THE OFFICIAL MAGAZINE OF THE NATIONAL ASSOCIATION OF PLAN ADVISORS

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SUMMER 2022

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plus

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2022 Top DC Wholesalers

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Top 10

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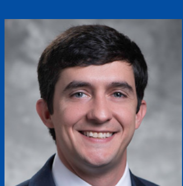

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contents

SUMMER **2022**

Cover Story

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Features

Columns

Departments

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Prior to his current leadership roles at TRAU, TPSU and 401kTV, Steff was the founder and past CEO of Fiduciary Consulting, Inc., the Governance Group, Inc. and the CHALK Advisory Board. He served on NAPA's founding Leadership Council and is co-author of the book, *How to Build a Successful 401(k) Retirement Plan Advisory Business*. Steff writes the magazine's "Inside the Plan Sponsor's Mind" column.

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Back to Normal

While we're not quite "done" with COVID (and perhaps we never will be), we've learned a lot of valuable lessons.

Things are—slowly—getting back to normal. Planes are filling up, commutes are slowing with increased traffic volumes, and in-person meetings are back underway. And while for many readers things have been back to "normal" for some time, I've had the opportunity over the past two months to participate in three separate advisor events that were the first such in-person gatherings since the onset of the pandemic.

We've learned not only how to navigate things like virtual committee meetings and education sessions, but found that in many cases those platforms could be even more effective in extending our reach to individuals who might not have made it to an in-person session, or who might have been more receptive to those messages in the wake of COVID concerns about health and job security.

While we're not quite "done" with COVID (and perhaps we never will be), we've learned a lot of valuable lessons. The notion that we have to be in a physical office to be productive has been soundly rebuffed. At the same time, in every in-person gathering I have had the opportunity to be part of these past several months, there is an energy, an excitement, an enthusiasm that transcends any I've experienced in a "virtual" format. Oh, one day in the distant future we may not need that social connection—or perhaps we'll simply tell ourselves that whatever is "lost" is more than compensated for by the convenience and cost savings of remote engagement.

But those days aren't yet these days—and in just a couple of weeks we'll be convening—in person—for our 10th annual NAPA DC Fly-In Forum. I remember attending the first one as a "special guest," and being struck even then by the quality of the program and speakers. More importantly, the room was full then—as it continues to be—of the nation's leading retirement plan advisors, networking and engaging not only with each other, but with some of the most influential voices in Washington.

This year looks to be no exception—and as impactful as last year's "virtual" version surely was, it really can't compete with the reality of an in-person event—not to mention the opportunity to walk to—and through—our nation's Capitol.

We'll have a lot to talk about—while the Labor Department's next steps on the so-called fiduciary rule and ESG rules have just been pushed back, the final proscriptions of PTE 2020-02 have just taken hold (notably the requirement to document, in writing, the best interest case for a rollover recommendation), while the status of ESG considerations remains very much in the air—not to mention the controversy regarding the recent compliance assistance release on cryptocurrency is still reverberating. This year's Fly-In Forum will feature comments from Ali Khawar, who has been serving as Acting Assistant Secretary for the EBSA, an SEC representative to speak to ESG, a very special panel of Hill staffers, and a panel of expert ERISA litigators to discuss recent developments and provide insights on staying out of court. And no NAPA DC Fly-in Forum would be complete without the appearance of key legislators, which this year will include House Ways & Means Committee Chairman Richie Neal (D-MA), Sen. John Barrasso (R-WY) and Sen. Rob Portman (R-OH) to shed light on the incredible opportunities contained in SECURE 2.0, RISE & SHINE, the EARN Act, and/or the combination/assimilation of all of the foregoing.

But for me—and for the dozens of advisors who have participated over the past 10 years—the most impressive aspect of our Fly-In Forum is the second day, where delegate-advisors have an opportunity, assisted (and prepped) by the NAPA GAC team, to meet with legislators and their staff on Capitol Hill, to share your perspectives, ideas and concerns, based on your front-line, real-life experiences working with retirement plans, plan sponsors and participants. Heading into a critical mid-term election cycle, your voice—your insights and perspectives—have never been more critical.

Whether you've done this a dozen times, or have never had the opportunity, the NAPA DC Fly-In Forum is an amazing "first-hand" experience. For those ready to get off the sidelines and contribute to a real difference in retirement policy, you won't find a better "ticket" than the NAPA DC Fly-In Forum.

Things may be getting back to "normal"—but it's anything but business as usual.

Nevin E. Adams, JD
Editor-in-Chief

FOLLOW THE DISCUSSION…

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Leading from Behind

My goal: to promote and deliver on key initiatives that NAPA has launched and work to lower the barrier to entry.

By Corby Dall

It's hard for me to believe that I am now the President of NAPA! And probably even harder for most of you to believe! I am humbled to be serving in this capacity and honored to have served along side so many people that I respect and revere. In fact, my very existence in this industry is born from emulating some of the best and brightest minds in the industry. Someone once told me that imitation is the highest form of flattery, so I hope you all take it as a huge compliment that I imitated you to rise to any form of success on your coattails!

Since this is my first article as President, I want to thank all of NAPA Nation for the contribution you have collectively made, not just to me and my small corner of the world, but to this great nation and its people as a whole. I know you recognize the difference we all make in the lives of the American worker, and I also know I'm preaching to the choir when I give an "atta boy," but I am sincere when I say that without 401(k)s and advisors to coach and promote their availability, most people in this country wouldn't have a chance at a dignified retirement.

When I first got into the financial services industry, way back in the day, I started out on the individual side and quickly recognized that there was a great need for more education and certainly better saturation to help more people reach a dignified retirement. I stumbled across several different methods of getting in front of people, with modest success, but never really made big progress until I discovered the 401(k). It was in its infancy then and there weren't a lot of choices, but it was obvious to me that this was the way to reach more people and have a greater impact. As I learned more—and more importantly, met more people who were focused on retirement plans—I felt I had found my calling.

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

In the beginning I was having a blast doing enrollment meetings with 10 to 12 people and trying hard to teach them the importance of saving for the future.

Next came daily valuation, replacing the old annual valuation with a statement every January. That was a game changer. Daily valuation also brought new investment opportunities through multiple investment families at one record keeper. This was obviously much more confusing for the employee, so as cool as it was for us, it created another stumbling block for potential participants.

"It is important that we continue to advocate for more and better access in each of our communities, regardless of investors' age, income, gender, ethnicity or educational background."

The next big thing to move the needle was auto features. As they began to catch on and HR departments began to trust the process, this made the biggest dent in the participation problem to date. Obviously it came with its own set of problems, but overall, with auto features and target date solutions, we were on the right track.

Of course, the evolution continues, and many great and some not-so-great changes have solved problems and created challenges to our existence as retirement plan advisors.

We know that the defined contribution plan is the retirement plan for the American worker, but it is important that we continue to advocate for more and better access in each of our communities, regardless of investors' age, income, gender, ethnicity or educational background. My goal is to promote and deliver on key initiatives that NAPA has launched and work to lower the barrier to entry.

In terms of closing the coverage gap, I have high hopes for the positive impacts that SECURE 2.0 will have, building on the successes of the SECURE Act and the positive impact that NAPA has already had in discussions about ESG, the fiduciary rule, in-plan retirement income and now crypto.

I'm very excited to meet more fabulous retirement-focused advisors throughout the coming year, and I always look forward to each gathering of our great big dysfunctional family! I promise to serve our community any way I can, but I may give new meaning to the phrase, "leading from behind." NNTM

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If We 'RISE & SHINE' We Could 'EARN' a More Secure Retirement

Recent developments on Capitol Hill have set the stage for pension reform legislation that is expected to pass Congress later this year.

By Brian H. Graff

As we head to press, the U.S. Senate's HELP Committee, for the first time in a decade, did its first retirement "markup"—sending what has to be the best legislative acronym in history—the "Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg" (a.k.a. RISE & SHINE) Act (S. 4353)—on for consideration by the full Senate.

That preceded—by mere hours—the Senate Finance Committee's release of the Enhancing American Retirement Now (EARN) Act, its counterpart to the House-passed SECURE 2.0—a massive piece of legislation that also includes a number of key provisions supported by the American Retirement Association.

Among the nearly 70 provisions contained in the $38 billion EARN Act are a number backed by the American Retirement Association, including the Starter K, an enhanced Saver's match, enhanced tax credits for the cost of new plans (similar provision included in SECURE 2.0), a new stretch match 401(k) safe harbor, reform of family attribution rules (similar provision included in SECURE 2.0), top-heavy relief for excludable employees (similar provision included in SECURE 2.0), allowing 401(k) safe harbors to replace SIMPLE plans mid-year, hardship distributions for emergencies, allowing retroactive deduction of profit-sharing increases after the end of the year, and providing permanent rules relating to the use of retirement funds in the case of disaster.

Provisions currently contained in EARN would also permit a retirement plan service provider to provide employer plans with automatic portability services and provide a $500 credit to small employers (100 or fewer employees) that adopt that automatic portability arrangement. But it also contains a number of provisions that are substantially similar to the House's SECURE 2.0 legislation passed in March, including allowing 403(b) plans to participate in multiple employer plans (MEPs) and pooled employer plans (PEPs), treating student loan payments as elective deferrals for purposes of matching contributions, allowing higher catch-up limits after age 60, permitting a retirement plan to rely on an employee's certification that the conditions for a hardship distribution are satisfied, increasing the age for required beginning date for mandatory distributions, expanding the Employee Plans Compliance Resolution System (EPCRS), and implementing a safe harbor for corrections of employee elective deferral failures.

Yes, incredible as it seems in the midst of the apparent vitriol and rancor between political parties, retirement legislation continues to be an area of common ground.

What's Next?

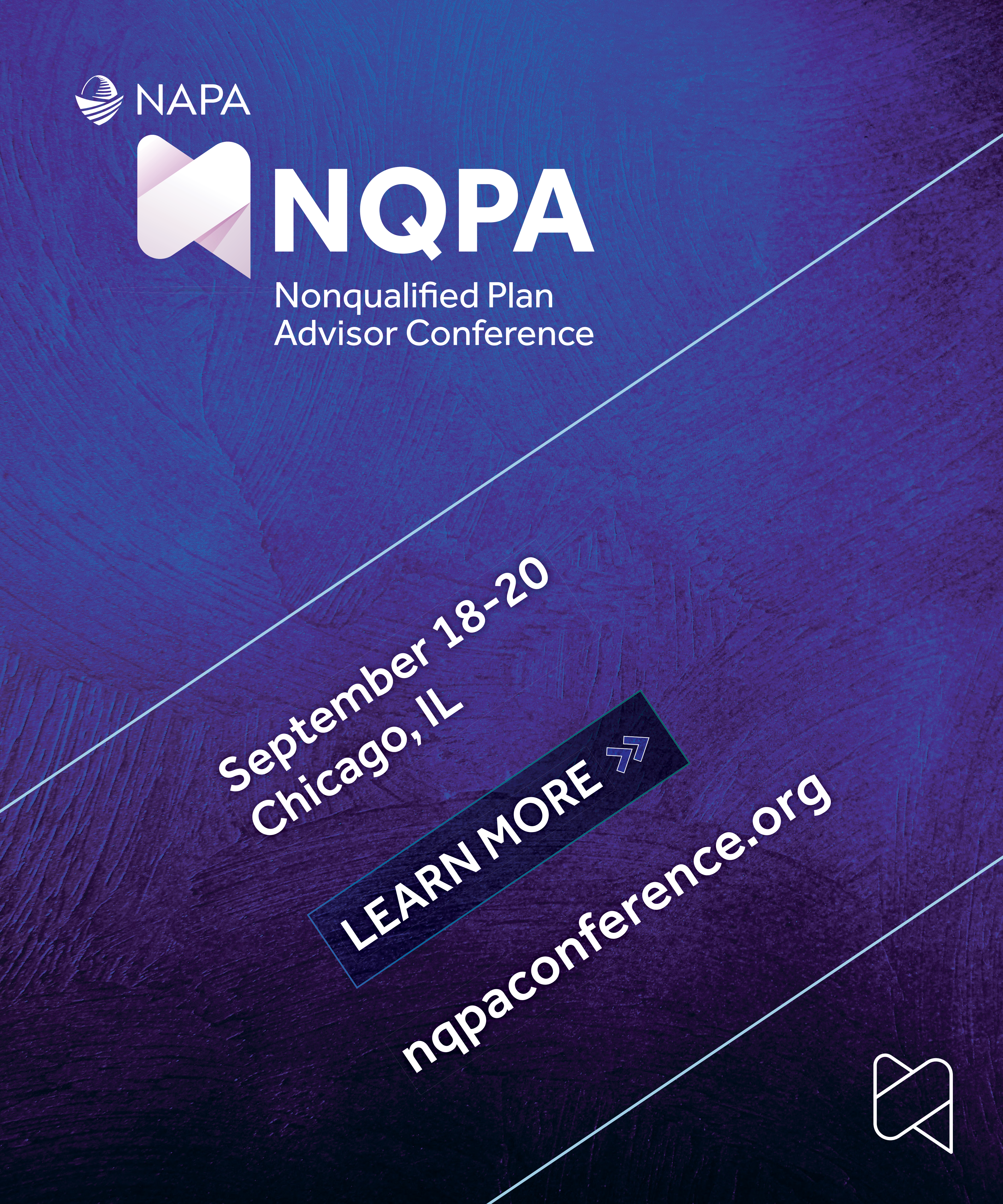
Once the Senate bills are merged (and there will likely be some negotiations there) and approved later this summer, perhaps early fall, we expect that it will be merged with the bill passed by the U.S. House of Representatives (what's been labeled SECURE 2.0, though its actual name is Securing a Strong Retirement Act) in March by a margin of 414-5. That will, in turn, set the stage for a final bill, which is expected to pass, though most likely not until later this year, probably in a lame-duck session after the November elections.

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

Not that there aren't differences to wrangle; RISE & SHINE/EARN currently lacks a number of key provisions that are found in SECURE 2.0—and vice versa. However, probably the biggest difference is that RISE & SHINE/EARN does not currently include the mandatory auto-enrollment provision for business with more than 10 employees included in SECURE 2.0, but the language in RISE & SHINE instead looks to include an automatic reenrollment provision for every three years. RISE & SHINE/EARN also includes a sidecar emergency savings component of up to $2,500 that would be linked to DC plans, while SECURE 2.0 does not include such a provision.

Make no mistake—despite current differences, the respective bills overlap in significant ways, in no small part due to the ongoing conversations we have had—and continue to have—with those on the Hill.

With your input, the active involvement of our Government Affairs Committees, and the support of our Political Action Committee, we're continuing to make amazing strides in building a more secure retirement for millions of working Americans! NNTM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Trends 'Setting'

As the nation returns to work—or more precisely, the workplace—benefits are front-and-center in both fending off the so-called Great Resignation, or in facilitating (if not speeding) the "Great Return." In this issue you'll read about combining automatic solutions can boost their impact, as well as how longer lives are influencing retirement priorities. That said, at least one recent survey finds that small businesses remain reluctant to start up a 401(k)—but then perhaps they haven't heard about SECURE 2.0…

Needle 'Points'

Combining 401(k) auto-solutions can move the needle

While it's fairly well-known that auto-solutions can lead to increased participation and savings, new research finds that adopting the solutions in tandem can lead to even better results.

According to Reference Point, T. Rowe Price's annual 401(k) benchmarking report, plans which couple auto-enrollment and auto-increase achieve an 85% participation rate, compared with only 29% for those that do not offer the services—nearly three times greater participation. In addition, participants in plans with both auto-enrollment and auto-increase are saving 5% more than those in plans that did not adopt the solutions—at an average pretax deferral rate of 7.8% versus 7.4%.

Using the opt-out approach for auto-increases was also found to be far more effective than opt-in. In 2021, auto-increase participation was 65% in plans that used the opt-out approach, compared with only 11% for plans using the opt-in approach. "This is evidence that choosing the opt-out approach as the standard in plan design is an effective nudge to help improve participant saving behaviors," the authors note.

The report, which features year-over-year data and analysis on participant behavior and plan design based on the firm's recordkeeping client data, also finds that 401(k) plan sponsors and participants are continuing positive retirement savings behavior in the aftermath of the pandemic.

For instance, plans are continuing to support participants by offering higher default deferral rates through their auto-enrollment. While the number of plans that offered a 6% or greater default rate remained steady at 36%, the number of plans offering a 5% default deferral increased from 14% to 16% in 2021, continuing an upward trend since 2018, the report notes. Consequently, after two years at 50%, the percentage of auto-enrollment plans with a default rate of 5% or more increased to 52%.

"In February 2020, when the markets started reacting to the growing pandemic, there were a lot of questions about the impact COVID-19 would have on the retirement plan industry and the participants who rely on it," said Kevin Collins, head of Retirement Plan Services at T. Rowe Price. "We have an answer two years later and it's a positive one: throughout these unprecedented times, plan sponsors and participants continued to take positive steps that show they realize the value of retirement savings programs."

Employer Match Returns

The percentage of plans offering a match returned to pre-pandemic rates or higher. In response to the pandemic, a small percentage of plans reduced or suspended contribution matches in 2020, with certain industries faring worse than others. Most plan matches returned in 2021, including for the hard-hit leisure and hospitality and retail trade industries, the report notes.

For instance, 74% of plans in the leisure and hospitality industry offered a match in 2020, but that percentage jumped to 90% in 2021, according to the firm's data. Similarly, 73% of plans in the retail trade industries offered a match in 2020, and that percentage rose to 80% in 2021.

"This support from employers bodes well for participants as they strive to increase their retirement savings, and it signals one more step in the recovery," T. Rowe Price emphasizes, adding that, "The match reinstatement may also benefit employers in their efforts to attract and retain talent."

Loans Decline

Also trending in the right direction is the percentage of participants with outstanding loans decreased from 20% in 2020 to 18.8% in 2021, the report notes. Of those participants with loans, the percentage of participants with multiple loans also declined.

One caveat, which the firm notes may be due to higher available account balances, is that the average participant loan balance increased to an average of $9,663. Participants between the ages of 40 and 60 continued to hold the highest percentage of loans and outstanding balances, likely due to their competing financial priorities, the report observes.

Moreover, plans that allow two or more loans also tend to have lower savings rates—dropping from an average deferral of 7.9% to 6.8%. Allowing a larger number of loans is also correlated with higher average loan balances—rising from $10,162 for one loan, to $12,424 for two, and $13,698 for three or more loans, the report shows. That said, simply offering participants the option of multiple loans does not affect how many participants will act upon it, the report notes. On average, in plans that allow loans, approximately 19% of the participant population will take a loan.

Still, given the potential negative impact from multiple loans, plan sponsors might want to consider limiting them to one

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outstanding loan per participant, T. Rowe Price suggests. "This could still help satisfy the participant need while also helping to limit the possibility of loans being used for less essential reasons," the report notes.

In concluding remarks, the firm observes that the 2021 data demonstrates that sponsors and participants continue to understand the value of retirement savings programs, but adds that there is still a need to help participants manage challenges through financial wellness programs and continued adoption of plan design best practices.

"Plan sponsors can continue to support these positive behaviors by offering financial wellness programs and implementing strategic plan design features to help ensure their participants stay on this path," Collins emphasizes. Some participants may also need additional support, especially if they took a large loan or distribution through the CARES Act or tapped into emergency savings, the report adds.

The findings are based on the large-market, full-service universe of T. Rowe Price Retirement Plan Services (401(k) and 457 plans), consisting of 660 plans and more than 2 million participants throughout 2021.

— Ted Godbout

'Long' Shots

How rising longevity is influencing retirement priorities

It's not just longevity that's changing people's retirement journey, but also a growing awareness of their potential longer life is changing Americans' expectations, attitudes and preparations.

In fact, despite worries about health care and long-term care costs in retirement, a new study finds that Americans still desire to live longer, with nearly 7 in 10 (69%) saying they want to live to 100—but only if they are living well.

In *Longevity and the New Journey of Retirement*, the study by Edward Jones and Age Wave of more than 11,000 North American adults examines the changing definition of retirement, the patterns of people's experience in retirement and the keys to thriving along the way.

Americans who want to live to 100 indicated that they hope to live longer because they want to spend more years with family and friends (35%), they are enjoying life and want to continue doing so (23%), they are curious about the future (19%) and there is so much more they want to do (18%). Additionally, retirees now say the ideal length of retirement is 29 years.

In contrast, some Americans indicated that they would not want the extra longevity if they were suffering with terrible health (32%), if they became a burden on their families (29%), if they had serious cognitive loss (20%) or if they no longer had purpose in life (14%).

"Today's retirees enjoy a growing array of opportunities to stay engaged, possibly reinvent themselves and enjoy the freedoms of this stage of life. This is definitely not their parents' or grandparents' retirement," explains Ken Cella, Principal, Branch Development at Edward Jones. "At the same time, they face new challenges, especially around their health, their finances and finding a new definition of purpose."

New Stages and Paths

The study also found blurred lines around what people think marks the beginning of retirement. The top milestones that pre-retirees and retirees view as the "start" of this chapter include stopping full-time work (34%), receiving Social Security and/or a pension (22%), leaving one's job/career (17%) and achieving financial independence (17%). Only 10% said the start of retirement meant reaching a certain age.

This changing definition is reflected in pre-retirees' and retirees' retirement plans, as a majority (59%) want to work in some way during their retirement, with 22% looking to work part time, 19% hoping to cycle between work and leisure, and 18% wishing to work full time.

The study further identifies four distinct journey paths characterized by people's attitudes and ambitions, retirement preparations and their level of enjoyment of life in retirement:

- **Purposeful Pathfinders:** This group enjoys the greatest well-being in retirement and is happy, engaged, productive and contributory. They are best prepared for life in retirement and 78% say they are in great shape financially. They began saving for retirement earlier than all the other groups, on average at age 34.

- **Relaxed Traditionalists:** Pursuing a more traditional retirement of rest and relaxation, this group had a smooth transition and is well prepared. Most (81%) retired when they chose and while they are the most open to relocating, including to adult-living communities, they have fewer aspirations for personal growth or giving back than Purposeful Pathfinders.
- **Challenged Yet Hopefuls:** This group leads active lives and have focused on self-improvement, but their lives in retirement are constrained and uncertain due to insufficient financial preparation. Half say they often worry about outliving their money and this taints nearly all their future hopes. They began saving for retirement later than all the other groups, at age 45, and over half with retirement accounts (54%) have made early withdrawals along the way.
- **Regretful Strugglers:** The largest of the four groups at 31%, these challenged individuals are the least prepared for retirement, are the most unhappy and overall feel the least positive about life. Moreover, 43% say they are financially worse off in retirement than during their working years. The majority (59%) say they have many regrets in life and 42% feel that life has dealt them a bad hand.

Early Action Key

Not surprisingly, retirees who report better quality of life took more steps decades in advance to prepare and plan across all the four pillars of finances, purpose, family and health.

Pre-retirees' most common financial worries about retirement include health care costs and unexpected expenses in retirement and simply outliving their money. In addition, the expenses that most often catch retirees by surprise include major home repairs, dental care and out-of-pocket medical and prescription costs, the study notes.

When asked about a range of potentially key preparation actions they'd taken, the most common was contributing to a retirement account, an action taken by over half of respondents (52%). Reducing debt and putting investable assets to work were done by about a third of respondents, while 24% worked with financial advisors in preparation for retirement.

Retirees reporting high quality of life are more likely to have taken all of the listed actions, including 65% with retirement accounts, 45% reducing debt, 45% investing assets and a third working with financial advisors.

The average retiree began saving for retirement at age 38, and 28% of those with retirement accounts have made early withdrawals. In retrospect, this group wishes they had started saving a decade earlier at age 29. Those with high quality of life started earlier at 36, and only 21% made early withdrawals. "They are also more likely than the average retiree to say that the smartest things they did in preparation include starting to save early, getting out of debt, maximizing their retirement contributions, and working with financial advisors," the study observes.

— Ted Godbout

Waiting 'Runes'

Small business owners remain hesitant to start a 401(k)

Perhaps they have not heard of the many benefits in the SECURE Act to help with starting a retirement plan, but a new survey finds that many small business owners remain on the fence.

Apparently long-standing misperceptions about access, matching and cost remain the top barriers to adoption, according to findings in the survey commissioned by ShareBuilder 401k. It shows that at a time when many companies are boosting 401(k) benefits to attract and retain employees in a tight labor market, 74% of small businesses are still going without any plan at all.

In addition, many small business owners believe their business is too small and that 401(k)s are too costly, according to the survey, which polled 500 small business owners (SBOs) from across the country.

Responders cited three main reasons for not starting a plan:

- **58%** believe their business is too small to qualify for one;
- **32%** say they cannot afford a match; and
- **24%** believe they are too expensive to set up and manage.

Among the small businesses with a plan, the top reasons they started a 401(k) provided some

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positive insights. Those findings are as follows:

- **71%** said they felt a personal responsibility as a business owner to provide one;
- **47%** said they thought it helped their business attract and retain employees;
- **26%** wanted to receive the tax benefits of a 401(k); and
- **21%** wanted to save for their own retirement.

The survey also found, however, that many other misperceptions still seem to be prevalent. Among the most problematic, according to ShareBuilder 401k, was the belief that 10% in investment expenses is a fair amount.

The ShareBuilder 401k survey was conducted by Wakefield Research between March 25-31, 2022, among 500 U.S. small business owners with 1-50 employees.

— Ted Godbout

Top 'Tips'

Competitive benefits a top priority among small business owners

The impact of the pandemic over the last two years has prompted businesses of all sizes to reevaluate their benefit packages—and small businesses are no exception.

In fact, nearly all small business owners surveyed (93%) have reevaluated their strategy and plan to make changes to their business, from increasing their marketing efforts to hiring new workers, according to Lincoln Financial Group's Small Business Owner Survey.

Moreover, 80% of small business owners view employee benefits as a top strategic priority, as these benefits play a critical role in boosting employee morale and wellbeing, and attracting and retaining top talent, the survey found. Among the changes, 28% of small business owners reported offering better benefits in response to the pandemic, such as adding:

- life insurance (30%);
- a retirement matching contribution (27%);
- a retirement account (27%);
- financial wellness program (27%); and
- accident, critical illness, hospital indemnity, vision and dental insurance (more than 25% each).

"Small business owners understand just how critical a robust benefits package is for attracting and retaining top talent in today's competitive market," says Ralph Ferraro, Senior Vice President of Workplace Solutions Product and Underwriting at Lincoln Financial. "And they are looking to benefit providers to offer innovative, simple solutions that meet their employees' needs and make it easier for owners to focus on running their day-to-day business."

Removing Barriers

To that end, small business owners do have various concerns about choosing benefits that best suit their needs, ranging from weighing the costs and benefits of plans (51%) to being overwhelmed by the variety and number of benefits on the market (40%), and administrative concerns (28%), the survey shows.

Nearly three-quarters (72%) say multi-employer benefits solutions are appealing for cost-saving, access to more benefits and ease of use. As such, solutions like Pooled Employer Plans (PEPs) could help, as these products are aimed at helping small businesses offer a retirement plan with fewer administrative and fiduciary responsibilities, Lincoln Financial observes.

Succession Planning

As for the topics that small business owners discuss with financial professionals, the survey found that business growth and strategy (58%) top the list, but far fewer discuss business succession (31%) and protecting against the loss of key people (22%). With nearly two-thirds of small business owners discussing their business with their financial professional at least quarterly (64%), there's an opportunity to address these gaps, the study notes.

The survey responses were collected from Nov. 8–21, 2021, among 313 small business owners using the Qualtrics survey platform. Small business owners were defined as having between 10 and 100 employees and revenue between $250,000 and $10 million. In addition, the businesses were required to be operational for at least two years and privately owned/non-government. **NNTM**

— Ted Godbout

NWPS

Interview with
TIM WULFEKUHLE & SCOTT MERRIMAN

NORTHWEST 'PASSAGE'

NWPS has been referred to as the "largest recordkeeper nobody has heard of"—though the retirement plan recordkeeping, administration, actuarial, consulting, compliance and participant services firm today provides support with a fully open architecture approach to more than 1,100 companies with 425,000 participants and $45 billion in retirement savings across a wide range of organizations. Their size is a testament to their approach to the marketplace. Pure conflict-free solutions designed with a singular purpose of servicing advisors and their clients better than any of the bundled providers they compete with in the marketplace. NWPS serves and supports plans in a wide variety of sectors, including corporate, non-profit, Taft-Hartley, religious organizations, and tribal groups. They currently support managed account services, and offer a Pooled Employer Plan (PEP), expanded from an already established Multiple Employer Plan (MEP). The firm, a wholly owned subsidiary of Raymond James since December 2020, remains an independent business channel of that firm.

As the recordkeeping industry undergoes another wave of consolidation, NAPA Net sat down with NWPS CEO Tim Wulfekuhle and Scott Merriman, Managing Director—Financial Advisor at RBC Wealth Management, to talk about their partnership, consolidation's impact(s), and the power of a customer-centric relationship.

NNTM: Tim, is there a "typical" NWPS client? Or a type that is a really strong fit? What's the average service tenure?

WULFEKUHLE: We're known for our ability to handle "messy" plans, those that are complex, customized, really outside the box, and we've done so while maintaining an average client tenure of more than a decade. While we're not really in the start-up market right now, that will change when we launch our Pooled Employer Plan, Star PEP. We're actually converting our current open MEP into a PEP, and that will not only provide a smaller plan solution but allow us to do the recordkeeping and administration for other providers. We're also a good partner for those plans and advisors that don't want their participants monetized and solicited for other products.

NNTM: Scott, are there areas that you focus on, plan type or size, location(s)?

MERRIMAN: It's primarily based on geography. Most of my clients are in the Pacific Northwest, what we'd consider mid-market: $20-$200 million in assets, with 1,000-5,000 employees. As of this interview, my team supports about 200 plans, and about a third of those are with NWPS. We have what I consider to be the luxury of exposure to about 20 different recordkeeping platforms, so we get to see who does what well, promises made versus promises kept. We support lots of plans that have complications, which have unique service needs. A consistent theme, however, is that they are clients willing to pay reasonable fees for extraordinary service.

NNTM: We often hear that recordkeeping is a "low margin" business—some even disparage it as a "commodity"—how do you continue to make the investment(s) in people and technology to "keep up," and still be profitable?

WULFEKUHLE: It is fair to say that nobody really appreciates recordkeeping until it is wrong. We're expected to be 100% correct, 100% of the time. We think people are the most important investment and you partner on technology, as we do with FIS, to pool development over multiple recordkeepers. As an independent, our competition really isn't other independents, it tends to be bundled providers, so partnering with other independents on technology makes sense.

NNTM: Scott, as an advisor what do you look for in a recordkeeping partner?

MERRIMAN: Everybody has great technology—the big shops might have more bells and whistles—more "bling"—and some plan sponsors like more gizmos, others more direct. We look for the people—the people behind the scenes, doing the administration—we get to see those people, and how they perform on a daily basis. With NWPS the "secret sauce" is they hire great people, and don't have the revolving-door type of turnover you see in some shops. They also work to match similar type clients with the same relationship manager—and they are willing to make a change if things aren't working out. Bottom line: people are what make the difference.

NNTM: Seems as though every 10-12 years of so, a consolidation "wave" hits the recordkeeping industry, and we seem to be in one of those waves right now—in the midst of dynamic legislative and regulatory changes. Tim, how has NWPS navigated those challenges?

WULFEKUHLE: We've been through two rounds of private equity and our latest acquisition by Raymond James. In all three of these transactions, our objective was to remain independent if at all possible, and we have been able to do that. Private equity allowed us to scale through acquisitions, which allowed us to invest more in the business and retain our advisor partnerships by not competing with them.

NNTM: Speaking of consolidation waves, plans that have been subjected to a change in recordkeepers have arguably just made a fiduciary choice. Scott, do

TIM
WULFEKUHLE

SCOTT
MERRIMAN

you find that those enforced changes spur plan sponsors to consider making a recordkeeper change, or do they simply "adjust"?

MERRIMAN: I look at that as part of our responsibility—to review providers, and to make sure the plan sponsor client is happy with the service they receive. Consolidations are opportunities for us because they can create unhappy plan sponsors.

NNTM: We all know that changing recordkeepers—like moving a home—can be a big undertaking, one that plan sponsors tend to put off in the absence of a service problem. When plan sponsors "discover" NWPS, what are they most surprised to learn?

WULFEKUHLE: I think they discover that the service model is very different than they are used to. We have not gone down the functionalization service model that I think most recordkeepers operate under today. We assign a few named people to each client, and they do everything for that client, from payroll processing to compliance testing, to client and advisor support. That means one phone call to a named person who knows everything going on with the plan, and can get you an answer.

NNTM: Scott, what's the one big question advisors don't ask about their recordkeeping partner?

MERRIMAN: As I said before, everyone seems to have good technology—that's the "commodity" in the space. It's the people that make the difference. NWPS brings in the person that will actually do the work. I think Tim's said that they involve the relationship manager in the conversion process so that if they do create a mess, they'll be the one to have to clean it up.

NNTM: What are we going to be talking about 10 years from now?

MERRIMAN: I think we'll look back at the continued push to automate action on behalf of those who don't take actions—things like automatic enrollment—and say, "why didn't we start that 10 years earlier?"

WULFEKUHLE: I think we'll be talking about how much market share PEPs have taken. After all, why isn't retirement like health insurance—sponsors choose a provider, send in their contributions, and the provider handles everything from there, including the liability? However, it's important to have a good advisor partner, because a bad advisor risks every relationship, not just their own. It's about people, about trust. You have to trust in the partnership—both the platform, and that the people working with that platform take their responsibility seriously.

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Prepare for Takeoff

Here's how your 401(k) business can go farther and reach new destinations.

By Rebecca Hourihan

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Vroom, whoosh, whir—it takes a lot of thrust to get an airplane off the ground. But once it lifts off and reaches cruising altitude, it can accelerate toward its destination.

But what if something malfunctions? The plane doesn't just fall from the sky; in most cases, it slowly loses altitude and descends for landing.

Marketing is like an airplane. It takes a lot of thrust (work, time and energy) to get off the ground (build the firm's brand, begin marketing campaigns, fill prospect pipelines and generate new business). But once the branding is set, the website is built, the campaigns are active and the sales materials are compliance approved, the business can reach cruising altitude.

But what happens if you stop putting that energy into your marketing? The engine sputters.

Nothing will happen overnight; your business won't fail. Like a plane won't fall out of the sky, it will take time before your business starts to feel the effects. When the prospect pipeline runs dry and the consequences are noticeable, it's going to take a lot of fuel to fire up the engines and accelerate your business back into the sky.

Clearance for Takeoff

To get started and off the tarmac, there are a few ground rules: know your prospects and give them a place to find you.

Who are your prospects?

First, you need to know who you are marketing to: you need a defined prospect. By clearly defining your ideal clients, you can tailor your marketing to address their specific needs.

One word of caution: Advisors often want a massive prospect list. However, we have found that targeted lists usually bring more new business. So instead of the whole nation being your prospect territory, select a region and create a direct path. The following prompts will help you define your ideal prospect:

- Location
- Industry
- Company size
- Niche
- Other characteristics

How can they find you?
Next, you need to build a digital presence to be found online easily. You need three things:

1. Website
2. "About Us" section
3. LinkedIn profile

The more you can customize your digital presence to your ideal client, the more they will feel compelled to connect with you. So it's important that you first understand your prospects; then you can attract them.

Those are the basics. Now, you can take flight.

Accelerating with Force

Education sells, so use your content to teach. Your marketing pieces should speak directly to the roles and responsibilities your audience takes on as an involved plan fiduciary. It should inform your clients, prospects and centers of influence that you understand their challenges and are the best 401(k) advisor for their plan.

There are many types of effective marketing you can use to accelerate your business:

- Hosting a client appreciation event
- Presenting an ERISA updates webinar
- Sending drip email campaigns

These activities will create buzz and an awareness about your retirement plan advisory practice; they can propel your business forward, making it grow faster and go further.

Lift, Speed and Accuracy

There are many different types of airplanes, each built for a unique purpose, from the original Kitty Hawk Flyer used by the Wright brothers to the Super Hornets piloted expertly by the Blue Angels. To understand what kind of vehicle you need to drive your business, it is important to outline what you want it to do.

Increase lift
Try targeting a very specific, niche market and become obsessed with plan sponsors' problems, challenges and opportunities.

> "Advisors should invest in consistent marketing, so your business always has fuel in the tank and is flying toward your future business destination."

Actionable ways to increase lift include:

- Write a case study about the prospects' specific hurdles.
- Research keywords that prompt your website to appear on the first page of Google.
- Set up a landing page for additional insights and accessible contact information.

All these actions will optimize your digital presence and satisfy your specific niche prospects' needs, while your website provides an easy path for prospects to meet with you to learn more.

Increase speed
Use the power of the internet to your advantage with paid search ads. Write down the top three questions your plan sponsors ask you about, then set up ads that provide answers to questions. Be the very first paid result on Google with interesting teaser text such as, "What do missing 401(k) participants and herding cats have in common? Download 10 Tips Employers Need to Remove Former Employees."

Interesting eye-catching text will lead prospects to your landing page, where you can ask them to fill in their email, title and plan size. Using this form, you can add them to your email distribution list. This presents an opportunity to use remarketing ads to follow them around on the internet with your company name, logo and other pertinent information. The best part of all this? Every one of these steps can be automated through user-friendly technology and with nearly zero additional work.

Increase accuracy
Build out client personas within your lists so you can segment your contacts based on who they are (clients, prospects, centers of influence). Prospects should receive content at least once a week and clients once a month. For participants, segment contacts by company and generation (age); from there, determine what content each generation likes to consume. For example, Millennials and Gen Zers like videos and short-form content.

Pro tip: Try using personalization throughout your drip campaigns to pull readers in. People love seeing their names, leading to higher open and click rates. So, consider personalizing your subject lines to include the prospect's first name, then open with a friendly "Hello [First Name]" and use their business name within your email body.

Maximum Altitude

To bring this all together and achieve maximum altitude, your brand is mission-critical. That includes a crisp logo, consistent branding and clear values.

Brand creates trust. Trust breeds loyalty. Loyalty keeps businesses in business.

When marketing comes to a stop, business slows down. Leads stop. Fewer prospects convert into clients. Business declines.

Marketing should never stop. It is the jet fuel propelling your business forward, bringing it farther and faster than ever before. It pushes you closer and closer to your next milestone destination. That is why advisors should invest in consistent marketing, so your business always has fuel in the tank and is flying toward your future business destination.

Thanks for reading and happy marketing! NNTM

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The Paralysis of Choice

Here's the one social media strategy that works on any platform.

By Spencer X Smith

In the early 2000s I was the drummer for a small rock band. I also booked the shows. I realized early on that success as a rock band—just like anything else—was more about networking and less about talent.

Band promoters are the ones who have the power to get you exposure, especially to groups that you're not already in front of, so you need to get networked with band promoters.

In 2002 I dialed the number for a local band promoter that I found on one of his flyers around town. He operated under the pseudonym Joe Miller. He said, "I don't know you, but I get calls like this a lot. If you help me out on my street team, I'll take another look at your band. You can volunteer to stand outside venues and hand out flyers and demo CDs of other bands before my shows."

I was more than willing to serve on Joe's street team, but with so many other bands calling him, he already had a volunteer waitlist that was several months long. So I asked him what else he needed.

"I guess I need a website," Joe said.

Joe was in the business of selling tickets directly to consumers. He didn't like losing a cut of his profits to Ticketmaster, so he wanted a website that would help him sell more tickets. He also wanted to include a button that would allow visitors to play the most famous song from a band in case they didn't recognize the band name.

I posed to Joe, "Okay, so you want to play a song on your website. What's your budget?"

"What do you mean?" He asked. "I thought this was quid pro quo."

"No, Joe, *I'm* not going to charge you," I said. "But what's your bandwidth budget? You're going to have to send a song file *all* the way across the Internet. That costs money." Remember, this was 2002, long before YouTube, Spotify or Shazam.

To build this website, Joe was going to need a lot of bandwidth. In order to include bands' music on his website, Joe would have to pay a fee every time a visitor played a song.

Now, that exchange may sound comical today, but at the time, it was the only option. And because of that, Joe opted in immediately, without a second's hesitation. He was an early pioneer in digital marketing, and he wasn't hamstrung by choosing between investing in eight different social media platforms.

This experience taught me two valuable lessons about marketing my band, which later spilled over into marketing my brand:

1. When you have too many options, it's easy to get apathetic and never pull the trigger. When there's only one option, you are free from the paralysis of choice.
2. The best way to get your own story out there is to help tell other people's stories. By building Joe a marketing website, we were helping him tell the exact story he wanted to tell ("I bring bands to town that you love.") In turn, Joe helped my band get into the venues and perform for the audiences we wanted.

It would be much easier, and much cheaper, to build Joe's website today using links to YouTube or Spotify. But with so many options available, building his digital media strategy would be harder, not easier.

I speak regularly to groups of financial services professionals about social media strategy. The No. 1 request I get ahead of these speaking engagements is to enlighten the group about the emerging platforms. They ask me, "What's the next platform that I don't even know about yet?"

But here's the problem. They haven't even mastered the platforms that are already available—so why should they immediately try to jump onto the next one? They're struggling with the stress of opportunity. They won't commit to any one strategy on any one platform because they second-guess their decisions.

How do you get past this paralysis? Simple. Pick one strategy that works across all platforms, and then pick the platforms that make sense based on the demographics of your customers.

Okay, but what's one strategy that will work on any platform?

Remember my experience with my band? *The best way to get your own story out there is to help tell other people's stories.* You don't want to be the guy in the band wearing his own band's T-shirt. Everyone in the audience already knows the band you're in. That's why they're at your show. Use your time on stage to help highlight someone else's band.

It's not always about what you say. It's more about how you react to what other people say. Take every opportunity you can to promote other people in a way that provides context and meaning to your audience. This is not the same thing as just offering meaningless "shoutouts" to other brands or leaders in your industry. Introduce your audience to the people, organizations and ideas that they need to know about, or that could solve their problems.

Use your voice and your influence to provide PR for other people. Fit your message to the platform and you will gain gratitude and respect from your audience. That's the only social media strategy you'll ever need. New technology or new platforms should never change it. NNTM

Planes, Trains & Automobiles

Attendees at the 2022 NAPA 401(k) Summit had to endure all manner of travel difficulties getting to Tampa—weather disruptions, flight cancellations and delays and more. But when the weather cleared, this year's event turned out to be the biggest and best one ever.

By Ted Godbout & John Ortman
Photos: EPNAC. com


SPARKMAN
WHARF
WELCOME
TO
NAPA
AFTER
DARK

The 20th annual NAPA 401(k) Summit, held April 3-5 in Tampa, got rave reviews from attendees, speakers and exhibitors alike. Here's a taste of the general sessions and workshops (including peer-to-peer roundtable discussions) at the 2022 Summit.

Graff: Momentum Building for Enactment of SECURE 2.0

The House of Representatives' overwhelming passage of the Securing a Strong Retirement Act (H.R. 2954, a.k.a SECURE 2.0) helps set the stage for action by the U.S. Senate later this year, Brian Graff explained April 3 at the opening session of the 2022 NAPA 401(k) Summit.

"It passed by an overwhelming vote of 414-5, which in Washington, DC, these days, doesn't happen very often. And that bodes well for Senate consideration because with something that is supported so overwhelmingly, it's hard for [members of the Senate on] the other side of the Capitol to not get their attention," Graff said.

Graff, who serves as CEO of the ARA as well as Executive Director of NAPA, was joined by Drew Crouch, senior tax and ERISA counsel for the Senate Finance Committee, and Preston Rutledge, Founder and Principal of the Rutledge Policy Group and former Assistant Secretary of Labor for the Employee Benefits Security Administration.

Graff, Crouch and Rutledge engaged in a back-and-forth discussion in which they addressed key provisions included in the SECURE 2.0 legislation, along with what might come out of the Senate following action by the Senate's Finance and Health, Education, Labor and Pensions (HELP) Committees, which have jurisdiction over tax and ERISA issues, respectively.

Graff also advised the packed room of Summit attendees that the House Education and Labor Committee will be marking up another retirement bill, but that it is not expected to be a bipartisan endeavor and will likely pass along party lines. He added, however, that some provisions which emerge from this bill may be added to a forthcoming Senate bill, but he hopes that lawmakers keep it as bipartisan as possible.

Crouch, who spoke with the caveat that his comments reflect only his viewpoints, explained that the Senate Finance Committee will be marking up a retirement bill, perhaps before the end of May. The Senate HELP Committee is also expected to mark up a bill within a similar timeframe, Crouch noted.

Once the retirement security legislation moves out of committee, Crouch noted that Senate floor time is at a premium and that we are more likely to see the legislation added to a must-pass year-end omnibus appropriations bill after the November elections. That would probably be the first opportunity for actual enactment, he noted.

Regarding that point, Rutledge observed that just because Congress doesn't act on legislation right away doesn't mean that it's not going to happen. He explained that it can takes months and sometimes years before legislation is enacted, even when there is broad bipartisan support for a bill. Rutledge also noted that the outcome of November's congressional elections is not likely to affect the chances for passage of the retirement security legislation.

E-Delivery

One issue that is of concern to the American Retirement Association is a provision in the SECURE 2.0 bill that would roll back the Department of Labor's e-delivery regulation permitting electronic disclosures, requiring at least one notice in paper form. Rutledge, who helped oversee the development of the e-delivery regulation as head of EBSA, shared an interesting observation: that the regulation provided an "accidental policy improvement" in terms of helping with missing participants.

"The best way to deal missing participants is don't lose them in the first place, and if you're sending an electronic notice out to somebody to an electronic address, the rule says if it bounces back, you have to get that resolved right away." That doesn't happen with paper, however, where it can be years before you determine that it was undeliverable—but with email, you know right away, Rutledge explained.

Graff noted that he hopes this issue is resolved before final passage of the legislation.

Washington Update: Brian Graff (l) and Preston Rutledge

Starter 401(k)

Meanwhile, as more states enact legislation requiring employers to have a plan, a new proposal has surfaced in the Senate that Graff hopes will gain some traction: the Starter 401(k) legislation introduced by Sens. John Barrasso (R-WY) and Tom Carper (D-DE), who sit on the tax-writing Senate Finance Committee. "We obviously want to work with the committee to hopefully fold this into their version of SECURE 2.0," explained Graff, who noted that he believes the legislation will go a long way toward closing the coverage gap and is very simple for employers to implement.

Why's the Fiduciary Rule Rewrite Taking So Long?

Addressing those who may be wondering why it seems to be taking so long for the Department of Labor to propose a revised fiduciary rule, Rutledge pointed to the Biden administration's climate change initiatives and the two executive orders that were issued by the White House directing federal agencies to take action on climate change. "That's why you see the ESG proxy rule of the Department of Labor moving so far so fast," Rutledge explained.

Most recently, the DOL requested information about protecting retirement savings and pensions from risks associated with climate change. "If this goes to the next stage, which would be a proposal, and then the next stage, which would be a final, you might find yourself having to report climate-related financial information on Form 5500," Rutledge explained.

"We're very concerned about that," added Graff. "We're definitely going to be weighing in; that in our opinion is not a good option—we don't think that one economic issue should be front and center versus every other economic issue," Graff explained.

Benartzi: Decumulation Strategies Should Start with a Process

"Auto everything" has solved a lot of problems, but the personalization required for decumulation strategies requires a different approach, Professor Schlomo Benartzi suggested at a 401(k) Summit general session. Benartzi is Professor Emeritus of the UCLA Anderson School

Decumulation Strategies: Shlomo Benartzi (virtually) and the decumulation panel (L-R: Nevin Adams, Barbara Delaney, Lisa Buffington, Don MacQuattie)

of Management and founder of PensionPlus.

In thinking about the average worker who does not necessarily have a million dollars saved for retirement, Benartzi contends that the industry has to move beyond simply having a one-size-fits-all product available to more personalized solutions. "I think we have to start with the process and create plans for everyone, regardless of how much money they have. And for that, we're going to have to understand the psychology of the participant; otherwise they are not going to care about the [educational] classes we create."

And with that comes the behavioral insights, which he explains are having the tools necessary to succeed by engaging participants to give them their desired retirement. Otherwise, he noted, they might roll their money outside the plan because they perceive there is not a great solution in the plan or they are not aware of it, and consequently end up paying more in fees.

In fact, Benartzi found that plan advisors can lose up to 5% of plan assets every year due to participants not finding a solution in the plan. To that end, he noted that he had met with an advisor who has $6 billion in AUA, but loses $350 million every year because they have not solved the retirement income issue for participants in the plan. As such, the advisor has to sell $350 million worth of plans each year to fill the leakage, he noted.

At the same time, he suggests that proposals in Washington that would permit lifetime income annuities as a default would also be tricky because people are very different and he suggests the industry needs to start recognizing those differences. "It's going to be very difficult to actually create a personalized solution unless we engage people and we have to start thinking about how to do it, because decumulation is a really hard thing to do that people lose sleep over," he noted.

Moreover, he suggests that the "auto-everything" features that worked for building retirement wealth will not work on the decumulation side because of these differences and would fit only 4% of people in retirement.

So how does the industry actually help people make informed choices when they are not experts on the topic? Benartzi suggests presenting tradeoffs, citing the behavioral process of an "informed tradeoff engine" that provides a visually appealing decision tree that offers realistic projections based on the various questions and answers provided, as opposed to a simple, online calculator. An informed tradeoff engine can help people find the tradeoff that best fits their preferences and needs, he suggests. "People tend to neglect the big picture, so we should make holistic planning easy," he says.

Benartzi also suggests that the process needs to remain fairly quick and stay focused on the positive in order to not lose people's interest. "The point I'm making is that we also need to have the tools to tell the participants how much of each product would fit their plan and start with the plan with the process, not with the product," he further emphasizes.

Time to Reset the Advisor-TPA Partnership

What should advisors be asking their TPAs? What should they be getting from them? What makes the difference between a good TPA and a bad one? How can advisors and TPAs improve their working relationship and serve plan sponsors as a cohesive team?

Those were just a few of the questions tackled in a highly participatory workshop session on Day 1 of the NAPA 401(k) Summit in Tampa. In a twist on the usual speaker selection at a conference of plan advisors, the panel which led the workshop consisted not of advisors or home office execs, but three independent TPA owners:

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

All three 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, and Edwards is a member of ASPPA's Leadership Council.

In addition, the three TPA owners are part of a new ASPPA initiative seeking ways to help repair the rifts that have existed for years between advisors and TPAs and help advisors work more smoothly and productively with their TPA partners—focusing on the value of independent TPAs.

"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?" observed ARA Chief Content Officer Nevin Adams, who facilitated the workshop session. "To quit fighting 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 with."

TPA partners: Justin Bonestroo, Amanda Iverson and Shannon Edwards (L-R)

Understand Processes and Procedures

"No matter what TPA partner you choose—whether bundled or independent—it's important that you understand that partner and their processes and procedures, so that that your partnership with them can work best for both of you," Edwards advised. "That will help you decipher what your TPA partner is doing for you—or what you want them to do for you."

Understand Culture

Another key to a successful partnership is corporate culture, Bonestroo noted. "It's one thing to claim to be partner, but the fact is that your TPA business owner and the sales team understand the partnership relationship. But that doesn't mean anything if the people with boots on the ground—working with the plan, dealing with the record keeper—don't have that same attitude. If the culture doesn't flow through all the way from the top to the bottom, and your consultants don't feel that way—that it's always an us-versus-them situation—then you're not going to have a good experience with that TPA."

Checklist in the Works

Edwards summed up the ASPPA committee's overall findings so far, citing two types of challenges: communication and expectations. "We all see opportunities—opportunities for better client service, opportunities for growth, opportunities for a productive partnership," said Iverson. "So how do we find those partners?"

To address that question, she said, one of the things that the ASPPA group is working on is a checklist of capabilities that advisers 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 explained.

Right now the group is working on a checklist at a high level, Iverson explained, and is seeking input from advisors. Expect to see more from them in the weeks and months ahead.

Tips from Top Advisors

What do the best advisors do that make them the best? A panel of former NAPA presidents shared their "secret sauce" at a 401(k) Summit general session.

The insider's peek into a few of the things the four advisors do was moderated by a fifth NAPA president, Steven Dimitriou of Mayflower Advisors. The panel consisted of:

- Marcy Supovitz of Boulay Donnely & Supovitz Financial Services;
- Pat Wenzel of Merrill Lynch;
- Paul D'Aiutolo of D'Aiutolo of D'Aiutolo & Malcolm & Associates; and
- Alex Assaley of AFS 401(k) Retirement Services.

Here's a look at some tips from the session.

Prospecting

When it comes to getting new clients, Assaley's firm "tries to be very active on social media," he reported, curating content across multiple platforms to share their story and values in the marketplace. In addition, AFS is active with email marketing, networking events—and even cold-calling. In fact, Assaley's regular schedule includes time set aside every other week to do cold-calling—a reflection of his unusually hands-on approach when it comes to meeting with participants, which he also has done an unusually large amount of throughout his career. "You could argue that a one-on-one with a 23-year-old who just started his first job is not the highest and best use of my time," he said, "but it's a great learning experience and a way to stay grounded. And it can bring you down to earth a bit from where you thought you were."

Converting Committee Members into Wealth Management Clients

Pat Wenzel, whose practice encompasses wealth management as well as 401(k)s, shared a novel tip for converting members of

Tips from Top Advisors: Former NAPA Presidents Marcy Supovitz, Paul D'Aiutolo, Pat Wenzel and Alex Assaley (L-R)

From Left:
"Feud"-ing: Emcee Lisa Smith enjoys a response from wirehouse team member Sam Brandwein in the popular "Family Feud" competition.

Passing the torch: Incoming NAPA President Corby Dall (l) and outgoing President Alex Assaley

plan committees into new wealth management clients. It starts with using recordkeeping data to look up the birth date of every committee member. She then sends each one a personalized "happy birthday" message. "Here's the secret: on Outlook, I go to the section where you put 'Options: Delay' and schedule each one. I've already done all my April emails—last week," she said.

Wenzel offered an example in which she sent an email to a committee member on her 62nd birthday that closed with: "I noticed that it's your 62nd birthday. I know you're not anywhere near thinking about retiring, but if you'd like to sit down and talk about Social Security options and do some more serious retirement income planning, you know I do that too, right?" The upshot: "I got an email back from her saying, 'Oh my God, I was just thinking about my Social Security options. When can we sit down and talk?' Well, I do that about 100 or 150 times a month," Wenzel said. You can also do this with participants, she added. "I hope you're keeping a list of people who attend your participant education meetings. Then have someone on your team dig up how much money they have in the plan and what their birth date is. If they're over the age of 55 and they have over $100,000 in the plan, guess what? I add them to Salesforce," she said, "and they go on my birthday list."

Just Say No

For D'Aiutolo, a game-changing moment in his career came when he learned that saying no is better than saying yes—"saying no to the wrong kind of clients, to the people who wanted to point me in a direction that wasn't in my best interests," he explained. It wasn't an easy thing to learn, he recalls—in fact, it took many years. "But it can be the most powerful thing that you can embrace. And it was the hardest thing that I've had to learn," he said. "Say you're just starting out. You're trying to find your way in this world—trying to bring in revenue, trying to take care of your family—eventually you come to realize that saying no is perhaps the single greatest thing that you can do" to advance your career, he advised.

Sucession/Contingency Planning

For industry veteran Supovitz—who has already retired once and is now contemplating a second retirement—"if there's any one thing that I look back at and say, 'if I'd only done that then, I'd be in a better position now,' it would have to be starting succession planning a lot sooner. For anybody who doesn't have a clear successor, I would say that it's never too soon. And it's not just about retirement, right? There's contingency planning as well; it's about the unexpected happening."

The ideal scenario, Supovitz said, is to have an understudy waiting in the wings. "Well, don't underestimate the time it takes to do that," she advised. And the stakes are significantly higher on the wealth management side of the business than on the plan side. On the plan side, those are mostly business-to-business relationships; but on the wealth management side, those are personal relationships. "Who are you going to turn those people over to?" she asked.

Finding the right understudy "is like finding a soulmate," Supovitz observed. "And a soulmate who has the wherewithal financially to buy into the business. So this is not an easy thing. To anybody who thinks they have a lot of time to prepare for this, I say: start now. Think about it finding the right successor."

See You in San Diego!

If you missed the 2022 Summit, don't make the mistake of missing out on next year's event—"the nation's retirement advisor convention" will be in San Diego, April 2-4. NNTM

High fives all around

We're honored to be ranked top five in five of NAPA Advisors' Choice market segments.

Top five in 11 out of 13 categories for **micro-market plan**

Top five in 11 out of 13 categories for **small-market plan**

Top five in 11 out of 13 categories for **mid-market plan**

Top five in all 13 categories for **large plan**

Top five in 12 out of 13 categories for **mega plan**

We also want to raise a hand to congratulate these five Fidelity associates for being named among top 2022 NAPA Advisor Allies.

- **Jim Dowling**
- **Travis Gavinski**
- **Mike Manosh**
- **Andrew Spahr**
- **Jarrad Smith**

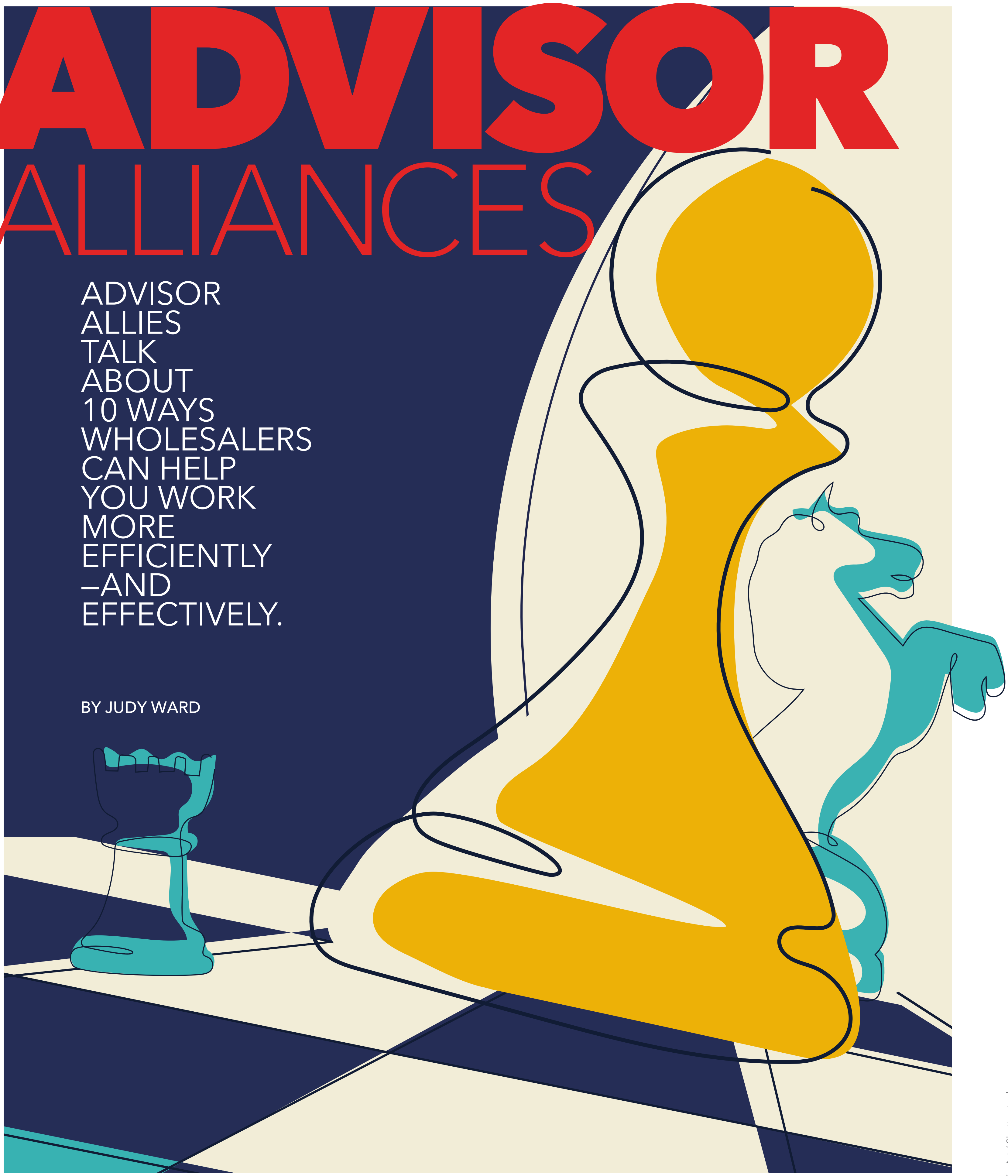
Thank you for recognizing their commitment to you and for letting all of us at Fidelity play a small role in your accomplishments.

ADVISORS' CHOICE
RECORDKEEPER
NAPA
2022

ADVISOR ALLIANCES

ADVISOR ALLIES TALK ABOUT 10 WAYS WHOLESALERS CAN HELP YOU WORK MORE EFFICIENTLY –AND EFFECTIVELY.

BY JUDY WARD



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"I don't think about my work with advisors transactionally," says Alan Valenca, a vice president-regional sales consultant at T. Rowe Price in Boston. "The wholesalers who think of their work more consultatively, that's what resonates with advisors. I take a strategic viewpoint, and facilitate them thinking about where they want their practice to go."

Seven wholesalers who appeared on last year's Top 10 Advisor Allies recordkeeper or DCIO lists (some also made this year's lists) talked about ways they can help plan advisors work more efficiently—including areas that they say advisors often overlook.

CLARIFYING THE **VALUE** PROPOSITION

Valenca approaches this crucial step to winning new business by helping advisors figure out the types of plans they've had the most success with, with a focus on identifying the commonalities among an advisor's "best" clients. "And we talk about, what is the value proposition you offer that causes you to mesh well with these clients?" he says. "For one advisor, it might be that they meet with every participant and offer to do a full-blown financial plan with each. For another, it might be 'I'm here for plan governance, and I work with the corner-office people.'"

Jerry Cicalese, senior vice president, strategic partnerships at Wakefield, Massachusetts-based Sentinel Benefits & Financial Group, spends a lot of time helping advisors identify the value that they could add to a potential client relationship. For those focused on plan-level work, he's now seeing advisors differentiate themselves by doing fiduciary training for a plan committee, as part of a presentation to a client prospect. "I can't tell you how many advisors I'm talking to who are doing that training, and really separating themselves from the pack," he says. As a wholesaler who sees what works and what doesn't for advisors trying to win new business, he's sharing with advisors that many place sponsors face a training gap. "Let's be honest, most plan sponsors don't put a lot of emphasis on fiduciary training," he says. "Usually, they become aware of the need in one of two ways: Either they have a good advisor who explains it to them, or they go through a remedy process (as part of an audit or lawsuit) that includes the requirement that committee members get fiduciary education."

ALAN VALENCA
T. Rowe Price

JERRY CICALESE
Sentinel Benefits & Financial Group

COACHING ON PROSPECTING MECHANICS

Many advisors would like to find a prospecting "silver bullet," something that requires little work but gives them a bunch of good leads, says Luke Szafranski, a Hartland, Wisconsin-based regional vice president at Transamerica. "That just doesn't exist, so I have a frank and honest conversation with them about prospecting," he says. "It's about actually investing the time and doing it each and every day, or every week, and doing it consistently," he says. "I say to advisors, 'Look, you have to have a plan for how much time you are going to devote to prospecting, and then you have to stick with it.'"

Recently, Szafranski has seen advisors have success utilizing LinkedIn to make initial contacts with important players like chief financial officers, then regularly posting substantive content to the advisor's LinkedIn account. When someone likes a post or comments on it, the advisor can follow up by contacting that person individually to start a dialogue. "It's the new cold-calling," he says.

Tina White, San Mateo, California-based vice president, senior retirement plan strategist at Franklin Templeton, works with advisors to zero in on specifically where they need help. She utilizes Franklin Templeton's ACES–short for Advisor Commitment to 401(k) Education and Service–modular practice-management program. It's broken down into four modules, including prospecting, discovery (learning more about potential new clients), 'closing' to win business, and servicing existing clients. "Depending on where an advisor is in his or her practice, and where that advisor has efficiency gaps, we can hone in on where the advisor needs help," she says. Oftentimes advisors need help with how to get more effective in the initial, prospecting stage. So she can run a BrightScope report that identifies potential new clients for an advisor, for example, then work with the advisor on how to effectively approach a particular sponsor, given its plan situation. The report may indicate that a plan pays higher-than-necessary fees, for instance, or might not be getting some best-practice services from its current plan advisor.

"I HAVE A FRANK AND HONEST CONVERSATION WITH THEM ABOUT PROSPECTING. IT'S ABOUT ACTUALLY INVESTING THE TIME AND DOING IT EACH AND EVERY DAY, OR EVERY WEEK, AND DOING IT CONSISTENTLY."

– LUKE SZAFRANSKI, TRANSAMERICA

GUIDANCE ON TAILORED TALKING POINTS

"When they look to a wholesaler for help, advisors want to 'stack the deck' in their favor as much as they can, before approaching a potential new client," says Chris McDavid, a regional vice president at John Hancock Retirement in San Francisco. That means getting more knowledgeable about potential clients' plans, and McDavid can help by utilizing software John Hancock Retirement has that goes through Form 5500 filings and looks for specific deficiencies, then aggregates data on potential prospects and their deficiencies. "We have about 15 points we're looking for in Form 5500 data," he says. Areas of concern to highlight, and suggest that the advisor could help fix, include plan design issues that led to corrective distributions, and participation rates that fall below benchmarks for comparable plans.

"Sponsors have gotten too many calls, for years, from people who say, 'I want to be your 401(k) advisor, and I can save you money,'" McDavid says. "More-innovative approaches tend to work more effectively, especially when the advisor is letting the potential client know that they've done their homework, and can impact their business."

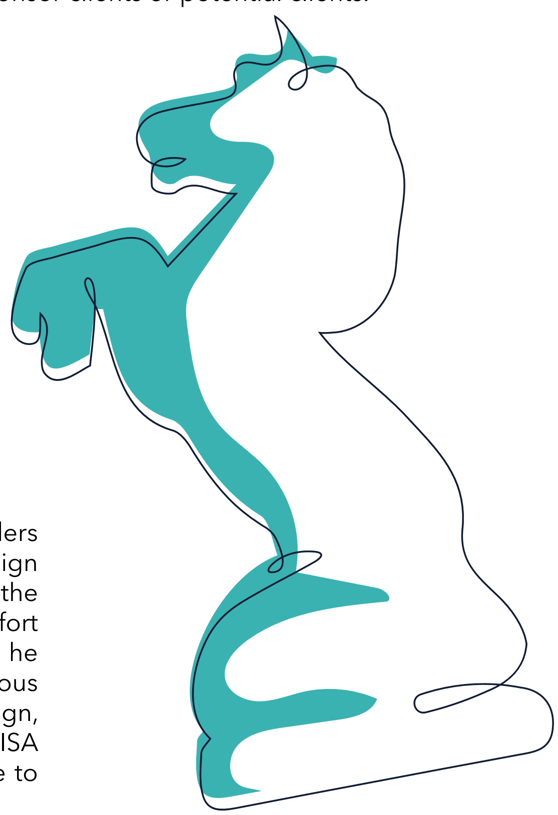
A lot of times, advisors come to Doug Allen asking for his ideas on relevant issues to discuss with a particular client prospect. "They're asking, 'What are the best talking points for me to pursue this opportunity?" says Allen, regional vice president at Nationwide Financial in Covington, Louisiana. Based on his experience talking to sponsors, he also can coach advisors on what type of open-ended questions can start a good dialogue. One that he's currently seeing work, as the competition for new hires intensifies: Is the retirement plan meeting the employer's objectives for employees and potential hires seeing it as a valuable benefit?

RESOURCES ON FIDUCIARY AND HOT-BUTTON ISSUES

Specialist advisors often position their value proposition as being fiduciary-process experts, and can use support related to that, Valenca says. "Their value-add is, 'I can come in and set up strong processes, not just for the investments but for overall plan governance,'" he adds. T. Rowe Price has a fiduciary due-diligence guidebook that he recommends advisors give to committee members at new clients. It breaks down fiduciary responsibilities into seven areas, ranging from how to monitor investments to roles and responsibilities when participant money moves in and out of a plan. "We've tried to organize the explanation so that it's a 'paint by numbers' vantage point," he says.

There have been a lot of tools created to help advisors help committees on the investment side, but far fewer on plan-governance issues, McDavid says. "That's where we really lean in, to work with advisors and plan sponsors," he says. So, for example, he can help advisors understand John Hancock Retirement's cybersecurity guarantee for participants, so that an advisor can explain it to sponsor clients in an understandable way. And John Hancock Retirement has webinar materials for a cybersecurity session that an advisor could conduct with sponsor clients or potential clients.

DOUG ALLEN
Nationwide Financial



CONSULTING ON PLAN DESIGN

Advisors still don't turn to wholesalers as much as they could for plan design consulting, Cicalese says. "I see it all the time, where advisors still lack the effort that needs to go into plan design," he says. "Wholesalers have tremendous resources about effective plan design, and a 'bench' behind them, such as ERISA attorneys, that can be made available to advisors."

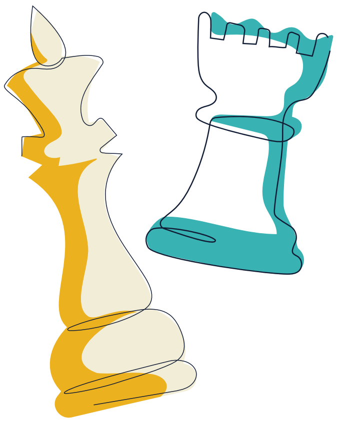
A wholesaler can help an advisor look at where the best potential exists for utilizing design changes to positively impact a plan. "Once a plan moves, I find that you have a finite window of time to effect positive change," Allen says. "You don't want to miss that window of opportunity. As an experienced wholesaler, I can recognize things that are not in a plan that I've seen work for other plans." Is an employer a good candidate for adding a cash balance plan, for example? Might it make sense for another employer's 401(k) to become a safe harbor plan?

McDavid notes that John Hancock Retirement can utilize technology it has to work with an advisor talking with a client about potential plan design changes, modeling the impact both in terms of employer costs and participant engagement and outcomes. "We can take one, two, or three potential design modifications to a plan's design (such as a match-formula change), and we can plot out for each option both the potential future spend for the employer and the potential 'lift' in participant data," McDavid says.

CHRIS MCDAVID
John Hancock Retirement

"YOU'VE GOT TO BE CREATIVE, AND YOU'VE GOT TO MAKE THE STORY COMPELLING, AND THAT'S WHERE WE CAN HELP."

– TINA WHITE, FRANKLIN TEMPLETON



HELP WITH COMMITTEE MEETINGS

"Don't leave the wholesaler behind," Szafranski suggests. "Sometimes advisors forget to ask us to go with them to their client. But a lot of times, that is where we shine the most. We're talking with sponsors and participants daily, and we've kind of seen it all and done it all. So I'd say, don't forget to ask your wholesaler to come with you to a meeting, because the wholesaler can be a great resource," though it's important that the advisor has a clear sense of what their value proposition is with a client.

Some advisors may hesitate to position a wholesaler in a leadership role with an employer client at meetings, because that's the role the advisor wants to have. "It's a fine line for a wholesaler, because I know how the plan works," Allen says. "It's how you position the wholesaler with the client that's important. You need to set expectations for the partnership."

Advisors often overlook wholesalers' ability to bring additional expertise to quarterly committee meetings, Allen finds. "A lot of times, they think of bringing in the wholesaler when they do a point-of-sale presentation, or when they do benchmarking," he says. A knowledgeable wholesaler can help address a range of topics where an advisor may have limited expertise, such as legislative updates, health savings accounts (HSAs), and nonqualified plans, he says.

THOUGHT LEADERSHIP MATERIALS

Jennifer Mulrooney, vice president, regional retirement consultant at American Century Investments in Shrewsbury, New Jersey, says advisors don't ask wholesaler specialists as often as they could for thought leadership insights and resources. At a recent NAPA 401(k) Summit session on wholesalers she attended, advisors polled said they most often come to wholesalers for thought leadership—but only 50% did so. "That tells me that the other 50% of advisors don't think of coming to their wholesalers for that," she says. "One of the things plan sponsors are most interested in is avoiding class-action lawsuits, for example, and we have a lot of knowledge about best practices to do that, from when we've successfully defended ourselves in a class-action lawsuit."

Valenca's experience has been that advisors often recreate the wheel themselves when they need quality content. "They miss opportunities to take wholesalers' content 'off the shelf,' make it their own, and then take it from there with clients and potential clients," he says. "They don't think about, 'Before I decide to create something myself, let me talk to some of my wholesaler partners and see what they have'." For example, he says, T. Rowe Price has a "Health Care is Not a Six-Figure Word" presentation on health care costs in retirement, which debunks the prevalent narrative that those expenses will be overwhelmingly large for most people. He says that the presentation can "take a lot of the fear away" and give people a more realistic—and achievable—idea of what they should budget for health care expenses in retirement.

BENCHMARKING BEYOND RECORDKEEPING

Franklin Templeton gets a lot of advisor requests for help benchmarking a client's plan, White says. "We have a plan design and plan structure benchmarking tool, and the data is very specific to an industry, such as an auto dealership," she says. The tool has data on multiple key design provisions, broken down by plan-size segments as well as industry. For advisors who share the design-benchmarking report with sponsors, she says, it helps confirm that their plan has kept up with peers on plan design.

Mulrooney also suggests that in addition to plan benchmarking resources, an advisor can turn to a wholesaler for help with benchmarking the advisor's fee. "Most advisors have experienced their clients getting a call from another advisor trying to win that business away," she says. "If you use the right benchmarking tools, you can proactively communicate the value of your fees to clients, and you can keep outsiders from disrupting your client relationships."

"Sometimes another advisor may call a sponsor and say, 'How much are you paying today: $50,000 a year? I can do that work for $25,000,'" Mulrooney continues. "But they're not clearly stating what they would do for that $25,000." If an advisor has utilized good benchmarking tools, during every annual review with a sponsor the advisor can share a report documenting all the specifics on his or her practice's work for that plan during the year, such as the number of participant meetings conducted. That documentation can help dissuade a sponsor from considering a new advisor, she says.

SUPPORT ON CONNECTING WITH PARTICIPANTS

Many advisors who want to get more involved in working directly with participants are trying to figure out how to do that, Cicalese says. "That's particularly true because of the shift we see where many plan advisors are getting into wealth management, too. The writing is on the wall: Whoever is going to serve the participant well in the future is going to be the winner," he says. "So, many advisors are now looking to wholesalers for help with how they can bridge the gap with participants."

Sentinel uses Tableau business-intelligence software that can give advisors helpful participant data, such as which employees are leaving a client company and are potential wealth management clients. "We're also able to give a link to the advisor on our participant site, and that allows a participant to not only know the advisor's name, but be able to schedule a meeting with the advisor directly, through our portal," Cicalese says.

There's an opportunity for advisors to use social media to connect directly with participants, Mulrooney says. "There are ways within LinkedIn where you can see the people within your clients who are leaving that employer, for example," she says. "A lot of advisors might not have access to all the tools and resources with social media, and if they don't have LinkedIn Sales Navigator—which can produce a report like that—I can run a report that will show them if people at their clients have left." The advisor can then follow up with those individuals.

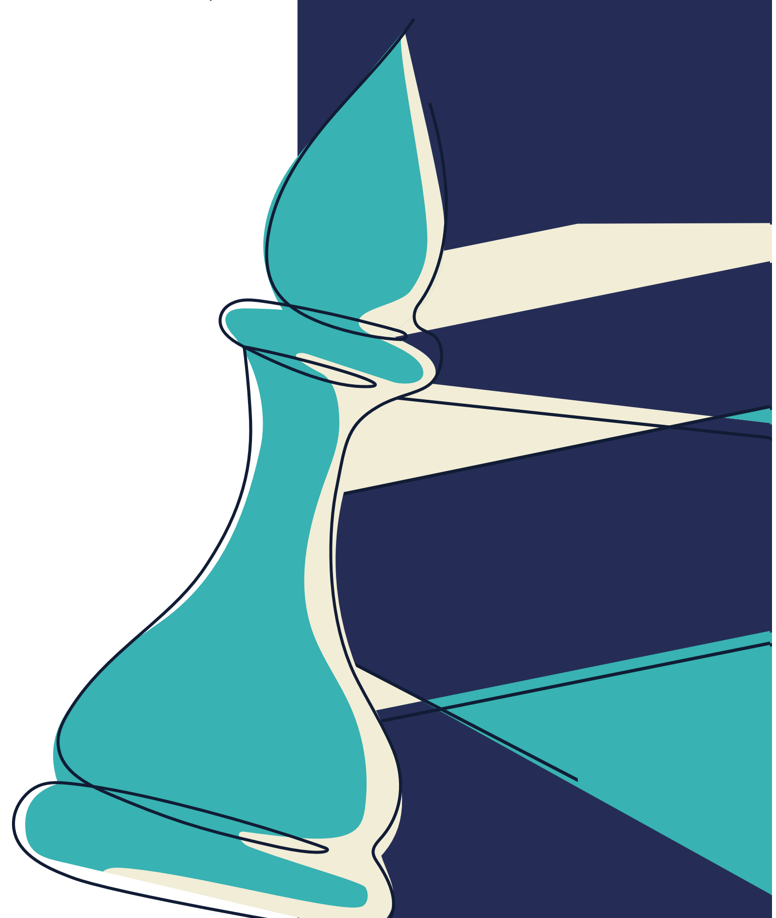
Having an impactful online presence has become important for advisors who want to market to participants, White says. "What I find is that personalization is becoming a standard (in marketing), and the expectation that participants have," she says. "People have gotten used to the proactive, personalized recommendations offered by the likes of Amazon, Netflix, and Spotify, and retirement is evolving that way as well." Franklin Templeton offers webinars for advisors on topics such as building an online presence. To offer online content that participants see as relevant to them, she says, "You've got to be creative, and you've got to make the story compelling, and that's where we can help."

JENNIFER MULROONEY
American Century Investments

CONVERSATION-PROVOKING PARTICIPANT PRESENTATIONS

T. Rowe Price has a "Visualize Retirement" presentation, with workshop materials and a participant workbook, that an advisor can do in person or as a webinar. "It's designed to focus not so much on the financial side of retirement planning, but the emotional side of retirement planning," Valenca says. "It's about the five W's: who, what, where, when, and why." For instance, it encourages pre-retirees to think about who they spend the most time with now (such as coworkers), versus who they want to spend the most time with in retirement, and how they can begin to take steps in the present to make that transition.

Valenca says he's gotten lots of feedback from plan advisors who've done the presentation for a group meeting at an employer client, and once the meeting ended, it is not uncommon to have several attendees ask to set up a joint meeting with their spouse included, to talk about the issues raised in more depth. "It's a natural way to segue between someone being a retirement plan participant client and someone being an individual wealth management client," he says. NNTM



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

THANK YOU, ADVISORS. WE APPRECIATE YOU, TOO!

Recognized by the Folks Who Should Know

Humbled and proud — those words came to mind as NAPA announced its Advisors' Choice Awards for 2022. We want to extend a hearty "**Thank you!**" to the advisors who placed their confidence in us as recordkeeping partners and whose votes resulted in **45 Advisors' Choice Awards** for our team.

NAPA ADVISORS' CHOICE AWARDS

Participant Tools	Calculator	Plan Sponsor Website	Mobile App	Micro Small Mid Large Mega
Regulatory Support	Staff Credentials	Advisor Support	Participant Statement	
Educational Materials	Multi-lingual Capabilities	Plan Health	Wellness	Retirement Income

CONGRATULATIONS ON YOUR ACHIEVEMENT

Proud of Our 2022 Advisor Allies

Congratulations to our Transamerica RVPs and Institutional Directors for ranking among NAPA's Top 100 DC wholesalers for 2022. We're honored to recognize these Advisor Allies and to continue supporting their efforts to brighten retirement outcomes.

Chris Castro
Regional Vice President
Mid-Market Retirement Plans
Los Angeles, Hawaii

Justin Chilcote
Director
Institutional Markets
Western Region

Gary Giffen
Director
Institutional Markets
New England & Great Lakes

Chris Schutz
Regional Vice President
Mid-Market Retirement Plans
Maryland & DC

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A 'BUDDY' SYSTEM

THIS YEAR'S ADVISOR ALLIES

BY NEVIN E. ADAMS, JD

IN THIS ISSUE WE HONOR AND ACKNOWLEDGE THE NINTH ANNUAL LIST OF NAPA TOP 100 DEFINED CONTRIBUTION (DC) WHOLESALERS—AND TOP 10 DCIO AND RK WHOLESALERS—AS SELECTED BY THE NATION'S LEADING RETIREMENT PLAN ADVISORS.

We received a record number of nominations this year—and nearly 18,000 advisor votes in support of their actions. Indeed, the past couple of years have presented us all—but perhaps particularly these DC wholesalers—with a unique set of challenges. That said, and as we noted last year, these folks cover a lot of ground—and as travel begins its slow return to "normal," they're once again back out on the road!

That support ranges from product insights to market intel, from marketing materials to client support—and even prospect introductions—and they do it, in some cases, for thousands of advisors!

They still cover large "swathes" of territory—in terms of geography, number of advisors, and often both. Indeed, the top 100 was spread all over the nation, with the size of their respective territories as varied as the firms and wholesalers themselves. Theirs is a business oriented more towards advisor count and location than assets, but still well over half are supporting advisors whose business exceeds $1 billion in assets under management. Nearly three-quarters have more than 15 years of experience, and nearly half have that much experience as a DC wholesaler (though only about one in five have that with the same firm).

With an estimated 1,500 record keeping and DCIO external wholesalers working directly with advisors, this 2022 list of Advisor Allies represents the best of the best!

Our congratulations to these Advisor Allies—and the firms that support them—and our thanks to all of you who supported this recognition with your votes!

HOW THE ADVISOR ALLIES ARE DETERMINED.

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

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

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

3. Selection: The final vote tallies are reviewed by the NAPA Top DC Wholesalers Blue Ribbon Committee, which selects the top wholesalers, including the Top 10, in both Recordkeeping and DCIO categories.

Legend

Top 10 DCIO Wholesaler

Top 10 RK Wholesaler

Celebrating our Advisor Allies

Lincoln Financial is proud to congratulate our NAPA 2022 Top Defined Contribution Industry Wholesalers

Justin Bonavitacola

Tim Curran

Matt Fessler

Bryson Hopkins

Stewart Rauchman

Donny Sheinwald

Tony Summers

We're honored to be recognized as dedicated partners by our financial professional community. And we appreciate our Advisor Allies for their commitment to helping financial professionals build their businesses and look confidently to the future.

To learn more, visit LincolnFinancial.com or call 877-533-9710.

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JEFFREY
ABELLI
DCIO
Amundi US

BOBBY
ALLEN
DCIO
American Century Investments

DOUG
ALLEN
RK
Nationwide

HEATHER
BAILEY
DCIO
State Street Global Advisors

MATT
BEAULIEU
DCIO
Franklin Templeton

KELLI
BEAUREGARD
DCIO
Columbia Threadneedle Investments

JEFF
BENETEAU
RK
Cuna Mutual Group

JOSHUA
BINFORD
DCIO
Invesco

KEITH
BLACKMON
DCIO
T. Rowe Price

JUSTIN
BONAVITACOLA
RK
Lincoln Financial Group

BRADFORD
BONEY
RK
John Hancock Retirement

JASON
BUTLER
DCIO
T. Rowe Price

ANGELO
CABRAL
RK
John Hancock Retirement

CHRIS
CASTRO
RK
Transamerica

JUSTIN
CHILCOTE
RK
Transamerica

JERRY
CICALESE
RK
Sentinel Group

MURRAY
CLEANER
DCIO
MassMutual Investments

STEVEN
COHEN
DCIO
Federated Hermes

MARTIN
COURAGE
DCIO
PIMCO

KEVIN
CROTSLEY
DCIO
Victory Capital

ANDY
CUNNINGHAM
DCIO
MassMutual Investments

TIM
CURRAN
RK
Lincoln Financial Group

SHANE
DAWE
DCIO
American Century Investments

DOM
DESANTIS
DCIO
Hartford Funds

IVETTE
DOMINGUEZ
RK
Ascensus

JIM
DOWLING
DCIO
Fidelity Institutional

LAURA
DURKIN
RK
Nationwide

ALLEN
EHLING
RK
T. Rowe Price

RYAN
FAY
DCIO
John Hancock Investment Management

BILL
FELDMAIER
DCIO
Lord Abbett

MATT
FESSLER
RK
Lincoln Financial Group

DAVID
FOLEY
RK
Securian Financial

MATT
FOSTER
DCIO
Franklin Templeton

TRAVIS
GAVINSKI
RK
Fidelity

MICHELE
GIANGRANDE
DCIO
T. Rowe Price

GARY
GIFFEN
RK
Transamerica

JERRY
GIOVINAZZO
RK
John Hancock Retirement

GLENN
GODIN
DCIO
American Century Investments

LIAM
GRUBB
DCIO
Franklin Templeton

ERIC
GRZEJKA
RK
Sentinel Group

GREG
HANDRAHAN
DCIO
AllianceBernstein

SCOTT
HANKARD
RK
Ameritas

TIM
HARKLEROAD
DCIO
Amundi US

AARON
HASSINGER
DCIO
PIMCO

BRYSON
HOPKINS
RK
Lincoln Financial Group

LISA
HULTQUIST
DCIO
Invesco

MATT
KASA
DCIO
Nuveen

STEVE
KRAUSZER
DCIO
PGIM

JOHN
KUTZ
DCIO
Franklin Templeton

BILL
LAPLANTE
DCIO
Virtus

BROOKS
LAU
RK
Principal

AMANDA
LEWIS
DCIO
BlackRock

THOMAS
LONCAR
DCIO
Invesco

MICHAEL
LOONEY
RK
Principal

PATRICK
LOVETT
DCIO
Neuberger Berman

AYLMER
MAGILL
DCIO
John Hancock
Investment Management

ERIC
MAGYAR
DCIO
Janus Henderson Investors

MIKE
MANOSH
DCIO
Fidelity Institutional

SETH
MARSTERS
RK
The Standard

TODD
MATLACK
DCIO
Invesco

CHRIS
MCDAVID
RK
John Hancock Retirement

KEVIN
MCDONOUGH
RK
Principal

ERIC
MILANO
DCIO
T. Rowe Price

JOHN
MUELLER
DCIO
Nuveen

JEN
MULROONEY
DCIO
American Century Investments

BRIAN
MUNN
DCIO
American Century Investments

KEITH
NEAL
DCIO
MFS Investment Management

MARK
NEEDHAM
RK
John Hancock Retirement

TOM
O'CONNELL
DCIO
Allspring Global Investments

DAN
O'SHEA
DCIO
Colombia Threadneedle Investments

SCOTT
PAWLICH
DCIO
American Century Investments

STEVEN
PERSON
RK
John Hancock Retirement

STEWART **RAUCHMAN**
RK
Lincoln Financial Group

DAVID **SANDSTEAD**
RK
Principal

CHRIS **SCHUTZ**
RK
Transamerica

GREG **SEAVER**
DCIO
Hartford Funds

DONNY **SHEINWALD**
RK
Lincoln Financial Group

CRAIG **SHRACK**
RK
Securian Financial

CHRIS **SLEGGS**
DCIO
PIMCO

JONAH **SMITH**
RK
John Hancock Retirement

JARRAD **SMITH**
RK
Fidelity

ALISON **SMITH**
RK
Principal

ANDREW **SPAHR**
DCIO
Fidelity Institutional

CHRIS **STEMLER**
RK
Cuna Mutual Group

BOB **STERNFELD**
RK
John Hancock Retirement

PHIL **STEWART**
DCIO
MFS Investment Management

ANTHONY **SUMMERS**
RK
Lincoln Financial Group

NANCY **TASSIELLO-GERSTNER**
DCIO
Franklin Templeton

ANDY **TYNDALL**
DCIO
MFS Investment Management

ALAN **VALENCA**
DCIO
T. Rowe Price

BILL **VASSAS**
RK
Nationwide

SCOTT **WARD**
RK
John Hancock Retirement

LINDSAY **WARRINGTON**
DCIO
John Hancock Investment Management

JEFF **WEAVER**
DCIO
J.P. Morgan Asset Management

BRAD **WEBER**
RK
The Standard

JESSICA **WILSON**
DCIO
Franklin Templeton

JIM **WOJCIAK**
DCIO
Federated Hermes

JASON **YEPKO**
RK
John Hancock Retirement

MARTIN **ZAYAC**
DCIO
AllianceBernstein

DAN **ZIBAITIS**
RK
John Hancock Retirement

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2022 ADVISOR ALLIES NAPA TOP DC INDUSTRY WHOLESALER

Top DC Wholesalers

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N'S

Five NAPA leaders talk about how to help plans and participants amid the challenges.

BY JUDY WARD

If inflation continues to run high, a growing number of financially stressed participants may feel like they need to stop or reduce their deferrals.

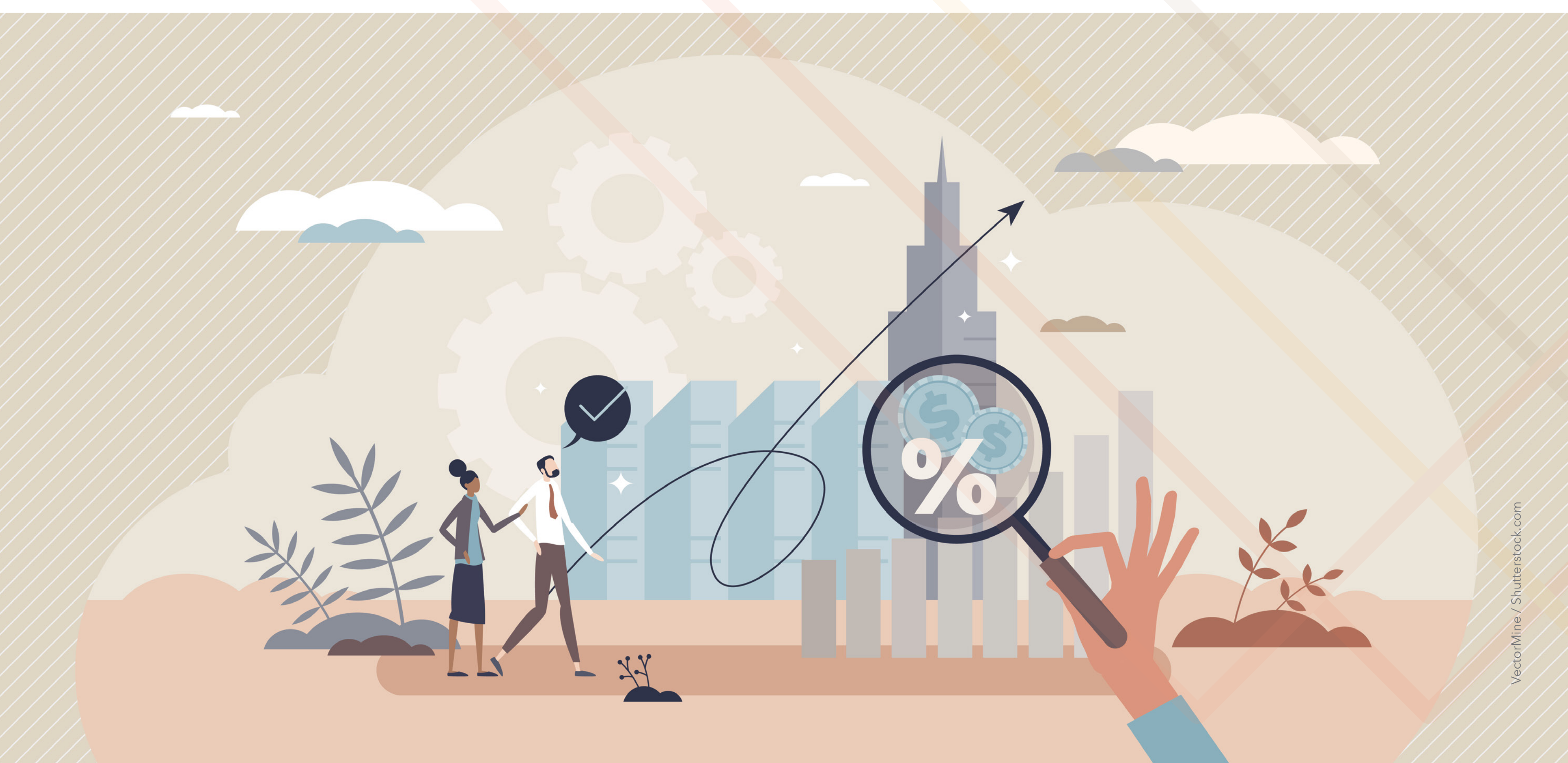
"The thing I lose sleep over is that some people are struggling to meet their current budget needs, and if those costs keep increasing, these people will then feel bound to stop putting away any money for their future," says current National Association of Plan Advisors President Corby Dall, a Sandy, Utah-based advisor at OneDigital Retirement + Wealth. "My concern is that the longer high inflation goes on, and the harder it is for these people to make ends meet, they—if they don't quit contributing altogether—will reduce their contribution."

The possibility of deferral decreases is just one of the potential implications for retirement plans and participants of spiking inflation, especially since it comes amid rising interest rates and market volatility. "We're trying to be a constant source of information and resources for participants. I think we have a significant obligation to help people through this, and we need to lead with empathy," says NAPA President-Elect Renee Scherzer, a principal of 401K Resources in Scottsdale, Arizona. "Their 401(k) tends to be people's first—and for many people, only—investment. We need to make sure that we're providing actionable and meaningful information, in bite-size pieces, so that we can really reach people."

Talking With Sponsors

The potential for participants dealing with higher living expenses to lower or suspend their deferral is also on the mind of Alicia Malcolm, an at-large member of NAPA's Leadership Council and senior vice president-wealth management at D'Aiutolo Malcolm & Associates Investment Consulting Group, a UBS Financial Services Inc. affiliate in Rochester, New York. "I think that's the biggest concern, more than whether participants will change their investment allocation. Our dollar is not going as far as it was a year ago," she says. "We've come a long way to get people to save 6%, 7%, 8%, 9%, or 10% a year for their retirement. Now, some people may feel like they need to reduce their contribution."

It's too early to get a firm sense of how rising inflation will impact deferral rates. "The big question mark is whether the degree of inflation we're experiencing now is going to be sustained over a longer period of time," says NAPA Immediate Past President Alex Assaley, managing principal of AFS 401(k) Retirement Services in Bethesda, Maryland. "If we see inflation levels that



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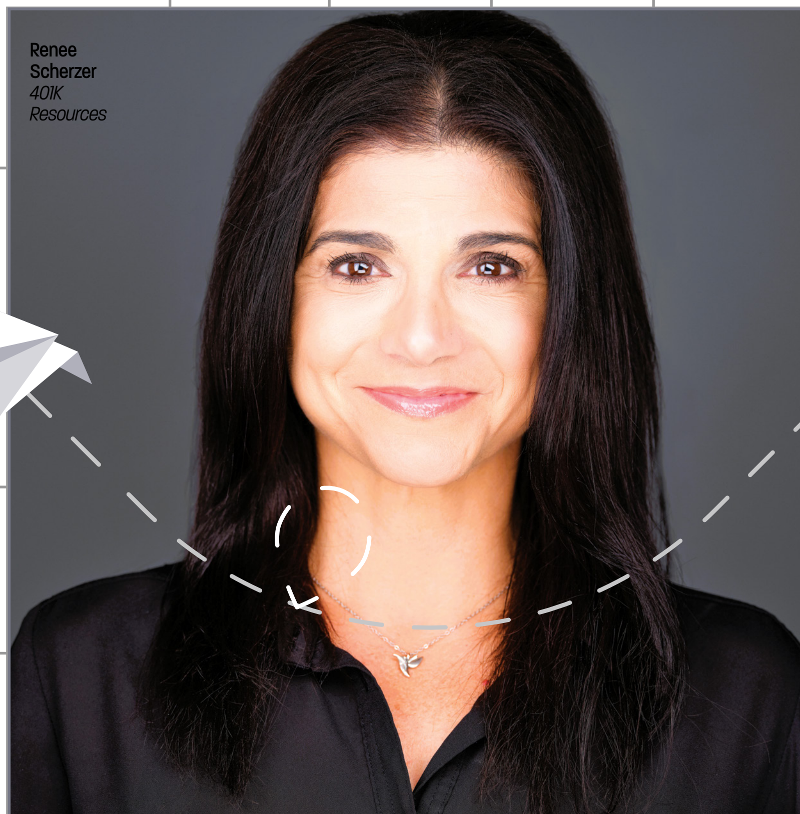

Renee Scherzer
401K Resources

are significantly higher than we have seen historically—say, 4%, 5%, or 6%—we may start to see some participants reduce their saving, because of their tightening monthly cash flow."

Sustained high inflation also would mean that people need to save more, to achieve the standard of living they want for their retirement. "I'm not concerned yet that it will have a long-lasting impact, that people saving for retirement will need to have a significantly larger amount of money saved," Assaley says. Most retirement planning tools utilize a projected annual inflation rate in the 3% to 3½% range, he says. "For the past 10 years, the software has overestimated inflation," he says. "Right now, most five- to 10-year inflation forecasts I've seen are still about 3%."

Will some pre-retirees end up delaying their retirement because of rising living expenses and the uncertainties of market volatility? "I think it's a question that will have to be analyzed on a case-by-case basis," Assaley says. "Somebody retiring today is going to experience a higher degree of monthly expenses—at least for this year, and maybe next year—than a person who retired two or three years ago. Someone who needed $5,000 a month before may need $5,500 now, or maybe even $6,000. It's a question of, is that going to be a sustained expense for that person, or will it be a shorter-term blip, for just this year? I'm still in the camp of, if we start to get more of the supply-chain issues under control, inflation will moderate sooner rather than later."

Malcolm isn't worried yet about the current situation delaying retirement for a lot of people who intend to do it soon. "We're all still relatively new into it, watching the markets and the news," she says. "But if this keeps up another year or two, then I think that people are going to reevaluate: 'Can I retire when I planned to retire?'" When she speaks to worried participants nearing retirement, she says, "I talk to them about, 'Yes, this is happening, and it's scary. But we don't know yet how long this is going to last.' For most people, a year or two of this inflation shouldn't ruin their retirement plans and their ability to live well in retirement." However, she adds that some participants retiring now may want to work part time for the next year or two, until inflation recedes.

Menus 'Driven'?

In the meantime, market volatility and rising interest rates likely will impact how some investments on a plan's menu fare. "The expectations for returns

"The thing I lose sleep over is that some people are struggling to meet their current budget needs, and if those costs keep increasing, these people will then feel bound to stop putting away any money for their future."

— Corby Dall
OneDigital Retirement + Wealth

"In talking with investment committee members, we tell them that the decisions a committee makes on what is in the bond lineup are as critical, if not more critical, than the decisions the committee makes about the equities lineup now."

— Keith Gredys
Kidder Advisers

Alicia Malcolm
D'Aiutolo Malcolm & Associates Investment Consulting Group

during this time should be subdued," says NAPA Vice President Keith Gredys, chairman and CEO of Clive, Iowa-based Kidder Advisers, Inc. "And in talking with investment committee members, we tell them that the decisions a committee makes on what is in the bond lineup are as critical, if not more critical, than the decisions the committee makes about the equities lineup now." That's because many bond managers have never been in an environment like this before, with multiple interest rate increases recently and more likely in the months ahead, he explains. "When interest rates go down, everybody is a winner," he says. "When interest rates are going up, we'll find out who is a good bond manager."

For the core menu, Dall isn't in favor of making additions in reaction to short-term developments like the recent inflation. To add an option such as a gold fund that's meant to hedge against inflation carries risks for participants who don't fully understand these investments, he says. "I would hasten to open the investment menu up to letting people react to something they heard on the radio," he says. "Being a shepherd or steward to a plan, I don't want to allow participants to have access to things that might be a short-term fix for a long-term problem."

Dall and his OneDigital team continue to have quarterly meetings with all their clients. "We're teaching the committees the same things that we teach participants: Don't overreact," he says of recent developments. "We tell committees, there are places on the investment menu for participants to 'duck into' if they are fair-weather investors. But the reality is that most participants are likely already in a target date fund or managed account, and that's great for them, because those managers are already thinking about how to deal with inflation."

Scherzer started working with her plan committees a couple of years ago to look more closely at how their plan's investments handle inflation risk, which she says has been "the silent threat" for awhile. "With target date funds, you need to look at whether they have wide diversification, and the philosophy of the manager on how to factor in inflation risk," she says. "We are seeing more employees retiring and staying in their plan, and inflation risk is terrifying for many people, especially if they're close to retirement."

But it's a complicated balance for near-dated target date funds, especially with market volatility. "As someone gets closer to their decumulation phase, when we're in an inflationary environment, relying on lower-yield assets like fixed income in a portfolio can really impact someone's purchasing power in retirement," Scherzer continues. On the other hand, relying heavily on equities in hopes of managing inflation risk comes at the expense of increasing an investor's market risk. "We're seeing that there is no perfect answer right now," she says.

Talking with Participants

The NAPA leaders talked about how they're dealing with three big current participant conversation topics:

FACING BUDGET CHALLENGES: "We're talking a lot about budgeting in the sense of, 'Where are your dollars going?'" Malcolm says. "It seems like it would be an easy question, but I think one of the hardest questions I ask people is: 'Where do you spend your money?' A lot of times, people don't track how they spend their money. So I suggest that we put together a plan and look at, where are their dollars going, and are there areas where they can cut back? I always talk about the example of, if you stop every day to get coffee on your way to work, maybe now you can stop once a week."

REDUCING THEIR DEFERRAL: Assaley is asked how he'd respond to participants feeling a budget squeeze and thinking about stopping their deferral. "I'd encourage them to try to cut back their contribution minimally, and not cut back altogether," he responds. "If they're saving 6% now, if they cut back to 4% or 5%, it may be enough to meet their needs for paying their bills with rising inflation."

How would Dall talk to a participant facing higher living expenses who feels that he or she needs to cut back on contributing? "That is the $64,000 question," he answers. "I think the best way to couch this is to create a picture of the future: Help them see, 'If you're struggling now, think how hard you'll struggle in the future if you stop saving.' I'd say, 'Before you chip away all your contributions, make sure that you exhaust your other resources.'"

"I'd help that person understand that they likely have some expense 'frivolities' that they could forego," Dall continues. "But I worry that people will still go out and buy a boat or take a vacation, then cut back on their contributions, in lieu of cutting money out of their budget." Complicating the issue, he says that after two years of the pandemic, more people have resumed spending money on recreational pursuits. "They feel like they're owed, like they've been pent up for two years," he says. "They say, 'I'm going to the Grand Canyon anyway.'"

Alex Assaley
AFS 401(k) Retirement Services

WORRYING ABOUT MARKET VOLATILITY: Most of the questions Scherzer and her team have gotten from participants about inflationary risks relate to investments. "People are asking, 'If I keep doing what I've been doing, am I going to have the income I've been planning on for my retirement?' she says. "We see some of those employees looking to invest more heavily in stocks, in hopes of withstanding inflation better. So we're having a lot of talks about trading one risk (inflation risk) for another (market risk)."

There's time to recover from the market downturn, even for those nearing retirement, Malcolm reassures worried participants. "What we're constantly reminding participants about is, 'Your retirement plan is meant to be a long-term savings strategy. Even if you're close to retirement, typically you're not going to liquidate your account the minute you leave your job, and spend all the money,'" she says.

Most participants have not experienced a high-inflation environment, except those at or near retirement Gredys says. "This is new territory for them. So we have to give them a little history lesson, and explain that everything goes in cycles," he says. "A lot of what's happening now is sort of like the 1970s, in that the average inflation rate then was 7.1%, and the average return in the stock market was 5.9%. A lot of different things were happening: Gas prices were going up, there was a war, there was a period of stagflation. The point we're trying to make with participants is that we've been here before. The market is very resilient, and good investment managers tend to 'figure it out' and make adjustments."

"We tell people, 'Stay in touch with your investment timeframe, and stay in touch with your risk tolerance. But do not expect to see the double-digit equities returns that you've seen the past couple of years, and don't try to time the bottom of the market,'" Gredys continues. "We tell them, 'Sometimes you have to just strap yourself in, and ride the rollercoaster.'" NNTM

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

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ADVISORS' CHOICES

BY NEVIN E. ADAMS, JD

ADVISORS WORK WITH A VARIETY OF RECORDKEEPERS ACROSS DIFFERENT MARKET SEGMENTS, AND IN SUPPORT OF PLANS OF ALL SIZES AND COMPLEXITIES—THEY SEE BOTH THE BEST AND THE WORST OF SERVICE, SUPPORT AND PRODUCT FROM THE NATION'S RECORDKEEPERS. WHO BETTER, THEN, TO SPEAK TO THE BEST THAT CRITICAL INDUSTRY HAS TO OFFER?

Late last year we launched our call to advisors to rate the nation's best recordkeepers in a dozen different service categories and five distinct market segments. Advisors are, of course, extraordinarily well positioned to compare and evaluate the strengths (and weaknesses) of this critical service—as they see and experience first-hand the features, flexibility and support that these organizations provide across a wide variety of circumstances.

We asked advisors to vote only on the services in their target markets—and to evaluate the services on a 5-point scale, ranging from "world class" to "functional" to "needs work." And, knowing that levels of support and service can vary based on plan size, we highlighted the top five in five distinct target markets:

Micro: under $1 million in plan assets
Small: between $1 million and $10 million in plan assets
Mid-Market: between $10 million and $100 million in plan assets
Large Market: between $100 million and $250 million in plan assets
Mega Market: over $250 million in plan assets

On the pages that follow you will find the results of that assessment—the top five in each service category (sorted alphabetically). These firms are, literally, Advisors' Choice—and, arguably, advisor's choices. NNTM

ADVISORS' CHOICE
RECORDKEEPER
NAPA
2022

ADVISORS' CHOICE
TOP RECORDKEEPERS
MICRO PLANS
(Less than $1 million)
NAPA
2022

PARTICIPANT TOOLS
- BPAS
- Empower
- Fidelity
- Principal
- Voya

CALCULATOR
- 401K Go
- ADP
- Fidelity
- PCS Retirement
- The Standard

PLAN SPONSOR WEBSITE
- 401K Go
- BPAS
- Empower
- Principal
- Voya

MOBILE APP
- BPAS
- Empower
- Fidelity
- The Standard
- Voya

REGULATORY SUPPORT
- BPAS
- Fidelity
- John Hancock
- The Standard
- Voya

STAFF CREDENTIALS
- BPAS
- Principal
- The Standard
- Transamerica
- Voya

ADVISOR SUPPORT
- 401K Go
- BPAS
- Fidelity
- Transamerica
- Voya

PARTICIPANT STATEMENT
- BPAS
- Empower
- Fidelity
- John Hancock
- Voya

EDUCATION MATERIALS
- BPAS
- Fidelity
- John Hancock
- Principal
- Voya

MULTI-LINGUAL CAPABILITIES
- BPAS
- Fidelity
- Principal
- Transamerica
- Voya

PLAN HEALTH
- BPAS
- Empower
- Fidelity
- John Hancock
- Voya

WELLNESS
- BPAS
- Fidelity
- John Hancock
- Transamerica
- Voya

RETIREMENT INCOME
- BPAS
- Fidelity
- Principal
- Transamerica
- Voya

ADVISORS' CHOICE
TOP RECORDKEEPERS
SMALL PLANS
($1 million - $10 million)
NAPA
2022

PARTICIPANT TOOLS
- 401K Go
- BPAS
- Empower
- Fidelity
- Voya

CALCULATORS
- 401K Go
- Empower
- Fidelity
- PCS Retirement
- Principal

PLAN SPONSOR WEBSITE
- 401K Go
- BPAS
- Empower
- Fidelity
- Voya

MOBILE APP
- 401K Go
- BPAS
- Fidelity
- Transamerica
- The Standard

REGULATORY SUPPORT
- 401K Go
- BPAS
- John Hancock
- The Standard
- Voya

STAFF CREDENTIALS
- BPAS
- John Hancock
- The Standard
- Transamerica
- Voya

ADVISOR SUPPORT
- 401K Go
- BPAS
- Fidelity
- Transamerica
- Voya

PARTICIPANT STATEMENT
- BPAS
- Empower
- Fidelity
- John Hancock
- Voya

EDUCATION MATERIALS
- BPAS
- Fidelity
- Principal
- Transamerica
- Voya

MULTI-LINGUAL CAPABILITIES
- BPAS
- Fidelity
- Principal
- Transamerica
- Voya

PLAN HEALTH
- 401K Go
- BPAS
- Empower
- Fidelity
- Voya

WELLNESS
- 401K Go
- BPAS
- Fidelity
- Transamerica
- Voya

RETIREMENT INCOME
- BPAS
- Fidelity
- John Hancock
- Transamerica
- Voya

ADVISORS' CHOICE
TOP RECORDKEEPERS
MID-MARKET PLANS
($10 million - $100 million)
NAPA
2022

PARTICIPANT TOOLS
- Empower
- Fidelity
- John Hancock
- PCS Retirement
- Voya

CALCULATORS
- Ascensus
- Empower
- Fidelity
- PCS Retirement
- Voya

PLAN SPONSOR WEBSITE
- Empower
- Fidelity
- PCS Retirement
- Transamerica
- Voya

MOBILE APP
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

REGULATORY SUPPORT
- Fidelity
- John Hancock
- The Standard
- Transamerica
- Voya

STAFF CREDENTIALS
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

ADVISOR SUPPORT
- Fidelity
- John Hancock
- PCS Retirement
- Transamerica
- Voya

PARTICIPANT STATEMENT
- Empower
- John Hancock
- PCS Retirement
- Transamerica
- Voya

EDUCATION MATERIALS
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

MULTI-LINGUAL CAPABILITIES
- Empower
- Fidelity
- Principal
- Transamerica
- Voya

PLAN HEALTH
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

WELLNESS
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

RETIREMENT INCOME
- Empower
- John Hancock
- Principal
- Transamerica
- Voya

ADVISORS' CHOICE
TOP RECORDKEEPERS
LARGE MARKET PLANS
($100 million - $250 million)
NAPA
2022

PARTICIPANT TOOLS
- Empower
- Fidelity
- John Hancock
- Principal
- Voya

CALCULATORS
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

PLAN SPONSOR WEBSITE
- Empower
- Fidelity
- Principal
- Transamerica
- Voya

MOBILE APP
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

REGULATORY SUPPORT
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

STAFF CREDENTIALS
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

ADVISOR SUPPORT
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

PARTICIPANT STATEMENT
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

EDUCATION MATERIALS
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

MULTI-LINGUAL CAPABILITIES
- Empower
- Fidelity
- Principal
- Transamerica
- Voya

PLAN HEALTH
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

WELLNESS
- Empower
- Fidelity
- John Hancock
- Principal
- Voya

RETIREMENT INCOME
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

ADVISORS' CHOICE
TOP RECORDKEEPERS
MEGA MARKET PLANS (>$250 million)
NAPA
2022

PARTICIPANT TOOLS
- Empower
- Fidelity
- Principal
- Transamerica
- Voya

CALCULATORS
- Empower
- Fidelity
- John Hancock
- Transamerica
- Voya

PLAN SPONSOR WEBSITE
- Empower
- Fidelity
- Principal
- T. Rowe Price
- Voya

MOBILE APP
- Empower
- Fidelity
- T. Rowe Price
- Transamerica
- Voya

REGULATORY SUPPORT
- Empower
- Fidelity
- Principal
- Transamerica
- Voya

STAFF CREDENTIALS
- Empower
- Fidelity
- Nationwide
- Transamerica
- Voya

ADVISOR SUPPORT
- Empower
- Fidelity
- Nationwide
- Transamerica
- Voya

PARTICIPANT STATEMENT
- Empower
- Fidelity
- T. Rowe Price
- Transamerica
- Voya

EDUCATION MATERIALS
- Empower
- Fidelity
- Nationwide
- Principal
- Voya

MULTI-LINGUAL CAPABILITIES
- Empower
- Fidelity
- Principal
- Transamerica
- Voya

PLAN HEALTH
- Fidelity
- Nationwide
- Principal
- T. Rowe Price
- Transamerica

WELLNESS
- Empower
- Nationwide
- Principal
- Transamerica
- Voya

RETIREMENT INCOME
- Empower
- Nationwide
- Principal
- Transamerica
- Voya

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Baseline Education for Plan Fiduciaries

When conducting a quarterly review meeting, the plan advisor shifts roles, becoming a teacher or instructor. Here are some tips to engage committee members.

By Steff Chalk

Diversification among individual securities does not guarantee specific investment returns, nor does it guarantee a profit or prevent a loss. Security diversification does, however, help to balance an investor's risk and reward, resulting in the reduction of the variability of a portfolio's return.

Retirement plan advisors recognize the benefits of investment diversification, including:

- reducing portfolio risk;
- limiting fluctuations that might result from investing in a single asset or asset class; and
- capturing gains from a variety of assets or asset classes.

The concept of 'diversifying plan assets' has been hard-wired into ERISA since 1974. The mandate to diversify plan assets is not likely to be removed anytime soon.

Should the Quarterly Review be Diversified?

Plan fiduciaries comprise a mixed bag of U.S. workers. There is some commonality among the universe of retirement plan fiduciaries, but not a lot of consistency. The commonality comes in the form of not working

“Just as people learn differently—some by reading, some by hearing, some by experiencing and some by writing—fiduciaries are engaged via a variety of methods and processes.”

with Prohibited Persons who have been disqualified under Section 411, or fiduciaries under an active program 47 investigation. The consistency may be limited to the fact that the term “plan fiduciary” applies.

Engaging all plan fiduciaries every quarter can be a difficult task. Just as people learn differently—some by reading, some by hearing, some by experiencing and some by writing—fiduciaries are engaged via a variety of methods and processes.

When planning, designing and conducting a quarterly review meeting, every retirement plan advisor shifts from being an advisor. They become a teacher, or an instructor, as they prepare and deliver for 60 to 120 minutes. The key to engagement at these regular meetings is for the retirement plan advisor to have something for everyone. In today’s environment, there is no shortage of front-burner topics—e.g., court cases, a faltering domestic economy, talent acquisition and retention challenges, and committee turnover—making it easier than ever to connect with and engage fiduciaries.

Structuring Meeting Content for Consumption

There seems to be more new blood, higher turnover and less experience on retirement committees today than ever before. It could be lack of resources, the greying of the C suite, competing corporate priorities or something else altogether. It is likely that the retirement plan advisor has become the most tenured de facto member of the retirement committee!

In the interest of having something for everyone, don’t be bashful about starting at the highest level, reiterating a few prudent fiduciary practices, including:

1. Reinforce the concepts of discretionary authority, the control of plan assets, rendering investment advice and holding discretionary authority in the administration of a plan.
2. Reviewing a recent court case or two—especially where a provider was the target defendant that chose to *not* settle and subsequently defended their position successfully. Such stories are great examples to help all plan fiduciaries comprehend the seriousness of the position as well as the importance of employing a prudent process and appropriate documentation.
3. Emphasize the audience for all of the committee’s documented conversation, actions, summary write-ups and meeting minutes. (The ultimate audience for all documentation includes the judge, the jury and plaintiffs’ counsel. Keeping that in mind should help you streamline meeting minutes and documentation.) A good retirement plan advisor always reviews meeting minutes prior to the minutes being approved.
4. Low-hanging opportunities exist in most plans. This may include adding auto features, a Roth option, a QDIA, annual true-up for the company match, or accepting rollovers upon onboarding.

Make sure to have something for everyone, and try to transfer that knowledge in multiple ways to increase the likelihood that all fiduciaries will grasp exactly what you are conveying. NNTM

Cryptocurrency and Retirement Plans

How will EBSA's controversial Compliance Assistance Release No. 2022-01 affect the industry?

By Allison Itami & David N. Levine

As advisors, TPAs, recordkeepers and other service providers are dipping their toes into including cryptocurrency solutions to 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).

Evolving Legal Landscape

Cryptocurrencies are digital currencies that rely upon decentralized "blockchains" (in simplified English, computer code) to verify and record transactions. There is a heated debate over whether these cryptocurrencies are securities, commodities or something else altogether—making the regulation of cryptocurrency a contentious topic for some. Securities, broker-dealers, and registered investment advisers are subject to oversight by the federal Securities and Exchange Commission or, in some cases, state equivalents. Commodities are generally overseen by the Commodity Futures Trading Commission. Retirement plans are subject to the oversight of EBSA and the Internal Revenue Service. Some states also license money transmitters and cryptocurrency related activities, such as New York with its BitLicense.

With so many interested parties, not a day seems to pass without new statements from these regulators. In the retirement space, the statement that is most top of mind is EBSA's controversial Compliance Assistance Release (CAR) 2022-01, "401(k) Plan Investments in Cryptocurrencies."

Self directed brokerage windows have long been used to allow retirement plan participants to invest their retirement plans in investments that are not part of a plan's core investment lineup, which under ERISA is generally comprised of "designated investment alternatives." Importantly, while plan fiduciaries have a role in examining and monitoring the brokerage window offering, they historically have not been required to determine the prudence of each (or any specific) investment offering nor monitor the performance of each investment offering in the brokerage window. With this background, we turn to CAR 2022-01.

> **"CAR 2022-01 can be read to be the first time an additional duty of prudence has been imposed on a single asset type within a brokerage window. Such an approach would be a significant break from prior practice and guidance."**

Compliance Assistance Release 2022-01

The CAR lists a number of items that the DOL suggests may be relevant to a plan fiduciary's decision to include cryptocurrencies, including issues related to volatility, administration, valuation, and the regulatory environment and concludes with a statement that EBSA has "serious concerns" about the investment of plan assents in cryptocurrency. In fact, EBSA threatens to open an investigation of plans that offer cryptocurrencies:

> *"[EBSA] expects to conduct an investigative program aimed at plans that offer participant investments in cryptocurrencies and related products, and to take appropriate action to protect the interests of plan participants and beneficiaries with respect to these investments. The plan fiduciaries responsible for overseeing such investment options or allowing such investments through brokerage windows should expect to be questioned about how they can square their actions with their duties of prudence and loyalty in light of the risks described above."*

Undergoing an EBSA investigation can be incredibly disruptive for plan fiduciaries and staff. They can be very time consuming and expensive. Creating controversy is that the fact that never has a particular investment been an automatic volunteering for an EBSA investigation, especially not one with prejudged outcomes.

Importantly, CAR 2022-01 can be read to be the first time an additional duty of prudence has been imposed on a single asset type within a brokerage window. Such an approach would be a significant break from prior practice and guidance, especially given that the Release is not a formal regulation issued by EBSA.

This departure has resulted in pushback from many sources, including letters from Sen. Tommy Tuberville (R-AL) to EBSA questioning this move. Tuberville also introduced legislation that would prohibit EBSA from restricting what a plan participant can invest in through a brokerage window. Other senators have gone in the opposite direction, with different views on accessing cryptocurrency through a retirement plan.

Recently, a lawsuit was filed against the Department of Labor by ForUsAll, Inc., a cryptocurrency service provider, asserting that CAR 2022-01 violates the Federal Administrative Procedure Act, the law that sets out rules agencies issuing guidance must follow, and seeking to vacate and set aside CAR 2022-01 and limit EBSA's actions in furtherance of the Release.[1]

Wallets and Other Infrastructure

The infrastructure required to support direct investment in cryptocurrency can take a while to build and test. Using a personal wallet to directly hold cryptocurrency may be a plan participant's preference, but it seems more likely that an institutional wallet will be in play for retirement plans. Teaming with a crypto native may be the most cost effective entry, but would necessitate the transfer of funds and data between a recordkeeper, TPA and another third party. Recordkeepers and TPAs, like any other business entity, will want to perform due diligence on any entity they use for such services, looking at items surrounding cybersecurity, business continuity, insurance and more—and should expect similar diligence from other crypto partners. NNTM

FOOTNOTES

[1] *ForUsAll, Inc. v. United States Department of Labor*, filed June 2, 2022 in U.S. District Court for the District of Columbia. Note: Groom Law Group, Chartered represents the plaintiffs in this complaint.

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‘Middle’ Grounds

A new report misses the point.

By Nevin E. Adams, JD

> “These types of analyses always gloss over the interrelationships between the tax incentives and the creation of these plans in the first place.”

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.

The articulated concern is, of course, the “middle”—an income grouping for which the authors apparently feel Social Security’s progressive structure doesn’t reach high enough to provide an adequate replacement income, but lacks the more expansive financial wherewithal of those at the upper end of the income strata. According to the paper, the tax incentives that arguably existed at the birth of the 401(k) have been muted due to lower marginal tax rates and the expansion of the standard deduction—both of which serve to mitigate the tax burden on lower-income individuals—but in the process also arguably lessen the financial incentive for deferring taxes. And as if that were not enough, the authors also argue that the “…tax benefits relating to investment returns may be less in a market with lower returns.”

Of course, the focus of the authors here is the tax incentives for retirement savings—and, unsurprisingly, the premise is that those with lower incomes—and thus less tax liability—get less from the current tax deferrals afforded 401(k) contributions than do those at higher incomes (who pay more in taxes). And, if you look only at that aspect—and that’s where most such critiques stop—it’s a fair point.

Before going into the shortcomings in that analysis, I’ll admit that there are certain legitimate economic realities that the paper highlights—that higher-income (and by this we don’t necessarily mean wealthy) individuals are more likely to have access to a retirement plan through work, that there are racial aspects that correlate to wealth inequities and access in the workplace, that the Saver’s Credit as currently designed (requiring a long-form tax filing to claim and being non-refundable) aren’t available to many who would otherwise be eligible, and that Social Security, though an underlying foundation of private requirement as a whole, and particularly for lower-income individuals, has funding issues of its own to fulfill the current benefit promises.

‘Missing’ Interactions

Unfortunately, as noted above, these types of analyses always gloss over the interrelationships between the tax incentives and the creation of these plans in the first place. It is assumed (generally implicitly) that employers that want to be considered an “employer of choice” will be forced to offer these plans regardless of the tax preferences to do so.

Let’s face it, the tax preferences—though modest at an individual level—do provide an incentive to not only offer the plan, but—in most cases—to provide a matching contribution. A matching contribution that these type critiques always seem to gloss over (it does make their math simpler). And let’s face it, there’s no question that having access to a plan matters—even this NIRS paper acknowledges that those with access are 15 times more likely to save.

What’s also glossed over is the impact of non-discrimination tests and legal contribution limits—limits that work, and work as designed, to keep an effective balance between the benefits of higher-paid and other workers. In fact, data from the Employee Benefit Research Institute has proven that while higher-income individuals do have higher account balances, those balances are in rough proportion to their incomes.

In calling for a “recalibration” of what they see as a “fundamentally inequitable system,” the ostensibly well-intentioned authors are missing the mark. In focusing exclusively on the individual tax preferences, they deliberately ignore the influence of tax preferences on the decision to offer a plan in the first place, as well as the impact of non-discrimination testing and contribution limits in not only encouraging an employer match (not to mention the financial impact that has on the retirement prospects of non-highly compensated workers), but in keeping the relative contribution benefit of higher and lower income workers in proportion. Indeed, this myopic analysis misses not only the point—but the very “middle” they claim the current system overlooks. NNTM

Case(s) in Point

Lawsuits involving retirement plans haven't matched the torrid pace of 2020, much less the (somewhat less) torrid pace of 2021, but settlements from cases filed then—and before—have come to light, and some—such as the Washington University case below—bring with them more than cash.

More recently a recordkeeper has pushed back against the Labor Department's Compliance Assistance Release that cautioned about decisions to include cryptocurrency on a retirement plan menu—calling into question the legality of that approach. Read on…

Crypto 'Keeper'

Crypto recordkeeper "dings" DOL on Crypto Compliance Assistance

Recordkeeper ForUsAll has filed suit against the Labor Department for its recent "arbitrary and capricious attempt to restrict the use of cryptocurrency in defined contribution retirement plans…"

Not surprisingly, ForUsAll has made its hay touting its retirement investment platform for small businesses as not only allowing employers to provide alternative investment options within 401(k) plans, nearly a year ago it announced a linkup with cryptocurrency platform Coinbase Institutional to offer cryptocurrency as the plan's first alternative investment.

But in the wake of the Labor Department's "compliance assistance release" this past March on cryptocurrency investments in defined contribution plans, the suit claims that "approximately one-third of the plans ForUsAll has discussed the matter with have indicated that, despite their interest in including cryptocurrency, they do not intend to proceed at this time in light of Defendants' enforcement threats."

APA Purpose

The suit states that the Administrative Procedure Act (APA)[1] was intended to create safeguards against "arbitrary official encroachment on private rights," safeguards that include "requiring that agencies go through a public notice and comment process before issuing rules." The suit, brought under the APA, "challenges DOL's arbitrary and capricious attempt to restrict the use of cryptocurrency in defined contribution retirement plans, in excess of its authority under the Employee Retirement Income Security Act (ERISA) and without following the notice and comment process required under the APA."

The plaintiff here—represented by Groom Law Group—argues that:

- cryptocurrency is a "widely accepted asset class"—indeed the suit points to positive comments from President Biden the day before the DOL's communication (though that would seem to have been about the prospects for a U.S. government designed/issued version);
- no asset class is presumptively imprudent under ERISA; and
- ERISA does not mandate paternalism with respect to participant investments.

In issuing the Release, the suit argues that the DOL:

- "invented a standard of care, 'extreme care'—heretofore unseen in the nearly 50-year history of ERISA and contradicted by the text of the statute—applicable only to cryptocurrency";
- announced a "new obligation" to monitor investments in brokerage windows (only to deny that the obligation existed for any investments other than cryptocurrency);
- focused exclusively on the risks, without mention of the potential benefits (notably diversification);
- "Raised the specter that other regulators might shut down trading…"; and
- "Threatened to open investigations of plan fiduciaries that offer cryptocurrency."

The suit states that "a senior DOL official has now publicly admitted that DOL considered going through notice and comment rulemaking" but decided it would be "politically inexpedient" to do so. "Political expediency is not a valid justification for deciding not to comply with the APA."

Background Review

The suit spends some time going back over the history of the DOL's position on things like directed investments and self-directed brokerage accounts, the development and current reach of investment in cryptocurrency, and particularly President Biden's Executive Order directing government agencies to submit a report on the "implications of developments and adoption of

FOOTNOTES

[1] Concerns about the DOL circumventing the requirements of the Administrative Procedures Act was also cited in a recent lawsuit involving the fiduciary rule.

Sergey Nivens / Shutterstock.com

digital assets"—an order the suit claims was "widely understood to supplant any hostility individual government officials may have previously expressed with respect to the existence of cryptocurrency…"

It also cites the "Letter to DOL on 401(k) Plan Investments in Cryptocurrencies" where a number of leading trade groups expressed concern over what seemed to be "a trend at EBSA away from rulemaking based on a robust notice and comment process," and asked that the "cryptocurrency guidance be withdrawn" pending that type of process, most specifically critical to be withdrawn was the "announcement of a new fiduciary standard with respect to brokerage windows."

Echoing those concerns, the suit notes that "neither the Release nor statements by DOL officials offer any coherent rationale for how there could be a duty to select and monitor investments in a brokerage window if those investments [are] cryptocurrency, but not if they are any other type of investment."

Thumb 'Drive'

And, speaking of other investments, the plaintiffs take a swipe at what they (apparently) see as hypocrisy between the Administration's approach on this asset class versus ESG. Specifically, "While it is inappropriate for DOL to put its thumb on the scale for or against particular types of investments, including cryptocurrency, it is notable that the short-lived rule which DOL now says improperly put a thumb on the scale against ESG investing was done through notice and comment rulemaking."

Aside from the general arguments on behalf of cryptocurrency, the ForUsAll plaintiffs speak to their specific product offering,[2] noting limits they place on new contributions and new allocations to cryptocurrency (5%), as well as "numerous other protections for participants," including education, secure storage methods, and requiring participants to take an interactive quiz that covers the risks before letting them invest. They claim to have shared this information with DOL, which they say has to date not identified any "additional concrete step ForUsAll could take that would address DOL's purported concerns."

Ultimately, the plaintiffs here claim that the release was "the product of rushed decision-making, relied on inaccurate and outdated information and irrational assumptions, and failed to incorporate relevant information and the views of relevant stakeholders, including but not limited to information and views provided by the President of the United States." They claim that the release is, at least in part, based on a "bias against cryptocurrency," that it is "inconsistent with existing DOL pronouncements" and "singles out cryptocurrency for disparate treatment." And finally, that the release "improperly threatens to open investigations and impose costs on plans and fiduciaries who take lawful action."

The suit asks for relief in the form of "vacating and setting aside the Release," enjoining the DOL (and its officers/agents) from "implementing, applying or taking and action" based on or in furtherance of the Release, and—of course—awarding reasonable costs and attorneys' fees incurred in bringing the suit.

What's Next

Will this suit have "legs?" Arguably whatever the impact (and implications) of the Release, it's hard to see it as actually rising to the level of the rules/regs that generally warrant application of the APA. That said, it certainly seems to have had an impact in a way that the usual list of DOL/SEC audit priorities never really seem to merit.

Stay tuned.

— Nevin E. Adams, JD

Husky 'Dues'

Washington University settles for $7.5 million—and changes

After "nearly five years of intensive litigation," a little over a month ago, a university 403(b) excessive fee suit settled—and now we know the terms.

The suit was originally filed in June 2017 by Latasha Davis and Jennifer Elliott on behalf of Washington University's plan of more than 24,000 participants and beneficiaries. The suit claimed that the fiduciary defendants violated ERISA by:

- allowing plan participants to pay excessive fees for recordkeeping services (Count I); and
- offering certain investment options they say were too expensive for one reason or another (Count II).

In October 2018, those claims were dismissed by Judge Ronnie L. White of the U.S. District Court for the Eastern District of Missouri, basically holding that the plaintiffs failed to state a claim. However, in 2020, noting that "at this point, the complaint only needed to give the district court enough to infer from what is alleged that the process was flawed," the Eighth Circuit Court of Appeals breathed new life into the litigations, which in turn led to a pushback from the fiduciary defendants, claiming that these plaintiffs were unable to adequately represent the interests of the plan's 27,000 current and former workers, and a motion for summary judgment (dismissal of the case based on a failure to state an injury/claim). And that's where things stood—with a June court date looming—when, on March 1, news of a settlement was announced.

The Settlement

The cash part of the settlement (*Davis v. Wash. Univ. in St. Louis*, E.D. Mo., No. 4:17-cv-01641, settlement motion 4/15/22) is $7,500,000, described by the parties as "fair, reasonable, adequate, and in

FOOTNOTES

[2] Of course, Fidelity has also made a splash in the space, announcing its intention to make crypto available to its recordkeeping clients.

the best interests of Settlement Class Members, providing for a substantial and immediate benefit. The Settlement was reached after arm's length negotiations with a widely-recognized and distinguished mediator, and is the product of hard-fought litigation, comprising: motions to dismiss briefing and argument, including review by the Eighth Circuit; full class certification briefing; Defendants' and third parties' production and Plaintiffs' careful review of over 113,000 pages of documents; 11 fact witness depositions and three expert depositions; and motion practice that addressed a discovery dispute as well as summary judgment and Daubert motions." Indeed, it explains that "the developed record gave the parties a thorough understanding of the strengths and weaknesses of their positions in this case and informed its settlement."

There was, however, more to the settlement terms. Specifically, it calls for the fiduciary defendants to:

- provide annual fiduciary training for all members of the Washington University Retirement Plan Advisory Committee (RPAC), as well as any new RPAC member(s) at or around the start of their tenure on the RPAC. As part of this annual training, each voting member of the RPAC is to acknowledge that he, she or they serve in a fiduciary capacity and understand his, her or their obligations as a fiduciary;
- evaluate the Plan's Investment Policy Statement (IPS) at least annually, with input from the Plan's investment consultant, and implement any updates to the IPS as Defendants may deem appropriate;
- issue a Request for Proposal for Plan recordkeeping services before the conclusion of the Settlement Period (three years from the settlement date);
- see that the Plan's current investment consultant, CAPTRUST, will advise Defendants with respect to the Plan's investment options and fees, which advice will include consideration of the performance of Plan investment options, the costs/fees of those investment options, the reasonableness of Plan recordkeeping fees (generally, and in light of the particular services provided to the Plan), the method or means of paying Plan recordkeeping fees, and the overall Plan investment lineup (including the number of options, diversification among those options, etc.); and
- continue maintaining the privacy of Settlement Class Members' confidential personal information, and to instruct the Plan's recordkeeper(s) not to use (or allow to be used) Settlement Class Members' personal information obtained as a result of providing

> “Will this suit have “legs?” Arguably whatever the impact (and implications) of the Release, it’s hard to see it as actually rising to the level of the rules/regs that generally warrant application of the APA.”

recordkeeping services to the Plan for the purpose of selling non-Plan services or products.

Other Terms

The plaintiffs’ attorneys’[3] fees and expenses, subject to the approval of the court, are to be taken from the Gross Settlement Amount, and shall be paid out of the Qualified Settlement Fund in this Agreement—Class Counsel are not expected to request an award of attorneys’ fees higher than one-third of the Gross Settlement Amount, plus expenses.

Class Counsel is also expected to apply to the Court for Plaintiffs’ Compensation awards to Plaintiffs Davis, Elliott, and King-Sims in an amount not to exceed $5,000.

— Nevin E. Adams, JD

Standing ‘Toll’

Lack of standing trips up (Another) Excessive Fee Suit

A federal judge has dismissed an excessive fee suit involving a $7.8 billion 401(k) plan, accepting the argument that the participant-plaintiff wasn’t even invested in the funds in question.

Mind you, as we’ve noted previously, the legal standard to survive a motion by defendants to dismiss a suit is set relatively high. Basically, there has to be a failure to state a plausible claim (not mere speculation) upon which relief can be granted, while making “all reasonable inferences” in favor of the party that is not seeking to dismiss the case.

Well, in the opinion of Judge Anthony J. Trenga (*Morales v. Capital One Fin. Corp.*, E.D. Va., No. 1:21-cv-01454, 5/27/22), the case made by participant-plaintiff Raul Morales (represented by Capozzi Adler,[i] [4] a firm that has been quite active in these suits of late) wasn’t enough to hold up under even that modest level of scrutiny.

He was apparently persuaded by the facts put forth by the Capital One defendants, who in their motion in support of dismissing the case, explained that while the suit focused on three domestic-equity funds[ii][5] available to Plan participants between 2015 and 2020, “plaintiff never invested in any of those funds, however. Instead, since he began participating in the Plan in early 2019, Plaintiff has always invested his Plan assets in a different investment option that the Complaint does not challenge.” In other words, no harm, no foul—and thus no reason to bring suit.

Capital One’s rebuttal didn’t stop there, however (though it likely could have), but went on to assert that while the suit claimed the funds in question were more expensive than the medians and averages for their investment category and underperformed their peers, the participant-plaintiff here had cited a “single study that courts routinely reject—without identifying any specific investments alleged to be prudent alternatives.” Capital One also noted that, “…the Complaint separately alleges imprudence based on the assertion that the Plan’s recordkeeping fees were more expensive—in a single year of the entire six-year putative class period—than the fees allegedly paid by seven other plans,” going on to state that “…even if a handful of other plans paid less in a single year, that does not show imprudence, i.e., that the Plan’s fees were outside the range of fees other plans pay.”

They also took issue with the comparison of the Capital One plan’s total alleged fees to only the direct fees of the other comparison plans, and that the suit focused “only on the price that different recordkeepers purportedly charged other plans, without any allegations about the services those plans received or how they compared to the services Fidelity provided to the Capital One Plan.” The motion went on to assert that that “incomplete assessment says nothing about the reasonableness of the Plan’s alleged fees, and it certainly does not allow an inference the Plan fiduciaries’ process was so flawed as to fall outside the ‘range of reasonable judgments’ that fiduciaries make.”

That said, Judge Trenga gave the plaintiff 14 days to “fix” (amend) their claims with regard to the claims of excessive recordkeeping fees. NNTM

— Nevin E. Adams, JD

FOOTNOTES

[3] The participant-plaintiffs are represented by Chimicles Schwartz Kriner & Donaldson-Smith LLP; Berger Montague PC; Schneider Wallace Cottrell Konecky LLP; Edelson Lechtzin LLP; Carey Danis & Lowe; and Edgar Law Firm LLC.

[4] It’s not the first suit brought by Capozzi Adler tossed for a lack of standing to bring suit by the participant-plaintiff.

[5] The Northern Small Cap Value Fund, the Fidelity Capital Appreciation Fund and the T. Rowe Price Institutional Large Cap Value Fund. As of 2020, the Plan no longer offered those investment options.

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.

AMERICAN CENTURY

Fixed Income Insights
Will the Federal Reserve's efforts to tame record inflation prove to be too little too late?
https://www.americancentury.com/insights/cio-insights-from-the-global-fixed-income-team/

When Bull & Bear Collide
How can disciplined target date fund management ease the impact of volatility on DC investors' portfolios?
https://ipro.americancentury.com/content/ipro/en/insights/key-topics/retirement/iuo/target-date-evaluation-in-volatile-times.html

Time for a TDF Deep Dive?
As the global markets continue to face uncertainty, now may be the time to take a closer look at many plans' QDIA option.
https://ipro.americancentury.com/content/ipro/en/insights/asset-type/multi-asset/iuo/advisor-perspective-target-date-fund-deep-dive.html

In-Plan Income Solutions
What do plan sponsors and participants want? Get insights from recent research and tips for vetting available solutions.
https://ipro.americancentury.com/content/ipro/en/insights/key-topics/retirement/iuo/in-plan-guaranteed-income-sponsors-participants.html

Back to Basics
Solidify fiduciary duties and the QDIA selection process with these resources to download and share.
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Crypto Currents

Are the current crypto controversies concerning?

By Nevin E. Adams, JD

By any reasonable measure, in recent days there have been some interesting developments with regard to the potential role of cryptocurrency in retirement plans—in early May we asked NAPA-Net readers their perspective on recent developments.

Specifically, in recent days, the Labor Department has shared its concerns about cryptocurrency in retirement plans—then a major provider has announced its intention to include that option in its platforms anyway—and then the Labor Department echoed, and arguably doubled down on its prior resistance. Oh—and that doesn't consider the callout to the Labor Department from a group of industry trade groups—or the Labor Department's response to a U.S. Senator who expressed some concerns about the potential implications on the emphasis on self-directed brokerage accounts.

We first asked readers for their take on the DOL's compliance assistance release on cryptocurrency in retirement plans, and they said:

- **58%** - Thought it made sense considering the current environment.
- **17%** - Thought it was heavy-handed/out of line.
- **16%** - Thought it doesn't matter—as they weren't recommending crypto in retirement plans, anyway.
- **7%** - Thought it was premature.
- **2%** - Hadn't thought much about it.

SDBA Issues

We next noted that in that compliance assistance release, there was a comment that the DOL's concerns extended to holdings within a self-directed brokerage account—which some have worried was a sign that the DOL was looking at a different level of scrutiny for SDBAs than had been the case—and asked readers to weigh in on that:

- **32%** - Think that's problematic.
- **27%** - Think that's *highly* problematic!
- **25%** - Thought it made sense considering the current environment.
- **10%** - Didn't think it matters, as they don't recommend SDBAs.
- **4%** - Hadn't thought much about it.
- **2%** - Missed that completely.

As for Fidelity's announcement in the aftermath of the Labor Department's announcement that it would be making a crypto option available on its retirement plan platform, readers thought:

- **35%** - It was out of line.
- **31%** - It was premature.
- **19%** - It doesn't matter, as they weren't recommending crypto in retirement plans anyway.
- **15%** - It made sense considering the current environment.

And so, with all this going on, how did readers find themselves thinking about cryptocurrency in the plans they support?

- **59%** - Didn't think this was a good idea even before all this—and nothing has changed.
- **19%** - Were going to wait until some of this dust settles.
- **9%** - Were leaving well enough alone—at least for now.
- **9%** - Were doubtful before—and even more so now.
- **2%** - Were just as committed as they were before.
- **2%** - Were moving ahead with crypto!

Reader Comments

Despite my objections to the current state of affairs, including an absolutely zero tolerance for any committee I work with to consider adding this to a plan, I am arming myself with crypto knowledge. In fact, currently getting my Certified Digital Asset Advisor (CDAA) credentials.

Outside of SDBA, I don't think there are appropriate means to invest in crypto today, but am open to that in the future.

When building an investment menu, FX markets are part of foreign investment holding (some with hedges) and we do not see validity in a Swiss Franc or Euro dedicated FX fund with no tangible assets outside of currency. If underlying companies utilize crypto, then indirect exposure may be gained, but a dedicated Bitcoin fund is imprudent and speculative in nature (same as all FX exposures).

Over the past 12 months, it has been the most volatile asset class; traditionally, there hasn't been a safe way to store true crypto, and there the regulation/oversight does not match all the other asset classes offered through retirement plans.

Cryptocurrency is badly regulated and too many people are going to be hurt. And then we can discuss a "bail out" like student loans?

I don't think every participant should be all-in in crypto, but we shouldn't be purposefully excluding the asset class from plan lineups. the issue is just on custody, securities that are supposed to track the NAV but are too volatile, and direct exposure. GBTC was great in its infancy, but was ruined when other companies tried to create a race to the bottom on fees, which in turn saturated the market. i personally do not care about a 2% management fee because the premise of investing in crypto is for far greater return potential.

IMO cryptocurrency is speculative. If someone wants to invest in a crypto stock, ETF or MF, that's one thing. But holding actual crypto in a retirement plan is problematic. Can the crypto be titled properly to the trust and not the individual? Who holds the key/password–the employer, the trustee, the participant? If participant holds it, then it isn't really in the retirement trust. Can you name a beneficiary to a cryptocurrency holding?

I can't advise clients to march into a DOL investigation–wrong as their action was, the dust needs to settle before I can recommend plans consider crypto-related investments for direct participant investment.

I'd like to see a true bitcoin ETF approved. I think this would add simplicity and transparency to the industry and give participants the option to invest if they choose.

I would highly advise against making an enemy of self-directed, but have no issues with regulators taking crypto to task in retirement plans in their current state.

Much more education and regulation is needed.

I view cryptocurrencies as alternative asset investments. With no regulation they are beyond speculative, but may have a place in someone's investment portfolio depending on the individual circumstances. That said, I don't think they belong in retirement plans at least until there is a way for plan fiduciaries to perform similar due diligence on crypto assets as we now have the tools to do for other asset types. Even then, maybe they never belong in retirement plans. We don't have enough information or tools yet to determine whether we as fiduciary advisors should be recommending these assets for plans.

Blockchain adoption in business is real, attempting to launch a currency for general exchange to compete with global policy makers (central banks) is foolish. Even if one is correct in idea, policymakers can outlaw usage with one signature. China and India have and the U.S. did this with Russian exchanges. If "crypto" gains influence and removes Fed interest rate powers, you can be certain policy will look to reestablish order and control. Outside of currency, companies like Zillow should leverage blockchain "coins" (aka secure files) to transfer home titles and reduce closing costs. That is a practical, non-speculative application.

It's a good thing that this news isn't coming at the top of the market, so at least in real-life application this is becoming available in a mid-market cycle for the asset class.

Crypto is a legitimate investment. Just because Congress cannot manipulate the crypto market and make fortunes by trading with insider information does not make crypto bad for Joe and Jane six pack investors.

The DOL's emotional response to crypto was inappropriate in tone, but substantively, this is such a new area that it really doesn't make sense for plans to move into it yet. However, their commentary on brokerage accounts was very concerning.

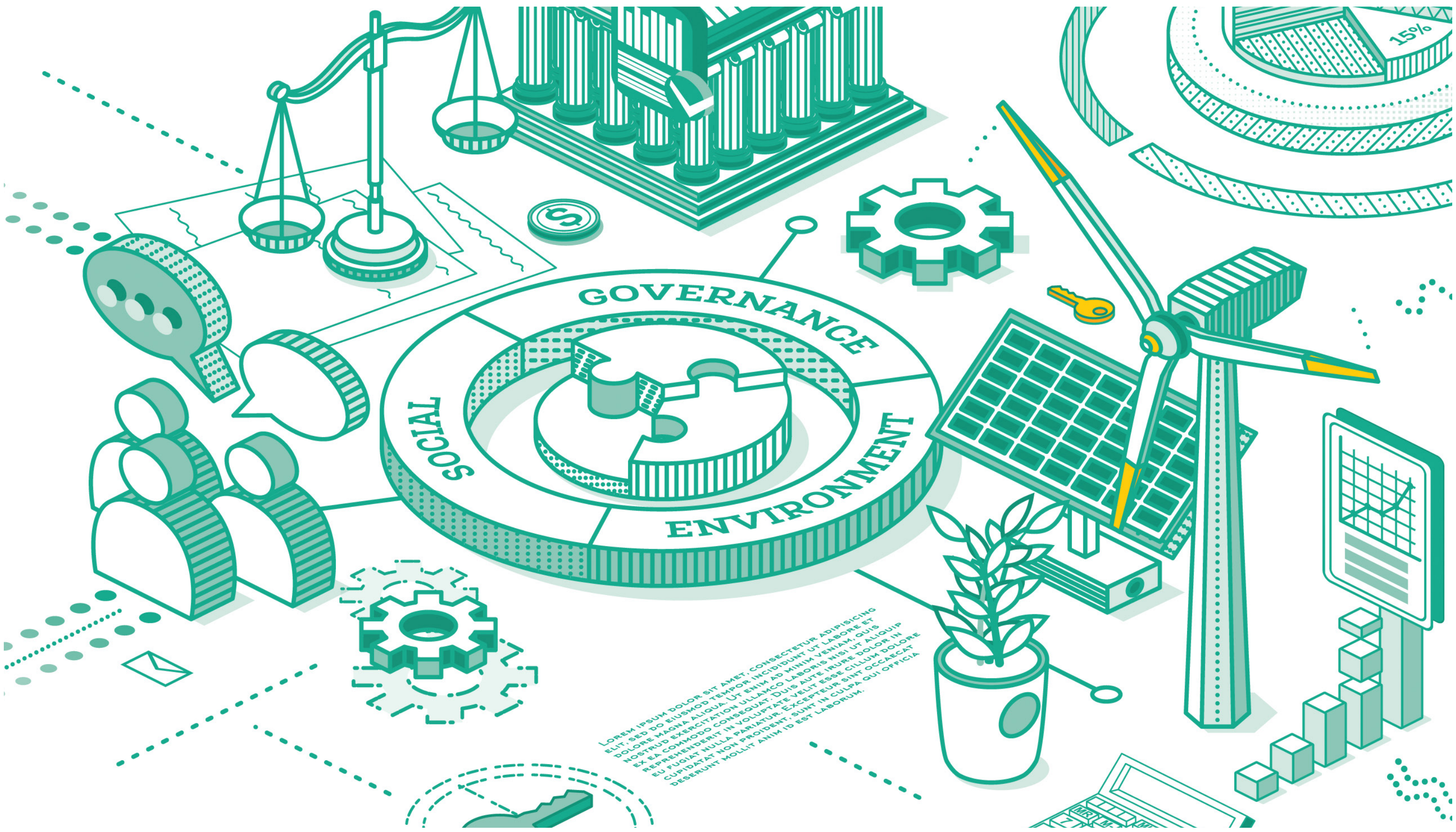
Investors should be able to invest in crypto with self-directed brokerage accounts. Investors can invest in Netflix, Zoom, and Peloton, all of which have had worse drawdowns in recent months.

The DOL's attempt through the CAR to impose a wholesale change on the fiduciary standards associated with self-directed brokerage accounts is particularly concerning.

Thanks to everyone who participated in our NAPA-Net Reader Radar poll! NNTM

Regulatory Radar

Regulators took a hard(er) look at labels and labelling in recent weeks—focusing on ESG and fiduciary—even as final regulations on the former, and updated regulations on the latter, remain to be seen. Beyond that the IRS extended the relief initially granted in the wake of the pandemic on the physical presence requirement for certain participant transactions.



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Names 'Calling'

SEC tackles ESG disclosures for RIAs, updates to 'Names Rule'

Saying that it is seeking "consistent, comparable and reliable information," the SEC is taking aim at the way investment advisers and registered investment companies describe and disclose their ESG investment practices, as well as how they name certain funds.

On May 25, the Commission voted to release two sets of proposed amendments. The first seeks to "enhance disclosures" by certain investment advisers and investment companies about ESG investment practices. The second seeks to modernize the Investment Company Act "Names Rule." The Commission approved the release of both proposals in separate 3-1 votes, with Hester Peirce, the lone Republican commissioner, voting against both proposals.

ESG Disclosures

The SEC is proposing amendments that seek to categorize certain types of ESG strategies broadly and require funds and advisers to provide more specific disclosures in fund prospectuses, annual reports and adviser brochures based on the ESG strategies they pursue.

"The lack of disclosure requirements and a common disclosure framework tailored to ESG investing make it harder for investors who seek to understand which investments or investment policies are associated with a particular ESG strategy," the SEC explains in a factsheet. "In the absence of informative disclosures, a fund's or adviser's disclosure could exaggerate its actual consideration of ESG factors."

The proposal describes three types of ESG funds and their corresponding disclosures:

- **Integration Funds.** Funds that integrate ESG factors alongside non-ESG factors in investment decisions would be required to describe how ESG factors are incorporated into their investment process.
- **ESG-Focused Funds.** Funds for which ESG factors are a significant or main consideration would be required to provide detailed disclosure, including a

standardized ESG strategy overview table.

- **Impact Funds.** A subset of ESG-focused funds that seek to achieve a particular ESG impact would be required to describe the specific impact they seek to achieve and summarize their progress on achieving those impacts.

In addition, funds that use proxy voting or other engagement with issuers as a significant means of implementing their ESG strategy would be required to disclose information regarding their voting of proxies on ESG-related matters and information concerning their ESG engagement meetings. Moreover, funds focused on the consideration of environmental factors would be required to disclose the greenhouse gas emissions associated with their portfolio investments.

The proposal would also require certain ESG reporting on Forms N-CEN and ADV Part 1A, on which funds and advisers report census-type data that inform the Commission's regulatory, enforcement, examination, disclosure review and policymaking roles.

"I am pleased to support this proposal because, if adopted, it would establish disclosure requirements for funds and advisers that market themselves as having an ESG focus," SEC Chair Gary Gensler said in a statement. "I think investors should be able to drill down to see what's under the hood of these strategies. This gets to the heart of the SEC's mission to protect investors, allowing them to allocate their capital efficiently and meet their needs."

> "Under the Names Rule proposal, a fund which considers ESG factors alongside but not more centrally than other, non-ESG factors in its investment decisions would not be permitted to use ESG or similar terminology in its name."

Names Rule Update

The SEC also proposed updated guidance to "enhance and modernize" the Investment Company Act "Names Rule" to address certain broad categories of investment company names that the Commission suggests are likely to mislead investors about an investment company's investments and risks.

Under the current rule, registered investment companies whose names suggest a focus in a particular type of investment or other area are required to adopt a policy to invest at least 80% of the value of their assets in those investments (an 80% investment policy). The proposal would enhance the rule's protections by requiring more funds to adopt an 80% investment policy.

The proposed amendments would extend the requirement to any fund name with terms suggesting that the fund focuses on investments that have (or whose issuers have) particular characteristics. The SEC notes that this would include fund names with terms such as "growth" or "value" or terms indicating that the fund's investment decisions incorporate one or more ESG factors.

The proposal also specifies the circumstances under which a fund may depart from its 80% investment policy, such as sudden changes in market value of underlying investments, including specific time frames for returning to 80%. Further, to address the rule's application to derivatives investments, the proposal would require a fund to use a derivatives instrument's notional amount, rather than its market value, for the purpose of determining the fund's compliance with its 80% investment policy.

The Commission is also proposing enhanced prospectus disclosure requirements for terminology used in fund names and additional requirements for funds to report information on Form N-PORT regarding compliance with the proposed names-related regulatory requirements.

Use of ESG Terminology

Under the Names Rule proposal, a fund which considers ESG factors alongside but not more centrally than other, non-ESG factors in its investment decisions would not be permitted to use ESG or similar terminology in its name. Doing so, according to the SEC, would be defined to be materially deceptive or misleading.

For such "integration funds," the ESG factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio, the SEC explains.

The proposal follows a request for comment the SEC issued to gather public feedback on potential reforms to the rule in March 2020.

"A lot has happened in our capital markets in the past two decades. As the fund industry has developed, gaps in the current Names Rule may undermine investor protection," stated Gensler. "In particular, some funds have claimed that the rule does not apply to them—even though their name suggests that investments are selected based on specific criteria or characteristics. Today's proposal would modernize the Names Rule for today's markets."

A public comment period will remain open for 60 days after the proposal is published in the *Federal Register*.

— Ted Godbout

Fiduciary 'Rules'

SEC cautions advisers against 'extraneous' use of term 'Fiduciary'

Informal guidance issued by the Securities and Exchange Commission cautions investment advisers about their use of the term "fiduciary" on Form CRS—but an industry group argues the guidance goes too far.

A March 30 update to the SEC's "Frequently Asked Questions on Form CRS" addressing the question of whether an investment adviser can use the terms "fiduciary" or "fiduciary duty" in its Form CRS explains that advisers can use the term, but only to the extent permitted by the Form CRS Instructions and the applicable item.

In the Q&A, the staff reminds firms that Form CRS "is designed to be a short and accessible disclosure for retail investors that helps them to compare information about firms' brokerage and/or investment advisory offerings" and that "the relationship summary is designed to serve as disclosure, rather than marketing material."

For certain items, the instructions provide that firms must use the prescribed language without modification, and therefore, an investment adviser cannot add the term "fiduciary" to prescribed language, the SEC notes. For example, the instructions require firms to provide a consistent articulation of their required legal obligations using the prescribed statement in Item 3.B.(i) to minimize investor confusion, the Q&A emphasizes, adding that the instructions do not permit firms to state their required standard of conduct using their own wording.

For items without prescribed language, the SEC staff "cautions against an investment adviser using the terms 'fiduciary' or 'fiduciary duty' where doing so would be extraneous or unresponsive to the particular item or would involve, or suggest, exaggerated or unsubstantiated claims, and any use of the terms must be accurate and not misleading."

Kristi Blokhin / Shutterstock.com

According to the staff's view, embellishing factual statements about the capacity or services of an investment professional or firm with phrases such as "an investment adviser who is held to the fiduciary standard," is likely to be inappropriate, the Q&A explains.

Similarly, the SEC staff cautions against describing the fiduciary duty as a "higher standard" or the "highest standard." In addition, it is likely misleading and nonresponsive for an investment adviser to represent that the fiduciary duty alone mitigates or eliminates conflicts of interest, the SEC says.

Calls to Clarify

Meanwhile, the Institute for the Fiduciary Standard argues that the SEC staff opinion essentially seeks to eliminate the word "fiduciary" from SEC investment adviser disclosure.

"Prior to this March 30 staff opinion, mentioning fiduciary status was deemed fine. Advisers could cite and describe an established fact of law. There was an open door. Now the new 765-word staff opinion slams this door shut," Knut Rostad, president of the Institute for the Fiduciary Standard, said at an April 13 press briefing.

Rostad contends that the staff opinion leaves "no plausible and meaningful way" for an investment adviser to tell investors about their fiduciary status, contending that the staff opinion regards certain phrases—such as "an investment adviser who is held to the fiduciary standard" or a "higher standard"—as inappropriate.

The IFS president further emphasized that, in the context of making Form CRS an information piece and not a marketing piece, being able to use the word fiduciary appropriately, as opposed to exaggerating it, is only going to be beneficial. Because of notoriety of the word fiduciary, investors know that is something they should be looking for and let RIAs do so, he explained.

Moreover, Rostad suggested that the staff opinion "derides a centuries' old legal principle infused in the '40 Act [Investment Advisers Act of 1940]" and affirmed by the Supreme Court *(SEC v. Capital Gains Research Bureau, Inc., et al)*, and that it seems to seek to eliminate the word fiduciary and rely on the undefined term "best interest."

Rostad was joined by Jeffrey Lang, attorney and shareholder at Stark & Stark, who suggested that the FAQ should go further in explaining what is an appropriate use of, or reference to, the fiduciary terminology. The pair further called on the SEC commissioners to override the staff opinion and clarify how the fiduciary term can be included in the context of the prescribed language to help avoid being considered as extraneous material.

"A suggestion that the adviser is held to a fiduciary standard is noted as inappropriate, when this statement may be factually correct. Additional guidance on how to indicate this language in a compliant manner would be very helpful. Much of the CRS language and format is prescribed," Lang emphasized.

Rollover Recommendations

The SEC also on March 30 issued a staff bulletin providing views on how broker-dealers, investment advisers and their associated persons can satisfy their obligations to retail investors when making account recommendations—particularly with respect to dually registered or affiliated firms, as well as dually licensed financial professionals.

Among the lengthy list of issues addressed, the SEC addresses rollover recommendations, noting that to evaluate any recommendation to transfer assets out of an employer's plan or between retirement accounts, the professional needs to obtain information about the existing plan, including the costs associated with the options available in the investor's current plan.

"When making a rollover recommendation to a retail investor, you must have a reasonable basis to believe both that the rollover itself and that the account being recommended are in the retail investor's best interest," the bulletin advises. To that end, it notes that there are specific factors relevant to rollovers that should be considered when making a rollover recommendation, including:

- costs and level of services available;
- features of the existing account, including costs;
- available investment options;
- ability to take penalty-free withdrawals;
- application of required minimum distributions;
- protection from creditors and legal judgments; and
- holdings of employer stock.

In addition to Reg BI and the IA fiduciary standard, the bulletin reminds financial professionals that, if they plan to rely on Prohibited Transaction Exemption 2020-02 (PTE 2020-02), they should review guidance from the Department of Labor on factors to consider in making a rollover recommendation, as well as relevant documentation requirements.

— Ted Godbout

Presence 'Present'

IRS extends temporary relief from the physical presence requirement

The IRS on May 13 announced that it is extending to the end of 2022 the temporary relief from the requirement that certain participant elections be witnessed in the physical presence of a plan representative or a notary public.

In Notice 2022-27 the IRS says that due to the pandemic, it is extending the temporary relief provided in Notice 2021-40 from the requirement in Treas. Reg. §1.401(a)-21(d)(6)(i) that certain participant elections be witnessed in the physical presence of a plan representative or a notary public—the physical presence requirement.

Notice 2021-40 had extended from July 1, 2021 through June 30, 2022 the temporary relief provided in Notice 2021-3, including extension of all the requirements to qualify for that relief. During that period, a plan may qualify for relief from the physical presence requirement for any participant election witnessed by a notary public or a plan representative using an electronic system that satisfies the applicable requirements specified in Notice 2021-3.

In Notice 2021-40, the IRS also had requested comments on specific matters relating to the relief from the physical presence requirement, including comments on whether to propose modifications to the physical presence requirement. The IRS says that it received comments from "numerous" stakeholders regarding the physical presence requirement. Some argued that the IRS should retain the relief, and some went even further and requested permanent relief.

The Bottom Line

Under Notice 2022-27, the IRS is extending, for the six-month period July 1, 2022-Dec. 31, 2022, the temporary relief from the physical presence requirement provided in Notice 2021-40, including extension of the requirements to qualify for that relief. Thus, during those six months, a plan may qualify for relief from the physical presence requirement for any participant election witnessed by a notary public or a plan representative, using an electronic system that satisfies the applicable requirements specified in Notice 2021-03. NNTM

— John Iekel

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As of June 10, 2022

T. Rowe Price®

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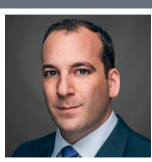
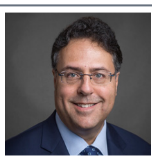
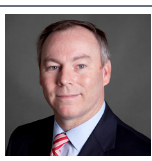
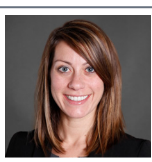
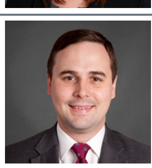
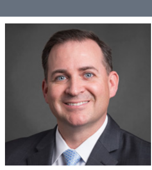
Congratulations to T. Rowe Price's

TOP 100 DC WHOLESALER WINNERS

Defined Contribution Investment-Only Regional Sales Consultants

	**Eric Milano, QPFC** TOP 10 WHOLESALER	**Midwest Region**	Cell: 312.919.3024 Eric.Milano@troweprice.com	18 years in the financial services industry
	**Alan Valenca, CFP®, CIMA®**	**Northeast Region**	Cell: 978.404.2114 Alan.Valenca@troweprice.com	28 years in the financial services industry
	**Keith Blackmon**	**Southwest Region**	Cell: 832.372.2027 Keith.Blackmon@troweprice.com	28 years in the financial services industry
	**Michele Giangrande**	**Pacific Southwest Region**	Cell: 949.514.5494 Michele.Giangrande@troweprice.com	20 years in the financial services industry
	**Jason Butler**	**Southeast Region**	Cell: 404.304.5615 Jason.Butler@troweprice.com	17 years in the financial services industry

Retirement Plan Services Senior Sales Executives

	**Allen Ehling**	**New England North**	Cell: 978.604.5842 Allen.Ehling@troweprice.com	21 years in the financial services industry

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