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HOSTED BY
Brian Graff

The 401(k) Tax Fight's Fuzzy Math

An apples-and-oranges comparison means Current tax expenditure estimates for retirement plan provisions overstate their size, something NAPA wants to change.

t's a perennial problem the threat to savings incentives inherent in defined contribution plans that encourage millions of Americans to save for a dignified and comfortable retirement after a lifetime of hard work.

It's a perennial problem—the threat to savings incentives inherent in defined contribution plans that encourage millions of Americans to save for a dignified and comfortable retirement after a lifetime of hard work.

It's doubly so as significant tax provisions contained in the 2017 Tax Cuts and Jobs Act, then-President Trump's signature tax overhaul, will expire on Dec. 31, 2025. The Joint Committee on Taxation recently released its estimate of federal tax expenditures for fiscal years 2024 through 2028, claiming defined contribution plans will deny government coffers \$1.4 trillion of revenue over 10 years.

The attention-getting figure will play prominently in the upcoming tax policy debates.

Yet, it's important to note that industry advocates—including NAPA and the American Retirement Association (ARA)—say the method and duration on which the analysis is based (cash flow over 10 years) overstates the long-term revenue effects of certain tax benefits (e.g., tax deferrals for retirement plans), arguing that net present-value estimates more accurately reflect their true cost.

While some tax benefits provide a current-year tax benefit or a deduction, such as a



charitable contribution that is not offset by future tax liability, other benefits –including tax-deferrals for retirement plans–are forward looking. In other words, they provide an immediate benefit to the taxpayer, however taxes are recouped by the federal government down the road.

Calling it an apples-andoranges comparison, proponents of the net present value model believe that the JCT's scoring methodology fails to accurately capture the tax expenditures associated with defined contribution plans because the 10-year budget period is simply too short to accurately measure the income eventually realized, especially from retirement plans designed to incentivize workers to save for upwards of 30 years.

"Retirement plans provide a deferral of tax, rather than an exemption from tax," ARA CEO Brian Graff said. "It's a critically important distinction. Current tax expenditure estimates for retirement plan provisions overstate the size of these provisions when compared with other tax expenditures because it's done on a cash flow basis rather than on a present-value basis. We strongly believe that should change."

Tax Bill Extension Cost

The nonpartisan, nonprofit Committee for a Responsible Federal Budget says the cost of extending the expiring tax provisions would add \$5.2 trillion (\$6.1 trillion with interest) to deficits through fiscal year 2035, up from \$4.7 trillion previously.

The organization added that extending the individual and estate tax provisions would add \$3.9 trillion (\$4.5 trillion with interest) to deficits through 2035, up from \$3.4 trillion previously.

The extensions would increase federal debt in 2035 by 10.5% and 14.2% of GDP, growing from 97% of GDP at the end of 2023 to between 128.5% and 132.2% by 2035.

Lawmakers could possibly look to reduce or eliminate retirement plan savings incentives to offset the figures, something Graff and the ARA said it will "remain vigilant" about and fight.

It's also not new and something we routinely experience. Indeed, it's part of NAPA's core purpose—to enhance retirement security in America. And that includes protecting incentives that have proven so successful in getting people to save.. NNTM

John Sullivan
Editor-in-Chief

DISCUSSION...



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EARLY BIRD

https://www.napa-net.org/events/napa-401k-summit

Sun, Fun, and 401(k)s: The Summit Returns to Vegas

What we hear and learn about at the 2025 Summit will be shared with our plan sponsors, plan participants, other plan advisors, and wealth management professionals.

By Keith J. Gredys

ello NAPA Nation—the 2025 401(k) Summit will soon be here.

We are headed to fabulous Las Vegas, but not just in any hotel. The event is at the new palatial Fontainebleau Las Vegas. Not only will this be the largest gathering of retirement plan advisors and professionals in the United States, but the Summit will also provide a deep dive into the how, when and why of our industry and where it is headed.

In 2025, major tax policy and government spending will be a headline. We will hear more about the impact of the "Loper, Bright" U.S. Supreme Court ruling this past June and how federal agencies, including the Department of Labor, the IRS, and others, regulate various industries.

So, while we are told that "What happens in Vegas stays in Vegas," what we hear and learn at the 2025 Summit needs to be shared with our plan sponsors, plan participants, plan and wealth management professionals. As mentioned, tax policy will be a headline, and 401(k) and all DC plans and IRAs will be on the revenue discussion table.

Personally, I am very excited that during my tenure as NAPA President, the 2025 Summit is in Las Vegas. I have always had a fondness for Vegas. I was born and raised in Omaha, Nebraska. But after I was born, my dad was asked to follow some of his friends to Las Vegas to run some casinos.

Many of you do not know that several of the older downtown casinos were operated/owned by individuals from Omaha. My godfather owned a casino in downtown Vegas. I was married in Vegas, and in my life as a trust banker, I trusteed a bond issue in Vegas.

So, I know a bit of Vegas history and how it grew from an idea to building something from scratch in the middle of the desert, making it the gambling and entertainment mecca it is today.

I think there are strong similarities between the idea and growth of Vegas to the idea and growth of NAPA and the American Retirement Association. While ERISA was signed in 1974, it was not until the late 1980s that 401(k) plans emerged as the premier retirement plan, yet TPAs needed some regulatory guidance, training, and education support. The concept of an organization to support such efforts evolved in the middle of the 401(k) and pension desert.

I was introduced to ASPA in 1996, which was guided by TPAs and actuaries and rebranded to ASPPA. TPAs and actuaries needed more and more help with government regulations and staff training. The Kidder organization (my original partner's name was Kidder, and it is easier to pronounce than Gredys) started as a TPA/actuarial shop, and we utilized ASPPA for our staff to be trained and earn designations.

As the needs of professionals focused on retirement plans grew, NAPA was the next expansion. From there, Brian Graff and the forward-looking leadership of the organization restructured the organization to create the American Retirement Association and broadened its scope and scale to include other sister



Keith J. Gredys JD, CPFA, AIF®, BCF is Chairman & CEO of The Kidder Company. This is his inaugural column as NAPA's 2024/2025 president.

organizations. From an idea, it is now the leader in serving and protecting Americans and helping them achieve a fulfilling retirement.

Just as Vegas continues to expand and thrive, so will NAPA and our 21,000 members, plus our related family of organizations.

All of us, as NAPA members, have been provided with the opportunity to directly and indirectly influence and guide decision-makers in Washington D.C., our industry partners, and, of course, plan sponsors and participants to achieve that American Dream.

We are in the midst of another evolution in retirement choices—PEPs, MEPs, GOPs, managed accounts, guaranteed and other lifetime income options, target date fund evolution, financial wellness programs, and others. Our membership is privileged to have a say in the outcome for Americans.

Just like Vegas, this all started with a simple idea. Where we take it next is up to all of us.

And just as Vegas is the Mecca for gambling and entertainment, we can be the Mecca of Retirement Policy and Results for all working Americans. NYTM





Learn more at naparik.org

Let's Support Those Who Support Us

One of the most important employee benefits is a strong and robust retirement plan, and we will continue to work with lawmakers on Capitol Hill to lift the prohibition on CITs in 403(b)s.

By Brian H. Graff

bit of disappointing news about NAPA's ongoing effort to ensure retirement plan investment parity.

We're working hard to make collective investment trusts (CITs) available to nurses, educators, and other nonprofit workers in their employer-sponsored 403(b) retirement plans, most notably with our advocacy and support for Senate and House bills that address the issue.

The bills provide parity between 401(k) and 403(b) plans by allowing 403(b) plan participants to choose from a wider array of funds, including CITs that often have lower fees.

We'd hoped the legislation would pass by year's end.
Unfortunately, time ran out, but we remain committed to the fight in 2025.

At issue is the fact that many types of retirement plans (e.g., 401(k)s, 457(b)s, and TSPs) are permitted to invest in CITs, while 403(b)s cannot.

Because of how they are regulated—by the Office of the Comptroller of the Currency (OCC) rather than the Securities and Exchange Commission—CITs typically have lower administration, marketing, and distribution costs than mutual funds. This often results in significant cost savings for plan sponsors and participants.

According to Retirement Plan Advisory Group (RPAG) research, CIT fees are as much as 53% lower than mutual fund fees, which can help maximize returns for retirement plan participants.

The 403(b)/CIT issue is part of the unfinished business left over from the enactment of the SECURE 2.0 Act of 2022, which sought to allow their use, but there was disagreement in the House Financial Services Committee over the securities aspect of the intended provision.

Consequently, the final version of SECURE 2.0 included tax language addressing relevant sections of the Internal Revenue Code, but language concerning changes relevant to financial services was stripped out.

The title of my column is the tagline for a <u>recently-launched</u>
<u>ARA advocacy page</u> dedicated to the issue, which I encourage you to visit.

It contains Frequently Asked Questions (FAQ), background on the issue, and-importantly-calls to action for retirement plan professionals, participants, and sponsors to make their voices heard by lawmakers.

Several form letters are available on the website for nonprofit employees, supporters of nonprofit employees, educators, and healthcare workers to help push

By simply providing their name and address, users are presented with the most appropriate letter with their senators' and congressional representatives'



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

email addresses and text prefilled.

For retirement plan professionals and sponsors specifically, the "supporters of nonprofit employees" letter allows them to contact their Representatives as "concerned citizens and strong supporters of our educators, nonprofit workers, hospital employees, and all those who dedicate their lives to caring for members of our society."

They can also forward links to other letters to involve the plan sponsors and participants they serve in the effort to increase access to what are often lowercost investment products that aid in the retirement savings of the estimated 14.5 million American workers in the nonprofit sector.

One of the most important employee benefits is a strong and robust retirement plan, and we will continue to work with lawmakers on Capitol Hill to lift the prohibition on 403(b) plan sponsors from including CITs in their menu of investment options.

Given that it passed the House overwhelmingly—and the Senate version garnered so many cosponsors in such a short period of time—the prospects of getting this bill signed into law in the next Congress are strong. As always, we'll keep you posted. NITM



A look at in-plan guaranteed lifetime income in 2025 and beyond

By Meghan Farrell, Thought Leadership, Employer Markets at Allianz Life Insurance Company of North America

Before discussing the future, it is important to reflect on the milestones that shaped 2024. This will provide context for how in-plan guaranteed lifetime income products, such as annuities, may evolve in the coming years.

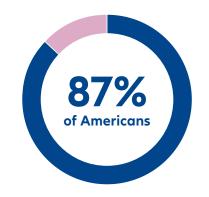
A look back at 2024

Millions of Americans turn 65

In 2024, we witnessed a significant demographic shift with the commencement of the "Peak 65" zone. Over 4.1 million Americans will be reaching the age of 65 each year until 2027, which translates to more than 11,200 individuals every single day. This demographic transformation carries substantial implications, particularly in the realm of retirement planning.

One significant consequence of the emergence of the Peak 65 generation is the increasing strain placed on payas-you-go systems, such as Social Security, which has long served as a bedrock program for Americans to fund their retirement years.

The sustainability of pay-as-you-go systems becomes a concern when confronted with an influx of retiring individuals, as they rely on the contributions of younger workers to finance retiree benefits. As a result, more workers may seek additional sources of guaranteed income to ensure a more secure retirement.



... say that in order to have a comfortable retirement, it's critical to have another source of guaranteed income beyond Social Security.²

Simultaneously, many of those reaching age 65 in this period have primarily relied on Defined Contribution (DC) retirement plans, as access to traditional Defined Benefit (DB) pension plans has decreased. As a result, there is an increasing number of retirees who want and need assistance in determining a strategy for drawing down their retirement assets.

ERISA turns 50

This year also marked the 50th anniversary of the Employee Retirement Income Security Act of 1974 (ERISA). This landmark piece

of legislation has played a pivotal role in safeguarding the retirement security of American workers by fostering a framework that promotes transparency, accountability, and fiduciary responsibility.

As we celebrated the significance of retirement planning and the vital role played by employer-sponsored plans, it prompted contemplation on how the industry can significantly impact participants' retirement preparedness.

Innovative solutions, such as in-plan annuities, can be instrumental in assisting participants by providing them with a reliable stream of income throughout their retirement, helping to ensure they never outlive their savings.

These milestones serve as a call to action for the industry. They remind us of the progress made, but also prompt us to acknowledge the work that still lies ahead.

¹The peak 65 zone is here – creating a new framework for America's retirement security, Alliance for Lifetime Income, January 2024.

² 2024 2Q Quarterly Market Perceptions Study, conducted by Allianz in May 2024 with a nationally representative sample of respondents age 18+.

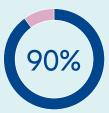
An age of innovation

As we navigate the challenges brought on by an increasingly aging population, it is imperative that we commit to developing innovative solutions that will benefit both current and future retirees.

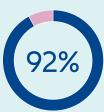
Modern annuities have become a versatile tool for retirement planning. Annuities offered within an employer-sponsored plan present an opportunity for continued innovation and expanded access for more Americans.

Since the SECURE Act of 2019, the DC market has witnessed a surge of new and innovative annuity products. While in-plan annuities have been available for over two decades, recent products have introduced more flexible features and enhanced user experiences, addressing the limitations of previous generations of annuities.

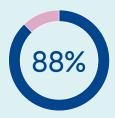
Looking ahead, it is important to evaluate how these products align with participant needs and preferences. Our surveys have shown that for participants who would consider adding an annuity to their employer-sponsored plan, there are specific features that they value:



say it's important to have **growth**potential to help address inflation.¹



say it's important to have the **flexibility** to choose when and how to take income.¹



say it's important to be able to take additional withdrawals if needed, after income has started.¹



say it's important to be able to **roll over to an IRA** without any changes
to guarantees, benefits, or pricing.¹

Looking ahead to 2025 and beyond

As we consider 2025 and beyond, it is important to acknowledge that there are already available solutions in the market today that cater to these customer preferences.

Many of these solutions have already been implemented in plans with participants making contributions. We're also seeing a rise of Request for Information/Proposal (RFI/RFP) submissions, indicating a growing desire by advisors, consultants, and plan sponsors to explore these solutions further.

To sustain this momentum and drive further progress, we have identified three focus areas:

- 1. Outcomes-based frameworks for evaluating solutions
- 2. Personalization
- 3. Education and experience

Outcomes-based frameworks for evaluating solutions

To effectively compare and assess the appropriateness of these solutions for a plan, several third-party tools have emerged that allow users to rank and weigh preferred features, matching them with solutions that meet specific requirements.

However, this provides only one piece of the puzzle. When assessing features like guaranteed lifetime income, protection from market downturns, and increasing income potential, it is important to consider quantitative measures as well.

This is because not all solutions with these features are equal in terms of their effectiveness. As plans start to look at these products in more detail, an analysis of outcome metrics becomes a key element of a thorough decision-making process.

For instance, when evaluating solutions to combat inflation concerns, it is important to consider the present value of income over life expectancy or income at a specified planning age. While some products may offer a more attractive starting

income, they may not provide sufficient growth to address inflation risk. These disparities become more apparent when you look at income over time.

Assessing protection from market downturns requires a holistic approach, considering not only the annuity's value but also the total value of the participant's portfolio. Some products with weaker insurance protections may indirectly accelerate the depletion of other portfolio resources.

In addition to looking at the median legacy value of the entire portfolio at a specified planning age, one could also use the probability of success metric to gauge portfolio resiliency. This measure utilizes a quantitative analysis to ascertain the likelihood of achieving a specified income goal at a given planning age.

Features such as flexibility, accessibility, and portability may be less easily quantified, but their value lies in providing participants with the comfort to adapt to unexpected circumstances.

As third parties and product providers continue to develop and enhance their evaluation frameworks, it is important to analyze not only how well product features align with plan objectives, but also the quantifiable and qualitative improvements in outcomes.

Personalization

Retirement income needs are highly individualized, making it necessary to consider various factors when determining the amount of income needed in retirement. Many participants express an interest in greater personalization in their retirement planning.

In a recent survey, we found that among participants who would consider incorporating an annuity into their employer-sponsored plan:



73% would be willing to pay an additional fee for access to an advice program.1



92% consider it important for factors beyond retirement age to be considered when determining their annuity allocations.1

Personalization is already prominent in various aspects of our lives, and it is expected to play a significant role in retirement planning going forward. As a result, there will likely be a greater emphasis on tailored strategies like managed accounts and personalized target date solutions that align with the specific needs and objectives of each participant in 2025 and beyond.

Education and experience

Investments in participant education and experience should be ongoing efforts. Although significant progress has been achieved through collaboration between product providers, recordkeepers, managed account providers, and middleware, the pursuit of improved understanding and informed decision-making for participants and plans is a perpetual journey.

As an industry, it is imperative to actively engage in meaningful discussions on best practices, establish common definitions, and persistently advocate for and educate individuals on the value of lifetime income.

At Allianz, these focus areas will continue to drive our organization in 2025 and beyond. We are committed to improving outcomes and helping participants achieve their unique retirement goals through our products as well as our continual efforts to enhance education and ensure a seamless participant experience.



LEARN MORE AT (www www.allianzlife.com/dcplan or by emailing our team at (🙊) retirement-income@allianzlife.com



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Bridging the Wealth Gap

How HBCU partnerships are creating pathways for black financial professionals

By Joey Santos-Jones

n the United States, the racial wealth gap remains a persistent issue, with Black and Hispanic households facing significant barriers to financial stability. As recently as 2019, nearly 14% of Black households and over 12% of Hispanic households lacked access to basic financial services such as checking and savings accounts—compared to only 2.5% of white households.

Many Black and Hispanic individuals cite distrust of financial institutions as a reason for staying outside mainstream banking,

rooted in historical experiences of discriminatory lending and exclusionary policies.

For financial firms, this trust gap presents both a challenge and an opportunity to reimagine how they engage with Black and Hispanic communities and offer tools for financial empowerment. Through the creation of intentional partnerships and programs, some organizations are starting to make progress.

One recent effort focused on closing the wealth gap involves the <u>American Retirement</u>

Association (ARA) and Financial Alliance for Racial Equity (FARE), which both partnered with historically Black colleges and universities (HBCUs) to support aspiring financial professionals through education and mentorship. This partnership aims to help HBCU students develop skills and confidence in not only financial services but also retirement planning.

By expanding access to
ARA's Introduction to Retirement
Plans (IRP) and Retirement Plan
Fundamentals (RPF) certification

confidence in discussing key financial concepts.

Dr. Terrance Martin, an Associate Professor of Financial Planning at WSSU, has observed a tangible shift in his students since implementing the IRP certification.

Dr. Martin's focus on bridging theoretical knowledge with practical application has helped students see the value of financial planning as a career path and as a means of uplifting their communities.

Expanding Access: A Strategic Partnership Across HBCUs

The success of the IRP certification at WSSU has led ARA and FARE to expand the program to five additional HBCUs: Hampton University, Howard University, Virginia State University, Virginia Union University, and Delaware State University.

With a long-term goal of reaching more students across HBCUs, FARE hopes to cultivate a new generation of Black financial advisors who are equipped to help their communities build wealth and navigate financial systems that have historically been exclusionary.

"We're not just looking to provide internship opportunities; we want to ensure our students are continually developing in this space," said Nicole Ridley, Head of Operations at FARE.

According to recent research conducted by FARE, nearly 90% of Black students recognize unique challenges for Black advisors in the financial sector, with the most common barriers being a lack of mentorship opportunities (40%) and consumer discrimination (33%). However, a strong motivator for students entering the field is the capacity to help others-a sentiment cited by 84% of respondents as a key influence in choosing their major. This commitment to giving back aligns with the vision FARE and ARA share for fostering diverse talent within financial services.



It was set up in a way that not only allowed for entertainment but also for educational purposes. Each section was designed to fully comprehend the questions being asked and the topics being discussed. I believe this is a course that should be offered mandatory for all financial major students,"

—Tajah Paulk

"The ARA - Intro to Retirement Plans Course was a fantastic introduction to retirement planning! I found the course to be well-structured and very straightforward, covering all the basics in a way that was easy to follow. The concise format made it easy to grasp the essentials without being overwhelming,"

—Samuel Elliot



programs, the initiative not only enhances students' knowledge of retirement planning but also provides them with a valuable credential that adds credibility to their resumes.

The significance of this partnership is evident in the student feedback from the first HBCU cohort at Winston-Salem State University (WSSU). Tajah Paulk, a finance student,

described the IRP certification as both informative and accessible.

Samuel Elliot, another WSSU student, echoed similar sentiments, noting that the course's structure made complex topics easy to understand.

For student Brianna Wall, the IRP certification provided a comprehensive foundation in employer-sponsored retirement plans, helping her gain

Addressing the Trust Gap

Establishing trust is critical for financial institutions seeking to expand their reach in Black communities. Erika Goodwin, Director of Advocacy Engagement at ARA, noted, "The lack of Black representation in financial services not only affects those wanting to enter the field but also impacts clients who prefer advisors who share similar life experiences."

Dr. Martin has seen firsthand how advisors from diverse backgrounds can resonate with clients.

"In Black and Hispanic households, family and friends often play a significant role in financial decisions," he said. "Trust is more easily established when there's shared understanding and experience, which can lead to greater long-term financial engagement."

For financial institutions to bridge the trust gap, actionable strategies can include strengthening partnerships with minority depository institutions, increasing Black representation across all organizational levels, and promoting transparency in their equity programs. Per FARE's recent recommendations, institutions should actively provide mentorship and sponsorship for Black professionals, create networking opportunities, and collect data on program outcomes to continually improve their efforts. These steps are not only vital to fostering equity but also essential to the sustainability of financial services in an increasingly diverse America.

The Role of Certification in Building Careers

In recent years, smaller colleges and universities have found value in pairing traditional degrees with certifications, a trend Dr. Martin sees as essential in preparing students for a competitive workforce.

Certifications like IRP and RPF equip students with industry-standard skills, often giving them a leg up

"This training has empowered me with foundational and advanced knowledge of retirement plans, equipping me with the confidence and technical skills to provide well-rounded support to clients. The experience deepened my appreciation for the intricacies of retirement planning and made me feel more prepared,"

—Brianna Wall





"This certificate program has allowed me to integrate practical, real-world insights into the classroom. For the students, it's been empowering—adding a tangible credential to their resumes while they're still in school. Many have expressed increased confidence in understanding retirement planning and even a new interest in pursuing it as a career,"

—Dr. Martin

over peers from larger institutions.

Morgan Williams, Program
Manager at FARE, reflected on this
strategic approach, emphasizing
the importance of "mentoring and
refining talent that, with just a bit of
guidance, could be transformative
for the industry." Dr. Martin
added, "Certifications provide a
way for students to demonstrate
their commitment and capability
in financial planning, making

them more attractive to potential employers and more effective in their communities."

Expanding Access and Opportunities

In addition to increasing access to ARA certifications, FARE's mission includes fostering a supportive network through intentional recruitment, training, and advocacy. By prioritizing



long-term relationships with educational institutions and creating intentional opportunities for Black financial professionals to advance, FARE aims to strengthen diversity in the industry.

"We are moving the needle through these education programs and reaching young people that may never have known about the careers available in the retirement industry," Patricia Wenzel, Chair of the ARA Diversity Committee, added.

At the upcoming 2025 NAPA Summit session, "Bridging the Gap: Attracting Talent from Outside the Financial Services Industry," Dr. Martin will join other panelists to discuss these strategies and explore how financial firms can tap into new, diverse talent pools.

As more organizations seek to create sustainable, inclusive talent pipelines, programs like the IRP certification from ARA demonstrate a model for success. By investing in Black students' futures, ARA and FARE are helping to bridge the racial wealth gap and build a more representative financial services industry.

"Being able to be a part of this collaboration as Vice-chair of the ARA Diversity Committee is a full-circle moment for me. I had an uncle in the business, and I knew as a child that I wanted to help others get to a solid financial position as my life's work. Now I get to help inspire the next generation to do the same thing," Jay Washington said.

As Dr. Martin observed,

"Everyone talks about wanting to do more for diversity and inclusion; now is the time for action. When we actively invest in these communities, we're not just creating opportunities—we're creating a more equitable future for everyone."

"In order to ensure diverse advisors and other professionals excel in our business, it's important we cultivate talent and provide mentoring opportunities to help everyone succeed," Washington added, referencing the Nourish Our Wealth (NOW) program. PC

If you are interested in being a mentor or mentee, please go to https://www.usaretirement.org/get-involved/special-initiatives/ara-now/



Interview with PETE WELSH

Identifying the Advisor's Role in Financial Wellness and Plan Terminations

Pete Welsh, Managing Director of Retirement and Wealth at Inspira Financial, recently discussed strategies to increase financial wellness for client employees and retirement plan terminations.

Financial wellness, automatic rollovers, and plan terminations are currently a trifecta of important topics to which advisors can add real value.

In an increasingly commoditized retirement plan space, it's a way for them to truly stand out in the services they provide to help their plan sponsor and participant clients

It's an area of hyper-focus for Inspira Financial, the result of Millennium Trust Company and PayFlex joining forces recently to become a "devoted partner for health, wealth, retirement, and benefits."

The new company works with businesses and individuals to create financial services and solutions that help them prepare financially for a bright future.

Pete Welsh, Managing Director of Retirement and Wealth at Inspira Financial, recently sat with NAPA Net the Magazine (NNTM) to discuss strategies to increase financial wellness for client employees and retirement plan terminations.

- Before we talk about the topics at hand, tell readers about Inspira Financial and what you do.
- Many readers probably wouldn't know us by Inspira Financial. We used to be Millennium Trust Company and rebranded at the beginning of 2024. We're known for the automatic rollover services we provide to many industry recordkeepers, but one of the reasons we rebranded is that we're a different organization now, offering a broader range of solutions.

We bought PayFlex, a provider of health savings accounts (HSAs) and flexible spending accounts (FSAs), which got us fully entrenched in the health and benefits space. So today, we're a complete financial wellness organization. We offer many workplace benefits, including HSAs, FSAs, emergency savings, etc., and we offer automatic rollover IRAs, self-directed IRAs, and search services.

- **Q** Let's begin with financial wellness. Please give us a basic definition of financial wellness.
- A It's certainly a term that gets a lot of banter, right? But it's the ability to manage money and meet basic financial needs throughout life. Most adults have a general idea of what it is; how to achieve it is what trips many people up. To distill it down to one thing, achieving wellness really relies on a lot of good practices.
- What are some behaviors that can help people achieve financial wellness?
- A It's what your parents taught you, in some respects—live within your means, know how to budget, avoid excessive debt, put money aside for emergency expenses, pay bills on time, and save for retirement.
- **Q** Those sound simple enough, but are they?
- Well, if they were simple, people would have much more saved. Many people live beyond their means and cannot afford an emergency expense of \$400 or more. In addition, they either aren't saving for retirement or aren't saving enough for retirement. We see it quite a bit in our business. Nearly half of American

households have no retirement savings, and for individuals aged 50 and over, about 20% have no retirement savings.

The good news is that Congress recognized that and passed the SECURE 2.0 Act—which stands for Setting Every Community Up for Retirement Enhancement 2.0. Congress established SECURE 2.0 to help address financial pressures on American workers and help them save for retirement.

From a federal and state government standpoint, there's a lot of impetus to help increase financial wellness.

- Those are some stark statistics. What can advisors do to help lower them?
- A Surveys indicate that most American workers are interested in achieving financial wellness; they just don't know how to do it. So Congress is looking to employers to help American workers save for emergency expenses and retirement.

Advisors can recommend benefits and programs that empower their clients to help employees save for the future. A financial wellness program can increase 401(k) savings, decrease employees' reliance on retirement plan loans, and increase the use of affiliated benefit offerings, such as an emergency savings plan.

In fact, our survey indicates that 91% of employers providing an emergency savings benefit said that the benefit addressed employee concerns well. Advisors may also help their clients' benefits staff increase their financial literacy so that they can help their employees become confident in the financial decisions they make.



"RECOGNIZING THAT VARIOUS PREFERENCES AND FINANCIAL SITUATIONS DICTATE DIFFERENT APPROACHES IS CRUCIAL IN CRAFTING A RETIREMENT PLAN THAT IS SATISFYING AND SUSTAINABLE."

Q Besides financial wellness, what else should advisors know to help clients?

A The business landscape is constantly evolving, and companies shut down or merge with other companies. So a key topic that advisors should be well-versed in is retirement plan termination. Because we provide services that help simplify plan terminations, we see a lot of them: A company gets bought or sold, and the retirement plan that the acquiree had in place needs to be terminated or merged.

A lot of advisors don't have much

experience in retirement plan termination, or they think when it happens, they can just take a hands-off approach and let the recordkeeper manage it. But I will tell you that an advisor could have a vital role in plan terminations—in terms of helping fiduciaries understand what needs to happen with paying out assets. The final Form 5500 can't be filed until all the assets are distributed.

If you have missing participants and uncashed checks, those things lead to a very long termination process, but an advisor working with the right firm can help facilitate that process.

• That is exactly what we needed. Thanks for sharing these great insights on financial wellness and plan termination.

A You're welcome. It's been a real pleasure chatting with you.

Disclosure: Inspira Financial Trust, LLC performs the duties of a directed custodian and, as such, does not provide due diligence to third parties on prospective investments, platforms, sponsors, or service providers and does not offer or sell investments or provide investment, tax, or legal advice.

Trends 'Setting'

A 'growing wave' of innovation and adoption of retirement income solutions will reflect what one organization says is the increased interest of plan sponsors, providers, and participants in lifetime products. And it's that time of year to once again make (and hopefully keep) resolutions to make us better at saving. Here's what tops the list of financial goals for 2025.

'Crystal' Clear

What the proverbial crystal ball says about 2025 retirement industry trends.

It's the time of year when industry stakeholders offer their predictions on what trends will have a significant impact on the retirement industry. And one such report predicts that in-plan retirement income solutions will continue to rise to the forefront.

The Institutional Retirement Income Council's (IRIC) annual forecast of key retirement industry trends for 2025 anticipates a "growing wave" of innovation and adoption of retirement income solutions, reflecting the increased interest of plan sponsors, providers, and participants.

"Next year will be the acceleration of plan sponsor adoption for in-plan retirement income options," says IRIC Executive Director Kevin Crain. "With traditional pensions becoming increasingly rare, ensuring retirement income security is a shared responsibility of employees and employers." And as such, this broadens the plan sponsor's responsibility from just accumulation to ensuring participants can achieve longterm retirement security, the organization suggests.

According to Crain, 2024 was when in-plan retirement income offerings continued to evolve regarding product creation and DC plan recordkeepers' implementation. DC investment and insurance providers accelerated product design offerings, such as hybrid target date funds, hybrid managed accounts, annuity marketplaces, and systematic withdrawal

programs. As a result, the inplan retirement income product inventory has grown, giving plan sponsors a range of solutions, the organization notes.

A similar report by Mercer observes that retirees are under pressure to make savings last through retirement and need help navigating both unexpected financial hurdles and sustainable spending in retirement. "Understanding how to effectively draw down assets coupled with longevity risk continues to be a concern for many," the report notes.

"In 2025, DC plan sponsors should evaluate the need for retirement income and begin to establish a philosophy and roadmap for how to address decumulation informed by participant demographics," Mercer suggests, adding that an effective offering should include varying levels of participant support.

Additional Retirement Income Trends

The IRIC identified a few additional trends it believes will have a significant impact on retirement plans and participants in 2025.

Product Development: As alluded to above, the industry consortium of investment firms, insurance providers, plan recordkeepers, consultants, and middleware technology firms will continue to design new retirement income solutions and improve how to utilize such solutions, the IRIC suggests.

Customized in-plan retirement income options, including hybrid target-date funds and managed accounts, will continue to gain momentum by addressing participants' unique circumstances and retirement goals, the organization predicts. In addition, the retirement income component





NAPA Education

Knowledge Powers Performance of the hybrid investment will offer flexible approaches—either an annuity retirement income offering or a retirement paycheck systematic withdrawal option.

What's more, integrated retirement income planning combining the DC and Social Security retirement income pillars will create a creative product design that "bridges" DC plan income decisions with Social Security election decisions, IRIC further predicts.

Participant Engagement and Demand: With employees strongly interested in solutions that provide easy-to-understand, reliable and predictable income streams, participant demand will drive the industry and plan sponsors to enhance retirement income planning tools and personalize retirement income projections for DC plans and other retirement income pillars, IRIC says.

The tools will include using AI to engage participants in a more interactive planning experience. Enhancing such tools may also increase participant comfort in utilizing in-plan retirement income options, the organization notes.

Expansion of Automatic
Features: In-plan automatic
solutions will continue to
increase the impact of DC plan
accumulation. According to IRIC,
the acceleration of adopting new
plans (particularly in the small
business segment) will expand the
utilization of auto-enrollment and
auto-increase solutions.

The organization adds, however, that it is not expected in 2025 that automatic solutions will broaden to retirement income inplan options. Hybrid investments with embedded income solutions need more broad-based plan adoption before being considered qualified default investment alternatives (QDIAs), the report emphasizes.

Financial Wellness Programs: According to IRIC, participants need more help with retirement preparation, as they do not understand the election decisions and processes for Social Security and Medicare, and they need help with projecting retirement income. As such, employers will continue to enhance their financial wellness programs to include pre-retiree education and planning programs, the organization further predicts.

To that end, the preretiree module will consist of personalized planning tools for retirement income projections (including integrating non-DC plan retirement income sources); education about Social Security and Medicare; and budgeting and tax planning for post-retirement life and opportunities to accumulate additional savings before retirement. The pre-retiree programs will be offered to employees at earlier ages (age 50+), so the employee has significant time to plan and act before retirement, the organization further suggests.

- Ted Godbout



Realistic Resolutions

Emergency savings are a major area of focus for 2025 financial resolutions.

As many Americans continue to feel the impact of inflation and high cost-of-living, Fidelity Investments' 2025 New Year's Financial Resolutions study finds that most plan to focus on living within their means and building up emergency savings.

The study, which has been conducted for the past 16 years, shows that nearly two-thirds (65%) of respondents are considering a financial resolution for the year ahead. And of those respondents, a third (33%) indicate they plan to pursue more conservative goals for 2025 given events of the last couple of years.

Unexpected expenses moved up as the top financial concern for Americans in the coming year

66 In fact, most Americans believe having a financial plan can help them to better deal with the unexpected (80%) and have learned to practice "mindful spending and saving habits" (78%).

(38%), although inflation and its impact on day-to-day expenses and savings continues to be of importance for individuals (37%), followed closely by economic uncertainty/recession (32%).

"Understandably, financial pressures continue to weigh on the minds of many Americans, so having a practical mindset to 2025 will aid in building financial goals for the new year," observes Sangeeta Moorjani, head of Tax-Exempt Market and Lifetime Engagement at Fidelity Investments. "Adopting a sensible perspective can have a positive impact as Americans look to move from simply spending to building up a savings buffer."

Yet, despite these financial concerns, many Americans are also feeling a renewed sense of optimism heading into the new year. According to the study, more than two-thirds (68%) feel they are in the "same or a better situation" than last year and 65% believe they'll be better off financially in the new year.

Emergency Savings

Fidelity notes that part of this focus on living sensibly can be attributed to the fact that more than half (53%) of respondents feel overwhelmed by their personal finances and nearly a third (30%) describe their relationship with money as stressful.

When thinking about last year's financial resolutions, among those who were unsuccessful in keeping them, roughly 4 in 10 (39%) said they were not able to stick to it because they had less money due to inflation's impact on day-to-day expenses.

Compared to recent years, many Americans are also feeling more stressed about their ability to:

- pay monthly bills (35%);
- save for other goals after paying monthly bills (36%);
- pay down debt (33%); and
- have enough retirement savings to retire as planned (32%).

Meanwhile, almost threequarters of respondents (72%) reported that they experienced a financial setback this year. To manage setbacks, nearly half (46%) say they were forced to dip into emergency savings at some point over the last year.

Fidelity also found that the women who had an emergency savings fund to dip into were fortunate, as significantly more women (30%) than men (19%) indicated they didn't have an emergency fund to dip into at all.

Additionally, one in five respondents (20%) worry that an unexpected non-health emergency – such as a car or home repair – could set them back financially in the coming year. Given that dynamic, perhaps it should be of no surprise that 79% of respondents plan to build up their emergency savings – most notably 80% of women.

2025 Financial Resolutions

Of those Americans considering a new year's resolution, the top answers remained consistent with years past: save more money (43%), pay down debt (37%), and spend less money (31%).

Among Americans in the "save more money" camp, most say they are focused on short-term savings goals – including credit card debt, emergency savings, mortgage payments, and big-ticket purchases – more than long-term goals (including

retirement, college savings, health care, and long-term care) (55% vs 45%). Fidelity notes that this is a shift from its 2024 study, where long-term goals were more of a top priority for respondents.

Fortunately, <u>recent Fidelity data</u> on workplace retirement savings suggests that this increased focus on short-term financial goals is not coming at the expense of long-term savings.

Sticking to the Plan

Another positive finding is that most respondents (72%) say they have a plan in place for reaching their financial goals. In fact, most Americans believe having a financial plan can help them to better deal with the unexpected (80%) and have learned to practice "mindful spending and saving habits" (78%).

Planning also plays a key role in one's ability to stick with a financial resolution. Among those who say they were able to keep to their 2024 financial resolution, the top reason was because they created a financial goal that was "clear and specific" (28%). Other top reasons included being realistic and easy to maintain over the long term (27%), and that it felt good to make progress, so they stuck with it (27%).

"Creating a financial plan that is clear, realistic and tailored to individual needs is key to making it attainable and can serve as the basis for the financial security Americans are looking for," Moorjani further observes. "No matter what your financial goals or resolutions are, a financial plan can help you achieve them and build your financial well-being."

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First Impressions Matter: 6 Website 'Wows' to Impress 401(k) Prospects

Make sure your website reflects the value you bring to the table, and you'll be well-positioned for growth this year and beyond.

By Rebecca Hourihan AIF, PPC

401(k) prospect sits at their desk. They have a list of potential retirement plan advisors to evaluate. They've heard your name, maybe through a referral, or perhaps they found you through an online search. Now, they are on your website. They are trying to determine if you are the right partner to manage their company's 401(k) plan.

They've made their first judgment call in the blink of an eye. Will they stay on your website, explore your services, and/or request a meeting? Or will they hit the back button and move on to the next advisor? Today, your website is your first impression. It can make or break your chances of converting a prospect into a client.

As a retirement plan advisor, your website must do more than look good. It must build trust, offer insights, and guide prospects to act. Let's explore some key areas to improve your website. This will attract more inbound requests and keep you ahead of best practices.

1. Home page: clarity and credibility are key

Your homepage is where it all begins. The moment a plan sponsor lands on your site, they should immediately understand who you are, what you do, and how you can solve their challenges. In a world where attention spans are shrinking, you have less **than 3 seconds** to make an impact.

Tip: Simplify your homepage messaging. Use clear, concise language that resonates with your target audience. Highlight your expertise in retirement plans, fiduciary education, and employee resources. Incorporate a powerful headline that speaks to their pain points, such as "Helping You Navigate the Complexities of 401(k) Plans" or "Expert Guidance to Elevate Your Retirement Benefits."

Adding client testimonials can also boost your credibility (yes, you can use testimonials). Emphasize how you help plan sponsors confidently manage their company's retirement plan.

2. Service pages: show your expertise and offer solutions

Once a plan sponsor clicks on your service pages, they're looking for details. What sets you apart from other advisors? How can you help them optimize their retirement plan, reduce fees, and improve participant outcomes?

Your service pages should outline specific offerings such as:

- 401(k) plan design and administration support
- Employee financial wellness programs
- Fiduciary education and risk management
- Plan fee benchmarking
 Tip: Instead of listing
 ervices generically, focus or

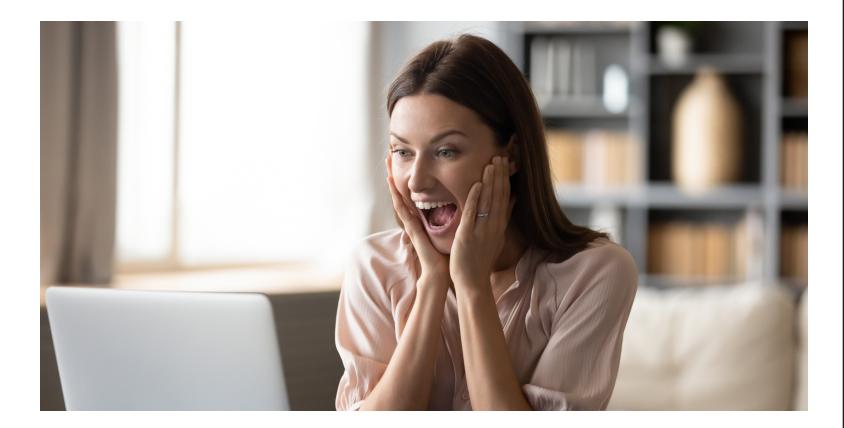
services generically, focus on the outcomes you provide. Stay away from heavy industry jargon they won't understand. Use real-world examples of how you've helped similar companies enhance their retirement plans or reduce fiduciary liability. If possible, incorporate case studies or downloadable resources that dive deeper into your approach. This can serve as a powerful lead-generation tool while demonstrating your value.

3. Call to action: make it easy to take the next step

If a plan sponsor has made it this far, they're likely interested in what you offer. The next step is crucial—make it as easy as possible for them to get in touch with you. Many websites lose prospects simply because they don't have clear calls to action (CTAs) or bury contact information under layers of navigation.

Tip: Use prominent, clear CTAs throughout your website. For example, place a "Schedule a Consultation" button at the top right corner of your site and include CTAs at the end of each page. Whether it's downloading a guide, scheduling a meeting, or requesting a fee analysis, the action should be simple and compelling.

Consider integrating a chatbot for immediate engagement, especially if the prospect is browsing outside of normal business hours. Automated chatbots can answer basic questions and even help schedule a call.



4. User experience: keep it simple and mobile-friendly

User experience (UX) can make or break your website. Prospects will quickly lose interest if your site is hard to navigate, cluttered with too much information, or slow to load.

Tip: Ensure your website has a clean, professional design that is easy to navigate. Avoid overwhelming visitors with too many menu options. Stick to a simple navigation structure that guides users logically through your services, about page, and contact form.

Don't forget about mobile optimization. With more people using smartphones and tablets to browse the web, having a mobile-friendly design is nonnegotiable. Test your site's mobile responsiveness regularly to ensure it provides a seamless experience across all devices.

5. Content and SEO: build trust and drive traffic

Search engine optimization (SEO) plays a pivotal role in attracting plan sponsors to your website. While design and user experience are essential, if your site isn't optimized for search engines, your site will not likely show up on the first page of Google.

Tip: Regularly update your website with high-quality, relevant content. Blogs, guides, and videos focused on topics like "Understanding the Investment Menu in Your Company's 401(k) Plan" or "Retirement Plan Review: From Participation Rates to SECURE 2.0" can not only showcase your expertise but also improve your search rankings.

Make sure your content addresses key pain points for plan sponsors, such as understanding their fiduciary responsibilities, staying compliant with regulations, and improving participant engagement. Be sure to optimize each piece of content for SEO by using relevant keywords, meta descriptions, and internal links to other pages on your site.

6. Trust signals: build confidence with plan sponsors

Plan sponsors want to know they're working with a reliable, experienced advisor. Building trust through your website is

Tip: Use trust signals like third-party certifications such as:

- 401(k) Specialist (N(k)S™)
- Accredited Investment Fiduciary (AIF®)
- CEFEX®
- Certified Plan Fiduciary Advisor (CPFA®/QPFC)
- Nonqualified Plan Consultant (NQPC™)
- 401(k) Rollover Specialist ((k)RS™)

Join professional organizations (e.g., NAPA, ASPPA), and follow fiduciary governance frameworks. Media mentions, awards, and partnerships can also give plan sponsors confidence in your capabilities.

Your website as a leadgenerating tool

In today's digital-first world, your website is more than just a brochure; it's a powerful lead-generation tool. By focusing on clarity, compelling content, user experience, and SEO, you can attract more plan sponsor prospects and increase your inbound requests. Make sure your website reflects the value you bring to the table, and you'll be well-positioned for growth this year and beyond.

Thanks for reading & Happy Marketing! NNIM



Use AI to Level-Up Your 401(k) Practice: A Practical Guide for Advisors

Start small, document your wins, and gradually expand your AI toolkit. Before you know it, you'll have transformed your practice efficiency while improving your work-life balance.

By Spencer X Smith

hat's the highest-value activity you do as a 401(k) advisor? If you're like most of the advisors I work with, it's spending time with prospects, plan sponsors and participants, helping them make better decisions about their retirement future. How much of your day is actually spent doing that, though?

Advisors like you spend way too much time on tasks that, while important, aren't the best use of your expertise. But here's the good news-artificial intelligence tools like ChatGPT and Microsoft Copilot can help free up your time for what matters most. Here's how.

Start With What's Stealing Your Time

Before jumping into AI tools, let's identify where your time is going. Pull out your calendar from last week and look at what actually filled your days. I bet you'll find things like:

- Writing investment commentary for client meetings
- Preparing detailed plan reviews
- Documenting meeting discussions
- Responding to RFPs
- Creating participant education materials
- Managing compliance documentation

While all these tasks are necessary, they're also perfect candidates for Al assistance. Think of Al as your new virtual assistant army, ready to help with the heavy lifting so you can focus on client relationships.

Build Your AI Training Strategy

"But Spencer," you might be thinking, "I barely have time to learn one new tool, let alone train my team on them!" I get it. That's why I recommend starting small with just one tool - ChatGPT is a great place to begin. Here's the simple process I use with advisory firms:

1. Pick one repetitive task (like drafting investment commentary)

- 2. Create a template prompt that consistently gets good results
- Document the process stepby-step

4. Share it with your team
For example, here's a template
you might use for meeting recaps.
Just copy and paste everything
between the quotation marks in
your favorite AI tool of choice.
And yes, I always ask the tools I'm
using to "please" do something.
You know-just in case.

Template: Meeting Recap Documentation

Use this template to quickly generate professional meeting recaps for 401(k) plan committee meetings.

AI Prompt Template

"Create a professional meeting recap for a 401(k)-plan committee meeting held on [DATE] with [COMPANY NAME]. The meeting covered [LIST 2-3 KEY TOPICS].

Please structure the response with the following sections:

1. Attendees

- List all meeting participants
- Note any absent committee members
- Include professional titles

2. Key Discussion Points

- Summarize main topics covered
- Include relevant data points discussed
- Note any significant decisions made

3. Action Items and Owners

- List specific tasks identified
- Assign responsible parties
- Include deadlines

4. Next Steps and Timeline

- Outline upcoming milestones
- Note critical dates
- Include any required preparation work

5. Next Meeting Date

- Confirm next meeting time
- Note any pre-meeting deliverables
- Include virtual/in-person location details

Use a professional but conversational tone. Include specific details about who is responsible for follow-up items and relevant deadlines. Format the response in a way that's easy to scan."

Tips for Use

- Fill in bracketed sections before submitting
- Review and customize output for your specific needs
- Add company-specific details as needed
- Consider including your firm's standard disclaimers

Keep the tone confident but not boastful and emphasize client outcomes. Format the response to be easily customizable for different opportunities.

Focus on High-Impact Areas

Let's dig into more areas where AI can make the biggest difference in your practice:

Investment Commentary: Instead of starting with a blank page, use AI to create a first draft that you can then customize. This alone can save hours each quarter.

Participant Education: Scale your education efforts by using Al to create customized content for different employee groups. One prompt can generate materials for multiple audience levels.

Compliance Documentation: Use AI to create first drafts of required documentation, which you can then review and modify as needed.

Put It into Action

Here's your step-by-step implementation plan:

Week 1: Choose one task to optimize (I suggest starting with meeting recaps)

Week 2: Document your current process and time spent Week 3: Create and test Al

prompts to help with the task
Week 4: Measure time savings

and quality
Week 5: Train team members

Week 5: Train team members on the new process

The key is to start small and build momentum. One advisor I work with started by using AI just for investment commentary. In the first quarter, she saved almost eight hours of writing time. By the second quarter, her entire team was using AI-assisted templates for meeting prep, saving an average of 45 minutes per client meeting.

Remember—Al isn't about replacing your expertise. It's about amplifying it. Every hour you save on routine tasks is an hour you can spend with clients, prospecting for new business, or developing your team.

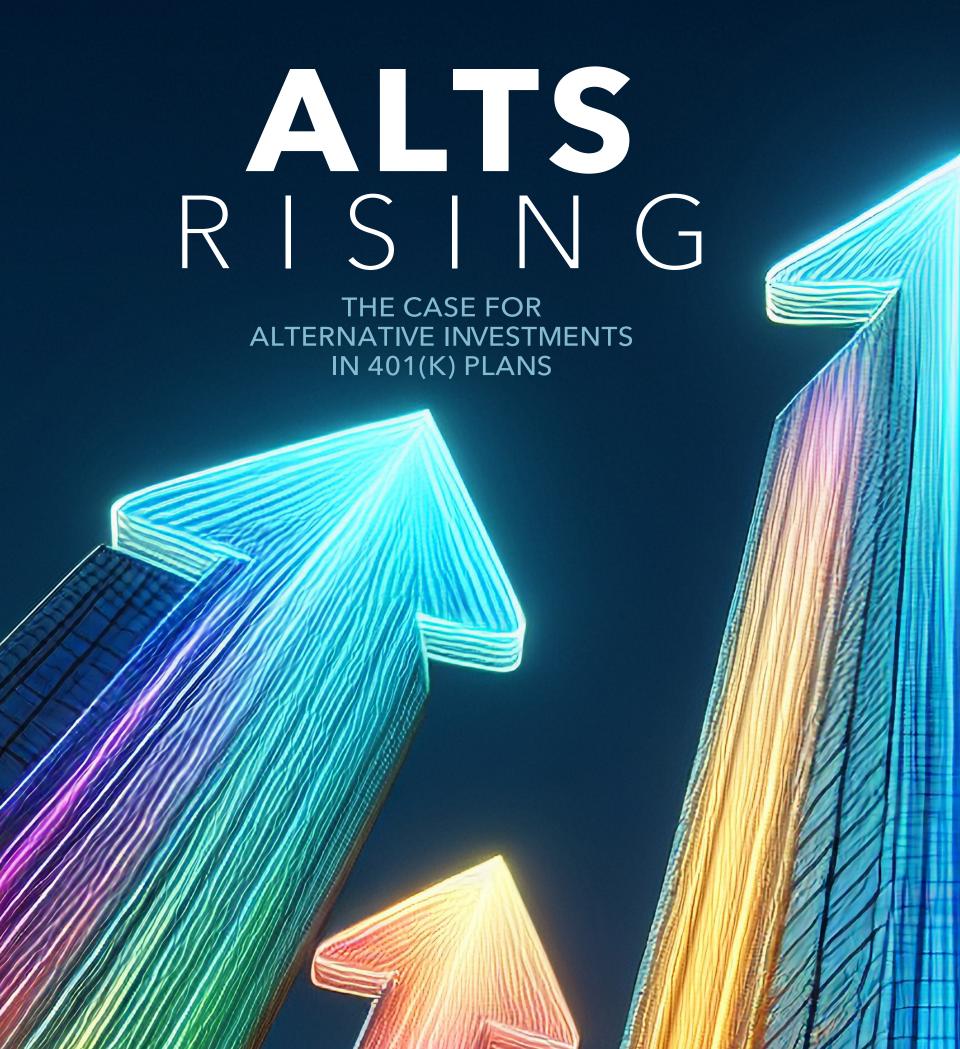
The Bottom Line

The most successful 401(k) advisors I know aren't necessarily the ones who work the longest hours - they're the ones who spend the most time on high-value activities. Al tools give you the opportunity to dramatically increase the time you spend on what matters most.

Start small, document your wins, and gradually expand your Al toolkit. Before you know it, you'll have transformed your practice efficiency while improving your work-life balance.

The future of our industry isn't about Al replacing advisors—it's about advisors who use Al replacing those who don't. Which side of that equation do you want to be on?

Want to learn more? I'd love to hear how you're using Al in your practice. Drop me a note and let me know what is missing from this article. NNTM





"Those non-correlated asset classes sure were correlated during the downturn," one broker-dealer CEO famously said of alternative investments' performance during the 2008 financial crisis.

It succinctly captured their complicated nature and incredible potential, with some touting their democratization and diversifying benefits and others noting the expertise and sophistication needed not only to invest but simply understand what they are and do.

Add in whether they're appropriate to include in retirement plan menus, and the debate gets (much) more interesting.

Defined simply as anything other than stocks and bonds, in theory, they perform independently (non-correlated) from their more-traditional counterparts.

In 2020, the U.S. Department of Labor (DOL) gave one alternative asset class a significant boost by issuing an Information Letter involving private equity's use within professionally managed asset allocation funds, which many saw as encouragement.

Yet, as Judy Ward noted in our summer 2024 issue, uptake is slow, driven by distribution and liquidity issues and the fact that plan sponsors are intrigued but also understandably skittish amid ongoing fiduciary breach filings.

"In the right hands, these assets work wonders. In the wrong hands, they wreak havoc," *The Wall Street Journal's* Jason Zweig wrote in December.

Regardless, "alt" supporters note their role in better risk-adjusted returns in defined benefit (DB) plans for decades, and Yale CIO David Swensen's endowment success when arguing for more defined contribution (DC) plan participant access.

And a new administration, at least seemingly more open to their potential use-including cryptocurrencies-is fueling discussions once again about where and how plan participants find yield.

"Most of the push is at the industry level, but for a good reason," Yaqub Ahmed, Global Head of Retirement and Workplace Advisory Services with Franklin Innovation Research Strategies Technology (FIRST), said. "It's coming from a couple of different sources across the ecosystem. One is certainly that asset managers are promoting it, and we feel strongly it's the right thing to do. Secondly, other key fiduciary constituents are focused on it as well. We've seen a bit more interest from large, institutional plan sponsors that maybe use it in defined benefit plans, but there's some reluctance because of the risk associated with implementation, primarily around fees."

401(k) Fairness

Ahmed also mentioned access, calling it a fairness issue.

"If you think back to the 1980s and 1990s, 401(k)s we're always about bringing Wall Street to Main Street, meaning to individual investors and participants," he said. "It was always about leveling the field. This is a

"401(k) plans are really the ideal place to implement [alts] because you have multi-asset type solutions, whether it's target dates or managed accounts which are now layering in, kind of, 'fiduciary insulation' at a couple of levels of advice, including at the plan sponsor level, consistent cash flow and those types of things," he said. "To us, the 401k is the right place because you have all those infrastructure pieces in place to ensure that with a high probability, they can be implemented with some level of efficiency."

Ahmed's colleague, Kevin Murphy, FIRST's Senior Vice President and head of Workplace Solutions & Strategic Growth, goes further back in his analysis and argument to advocate for alternative investments–mutual fund adoption in the 1950s.

"You only had roughly low singledigit stock ownership across American

••In the right hands, these assets work wonders. In the wrong hands, they wreak havoc.

— Jason Zweig, The Wall Street Journal.

prime example of granting access to private investments, which we think are incredibly important right now when you look at the investment spectrum and the limitations of fewer public companies in the market."

Ahmed added that increasing that access will require "an incredible amount of bold advocacy from key constituents in the marketplace," and operationally, it must be done responsibly to address the participant "running with scissors" issue, meaning strong suitability standards and professional management to ensure there isn't harm done than good.

households in the early 1950s; Now it's upwards of 63% or 64% of stock ownership," Murphy said. "A lot of that is in the 401k and mutual funds. We think there's a parallel with private assets overall and democratizing them for Main Street for the reasons we mentioned. Regarding implementation, the DB comment is spot on. At a very high level, it's the continued 'DB-ification' of the DC plan."

Meaning that just as mutual fund adoption took time and education (and reassurance), so too will alternative investment adoption, and proponents "Some of the barriers are real, and some just need more education," Murphy added. "Liquidity is a real issue ...valuation, obviously, is another one. I think the perception of risk and the fear of litigation, that's another one. I think we [address] that with education and constructing the right risk-reducing and yield-enhancing portfolios, as an example. With that narrative or that education campaign in the marketplace, I think we can start to make breakthroughs."

Old Versus New

Another part of the issue is not only determining whether alternative investments are appropriate in defined contribution plans but which alternative investments—meaning the more oxymoronic "traditional" alternative investments versus cryptocurrency.

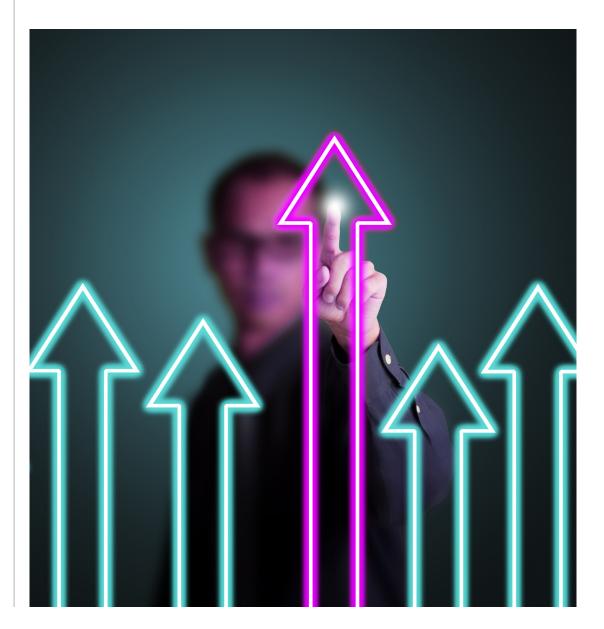
"We think there's a little bit of a baby step mentality when it comes to this, in that you have to figure out a lot of different things that have been a traditional hindrance to adding private investments into a list of plans," LeafHouse President and CEO Todd Kading said, agreeing with Murphy that liquidity is the most significant. "You have to be careful about the different types of investments you put into a retirement plan that could have liquidity issues, even though retirement is supposed to be a 30-plus time horizon. It probably shouldn't be a huge concern, but there is a need to rebalance and things like that."

Strategic Retirement Partners' (SRP) CEO and Co-Founder Jeff Cullen said the liquidity issue is a delicate balance.

"In order to be offered in a 401(k), obviously, you're looking for liquid options," Cullen explained. "Pulling that off in those markets, while continuing to achieve the performance objectives and being able to pass the results of an investment policy statement (IPS) where you're being judged against your benchmark, too much liquidity in order to facilitate being in a plan can jeopardize the IPS if there's too much of a cash drag."

Kading said LeafHouse sees a case for the inclusion of private equity,

Just as mutual fund adoption took time and education (and reassurance), so too will alternative investment adoption, and proponents must first overcome several barriers, including liquidity, valuations, risk, and the resulting fear of litigation.



66If we're barring everybody but high-network individuals and institutions from accessing these markets, we think that could be a problem for the everyday American worker. 99

— Todd Kading, LeafHouse

private credit, and private real estate, but not quite to where they're ready to incorporate specific cryptocurrency-style assets.

"However, that is something that the folks that deal in retirement should be looking at," Kading added. "I read that BlackRock recently said they recommend that individuals have up to 2% of their portfolio in assets like that. It's not something we're completely barring at this point, but we're definitely taking it slow and looking for government direction."

Like Ahmed, he mentioned that DB vs. DC plan access parity is an important consideration.

In October, Allied Market Research reported that the alternative investment funds market was valued at \$12.8 trillion in 2023 and is estimated to reach \$25.8 trillion by 2032, growing at a CAGR of 7.9% from 2024 to 2032.

"It's just becoming a bigger and bigger part of the available investment pool," Kading said. "If we're barring everybody but high-network individuals and institutions from accessing those markets, we think that could be a problem for the everyday American worker. We're trying to look for enhanced returns, diversification, and risk mitigation. We believe all those things could be offered with private markets if appropriately done and always in a controlled environment like a managed account format."

When asked about the demand for alternative investments in retirement plan menu options, he made an important point.

"You have to be careful when you only try to fill a demand, meaning there was nobody sprinting to Washington to say, 'If you would give me an investment that had a targeted date in it, I'm going to put a lot of money towards retirement," Kading argued. "There was

certainly nobody running to Congress and saying, 'Hey, if you took my money and put it in a retirement plan, I'd be really happy.' However, the industry saw the need and stepped up and worked to try to fill what they thought was appropriate. I don't know if the average public understands this enough to have a demand for it. I can tell you that those who understand how private markets and investments work and the benefits they can bring have been asking for this type of solution."

SRP's Cullen compared alternatives in 401(k)s with another solution struggling for retirement plan traction—retirement income products.

"On the in-plan income side, there are insurance wrappers that you can use with any collection of funds," he said. "That's pretty easy, but in the case of products where the actual annuity is the solution, they haven't been successful as stand-alone options. They're only really successful when you bake them into managed accounts, the target date fund, or whatever the QDIA might be. That way, you automatically get people in, but it's a measured approach. You don't want people putting all their money into something they may or may not understand."

"I think it will be the same with alts," Cullen added. "You're going to see alts come via managed accounts. That way, the advisor is going to be able to control and measure the amount of exposure that a portfolio has."

Creative Collaboration

Murphy mentioned one other ingredient he said is crucial to alternative investment availability and adoption within retirement plans–collaboration.

The complexity involved makes it difficult, if not impossible, for one manufacturer, provider, recordkeeper, etc., to handle it all, something the many

moving parts reinforce.

For example, in November, Kading and LeafHouse announced a partnership with South Dakota trust company Alta Trust to launch the Alta Privately Managed Alts Fund, a collective investment trust (CIT).

The CIT investments will include private investments managed by alternative asset and retirement giant Apollo, along with Franklin Templeton. Alta Trust will serve as the CIT trustee.

"The Alta Privately Managed Alts Fund is designed to seek capital appreciation and income primarily through alternative investment exposure," NAPA Net's Ted Godbout reported at the time. "According to the announcement, the CIT may be an appropriate investment for professionally managed vehicles and programs seeking exposure to a combination of private and publicly available income investments."

Plan participants will gain access to institutional private real estate through the Clarion Partners Real Estate Income Fund (CPREX). Clarion Partners is a "specialist investment manager" of Franklin Templeton.

"With the inclusion of CPREX, investors will benefit from access to a fund targeting both current income and long-term capital appreciation managed by Clarion Partners, one the most experienced managers in the real estate investment space," Ahmed said in the announcement. "Democratizing alternative investing for Americans saving for retirement requires bolder advocacy and industry collaboration. This is a major step forward in terms of leveling the field and broadening access."

As we said-complex, but the type of product Ahmed argued is key to personalization going forward.

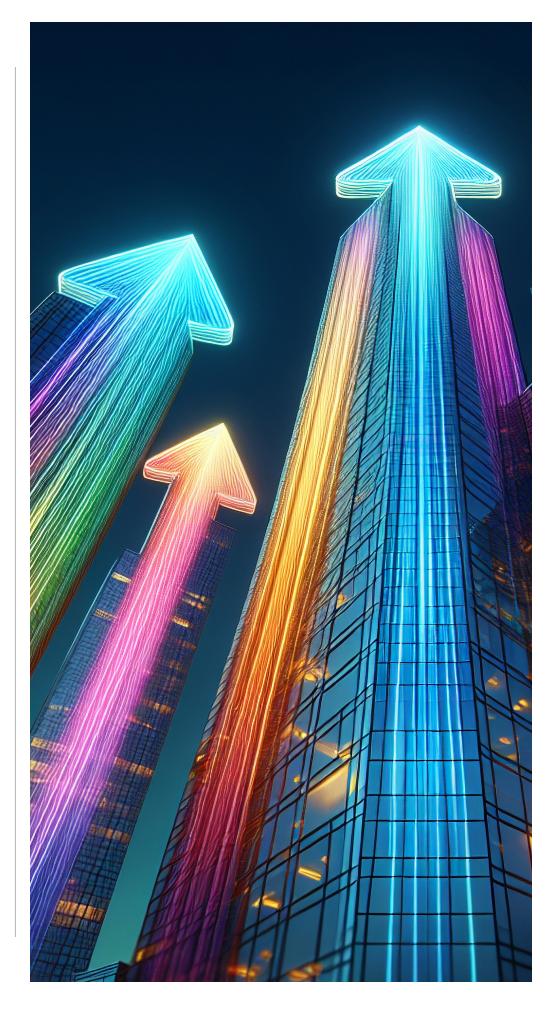
"Just as an example, looking back

— Kevin Murphy, Franklin Templeton

at the Pension Protection Act of 2006, nothing's really changed on the target-date side," he said. "It's like this one-size-fits-all thing, an easy button, that hasn't changed. It needs to change."

"We believe it's the first of its kind, built for the retirement [plan] because it's a CIT, has liquidity and multi-asset classes, and is overseen by a fiduciary," Murphy added. "We feel like it's a real breakthrough in being creative and collaborating in the right way, and really trying to solve for what we see as the barriers to more widespread adoption of these types of products in the DC market today. We hope more will follow."

Claiming that a rising tide lifts all boats, "If we can get more people thinking outside of the box and collaborating, we think it's good not only for our firm but for the overall industry. Ultimately, we're all doing this for plan participants and their outcomes," Murphy concluded. NNTM

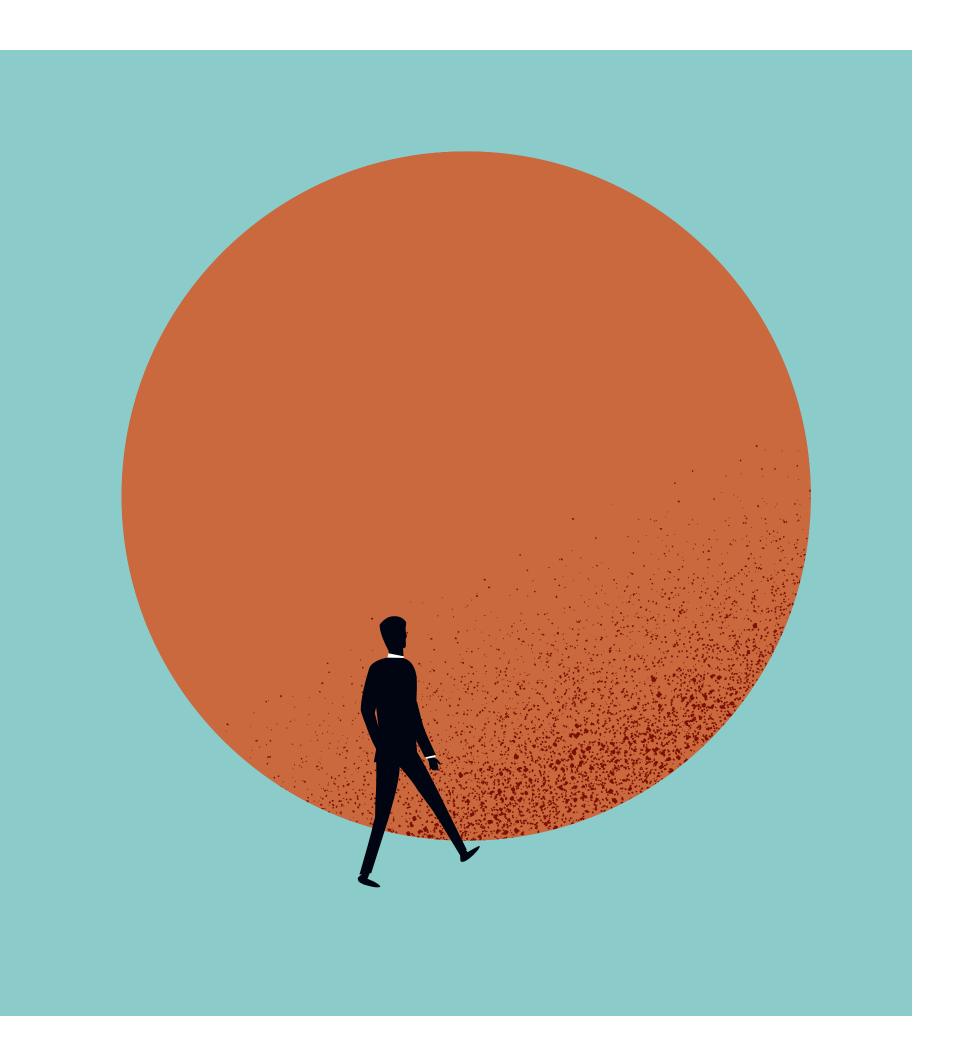


Client Engagement

Steps Steps

WHAT'S THE BEST WAY TO APPROACH AND GET STARTED WITH A NEW PLAN SPONSOR CLIENT? WHAT FIRST IMPRESSION SHOULD RETIREMENT PLAN ADVISORS CONVEY? MORE IMPORTANTLY, HOW DOES EACH PARTY GET THE MOST FROM THE RELATIONSHIP EARLY ON? WE ASKED SIX ADVISORS ABOUT THESE ISSUES AND MORE

BY JUDY WARD



Feeling a little nervous when working with a new plan sponsor client is natural.

"I have a first meeting with a new client tomorrow, and even after 20 years, there are always butterflies before that first meeting," said Erik Daley, managing principal at Multnomah Group in Portland, Oregon.

He wasn't focused on thinking about what he'd say, though.

"The most important thing I'll do in that first meeting is listen to what is said and what is not said by the committee members, and I'll notice the non-verbal communication," he observed.

It's how Daley will determine how best to work with these committee members to improve their plan.

"The hardest part about the work that we do is not finding the right answers: The path to things like getting participation to where it needs to be, or doing a recordkeeper search, is well known," Daley said.

The real advisory skill is explaining the right answers to committee members in a way that they'll understand, showing them a pathway to making the improvements they want, and helping them agree on prioritizing which changes to make when. It won't be long before a client begins expecting its new plan advisor to start improving the plan in demonstrable ways, he said.

"You really want to get to moving the needle within a 12-month period of time," he added. "Clients do not have a lot of patience—nor should there be a lot of patience—for consultants spinning their wheels. We're not a required service provider, so the sponsor is hiring us to improve the plan. And I think that after 12 months, you should be down the path of improving the plan for the participants and the plan sponsor."

Daley and five other advisors talked about the impactful steps that advisors can take in the first months of working with a new client.

Address An Urgent Issue First

During the first few months of working with a new client, is it better for advisors to spend their time doing an in-depth, standardized look at plan health or to focus instead on addressing a pressing issue the sponsor has identified?

"For the most part, you are going to use a standardized process to onboard your clients, to ensure you collect all of the information you need as a fiduciary to assist your client effectively," Robert Massa, managing director, Houston market and retirement practice leader at Prime Capital Investment Advisors, said. "But if the new client has a serious problem that needs to be addressed immediately, then you may have to drop everything and just focus on that first."

For example, he started working recently with a 401(k) sponsoring employer that is in the process of acquiring a company with a defined benefit plan. The employer urgently needed to understand issues such as the actuarial assumptions used to calculate pension funding projections.

Daley said the larger the plan, the more likely Multnomah Group will be hired as part of a procurement process



to fix an acute issue that needs shortterm resolution. The clock starts ticking as soon as that type of engagement begins, and the employer wants its new advisor to solve the problem.

Typical examples of this type of scenario include a sponsor who is very dissatisfied with its current plan recordkeeper and wants to find a replacement soon, cases in which an annual plan audit has identified operational errors resulting from gaps in the employer's oversight, or an employer in the process of making an acquisition.

When there isn't an urgent issue, Multnomah Group moves straight to looking in depth at where a plan is more generally, as well as the plan sponsor's current oversight and where oversight may need strengthening.

Help Oversight Run Smoothly

In the early days of working with a new client, Mark Laughton likes to "geek out" on the plan documents. He and his colleagues go through all of it closely, to make sure that what a sponsor is doing operationally actually matches up with what the plan documents say it will do.

Laughton, a senior vice president at HUB Retirement & Wealth Management in Sacramento, California, said common issues uncovered at this point include using an incorrect definition of compensation to calculate contributions and not following the participation-eligibility rules specified in the plan document.

Massa spends time in the weeds, looking for common operational errors, such as using the incorrect compensation definition. His team and the new sponsor client often meet with the payroll provider to ensure that contributions are calculated correctly based on the plan document's definition of compensation.

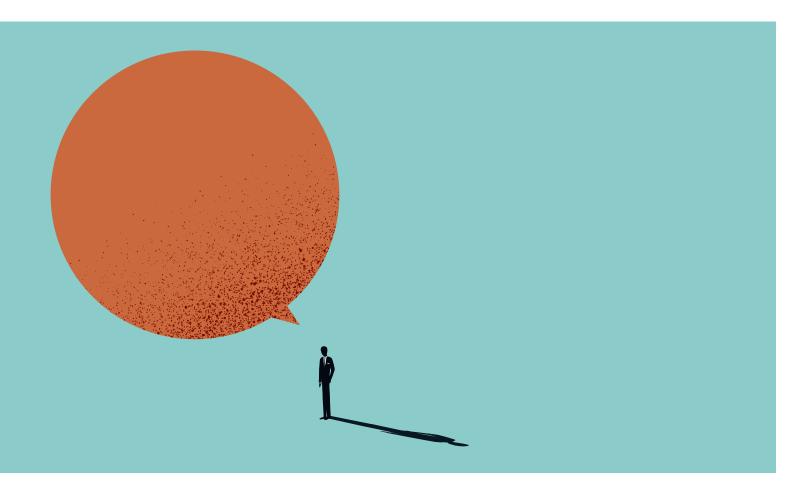
If not, the payroll systems can be fixed to ensure consistency, and the advisor can help guide the sponsor in using the Internal Revenue Service Voluntary Correction Program to resolve its operational mistake.

To help ensure that the fiduciary aspect of plan oversight will run smoothly in the future, Brio Benefits Consulting does fiduciary training for committee members early in a new engagement. The advisor wants committee members to understand what it means to be a fiduciary, their specific responsibilities, and their potential liability.

"Oftentimes, we see that they don't understand what their responsibility is, and they have a false sense of security—they often think that they are not a fiduciary when they are," said Matthew Compton, New York-based managing director of retirement solutions at Brio, an Alera Group company. "We explain to them that if you look at the case law, whether you are a fiduciary is determined by your actions. The trainings typically are a bit eye-opening for the committee members."

Scrutinize Admin Fees

Massa always benchmarks fees at the beginning of a client relationship



because he wants to feel certain that they're reasonable. He gauges the recordkeeping fee, seeking to understand not just what the fee level is relative to benchmarks but why it is at that level. If the fee is higher than average, are the participants and plan getting something worthwhile for that extra money, or not?

"You want to benchmark early, and you want to benchmark with your eyes open," Massa said. "You want to look at, what is the comparable rate nationally? And then maybe you want to get one or two 'blind' quotes."

In a process he calls an RFQ (quote request), he'll give recordkeepers he contacts some basic information about a plan, without revealing the employer client's identity. Even if the new client has little interest in switching recordkeepers, the information gathered could help the advisor to accurately gauge the marketplace and possibly negotiate a fee reduction or service increase.

Within the first six months of a new engagement, Brio looks in depth at a plan's administrative fees. It uses third-party tools to benchmark the recordkeeping fee, its advisory fee, and the TPA (third-party administrator) fee if the plan has a TPA.

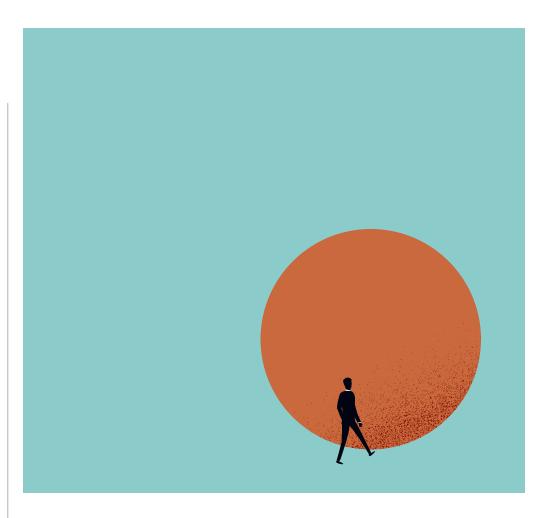
The reality is that 401(k) recordkeeping fees have become a race to the bottom, Compton said, and in some instances, recordkeeping services have deteriorated along with that. Brio may then use the benchmarking information to renegotiate the current recordkeeper's fee if it's a little high.

If the fee benchmark is substantially high for the level of services that participants and the plan receive, Brio may recommend that the plan start a recordkeeper search process.

Understand Organizational Priorities

Compton tries to get a good feel for a new client's vision and overall strategy for its employee benefits as a whole.

"If the employer says, 'We just need to offer a retirement plan to be competitive with other employers,' then we know that they are probably not going to go down the path of autoenrollment and auto-escalation, and they're probably going to have a tight budget for the plan," Compton said.



"That's very different than an employer that tells us they want to help employees be able to replace at least 80% of their pre-retirement income when they retire."

The two philosophies point to fundamentally different tracks of impactful work for the advisor.

When he wants to learn about a new client's priorities, Laughton doesn't ask simple yes-or-no questions. He asks open-ended questions: What does that sponsor see as its pressing issues? And with many American workers currently struggling with their finances, what is the employer doing to help its employees with their financial stressors?

As the new client's employees retire, Laughton also wants to gauge whether the mood is more one of excitement than concern about being ready. So he'll ask the employer: How many employee retirements have you celebrated in the past 90 days, and how did you celebrate?

Illuminate Participant Impact

Gerald Wernette, a Troy, Michiganbased principal at Rehmann Financial, wants to help a new sponsor client understand the impact its choices about the plan have had on that organization's employees. Early on, he and his colleagues closely examine how plan participation and savings rates break down by different employee demographics. However, they also like to go a little deeper and find out how the company's employees feel about their plan. They start by talking with the employer's staff members who work daily with the plan because they regularly get employee feedback about it.

Sometimes, they'll also directly ask the employee base in a written survey or a town hall-style group meeting. He said that employee feedback often gets pretty frank about things like the match's sufficiency.

Then, when Rehmann makes recommendations for initial changes, it projects the future impact on participants' outcomes—a step that Wernette said he thinks advisors don't do enough.

Making some tweaks Rehmann recommends for a plan's investment lineup could save participants an average of 10 basis points annually, for instance. However, the key to getting sponsor buy-in is also projecting the long-term difference the lower expense will make to an average participant's accumulated savings.

"It's really important to make sure that you have a plan health report, so you have that as a benchmark moving forward. If you don't have that, it will be very hard to show later if you've made any difference as the plan advisor."

"And we will show them the cost of making this design change we're suggesting and the projection on the impact that this will have on your participants' retirement preparedness," Wernette said. "One of the biggest struggles for plan sponsors is this feeling of, 'I'm spending all this money, and it's going down a black hole: I'm not getting anything for it.' I think you've got to show sponsors what their 'spend' is going to get them, and the benefit it will bring for their workforce."

Produce a Plan Health Report

The typical plan sponsor doesn't know what they don't know, Wernette said. So he and his team closely examine a lot of plan data and then produce a plan health report within the first three months of a new engagement.

For example, at the time of his interview, Wernette and his team were working on a plan health report for a new client, and they intended to suggest several initial changes. Those included a shift from managed accounts to target date funds as the current automatic enrollment default investment and a move for some plan investments to collective investment trusts or lower-cost mutual fund share classes.

This plan also currently does not correctly utilize plan forfeitures, so the sponsor needs help implementing a proper use for that money. This employer has staff spread throughout the country, so Rehmann Financial was thinking through an effective approach to start educating employees, given the geographic challenge.

Compton said Brio creates a "blueprint" for new clients that examines the plan's current health and outlines the work the advisor will do to improve it. This report establishes the plan's status as the advisor's work began.

"It's really important to make sure that you have a plan health report, so you have that as a benchmark moving forward," Compton said. "If you don't have that, it will be very hard to show later if you've made any difference as the plan advisor."

Lay the Engagement Groundwork

As an engagement starts, Laughton and his team want to motivate employees to try the one-on-one financial wellness coaching they offer.

They've had good results starting with group meetings that introduce the team and the coaching program to a new client's employees, and that also includes a raffle for employees who attend the meeting and complete an initial financial wellness assessment; iPads and YETI Coolers, in particular, have been strong raffle-prize motivators for people to attend and do the assessment.

If the employer client agrees to provide raffle prizes like those, Laughton said, typically 60% to 75% of employees who attend a group meeting will take the assessment, and 20% to 30% subsequently will attend a one-on-one coaching meeting with HUB. The assessment takes less than five minutes and includes 14 basic questions about key topics such as emergency savings and debt levels.

To motivate an initial group of employees to try out the one-on-one coaching that Heffernan Financial Services offers, Sean Kelly sees employer clients having some success with offering employees "de minimis" financial incentives such as a raffle or small gift card, which SECURE 2.0 newly permits to incentivize plan participation.

Other employers have created an individual "lifestyle spending account" for employees, and then make a contribution if an employee attends a coaching session, said Kelly, financial advisor and vice president at Heffernan in Irvine, California.

"Then, once we start that program and have some one-on-one coaching days onsite, the positive word of mouth just starts to travel among the employees," Kelly added. "People see that we're never trying to sell anything in these meetings. We are just listening and trying to help people organize their finances."

Reach a Gameplan Consensus

Multnomah Group has what it calls a Plan Forward strategy to continually enhance a plan client over time. During the planning stage, it works with the committee to reach a consensus on priorities and timing.

"Usually the big issue for committees is not that they disagree on what needs to be done with the plan: They disagree on what the priorities are," Daley said. "You try to agree on the priorities as early as you can, but until you've got the plan operationally clean, that's hard to do. Once we're at that point, we look at how large a priority is each issue and what paths could we take to address this issue? Getting that agreement on priorities is the hardest part."

When learning about a new client, it's essential to get a feel for whether that organizational culture leans more toward making changes quickly or gradually. Early in a new engagement, after talking through potential changes with a sponsor, Heffernan Financial establishes a project timeline focused on the areas for improvement that will be acted on in the near term.

The timeline spells out the sequence of changes to be made, with a specific timeline of when work on each change will get done, what the process is, and what the sponsor's obligations will be for each change being made, Kelly said. Often, that timeline will cover changes to be made for the next year, but depending on the situation, the timeline may be as short as six months or as long as 18 months.

"Some clients like to do it all at once," Kelly concluded, "and some prefer to take changes one step at a time." NNTM

Judy Ward is a freelance writer specializing in retirement plan-related subjects.

The Increased Retiree

Debt Dilemma

IT'S HARDLY NEWS THAT MORE AMERICANS ARE RETIRING WITH DEBT PRESSURES, RISKING THE AFFORDABLE QUALITY OF LIFE THEY'VE WORKED SO HARD TO ACHIEVE. HOW CAN RETIREMENT PLAN ADVISORS—SPECIFICALLY—HELP?



Stacy League does extensive financial planning with pre-retirees, and she's noticed an uptick in the amount of debt many have. The older people she sees with hefty debt often prioritize maintaining a nice lifestyle, and frequently, they're also still helping financially support their adult children.

"Maybe the long-term solution is to get to individuals when they're younger and educate them about things like budgeting," League, managing director at Strategic Retirement Partners in Austin, Texas, said. "But for those people who are already close to retirement, the most we can do is to help them get to a place where they can at least retire comfortably. For them, knowing that they can actually accomplish that, and understanding what they have to do to accomplish it, is what's important."

But don't expect financial planners working on the wealth management side to coach average pre-retirees on paying down the debt, observed Brad Arends, co-founder and CEO at intellicents inc. in Albert Lea, Minnesota.

"The problem is, the typical financial planner doesn't want to work with anybody with less than seven figures of investable assets. But the average American worker doesn't have that, and also never learned about financial planning in school, so now has been abandoned," Arends said. "It's going to be up to us—the 401(k) industry—to fix this."

High-Risk Debtors

Financial liabilities are a vital, but surprisingly, often ignored retirement income security issue, according to an August 2024 EBRI Issue Brief from the Washington-based Employee Benefit Research Institute (EBRI), "Comparing Trends in Debt Held by American Families With Older and Younger Family Heads."

Most of the focus in traditional retirement planning has been on how much in assets people have accumulated in their defined contribution plan and their defined benefit plan if they have one, said Craig Copeland, the paper's

author, and director of wealth benefits research at EBRI, in an interview.

How much debt they've accumulated gets a lot less focus (the paper utilized 2022 data from the Federal Reserve's *Survey of Consumer Finances* to look at debt.)

"It's not just about how much someone has accumulated on the asset side of the balance sheet," Copeland said. "It's also about what someone has accumulated on the other side of the balance sheet, too. They may have a significant amount of assets they've accumulated for retirement, but a lot of it may end up going to paying off debt. That's where workplace financial wellness programs can really help, to help people also see the other (liability) side of the balance sheet, and to think about all of that together."

Debt levels among Americans 55 and older have increased almost every year for the past two decades, and the median debt (of all types) stood at \$61,000 in 2022, EBRI found. The share of American families with heads ages 55 or older who had debt of any kind reached 66.8% by 2022, 13 percentage points higher than the 53.8% level in 1992. In addition, EBRI found 77.2% of families with heads ages 55-64 held debt in 2022.

EBRI found that the increase for the 55-plus group has been driven in recent years by families with heads ages 75 or older. The percentage of those 75 and older with debt rose from 41.3% in 2013 to 53.4% in 2022. The percentage of families with heads ages 75 or older having debt, specifically credit card debt, is at the highest level since 1992.

Twenty or 30 years ago, someone that age typically had paid off their mortgage years earlier, and not as many had credit card balances that

they carried into retirement, Copeland commented.

Today, mortgage amounts are much larger due to the higher cost of housing, and people often take out a mortgage later in their working lives. He added that the rise of credit card debt among people 75 and older partly stems from people using credit cards to pay basic living expenses and partly from people using credit cards to live beyond their means.

"That is the way that more and more people started to live their adult lives, and they're continuing that into retirement," Copeland said of people living beyond their means. "But others are doing it because they have to, to live. And once you get into that cycle, as an older person, it's very hard to get out of it because their income is fixed."

It's important to remember that not all debt is equally problematic, as pointed out in a September 2023 paper from the Center for Retirement Research at Boston College (CRR), "What Are the Implications of Rising Debt for Older Americans?"

For example, carrying a low-interest rate home mortgage can be a savvy, low-risk financial move, said Angie Chen, a senior research economist and the assistant director of savings research at CRR in Boston, who co-authored the paper. However, high interest rate debt has driven a lot of the growth in debt among people 65 and older, particularly credit card debt, Chen said in an interview.

In their paper, the CRR researchers looked to separate which groups of older Americans are at higher risk with the debt they carry. The authors utilized debt data from the Federal Reserve's Survey of Consumer Finances and the University of Michigan Health and Retirement Study. They classified high risk using three criteria:

- Debt payments totaling 40% or more of that household's income
- A ratio of debt to assets at 50% or higher
- Carrying revolving credit card debt or other non-secured debt

A substantially higher percentage of older Americans are now in the high-risk category of debt holders, compared to the year 1989, the CRR research found 43%, a jump from 25%. Chen said that speaks to the financial vulnerability many Americans age 65 and older now face.

The researchers identified four specific subgroups of high-risk older borrowers. The largest group is the

"financially constrained" cohort, which makes up 33% of high-risk borrowers. People in this group mostly fall into the lower wealth tercile. Thirty percent struggle to pay essential expenses, 86% have credit card debt, and 11% have medical debt.

The second high-risk group is labeled as "credit card borrowers," who make up 26% of the high-risk group. They typically fall into the middle wealth tercile, so they have no apparent ongoing need to borrow, but 96% hold revolving credit card debt.

The "too much house" cohort comprises the third high-risk group (at 19% of the total), typically falling into the low or middle wealth tercile. Their housing debt equals an average of 60%

of their home value, and many have experienced a large decline in their home's value since they purchased it.

CRR classifies the fourth high-risk group as "wealthy spenders," making up 23% of the total. This group falls into the high wealth tercile, but 26% have a debt-to-income ratio of 40% or greater. Eighty-three percent have credit card debt, and 36% have a second home.

"These four high-risk groups look very different, and if you're trying to find a solution for each of them, they would each require different solutions," Chen said.

The financially constrained group needs coaching on budgeting and debt consolidation, but their need for more resources also means they would benefit from expanding means-tested programs such as Supplemental Security Income (SSI), which currently has extremely low earnings and asset thresholds.

The second group could benefit from education explaining the downsides of revolving credit card debt, as well



as help build up their emergency savings. The third group may need to refinance their mortgage or downsize to a more affordable home. The fourth group needs to get a handle on their discretionary spending, and many of those who own a second home may need to sell it.

It's 100% an Emotional Thing

When intellicents' certified financial planners (CFPs) talk with pre-retirees about their financial stressors, debt ranks first. Having too many credit cards and too much credit card debt is an enormous issue, Arends said. Recent inflation has only made the debt issue worse.

"Inflation definitely is kind of the 'silent killer' there," Arends said. "It has had an enormous impact on the financial security of the average American worker. They're just not accustomed to high inflation because they got used to 2% inflation."

Despite inflation, many kept buying at the same level, not adjusting their spending accordingly, so they've built up credit card debt.

For a workplace financial planning program to benefit pre-retirees struggling with debt, they first have to trust the coaching team. Regular one-on-one meetings have helped 401k Plan Professionals build trust, said Virginia Ryan, an investment advisor representative at the Edina, Minnesotabased advisory firm.

The advisory firm typically begins with a group meeting and then moves to 30-minute, one-on-one virtual or inperson appointments.

"It truly does start with questions and answers on a one-on-one level," Ryan said. "People's financial stories differ so much, and their level of financial literacy differs so much: They can be wildly different, despite people having the same education or job title. And it sometimes is like a therapy session, so a one-on-one meeting works better. It is emotional, and some people cry."

Arends said everyone feels sensitive about people discovering their debt problems, and people may hesitate to share that information in a worksite financial planning program.

So, it's important for the advisory firm offering the program to give the employer only aggregate data on employees,



66It's 100% an emotional thing. Being in debt can be really isolating, especially as people get older. But I think that having a plan, in its own way, gives people freedom and takes stress off of their shoulders.

not any data on individual employees' finances, and to explain to employees that the information they share is confidential.

When she starts financial coaching, Veronica Karas always encourages people to tell her the whole truth about their financial situation, whether good or bad. She needs all this information to give them good advice, explains Karas, a Lake Success, New York-based principal at CAPTRUST.

The worst thing that someone in debt trouble can do is not disclose their debt, and then the financial coach puts together a retirement plan based on that person having no debt. If the person then retires and utilizes that plan while also having to pay off the debt that wasn't included, their assets inevitably will get depleted faster than anticipated.

"The biggest thing I tell people is, 'Just lay it all on the table,'" Karas added. "Because there are few debt problems that can't be solved."

League always encourages preretirees to focus on three fundamental financial goals: not carrying debt into retirement, building up emergency savings so they do not have to go into debt when unexpected expenses pop up, and keeping saving for their retirement.

"You have to focus on all three of those things," League said. "As people get close to retirement, managing their debt is equally as important as managing their asset allocation."

Asked about the main misconception pre-retirees frequently have about debt, Ryan pointed to the belief that it's normal for people to have debt throughout their lives.

The truth is that there's good debt, and there's bad debt, she said. Good debt (such as a mortgage) will grow in value so that people will get value out of it later. Bad debt is unsecured and won't grow in value, and its weight sits on people's backs.

Financial coaching for a pre-retiree in debt leads to putting together a retirement game plan and a budget that includes paying down that debt. When people realize the sacrifices they'll need to make to resolve their debt problem-for many, working a few years longer than they hoped, cutting back meaningfully on their spending, or bothit can be challenging.

"It's 100% an emotional thing. Being in debt can be really isolating, especially as people get older," Karas said. "But I think that having a plan, in its own way, gives people freedom and takes stress off of their shoulders. The biggest thing for them at that point is feeling like they have a partner (the financial coach) who'll help them to tackle it. That's the motivating aspect. If you can come up with a plan, people really like the idea that there's a light at the end of the tunnel."

When she helps pre-retirees in debt with their retirement planning, League thinks of it like going on a journey.

"I always tell people upfront, 'You need to know that the end result may not be what you're hoping for. I'm not going to sugarcoat it because it would be doing the people I'm working with a disservice if I did sugarcoat it," League said. "I tell people, it's about choices. I help them to understand their choices, and they realize, 'I do have choices: I can buckle down and work a few more years and pay down my debt sooner, or I will really have to cut down on my expenses in retirement.' Neither one of those things is really fun, but what most people I work with tend to do is work longer than they'd planned."

Why Am I Doing This?

Helping pre-retirees with their debt problem also means helping them avoid getting into additional problematic debt in the future. Karas said people who get into multiple debt cycles have behavioral habits related to their debt that they may not fully realize. The key is cutting off that behavior.

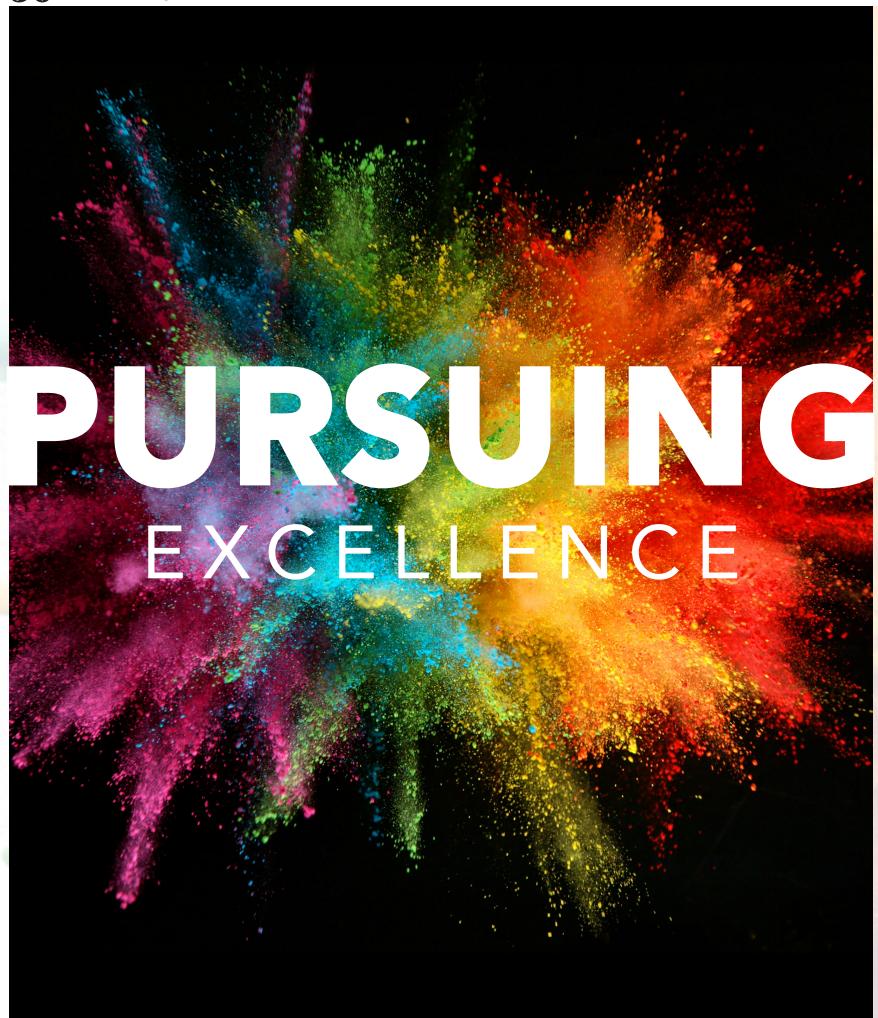
She tells people that if the money is not in their checking account, then they don't have the money to spend, so they don't spend it. Asked about the most common problematic money habits she encounters in these cases, she mentioned three: having no budget whatsoever; using expensive purchases as a reward behavior, such as splurging on a vacation after losing weight; and people having a lack of awareness that money is a finite resource for them.

Ryan has taught financial literacy classes to students based in part on a presentation developed by Brooklyn Park, Minnesota-based nonprofit BestPrep that explains four basic types of personalities when thinking about money.

The first personality type is "money vigilance," which refers to someone who is frugal and organized about personal finances and may use spreadsheets to track their budget. The second is "money avoidance," when someone never wants to think about their spending and has no idea how much they spend or save. The third type is "money worship," meaning someone focused on growing their money and who does not want to spend any money unnecessarily. The fourth is "money status," meaning someone who regularly spends money on things that may be unnecessary but that they believe increases their status.

"I use those ideas to help people get in touch with the idea of behavioral finance and to help them take that minute before spending money to ask, 'Why am I doing this?'" Ryan concluded. "It's about getting into that mindset of questioning whether they really need to spend money on a particular purchase, or not." NNTM

Judy Ward is a freelance writer specializing in retirement plan-related subjects.



Introducing NAPA's Top Women of Excellence for 2024

BY JOHN SULLIVAN

orget pursuing—they've achieved it. We're proud to feature the top Women of Excellence, the best of the best who continue to push the industry forward and set the bar higher for the retirement plan industry as a whole.

If you've noticed a change from the Top Women Advisors of years past, you're not alone. After receiving input from interested parties and our Leadership Council, we expanded the list of winners to include non-producing, licensed relationship managers primarily focused on managing relationships and the retention of clients.

That change in the title (from "NAPA Top Women Advisors") and categories (the addition of "MVPs") brought a RECORD NUMBER of nominees—almost 800.

What didn't change was the selection process. This year, as in years past, the nominees were asked to respond to a series of quantitative and qualitative questions about their experience and practice, accomplishments, contributions to the industry, the state of workplace retirement plans, and how they give back.

A panel of judges reviewed and scored the questionnaires over several weeks and selected the women we honor this year in three separate categories.

- CAPTAINS—Focused on the growth of the organization and business.
 They are principals, leaders, owners, and producing advisors.
- MVPS-Non-producing (possibly) licensed relationship managers primarily focused on managing relationships and the retention of clients.
- RISING STARS—They have less than five years in the business and are either emerging team leaders or new producers.

We created the NAPA Top Women Advisors—now the NAPA Top Women of Excellence—accolade in 2015 to acknowledge the contributions of women making significant contributions to the retirement industry and bringing excellence to the profession.

It's by far the most deliberative of the industry accolades we showcase, beginning in May with the nomination process, continuing through September with the voting process, and finally announcing the winners in October.

The accolade was met with initial resistance, with many women advisors rightly fearful that a separate category would diminish their achievement and give the impression they couldn't directly compete.

It was (and is) a valid concern, yet as the years progressed, a new generation of women advisors emerged and routinely remarked on the list's inspiring nature. It's one reason the "Rising Stars" category is so popular.

There's still a long way to go in achieving proportional representation in all facets (management included) of the field, but the progress is undeniable, as this list illustrates.

As always, we extend a big thank you to the judges' panel for generously volunteering their time and expertise, the NAPA Firm Partners who nominated these outstanding individuals, and our appreciation for the hundreds who were nominated and submitted applications.

So, CONGRATULATIONS (!) to those recognized on this year's list for raising the bar for the industry, the excellence they bring, and – most importantly – the difference they make in the retirement security of millions of Americans!

CAPTAINS

AMY ADELMAN

Wright LaHaie Jarvis

KARIN ALVARADO

Osaic Wealth, Inc. (BD/RIA)

KRISTI BAKER

HUB Retirement and Wealth Management - Indianapolis, IN

BERYL BALL

CAPTRUST

JESSICA BALLIN

401(k) Plan Professionals

PAM BASSE

NFF

LAUREN BAUER

Merril

CARLY BELL

Creative Planning Retirement Services

ERICA BLOMGREN

CAPTRUST

JULIE BRAUN

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LISA BUFFINGTON

Marsh McLennan Agency - Northeast Region

LAUREN BUMP

Gallagher

DEANA CALVELLI

NFP, an Aon Company

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Modern Wealth Management, LLC

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VALERIE DIGENNARO

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SageView Advisory Group

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CAPTRUST

DEVYN DUEX

CAPTRUST

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CAPTRUST

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Raymond James/The Mahoney Group

NICHOLE LABOTT

SageView Advisory Group

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Merrill

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World Investment Advisors

ALICIA MALCOLM

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SHANNON MALONEY

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Keys to Innovation in Defined Contribution Investing

Alternative investment and lifetime income solutions are key to the evolving landscape of defined contribution plan investment innovation.

By David N. Levine

he universe of investment solutions for defined contribution plans continues to evolve. In recent years, significant attention has focused on the evolution of investment vehicles—from mutual funds to collective investment trusts, separately managed accounts, and other investment vehicles.

However, innovations involving investments held in these vehicles are increasingly on the radar.

In 2024, based on my experience advising plan sponsors and designing new solutions, the role of alternative asset classes and lifetime income solutions in defined contribution plans received significant attention and will likely continue to be a focus area in 2025. A brief primer on these two types of investments is as follows:

• "Alternative" Asset Classes.

Defined benefit pension
plans and high net worth
investors (including individual
retirement accounts) have
long invested in "alternative"
investments such as private
equity, private real estate,
private credit, infrastructure,
and venture capital. However,
because of these investments'
structures, they have often
been excluded from defined
contribution plan lineups.

At the same time, with more investments moving to vehicles that are not traded on a stock exchange or similar market, the portion of the United States and global economy accessible to defined contribution plan investors has shrunk. Further, it is often noted that the long-term returns of many of these alternative investments can make them a valuable addition to portfolios.

• Lifetime Income Options. Defined benefit plans are subject to ERISA and Internal Revenue Code requirements that require the default form of benefit payment to be lifetime payments over a participant's (or participant and a beneficiary's) lifetime. Many defined contribution plans have either never excluded lifetime income options or eliminated them under IRS guidance and the Economic Growth and Tax Relief Reconciliation Act of 2001 provisions. However, as the focus is on helping participants ensure their retirement assets do not run out during their lifetime, a new wave of lifetime solutions has emerged in the market.

An advisor can provide significant insight and guidance to their clients when evaluating these potential innovations for their lineup. Considerations to keep in mind may include:

- Role of Innovative Solutions.
 A core question an advisor can provide insight on is how innovative solutions fit into a retirement plan lineup—whether through a plan's default investments, such as target date funds or managed accounts or as an additional option available in the plan.
- Structure of the Solutions. Whether an alternative asset class or a lifetime income option is under consideration, how the innovative solution integrates into the plan can be a key consideration. In the context of a lifetime income solution, the solution could be integrated into an existing solution such as a target date fund or managed account, a standalone investment option in a plan, or offered in another form-such as an "outside the plan" distribution option. Similarly, in the context of an alternative asset investment. the alternative asset may be a sleeve of an existing investment (most commonly a default investment vehicle

⁶⁶Because each innovative lifetime income or alternative investment solution can vary, plan advisors can play a key role in educating and advising plan fiduciaries about the various ranges of availability and portability of these solutions.⁹⁹

like a target date fund), part of a managed account, or inside another vehicle or structure. Because there are many choices and structures, an advisor can serve as the sherpa for plan fiduciaries exploring these innovative structures.

Availability and Portability.
 A common question raised by plan fiduciaries is how a solution under consideration would be impacted in the event of a change of recordkeeper or retirement platform. Some solutions that integrate alternative investments or lifetime income are woven

into vehicles available across a wide range of recordkeeping platforms. Other solutions may not have the same degree of flexibility. Concerning lifetime income, SECURE 1.0 created some flexibility in allowing for the distribution of discontinued in-plan lifetime income solutions that a plan may or may not consider making available. Similarly, many alternative investment vehicles available to defined contribution plans have extensively considered liquidity and other features. However, because each

innovative lifetime income or alternative investment solution can vary, plan advisors can play a key role in educating and advising plan fiduciaries about the various ranges of availability and portability of these solutions.

Alternative investment and lifetime income solutions are key to the evolving landscape of defined contribution plan investment innovation. Because of their knowledge, advisors are well-positioned to educate and advise their clients about the various and unique features of each of these solutions. NNTM

An 'Historic' Excessive Fee Suit, Supremes Take Up ERISA Burden of Proof Case, While Some (More) Forfeiture Reallocation Suits Fall Short

Here's What You Really Need to Know about emerging trends in ERISA litigation

By Nevin E. Adams, JD and Bonnie Treichel

ere are key litigation points to consider about recent cases:

- A record settlement was reached in an excessive fee case where the plan sponsor fiduciaries continually failed to remove the underperforming target date funds.
- The United States Supreme Court has agreed to hear a case regarding which party bears the burden of proof in Employee Retirement Income Security Act (ERISA) cases; the answer to this question may impact the future of ERISA litigation.
- Forfeiture reallocation suits continue to emerge, and the results of such cases continue to be mixed, yet consistently are considering forfeiture decisions to be fiduciary decisions.
- Pension risk transfer lawsuits continue to be filed, specifically targeting transfers to a particular provider.

Let's dive in.

Supreme Court to Weigh in on ERISA Burden of Proof Case

Participant-plaintiffs in a long-standing excessive fee suit have convinced the United States Supreme Court to consider a case that could resolve the question of which party bears the burden of proof in ERISA litigation.

Specifically, the case will address which party bears the burden of proof once an injury has been established. Federal district courts historically have been split on the issue as the Eighth and Ninth Circuits have favored the defendants, while the Second, Third, Seventh, and Tenth Circuits have "required plaintiffs to allege additional elements to state a claim."

The Department of Labor (DOL) has weighed in suggesting that the fiduciary defendants should have the burden of proof. Practically speaking if this question is resolved, the answer may impact the future of ERISA litigation and the number of cases

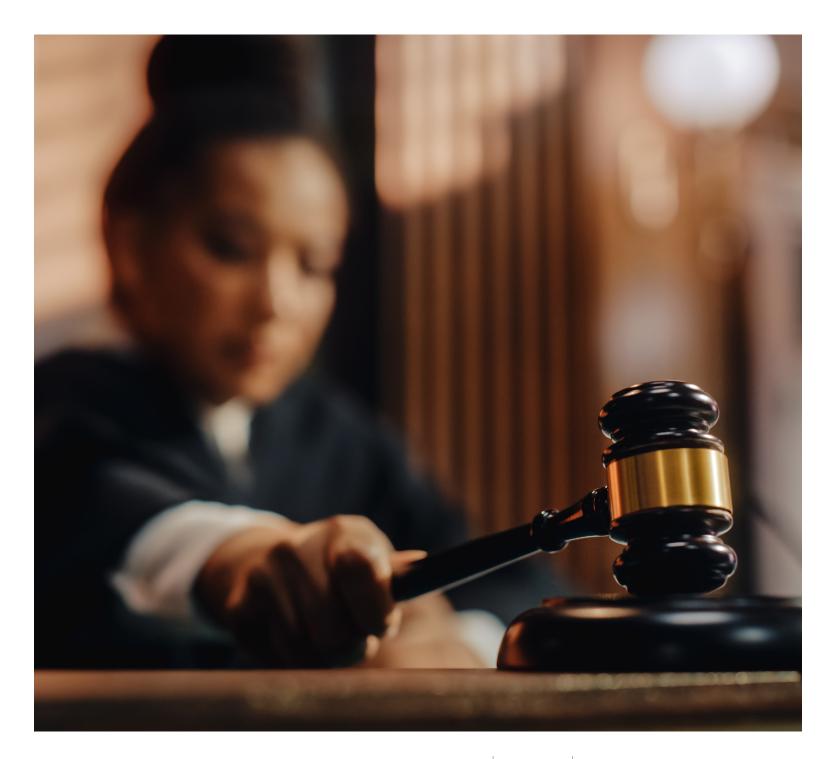
that are filed given the ultimate difficulty in establishing a claim.

However, this is not the first time the issue has come before the nation's highest court—though they have yet to squarely address it.

Forfeiture Reallocation Suits Continue to Proceed

Some two dozen suits have already been filed, challenging the use of forfeitures to offset employer contributions instead of reducing plan expenses or reallocating funds to remaining participants. One of the latest-a case involving the Clorox 401(k) plan-was dismissed by a federal judge that determined that even though the plaintiffs had standing to bring suit; that the use of forfeiture funds was a fiduciary decision; and that the forfeited monies were plan assets, the judge found the claims were "impermissibly broad."

The judge advised that the plaintiffs failed to explain how the law would allow using forfeitures to offset employer contributions



without constituting a fiduciary breach but gave them time to amend their suit. Currently, four of these suits have been dismissed, two are proceeding to discovery, and one has been directed to arbitration.

The most recent dismissal was won by the fiduciaries of the Honeywell 401(k) plan. In that case, the judge agreed with the plaintiffs that the decision to use forfeitures was a fiduciary decision (the cases that have gone before a judge thus far are unanimous on that point) but disagreed that the

decision was a breach of fiduciary duty, since it was permitted by Internal Revenue Service (IRS) and Treasury regulations.

As in the Clorox case above, ultimately - and citing language from a decision in favor of HP - the judge ruled that the claims were overly broad to be "plausible" but provided a 30-day window for the plaintiff to address those shortcomings.

These forfeiture reallocation challenges also continue to "piggyback" on traditional excessive fee claims. The latest lawsuit was filed by participantplaintiffs against the fiduciaries of Pearson Retirement Plan, which has 19,135 active participants and nearly \$2.3 billion in assets as of December 2023.

The suit also targets the Board of Directors of Pearson Education, Inc. and the Administrative Committee for the Benefit Plans of Pearson. It alleges that using forfeitures to offset employer contributions constitutes a fiduciary breach and self-dealing.

Additionally, it challenges the fees associated with the

plan's managed account default, comparing them not to target date fund alternatives, but with other managed account options.

Federal Courts Continue to Insist on More Than Size-Based "Comparables"

While excessive fee suits continue to be filed, federal courts now expect more specific allegations to establish that fees are "excessive."

Recently, an excessive fee suit against the \$22 billion Pfizer Savings Plan was dismissed in federal court for "failure to state a claim", with the court noting that a "flawed" methodology was used to determine comparator plans, which were not actually comparable.

Similarly, a suit against the \$700 million (4,600 participant) Mitsubishi Chemical America Employees' Savings Plan was dismissed, with the judge commenting that without describing the 'basket of services' provided to each plan, Plaintiffs' comparison was only an applesto-apples comparison in name."

However, in a recent case involving Parker-Hannifin's 401(k) in the Sixth Circuit (covering Michigan, Ohio, Kentucky and Tennessee) an appeal court (by a 2-1 margin) overturned the dismissal of a similar case.

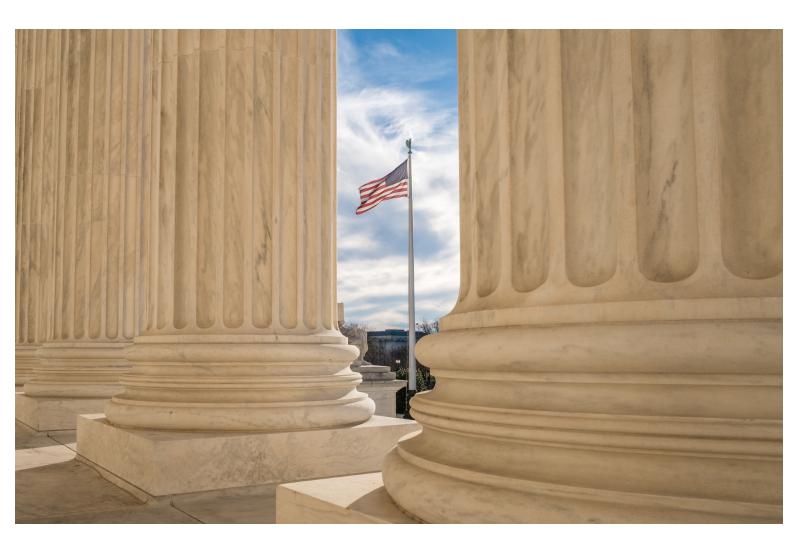
The appeals court found that the allegations of lower-priced alternatives "feasible" and ruled that such a case should be decided at trial rather than at the motion to dismiss stage. The dissenting opinion argued that this ruling, "weakens an important mechanism" to prevent costly litigation over "meritless claims."

"Historic' Excessive Fee Suit Strikes \$69 Million Settlement

The parties in an excessive fee suit have settled for what is said to be the "largest ever" settlement in an ERISA case involving poorly performing investment options in a 401(k) plan. The suit claimed that UnitedHealth refused to remove the allegedly underperforming Wells Fargo Target Fund Suite from its 401(k) plan because "Wells Fargo was a critical customer and financier for UnitedHealth."

In March 2024, Judge John R Tunheim, while rejecting some claims in a motion to dismiss, commented that "a reasonable trier of fact could easily find that Plaintiff Kim Snyder caught Defendant UnitedHealth Group, Inc. with its hand in the cookie jar."

The Court substantially denied UnitedHealth's motion



for summary judgment, citing "genuine disputes of material fact" regarding whether UnitedHealth breached its duties of prudence and loyalty under ERISA by investing its employees' 401(k) savings in underperforming Wells Fargo funds for over a decade and allowing its business relationship with Wells Fargo to influence this decision. These factors likely contributed to the decision to settle and the size of the settlement.

Pension Risk Transfers Continue to Draw Scrutiny

Another employer has been sued for its pension risk transfer (PRT) decision, with allegations that a breach of fiduciary duty put pensions at risk and that there were conflicts of interest in choosing the provider. The suit, filed by Schlichter Bogard on behalf of several participantplaintiffs, challenges the actions of the Weyerhaeuser Company, its Annuity Committee, and State Street Global Advisors Trust Company. The suit instigates the transfer of \$1.5 billion its pension obligations to either Athene Annuity and Life Co. or Athene Annuity & Life Assurance Company of New York (collectively, "Athene"), described in the suit as "a highly risky private equity-controlled insurance company with a complex and opaque structure."

State Street is also named in the suit because Weyerhaeuser hired it to serve as an independent fiduciary to the plan, which required State Street to select an annuity provider in compliance with the regulations.

The suit alleges that not only did State Street have a conflicting interest in ownership of Weyerhaeuser shares and ability to influence the PRT decision. Additionally, between 2020 and 2023, State Street's ownership of Apollo grew exponentially from \$162.41 million to \$1.1 billion, making State Street the seventh largest institutional investor in Apollo. State Street also provided custodial services for Athene insurance products, according to the suit.

To date, there are about a dozen of these suits pending, filed by various firms on behalf of plaintiffs. All of the suits challenge the transfer of pension obligations to Athene, citing concerns about the long-term viability and noncompliance with the "safest annuity available standard."

Action Items for Plan Sponsors

1. For plans that use forfeitures to offset employer contributions, review the plan document to ensure it includes specific language to outline permissible use of forfeiture funds for this purpose. Consider revising any discretionary language in the

- plan document to clearly direct how forfeitures will be used.
- fiduciary updates and training for plan committee members. This practice has benefited fiduciary defendants and is often required by plaintiffs' firms in settlement agreements. Ensure new committee members have an opportunity to participate when they join the committee. Document that the training was completed.
- 3. Ensure there is a prudent process in place to review the plan investment menu, considering asset allocation tools like managed accounts and target date funds, as well as their fees. This process should involve a qualified and engaged investment committee, supported by experts and guided by an investment policy statement.
- 4. As more courts seek a "meaningful" benchmark understand and document the fees and the service(s) provided for those fees during recurring benchmarking exercises (think: annually or semi-annually).
- 5. While pension risk transfer litigation to date has focused on one specific provider, remember that this decision is a fiduciary decision, and should be made with care and prudence and thoroughly documented. NNTM



Regulatory Radar

Everyone ALWAYS wants to know what regulators have planned and retirement plan advisors are no exception. Congress recently (finally) repealed the WP/GPO provision. Also, bipartisan legislation in the House would provide more flexibility and clearer guidance for Americans navigating retirement savings decisions when changing jobs. And, we take a look at the CIA. No, not that one—common interest agreements. How do they work and just how 'common' are they?

By Nevin E. Adams, JD

Getting All 'WEP'

WEP/GPO repeal clears congress. So, what does it mean?

o, this was certainly news. After years of trying, supporters of a WEP/GPO got an early Christmas present. On December 20, The Senate passed the Social Security Fairness Act by a vote of 76-20. The bill was previously passed by the House in November and would repeal the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO).

President Joe Biden is expected to sign the bill into law.

The WEP and GPO reduce Social Security benefits for workers and spouses, respectively, if they are covered by a pension benefit from a public employer that is exempt from Social Security tax withholding.

The bill's text says, "The amendments made by this Act shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 2023."

According to a Congressional Research Service report from November, "about 2.5 million Social Security beneficiaries, or almost 4% of all beneficiaries, had benefits reduced by the WEP, the GPO, or both" as of December 2023.

The report explained that "In 2024, the WEP reduces the share of the first \$1,174 of average indexed monthly covered earnings that Social Security benefits replace, from 90% to as low as 40%. That adjustment reduces the

A report from the Congressional Budget Office estimates that repealing the GPO and the WEP would cost \$195.7 billion over ten years. It would also push Social Security's insolvency date, currently estimated at 2033, forward six months.

The GPO and WEP were initially created in 1977 and 1983 respectively, to control the cost of Social Security.

Things briefly looked bleak for the Social Security Fairness Act when it appeared that the Senate would have to delay the vote to pass a continuing resolution to keep the government open. Congress was able to pass both the continuing resolution, which keeps the government open until March 14, and the Social Security Fairness Act.

The American Federation of State, County and Municipal Employees (AFSCME) hailed the bill's passage and President Lee Saunders said in a statement:

"This historic victory for public service workers is a product of nonstop advocacy and perseverance. For years, AFSCME members have sounded the alarm on GPO-WEP, which denied some public service workers their Social Security benefits simply for pursuing careers that help others. Thanks to Senator Sherrod Brown, who has championed GPO-WEP repeal for over a decade, and the support of a broad coalition of union members who have tirelessly organized, over two million public service workers will finally be able to access the Social Security benefits they spent their careers paying into. Many will finally be able to enjoy retirement after a lifetime of service. We applaud the Senate for passing this legislation and call on President Biden to sign the bill as soon as possible."

— Paul Mulholland



An Expanding Exit

More choice in how we take our money.

While the sponsors likely introduced it with an eye on next Congress and a possible SECURE 3.0, bipartisan legislation in the House would provide more flexibility and clearer guidance for Americans navigating retirement savings decisions when changing jobs.

The Retirement Simplification and Clarity Act (H.R 10467) was introduced Dec. 18 by Rep. Jimmy Panetta (D-Calif.) and cosponsored by Rep. Darin LaHood (R-III.), who are both members of the powerful House Ways and Means Committee, to which the legislation was referred.

The bill would implement recommendations from the Government Accountability Office (GAO) to reform the complex 402(f) Notice process. A 402(f) Notice is provided by employer plan sponsors to individuals who are leaving an employer and seeking a distribution from their 401(k) plans. In general, the notice describes

the distribution options and tax consequences.

According to a release, the bill directs the IRS to redesign the notice using "plain and concise" language. The updated notice would include clear explanations of all distribution options, including rolling over savings into a new plan or retaining them in the current plan, ensuring individuals have the necessary information to make informed choices.

What's more, the bill would expand in-service rollover options by allowing individuals aged 50 and older to roll over their employee-sponsored 401(k) savings into an annuity.

"This bipartisan legislation would provide older Americans with a more simplified process and flexibility to choose savings options that are right for them," Rep. Panetta said in a statement. "By allowing individuals to make informed decisions about their retirement plans we can better ensure their financial security in the years ahead."

Added Rep. LaHood, "I am proud to lead this bipartisan effort with Representative Panetta to

help eliminate needless hurdles and reduce the confusion surrounding retirement. Providing more flexibility and a better understanding of the process will help ensure Americans are more secure and better prepared for their retirement."

The GAO recommendations the bill sponsors reference are in relation to a report the agency issued last Spring. The SECURE 2.0 Act of 2022 directed the congressional watchdog agency to issue a report to Congress on the effectiveness of Section 402(f) Notices within 18 months after the date of enactment.

Among the key findings were that 401(k) participants frequently encountered challenges understanding their distribution options as they moved from one iob to another.

According to the GAO's survey, about 80% of eligible 401(k) participants were not aware of all four of their distribution options, which are: 1) If allowed, leaving the retirement savings in the former employer's plan; 2) rolling the money to the new employer's plan; 3) rolling the savings into an IRA; or 4) taking a lump-sum taxable distribution.

Additionally, it found that 401(k) participants do not fully understand the associated tax consequences of their distribution options, even though plans are required to outline them in the 402(f) Notice before participants receive a distribution.

Consequently, the GAO recommended, among other things, that the Treasury Department take action to clarify information in the notice, including amending the 402(f) Notice requirements and the Model 402(f) Notice.

"402(f) information is really important for anyone embarking on a job change and in other situations," American Retirement Association Chief Legal Officer Allison Wielobob said of the GAO report. "And we support the idea of a critical look about how communications to participants can be improved."

The ARA had previously submitted comments in response to two Requests for Information (RFIs) from the Labor Department – on reporting and disclosure problems and improvements – and made many constructive points.

— Ted Godbout



A Deeper DOL Dive

Labor's 'CIA' activities?

It's not what you think, but still important.

Rep. Virginia Foxx (R-N.C.) recently called for an investigation into the Department of Labor's (DOL) practice of sharing information obtained from its investigations with plaintiffs involved in ERISA-related litigation. These agreements are known as common interest agreements (CIA).

But how common are CIAs at DOL? What do they look like in practice? And how should fiduciaries account for them?

Background

Foxx's letter was triggered by ERISA litigation related to an employee stock ownership plan (ESOP) in the case Harrison and Heath vs. Envision, et al. The case is being heard at the U.S. District Court for the District of Colorado.

In September, the court noted that the Employee Benefits Security Administration (EBSA) had been sharing documents with the plaintiffs pursuant to a CIA, which included summaries of interviews with some of the defendants and a DOL legal demand letter sent to Argent, a trustee to the ESOP and one of the defendants, in May 2022.

Magistrate Judge Maritza
Dominguez Braswell, who is
overseeing this action, ruled
that since DOL was not pursuing
litigation of its own and expressed
no opinion in this case, there
was no common interest, and
therefore, the information passed
on from DOL was not privileged
and must be disclosed to the
defense.

Though Judge Braswell invalidated the CIA and ordered the documents to be disclosed, she did not rule that DOL could not share information with litigants in the case and affirmed its right to do so.

Legal Basis for Information Sharing

The plaintiffs cited 29 U.S.C. § 1134(a), which says that the

DOL may investigate violations of ERISA, and "may make available to any person actually affected by any matter which is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter which may be the subject of such investigation."

Judge Braswell acknowledged that the "statute simply and straightforwardly grants the DOL authority and discretion" to share the information. By invalidating the CIA, she was effectively ruling that the materials must be

disclosed to the defense.

A DOL spokesperson said "Common interest agreements are a well-established legal tool that recognizes existing legal privileges. They are used by government and private litigants alike."

A spokesperson for Cohen Milstein, the firm representing the plaintiffs, commented that, "As federal courts have repeatedly recognized, ERISA relies upon a dual private and public system for litigation because federal law grants the DOL and retirement participants the same claim and

provides the exact same relief.
Against this backdrop, common interest agreements between DOL and the private sector are common, legal and have been entered into by different administrations for decades."

The statement continued, "The only issue before the federal court is a discovery dispute concerning DOL's work product. Any attempt by a defendant in this matter to paint common interest agreements between DOL and retirement participants as inherently suspect is as transparent as it is irresponsible."

How Common Are CIAs?

When asked for comment, several ERISA attorneys, from both sides, as well as litigating and non-litigating attorneys, acknowledged that they were unfamiliar with both this practice and the underlying statute. Some admitted that they had no idea this was happening.

Alex Ryan, a partner at Willkie Farr & Gallagher, LLP, says he only became aware of CIAs from recent reporting, but there was "some conjecture in the ERISA bar that some of this might be going on. This is so new that I think a lot of us are grappling with what this means."

Jerry Schlichter, founding and managing partner of Schlichter Bogard LLC, says his law firm has never used CIAs with the DOL and "anything we've done, we generated internally from our own investigation."

Schlichter adds that "I haven't seen any of those agreements in writing. I only know what I've read about them. I know that there have been reports of some of that being shared with some plaintiffs' firms, but we have never done it."

Nate Ingraham, a managing associate at Thompson Hine, likewise says "I had not been aware of EBSA using these common interest agreements."

From this non-scientific survey, CIAs may not be particularly common.

One reason for this could be that there must be a parallel or at least similar investigation taking place at DOL that might produce materials useful for the plaintiffs.

Many ERISA lawsuits are brought, but if the DOL isn't pursuing the same matter, or vice versa, then there is no information to share, or no one to share it with, regardless of how close that plaintiff firm might be with DOL or how worthy their claim is.

EBSA Official

A former high ranking EBSA official who asked not to be named said that there are many

litigators who "try to convince the Department to bring an investigation or get involved in some private litigation."

Due to limited resources, the DOL normally only involves itself if it were pursuing a similar matter or if the case reached the Circuit level or higher, the official says.

One element that sets the case apart, however, is that the DOL was not pursuing a similar action and expressed no opinion on the merits of the case. This could suggest that DOL has not yet decided on whether to take enforcement action, the source explains.

The former official says that DOL is relatively free to inform members of the public of their investigations. "The IRS cannot tell the public about investigations," but the DOL "doesn't have any such restrictions."

The former official strongly emphasized that CIAs are a common legal tool used by other agencies, and DOL has explicit statutory authorization to share information it gathers with affected parties. They noted that the statute does not require DOL "to give information to everyone."

Impact of CIAs and What to Do

Ryan says that the way DOL uses CIAs "could damage the reputation of the Department as the primary enforcer of ERISA." Instead, the DOL should make a point to share information with both parties in litigation, or none, instead of just one to "alleviate information asymmetry."

Ingraham of Thompson Hine says that when a private case starts, he recommends his clients "try to determine whether there is coordination [with the DOL] and figure out their strategy going forward." They could pursue a confidentiality agreement during their interactions with DOL, for example.

Edward Babbitt, a senior managing associate at Thompson

Hine, says that plaintiffs may be reluctant to disclose information received from DOL to maintain their relationship with the Department and the access to information it can give them, which means the defense may not know in all cases that the DOL is sharing information with the plaintiffs.

A blog post from Thompson Hine, which Babbitt and Ingraham co-authored, makes three suggestions for concerned fiduciaries:

"Companies and other parties asked to provide information to the DOL should get explicit agreement from the DOL not to share information with third parties except where required by law."

"Defense counsel should seek to identify DOL coordination at the outset of any case through targeted discovery requests."

"If an information-sharing arrangement is discovered, the DOL and third party must meet the high burden of establishing the existence of common interest privilege."

What's Next

The plaintiffs in the Colorado ESOP case appealed the court's decision to invalidate the CIA between them and DOL, on Sept. 25.

They wrote that "the Order incorrectly concluded that the DOL and plaintiffs do not share a common legal interest. In reaching this conclusion, the order cast doubt on the legitimacy of common interest agreements between the government and private litigants."

The plaintiffs go on to say that "such arrangements are typical and appropriate reflections of ERISA's dual enforcement regime."

In October, the defense answered that "there is nothing typical about the outlier arrangement here between Plaintiff's counsel and DOL."

The court has not yet ruled on this appeal.

— Ted Godbout



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Brian Graff

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