unexpected inflation. "Unexpected inflation, like we're going through now, creates a very specific problem for the person who is annuitizing," Barry says. "An annuity solution, while it can get rid of interest rate risk, longevity risk, and asset-performance risk, uniquely creates an inflation risk for the annuity buyer. Annuities are a 'point in time' purchase, and the risk is that an investor has to make a one-time bet about whether there is going to be unexpected inflation in the future. If there is, the annuity holder will find his or her spending power unexpectedly diminished, with no real way to make up for that discrepancy."

The way to deal with that is to allow people to "average in" their purchase of a lifetime income product over multiple years, as they often do with equities, says Barry. "Nobody has thought much about, how do we manage that 'point in time' risk for the person who is annuitizing?" he says. "Inflation comes right out of the hide of the person annuitizing. We need to think more about this risk and the people dealing with it." **NTM**

*Judy Ward is a freelancer specializing in writing about retirement plans*



# THOUGHT-PROVOKING CONTENT

Market volatility and the lingering impacts of COVID and inflation have fanned questions about target-date funds, retirement income solutions – and all under the subject of what employees – and plan sponsors – really want.



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Investments®**

## Easing Inflation Fears

When inflation is rising and clients are anxious, you want to have productive conversations that help them cope.

[https://www.americancentury.com/plan/inflation/advisors/?pagetype=?cpg=true&&utm\\_campaign=brand\\_napa-july-5&&utm\\_source=napa&&utm\\_medium=email&&utm\\_content=emailcta](https://www.americancentury.com/plan/inflation/advisors/?pagetype=?cpg=true&&utm_campaign=brand_napa-july-5&&utm_source=napa&&utm_medium=email&&utm_content=emailcta)

## Straight Talk

Weekly macro insights delivered to you straight – get a sneak peek.

[https://ipro.americancentury.com/content/ipro/en/insights/key-topics/volatility/iuo/weekly-cio-update.html?cpg=true&&utm\\_campaign=market-economy\\_napa-net-june-27&&utm\\_source=napa&&utm\\_medium=email&&utm\\_content=emailcta](https://ipro.americancentury.com/content/ipro/en/insights/key-topics/volatility/iuo/weekly-cio-update.html?cpg=true&&utm_campaign=market-economy_napa-net-june-27&&utm_source=napa&&utm_medium=email&&utm_content=emailcta)

## Back to Basics

Solidify fiduciary duties and the QDIA selection process with these resources to download and share.

[https://ipro.americancentury.com/content/ipro/en/retirement/dc-plan-resources/fiduciary-responsibility.html?cpg=true&&utm\\_campaign=market-economy\\_napa-net-june-24&&utm\\_source=napa&&utm\\_medium=email&&utm\\_content=emailcta](https://ipro.americancentury.com/content/ipro/en/retirement/dc-plan-resources/fiduciary-responsibility.html?cpg=true&&utm_campaign=market-economy_napa-net-june-24&&utm_source=napa&&utm_medium=email&&utm_content=emailcta)

## In-plan guaranteed income

Advisors speak out on the features that DC plan sponsors and participants are asking for.

[https://www.incomeamerica.com/thoughtleadership.html?utm\\_campaign=ocp\\_napa-net-daily-august-22&utm\\_source=napa&&utm\\_medium=email&&utm\\_content=emailcta](https://www.incomeamerica.com/thoughtleadership.html?utm_campaign=ocp_napa-net-daily-august-22&utm_source=napa&&utm_medium=email&&utm_content=emailcta)



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## American Workers Say...

It's not just about the money. See what truly matters to today's workforce.

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**PGIM**

## Key Trends Revealed

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## A New Outlook for DC

What makes a defined contribution plan “retirement ready”? What asset classes are frequently overlooked? Get the report.

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## Truly Optimal DC Plans

Explore the insights driving the art and science of optimal core menu design. See new research and rethink DC planning.

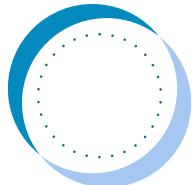
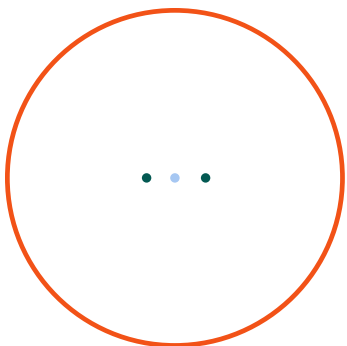
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## DC: Breadth Over Depth?

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# Retirement Income Special Section







## Solving for ‘Next’

By Nevin E. Adams, JD



**W**e’ve now passed the point where that “pig in the python” of Baby Boomer retirements has passed the midway point. Gen X is coming up fast, and the oldest Millennials have already crossed the age-40 threshold. Whatever label younger generations may want to put on it, retirement plan participants—and by extension retirement plan sponsors—are increasingly interested in, and looking for, retirement income solutions.

And even if they weren’t, it’s clear that the federal and state governments are, whether in the context of the SECURE Act

provisions that seek to boost visibility and foster fiduciary adoption of these solutions, or in the advent of state-run IRAs for private-sector workers designed to help create retirement savings vehicles that weren’t previously available in their workplaces.

In this special retirement income section, you’ll find insights, industry perspectives and our first-ever Retirement Income Buyer’s Guide—in sum, some retirement income solutions!



# 'After' Math

*What's (still) holding retirement income solutions back?*

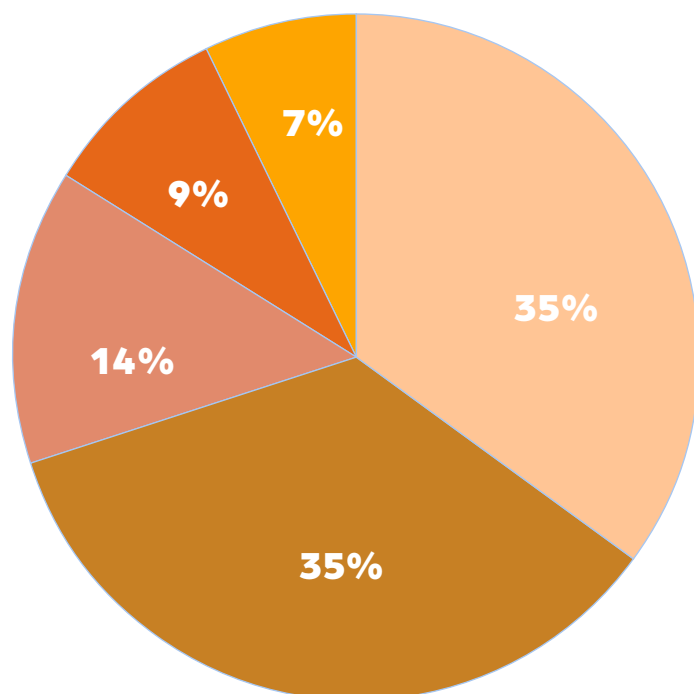
By Nevin E. Adams, JD



Here's a widely cited statistic that 10,000 Baby Boomers are heading into retirement every day—and survey after survey indicates that they are interested in some kind of “solution” to provide a dependable stream of income. Of course, there's been a traditional reluctance to bring those solutions “inside” the workplace retirement plan (born largely out of fiduciary and product complexity concerns, though the former has arguably been at least partially mitigated by provisions in the SECURE Act).

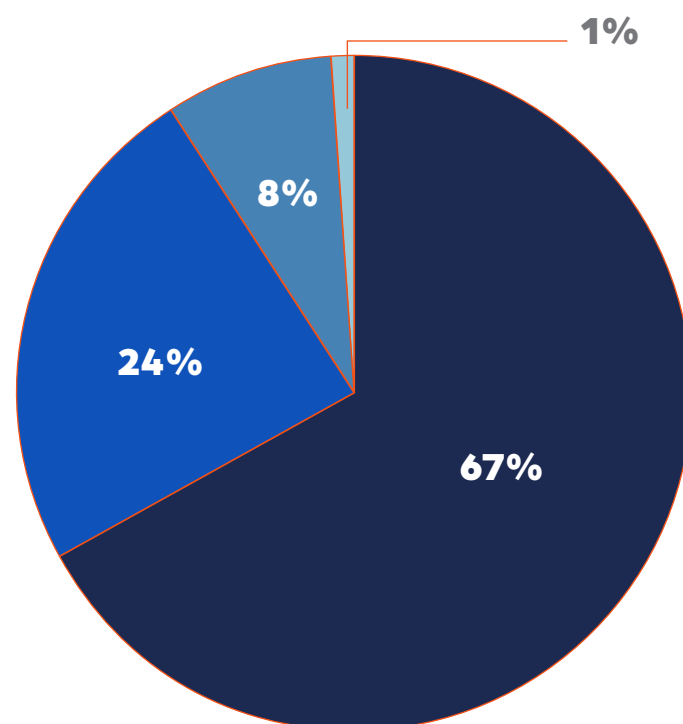
That said, the issue looms ever larger—so much so that it was a big focus of the 2022 NAPA 401(k) Summit. As a series of new offerings comes to market—and some encouragements from the SECURE Act began to take hold—we took a reading from roughly 400 advisor attendees on the current environment—and how, if at all—things had changed in recent months.

HOW WOULD YOU RATE YOUR PLAN SPONSOR CLIENTS' LEVEL OF INTEREST IN IN-PLAN RETIREMENT INCOME PRODUCTS?



- Minimal
- Occasional
- Non-existent
- Frequent
- High

GENERALLY SPEAKING, HOW DOES THAT LEVEL OF PLAN SPONSOR INTEREST IN IN-PLAN RETIREMENT INCOME COMPARE WITH TWO YEARS AGO?



- It hasn't really changed
- It's higher/more
- It's a mixed bag—higher for some, lower for others, unchanged still others
- It's lower/less







# The search for retirement income

*Invesco's new research explores plan sponsor and participant preferences for turning DC savings into income in retirement.*

## INVESCO'S UPCOMING 2022 RETIREMENT INCOME STUDY REFLECTS ON THE EVOLVING RETIREMENT INDUSTRY TODAY

as it faces the pressing need to help participants turn their DC plan savings into long-term retirement income.

To help plan sponsors navigate the shift from savings to decumulation benefits for their respective defined contribution (DC) plans, we explored how participants think about retirement income in general, what type of in-plan

solutions may be most attractive to them (and why), and which resources would best resonate across a wide range of employee demographics. We also examined how participant and plan sponsor mindsets differed at times to see how best to bridge the (savings to income) gap moving forward.

Participants expect their DC plan will be their largest retirement income source, eclipsing Social Security, personal savings, and other investments. And most feared outliving their

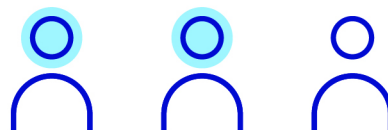
retirement savings by spending too much, too soon, and were worried they would run out of money in retirement. Few participants were very confident they could create a retirement income strategy on their own. They want and need help from their employers.

Participants also wanted their employers to provide specific income-generating investments, earlier and more frequent communication, and resources to help make their long-term retirement income plan a reality.

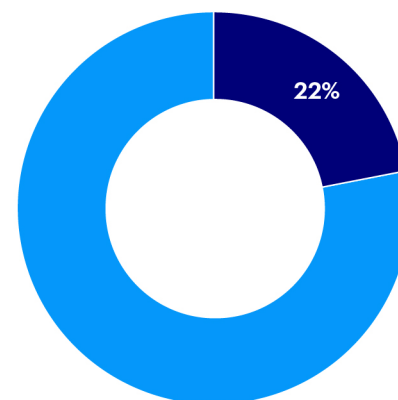
**89% OF PARTICIPANTS WOULD STAY IN THEIR EMPLOYER'S DC PLAN UPON RETIREMENT IF IT PROVIDED "SPECIFIC INVESTMENTS TO HELP THEM CREATE A REGULAR STREAM OF RETIREMENT INCOME."**



MOST OF PLAN SPONSORS SURVEYED REPORTED PROVIDING SPECIFIC RETIREMENT INCOME GENERATION COMMUNICATIONS, VERY FEW PARTICIPANTS REPORTED THEY RECEIVED THOSE COMMUNICATIONS.



Two in three participants are worried about running out of money in retirement



Only 22% of participants are confident they can develop a strategy to turn their DC savings into income

Understandably, sponsors have been cautious and slow to adopt new retirement income solutions, wanting more information and guidance. Yet almost all participants would view their employer favorably if they added specific retirement income solutions to the plan.

However, most plan sponsors recognized the importance of helping participants ease the transition from saving for retirement to generating income post-retirement, first, by supporting and encouraging participants to keep their assets in the DC plan and second, by offering retirement income solutions within the investment menu and offering flexible distribution options.

The majority of participants surveyed wanted their employers to start the retirement income conversation with them earlier (at hire or when they joined the plan) and continue the dialogue more frequently (annually at open enrollment).

Due to the global turmoil over the last few years, there's been a shift in how employees define retirement and how best they can prepare both mentally and financially. We found there's an opportunity to provide participants with retirement income-specific planning tools, investments, distribution options, and communications designed to help.

*The study will be published in October 2022. To learn more, visit [invesco.com/dcadvisor](https://www.invesco.com/dcadvisor).*

#### ABOUT THE STUDY

Invesco teamed up with Greenwald Research to conduct the research from March 2021 through April 2022. The extensive study spanned online surveys of 100 plan sponsors and over 1,000 participants (all working for large US organizations with 5,000 or more employees), 12 participant focus groups, and 18 in-depth interviews with plan sponsors and consultants.

Source for all data, unless indicated, are taken from an online survey of 1,049 large DC plan participants (September-October 2021) and an online survey of 100 large plan sponsors (November-December 2021).

#### FOR DEFINED CONTRIBUTION PLAN SPONSOR USE ONLY

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This does not constitute a recommendation of any investment strategy for a particular investor. Investors should consult a financial professional before making any investment decisions if they are uncertain whether an investment is suitable for them. Please read all financial material carefully before investing.

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# AllianceBernstein

Nashville, TN

[alliancebernstein.com/investments/us/retirement/retirement-income/home.htm](https://alliancebernstein.com/investments/us/retirement/retirement-income/home.htm)

Product Name: **Lifetime Income Strategy**



**ALLIANCEBERNSTEIN®**



Key Contact(s)

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## Firm Profile

AllianceBernstein (AB) is a leading global investment-management and research firm with \$689 billion in assets under management as of July 31, 2022. As an innovator in defined contribution (DC), we're striving to define the future through visionary research and distinctive solutions that provide financial security in retirement. With a decade of experience in delivering guaranteed income without sacrificing participants' liquidity or growth potential, we're fully invested in creating better retirement outcomes.

## Primary Market(s) Targeted



**Mega:** >\$250 million

**Mega Mega:** >\$1 billion

**When was program launched/introduced?**  
2012

**Which recordkeeping platform(s) is the platform connected to/ with as of 06/30/22?**  
Alright, Nationwide, Voya

**How is it available in the plan?**  
Managed account, Target-date Fund

**How is the product structured?**  
Other

## What risk(s) is the solution seeking to address?

Longevity, Sequence of returns, Inflation, Liquidity, Market risk, Mortality risk, Something else

## Is there a guarantee/insurer?

Yes

## Guarantee Type

GLWB

## QDIA-compliant (qualified default investment alternative)?

Yes

## Is there flexibility as to when a participant can take income?

Yes

## If a participant is separated from service for any reason can they take their contract/ investment with them?

Yes

## Will the income solution be used in conjunction with some sort of outsourced fiduciary?

Yes

## Are there fees for the solution?

Explicit

## Additional information regarding fees?

Explicit total fees for LIS range from 0.05% to 1.26% depending on the age and secure income level of each participant.

## How does the option/platform "work?"

A leading-edge retirement income solution: Our Lifetime Income Strategy (LIS) is a unique, cost-effective solution to help participants achieve a secure retirement. Designed to serve as a qualified default investment alternative, LIS combines multi-manager, research-driven target-date funds with a guaranteed retirement income stream backed by multiple leading insurers.

## Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.

No, LIS does not have any required minimums at the participant level.

## What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?

## Personalization and customization:

Participants can customize retirement age/ guaranteed income levels.

**Easy-to-understand:** Straightforward design/robust communications tools make it easier for participants to understand.

**Multi-insurer:** Only in-plan multiple-insurer backed solution, netting compelling withdrawal rates for participants, encouraging competitive pricing, and helping mitigate default risk.

**Point-in-time risk mitigation:** By purchasing blocks of guaranteed income gradually, LIS introduces "dollar-cost averaging" concept to lifetime withdrawal rates.

**Proven solution:** AllianceBernstein is a pioneer in custom retirement solutions, w/extensive CRS/LIS track records.

## What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?

AB offers comprehensive participant educational content and resources for LIS. A key component to a participant's understanding of overall retirement readiness is the interactive website AB provides. The website allows participants to personalize their investment selection and view their asset allocation and secure income withdrawal estimates at any time. Additionally, a robust and varied set of educational content including print, video animations, and a dedicated call center are available to the participant audience.

## What is the underlying service model for participants, plan sponsors, advisors/ consultants, partner home offices (e.g., what services are available to the various constituencies)?

Service model includes:

- Call center for questions/benefit estimates
- Personalized website with income calculator
- Educational content for participants
- Dedicated Client Service Officer for sponsors

## Representative client/plan sponsors that have adopted/agreed to adopt platform/ product.

Eight large to mega-sized plans have selected LIS as the plan's QDIA. As of 6/30/2022, assets under management in the Lifetime Income Strategy totaled \$8.8 billion.

# Allianz Life Insurance Company of North America

Minneapolis, MN

[allianzlife.com/what-we-offer/annuities/fixed-index-annuities/lifetime-income-plus-fixed-index-annuity](http://allianzlife.com/what-we-offer/annuities/fixed-index-annuities/lifetime-income-plus-fixed-index-annuity)

Product Name: **Allianz Lifetime Income+SM**



Key Contact(s)

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## Firm Profile

Allianz Life is a leading provider of retirement solutions, including fixed/variable annuities and life insurance. Our goal is to secure our customers futures so they are able to live their lives with confidence.

Allianz Life is part of Allianz SE, a global financial services company founded in Munich in 1890. As of 2014, Allianz is the world's largest diversified insurance company based on assets. Today, Allianz SE serves more than 100 million customers worldwide.

## Primary Market(s) Targeted



Micro: <\$1 million

Small: \$1-\$10 million

Mid: \$10-\$100 million

Large: \$100-\$250 million

Mega: >\$250 million

Mega Mega: >\$1 billion

Which recordkeeping platform(s) is the platform connected to/ with as of 06/30/22?

We are connected to FIS-Relius record keepers of which there are approx. 43. We are working diligently to connected with other platforms and will add them regularly.

How is it available in the plan?

Managed account, Participant election/opt in, At retirement

How is the product structured?

Other

What risk(s) is the solution seeking to address?

Longevity, Sequence of returns, Inflation Liquidity, Market risk, Mortality risk, Something else

Is there a guarantee/insurer?

Yes

Guarantee Type

GLWB

QDIA-compliant (qualified default investment alternative)?

No

Is there flexibility as to when a participant can take income?

Yes

If a participant is separated from service for any reason can they take their contract/ investment with them?

Yes

Will the income solution be used in conjunction with some sort of outsourced fiduciary?

Yes

Are there fees for the solution?

Explicit

Additional information regarding fees?

All in fee for this product is 50 bps.

How does the option/platform "work?"

Our solution is a fixed indexed annuity with a GLWB designed to be offered in plan. it can be offered as a stand alone investment option or as part of a discretionary advise line-up.

Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.

No minimums

What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?

Lifetime Income+ is set up as an individual contract and all benefits, guarantees, and pricing carries with it should participants leave the plan or it be removed from the line up. The account value is fully protected against market and the income has ability to increase with market performance through a built-in rider at no additional cost. Even after lifetime withdrawals begin, participants can access remaining account value or accumulate payments for later if circumstances change.

What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?

As a leading provider of annuities and life insurance for over 125 years, we have the experience to help you prepare for retirement and life's uncertainties. We're also known for innovative financial products that help address today's challenges, such as longevity and inflation. Allianz Life is here to consult with advisors, provide next level training, RFP support, and Continued Education.

What is the underlying service model for participants, plan sponsors, advisors/ consultants, partner home offices (e.g., what services are available to the various constituencies)?

Allianz Life supports plan sponsors, advisors/consultants, partner home offices, and participants. We offer customized communications plans, monthly and quarterly data feeds, and dedicated distribution support.

Representative client/plan sponsors that have adopted/agreed to adopt platform/ product.

Available upon request



# Allspring Global Investments

Boston, MA

allspringglobal.com

Product Name: Allspring Retirement  
Income Solution



## Key Contact(s)

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## Firm Profile

Allspring Global Investments is a leading independent asset management firm that offers a broad range of investment products and solutions to help meet clients' goals. With decades of trusted experience propelling us forward, we strive to build portfolios aimed at generating successful outcomes for our clients. Allspring is a company committed to thoughtful investing, purposeful planning, and the desire to deliver outcomes that expand above and beyond financial gains. For more information, please visit [www.allspringglobal.com](http://www.allspringglobal.com).

## Primary Market(s) Targeted



Mid: \$10-\$100 million

Large: \$100-\$250 million

Mega: >\$250 million

Mega Mega: >\$1 billion

When was program launched/introduced?  
2020

## Which recordkeeping platform(s) is the platform connected to/ with as of 06/30/22?

With the help of recordkeeping colleagues, we have developed detailed technical specs for recordkeeper integration, with a focus on minimizing build, agnostic of recordkeeping platform. We are also open to working with a middleware provider, and have conducted due diligence on a number of providers. Please contact Allspring for additional information.

## How is it available in the plan?

Target-date Fund

## How is the product structured?

Mutual fund

## What risk(s) is the solution seeking to address?

Longevity, Sequence of returns, Inflation Liquidity, Market risk, Mortality risk

## Is there a guarantee/insurer?

Yes

## Guarantee Type

QLAC

## QDIA-compliant (qualified default investment alternative)?

Yes

## Is there flexibility as to when a participant can take income?

Yes

## If a participant is separated from service for any reason can they take their contract/ investment with them?

Yes

## Will the income solution be used in conjunction with some sort of outsourced fiduciary?

Yes

## Are there fees for the solution?

Hybrid

## Additional information regarding fees?

The expense ratio for our Dynamic Target Date Suite is 14 basis points, and there is no additional charge for our insurance carrier selection service. QLACs are spread products and therefore do not have an expense ratio; however we have developed a process to compare insurer quotes with their peers, to ensure competitive pricing, as well as carrier quality and financial strength. Relative to other retirement income solutions, our approach is cost effective.

## How does the option/platform "work"?

Allspring's solution is simple, pairing a target date suite with a Qualified

## Longevity Annuity Contract (QLAC).

At age 65 (or whatever starting age is deemed appropriate by the plan/advisor/ consultant), participants in the near-dated target date fund have the option to purchase a QLAC. The QLAC allocation is out of plan, thereby avoiding portability issues. Additionally, our multi-asset capabilities and 3(38) insurance carrier selection expertise allow us to deliver a variety of retirement income solutions.

## Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.

All participants may use the Dynamic Target Date suite. Participants must have a large enough balance to allocate \$5,000 to a QLAC.

## What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?

Our solution stands out based on:

1. Simple hedge for longevity risk 2. Optimally sized 15% allocation to a QLAC, which maximizes liquidity while hedging longevity risk. 3. 14 basis point fee for active/hybrid target date suite. 4. Designed to minimize recordkeeper build and maximize portability. 5. World class multi-asset modelling 6. QLACs are backed by significant academic research and supported by policymakers and regulators.

## What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?

We are passionate about helping participants and retirees live fulfilling lives. We have a variety of thought leadership material to share. We are excited to partner with plan sponsors, advisors and consultants who wish to work collaboratively in creating successful outcomes for DC participants. Resources include: 1. Retirement Income Council which conducts deep due diligence and takes 3(38) responsibility for insurance selection. 2. Marketing 3. Participant communications 4. Wholesaler support 5. Compliance support.

## What is the underlying service model for participants, plan sponsors, advisors/ consultants, partner home offices (e.g., what services are available to the various constituencies)?

Our insurance partner can provide income projections, and quotes. Participant call center support and wholesaling support to advisors is available.

# Income America

Chicago, IL

incomeamerica.com

Product Name: **Income America;**  
**Income America 5forLife**

income  
AMERICA



Key Contact

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## Firm Profile

Income America is a unique collaboration of industry leaders who came together to create a revolutionary retirement solution: Income America 5ForLife, a series of CIT target date portfolios that provide guaranteed lifetime income. Income America 5ForLife is an innovative, unbiased, multi-insured, in-plan retirement income solution designed to help retirement plan participants save for a more secure future. With Income America 5ForLife, participants can contribute through payroll deductions and enjoy protection against market uncertainty during retirement.

## Primary Plan Size Market(s) Targeted



**Micro:** <\$1 million

**Small:** \$1-\$10 million

**Mid:** \$10-\$100 million

**Large:** \$100-\$250 million

**Mega:** >\$250 million

**Mega Mega:** >\$1 billion

When was program launched/  
introduced?

2021

Which recordkeeping platform(s) is the  
platform connected to/with as of 06/30/22?  
Lincoln Financial and Nationwide

How is it available in the plan?

Managed account, Target-date Fund,  
Participant election/opt in

How is the product structured?  
CIT

What risk(s) is the solution seeking to  
address?

Longevity, Sequence of returns; Inflation;  
Liquidity; Market risk, Mortality risk

Is there a guarantee/insurer?  
Yes

Guarantee Type  
GLWB

QDIA-compliant (qualified default  
investment alternative)?  
Yes

Is there flexibility as to when a participant  
can take income?  
Yes

If a participant is separated from service  
for any reason can they take their contract/  
investment with them?  
Yes

Will the income solution be used in  
conjunction with some sort of outsourced  
fiduciary?  
Yes

Are there fees for the solution?  
Explicit

Additional information regarding fees?  
Income America 5forLife fees are  
explicit (fully disclosed) and include  
the cost of investment management  
(including custodial, trustee, and  
product management) and the insurance  
guarantee. Fees vary based on the target  
date vintage of the fund selected.

How does the option/platform "work"?  
Income America 5ForLife provides a  
guaranteed lifetime income of 5% per  
year beginning at age 65. At age 65,  
there is a high watermark for the income  
base calculated on the greater of net  
contributions or market value, whichever  
is greater. Participants fully participate  
in the market pre- and post-age 65 and  
have 100% liquidity of the account's  
market value at any age. Upon death, the  
remaining balance will be paid to the  
participant's beneficiary.

Are there minimums associated with the  
product?

There is no minimum. A participant can  
invest as little as \$1 in Income America.

What are the key differentiating factors  
from other retirement income alternative  
products/approaches in the marketplace?  
Income America is simple for participants

and sponsors to understand; it's a CIT  
consisting of a series of target date funds  
with no participant action required to  
receive the guarantee. It's multi-managed,  
multi-insured, multi-fiduciary, and portable  
between record keepers. In addition, the  
participant's market value can grow even  
in the income stage and is fully liquid at  
all times with no surrender charge. Upon  
death, the remaining balance will be paid  
to the beneficiary.

What specific support resources do you  
provide for advisors, if any (marketing  
support, compliance data, wholesalers,  
benchmarking, etc.)?

Income America has an award-winning  
website with Plan sponsor, Investment  
professional, and Participant experiences.  
The website details how Income America  
and 5forLife works, including an interactive  
digital calculator showing what our  
guaranteed retirement income of 5%  
for life and market value experience  
could look like. We also have developed  
a participant education experience,  
including videos, meeting scrips, webinars,  
and transition communication to support  
sponsor and recordkeeper communication  
efforts.

What is the underlying service model for  
participants, plan sponsors, advisors/  
consultants, partner home offices (e.g.,  
what services are available to the various  
constituencies)?

Income America's robust website is  
dedicated to Plan Sponsor, Investment  
Professional, and Participant experiences.  
All consortium members provide  
additional support.

Representative client/plan sponsors that  
have adopted/agreed to adopt platform/  
product.

- Fifteen plans with > \$3.9 Billion in assets have selected Income America 5forLife for their retirement plans.
- 2 Small Corporate Plans (< \$5M)
- 11 Small to Mid-Sized Municipal Plans (\$8-\$144M)
- 1 Mid-Sized Corporate Plan (\$125M)
- 1 Large retirement plan (> \$3B)
- 2 Municipal Associations with over 5,000 plans will be implemented in early 2023.
- 1 Record Keeper has incorporated Income America into their Managed Account Solution, providing exposure to 4,000+ plans in early 2023





# Retirement Solutions, not Products

*Mitigating risks in the drawdown phase of retirement*



## RETIREMENT FOCUS IS MOVING FROM ACCUMULATION TO DECUMULATION

The focus within the defined contribution ecosystem continues to shift from the wealth accumulation (pre-retirement) timeframe to the wealth decumulation (post-retirement) timeframe. To judge trends more adequately in today's DC space, we examine the perspectives of key stakeholders.

From the participant perspective, research shows that 82% of respondents expect to draw down from their employer's retirement plan as a source of retirement income.<sup>1</sup> Similarly, 83% of plan sponsors now seek to retain participant assets within the DC plan.<sup>2</sup> Sixty-three percent of consultants are currently evaluating new investments specifically designed to offer retired participants diverse options complementary to traditional retirement options. This comes as a result of 80% of the respondents believing current retirement plan options do not sufficiently address retiree needs.<sup>3</sup>

## HOLISTIC RETIREMENT SOLUTIONS NEED TO ADDRESS THE FOUR FUNDAMENTAL RISKS PARTICIPANTS ARE FACING

Today, "retirement" in some form is widely expected yet for many remains a persistent cause for concern. With current life expectancies, retirement can realistically stretch into a person's 90s. Better understanding how to financially plan for this unknown has become a priority for American employees.

Furthermore, understanding their concerns and the risks they are facing helps us develop holistic retirement solutions that lead us to a goal that may be decades away in a changing and uncertain environment.

It will be imperative that a solution directly addresses the four fundamental risks employees have when it comes to retirement income concerns: **Investment risk** (ensuring that the same level of investment care that happens during accumulation also happens throughout their retirement); **Longevity risk** (longer life expectancies increase the risk of retirees outliving their assets); **Liquidity risk** (employees don't want to surrender all of their assets in case of emergencies); and **Utilization risk** (having great options available, but participants are not engaged).

## DIVIDING THE UNKNOWN OF RETIREMENT TIMELINE INTO DISTINCT SEGMENTS CAN EASE THE PLANNING PROCESS

As people continue to live longer than any generation has seen, the idea of retirement presents new challenges when planning for the future. The greatest of these challenges is the unpredictability driven by 1) the general effects of aging and 2) how long their retirement will last. To help mitigate this unpredictability, we take a "divide and conquer approach": we divide the retirement planning into two distinct phases—early retirement (from 65-84) and later retirement (after age 85).

## COMMUNICATION IS KEY TO DELIVERING THE HOLISTIC RETIREMENT SOLUTION

By the time a participant nears retirement, it has become entirely plausible that the participant has never actually made an active affirmative decision regarding their defined contribution plan. Furthermore, participant engagement markedly begins to ramp up as participants approach retirement age.<sup>4</sup> Recent research shows that older participants are more likely than younger participants to transact within their defined contribution plan.<sup>5</sup> Plan sponsors, recordkeepers and investment managers increasingly must provide the education and support participants desperately need.

Communications and education must deliver relevant, intuitive information to participants who are looking for answers, particularly those nearest to retirement. Unlike the savings years, when the goal of accumulation is generally universal, the decumulation years feature increasingly diverse participants with heterogeneous planning goals.

Today's communication and engagement outreach present a mixed bag of effectiveness. According to EBRI's 2022 Retirement Confidence Survey, participants' views on current efforts pose reason for optimism yet also room for improvement regarding educating participants about savings and distributed income. To effectively drive participant engagement and utilization, a robust communication platform is required, developed from a close partnership and commitment to better education between the investment manager, recordkeeper and plan sponsor. All must play a crucial role when communicating evolving retirement income solutions. Retirement income products must be incorporated as just pieces of the overall solution.

While in no way exhaustive, the below list highlights several requirements for robust participant support:

- **Multi-media:** Participants differ in their preferred communication methods and have moved beyond the paper-digital split.
- **Clear, relevant and concise:** As participants are increasingly busier and attention spans vary, the messages must remain clear, relevant and concise.
- **Filter the information to make it easy:** We have learned the importance of tiering the information sharing to ensure all questions are answered quickly and logically.

## FORGED PARTNERSHIPS LEAD TO BETTER COMMUNICATION

The merit of the investment manager remains a central focus for those evaluating retirement income products; we need to be adequately describing the value the specific retirement product can potentially bring. Including a strong communication and



JAMES VENERUSO, CFA, FRM, CAIA,  
SENIOR DEFINED CONTRIBUTION STRATEGIST,  
DEFINED CONTRIBUTION

education effort remains one of the best ways to reduce participant utilization risk and increase the participant engagement.<sup>6</sup>

## WE WANT TO HELP

At LGIM America, we understand plan sponsors' concerns/risks, the importance of segmenting the retirement unknown, and the value of effective communication; we welcome this partnership. We have retirement solutions to help address these evolving needs, including communication and educational support strategies. For more information about this thought paper or

LGIM America's retirement capabilities, please contact Jimmy Veneruso at [Inquiry.DefinedContribution@lgima.com](mailto:Inquiry.DefinedContribution@lgima.com).

## ABOUT LGIM AMERICA

LGIM America (LGIMA) was founded in 2006 with the purpose of helping people achieve their long-term financial goals. We offer a range of strategies to help our institutional clients (corporations, healthcare agencies, non-profit, education, public plans and Taft-Hartley) manage their investment objectives, which can range from market-based alpha-oriented strategies to those that are designed to be more liability-centric, derivative overlays, or indexed solutions. Encouraging a diverse and inclusive environment coupled with a solutions-focused culture allows us to increase our breadth of knowledge and the likelihood of improved client outcomes and stronger financial performance. We have teams of experienced, innovative professionals committed to helping plan sponsors meet their pension promises, managing investment exposures efficiently to seek enhanced returns while mitigating risks, and working to generate returns while making a positive societal difference. For further information about LGIM America, find us at [www.lgima.com](http://www.lgima.com).

## IMPORTANT INFORMATION

For educational purposes only. Views and opinions expressed herein are those of Legal & General Investment Management America, Inc. as of the date of publication and may change based on market and other conditions. This material is intended to discuss key risks and approaches that participants might consider and/or experience during the different phases of retirement. This information is not intended to depict any particular product or approach that is best. Every retiree's situation is different depending upon their assets, liabilities, other sources of income, tax situation and market factors, both foreseen and unforeseen. Please consult your professional advisors, including investment advisers and tax advisors for additional information. There is no guarantee that the approaches described will be successful or avoid loss of principal.

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## FOOTNOTES

<sup>1</sup> Retirement Confidence Survey, Employee Benefits Research Institute, 2022

<sup>2</sup> Callan 2022 DC Trends Survey, Callan LLC

<sup>3</sup> 2022 PIMCO US Defined Contribution Consultant Survey

<sup>4</sup> Clark, Fiaschetti and Gerrans, "The Demand for Advice in Defined Contribution Pensions Plans: Age, Gender and Size-of-Bet Effect. August 2015. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2551819](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2551819)

<sup>5</sup> Blanchett, David, "What Helped Participants Stay the Course in 2020" February 2022. <https://cdn.pfcdn.com/cms/pgim4/sites/default/files/PGIM-DC-Solutions-Stay-the-Course-0422.pdf>

<sup>6</sup> LGIMA defines utilization risk as the risk after a fiduciary's due diligence and effort to improve outcomes; participants will not use a plan option.





# J.P. Morgan Asset Management

New York, NY

[jpmorgan.com/retirementincome](http://jpmorgan.com/retirementincome)

Product Name: **SmartRetirement, Smart Retirement Plus**

## J.P.Morgan ASSET MANAGEMENT



### Key Contact(s)

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### Firm Profile

JPMAM is a leading asset manager for individuals, advisors and institutions, with \$2.3 trillion under management. Our investment professionals around the world and across the asset class spectrum share one common goal: to help build stronger portfolios that solve the real needs of our clients. With a storied record dating back to 1863, JPMAM began its most recent period of development in 2000 with the establishment of our parent group, JPMorgan Chase & Co.

### Primary Plan Size Market(s) Targeted



**Micro:** <\$1 million

**Small:** \$1-\$10 million

**Mid:** \$10-\$100 million

**Large:** \$100-\$250 million

**Mega:** >\$250 million

**Mega Mega:** >\$1 billion

**When was program launched/introduced?**  
2022

**Which recordkeeping platform(s) is the platform connected to/with as of 06/30/22?**  
We have relationships with the majority of the top defined contribution recordkeepers in the U.S. Our

SmartRetirement Mutual Funds are broadly available, and on the preferred list of target date managers on a wide range of recordkeeping partners. We have also placed our JPMCB SmartRetirement commingled funds on a wide range of large market recordkeepers. We are happy to work with recordkeepers to make our SmartRetirement Funds available as well as SmartRetirement Plus.

### How is it available in the plan?

Target-date Fund, Participant election/ opt in

### How is the product structured?

CIT, Mutual fund

### What risk(s) is the solution seeking to address?

Longevity, Sequence of returns, Liquidity, Market risk, Mortality risk

### Is there a guarantee/insurer?

Yes, an unaffiliated insurance company. All guarantees are based on the claims-paying ability of the issuing insurance company.

### Guarantee Type

GLWB

### QDIA-compliant (qualified default investment alternative)?

Yes

### Is there flexibility as to when a participant can take income?

Yes

### If a participant is separated from service for any reason can they take their contract/ investment with them?

Yes

### Will the income solution be used in conjunction with some sort of outsourced fiduciary?

No

### Are there fees for the solution?

Hybrid

### Additional information regarding fees?

N/A

### How does the option/platform "work"?

We have two product offerings for retirement income solutions. First, our save-to-spend SmartRetirement® target date funds help participants make the most out of their savings via a liquid, market-based solution. Secondly, SmartRetirement® Plus, is a solution that provides the option to pair the JPMorgan

SmartRetirement target date funds with an annuity, issued by an unaffiliated insurer, which provides a guaranteed income benefit at retirement.

### Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.

- SmartRetirement Plus minimum of \$25,000 to purchase optional annuity
- No minimum for SmartRetirement
- The commingled funds require a minimum of \$5 million in target date assets. Starting at \$500 million in target date assets, share class breakpoints are available in \$500 million increments.
- JPMorgan SmartRetirement Funds (R6 share class) have a \$15 million initial minimum investment.

The commingled funds should also note that they are only available to qualified retirement plans and governmental plans and are not publicly offered.

### What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?

SmartRetirement is the industry's first integrated save-to-spend target date fund solution. By offering spending capabilities as a default investment experience, plan sponsors can help participants invested in the funds be better prepared for spending in retirement.

Three key differentiators of SmartRetirement Plus are: flexibility, a modular design and a digital-first approach. This uniquely differentiated lifetime income product design is based on our extensive consumer research, retiree spending behavior research and our in-house retirement planning expertise.

### What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?

Website for each product, field support for additional conversations and insights around retirement income solutions, participant materials (brochures, newsletters, etc.), webcast

### What is the underlying service model for participants, plan sponsors, advisors/ consultants, partner home offices (e.g., what services are available to the various constituencies)?

We provide support for all of our audiences - webcasts, print materials, email, and in-person conversations.



# NAPA 401(k) Summit SAVE THE DATE

**THE ADVISOR EXPERIENCE**

April 2-4, 2023 | San Diego, CA

**WWW.NAPASUMMIT.ORG**





**nuveen**

A TIAA Company

## EXECUTIVE THOUGHT LEADERSHIP

Interview with

**Brendan McCarthy**

# (Retirement) Ready or Not?

In a generation's time, the nation's private retirement system pivoted from an emphasis on traditional pension plan designs to a broader reliance on defined contribution designs, notably 401(k) plans. During that time many of the best aspects of defined benefit designs have been imported to defined contribution designs—save one: retirement income. Strikingly, even as a growing number of working Americans move into retirement, in-plan retirement income solutions have yet to be addressed by most of the very plans that Americans rely upon for retirement.

To consider the impact of these trends—and some new potential solutions—

NAPA-Net connected with Brendan McCarthy, Head of Nuveen Retirement Investing.

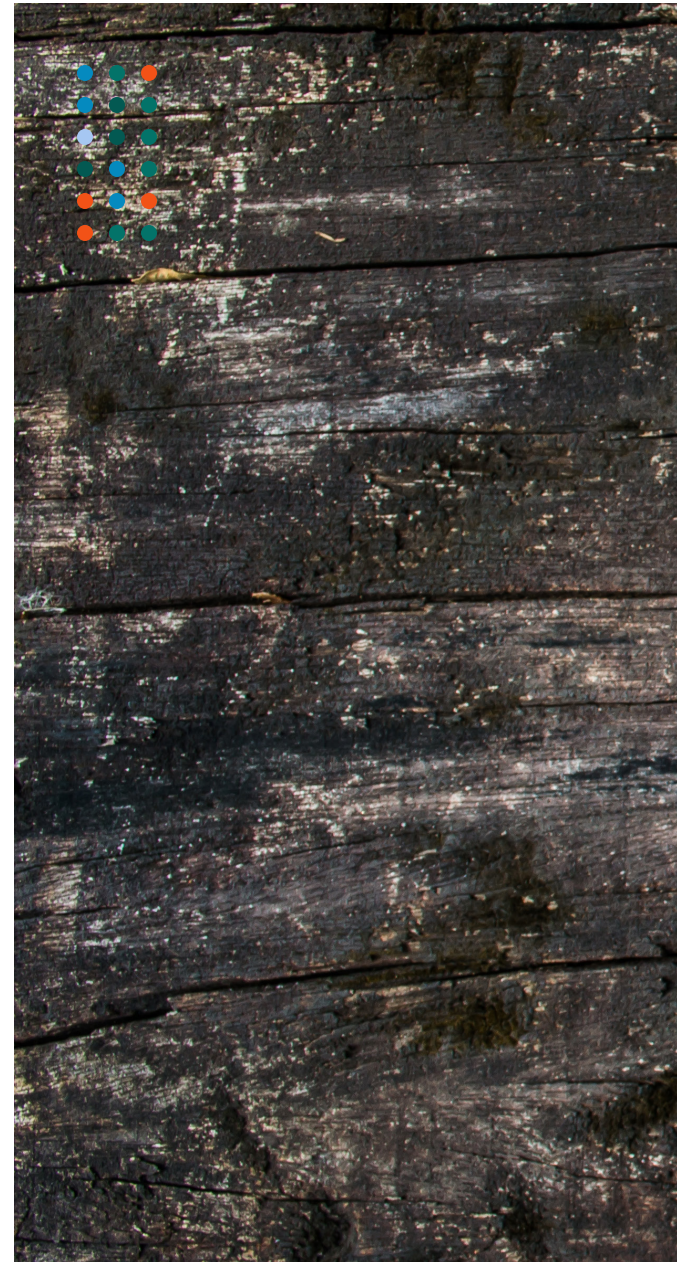
**NN: RETIREMENT—AND RETIREMENT PLANS—HAVE UNDERGONE SIGNIFICANT CHANGE IN RECENT YEARS. WHAT DOES THAT MEAN FOR RETIREMENT PLANNING?**

**MCCARTHY:** Today only 6% of private firms offer a traditional defined benefit pension plan. As a result, we're now looking at the first generation of corporate American workers heading into retirement without any form of guaranteed income, other than their Social Security. Worse, it's a generation that is living longer—a 65-year-old today has a 50% chance of living to age

90. Little wonder that the possibility of a large percentage of American's outliving their retirement savings is a major concern among those Washington, D.C.

**NN: ARE THEY DOING ANYTHING ABOUT THOSE CONCERNS?**

**MCCARTHY:** The shift in emphasis from defined benefit plans—where lifetime income options like annuities were typical—to defined contribution plans that lack such features—creates a huge gap in retirement preparations. To remedy this, lawmakers have been looking at shifting the emphasis from being focused solely on tax preferential savings plans into true retirement plans—plans that can provide employees a







portion of their retirement in the form of guaranteed lifetime income—similar to what previous generations enjoyed through a corporate pension plan.

They're doing that through legislation that not only removes the traditional restrictions, but that encourages the use of annuities/lifetime income solutions inside of 401(k) plans. This began with the December 2019 passage of the SECURE act, which provides plan sponsors with additional safe harbor protections for utilizing annuities as part of 401(k) plans, and is continuing with further provisions in SECURE 2.0 which has passed the U.S. House of Representatives, as well as the LIFE Act which was recently introduced in Congress.

#### NN: WHERE DO YOU SEE THESE TRENDS LEADING?

**MCCARTHY:** Eventually, we see this becoming a “bifurcation” of our market—with plan sponsors considering two types of 401(k) plans over the next decade. The first option would be traditional 401(k) plans, no different than they are today, that act purely as tax preferential savings plans and offer their employees a lump sum amount at retirement that they may redeem in full or systematically until it runs out.

A second, new option would be a 401(k) plan that provides the participant with the option of converting a portion of their retirement savings into guaranteed lifetime income. This

would provide 401(k) participants the ability to supplement their monthly Social Security in order to attain a lifetime income amount that meets their essential living expenses in retirement. The remainder of their 401(k) balance can continue to be invested to cover any discretionary needs they may have in retirement. As the market shifts into two plan types, we see the latter being viewed as superior to the former as it acts more like a true retirement plan, providing great retirement security to its participants—a retirement plan that actually helps workers prepare for retirement income. **NTM**





# Legal & General Investment Management America

Chicago, IL

lgima.com

Product Name: Retirement Income Strategy



EDUCATION  
SPONSOR  
+  
MEDIA  
CONTRIBUTOR



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## Firm Profile

LGIM America (LGIMA) was founded in 2006 with the purpose of helping people achieve their long-term financial goals. We offer a range of strategies to help our institutional clients manage their investment objectives. We have teams of experienced, innovative professionals committed to helping plan sponsors meet their pension promises, managing investment exposures efficiently, and working to generate returns while making a positive societal difference. As of June 30, 2022, LGIMA had \$224 billion in AUM.

## Primary Plan Size Market(s) Targeted



Small: \$1-\$10 million

Mid: \$10-\$100 million

Mega: >\$250 million

Mega Mega: >\$1 billion

**When was program launched/introduced?**  
2022

**Which recordkeeping platform(s) is the platform connected to/with as of 06/30/22?**

The Strategy is available on these trustee/custodian platforms:  
Broadridge, Mid-Atlantic Capital Group, Reliance Trust, SEI, AIG/VALIC, Alight Financial Solutions, Apex Clearing, Ascensus Trust Company, AXA, Benefit Trust Company, Charles Schwab, Fidelity Investments Institutional Operations Company, LLC (FIIOC), GWFS (Empower, Mass Mutual), John Hancock, Lincoln Financial Group, Mercer, Mid Atlantic Capital Corp, MSCS (Matrix), Nationwide, Northern Trust, Paychex, Principal Financial Group, Prudential Retirement, Reliance Trust, T. Rowe Price, The Vanguard Group, TIAA-CREF, TransAmerica, Voya, Wilmington Trust

**How is it available in the plan?**

Participant election/opt in, At retirement

**How is the product structured?**

Mutual fund, Other

**What risk(s) is the solution seeking to address?**

Longevity, Sequence of returns; Inflation; Liquidity; Market risk

**Is there a guarantee/insurer?**

No

**QDIA-compliant (qualified default investment alternative)?**

Yes

**Is there flexibility as to when a participant can take income?**

Yes

**If a participant is separated from service for any reason can they take their contract/investment with them?**

Yes

**Will the income solution be used in conjunction with some sort of outsourced fiduciary?**

No

**Are there fees for the solution?**

Explicit

**Additional information regarding fees?**

Flat fee starting at 15 basis points.

**How does the option/platform "work?"**

Our goal is to establish the rate of withdrawal that provides the highest level of income with the most stability. To do so the Retirement Income Strategy leverages LGIMA's AIM methodology and seeks

to balance the benefits of a consistent income level with the risks of having reduced income in the future. Participants allocate to the strategy and receive a suggested income amount for a given year. They then set up distributions via their recordkeeper.

**Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.**

No.

**What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?**

Our competitive edge lies in the application of LDI principles to the DC market. We apply our established investment funding strategies for DB plans and create DC options that:

- Attempt to provide the potential for growth with market risk protection
- Are portable, while maintaining flexibility
- Are simple and cost effective

All of this is done in a way that takes these principles and delivers a cost-effective drawdown option for retirees.

**What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?**

LGIMA has developed a suite of participant communication templates. These include but are not limited to:

- implementation/enrollment packets
- onboarding and educational brochures/webinars
- income/asset allocation change notifications

For plan sponsors we provide templates including:

- program summary
- implementation guide
- online training
- investment updates
- annual review scorecard

In addition to these communication templates, we also provide a microsite where participants can model income and receive instruction for setting up distributions from their recordkeeper.

**What is the underlying service model for participants, plan sponsors, advisors/consultants, partner home offices (e.g., what services are available to the various constituencies)?**

Please see the above answer for a description of our service model of support for the various constituencies.

# Nationwide Mutual Insurance Company

Columbus, OH

Nationwide.com

Product Name: NCIT American Funds Lifetime Income Builder Target Date Series



## Key Contact(s)

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## Firm Profile

Nationwide Mutual Insurance Company started in 1926 as a small mutual auto insurer owned by policyholders. Today, Nationwide maintains the mutual structure and operates as a Fortune 100 insurance and financial services provider. Nationwide's headquarters are in Columbus, Ohio with over 20 office locations across the country and approximately 26,000 associates. Nationwide Fund Advisers (NFA) is based in Columbus with 120 associates. As of 6/30/2022, NFA had \$74 billion in assets under management.

## Primary Market(s) Targeted



**Small:** \$1-\$10 million

**Mid:** \$10-\$100 million

**Large:** \$100-\$250 million

**Mega:** >\$250 million

**Mega Mega:** >\$1 billion

**When was program launched/introduced?**  
2022

**Which recordkeeping platform(s) is the platform connected to/with as of 06/30/22?**

The NCIT American Funds Lifetime Income Builder Target Date Series is currently available on the Nationwide

recordkeeping platform. Additionally, multiple recordkeepers are evaluating the opportunity to offer the solution.

**How is it available in the plan?**

Target-date fund

**How is the product structured?**

CIT

**What risk(s) is the solution seeking to address?**

Longevity, Sequence of returns, Inflation, Liquidity, Market risk, Mortality risk

**Is there a guarantee/insurer?**

Yes

**Guarantee Type**

GLWB

**QDIA-compliant (qualified default investment alternative)?**

Yes

**Is there flexibility as to when a participant can take income?**

Yes

**If a participant is separated from service for any reason can they take their contract/investment with them?**

Yes

**Will the income solution be used in conjunction with some sort of outsourced fiduciary?**

No

**Are there fees for the solution?**

Hybrid

**Additional information regarding fees?**

The NCIT American Funds Lifetime Income Builder Target Date Series has an average expense ratio of 0.54%, with the series ranging from 0.37% to 0.60%, as of April 30, 2022. The net expense ratios of the funds decrease as allocations to the Lifetime Income Builder Funds' Group Fixed Indexed Annuity (FIA) increases. There are no explicit fees for the FIA within the Lifetime Income Builder Funds.

**How does the option/platform "work"?**

The Series targets 6% income in retirement. Following a glidepath with a dynamic allocation algorithm allows the asset manager to gradually replace fixed income with a Group Fixed Indexed Annuity starting around age 50. The FIA, a fixed income alternative, provides growth opportunity and downside protection. At approximately age 50, the Lifetime Income Builder Funds capture quarterly high-water marks that will eventually be used to

calculate the income base. Income begins at approximately 65.

**Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.**

No, there are no minimums associated with the product.

**What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?**

The TDF Series is an in-plan income solution that seeks to deliver long-term growth, portability, liquidity, ease-of-use, and efficiency, while integrating the insurance component into the glidepath. Most products require the participant to sacrifice something to get lifetime income. The Lifetime Income Builder Funds capture quarterly high-water marks, thereby reducing sequence of returns risk and locking in values used to calculate retirement income later.

**What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?**

The recordkeeper and their team are the primary point of education and enrollment for participants. Annexus Retirement Solutions and Nationwide will assist with supporting advisors by providing marketing materials and support, data, wholesalers, and benchmarking.

**What is the underlying service model for participants, plan sponsors, advisors/consultants, partner home offices (e.g., what services are available to the various constituencies)?**

The recordkeeper provides educational meetings and call-center representatives for participants. Nationwide and Annexus Retirement Solutions provide additional support to plan sponsors, advisors, and home offices.

**Representative client/plan sponsors that have adopted/agreed to adopt platform/product.**

Multiple private and public sector plan sponsors have adopted the solution as a QDIA or voluntary investment option, and numerous discussions are in progress with prospective plan sponsors.



## Nuveen/ TIAA

New York, NY

[nuveen.com/lifetimeincome](http://nuveen.com/lifetimeincome)

Product Name: **TIAA Secure Income Account**

**nuveen**

A TIAA Company



EDUCATION  
SPONSOR

+  
MEDIA  
CONTRIBUTOR



Key Contact(s)

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### Firm Profile

Nuveen, the investment manager of TIAA, offers a comprehensive range of outcome-focused investment solutions designed to secure the long-term financial goals of institutional and individual investors. Nuveen has \$1.1 trillion in assets under management as of 30 Jun 2022 and operations in 27 countries. Its investment specialists offer deep expertise across a comprehensive range of traditional and alternative investments through a wide array of vehicles and customized strategies. For more information, please visit [www.nuveen.com](http://www.nuveen.com).

### Primary Market(s) Targeted



**Small:** \$1-\$10 million

**Mid:** \$10-\$100 million

**Large:** \$100-\$250 million

**Mega:** >\$250 million

**Which recordkeeping platform(s) is the platform connected to/with as of 06/30/22?**

We will soon be announcing recordkeeping partnerships and plan adopters in place.

### How is it available in the plan?

Managed account, Target-date Fund, At retirement

TIAA IS THE #1 PROVIDER OF IN-PLAN LIFETIME INCOME SOLUTIONS AND HAS BEEN MANAGING ANNUITIES INSIDE DEFINED CONTRIBUTION PLANS SINCE 1918.



### How is the product structured?

Mutual fund

### What risk(s) is the solution seeking to address?

Longevity, Sequence of returns, Inflation, Liquidity, Market risk, Mortality risk

### Is there a guarantee/insurer?

Yes

### Guarantee Type

Something else

### QDIA-compliant (qualified default investment alternative)?

Yes

### Is there flexibility as to when a participant can take income?

Yes

### If a participant is separated from service for any reason can they take their contract/investment with them?

Yes

### Will the income solution be used in conjunction with some sort of outsourced fiduciary?

Yes

### Are there fees for the solution?

Implicit

### Additional information regarding fees?

The TIAA Secure Income Account will be available in 3 different share classes with varying investment revenue to accommodate the plan designs of different plans/sponsors. Plan size and amounts invested in TIAA Secure Income Account will also dictate crediting rates for small, medium, and large plans offerings (<\$50m invested in SIA, \$50 million or greater--but less than \$250 million and greater than \$250m)

### How does the option/platform "work"?

The TIAA Secure Income Account is designed to be accessed by participants who have been defaulted into or, if applicable, have voluntarily subscribed to

the plan's Asset Allocation program. The TIAA Secure Income Account cannot be contributed to if the participant is not part of the asset allocation service. In addition to providing guaranteed interest credited during the accumulation phase, participants have the option but not the obligation to receive a guaranteed income at retirement.

### Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.

There are no minimums associated with TIAA Secure Income Account.

### What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?

- TIAA is the #1 provider of in-plan lifetime income solutions and has been managing annuities inside defined contribution plans since 1918. TIAA is the overwhelming lifetime income leader paying out more than other top insurers.
- TIAA's significant financial and General Account strength which back the Secure Income Account.
- TIAA's unique approach to sharing our profits can lead to potentially higher income.

### What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?

The Nuveen Retirement Investments team partners with advisors to provide marketing and distribution support, including: investment reviews, industry-leading thought leadership and education, as well as compliance home office data. Additionally, we support advisors by making the safe harbor attestation process transparent and providing regular communications around regulatory updates. The Nuveen Retirement Investments team will work with their advisor partners to support the Secure Income Account for education and distribution support for new and existing opportunities.



Newark, NJ

pgim.com



Key Contact(s)

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#### Firm Profile

PGIM, a leading global asset manager, and its affiliates offer a full range of retirement income solutions including prepackaged target dates, customized participant solutions, and longevity protected solutions. Through our more than 150 years of helping people manage risks, we have the experience, expertise and scale to deliver solutions that help retirement investors achieve better outcomes.

#### Primary Market(s) Targeted



**Small:** \$1-\$10 million

**Mid:** \$10-\$100 million

**Large:** \$100-\$250 million

**Mega:** >\$250 million

**Mega Mega:** >\$1 billion

**When was program launched/introduced?**  
2022

**Which recordkeeping platform(s) is the platform connected to/ with as of 06/30/22?**  
Please contact PGIM for specific recordkeeping availability.

#### How is it available in the plan?

Target-date fund, Participant election/opt in, At retirement

WE HAVE THE EXPERIENCE, EXPERTISE AND SCALE TO DELIVER SOLUTIONS THAT HELP RETIREMENT INVESTORS ACHIEVE BETTER OUTCOMES.



#### How is the product structured?

CIT, Managed payout, Mutual fund, Other

#### What risk(s) is the solution seeking to address?

Longevity, Sequence of returns, Inflation, Liquidity, Market risk

#### Is there a guarantee/insurer?

No

#### QDIA-compliant (qualified default investment alternative)?

Yes

#### Is there flexibility as to when a participant can take income?

Yes

#### If a participant is separated from service for any reason can they take their contract/ investment with them?

Yes

#### Will the income solution be used in conjunction with some sort of outsourced fiduciary?

No

#### Are there fees for the solution?

Explicit

#### Additional information regarding fees?

Fees vary based on plan sponsor specific factors.

#### How does the option/platform "work"?

Retirement income strategies can be standard or customized based on the engagement. As part of our process we develop portfolios that consider the unique nature of the retirement liability (in particular participant essential and non-essential spending) and then use a proprietary methodology and participant interface to determine a personalized allocation based on each participant's unique situation and preferences.

#### Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.

No minimums

#### What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?

Our unique approach to modeling the participant liability can result in notably different advice and guidance than common tools using more traditional approaches. Retirement is a dynamic experience that differs for each retiree. We believe that using a dynamic spending framework that decomposes the retirement liability instead of a static spending approach allows our solution to provide more sound and personalized advice.

#### What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?

Depending on how our solution is offered we can provide a wide range of supporting resources to the advisor. These include but are not limited to marketing, operations, sales, and investment benchmarking support.

#### What is the underlying service model for participants, plan sponsors, advisors/ consultants, partner home offices (e.g., what services are available to the various constituencies)?

Off-the-shelf portfolios, customized solutions, and a personalized participant interface are all available for use.

#### Representative client/plan sponsors that have adopted/agreed to adopt platform/ product.

PGIM's retirement solutions are available to all plan sponsors across different segments and plan types.



# Principal Financial Group

Des Moines, Iowa

principal.com

Product Name: **Principal Pension Builder SM ("PPB")**



## Key Contact(s)

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## Firm Profile

At Principal Financial Group®, we strive to help plan sponsors realize the full potential of their retirement program, while helping participants achieve improved retirement outcomes. Through industry leadership, a flexible service model, investment expertise, and outcome-driven participant education, we offer retirement services that you can customize based on the needs of plan sponsors and their employees. Principal® offers a wide range of financial products and services, including retirement, asset management and insurance through our diverse family of financial services companies.

## Primary Market(s) Targeted



**Micro:** <\$1 million

**Small:** \$1-\$10 million

**Mid:** \$10-\$100 million

**Large:** \$100-\$250 million

**Mega:** >\$250 million

**Mega Mega:** >\$1 billion

**When was program launched/introduced?**  
2016

**Which recordkeeping platform(s) is the platform connected to/with as of 06/30/22?**

Principal's proprietary platform. May distribute externally in the future.

## How is it available in the plan?

Participant election/opt in, At retirement

## How is the product structured?

Other

## What risk(s) is the solution seeking to address?

Longevity, Sequence of returns, Inflation, Liquidity, Market risk, Mortality risk, Something else

## Is there a guarantee/insurer?

Yes

## Guarantee Type

Something else

## QDIA-compliant (qualified default investment alternative)?

No

## Is there flexibility as to when a participant can take income?

Yes

## If a participant is separated from service for any reason can they take their contract/investment with them?

Yes

## Will the income solution be used in conjunction with some sort of outsourced fiduciary?

No

## Are there fees for the solution?

Implicit

## Additional information regarding fees?

Pension Builder is a guarantee of income backed by the general account of Principal Life. There are no explicit costs to participants unless the participant chooses to surrender their balance and then a surrender charge may apply. Product or guaranteed costs are included in the purchase rates. The benefit, rights and features are all included in the purchase rate. There is no cost to the plan sponsor for including Pension Builder in the plan line-up.

## How does the option/platform "work"?

PPB is a stand-alone option in the plan investment lineup. Participants transfer or direct future contributions as they would other investments. Each contribution purchases guaranteed income beginning at the plan's normal retirement age or 65. The guaranteed amounts aggregate. At the income start date participants can tailor features to meet their needs. Features include joint/sole life, period certain, inflation adjustments and return of premium. At income start, assets leave the plan to fund annuity certificate.

## Are there minimums associated with the product? Initial balance, contribution amount, withdrawal amounts, etc.? If so, please explain.

Minimum purchase amount is \$10. Participant may transfer up to 50% of their balance and direct up to 50% of their ongoing contributions to PPB. Participants may make purchases up to 60 days before their income start date. Participants need at least \$5,000 in order to annuitize.

## What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?

PPB puts a premium on certainty of income to make retirement planning easier. Purchases are not subject to market volatility. Combined with social security (and a pension) PPB can provide peace of mind that income is guaranteed for life. PPB has a one time expense that is built into the purchase amount. It is not subject to ongoing fees. PPB is flexible and portable for both participant and sponsor.

## What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?

We provide advisors with wholesaler and marketing support including a white paper commissioned by outside counsel to assist with fiduciary decision making, a brochure certifying that Principal adheres to SECURE Act safe harbor provisions and a comparative index to help advisors assess product competitiveness.

## What is the underlying service model for participants, plan sponsors, advisors/consultants, partner home offices (e.g., what services are available to the various constituencies)?

PPB is fully integrated in experiences. The participant website provides income projections, and quotes. Participant call center support and wholesaling support to advisors is available.

## Representative client/plan sponsors that have adopted/agreed to adopt platform/product.

Over 300 clients have adopted PPB across all market segments (15% large market, 40% mid market; 45% small market) and industry types. Those with older populations, current or frozen pension plans, union or governmental entities with a history of DB plans tend to be the most receptive. Also innovative sponsors that recognize the need to help participants in retirement.

# T. Rowe Price

Baltimore, MD

troweprice.com

Product Name: **Managed Payout Trust (currently Retirement 2020 Trust—Income)**

**T. Rowe Price** 



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## Firm Profile

Founded in 1937, Baltimore-based T. Rowe Price is a global investment management organization with \$1.34 trillion in assets under management (August 31, 2022). The organization provides a broad array of mutual funds, subadvisory services, and separate account management for individual and institutional investors, retirement plans, and financial intermediaries. It also offers a variety of sophisticated investment planning and guidance tools. T. Rowe Price's disciplined, risk-aware investment approach focuses on diversification, style consistency, and fundamental research.

## Primary Market(s) Targeted



**Micro:** <\$1 million

**Small:** \$1-\$10 million

**Mid:** \$10-\$100 million

**Large:** \$100-\$250 million

**Mega:** >\$250 million

**Mega Mega:** >\$1 billion

## When was program launched/introduced?

Managed Payout Trust (currently Retirement 2020 Trust—Income)

Which recordkeeping platform(s) is the platform connected to/ with as of 06/30/22?

The product is available to retirement plans served on T. Rowe Price Retirement Plan Services' institutional platform.

## How is it available in the plan?

Participant election/opt in, At retirement, Other

## How is the product structured?

CIT, Managed payout

## What risk(s) is the solution seeking to address?

Longevity, Sequence of returns, Liquidity, Market risk

## Is there a guarantee/insurer?

N/A

## QDIA-compliant (qualified default investment alternative)?

No

## Is there flexibility as to when a participant can take income?

Yes

## If a participant is separated from service for any reason can they take their contract/ investment with them?

Yes

## Will the income solution be used in conjunction with some sort of outsourced fiduciary?

No

## Are there fees for the solution?

Explicit

## Additional information regarding fees?

There is an expense ratio assessed at the trust portfolio level which participants can see. There is no individual/direct fee for the managed payout product to participants.

## How does the option/platform "work?"

Converting a lifetime of savings into income can be a challenge for many participants in or nearing retirement. To ease the transition, our flagship Retirement Trust suite includes a managed payout unit class, which provides regular monthly payments to retirees. The T. Rowe Price Retirement 2020 Trust—Income Class combines the convenience of managed payouts with an age-appropriate, diversified Retirement Trust portfolio participants are already familiar with—creating a true one-stop shop for retirement investing.

Are there minimums associated with the product? Initial balance, contribution

amount, withdrawal amounts, etc.? If so, please explain.

No. Eligible participants can invest all or part of their account balance in the trust. The trust is 100% liquid, and participants may buy or sell units at any time. The trust targets an annual payout per unit of 5% of the average monthly net asset value over the past 60 months (determined annually). Monthly payments are made by direct deposit or check and count toward the participant's annual required minimum distribution (RMD).

## What are the key differentiating factors from other retirement income alternative products/approaches in the marketplace?

Some of the key benefits of this solution include:

- Predictable monthly income: The investment option seeks to provide retirees with predictable monthly payments throughout each year (recalculated annually).
- Professional management: It combines our age-appropriate, diversified portfolio with the convenience of managed payouts.
- Flexibility: Plans can allow eligible participants to exchange into and out of the investment and redeem as needed.

## What specific support resources do you provide for advisors, if any (marketing support, compliance data, wholesalers, benchmarking, etc.)?

We provide the same level of support for the product that we provide for advisors working with retirement plans.

## What is the underlying service model for participants, plan sponsors, advisors/ consultants, partner home offices (e.g., what services are available to the various constituencies)?

We offer our same high-touch retirement plan services service model.

## Representative client/plan sponsors that have adopted/agreed to adopt platform/ product.

Adoption of the product has been highest among our large and mega market plans (plans with \$250M+ in assets), which tend to be more focused on adopting products to support retired/terminated plan participants create a predictable income flow as they move from accumulation to decumulation.





PGIM INVESTMENTS

EXECUTIVE THOUGHT LEADERSHIP

Interview with

**David Blanchett**

# A (More) Personal Retirement

*How will emerging trends, regulation, and participant behavior influence the future of retirement income?*

Planning for a dependable post-career stream of income has always been challenging for American workers, and never more so than in the aftermath of the COVID-19 pandemic, alongside renewed concerns about inflation, volatile markets, and uncertain job markets. At the same time, there are fresh thoughts – and some exciting new developments – around retirement income.

We sat down with David Blanchett, Managing Director, Head of Retirement Research for PGIM DC Solutions, the Retirement Solutions Provider of PGIM, for some insights.

**NNTM: WHAT ARE SOME OF THE FORCES OR EMERGING TRENDS EXPECTED TO SHAPE THE FUTURE OF RETIREMENT THAT PLAN ADVISORS, CONSULTANTS, AND PLAN SPONSORS SHOULD BE PAYING ATTENTION TO?**

**BLANCHETT:** I think the biggest focus going forward will be on keeping participants in the plan post-retirement. Helping participants get through retirement is a different perspective than getting to retirement and I think it requires plan sponsors to rethink their approach to the defined contribution

(DC) plan. While existing strategies work reasonably well for younger participants, they are less optimal for older participants, whose varying needs and expectations generally require increased personalization. While there is some regulatory focus on increasing access to longevity-protected income solutions in DC plans, such as annuities, and an acknowledgement that these solutions can provide value, it's important for plan sponsors – and those who support them – to make sure they've done everything else to make the DC plan "retirement friendly" before going down the route of simply adding an annuity option. I think the benefits of keeping participants in the plan post-retirement could be especially strong for mass affluent participants who may not have access to high quality advice outside the DC plan.

**NNTM: WHAT'S STANDING IN THE WAY OF THAT FOCUS?**

**BLANCHETT:** I'm not convinced that core menus are designed today with an eye toward participants who actually use them. Younger participants overwhelmingly tend to rely on prepackaged investment strategies such as target-date funds (i.e., the default investment) while older participants – whose participation often predates the advent of default investment

alternatives – continue to gravitate towards the core menu. Therefore, I think it's essential that core menus are designed to give participants an opportunity to build a well-diversified portfolio that can be optimized to fund the retirement liability. This objective requires access to certain asset classes, especially real assets, which are still relatively uncommon in core menus today.

**NNTM: WHAT ABOUT QUALIFIED DEFAULT INVESTMENT ALTERNATIVES AND THEIR ROLE IN IMPACTING RETIREMENT OUTCOMES?**

**BLANCHETT:** I think default investments have definitely resulted in significantly improved investment outcomes for DC participants compared with self-direction, although I still think we have a way to go as an industry. For example, target-date funds typically differentiate allocations based entirely on age, though plan sponsors and recordkeepers increasingly have an expanded amount of information available on employees/participants age such as income, balance, savings rate, gender, etc., that can be used to design more personalized portfolios that are more appropriate for participants.

**NNTM: YOU MENTIONED EARLIER THAT OLDER WORKERS TEND TO GRAVITATE TOWARD CORE MENU OPTIONS RATHER THAN TARGET-DATE FUNDS. IN VIEW OF RECENT MARKET VOLATILITY, WHAT ARE THE IMPLICATIONS?**

**BLANCHETT:** One thing I've found in research, focusing on both the global financial crisis and the more recent market decline in 2020, is that older participants tend to trade more during times of heightened market volatility. This is somewhat counterintuitive, since older investors would generally be described as more sophisticated and experienced, but I think the importance of retirement nearing results in higher trading activity. To me, this suggests it's especially important to get older participants in some type of professionally managed portfolio. One problem, though, is older participants are the most likely to self-direct their accounts. Therefore, it's especially important to design solutions that are attractive for older participants, which can help them stay the course during periods of heightened volatility.





**NNTM: GIVEN THOSE COMMENTS, WHAT TRENDS DO YOU SEE EMERGING OR GATHERING STEAM SPECIFIC TO TARGET-DATE FUNDS, AS WELL AS DEFAULT INVESTMENTS IN GENERAL?**

**BLANCHETT:** I think default investments need to evolve and become increasingly personalized. I really like target-date funds; it's just hard for me to think the truly optimal portfolio is identical for everyone within a five-year age cohort. Personalization is becoming increasingly common throughout multiple domains in our lives; I think this also needs to take place in DC plans. For now, I like the idea of hybrid (or dynamic) default investments, where older participants are defaulted into a more personalized solution, like managed accounts, while younger participants are defaulted into target-date funds.

**NNTM: LET'S TALK ABOUT RETIREMENT INCOME SOLUTIONS. ARE THERE ANY RECENT CHANGES THAT WILL MAKE THEM MORE ATTRACTIVE?**

**BLANCHETT:** Definitely. From a regulatory perspective, there have been changes that make annuities more attractive in DC plans. On the legislative front, the SECURE Act contained several provisions designed to both help participants better conceptualize the realities of retirement income, as well as lower some of the perceived barriers to plan sponsor adoption of those solutions. While I applaud the changes, I see annuities as the "endgame" when it comes to helping participants achieve a better retirement outcome, and that many plans should focus on other things to make their DC plan as "retirement friendly" as possible before going down the annuity route, such as allowing

partial withdrawals, offering retirement-friendly core menus, and getting more participants to delay claiming Social Security retirement benefits.

**NNTM: PGIM HAS BEEN TALKING ABOUT A "NEEDS/WANTS" FRAMEWORK AROUND RETIREMENT SPENDING FOR THE PAST FEW YEARS. CAN YOU DESCRIBE WHAT THIS IS AND HOW IT'S DIFFERENT?**

**BLANCHETT:** I think a notable shortfall among most retirement income strategies is that they tend to assume the retiree spending goal is effectively a single static goal that is increased every year in retirement by inflation without any other considerations. In reality, the retirement spending goal should be viewed as a series of goals with varying levels of flexibility – what academics tend to call elasticity. Matching spending flexibility with retiree assets, which include pension benefits and savings, can result in notably different, and arguably more personalized, guidance and advice.

**NNTM: HOW CAN RETIREMENT INCOME SOLUTIONS HELP DRIVE BETTER OUTCOMES FOR PARTICIPANTS?**

**BLANCHETT:** Retirement finance is incredibly complex. Each retiree has their own unique situation and preferences, and I think it's really important that any type of retirement income solution incorporate this information. There are myriad unique decisions retirees have to make, like when to claim Social Security retirement benefits, how to invest the portfolio, how much can be withdrawn from the portfolio, etc., that are incredibly complicated – and often irreversible. Providing access to advisors or advice solutions can help retirees make more informed decisions and result in better retirement outcomes. **NNTM**



**Note:** Additional PGIM research and thought leadership perspectives can be found at [pgiminvestments.com/DCIQ](https://pgiminvestments.com/DCIQ).

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# **'Past' Tense?**

PTE 2020-02 is in the Rearview Mirror...  
Wait, Not Yet!

By Fred Reish









## The DOL's Prohibited Transaction Exemption (PTE) 2020-02 applied fully to rollover recommendations and other conflicted fiduciary advice on July 1, 2020. So, the compliance requirements are in place and we can all heave a sigh of relief, right?

### Not so fast!

While all of the requirements—the conduct standards, disclosures, and policies and procedures—should be in place and advisors should be implementing the requirements, there are still three important requirements to consider:

- the recordkeeping requirements;
- the self-correction procedures; and
- the annual retrospective review and report.

To complicate matters, the burden of proving that the conditions of a prohibited transaction exemption were satisfied falls on the person claiming the benefit of the exemption—in other words, on a broker-dealer or investment adviser that provides investment services to retirement accounts that result in prohibited transactions. For example, where a rollover recommendation is made, and the advisor will provide ongoing investment recommendations to the rollover IRA, the DOL will assert that the compensation earned from the IRA is a prohibited transaction, unless the conditions of PTE 2020-02 are satisfied. And the broker-dealer or investment has to be able to prove that the conditions were satisfied; the DOL doesn't have to prove that they weren't. As a result, the creation and retention of records is particularly important.

#### Recordkeeping Requirements

The PTE has two recordkeeping requirements—both for 6 years. The first one is a requirement that applies to all covered recommendations; the second applies to records reviewed as a part of the annual retrospective review.

The general requirement:

*The Financial Institution maintains for a period of six years records demonstrating compliance with this exemption and makes such records available, to the extent permitted by law including 12 U.S.C. 484, to any authorized employee of the Department or the Department of the Treasury.*

The annual review requirement:

*The Financial Institution retains the report, certification, and supporting data for a period of six years and makes the report, certification, and supporting data available to the Department, within 10 business days of request, to the extent permitted by law including 12 U.S.C. 484.*

At first blush, those requirements seem straightforward: Keep the records for 6 years. However, they are not. For example, the records to be retained are: “records demonstrating compliance” and “supporting data.”

The obvious question is, what records are those? For example, the PTE requires that a broker-dealer or investment adviser comply with the Impartial Conduct Standards when making a rollover recommendation. One of the Impartial Conduct Standards is the best interest standard of care, which is, in essence, a combination of ERISA's prudent man rule and duty of loyalty. In the preamble to the PTE (and in FAQs issued by the DOL), the best interest standard requires that an advisor obtain information about the retirement plan's investments, services and expenses. Is that information required to be retained for a period of 6 years? While the DOL doesn't answer that question explicitly, it seems reasonable to assume that the plan information is a record “demonstrating compliance.” As a result, the safe answer is that plan information, and any other information required for the best interest process (and for compliance with the exemption more generally), should be retained in a retrievable format for at least 6 years.

#### Self-Correction Procedure

Recognizing that mistakes can be made and that they should be corrected, the DOL included a self-correction process in the PTE. That four-step procedure is:

*Self-Correction. A non-exempt prohibited transaction will not occur due to a violation of the exemption's conditions with respect to a transaction, provided:*

- (1) *Either the violation did not result in investment losses to the Retirement Investor or the Financial Institution made the Retirement Investor whole for any resulting losses;*
- (2) *The Financial Institution corrects the violation and notifies the Department of Labor of the violation and the correction via email to [IIAWR@dol.gov](mailto:IIAWR@dol.gov) within 30 days of correction;*
- (3) *The correction occurs no later than 90 days after the Financial Institution learned of the violation or reasonably should have learned of the violation; and*





*(4) The Financial Institution notifies the person(s) responsible for conducting the retrospective review during the applicable review cycle and the violation and correction is specifically set forth in the written report of the retrospective review required under subsection II(d)(2).*

In advising clients about how to correct violations, the two most difficult requirements are to determine if any losses have occurred and to decide how to correct the violation.

In some cases, the determination of “losses” seems to be straightforward. If the rollover IRA was invested in good-quality mutual funds with reasonable expenses, and in appropriate allocations, there probably aren’t any losses. I say that for two reasons. The first is that it wouldn’t make sense for “losses” to refer to normal market fluctuations, even where the market goes down. The second is that, if the investments in the IRA went down, then the investments in the plan would have gone down in value as well. In other words, it just doesn’t make sense to say that there were losses under these circumstances.

However, it is possible that there could be losses in other circumstances. Since this requirement isn't well defined, broker-dealers and investment advisers should seek the advice of knowledgeable ERISA attorneys to determine if there were losses and, if so, how to quantify them and how to restore them. As a practical matter, it will either take more guidance from the DOL or a few years of experience in working with the DOL before these requirements become clear.

With regard to the requirement to correct the failure, that refers to the “condition,” or requirement, in the PTE that wasn’t satisfied. For example, if the advisor failed to provide the retirement investor with the fiduciary acknowledgement, the correction should be to provide the acknowledgement. That seems straightforward.

But the correction of other failures can be more difficult. For example, if an advisor didn't engage in a best interest process, and if the IRA investments are more expensive, how would the failure be corrected? The kneejerk reaction might be to put the money back in the retirement plan. But, in the real world, that won't work. By then the retirement investor no longer works for the plan sponsor, and plans can't and don't allow transfers into the plans from former employees who no longer have accounts with the plans. That makes the correction difficult. An investment adviser might consider reducing or eliminating the adviser's fees to the point that the IRA is not more expensive than the plan or might provide additional services so that the rollover IRA is superior to the plan. Broker-dealers might make similar adjustments. It's not clear what works, but some steps will need to be taken so that the rollover IRA is in the best interest of the retirement investor. In my view, that kind of "fix" will be needed because there aren't other practical corrections.

Each of the conditions in the PTE raises its own correction issues. As a result, corrections should be done thoughtfully and carefully.

## In advising clients about how to correct violations, the two most difficult requirements are to determine if any losses have occurred and to decide how to correct the violation.

### Annual Retrospective Review

The PTE requires an annual retrospective review and report. The PTE says:

#### *Retrospective Review.*

- (1) *The Financial Institution conducts a retrospective review, at least annually, that is reasonably designed to assist the Financial Institution in detecting and preventing violations of, and achieving compliance with, the Impartial Conduct Standards and the policies and procedures governing compliance with the exemption.*
- (2) *The methodology and results of the retrospective review are reduced to a written report that is provided to a Senior Executive Officer.*
- (3) *A Senior Executive Officer of the Financial Institution certifies, annually, that:*
  - (A) *The officer has reviewed the report of the retrospective review;*
  - (B) *The Financial Institution has in place policies and procedures prudently designed to achieve compliance with the conditions of this exemption; and*
  - (C) *The Financial Institution has in place a prudent process to modify such policies and procedures as business, regulatory, and legislative changes and events dictate, and to test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with the conditions of this exemption.*
- (4) *The review, report and certification are completed no later than six months following the end of the period covered by the review.*
- (5) *The Financial Institution retains the report, certification, and supporting data for a period of six years and makes the report, certification, and supporting data available to the Department, within 10 business days of request, to the extent permitted by law including 12 U.S.C. 484.*

Briefly summarized, the requirement is that the firm has to do an annual "audit" of the covered recommendations made in the prior year and reduce the review to a written report. Then a senior executive (most often the CCO) will need to certify the report, which will be available to the DOL upon request. I

think it's reasonable to assume that, in the next year or two, the DOL will begin investigations of broker-dealers and investment advisers for compliance with the conditions of the PTE and that the first request will be for the report.

However, the purpose of the certified report is not for investigations. Instead, it is to ensure that the financial institutions are complying with the conditions of the PTE and, to the extent that the review reveals deficiencies, those deficiencies are corrected, both retroactively and going forward. The reference to retroactive corrections is that, if the review discovers compliance failures, the financial institution should self-correct under the PTE's correction procedures. The failure to correct means that the compensation resulting from the particular transaction (e.g., rollover) is a prohibited transaction. Since it would need to be included in the report as a compliance failure, it would be found easily by the DOL in an investigation.

While the DOL doesn't spell out the details of its expectations for the scope of the review, it seems obvious that a sufficient number of randomly selected covered recommendations should be reviewed in order for the firm to determine if the PTE's conditions are being satisfied across the full range of covered recommendations and by the advisors as a whole. The one helpful piece of guidance is in footnote 131 to the preamble to PTE 2020-02, which refers to FINRA rules 3110, 3120 and 3130.

### Conclusion

While the conduct standards, disclosures and policies and procedures requirements of PTE 2020-02 are already applicable and financial institutions (such as investment advisers and broker-dealers) should be implementing those practices on a regular basis, the compliance job is not yet done. Compliance failures will be discovered through supervision and the annual review, and will need to be corrected and reported to the DOL. The requirement to maintain records supporting compliance will require extensive recordkeeping at a detailed level. And the annual retrospective review will require a review of covered recommendations of all types (including rollovers) that are made by a range of advisors so that the process is "reasonably designed" to ensure compliance with the exemption. If financial institutions do not have appropriate practices in place today, and/or if advisors are not implementing those practices properly, the annual review, and the resulting corrections, will be problematic. **NNTM**



# LEARNING CURVES

INDUSTRY EXECS AGREE:  
THE ARA'S TRAINING AND  
CREDENTIALING PROGRAMS ARE  
THEIR GO-TO RESOURCES FOR  
OUTSOURCED RETIREMENT PLAN  
EDUCATION FOR THEIR STAFF.

By Nevin E. Adams, JD

IN a business as intricate, complex and ever-changing as retirement and retirement plan support, training and keeping staff up to date is a constant challenge. Beyond that, and particularly in an era of increased competition and consolidation—not to mention the strains of the so-called Great Recession—it means that attracting, retaining and developing qualified staff is a real struggle.

Of course, staying up to date with retirement plan education isn't a "one and done" endeavor. Consider that just ahead of the COVID-19 outbreak, the industry had to absorb and apply the implications of the SECURE Act—and just a couple of months later changes related to COVID relief emerged in the CARES Act—and all while the industry packed up and headed home to work, creating additional obstacles to traditional training mediums. "The most obvious challenge post-COVID is the lack of in-person

interaction—mentees not sitting side by side with mentors on a daily basis," notes Craig Reid, President of MMA Securities LLC. "Additionally, during a period of rapid growth and the heightened demands of our veteran colleagues, it's time consuming to properly conduct the training and development of junior colleagues. We work in a niche industry and our team holds ourselves to extremely high standards, so we can't afford to cut corners on training and development."





"FOR EMPLOYEES, AN ASPPA/ARA CREDENTIAL BURNISHES THEIR OWN REPUTATION IN THE INDUSTRY AND STRENGTHENS OUR CREDIBILITY AMONG PLAN SPONSORS. CLIENTS RELY ON US FOR EXPERTISE AND DEEP KNOWLEDGE ON THEIR BEHALF. THE CREDENTIAL NOT ONLY BUILDS THAT KNOWLEDGE, BUT ALSO CODIFIES IT." — NATHAN VORIS, SCHWAB



For Schwab Retirement Plan Services, training is not just a one-time commitment, but an ongoing process. Nathan Voris, Director, Investments, Insights and Consultant Services, explains that the firm relies not just for credential and certification programs, but for the continuing education. "It's a great way to keep up to date. Our clients expect us to be experts, and so do the plan advisors we work with," he explains.

It's also a challenge to do so across diverse and multiple locations. Consider that Schwab is keeping up with more than 1,000 diverse employees across the country, with major centers in Richfield, OH, Austin and Westlake, TX, Denver, CO and Phoenix, AZ. Meanwhile Reid notes that Marsh McLennan Agency

LLC is also spread out with 20 offices around the country from which they "cover both coastlines, the northern and southern borders, with several offices in between." The workforce diversity isn't just geographical. "Our colleagues' demographics range in age from professionals entering the workforce to those getting ready to exit," Reid explains, and with a robust hiring process he notes that the organization—most of which are "highly credentialed, including several CFAs, CFPs, AIFs and CPFAs"—has created a national onboarding and development program to support on-the-job training. "With our rapid growth, developing new hires is extremely important."

Transamerica has approximately 6,500 employees in the United States, with headquarters in Baltimore, MD, and major operations in Denver, CO and Cedar Rapids, IA. As was the case for many employers, many of their employees continue to work from home since March 2020 due to the COVID-19 pandemic. But more than the different locales and environments, the firm notes that all its employees must complete training modules regularly, focused on industry education, regulations and ethics.

The organization has been focused on excellent online training opportunities for a number of years, according to Phil Eckman, President of Workplace Solutions. "We seek to benefit from industry experts like ARA; we encourage and support employees going the extra mile to maintain and increase our overall organizational knowledge," he explains. "We also see employees identifying knowledge that will be needed for future endeavors

and taking the initiative now to obtain that education. The financial industry continually changes, and it is inspiring to see our employees being proactive and making ongoing education a major professional priority."

While education has long been a tenet of the American Retirement Association, dating back to its days as the American Society of Pension Actuaries (ASPA), the curriculum has expanded dramatically over the past two years with the launch of an Introduction to Retirement Plans (IRP), as well as a significantly upgraded Retirement Plan Fundamentals (RFP) course, not to mention the NAPA ESG(k) certificate, as well as the newly launched Nonqualified Plan Advisor (NQPA) credential, and soon-to-be-launched Rollover Specialist (K)RS Credential Program in addition to the Certified Plan Fiduciary Advisor (CPFA) credential and NAPA 401(k) Practice Builder certificate program.

Transamerica also offers tuition reimbursement up to predetermined annual dollar limits, as well as job-specific training to help employees gain a better perspective on the customers they serve—notably in the employer-sponsored retirement plan space they make available ARA training courses for those employees who support those plans. "Our employees have expressed great appreciation for all of these programs and the knowledge they provide," he notes. "Our customers benefit greatly from it."

"For years, most of our professionals were based in a single service center, which made in-person training our first approach," notes Voris. "Our business has grown significantly over the past



CRAIG REID  
MARSH MCLENNAN AGENCY

20 years both in terms of employees and locations. With teams now spread across the country, a digital approach makes much more sense than in-person training." An approach he notes also fits well with the preferences of a modern workforce.

"We encourage and support employees going the extra mile to maintain and increase our overall organizational knowledge," says Eckman. "We also see employees identifying knowledge that will be needed for future endeavors and taking the initiative now to obtain that education. The financial industry continually changes, and it is inspiring to see our employees being proactive and making ongoing education a major professional priority."

At Marsh McLennan Agency, Reid has seen similar shifts. "As a strategic acquirer, MMA's training has historically remained a responsibility of the acquired firm," he says. That meant that traditionally training occurred largely through the shadowing of veteran colleagues and learning by on-the-job experiences—"client meeting by client meeting, report by report, fire drill by fire drill," he says.

"It's obvious that with this approach new colleagues' development opportunities come reactively when the opportunity presents itself, and it's more demanding on our veteran colleagues to recognize and find ways to create/identify these opportunities for our new hires."

In fact, the firm recently built a national onboarding and development program that aims to save time, create consistency, and proactively generate new learning opportunities, networking opportunities, etc. He explains that one component of this program has been a partnership with ARA to add the IRP (Introduction to Retirement Plans) and RPF (Retirement Plan Fundamentals) training courses into the early development stages of a new hire. "Outsourcing some of the technical industry training will help us accelerate the speed at which someone can become proficient in this business, and we believe ARA can satisfy those development goals better than if we were to take on that challenge internally," he notes.

"ARA's retirement industry training courses are helpful for new employees



PHIL ECKMAN  
TRANSAMERICA

or those who want refreshers on certain aspects of the retirement plan industry," concurs Eckman. "We believe this type of training results in greater employee engagement and a superior experience for our clients."

"For employees, an ASPPA/ARA credential burnishes their own reputation in the industry and strengthens our credibility among plan sponsors," agrees Voris. "Clients rely on us for expertise and deep knowledge on their behalf. The credential not only builds that knowledge, but also codifies it." **NTM**

MENU RESOURCES

## INTRODUCTION TO RETIREMENT PLANS (IRP)

### Module 1

*Building your foundation of employer-sponsored retirement plans.*



**BEGIN**





# College Daze

*A closer look at the Biden administration's plan to forgive up to \$20,000 in student loan debt.*

By Steff Chalk

**P**resident Biden has decided to eliminate student loan debt for millions of Americans with the stroke of a pen. The Speaker of the House has expressed concern that such power does not reside within the executive branch. However, let's assume that the executive branch and the legislative branch of our government will make this debt cancellation policy a reality.

Cancelling post-secondary education debt for low- and middle-income Americans is designed as relief for borrowers who have amassed approximately \$1.75 trillion in outstanding student loan debt.

As proposed, an American who has income of less than \$125,000—or \$250,000 for a family—can be relieved of student loan debt in the amount of either \$10,000 or \$20,000. This, in addition to an extension of the current moratorium on monthly payments and interest for qualifying student loan debt (“kicking the can down the road” in Washington parlance).

During the last 10 years, college and university costs have increased substantially. Today's graduates have an average of \$39,381 in student loan debt, according to Experian.

## Is Post-Secondary Education Worth it?

Graduating from college normally results in:

- Higher incomes than non-college graduates.

- Having health insurance. The Kaiser Family Foundation<sup>1</sup> finds that there is a strong correlation between a college education and maintaining health care coverage.
- Greater likelihood that adults will move up the socioeconomic ladder and less chance that adults will rely on public assistance, according to The College Board.<sup>2</sup>

On the surface, obtaining a 4-year degree at an institution of higher learning is revered as a positive experience. As noted above, there are many innate benefits that accrue to the degree holder. So why all the caterwauling over the use of a presidential pen to wipe out \$440 billion (or more) of student loan debt?

our youth to “only purchase what you can afford.”) Our government has sent a clear message to everyone earning less than \$125,000 a year: The documents you sign as an obligation to repay debt, and the corresponding terms and conditions, mean nothing!

Employers with tuition reimbursement plans have also been dealt a blow. The cancellation of student loan debt has diminished an employee benefit that was once revered by companies as a differentiator.

In the wake of debt cancellation at the behest of the White House or Congress, borrowers have a financial incentive to either restructure existing student debt or initiate new student debt. The cancellation of student debt now encourages the proclivity of colleges and

**“The cancellation of student loan debt has diminished an employee benefit that was once revered as a differentiator by companies with tuition reimbursement plans.”**

## Who is Complaining?

Students are complaining. Students who respected their financial obligations by scrimping and saving to make ends meet—while paying off their student loans. Students who have made responsible, sound financial decisions when selecting a college or university that they or their parents could afford.

Parents are complaining. They harbor the same complaints as the students—and then some. No one is offering to financially bail out the parents who delayed addressing personal needs or obligations. Parents who taught their family the importance of fiscal responsibility now appear foolish in the eyes of other family members. (So much for guiding

universities to raise prices and increase margins.

## What Advice is Appropriate?

When a high school student seeks advice on their post-secondary education opportunities, the student will normally speak with their parents or other relatives—or maybe their parents' financial advisor.

As an advisor, if you are asked for advice in such a scenario, what is your response? How do you best advise someone who is vacillating between a college they *want* to attend—but cannot afford—and the local university which comes in at 20% of the cost of the more prestigious first-choice college? **NTM**

## FOOTNOTES

<sup>1</sup> <https://www.kff.org/health-costs/issue-brief/how-aca-marketplace-premiums-are-changing-by-county-in-2020/>

<sup>2</sup> <https://research.collegeboard.org/media/pdf/education-pays-2019-full-report.pdf>





# A New Turn in Litigation

Three new trends are emerging in plan litigation. Here are some tips on how to help your clients—and your advisory firm—stay out of harm’s way.

David N. Levine



**A**s advisors, TPAs, recordkeepers and other service providers are dipping their toes into including cryptocurrency solutions for their clients, the regulators and legislators are wading in as well. It has been an active first half of 2022 in the world of crypto offerings, with general interest in regulating cryptocurrencies and digital assets coming from President Biden and specific interest about cryptocurrencies in

retirement plans from Congress and the Department of Labor’s Employee Benefits Security Administration (EBSA).

When the U.S. Supreme Court issued its decision in the *Northwestern* fee litigation case in January 2022, the immediate question across the retirement industry was whether we would see a spike in litigation. If the rest of 2022 is any indication, the answer is yes.

Several trends have begun to emerge. First, the number of

plaintiffs’ firms bringing lawsuits has continued to expand beyond the “usual” well-known players. Second, no investment, feature or service provider is immune from court challenge. Third, while there have been notable winds for the defense bar, a number of cases have moved beyond the early “motion to dismiss” stage of litigation into the more time- and cost-intensive litigation discovery process.

There are a number of steps an advisor might consider in light of these new trends:



#### • Investment Options.

Lawsuits have moved beyond the typical focus on active investment funds or fee comparisons against these funds. Instead, plaintiffs' lawyers have now brought a wave of lawsuits against plans utilizing low-cost passive target date funds. While industry pushback on these lawsuits has been swift and strong, advisors may be able to proactively assist their clients

“Lawsuits have moved beyond the typical focus on active investment funds or fee comparisons against these funds.”

with continuing monitoring and documentation of their investment recommendations and decisions.

#### • Investment Solutions.

Lawsuits continue to focus on products and services—whether rollover advice, managed accounts or other services. With new requirements of Prohibited Transaction Exemption 2020-02 now in effect and the expanding universe of managed accounts and other solutions, advisors would serve their clients well by reviewing their diligence processes when selecting and monitoring vendors and service providers.

#### • Preparing for Litigation.

While as a defense lawyer I disagree with blanket statements on “when” or “how often” certain fiduciary monitoring or diligence activities should be undertaken, evaluating whether or not to undertake activities such as benchmarking, RFI and/or RFPs as well as fund reviews is a potential takeaway from the recent rise in litigation. Importantly, ERISA does not require any specific activity so there is no one-size-fits-all requirement, such as running an RFI or RFP every set period of time.

• **Insurance.** Insurance for both advisors who could be

named and plan fiduciaries is more essential than ever. For advisors, errors and omissions and/or fiduciary insurance (especially depending on an advisor's role) may be important to consider. For plan fiduciaries, fiduciary insurance and its relevant limits and deductibles continue to be important items to consider as well.

• **Contracts.** Advisory agreements—after discussion and negotiation with clients—in some cases may benefit for clarifications regarding duties, responsibilities and indemnities assumed (and not) by an advisor or a plan fiduciary.

However, regardless of these steps, there is no guarantee that a plan or advisor will be immune from litigation. As such, advisors and their clients may benefit from being “on the lookout” for plaintiffs' lawyers asking questions about their plans or similar activities. Importantly, with the entry of more plaintiffs' law firms into the ERISA litigation space, a lawsuit can appear with little warning, so an ongoing proactive process can serve as an essential backstop.

Taking these steps can help an advisor to be a proactive resource and better prepare for what is now an increasingly common experience. **NTM**



# Direct ‘Shuns’?

*Could ESG options undermine participant outcomes?*

By Nevin E. Adams, JD



**A** recent report entitled “The Missing Middle” by the National Institute on Retirement Security (NIRS) treads some all-too-familiar ground, myopically focusing on one element of the nation’s private retirement system.

A new study finds that overall interest in ESG strategies by participants is “relatively weak” and “driven by naïve diversification.”

The difference may, of course, be attributed to the difference between what individuals say—and what they actually do. Unlike surveys that purport to capture participant (and plan sponsor) sentiments, the research by David Blanchett of PGIM and Zhikun Liu of the Employee Benefit Research Institute (EBRI) looks at the actual allocation decisions of 9,324<sup>1</sup> newly enrolled DC participants who are self-directing their

accounts in a DC plan that offers at least one ESG fund.

In a paper titled “ESG Fund Allocations Among New, Do-It-Yourself Defined Contribution Plan Participants,” they claim to find that overall interest in ESG strategies among these participants is “relatively weak,” with only 8.9% of participants having any allocation to an ESG fund and average allocations to ESG strategies of just 18.7%

## “Adding an ESG fund might encourage more DIY investing by those interested in ESG—and that interest pulls them away from the professionally managed, higher-returning alternatives.”

among those holding any ESG funds.<sup>2</sup> Indeed, while they note “some clear demographic preferences for ESG funds (e.g., among younger participants with higher incomes),” they find that ESG allocations appear to be “primarily a function of weak preferences, driven by naïve diversification.”

Now, that hardly sounds like the heightened interest and engagement with those options that some participant surveys have captured (well, aside from that by younger participants with higher deferral rates and higher incomes). However, the research claims that the two factors which appeared to drive the largest allocations to ESG funds were not related to participant demographics, but rather the number of funds in the participant portfolio and the percentage of participants in the respective DC plan allocating to an ESG fund.

If that seems a confusing descriptor, they found a “notable increase” in the probability of owning an ESG fund as the number of portfolio holdings increases—basically, the more funds the individual holds, the more likely he or she is to have an ESG offering among them. This tendency they characterized as attributable to “naïve diversification”—again, basically, if you’re simply picking a larger number of funds overall, then they concluded that the decision to allocate to the ESG fund is “likely based on a weak preference, not necessarily conviction in ESG.”

Said another way, if you’re picking a lot of different funds, the more you pick, the better the odds that an ESG fund will (randomly) be among them.

On the other hand, those looking for a more optimistic future for ESG might take heart from their conclusion that “the fact ESG allocations increase as more participants in a plan allocate to ESG funds suggests plan interest effects could be an especially strong driver of future growth in ESG funds (despite relatively low usage today).” In fact, they noted a “notable plan interest effect, whereby ESG allocations are significantly higher in plans where general ESG usage is higher.”

### Plan Sponsor Cautions

That said, the current decision-making by those participants appears to be “sub-optimal” (worse than you might expect) from a return standpoint—with the researchers here basically finding that participants who self-direct their portfolios have significantly lower expected returns than those using professionally managed investment options, such as target-date funds—something that proponents of professionally managed asset allocation solutions shouldn’t find surprising. To put it another way, those more likely to pick ESG funds are more likely to be the “do it yourself” (DIY) types—and those don’t do as well as those professionally managed solutions. This, as the researchers point out, can be an “important consideration for

plan sponsors when adding ESG funds to the core menu to the extent they entice participants to self-direct their accounts.” So, adding an ESG fund might encourage more DIY investing by those interested in ESG—and that interest pulls them away from the professionally managed, higher-returning alternatives.

In fact, an additional analysis suggests that those DIY participants have expected returns that are approximately 100 basis points lower than investors using professionally managed portfolios, such as target-date funds and managed accounts. And this, the researchers comment, suggests that adding ESG funds to core menus may create additional implicit return “costs” for participants—by adding those options that encourage participants to make choices other than professionally managed multi-asset options (e.g., target-date funds).<sup>3</sup>

Overall, the researchers comment that their analysis paints a “mixed picture about the actual participant interest, and drivers of demand, for ESG funds in DC plans and suggests that plan sponsors should take a thoughtful approach when considering adding ESG funds to an existing core menu.”

Or—it seems fair to say—when adding (or subtracting) any funds at all. **NTM**

### FOOTNOTES

<sup>1</sup> Of the 9,324 participants included in the dataset, only 833 had some allocation to an ESG fund, which is 8.9% of the total.

<sup>2</sup> Among participants with an allocation to an ESG fund, the average allocation was 18.7%, with a standard deviation of 19.0%. The total average balance allocation to ESG funds is 1.7% (including all participants). There are only 56 participants (0.6% of the total) with ESG allocations greater than 50% of their balance and only 19 participants (0.2% of the total) with 100% of their balance in ESG funds.

<sup>3</sup> Some of the issues here are no doubt a consequence of current menu constructions. In the sampling studied, no plan offered more than five ESG funds, and the vast majority (approximately 76%) offered only one ESG fund.



# Case(s) in Point

*The big litigation development in recent weeks has been a series of suits filed against holders of the BlackRock LifePath target-date funds—nearly a dozen of them to date, and all basically alleging that the fiduciaries “chased low fees” rather than being attentive to performance considerations—while these are suits, not decisions, it seemed worthwhile to share one of those (and its arguments) here. It’s also been a time in which the court that first provided, and then had remanded to it for reconsideration by the U.S. Supreme Court, was asked to take another look at a case that the plaintiffs thought might be impacted by the Northwestern decision. Finally, we take a look at a case involving the issue of participant data as a potential plan asset—and its use a possible prohibited transaction...*

*Enjoy.*

## ‘Target’ Rich?

*(Nearly) a dozen firms now snagged in BlackRock TDF suit*

**T**he law firm of Miller Shah LLP has targeted yet another plan they claim “appear[s] to have chased the low fees charged by the BlackRock TDFs without any consideration of their ability to generate return.”

The most recent was CUNA Mutual. This time (*Abel v. CMFG Life Ins. Co.*, W.D. Wis., No. 3:22-cv-00449, complaint 8/19/22) it’s the fiduciaries of the \$865 million CUNA Mutual 401(k) Plan for Non-Represented Employees sued by

plaintiffs Christine Abel, Steven Auld, and David Pennington—all former participants (invested in the BlackRock LifePath Index 2035, 2030 & 2050 Funds, respectively) of the 4,461-participant plan (as of Dec. 31, 2020, anyway). They’re also (as most 401(k) litigation does these days) filing suit (this time in the U.S. District Court for the Western District of Wisconsin, where CUNA is based) against the parties that appointed, and ostensibly had the responsibility for monitoring the committee’s activities.

And for those keeping count, this appears to be the 11th time

an employer has been sued over these same BlackRock target-date funds in the past month, including suits filed against Genworth Financial Inc., Microsoft, Cisco Systems Inc., Booz Allen Hamilton Inc., Stanley Black & Decker Inc., Wintrust Financial Corp., and Marsh & McLennan Cos.

“Defendants were responsible for crafting the Plan lineup and could have chosen from a wide range of prudent alternative target date families offered by competing TDF providers, which are readily available in the marketplace, but elected to retain the BlackRock TDFs instead, an imprudent decision that has deprived Plan participants of significant growth in their retirement assets.”

## ‘Consistently Deplorable Performance’

The plaintiffs here claim that despite “...consistently deplorable performance of the BlackRock TDFs” that they allege was “visible at the suite level throughout the pertinent period,” that the defendants “failed to act in the sole interest of Plan participants and breached their fiduciary duties by imprudently selecting, retaining, and failing to appropriately monitor the clearly inferior BlackRock TDFs.” Moreover, the plaintiffs assert that the defendants “employed a fundamentally irrational decision-making process (i.e., inconsistent with their duty of prudence) based upon basic economics and established



investment theory, they clearly breached their fiduciary duties under ERISA—which are well-understood to be the “highest known to law.” And—as other suits in this vein have alleged, they note that “exacerbating Defendants’ imprudent decisions to add and retain the BlackRock TDFs is the suite’s designation as the Plan’s Qualified Default Investment Alternative (QDIA).”

As in the other suits (let’s face it, the basic allegations are identical, as are the funds and preferred benchmarks in question), this one argues that, rather than comparing the target-date suite to a selected custom benchmark, the funds would be better compared with the performance of what it calls “comparator” TDFs, basically the leading target-date funds<sup>1</sup> (at least in terms of assets and market

the fiduciary defendants “selected, retained, and/or otherwise ratified poorly performing investments instead of offering more prudent alternative investments that were readily available at the time Defendants selected and retained the funds at issue and throughout the Class Period. Since Defendants have discretion to select the investments made available to participants, Defendants’ breaches are the direct cause of the losses alleged herein.”

And it doesn’t seem likely to be the last.

—Nevin E. Adams, JD

**NOTE:** *In litigation there are always (at least) two sides to every story. However factual it may turn out to be, the initial lawsuit in any action is only one side, and one generally crafted toward a particular result. In our coverage*

consideration by the U.S. Supreme Court in January.

### Oshkosh, By Gosh!

As for the case at hand, it involves the \$1.1 billion Oshkosh Corp. 401(k) that former participant and now-plaintiff Andrew Albert had alleged subjected participants to excessive fees because it retained higher-cost actively managed funds, failed to retain only the lowest-cost share class of funds it offered, and paid excessive fees for recordkeeping services (to Fidelity). All told, the suit, filed in the U.S. District Court for the Eastern District of Wisconsin, claimed those practices resulted in \$15.9 million in unnecessary losses to plan participants.

The suit was dismissed roughly a year ago by Judge William Griesbach who noted at the time that while the plaintiff here had

## “A federal appellate court took another look at an excessive fee case it had dismissed—and found nothing in a recent Supreme Court decision to change its mind.”

share). And though they have different glidepaths (they’re all of the “through” retirement focus, rather than “to” retirement date, as the BlackRock set is focused), the plaintiffs argue that BlackRock TDFs de-risk at a quicker pace than most of the Comparator TDFs, and that what they call “the resulting equity allocation discrepancy” is only reflected in the two funds that are closest to the retirement date. The point seems to be that, despite its ostensibly more conservative glidepath nearing retirement, that—overall—it’s as equity-laden as the others, and thus, they constitute a fair comparison, certainly as they are performing for younger workers (the more aggressive part of the glidepath).

Ultimately, the suit claims that

*you’ll see descriptions of events qualified with statements such as “the suit says,” or “the plaintiffs allege” and qualifiers should serve as a reminder of that reality.*

### Win ‘Wind’

*Seventh Circuit gives Oshkosh another excessive fee suit win*

**A** federal appellate court took another look at an excessive fee case it had dismissed—and found nothing in a recent Supreme Court decision to change its mind.

It was, in fact, the same appellate court (the Seventh Circuit) that had its judgement in the *Hughes v. Northwestern University* decision in favor of the fiduciary defendants vacated and remanded for further

backed up his assertions about recordkeeping costs with “charts, graphs, and tables that the same or different recordkeepers have accepted lower recordkeeping fees from similar plans with approximately the same number of participants and the same amount of assets under management during the statutory time period”—that the plaintiff had nonetheless failed to allege “any facts as to what would constitute a reasonable fee or any facts suggesting that the fee charged by Fidelity is excessive in relation to the services provided.”

### The Appeal

However, armed with the Supreme Court’s refutation of this court’s judgment in the *Hughes* decision, plaintiff Albert (represented





still by Walcheske & Luzi LLC) thought he'd give it another shot, appealing in the U.S. Court of Appeals for the Seventh Circuit in what turns out to be the first ruling of this court since that *Hughes v. Northwestern University* decision earlier in the year.

Indeed, the ruling here (*Albert v. Oshkosh Corp.*, 7th Cir., No. 21-2789, 8/29/22) starts by noting that "while this appeal was pending, the Supreme Court issued its opinion in *Hughes v. Northwestern University*, 142 S. Ct. 737 (2022), vacating our decision in *Divane v. Northwestern University*, 953 F.3d 980 (7th Cir. 2020), and remanding for reevaluation of the operative complaint." That said, the ruling (written by Judge Amy J. St. Eve, and joined by Judges Frank H. Easterbrook and Candace Jackson-Akiwumi) goes on to note that the "district court cited *Divane* repeatedly in its opinion, albeit not for the proposition that the Supreme Court rejected in *Hughes*." In other words, the issues that the Supreme Court found in the *Hughes* case did not apply here.

Judge St. Eve noted that while this court's decision in the *Northwestern* case had basically hinged on a conclusion that the inclusion of low-cost investment options in the plan mitigated concerns that other investment options were imprudent—a premise the Supreme Court rejected<sup>2</sup> as "inconsistent with the context-specific inquiry that ERISA requires and fails to take into account respondents' duty to monitor all plan investments and remove any imprudent ones." However, she also noted that the Supreme Court had acknowledged that "the circumstances facing an ERISA fiduciary will implicate difficult tradeoffs, and courts must give due regard to the range of reasonable judgments a fiduciary may make based on her experience and expertise."

#### The Defense

The fiduciary defendants here (represented by Morgan, Lewis & Bockius LLP and Ogletree, Deakins, Nash, Smoak & Stewart PC) argued that none of that changed the fundamental

requirements of an ERISA fiduciary—more precisely that it "did not radically reinvent this area of law or upend years of precedent"; it simply reinforced that "ERISA does not allow the soundness of investments A, B, and C to excuse the unsoundness of investments D, E, and F." On the other hand, plaintiff Albert argued that *Hughes* basically "renders reliance on any aspect of *Divane* improper."

Judge St. Eve quickly affirmed Albert's standing to bring suit, and acknowledged the history of the case, and the arguments being presented. She turned back to the *Divane* rule, where the court "...rejected the notion that a failure to regularly solicit quotes or competitive bids from service providers breaches the duty of prudence"—and then stated that the plaintiff "overstates the significance of *Hughes*," noting that "*Hughes* did not hold that fiduciaries are required to regularly solicit bids from service providers. Nor did it suggest that the reasoning in *Hecker* and *Loomis* no longer stands"—that it "merely rejected this court's

“That the Supreme Court’s ruling in *Hughes v. Northwestern University* wasn’t seen as having an impact here (at least by this court) is instructive.”

assumption that the availability of a mix of high-cost and low-cost investment options in a plan insulated fiduciaries from liability.”

### CommonSpirit Spirit

And while she noted that the Hughes case is still pending, she turned to the Sixth Circuit, and the decision in *Smith v. CommonSpirit Health* where that court “recently held that an ERISA plaintiff failed to state a duty of prudence claim where the complaint ‘failed to allege that the [recordkeeping] fees were excessive relative to the services rendered.’” That court, she noted “did not consider *Hughes* to have any bearing on the analysis of such claims, and neither do we.”

She continued, “although the district court repeatedly cited *Divane* in its discussion of Albert’s recordkeeping claim, we affirm the dismissal of Count I”—as “that claim fails under our precedent that *Hughes* left untouched. In so holding, we emphasize that recordkeeping claims in a future case could survive the ‘context-sensitive scrutiny of a complaint’s allegations’ courts perform on a motion to dismiss.” However, she continued that “Albert’s complaint simply does not provide ‘the kind of context that could move this claim from possibility to plausibility’ under *Twombly*<sup>3</sup> and *Iqbal*.”

As for the claims regarding investment management fees, Judge St. Eve took issue with the plaintiff’s reliance on data from Form 5500, since it “does not require plans to disclose precisely where money from revenue sharing goes. Some revenue sharing proceeds go

to the recordkeeper in the form of profits, and some go back to the investor, but there is not necessarily a one-to-one correlation such that revenue sharing always redounds to investors’ benefit,” though she commented that the plaintiff’s argument seemed to assume so.

### Expense ‘Sieve’?

She challenged the plaintiff’s argument that the plan fiduciaries should have offered higher-cost share classes because the “net expense” would be lower due to revenue-sharing. She contrasted that with the argument also made here that the defendants should have gone with passive, rather than actively managed funds in order to obtain less-expensive funds.

“We agree with Oshkosh that the amended complaint does not allege sufficient facts to make this novel theory plausible,” Judge St. Eve wrote. “While a prudent fiduciary might consider such a metric, no court has said that ERISA requires a fiduciary to choose investment options on this basis.”

“Albert’s allegations are similarly threadbare: that ‘Defendants failed to consider materially similar and less expensive alternatives to the Plan’s investment options.’ In the absence of more detailed allegations providing a ‘sound basis for comparison,’” she wrote, dismissing the second count of the suit.

She was even harsher in her criticism of the part of the suit condemning the service provider/advisor fees paid to SAI. Plaintiff Albert had argued

that those advisory services “provided virtually no benefit to some participants and a negative value to other participants”—but offered no comparisons for that claim, other than alleging that it was a natural result from an assumption that no competitive bidding had been conducted for those services. But, as Judge St. Eve commented here, failure to conduct an RFP was deemed “insufficient to state a claim for breach of the duty of loyalty.”

At this point, perhaps needless to state, Judge St. Eve, having dismissed all of the fiduciary breach claims, found that the other allegations—duty to monitor, as well as claims that Oshkosh engaged in prohibited transactions with Fidelity, were derivative of the dismissed claims—and dismissed them as well. Finally, as regards claims that Oshkosh failed to disclose fees charged to participants, specifically the method of calculating revenue-sharing fees, Judge St. Eve (citing *Deere v. Hecker*) found that “the total fee, not the internal, post-collection distribution of the fee, is the critical figure for someone interested in the cost of including a certain investment in her portfolio and the net value of that investment.”

### What This Means

That the Supreme Court’s ruling in *Hughes v. Northwestern University* wasn’t seen as having an impact here (at least by this court) is instructive. While that review of the case was ostensibly about establishing which party bore the burden of proof in these cases—well, it didn’t.



Filling that “vacuum” in recent weeks has been the *CommonSpirit* case cited above (and other cases that have relied upon that decision) which seems to have established a threshold of claims necessary to get past a dismissal—a threshold that acknowledges that the only way to know if a fee is reasonable is to consider what service(s) you get for that price.

—Nevin E. Adams, JD

### Data ‘Driven’

*Participant data claims dismissed in excessive fee suit*

ADP got something of a split decision in an excessive fee case—with a federal judge allowing claims regarding high record-keeping fees and expensive investments to proceed—but culling claims about the use of participant data.

### The Suit

The suit was filed in mid-May 2020 in the U.S. District Court of the District of New Jersey against the fiduciaries of the \$4.4 billion ADP TotalSource Retirement Savings Plan (including third-party investment consultant NFP Retirement Inc.) on behalf of participants in the MEP by the law firm of Schlichter Bogard & Denton.

At a high level, the allegations made in this suit (*Berkelhammer v. ADP TotalSource Group Inc.*, D.N.J., No. 20-cv-05696, complaint filed 5/7/20) were that the ADP defendants: breached their fiduciary duties and engaged in prohibited transactions by failing to monitor and control the Plan’s recordkeeping fees and causing the Plan to pay excessive fees; breached their fiduciary duties and engaged in prohibited transactions by unlawfully paying themselves from Plan assets; and selected and retained imprudent investments in the Plan.<sup>4</sup>

### The Issue(s)

Turning to the participant data claim, U.S. District Judge Esther Salas restated the issue—that the fiduciary defendants breached their fiduciary duties by disclosing plan participant data to Voya,

which used, through VFA, the data to sell non-Plan, retail, and expensive investment products to Plan participants”—and that “Defendants’ transfer of plan participant data to Voya constituted a party-in-interest transaction prohibited under § 1106(a)(1)(D).”

Judge Salas noted that, “in opposing Defendants’ motion to dismiss, Plaintiffs do not offer a single case supporting their fiduciary breach claim”—and perhaps no wonder, as she continued, “One district court observed that there is not “a single case in which a court has held that releasing confidential information or allowing someone to use confidential information constitutes a breach of fiduciary duty under ERISA. This Court will not be the first...”—and then went on to note, “Nor will this Court

be the first, at least not on these pleadings.”

She continued to cite the example of that case (*Divane v. Northwestern University*), noting that not only was it not imprudent to allow a recordkeeper “to have access to each participant’s contact information, their choice of investments, their employment status, their age and their proximity to retirement”—“If anything, it might be imprudent not to disclose that information to Voya as recordkeeper. The recordkeeper ‘need[s] that information in order to serve as record keeper.’”

“To be sure,” she acknowledged, “Plaintiffs argue that Defendants should have limited Voya’s use of plan participant data solely for purposes of its recordkeeping functions. But absent from their



Complaint are sufficient facts supporting this theory. First, they do not explain what processes were flawed with respect to permitting Voya, through VFA, to use plan participant data for non-plan purposes. Second, they do not articulate any harm to the Plan—i.e., diverted investments that would otherwise have increased Plan assets. Third, while they claim that participants of the Plan paid higher fees when investing through non-Plan investment products—which were marketed to them by use of their data—these allegations are vague, general, and conclusory.”

Moreover, Judge Salas explained that the plaintiffs “...do not allege what Plan participants, specifically, paid in fees; instead, they allege, generally, that ‘revenue generated by ... sales [of non-plan products] is significant,’ but commented that nothing specific to the plan or Voya. ‘Nor do they allege that these non-Plan products performed so poorly that the fees were unjustified. Fourth, Plaintiffs do not outline the conduct of comparable fiduciaries in like situations (e.g., Fiduciary X of Plan Y limited Recordkeeper Z from using plan participant data for non-recordkeeping purposes). While they allege that fiduciaries of two other plans considered limiting recordkeepers’ use of plan participant data, they do not allege that those fiduciaries actually limited the recordkeeper.”

And then proceeded to dismiss this claim—but dismissed without prejudice, explaining that the court “cannot rule out the possibility that Plaintiffs might plausibly allege that a reasonable fiduciary in Defendants’ situation would have conditioned use of plan participant data only for recordkeeping purposes.”

### Prohibited Transaction?

With regard to the claims that sharing the data constituted a prohibited transaction, Judge Salas explained that they needed to “plausibly allege that plan participant data are ‘assets of the plan’”—and that meant they had to “do more than simply allege that plan participant data are plan assets.” But then Judge Salas explained that, “the Court could not uncover, and Plaintiffs have not cited, a single case that has held plan participant data are plan assets under ERISA. And at least three courts<sup>5</sup> have squarely rejected such a proposition.” And with no citation in favor of their position—and with judicial precedence to the contrary, “In light of Plaintiffs’ deficient pleadings, the Court follows that consensus.”

Judge Salas did turn to ERISA for a definition (29 C.F.R. § 2510.3-101, which is titled “Definition of ‘plan assets’—plan investments”) which noted that, “generally, when a plan invests in another entity, the plan’s assets include its investment, but do not, solely by reason of such investment, include any of the underlying assets of the entity. However, in the case of a plan’s investment in an equity interest of an entity that is neither a publicly-offered security nor a security issued by an investment company registered under the Investment Company Act of 1940 its assets include both the equity interest and an undivided interest in each of the underlying assets of the entity...”

She then concluded, “this regulation cannot be read to define plan assets to include plan participant data. As one district court has observed, this regulation expressly defines plan assets in terms of investments but

conspicuously ‘makes no mention of any data.’”

“Plaintiffs appear not to dispute that the Secretary of Labor’s regulations fail to capture plan participant data as plan assets,” she writes. “Instead, Plaintiffs argue that the Secretary of Labor does not exclusively define plan assets. In support, Plaintiffs point out that the Secretary of Labor did not define plan assets until twelve years after ERISA’s enactment, and that the regulations merely describe, as opposed to definitively define, the term plan assets.” She was not, however, persuaded. “Absent the minimum allegation that plan participant data is something of value to the Plan, Plaintiffs fail to allege that plan participant data are plan assets.”

“Accordingly,” Judge Salas concluded, “Plaintiffs’ Count X is dismissed. However, Count X, like Count IX, is dismissed without prejudice because the Court cannot rule out the possibility that Plaintiffs may plausibly plead that plan participant data, when collected and aggregated, can be used as something of value to benefit the Plan and participants of the Plan.”

### What This Means

To date, common wisdom (as well as judicial precedent) would seem to suggest that while there is clearly value in participant data that relates both to the plan, and in some cases beyond, that wouldn’t seem to constitute being a plan asset. However, as Judge Salas notes in leaving that door open, you never know when an open-minded judge might decide otherwise. Prudent fiduciaries should, at a minimum, be mindful of the potential arguments, and prudent as to the access and application. **NNTM**

—Nevin E. Adams, JD

### FOOTNOTES

<sup>1</sup>As noted in previous suits in this series, the complaint calls out for special criticism Fidelity’s Freedom Funds—which the Miller Shah firm has targeted in a similar, albeit different, set of suits—but here they throw in that those “would have been an imprudent selection for the Plan for the duration of the Class Period due to myriad quantitative and qualitative red flags after undergoing a strategy overhaul in 2014 (the point of that other litigation). That said, the suit notes that, even though the Freedom Funds would have been inappropriate, “a fiduciary applying the requisite scrutiny to the BlackRock TDFs would have been aware of their underperformance compared to the Freedom Funds, despite the issues plaguing the Freedom Funds”—which, they claim in a footnote to be “...even further confirmation of the inability of the BlackRock TDFs to provide competitive returns throughout the Class Period.”

<sup>2</sup>The case is still pending before this court on remand from the U.S. Supreme Court.

<sup>3</sup>From which one of all-time favorite legal metaphors arose, the need to “divide the plausible sheep from the meritless goats.”

<sup>4</sup>Judge Salas concluded that the plaintiffs had presented ample evidence that they were paying \$80-\$124 in recordkeeping fees per participant from 2014 to 2018—some 400% higher than the \$25-\$30 that the plaintiffs had alleged was reasonable to expect for a plan of this size. She also found that the evidence presented regarding bad investment options was sufficient to establish a “plausible” case of malfeasance.

<sup>5</sup>*Harmon v. Shell Oil Co.*, No. 20-0021, 2021 U.S. Dist. LEXIS 66312, [2021 BL 126207], 2021 WL 1232694, at \*2-3 (S.D. Tex. Mar. 30, 2021); *Divane*, [2018 BL 186065], 2018 U.S. Dist. LEXIS 87645, [2018 BL 186065], 2018 WL 2388118, at \*12; *Patient Advocs., LLC v. Prysunka*, 316 F. Supp. 2d 46, 48-49 (D. Me. 2004).







# ‘Drawing’ Board

*A NAPA-Net reader “read” on retirement income alternative(s)*

By Nevin E. Adams, JD

**W**hether your savings focus is retirement or “financial freedom,” sooner or later there comes that time when you’re going to want to draw down what you spent so long building up. But retirement income planning seems to be an afterthought for many advisors—or is it?

Of course, there’s been a traditional reluctance to bring those solutions “inside” the workplace retirement plan (born largely out of fiduciary and product complexity concerns, though the former has arguably been at least partially mitigated by provisions in the SECURE Act).

Earlier this year we asked readers if their plan sponsor clients were asking about retirement income solutions—and mostly the answer was:

- 29%** - No.
- 27%** - Some are, most aren’t.
- 24%** - Not yet.
- 13%** - Yes.
- 7%** - Most are, but not all.

That said, most of the comments received here suggested a more mixed messaging. Here’s a sampling:

*We tend to discuss this subject when we talk about the demographics of their group. For now, it’s still younger-leaning. I’ll let you define what “younger” means (PS for us... under 50).*

*We do an annual review of retirement income /plan distribution options to assess what if any participant demand or inquiry there has been. In 2021, that demand was insignificant across my client base.*

*Employers are more concerned with the Great Resignation issues than income solutions for the employees. They want help positioning the retirement plan as*

*a way to get talent in the door and better connect with employees so they avoid turnover.*

*I have seen a large increase during COVID of the over 65 BB saying I’m done... they come in and get shocked at the low interest rates and market volatility issues... and we help on SS adjudication... the biggest WOW is when they see the added premium on Medicare Part B/D they pay because they have AUM/Income in retirement!*

*I hear more from the industry than from clients or participants.*

## Talking to Sponsors

Next we asked if readers were talking to plan sponsors about retirement income—and here there was a noticeable shift:

- 33%** - Yes, proactively.
- 25%** - Not yet.
- 22%** - To some, not all.
- 9%** - Only if they bring it up.
- 6%** - No.
- 5%** - To most, not all.

*For now, discussions have been around ensuring that there is full flexibility for drawing down... installment payments, ad hoc payments...*

**“We work with many governmental clients that are not part of a defined benefit structure and not part of social security. The only retirement plans are DC plans. Creating income is critical for this structure.”**

*Not on the radar of most employers. This is one of those things where demand will be generated by industry marketing.*

*Frequent topic when discussing the SECURE Act.*

*Some are asking... but the biggest opportunity is for advisors to educate the plan sponsors who aren’t proactively asking—which is what our team is doing.*

*Plan Sponsors have yet to embrace the “through” retirement concern as their responsibility.*

*We prefer to manage the retirement income solutions outside the plan as wealth management opportunities.*

*It is not a high priority for employers.*

*Picked up a few “special project” to supplement with a 1X1 offer to meet with us to go over retirement income planning... many BB don’t want a web based solution... they want to talk it out!*

*Yes—but not emphasizing in plan solutions selling someone else’s product. We are promoting*



## “Retirement income is a good topic, but just not so much at the employer level. It is an employee concern.”

our financial planning services and process rollovers if it makes sense for the participant and checks all the boxes from a fiduciary perspective.

*In plans that have an aging demographic we have started these discussions.*

When discussing the SECURE Act, we discuss in plan retirement income options and the products available.

*Educating existing and prospective clients on the Retirement Income product landscape, the opportunity to provide more proactive education/guidance for individuals to help them identify solutions that are suitable for them.*

We are mentioning it and telling them we are reviewing options as they continue to roll out.

### Participant Interest(s)?

But are plan participants asking about these solutions?

31% - Not yet.

24% - No.

22% - Some are, most aren't.

11% - Yes.

7% - Most are, but not all.

The rest (approximately 4%) don't work with individual participants.

*We have started doing one on ones with certain of our clients and this subject has not come up. Overall, I'd say that the most talk comes from advisors or companies that have a "solution" to sell.*

At the employee level, income solutions are more relevant and several employees struggle with solutions of how to best fund their retirement. Income strategies are a big part of the solution set for sure.

*Age = the key factor... big uptick on the post SS-FRA BB group who*

*had hung in to their high powered careers and now see that they should consider the pathway of phased or total retirement.*

*Yes but not in plan. Most plan on taking money out of the plan.*

*When engaging with individuals 1:1, most pre-retirees are beginning to ask questions regarding their options.*

*Most of them barely understand effective retirement plan accumulation, never mind decumulation/income.*

### Recommend 'Ed'

As for what retirement income solutions (if any) they or their firm currently recommend (more than one could apply, of course):

43% - Out of plan annuity purchase.

43% - Wealth management account.

39% - Target-date fund/managed account.

33% - Lifetime income offering integrated with target-date fund.

31% - Installment payments.

26% - In-plan annuity.

15% - None thus far.

*We have evaluated all of the income products our client recordkeepers have available on their platform(s) and based on our due diligence process and the needs of our clients we have found and implemented Prudential's Income Flex offering.*

*In-plan GLWB wrapped TDFs.*

*We liked one recordkeeper's proprietary fund option that was a balanced fund with an integrated annuity feature to create a "floor" to prevent market loss once the annuity portion of the fund was triggered. By using just the single fund, it reduced confusion by*

*participants. This was a fit for the small number of plans we have with aging demographics that wanted a fund that protected against market loss. Sadly, this simple single fund is no longer offered, as the recordkeeper is pushing more expensive managed account/income solutions.*

*In plan GMWB, not that good, but sometimes acceptable.*

*We have seen most employees prefer out of plan solutions.*

*Using segmentation or bucket theory of assets using in plan Guaranteed Accounts that in our old book still pay 3% as the payout source. Can't believe RK's are still stuck with pro-rata only distribution-ONLY methods... it's like they can't pull a SWO for just 1 Fund... also clueless about Phased Retirement needs of participants!*

*After completing a comprehensive financial plan, our firm would assess income solutions. This is typically accomplished through asset allocation of a wealth management account. Sometimes an out of plan annuity is also part of the solution.*

### Other Comments:

*Retirement Income is needed to provide a stable retirement for Americans and we as an industry need to come together and create solutions.*

*Just that advisors who are not talking about this are going to lose clients.*

*Most of my clients have a lot of turnover in their employee population and asset accumulation, rather than income payout, is the driving motivation (i.e., how 401(k) is in alignment for broader comp & benefits strategy*



to attract and retain workers). We also have high degree of M&A with our plan sponsors. Thus, plans with in-plan annuities/distribution options are problematic because they are not "portable" and they get in the way of rollover activity. The bigger priority is increasing financial literacy by employees to understand how to aggregate their multiple 401(k) accounts to then judge how they will afford stopping work. Frankly many of our plan participants (and HR/plan sponsors by extension) are moving away from traditional talk of "retirement" and more to messaging around financial independence, which may or may not require annuities and/or in-plan income options.

We are fully prepared to discuss this very important subject—I couldn't agree more that this is hugely important and fits in well with the continuum of what we do—but thus far, we're not prepared to discuss. Just haven't seen any details on the "offerings" that I keep hearing about. We do have our eye on this new BlackRock product but again.... proof is always in the pudding and we want hard facts before we

start discussing in detail with our clients. Great idea. Needed. But how will it be built?

I'll be curious to watch how this plays out. I believe it's being pushed politically by lobbyists connected to insurance companies for annuities.

My sense is that lots of product/service development work is going on behind the scenes now. JPMorgan has introduced some new "technology" that is the start of looking at products beyond the in plan annuity stuff we have seen not change much for the past 5 years.

When we have had conversations in the past, plan sponsors are reluctant to add this feature due to fiduciary liability.

RKs have to step up... not look at only new products that replace fading margins on their book of biz and start to do focus groups with this BB who have 60-80% of the AUM... otherwise a BIG sucking sound of AUM going out the door in next 5 years as they retire and move off to IRA world and the FAs adjust to BI and DOL PTE with a silly form checked off vs. what was really

best for participants to consider in Phase I of their retirement...

For our wealth management clients, we typically limit the amount invested in an annuity to 20%-30% of financial assets. If you apply this rate to the average 401(k) plan account balance reported in survey data, you end up with a nominal annual income figure. With this in mind, I have a hard time supporting in-plan annuities.

I am an advisor and a trustee of our own 401(k) Plan. I will personally take my money out of the plan when I retire as I still don't believe 401(k) Plans will be the best vehicle for retirement income. They are wonderful accumulation tools. But they are not designed for retirement income post retirement.

I think this is important topic and the industry needs more and better solutions.

I think at some point we will see buffered strategies offered inside plans.

This is the next generation for K's, they are the accumulation vehicle and are poised to be the retirement distribution choice.

Aiming to develop a Suitability Process for both plan sponsors and participants.

We are making a big push toward SDBAs to create customized strategies for retirement zone participants encouraging many to leave their balance in the plan post retirement.

This is a huge topic and any help would be greatly appreciated.

With annuities still being sold and not bought, retirement income features still have a long way to go to be a desirable feature of most retirement plans.

Thanks to everyone who participated in our NAPA-Net Reader Radar poll! **NTM**



# Regulatory Radar

*With the delivery dates for final guidance on ESG investments in DC plans—not to mention a fiduciary update (from PTE 2020-02)—regulatory updates were in (relatively) short supply. That said, there were a couple of extended comment periods, and some new, much-anticipated guidance on employee benefit auditor independence to digest.*

## Extension ‘Chord’

*DOL (slightly) extends comment period on QPAM exemption*

The Department of Labor’s (DOL) Employee Benefits Security Administration (EBSA) has extended the public comment period on a proposed amendment to its Class Prohibited Transaction Exemption 84-14, also known as the Qualified Professional Asset Manager (QPAM) Exemption.

However, the DOL is extending the comment period by just 15 days. It had been set to expire on Sept. 26, 2022, but now will expire on Oct. 11.

## About the Proposed Amendment

The QPAM exemption permits various parties who are related to plans to engage in transactions involving plan and individual retirement account assets if the assets are managed by QPAMs that are independent of the parties in interest and that meet specified financial standards.

EBSA has issued the proposed amendment on July 26. It did so, it said, because since the exemption was created in 1984, substantial changes have occurred in the financial services industry.

According to EBSA, the amendment would:

- address perceived ambiguity as to whether foreign convictions are included in the scope of the exemption’s ineligibility provision;
- expand the ineligibility provision to include additional types of serious misconduct;
- focus on mitigating potential costs and disruption to plans and IRAs when a QPAM becomes ineligible due to a conviction or participates in other serious misconduct;

- update asset management and equity thresholds in the definition of “Qualified Professional Asset Manager”;
- add a standard recordkeeping requirement that the exemption currently lacks; and
- clarify the requisite independence and control that a QPAM must have regarding investment decisions and transactions.

## ARA Weighs in

The American Retirement Association (ARA) in a Sept. 2 letter to Acting Assistant Secretary of Labor Ali Khawar, who heads the EBSA, had requested that the comment period on the proposed amendment be extended.

While technically an extension, at 15 days it is a very short one. The ARA had requested that the comment period on the proposed amendment be extended by at least 60 days.

“The ARA requests additional time to comment on the Proposed Amendment because the modifications under it are significant,” wrote ARA Executive Director and CEO Brian Graff and ARA General Counsel Allison Wielobob, noting that the changes would “largely overhaul the relationship between plan sponsors and their advisors.

“Plan sponsors and retirement plan service providers alike require additional time to understand the ways in which the Proposed Amendment would impact them,” Graff and Wielobob continue; further, “plan service providers and plan sponsor groups will need to work together to fully understand the impacts of the Proposed Amendment and their potential costs.”

## DOL Reasoning and Further Action

In a press release, Khawar noted that the DOL had received requests for extensions and said that they decided that “it is appropriate to extend the public comment period for the proposed amendment and schedule a virtual public hearing.” The DOL will hold an online public hearing on the proposed amendment on Nov. 17, 2022.

The DOL says it will reopen the comment period for the proposed amendment on the day of the hearing, and that it will close approximately 14 days after the DOL publishes the hearing transcript on EBSA’s web page. It further expects that there will be at least 30 days more after that on which to comment on the proposed amendment.

The DOL says that it will publish another notice in the *Federal Register* announcing when the transcript of the Nov. 17 hearing is posted and when the supplemental comment period will close.

Khawar contends that extensions the DOL has announced will be sufficient, remarking that, “The extended comment period, hearing, and supplemental comment period will provide interested parties with a full opportunity to consider the proposal and provide important input that will inform our next steps.”

— John Iekel

## Independence ‘Stay’?

*DOL updates guidance on employee benefit plan auditor independence*

The Department of Labor has released updated guidance addressing the “independence” requirements for accountants auditing employee benefit plans.









More specifically, Interpretive Bulletin 2022-01, released Sept. 2 by the DOL's Employee Benefits Security Administration, sets forth updated guidelines under section 103(a)(3)(A) of ERISA for determining when a qualified public accountant is independent for purposes of auditing and rendering an opinion on the financial statements required to be included in the annual Form 5500 report filed with the DOL.

The DOL had last issued an Interpretive Bulletin in 1975 that set forth guidelines for determining when a qualified public accountant is independent for these purposes.

As background, EBSA notes that in 2006 it issued a Request for Information on possibly amending Interpretive Bulletin 75-9. The department did not open a rulemaking project after its 2006 RFI, but continued to engage with accounting industry stakeholders. Based on that continuing engagement, the DOL says that it is persuaded that certain changes to the 1975 guidelines can be implemented.

Accordingly, the new IB revises and restates that 1975 IB to remove certain provisions and to

reorganize other provisions for clarity, according to the DOL's announcement.

The following are among the key changes to the DOL's new guidance.

***Period During Which Accountants Are Prohibited from Holding Financial Interests in the Plan or Plan Sponsor***

Subject to certain limitations, the DOL is revising its independence guidelines to provide an exception for new audit engagements from the condition on holding disqualifying financial interests during the period covered by the financial statements being audited.

Under this approach, the DOL explains that an accountant or firm "is not disqualified from accepting a new audit engagement merely because of holding publicly traded securities of a plan sponsor during the period covered by the financial statements as long as the accountant, accounting firm, partners, shareholder employees, and professional employees of the accountant's accounting firm, and their immediate family, have disposed of any holdings of such

publicly traded securities prior to the period of professional engagement."

The updated IB also includes a definition of the "period of professional engagement" providing that the term means "the period beginning when an accountant either signs an initial engagement letter or other agreement to perform the audit or begins to perform any audit, review or attest procedures (including planning the audit of the plan's financial statements), whichever is earlier, and ending with the formal notification, either by the member or client, of the termination of the professional relationship or the issuance of the audit report for which the accountant was engaged, whichever is later."

The DOL notes that this exception provides accountants with a "divestiture window" between the time when there is an oral agreement or understanding that a new client has selected them to perform the plan audit and the time an initial engagement letter or other written agreement is signed or audit procedures commence, whichever is sooner.

**“While technically an extension, at 15 days it is a very short one. The ARA had requested that the comment period on the proposed amendment be extended by at least 60 days.”**

#### *Definition of ‘Office’ for Purpose of Determining Who a ‘Member’ of the Firm Is*

Here, the DOL notes that it is persuaded that its definition of “member” would be improved by including a definition of “office” for purposes of determining when an individual is “located in an office” of the firm participating in a significant portion of the audit.

The DOL’s view is that “substance should govern the office classification, and the expected regular personnel interactions and assigned reporting channels of an individual may well be more important than an individual’s physical location.”

Accordingly, the updated IB defines the term “office” to mean a reasonably distinct subgroup within a firm, whether constituted by formal organization or informal practice, in which personnel who make up the subgroup generally serve the same group of clients or work on the same categories of matters regardless of the physical location of the individual. The DOL further notes that this definition of the term “office” is modeled on the one used in the AICPA independence standard.

The guidance became effective coincident with its publication in the *Federal Register* on Sept. 6.

— Ted Godbout

#### **Window Stressing?**

*DOL reopens comment period on proposed changes to PTE procedures*

**A**fter being blasted by various industry stakeholders, the Department of Labor is reopening the comment period on the proposed amendment to its prohibited transaction exemption

(PTE) filing and processing procedures.

In its Aug. 22 announcement, the DOL’s Employee Benefits Security Administration also advised that it plans to hold a public hearing on Sept. 15 regarding the proposed amendment, with a possibility for a second day to be added on Sept. 16.

#### **About the Proposed Amendment**

On March 8, the DOL published a proposed amendment that would update its procedures governing the filing and processing of applications for administrative exemptions from the prohibited transaction provisions of ERISA, the Internal Revenue Code, and the Federal Employees’ Retirement System Act.

The proposed amendment would:

- clarify the types of information and documentation required to complete an application;
- revise the definitions of a qualified independent fiduciary and qualified independent appraiser to ensure their independence;
- clarify the content of specific reports and documents applicants must submit to ensure that the department receives sufficient information to make the requisite findings under ERISA Section 408(a) to issue an exemption; and
- update various timing requirements to ensure clarity in the application review process.

The DOL received 29 comment letters on the proposal before the public comment period ended on

May 29, 2022. After consideration of the comments, including a written request for a public hearing, the department decided to hold a virtual public hearing to provide an opportunity for all interested parties to testify.

It appears that most of those comments submitted argued that the DOL’s proposal would have a chilling effect on the PTE process.

One such set of comments, for example, came from the Groom Law Group, which noted that it had submitted comments on the proposed rule for other clients and groups of clients, but after careful consideration, felt compelled to take the “unusual step” of writing on its own behalf to express its serious concerns with the proposed rule and changes to the PTE application process.

“By choosing to de facto end the PTE program for most purposes, the Department will further limit its opportunities to engage constructively with plans and to influence important plan transactions,” the attorneys noted in further urging the DOL to withdraw the proposal.

#### **Comments Again Accepted**

The DOL will reopen the comment period beginning on the hearing date (Sept. 15, 2022) until approximately 14 days after the department publishes the hearing transcript on EBSA’s webpage. The Department will publish a *Federal Register* notice announcing that the hearing transcript is available on EBSA webpage and when the reopened comment period closes. **NNTM**

— NAPA Net Staff



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