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Insight for the Retirement Plan Advisor

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Announcing the 2025 NAPA Top Women of Excellence.

PLUS

AI in Retirement Plans: Promise, Pressure, Prudence

Fred Reish, Tamiko Toland, and a 'Game Changing' Advisory Opinion

Wit and Wisdom of the 2025 Top Social Media Influencers

Allianz

Allianz Life Insurance Company of North America

Unlocking plan participant views on guaranteed lifetime income

New study from Allianz Center for the Future of Retirement™ uncovers attitudes, preferences, and growing demand for annuities in employer-sponsored plans

ARTICLE BY:
Meghan Farrell
Senior Manager, Defined Contribution Insights
Allianz Center for the Future of Retirement™

When it comes to bolstering wider acceptance of annuities as part of employer-sponsored plans, a key area to address is the nuanced needs of plan participants.

Our latest State of Lifetime Income Report delves into what plan participants desire and what motivates them regarding guaranteed lifetime income.

Retirement risk perceptions

In retirement planning, the perception of risks plays an important emotional role. Although annuity discussions often focus on longevity risk, our survey indicates that concerns such as inflation, market downturns, unexpected expenses (health-related and non-health-related), and changes to Social Security/Medicare ranked higher as threats to future retirement income.[1]

Annuities that address these key anxieties through a holistic risk management lens may be well-positioned to support participants' needs.

Product/feature preferences

Participants who would consider adding an annuity to their employer-sponsored plan valued full protection from market downturns and growth potential to help address inflation, with 50% and 47% respectively ranking it in their top two features.[1] At the same time, at least 9 out of 10 respondents desired features such as flexibility in income payments, the ability to make full or partial withdrawals after income starts, and IRA portability.[1] In short, plan participants are interested in products that offer a balance of protection and adaptability to evolving life circumstances.

Advice and support models

73% of participants surveyed expressed interest in annuities as part of their employer-sponsored plan, but said they would need help deciding how much to contribute.[1] 54% said they would pay a fee for an advice service to manage annuity contributions based on their personal financial situation and goals.[1]

ACCESS THE FULL REPORT

→ **Scan the QR code** or visit us at **www.allianzlife.com/dcplanresearch**

[1] The State of Lifetime Income Participant Survey, conducted by the Allianz Center for the Future of Retirement in November 2024 with a nationally representative sample of 2,488 respondents aged 18+ who are currently contributing to an employer-sponsored retirement plan.

The Allianz Center for the Future of Retirement produces insights and research as part of Allianz Life Insurance Company of North America (Allianz).

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WINTER **2025**

Cover Story

Simply the Best! The 2025 NAPA Top Women of Excellence

Congratulations to those recognized on this year's list for raising the bar and making a real difference in the retirement security of millions of hardworking Americans!

By John Sullivan

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Departments

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The principal value of target date strategies is not guaranteed at any time, including at or after the target date, which is the approximate date when investors plan to retire (assumed to be age 65). T. Rowe Price Investment Services, Inc. 3709915

Nevin E.
Adams, JD

Former Chief Content Officer
American Retirement Association

Former Chief Content Officer of the American Retirement Association, Nevin now claims to be "retired." One of the industry's most prolific writers, during his more than four decades in the retirement industry, he's served as the Employee Benefits Research Institute's (EBRI) Director of Education and External Relations, spent a dozen years as Global Editor-in-Chief of PLANSPONSOR/PLANADVISER, and after two decades working with retirement plans, entered journalism as the originator, creator, writer and publisher of PLANSPONSORcom's NewsDash.

Rebecca
Hourihan

Founder and
Chief Marketing Officer
401(k) Marketing, Inc.

Rebecca founded 401(k) Marketing in 2014 to assist qualified experts operate a professional business with professional marketing materials and ongoing awareness campaigns. Previously she held a variety of positions at LPL Financial, Guardian Life, Northwestern Mutual and Fidelity Investments. Rebecca writes the magazine's "Inside Marketing" column.

David N.
Levine

Principal
Groom Law Group, Chartered

David is an attorney who advises plan sponsors, advisors and service providers on retirement and other benefit plans, and is a popular speaker on plan design, fiduciary governance, regulatory and legislative issues. He writes the magazine's "Inside the Law" column.

Fred
Reish

Partner
Faegre Drinker Law Firm

Fred Reish is a partner in the Faegre Drinker law firm. His practice focuses on fiduciary standards of care, prohibited transactions, conflicts of interest, and retirement plans. He has been recognized as one of the "Legends" of the retirement industry by PLANADVISER and PLANSPONSOR magazines. Fred also serves as a Research Fellow for the Retirement Income Institute. He has received the following awards: Institutional Investor Lifetime Achievement Awards, ASPPA/Morningstar 401(k) Leadership Award, and IRS District Director's Award for contributions to the retirement community.

Spencer X.
Smith

Founder
AmpliPhi Social Media Strategies

Spencer is the founder of AmpliPhi Social Media Strategies. A former 401(k) wholesaler, he now teaches financial services professionals how to use social media for business development, and is a popular speaker on social media and the author of *ROTOMA: The ROI of Social Media Top of Mind*. He writes the magazine's "Inside Social Media" column.

Tamiko
Toland

Founder and CEO
401(k) Annuity Hub

Tamiko Toland is the Founder and CEO of the 401(k) Annuity Hub, an independent service for retirement plan fiduciaries to select and compare options for plan sponsors to offer participants. An award-winning industry expert on annuities and retirement income who is known as the "annuity Yoda," she has focused on simplifying the complex topic of lifetime income for 25 years. Tamiko has held leadership roles at TIAA, Strategic Insight, and Cannex Financial Exchanges, the annuity data and analytics firm. She is also Co-Founder of IncomePath and an Education Fellow for the Alliance for Lifetime Income by LIMRA.

Bonnie
Treichel

Chief Solutions Officer
Endeavor Retirement

Bonnie Treichel, the Founder of Endeavor Retirement and Endeavor Law, is an ERISA attorney that works with advisors, plan sponsors and others in the retirement plan ecosystem. She is a regular contributor to NAPA's publications and enjoys working with advisors as a subject matter expert to NAPA and ARA training programs such as the ESG(k) program, 401(k) Rollover Specialist (k)RS™ program, and others to come.

NAPA
National Association of Plan Advisors

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DOL's Plot Twist in a Never-Ending Sequel

Another fiduciary rule pendulum swing leaves supporters frustrated, pundits perplexed, and everyone wondering what's next.

We once compared attempts to implement the Department of Labor's (DOL) fiduciary rule to Friday the 13th's Jason Voorhees, noting it won't (and seemingly can't) die, with introductions, repeals, reintroductions, and lawsuits taking place for almost two decades.

In keeping with the horror genre metaphor, an announcement at the beginning of December may have put the proverbial nail in the coffin, but with 12 movies in the *Friday* franchise, we won't hold our collective breath.

Recognizing the Trump Administration's fiduciary rule animus, it wasn't entirely unexpected when the U.S. Court of Appeals for the Fifth Circuit (yes, THAT Fifth Circuit) granted the DOL's motion to withdraw its appeal of a court challenge to the rule issued during the Biden administration.

The always excellent reporting from NAPA's Ted Godbout noted that the one sentence order from the clerk's office of the Fifth Circuit simply stated that, "Under Fed. R. App. P.42(B), the appeal is dismissed as of November 28, 2025, pursuant to appellant's motion."

DOL's Employee Benefits Security Administration (EBSA) filed a motion withdrawing its appeal on Nov. 24. The motion to dismiss the appeal was unopposed by the other parties.

Fiduciary rule supporters were (once again) understandably frustrated, with former DOL Assistant Secretary for Labor Lisa Gomez writing, "This saga has gone on for far too long without resolution, and the continued uncertainty doesn't help anyone. The amount of work that went into each of the exercises in the rulemaking process is extraordinary. The Department says it is going to take another swing at it. I am interested to see what they will do, but rule or no rule; we need to work together to find a solution that everyone can accept and move on with. Retirement investors and the people who serve them deserve no less."

FOLLOW THE DISCUSSION…

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As background, the Biden administration finalized the Retirement Security Rule, a new investment advice fiduciary rule, in April 2024. The focus of the rule was to extend ERISA fiduciary duties to one-time professional retirement investment recommendations, such as rollovers, annuity purchases, or plan menu design.

Godbout noted that it was set to go into effect in September 2024, but its implementation was put on hold as a result of a lawsuit filed by the Federation of Americans for Consumer Choice (FACC), as well as James Holloway, James Johnson, TX Titan Group, ProVision Brokerage, and V. Eric Couch.

A second suit was also filed in a Texas federal court *(Am. Council of Life Insurers v. DOL, N.D. Tex., No. 24-00482, 5/24/24),* but by different plaintiffs, albeit arguing similar issues against the Labor Department's Retirement Security Rule – led by the American Council of Life Insurers (ACLI).

After the district courts stayed the rule, the DOL, under the Biden administration, appealed the decision to the Fifth Circuit in September 2024.

The suits, which were consolidated, sought to vacate the 2024 fiduciary rule and amendment to PTE-84-24 under the Administrative Procedures Act (APA) on the grounds that they are "contrary to law and arbitrary and capricious." They also sought "preliminary and permanent injunctive relief to prevent the DOL from attempting to enforce these unlawful rules and regulations."

Meanwhile, Godbout added, the DOL's Spring 2025 regulatory agenda indicated that the Trump administration plans to issue a *new final rule* on the issue by May 2026, but what it will look like is anyone's guess, since the agenda did not provide substantive details on what the new rule might change.

However, it did say that it "will ensure that the regulation is based on the best reading of the statute," and is responsive to an executive order calling on departments to deregulate.

As always, we'll keep you posted. NNTM

John Sullivan
Editor-in-Chief

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A Year of Gratitude and Purpose

Do good work, lead with kindness, and support one another along the way.

By Lisa M. Drake (Garcia)

One word that best captures 2025 for me is gratitude. Reflecting on the year behind us, I feel immense gratitude—both personally and professionally—and for the opportunity to serve as President of NAPA.

This role has been both a professional honor and a deeply personal privilege. Leading such a dedicated, thoughtful, and mission-driven community has reinforced why I am so passionate about this industry and the work we do each day.

One of the most rewarding aspects of serving NAPA has been the relationships and connections formed along the way. They are built on trust, shared values, and a collective commitment to advancing the retirement plan advisor profession.

Whether through conferences, councils, committee work, or everyday collaboration, I am continually inspired by the generosity of ideas, time, and mentorship that defines our community.

As a retirement plan advisor, I am reminded daily of the meaningful impact of our work. We have the privilege – and responsibility – of helping employers and employees navigate some of the most important financial decisions of their lives.

Our efforts directly influence the long-term financial security of millions of working Americans. Few professions offer the opportunity to combine technical expertise, fiduciary responsibility, and genuine human impact in the way this industry does, and I am incredibly grateful to be part of it.

I also want to express my sincere appreciation for all that NAPA and the American Retirement Association do on behalf of the advisor community. Through education, advocacy, leadership development, and thought leadership, they work tirelessly to elevate our profession and support advisors at every stage of their careers.

Their efforts ensure that our voices are heard in Washington, that our standards remain high, and that we are equipped to meet the evolving needs of plan sponsors and participants.

At the core of NAPA and ARA's shared vision is a powerful and unifying mission: providing the opportunity for all working Americans to achieve a dignified retirement. This goal is what brings us together and gives purpose to our work.

As we look ahead, I am optimistic about the future of our profession and our community. With continued collaboration, thoughtful advocacy, and a steadfast commitment to serving in the best interests of participants, we will continue to move this mission forward.

Speaking of looking ahead, the industry's leading event, NAPA Summit, is quickly approaching, taking place from April 19 – 21 in Tampa, FL. In 2025, we had over 3,000 industry professionals in Las Vegas, and I have a feeling the Sunshine State will draw a bigger crowd. Offering 29 different workshops, four content tracks, knowledge-based bootcamps, and, of course, the Summit After Dark festivities, this will be yet another summit you don't want to miss.

Lisa M. Drake (Garcia), QPFC, AIF®, is Managing Director, Retirement Plan Consulting with SageView Advisory Group.

You also don't want to miss Brian Graff's remarks, providing real insights and perspectives on what is happening in D.C. and the legislative and regulatory landscape. Our volunteer steering committee has thoughtfully curated a content-packed agenda, offering a robust selection of sessions on timely industry updates, practice management, fiduciary best practices, and the evolving retirement landscape.

They do an amazing job, and I'm very much looking forward to it!

Thank you to our members, volunteers, partners, and staff for your engagement, leadership, and dedication in making all this happen.

To the advisor community, as we move forward, I encourage each of us to continue doing good work, to lead with kindness, and to support one another along the way.

Let's remain committed to mentoring and lifting up the next generation of advisors, sharing our knowledge and experience to strengthen the future of our profession. And amid the everyday minutiae and demands of our roles, may we never lose sight of the importance of the work we do.

With gratitude and optimism. NNTM

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Reining In ERISA Abuse: Protecting Retirement Security Though Litigation

Thoughtful reform can preserve participants' rights while reducing abusive litigation practices that impose unnecessary burdens on compliant fiduciaries.

By Brian H. Graff

The American Retirement Association (ARA) supports ERISA litigation reform, believing a flood of "cookie-cutter" lawsuits brought by the plaintiffs' bar in recent years is detrimental to plan participants, sponsors, and the country's private retirement plan system overall.

I want to inform ARA members of recent developments and the association's involvement in the efforts.

In mid-November, Rep. Randy Fine (R-Fla.) introduced the ERISA Litigation Reform Act (H.R 6084), legislation that would strengthen the pleading standards for lawsuits brought under the Employee Retirement Income Security Act (ERISA).

The bill seeks to ensure that retirement plan fiduciaries, employers, and participants "operate under a more predictable, fair, and efficient legal framework," according to the Congressman.

If enacted, H.R 6084 would clarify the burden of proof in certain fiduciary-related claims and establish a targeted stay of discovery during the early stages of litigation. The targeted stay would bring ERISA more in line with established federal court practices designed to deter frivolous lawsuits.

Coincidentally, strengthening the pleading standards for lawsuits brought under ERISA was one of two recommendations (limiting premature discovery being the other) included in ARA's statement for the record submitted to a House Education and the Workforce Subcommittee before a hearing in early December.

Titled "Pension Predators: Stopping Class Action Abuse Against Workers' Retirement," the hearing examined the surge in formulaic ERISA class action litigation and its chilling effect on innovation across the retirement plan landscape.

In addition to our legislative advocacy, we've actively engaged in regulatory initiatives aimed at addressing ERISA litigation challenges. Our regulatory efforts focus on supporting the Department of Labor (DOL) in providing clear, practical guidance to fiduciaries, particularly as case law continues to evolve.

For example, the DOL's tip sheet on target date funds has proven to be a durable, widely used resource for both fiduciaries and courts. Recent case law has emphasized the importance of comparing plan funds against reasonably available, comparable alternatives or meaningful benchmarks.

We believe the DOL could further assist fiduciaries by providing guidance like the TDF tip sheet that clarifies what constitutes a comparable alternative or a meaningful benchmark. Such guidance would offer greater certainty, reduce ambiguity in decision-making, and support courts in evaluating plaintiffs' comparisons, thereby helping to limit repetitive, "cookie-cutter" lawsuits that do not serve participants' best interests.

Additionally, the DOL's ability to submit position statements or amicus briefs in significant ERISA litigation reinforces consistent legal standards. We commend the DOL's recent submission of an amicus brief in Hutchins v. Hewlett-Packard, a notable ERISA forfeiture case. Expanding this type of engagement would further deter frivolous lawsuits by promoting judicial clarity and reinforcing the principles that protect both plan sponsors and participants.

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

It goes without saying that litigation remains essential for addressing genuine fiduciary failures. Yet, the volume, copy-and-paste nature, and inconsistent standards in recent cases have led plan sponsors to avoid beneficial optional features simply to reduce litigation exposure.

Simply put, without reform, the current trajectory threatens to impose increasing costs on retirement plan sponsors, discourage employers from offering or maintaining plans, and ultimately diminish retirement security for American workers.

The chilling effect on innovation will only intensify as sponsors become more risk-averse in the face of unpredictable litigation exposure.

Thoughtful reform can preserve participants' rights while reducing abusive litigation practices that impose unnecessary burdens on compliant fiduciaries and divert resources that could otherwise enhance retirement outcomes.

ARA's Government Affairs Committee will continue to monitor the issue, engage with legislators and regulators on your behalf, and provide updates as events unfold. NNTM

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Trends ‘Setting’

Another 401(k)-balance record (much to Nevin Adams’ frustration), five trends that will shape the future of retirement, according to Franklin Templton’s Yaqub Ahmed, and a (possible) problematic market pullback … All this and more in this issue of Trends Setting.

Another Nevin Nightmare

The AVERAGE 401(k) balance increased by how much?

We can’t help but rib our colleague and former Chief Content Officer Nevin Adams and his disdain for using averages in research.

However, according to Fidelity Investments’ latest Q3 2025 retirement analysis, average 401(k), IRA and 403(b) account balances reached new record highs, driven by consistent savings and positive stock market performance.

The average 401(k) balance increased 5% from its previous record high in Q2 and marked the sixth quarter-over-quarter average balance increase in the last eight quarters (since Q3 2023). Despite ongoing concerns about the strength of the economy, both 401(k) and 403(b) participants were able to maintain steady savings rates through the third quarter, Fidelity noted.

Looking back from a year ago, the average 401(k) balance increased 9.1% to $144,400, while the average 403(b) balance increased 10% from Q3 2024, rising to $131,200.

What’s more, the average balance for women who have been within their 401(k) for 15 years continuously crossed the half-million-dollar mark for the first time in Q3, rising to $501,100.

The Q3 analysis also found that more than 2 out of 3 individuals are leveraging a target date fund or managed account to help manage their retirement savings.

Of note, Roth savings vehicles are increasing in interest among retirement savers, particularly among younger generations, likely in large part due to their tax-efficiency over the long term. Fidelity’s third quarter’s data shows that 20% of Gen Z 401(k) participants are choosing to contribute to a Roth 401(k).

Similarly, Roth IRAs continue to be the IRA of choice among younger savers, with Gen Z investing 95% of their contributions in Roth accounts (rather than a traditional IRA).

“Americans are continuing to exhibit impactful savings behaviors such as staying the course and focusing on long-term goals, which clearly is having a positive effect on retirement savings,” said Sharon Brovelli, president of Workplace Investing at Fidelity Investments. “To see balances and saving behaviors increase across all savings vehicles is encouraging, especially as savers continue to

Kamil Zajaczkowski / Shutterstock.com

navigate an uncertain economic environment."

Additional findings show that employee savings rate among Gen X workers increased to 10.4%. However, more than 1 in 4 (25.9%) Gen X workers also has an outstanding 401(k) loan, which is greater than the overall percentage of workers with a loan outstanding (19.5%) in Q3 2025, the analysis shows.

Fidelity's Q3 2025 401(k) data is based on 26,000 corporate DC plans and 24.8 million participants as of Sept. 30, 2025. These figures include the advisor-sold market but exclude the tax-exempt market. The 403(b) data is based on 10,670 tax-exempt plans and 9.25 million plan participants as of Sept. 30, 2025.

Meanwhile, this quarter's retirement analysis also spotlights the increasing adoption of auto portability. Fidelity notes that it is as a founding member of the Portability Services Network (PSN) – a consortium of service providers accelerating the adoption of auto portability. Since going live in October 2022, more than 9,200 Fidelity 401(k) plans have adopted auto portability, resulting in $24 million in retirement savings preserved in Fidelity 401(k) plans, according to the analysis.

"Retirement is about taking a long-term view, and the growing interest in Roth products shows that investors recognize their potential for tax advantages and long-term growth," says Robert Mascialino, president of Wealth at Fidelity Investments. "By creating a plan and saving consistently, investors of all ages are positioning themselves for a financially secure retirement."

- Ted Godbout

Tackling the Target Date 'Monster'

Five trends that will shape the future of retirement.

Recent research, based on insights from open-ended interviews with over 50 industry leaders, identified five critical trends shaping the future of retirement planning.

Calling it "the coming pivot," Franklin Templeton's Industry Advisory Services team said "demographic shifts and new technologies are combining with growing needs and expectations to expose the system's vulnerabilities, while the limitations of its infrastructure and misaligned incentives are stymying innovation."

It's an fancy way of saying old technology is crippling future growth and leading to needed (and inevitable) change.

So, what effect will it have on the industry – and importantly – participants?

According to Yaqub Ahmed, Global Head of Retirement, Workplace & Wealth with the FIRST Organization (Franklin Innovation Research Strategies Technology), it will encourage more of the following:

1. **Personalization:** Tailoring retirement solutions to individual needs and preferences
2. **Investment Innovation:** Emerging investment strategies and products that are redefining retirement savings
3. **Benefits Optimization:** Maximizing the value of retirement benefits for both employers and employees
4. **Integrated Advice:** Holistic financial guidance that considers all aspects of a person's financial life
5. **Enhanced Delivery:** Leveraging technology to improve the efficiency and effectiveness of retirement services

"We focused on workplace and retirement because, frankly, there just hasn't been a lot of innovation and change there," Ahmed said when asked about the reason for the research. "This is about the future of the industry and where it's going. We've done it in other segments of the marketplace, like wealth management, but we felt the industry was at an inflection point. We've got a lot of new solutions and capabilities in our toolkit, so to speak."

Totaling $18 trillion of AUM/AUA across the broader market with the firms FIRST interviewed, he was surprised by the candor and openness the interview subjects displayed when discussing challenges and barriers within the industry that he said must be solved.

"The big things we heard were the recognition that it's a very product-centric market filled with point solutions and not really focused on that customer experience and personalization, and that there's still a one-size-fits-all mentality in the marketplace," Ahmed explained. "Longer term, that's not going to work."

He claimed the industry also created somewhat of a monster with target-date funds, with its "set it and forget it" mindset, thereby limiting participant engagement.

"Some may argue that it's better that way, but we have a view that participants aren't dumb," Ahmed countered. "They want to be engaged. They just don't know how to get engaged. We're not doing a good job of pulling those engagement levers."

Consensus also centered on legacy industry technology, with one interviewee calling it "stone age tools to solve modern day issues."

"There was definitely a recognition that certain providers within the retirement ecosystem are working on technology that's upwards of three decades old," Ahmed said. "There will be a disruption there, maybe from the outside, if we don't address it at some point. Those are the things that popped out."

So, what's next now that the research has been released?

We'll go back to all these firms and have conversations that will inform strategic partnership opportunities, which we're in the middle of doing now," he concluded. "It'll lead to product development, strategic investments, and opportunities to partner with our biggest clients."

- John Sullivan

Problematic Pullback

Majority of institutional investors predict a market pullback in 2026.

After three consecutive years of double-digit returns on most indexes, nearly 8 in 10 (79%) U.S. institutional investors say that markets are due for a correction in 2026.

This is according to findings published by Natixis Investment Managers, which surveyed 515 global institutional investors in September and October 2025 who collectively manage $29.9 trillion in assets for public and private pensions, insurers, foundations, endowments, and sovereign wealth funds worldwide. Survey participants included 80 U.S. institutional investors responsible for managing over $5 trillion in assets.

On average, Natixis found that U.S. institutional investors assign a 49% probability of a 10–20% market correction in 2026, and a 20% probability of a market correction deeper than 20%.

The top portfolio risks for 2026 include valuations (63%), inflation (55%), and concentration (44%), with the latter two risks rising from 40% and 24% in 2025, respectively. Further, 59% of respondents see volatility rising across equities, while 36% see volatility rising across bonds.

To hedge these risks and sustain another year of positive returns, U.S. institutional investors say they are prioritizing diversification and active management, with nearly two-thirds (63%) saying active strategies will be favored in 2026. Additionally, over 7 in 10 (71%) investors believe the 60:20:20 portfolio (equities: fixed income: alternatives) will outperform the traditional 60:40 mix.

"Institutional investors recognize that 2026 will demand more nuance," noted Liana Magner, executive vice president and head of Institutional and Retirement Strategy. "With almost two-thirds saying their active strategies outperformed in 2025 – and a similar share expecting active approaches to be favored in 2026 – there's a clear acknowledgment that today's markets require more than passive exposure."

Economic Risks?

Central to these correction concerns lie key economic risks that U.S. institutional investors are weighing against the potential for continued market opportunity.

Nearly half (45%) of U.S. institutional investors cite geopolitical disruption as their top 2026 fear, led by concerns around China. Most (58%) worry about conflict in the South China Sea, and 65% see China's rare earth dominance as a new energy security risk. Roughly 7 in 10 (69%) say a global security realignment will force them to rethink investments in certain countries, though 61% believe markets will remain indifferent to geopolitical instability.

Concern over an AI-driven tech bubble is rising, cited by 41% of investors (up from 28% in 2025). Yet optimism apparently endures, as 63% remain bullish on tech, and 71% expect AI to drive further growth. And while 44% see AI as already in bubble territory, only 29% anticipate it bursting in 2026.

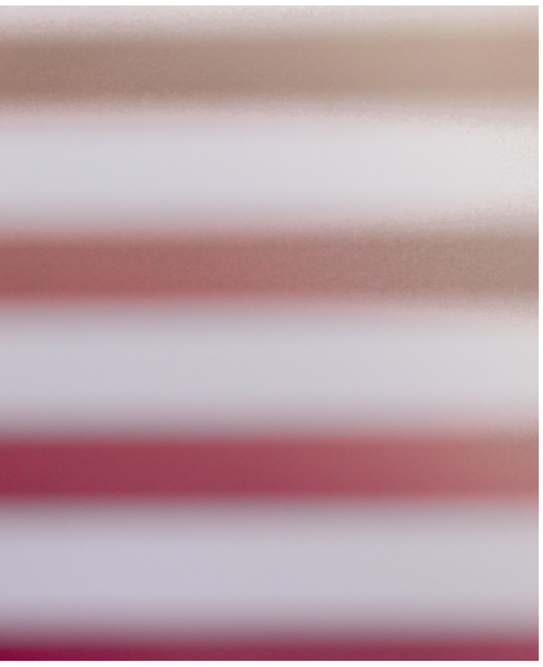
Inflation fears have also resurfaced amid tariff uncertainty, as 4 in 10 investors (40%) currently view re-inflation as a key risk for 2026, up from 30% in 2025. Institutional investors are split 50/50 on whether the trade war will ease or continue; while 56% expect rates to decline smoothly, 44% anticipate disruption. What's more, a majority (59%) believe tariffs are driving renewed concerns about inflation.

"The outlook for 2026 is clouded for institutional investors," noted Dave Goodsell, Executive Director of the Natixis Center for Investor Insight. "After years of strong returns, risks that once felt distant are more tangible. With uncertainty surrounding geopolitics, growth, and inflation, investors are positioning portfolios to weather whatever conditions 2026 may bring."

Asset Allocations

Diving deeper into the findings, Natixis reported that institutional investors remain optimistic on equities for 2026, with 74% expecting rate cuts to help push the S&P 500 higher. Confidence is strongest in defense stocks (81%) and large caps (63%). Most (68%) see equity gains broadening beyond 2025's leaders, though 64% of respondents warn that rapid AI growth could add to concentration risk.

Top sectors include IT (63%), energy (45%), and financials



(44%), with 58% still backing the "Magnificent Seven." At the same time, investors are far less optimistic about consumer-driven sectors, with only 24% saying that consumer staples and 13% saying that consumer discretionary will outperform.

Regarding fixed income, nearly half (48%) of U.S. institutional investors expect ongoing tension between inflation and unemployment to force difficult policy decisions from the Fed. With 60% expecting one to two rate cuts in 2025, sentiment on bonds is cautiously positive, with 58% bullish on fixed income, the survey noted. While 51% foresee higher corporate defaults, many are selectively adding exposure to investment-grade, high-yield, and emerging-market debt to secure resilient income amid lingering inflation uncertainty. In this landscape, 70% see active management as essential to fixed income investing, Natixis further observed.

Institutional investors are also sharpening their focus on private markets in 2026, with 45% increasing allocations to private debt and 34% to private equity, the survey found. Confidence runs high – 66% are bullish on private equity and 65% on private debt – though 78% are applying greater deal scrutiny because of overcrowding concerns.

Notably, the survey also found that crypto is increasingly seen as legitimate investment opportunity. According to the findings, 44% now consider crypto a legitimate investment opportunity, up from 38% in 2025, but only 20% currently hold exposure. Meanwhile, half expect to be invested by 2026, and 38% plan to increase allocations. A slight majority (51%) believe more accommodating U.S. regulation would mark a watershed moment for global adoption.

Natixis added that one key shift for 2026 is the growing trend among institutional investors to look outside the U.S., driven by concerns about rising politicization. Globally, 63% say the politicization of U.S. institutions will weaken the country's investment case, a view shared by more than half (51%) of U.S. investors. That said, most U.S. investors (63%) still expect domestic markets to outperform, although nearly half plan to diversify abroad.

- Ted Godbout

An Unsurprising Surprise

Vanguard's inaugural 'How America Retires' stresses the need for personalization.

As a companion to its annual *How America Saves* report, Vanguard introduced the inaugural How America Retires report, which analyzes plan data and industry trends to gain insights into the challenges faced by Americans in retirement.

With defined contribution (DC) plans continuing to dominate the retirement landscape, the report explores, among other things, income-generation strategies in retirement and the role 401(k) plan design plays in shaping retiree outcomes.

Perhaps one of the biggest challenges facing retirees is shifting from accumulation to decumulation, which the report explains many retirees struggle with, as it is not a natural shift, and requires careful planning and personalized strategies.

Automatic saving solutions exist, but there are no similar automatic solutions for decumulation, the report observes. Moreover, because individual factors such as household savings, spending goals, and health risks influence retirement income needs, Vanguard suggests that a personalized approach is essential for aligning retirement income planning with individual circumstances.

As such, retirees must decide whether to keep assets in their retirement plan or roll them over to an IRA, considering factors like fees and investment choices. Health care planning is also crucial, as nearly half of individuals will need some form of paid long-term care, the report emphasizes.

"Turning savings into income is one of the most important and complex steps in retirement planning," notes Lauren Valente, Managing Director of Vanguard Workplace Solutions. "That's why we're proud to launch How America Retires and provide a roadmap for building resilient, income generating strategies that support retirees throughout the next phase of their lives."

In-Plan vs. Out-of-Plan

Meanwhile, a key issue for plan sponsors is whether they want to keep participants in their plans after they retire, and much of this comes down to plan design, the report further explains.

While some sponsors may prefer to focus primarily on the accumulation phase of retirement planning and encourage former participants to roll their assets out of the plan, others are now including retirement income options designed to help participants through retirement.

According to Vanguard's data, 53% of retirees who retired in 2021 remained in their plan initially, with 27% rolling over assets and 14% cashing out. By 2024, 50% of 2021 retirees had rolled over their assets, while 24% had cashed out.

Retirees in retirement plans offering flexible distribution options were 30% more likely to remain in-plan and significantly less likely to cash out their balances in the first year.

- Ted Godbout

Building the Next Generation: From ‘It’s Hard to Find Good People’ to ‘We have a Plan’

Succession planning is not just a defensive strategy; it’s a growth strategy.

By Rebecca Hourihan AIF, PPC

“It’s hard to find good people. I need a succession plan, I can only keep young people two or three years, then they leave.”

If you’ve spent time in the retirement plan industry, you’ve probably said or heard those words. Many firms are at a crossroads. Baby Boomer founders are preparing to retire, while younger professionals, ambitious, curious, and digitally fluent, cycle through roles faster than ever. The result is a widening talent gap, an urgency for succession planning, and a real need to rethink how we build and sustain advisory teams for the next decade.

But here’s the opportunity. This period of change can also be your greatest growth window if you approach it strategically.

The Reality: The Workforce Is Turning Over, Ready or Not

Baby Boomers are leaving the workforce quickly, and our profession is no exception. Many top advisors who built thriving 401(k) practices in the 1990s and early 2000s are now approaching retirement age. Younger advisors see career growth differently.

Key succession challenges:

1. Talent Retention: You invest in a young advisor, train them for years, and just as they start producing, they move on.
2. Business Continuity: Your clients, the very companies you have guided for decades, will eventually experience leadership changes too. When they do, you risk losing those relationships if you don’t have a clear succession plan in place.

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The solution is simple in theory but takes effort in practice. It is about development. Developing your team, developing your firm's next generation of leaders, and developing a proactive approach to client transitions.

Bring Your Team into the Industry

If you want your team to stay, they need to belong to something bigger than your office walls. This is where industry exposure comes in.

When your younger team members see that financial services isn't just investment reports, and they connect with people, they begin to invest emotionally. Encourage attendance at NAPA, ASPPA and/or regional conferences. Let them connect with peers, hear from leaders, and experience the broader community that makes this profession so rewarding. Events like these spark passion and commitment.

Make professional development part of their career path. Designations like CPFA, AIF, QKA or CFP® deepen competence and confidence, and that combination leads to engagement.

Marketing Tip: Don't just attend NAPA events. Market your attendance. Share photos of your team at conferences. Post about designations earned. Include a "Team Spotlight" in your newsletters. These efforts show clients that your firm is built on a foundation of expertise, energy, and growth.

Create a Clear Career Path

Retention is rarely about money alone. It is about meaning. One of the top reasons younger professionals leave is because they don't see where they are headed.

Map out growth within your firm with clear roles, responsibilities, and skill-building milestones.

- Associate Advisor: Assists with plan operations, learns systems and compliance.
- Education Consultant: Leads participant meetings, begins managing small clients.
- Relationship Manager: Oversees client relationships, handles renewals, leads meetings.
- Partner or Practice Leader: Manages teams, drives growth, shapes firm strategy.

When people see their future, they are more likely to stay and help you build yours.

Insulate Your Client Base with a Solid Transition Plan

When company ownership changes, especially after a Baby Boomer retires, it often triggers a plan review or RFP within a year. Strengthen client relationships by introducing next-generation advisors who can connect with emerging leaders. When new decision-makers take over, they will already view your firm as a stable, forward-thinking partner.

Succession planning is not only about continuity. It is also about growth. The next wave of executives is data-driven, tech-comfortable, and future thinking. They expect advisors to provide digital engagement, financial wellness programs, and proactive benchmarking insights.

Marketing Tip: Turn this into a story. Communicate that your multi-generational team ensures consistent, long-term service. Track leadership changes in your CRM and reach out with timely insights or plan reviews to stay relevant.

Make Your Practice a Place People Want to Stay

Attracting and keeping talent starts with culture. People want to be part of something they believe in, something that feels alive. Create an environment where curiosity is encouraged, learning is celebrated, and success is shared.

A few ideas:

- Give bonuses and appreciation early through small projects.
- Celebrate milestones like designations and client wins.
- Encourage networking in industry and local groups.
- Foster mentorship between senior and new advisors.

Marketing Tip: Your culture is part of your brand. Share behind-the-scenes content that shows your firm's personality. Photos of your team collaborating or attending an event can build connection and authenticity online.

Tie It All Together with a Marketing Mindset

Your ability to attract, develop, and retain top talent is part of your marketing strategy. It tells clients you have continuity. It tells recruits you have purpose. It tells prospects you have staying power.

Marketing Takeaways:

1. Promote Your People. Feature team growth publicly. It builds credibility and engagement.
2. Own the Transition Narrative. Tell clients and prospects that your firm is built to last.
3. Target Leadership Changes. Create outreach campaigns timed to executive transitions.
4. Show Generational Depth. Use visuals and messaging that reflect experience and youth.
5. Celebrate Industry Engagement. Every conference, award, or designation is a marketing opportunity.

The Takeaway: Build a Firm That Grows Through Transitions

Succession planning is not just a defensive strategy. It is a growth strategy. It protects your clients, empowers your team, and supports your business continues to thrive long after you step away.

Finding good people will always be hard, unless you create an environment where they become great. Invest in your team's education. Bring them into the industry fold. Give them a roadmap for growth. When you do, you'll build a practice that doesn't just endure change but benefits from it.

In the end, the firms that win aren't the ones with the most years of experience. They are the ones that plan for what's next.

Thanks for reading & Happy Marketing! NNTM

NVIDIA, AI Data Centers: What They Mean for Your Practice

The same infrastructure that trains large models and powers recommender systems is already shaping who sees your work and the advisor a plan sponsor hears from first.

By Spencer X Smith

In a recent clip from the U.S.–Saudi Investment Forum, NVIDIA CEO Jensen Huang was asked a simple question: is the AI boom a bubble?

He didn't answer with a simple, "yes" or "no."

Instead, he explained that we're living through a once-per-generation shift in how computation works. In his view, the world is moving from general purpose CPU computing to accelerated computing powered by GPUs, because traditional Moore's Law improvements are slowing. Demand for compute keeps rising faster than conventional chips can keep up, so the gap is being filled by specialized AI data centers that function as what he calls "AI factories."

To make his point, he laid out a three-part framework for AI workloads. Each layer uses more computing and drives more investment.

1. **Data processing.** Massive datasets, such as billions of financial transactions, customer records, or behavioral events, are processed into structured "data frames." Huang notes that this alone represents hundreds of billions of dollars in annual compute spend.
2. **Recommender systems.** On top of that data, platforms run models that predict what each person is likely to want next. This powers feeds, product suggestions, and ad targeting…the engine upon which all our modern social media platforms run. Huang points out that this is where GPUs overtook CPUs, because the scale and speed requirements became too great for general purpose machines.
3. **Agentic AI.** At the frontier, systems don't just respond when prompted. They act on your behalf. They plan, take steps, and complete tasks, such as booking travel or drafting code. These models are trained and run in "AI factories," which require enormous, specialized data center infrastructure.

Huang's conclusion is clear: This isn't a speculative bubble. It's a structural retooling of the world's computing backbone, with long term, compounding demand for AI data centers.

Now, here's the part qualified plan advisors need to know:

The same three-part pattern is already unfolding inside social platforms where your future clients spend hours every week.

You already know that your clients' financial lives are increasingly digital. What often gets missed is that social media is becoming the public facing layer of the AI factory Huang described.

The feeds your clients scroll are built on the same three layers: data processing, recommender systems, and agentic AI. That has direct implications for how qualified plan advisors and wealth advisors attract, educate, and retain the households and plan sponsors you want most.

Let us walk through Huang's framework again, this time through the lens of your practice.

1. Data Processing

Every digital action is becoming structured signal. Every like, comment, follow, replay, and pause is being captured and converted into structured data, in real time.

- A 61-year-old plan committee member pauses on a post about investment policy statements.
- A business owner rewatches a short video on safe harbor designs.
- A pre-retiree saves a carousel that explains Roth conversions inside a 401(k).
- An HR director likes three posts in a row about financial wellness meetings.

To the platforms, these aren't casual actions. They're data points in a massive behavioral dataset. The platforms process them into "who is interested in what, and how strongly" in the same way that banks and card networks process financial data.

The social media platforms already sell this insight to advertisers across many industries. What's coming next is more precise access for plan professionals who can use it responsibly.

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What this means for you

The cost of getting in front of very specific households and very specific decision makers is likely to drop over the next several years for advisors who know how to participate in this data layer.

But there's a catch.

If you produce nothing, the platforms have almost no behavioral or content signal that tells them who you are, whom you serve, or why your expertise matters. You become invisible to the emerging AI-driven targeting capabilities.

Content isn't just marketing. It's how you register yourself in the data processing layer.

2. Recommender Systems

The algorithm is becoming your new gatekeeper. Recommender systems sit on top of that processed data. They decide which pieces of content to show to which person at which moment.

They already control whether your post is seen by 80 people or 8,000 people.

Very soon, they'll also influence which advisor's content appears when someone signals a need for guidance. Not just which ad appears, but which explanation and which advisor profile.

Picture a near-term scenario.

- A 55-year-old business owner searches within a platform for "compare SIMPLE IRA to safe harbor 401k."
- A 48-year-old plan sponsor watches a short clip titled "How often should we review our 401(k)-committee charter?" all the way to the end.
- A 60-year-old executive taps a post about "sequence of

returns risk in retirement" and then checks your profile.

In each case, the recommender system can decide that your 45-second explainer, or your carousel, or your long-form post is the best available match for that intent in your region or niche.

It can also decide that other advisors' content is a better match, because they've consistently produced clearer, more engaging explanations on those topics.

What this means for you

Your most important distribution partner isn't just referral sources. It's the algorithm that ranks which advisor's work gets surfaced when a specific financial question is asked.

If you:

- Post infrequently
- Outsource your voice to generic templates
- Avoid short, human, face-to-camera explanations

Then the algorithm has no reason to favor you when it decides which advisor should earn a prospect's attention.

On the other hand, if you build a library of content around the questions your ideal clients genuinely ask, you give the recommender system a reason to select you, over and over.

3. Agentic AI

Your future junior paraplanner will live inside the platforms. Huang's third layer, agentic AI, is where this becomes transformative for advice businesses like yours.

We're moving from "ask a question, get an answer" to "state an objective and get an action plan to carry out."

In the context of social platforms, that could look like the following within a few years:

A 59-year-old plan sponsor types or usesvoice notes inside a social app:

"I'm 59, we sponsor a 401(k) with 120 participants, I'm worried about fiduciary risk and fees, and I want to retire to Arizona in six years. What should I be thinking about?"

A platform-embedded AI agent could:

- Synthesize a response based on high quality educational content from advisors who specialize in that profile.
- Present a short, personalized explanation in plain language.
- Offer a short list of advisors who match the prospect's situation.
- Schedule a discovery call with one of those advisors, including you, right inside the app.

If your content has consistently demonstrated clarity, compliance awareness, and a well-defined niche, that agent can be trained to sound like you and to reflect your planning philosophy.

If not, the agent will default to other advisors' content and perspectives.

What this means for you

Every video, article, transcript, and post you publish today is potential training data for a future digital representative that works on your behalf around the clock.

The more high quality, client focused explanations you provide now, the more likely it is that:

- A platform agent will be able to answer in a way that reflects your approach.
- Prospects will experience your expertise before they ever speak with you.
- Booked meetings will come with higher baseline trust, because the agent has already done part of the education.

You're effectively building your future junior paraplanner inside the network where your ideal clients already spend their attention.

What This Means for You (Practically)

This isn't about becoming an influencer or chasing viral trends.

It's about owning the raw material that tomorrow's AI systems will use to match human questions to human advisors.

Over the next decade, the advisors who benefit most from Huang's AI factory revolution will be the ones who:

1. **Treat content as an asset, not a chore.** Every post, story, reel, and video is a small deposit into a growing library from which algorithms and agents can draw.
2. **Focus on clarity over cleverness.** Short, simple explanations of topics like safe harbor designs, automatic enrollment, investment committee responsibilities, Roth versus pre-tax, and fiduciary process will travel further than jargon-heavy thought pieces.
3. **Align content tightly with a defined niche.** Whether you focus on manufacturing companies with 50 to 500 participants, professional service firms, or multi location franchises, create content that speaks directly to their decisions and fears.
4. **Show your face and voice.** Human, on-camera content will train future systems to understand your tone and style. That makes it easier to build trustworthy agentic representations of you later.
5. **Integrate this into your process, not just your marketing.**Use client questions from review meetings, committee meetings, and enrollment sessions as prompts for what to record next. Build content creation into your calendar the way you schedule plan reviews.

Your Phone Is Now the On Ramp to the AI Factory

Jensen Huang is talking about trillion-dollar investments in data centers and accelerated computing. That can feel distant from an annual plan review.

It's not.

The same infrastructure that trains large models and powers recommender systems is already shaping who sees your work, which advisor a plan sponsor hears from first, and how future digital agents will interpret and amplify your expertise.

You don't control NVIDIA's roadmap. You do control whether there's enough of your thinking in the system for AI to work in your favor rather than around you.

Your phone, your webcam, and your willingness to explain complex topics simply are now critical inputs to the next stage of your practice.

Start treating them that way. NNIM

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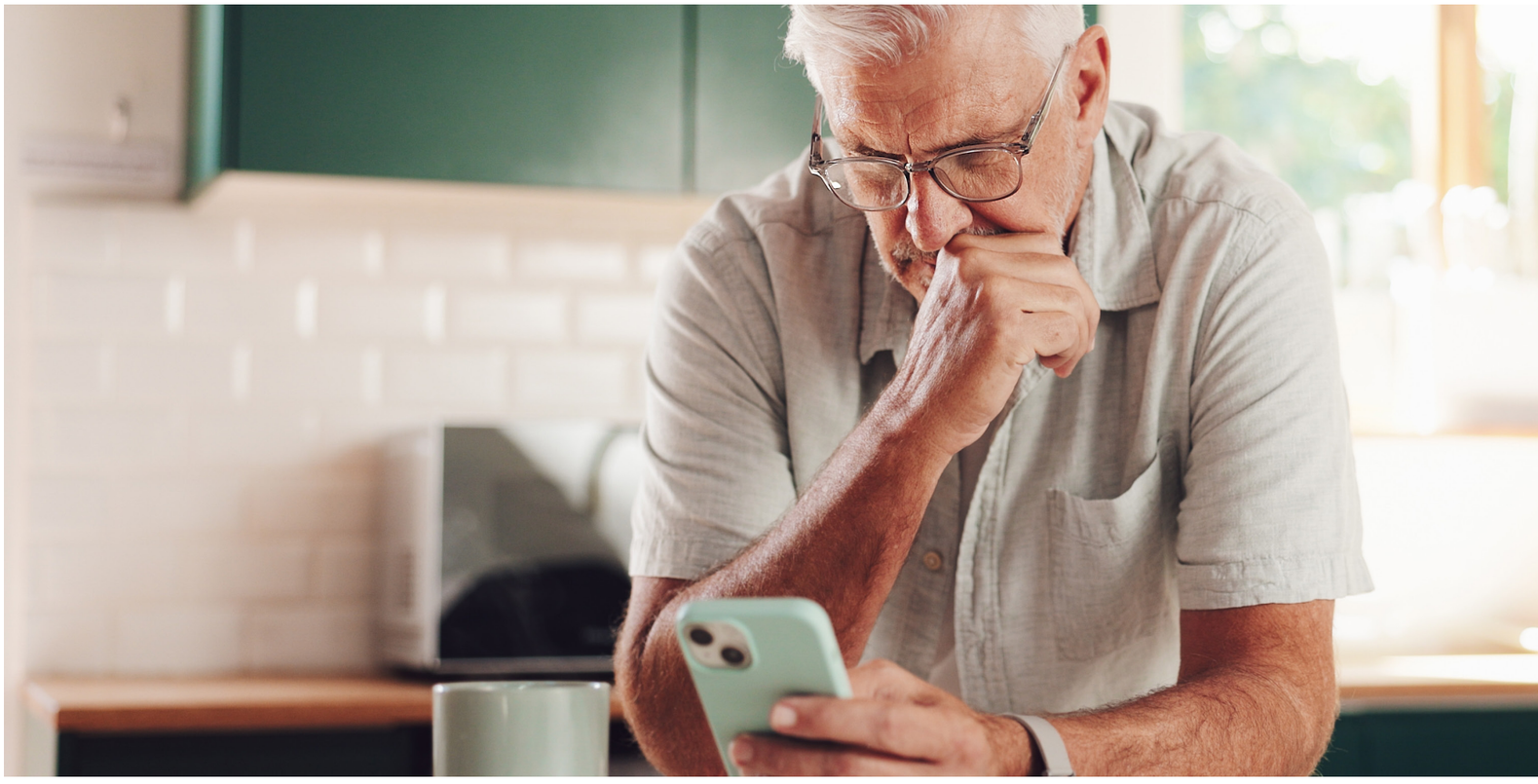


Let's Stop Shaming the Claiming

Let's be straight with people about the tradeoffs, acknowledge the financial realities, and respect that there actually might be legitimate reasons for claiming those hard-earned benefits at different points in time.

By Nevin Adams

I recently stumbled into a LinkedIn debate over the "right" age to start claiming Social Security.

The most recent "debate" was inspired by a recent *Wall Street Journal* article by Derek Tharp – an associate professor of finance at the University of Southern Maine – titled "Why Delaying Your Social Security Benefits May Not Make Sense."

Shortly thereafter, "Schroders 2025 U.S. Retirement Survey" stated that 44% of non-retirees plan to file for Social Security benefits before reaching age 67 (the full retirement age for everyone born in 1960 or later) – and "just" 10% plan to wait until age 70 (when an individual reaches their maximum monthly benefit). And, sure enough, the retirement industry commentary that followed was largely in the vein of "can you believe people are ignoring all this free money?"

But it was the *Wall Street Journal* article that appeared to draw the most critical fire – largely from academics, and mostly (it seemed to me) quibbling about some of Tharp's math assumptions (when you're guessing, even rationally, at things that can't be precisely quantified, there's always going to be room for "quibbling"), and his apparent presumptions about relative levels of risk. But the critiques that I saw were more focused on his temerity in suggesting that there might actually be legitimate rationales for not waiting till age 70. Even though the subtitle of the article was a fairly innocuous "Most people don't actually wait until age 70. For at least *some*[i] of them, it makes a lot of sense."

Indeed, it's hard to read an article about Social Security these days that doesn't proclaim the financial benefits of waiting till

70. Oh, there are caveats such as "if you can afford to wait…," but the clear message is the "right" answer is to wait. And, at least to my ears, anyone who suggests otherwise is just being…dumb at worst, or selfish[ii] at best.

There's little question that waiting till age 70 gets you a higher monthly benefit. However, waiting till age 70 does NOT guarantee that you'll collect more in benefits, in that some people don't live as long as the actuaries predict they will – and likely some choose to claim earlier than they might because they fear (or know) that will be the case. Meaning some simply want to maximize the total dollar value of the benefits (or its "utility"), rather than take a chance on their longevity.

Moreover, some folks can't afford to wait – some are concerned that Social Security benefits will be reduced and/or means-tested (more) if they wait[iii] – some would rather take the money now and invest it – and some just don't see any reason to wait to collect their "full" retirement benefit.

"I'd like to suggest that there is actually a "right" answer that is not 70 — it's what the folks that structured the program envisioned — your full retirement age, or FRA.[iv] If you take it earlier than that, you get penalized by getting a smaller monthly benefit. If you wait past that date, you get a proportionately higher benefit, but only until age 70."

I understand and appreciate that for those who haven't managed to save enough, it's been suggested that a good strategy is to use the savings you do have until you're 70 – bridging that savings gap till you can maximize your monthly Social Security benefits for the remainder or your retirement. There's also the consideration of a spouse, who might well outlive you, and who would presumably appreciate and/or need the higher benefit you get from waiting.

But it occurs to me that many in the financial services industry – and certainly in the media that quotes them – are increasingly prone to labeling those who take those well-earned benefits "on time" as being foolhardy at best – or stupid.

To that point, I'd like to suggest that there is actually a "right" answer that is not 70 – it's what the folks that structured the program envisioned – your full retirement age, or FRA.[iv] If you take it earlier than that, you get penalized by getting a smaller monthly benefit. If you wait past that date, you get a proportionately higher benefit, but only until age 70. In theory, the actuaries say those decisions all add up to the same benefit – but for "regular" people, the answer is a reality, not a theory.

That's not because of the logic or assumptions that Professor Tharp laid out – there's plenty of "wiggle" room in the math to argue either way. But there's more to these types of decisions than "the math" – and I think some people get so caught up in a slide rule[v] exercise they forget that there are real, rational, personal reasons for the timing of the claiming decision.

Let's be straight with people about the tradeoffs – acknowledge the financial realities, and respect – individually, if not collectively – that there actually might be legitimate reasons for claiming those hard-earned benefits at different points in time.

But please, let's quit "shaming the claiming" until/unless we know the particulars of their individual situation(s). NNTM

Bringing financial wellness to the forefront

Financial wellness is the ability to manage money and meet basic financial needs throughout life. But only about half of U.S. adults have a general understanding of what financial wellness is, which means that attaining it remains elusive for many. Besides requiring some degree of financial literacy, financial wellness is dependent on individuals' adopting behaviors and practices that help them manage their finances and improve their lives. While people can develop certain habits that might help them attain financial wellness, there are also ways that employers can help.

An employer-sponsored financial wellness program can encourage employees to save more for retirement, decrease their reliance on retirement plan loans, and increase their use of other offerings aimed at spending and saving money wisely. Moreover, when employers assist employees in achieving financial wellness, job satisfaction and productivity improve. But some employers may need guidance on where to begin and what steps to take to launch a financial wellness program. By recommending the following measures, plan advisors can empower their employer-clients to help employees save for the future:

- Offering financial literacy programs
- Preparing for changes to catch-up contributions to certain employer-sponsored retirement plans
- Providing financial assistance options

Increasing financial literacy

Many people live beyond their means, cannot afford an emergency expense of $400 or more, and either aren't saving for retirement or aren't saving enough for retirement. To help address these challenges, plan advisors can encourage employers to offer financial literacy programs that educate individuals on how to create budgets, avoid debt, save money, and prepare for retirement. Educational resources such as seminars, webinars, blogs, and brochures can effectively equip employees with the knowledge they need to make better financial choices. Advisors can also recommend that employers contract with financial planners/advisors who can counsel employees on making plans for a better financial future.

Changes to catch-up contributions

Catch-up contributions allow individuals ages 50 and up to contribute more than the limit the IRS sets for each calendar year. The SECURE 2.0 Act, which stands for Setting Every Community Up for Retirement Enhancement 2.0, introduced significant changes to catch-up contributions — increasing contribution limits for some while decreasing it for others. Beginning in 2026, one of the act's provisions will eliminate the pre-tax advantage of catch-up contributions for employees ages 50 and up who earn more than $145,000 a year.

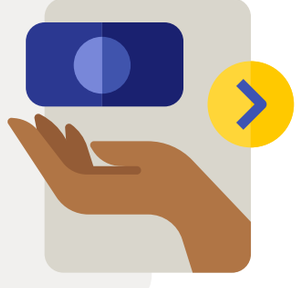
While it is not mandatory for employers to allow catch-up contributions to a qualifying retirement plan, those that do may not be aware of this upcoming 2026 change. And more than likely, their employees are also unaware. Advisors should inform employer-clients of the new requirement and recommend that they communicate this change to all highly compensated employees who make catch-up contributions so that they can adjust their financial plans accordingly.

Employer-provided financial assistance

Two of the main reasons Congress enacted SECURE 2.0 were to address concerns about Americans' not saving money for retirement and not having money for emergency expenses. And although the act's provision for automatic enrollment in retirement plans helps American workers save money for retirement, many are still unable to afford an emergency expense. Advisors should remind employer-clients that there are two ways to help employees who incur unexpected expenses: hardship withdrawals and emergency savings accounts.

Certain retirement plans — 401(k)s, 403(b)s, and 457(b)s — may permit participants to take a hardship withdrawal of up to $1,000 in response to an immediate and heavy financial need. In addition, in-plan and out-of-plan emergency savings accounts can help employees set aside money for unexpected expenses. Employers may need guidance in determining whether to offer hardship withdrawals, emergency savings accounts, or both, and advisors can play a key role in facilitating their decision. Advisors should consider encouraging employers to view financial assistance programs — whether hardship withdrawals or an emergency savings plan — as meaningful workplace benefits that can go a long way toward strengthening employees' ability to shoulder emergency expenses.

American workers are interested in achieving financial wellness, and many employers recognize that supporting this goal promotes greater employee loyalty. With assistance from plan advisors, employers can help their employees save money for retirement and prepare for unexpected expenses, improve their financial literacy, and become more confident in their financial decisions.



SIMPLY THE BEST!

Announcing the 2025 NAPA Top Women of Excellence.

CONGRATULATIONS TO THOSE RECOGNIZED ON THIS YEAR'S LIST FOR RAISING THE BAR AND MAKING A REAL DIFFERENCE IN THE RETIREMENT SECURITY OF MILLIONS OF HARDWORKING AMERICANS!

Introducing NAPA's Top Women of Excellence for 2024

BY JOHN SULLIVAN

Here we are again, recognizing top leaders in our industry, 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!

Experienced vets, impressive newcomers, and those that engage with clients daily – a recent title and methodology change (from Top Women Advisors to Top Women of Excellence) meant more inclusion, more nominees, and broader industry coverage.

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.

As we've previously noted, 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, and why the accolade is our most popular overall (By far!).

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!

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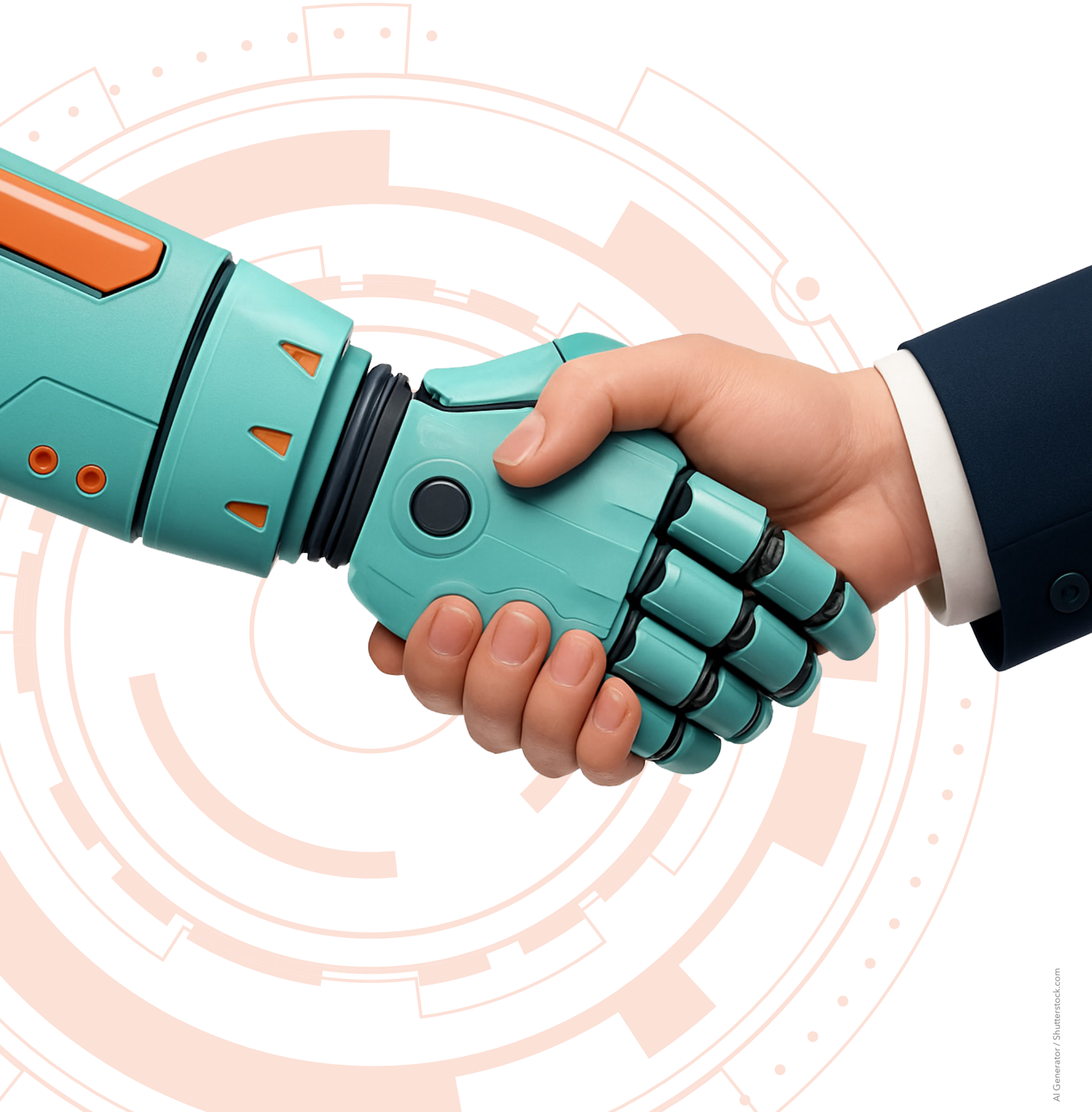

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AI in Retirement PLANS

Promise, Pressure, and Prudence

THE TIME TO START HELPING RETIREMENT PLAN SPONSORS WITH DUE DILIGENCE ON THEIR SERVICE PROVIDERS' AI TOOLS HAS ARRIVED.

BY JUDY WARD

When SageView Advisory Group's Jon Chambers thinks about the potential benefits of artificial intelligence (AI) tools for defined contribution plan participants, he looks to how AI could help facilitate an experience more like that of defined benefit plans, including offering participants an individualized, guided path to achieving lifetime income. Chambers — the Seattle-based managing director of retirement plan consulting at SageView — is also intrigued by using AI's predictive analytics capabilities to help plan sponsors make design decisions, such as optimizing the match formula or considering adding a profit-sharing contribution.

"To me, that's the eventual promise of AI: rather than trying to train employees to make decisions like they are a retirement plan specialist, that these tools will help defined contribution plans look more like pension plans," Chambers said. "But I also think that there are lots of risks with the use of AI tools." Plan advisors will need to help their sponsor clients understand the risk/reward trade-off of using different AI tools, he said. "And we will need to measure the risks and rewards with AI in a totally different way than we do with the capital markets," he added.

As recordkeepers and advisory firms begin implementing AI tools, AI has become the number one priority for compliance officers at investment advisory firms.

That's according to the *2025 Investment Management Compliance Testing (IMCT) Survey*, released in July by the Investment Adviser Association, ACA Group, and Yuter Compliance Consulting. The retirement plan industry is inevitably going in the direction of widespread use of AI tools, said Leslie Ballantine, a Louisville, Kentucky-based retirement plan advisor at Shepherd Financial.

"As an advisor, and as a plan fiduciary, it is not a choice of if you want to monitor that and learn about these things: It's a question of *when* you are going to do that," Ballantine said. There's a risk for plan fiduciaries who don't keep on top of their plan providers' use of AI tools, she said. "That's true especially when you consider the amount of personal participant data that is stored with these providers, as well as the significant portion of most people's wealth that is tied up in their retirement plan account," she added. "So, now is the time to develop a governance process for this, and to make sure it is being followed."

Vendors will drive a lot of the implementation of AI tools in retirement plans, so plan fiduciaries' governance responsibilities primarily should focus on making sure vendors use the AI tools responsibly, said Alan Hahn, a New York-based partner at law firm Davis & Gilbert. It's similar to the oversight responsibility that kicks in with cybersecurity, he explained: Fiduciaries need to look out for the best interests of their plan's participants, and ensure that their plan operations run properly.

"Everyone's a little excited, and everyone is also a little nervous, about AI," Hahn said. "As a plan fiduciary, you always have to be prudent, but what does prudence mean in a world that is constantly changing?"

The newness of this generation of AI capabilities poses a challenge for fiduciaries in carrying out oversight tasks, said Joseph Lazzarotti, a principal at law firm Jackson Lewis P.C. in Tampa, Florida. With fiduciaries' service provider selection and oversight responsibilities, for example, there's a somewhat established set of cybersecurity practices that help gauge whether a vendor is operating appropriately. Whereas, with vendors offering AI-driven tools to retirement plans amid very rapid AI developments, the structures for acceptable practices aren't yet established.

"I suspect there are a lot of tech companies developing AI tools that don't want perfect to be the enemy of good—and that comes with risks," Lazzarotti said. "But if, as a plan fiduciary, you are prudent about assessing AI tools, perhaps work with an outside expert to guide the due diligence, and exercise discretion in selecting the service provider, then I think you will be well-positioned to defend your functions as a fiduciary if the use of those AI tools later gets called into question."

For advisors who want to help plan sponsor clients begin proactively looking at plan providers' utilization of AI, here are six ideas:

- **Start doing due diligence:** "I like to say that we're in the 'garage band' era of AI tools," said Robert Gibson, Raleigh, North Carolina-based vice president, Platform, Retirement & Private Wealth at HUB International. "Everybody has some kind of AI tool that they've spun up, and that they can sell."

Yes, it's early in the trajectory of retirement plan providers' use of AI tools, and it's a complex subject. But Gibson doesn't think there's anything wrong with asking recordkeepers questions now, and seeking visibility on their plans for AI deployment.

"It is always better to ask, and to know the answer, than to stick your head in

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the sand and hope for the best," Gibson said.

Some larger advisory firms with more resources are likely to develop the internal expertise to consult with clients directly on providers' use of AI tools, he said, while other advisory firms will partner with a third-party specialist consultancy with AI expertise.

A lot of the current talk about AI focuses on the promise of AI rather than its actual deployment, Hahn said. Nobody really knows what's coming yet. But it's probably getting to the point where it makes sense for a plan committee to meet annually with an AI expert from the recordkeeper to discuss the recordkeeper's plans for AI utilization, he said. The key thing to get a feel for soon is this: How does the recordkeeper plan to use the technology to benefit the employer's people and its business?

Asked if it makes sense for plan fiduciaries to develop written policies now on how they'll monitor their plan providers' use of AI tools, Hahn responded, "I think we're in the due diligence phase currently, not in the 'put pen to paper' phase. But because things are moving so quickly, it is not enough to say, 'I'm going to sit back and see what our vendor implements.' As a plan fiduciary, you want to make sure that you are a partner in the recordkeeper's strategic thinking about how to do that."

Don't hesitate because AI developments seem too rapid to get a definitive understanding now, Ballantine thinks. The reality is that AI will continue to evolve, she added.

"We will have to be honest with ourselves that AI is evolving very rapidly, and while we need to help our clients make the best decisions based on the situation that we have today, we also need to understand that the situation is going to be different, not just in five years, but next year," Ballantine said.

• **Understand a recordkeeper's AI priorities:** Broadly speaking, Hahn said that plan fiduciaries need to start to understand what AI-driven tools a recordkeeper aims to add that will help improve operational efficiency for a plan (such as catching administrative errors quickly), and what tools it wants to add that could help participants achieve the best retirement-savings outcome they could get.

"I'd be listening for what's really motivating the vendor to implement AI tools?" Hahn said. For now, he suggests focusing on macro questions, not nitty-gritty questions. "I'd do a lot of listening and then reacting with questions," he added, "as opposed to having a list of AI tools that the fiduciaries want now for their plan."

Steven Gibson and his colleagues at Rehmann Financial are starting to ask recordkeepers to keep them updated about plans for their use of AI tools, and then Rehmann staff ask follow-up questions as needed. For the most part, what's been implemented already is not too complex, said Gibson, an Ann Arbor, Michigan-based Rehmann principal: Recordkeepers have started using AI for things like custom communication campaigns for participants.

"But there is a ton of really great stuff coming down the pipeline, I think, and for us it's really going to be about

understanding, what is the end result of these AI tools going to be?" Gibson said. For example, if a recordkeeper is developing an AI tool aimed at helping participants with decumulation planning, will the output that participants see be unbiased, understandable to the average person, and actionable in ways that are in participants' best interests?

"It's important to understand why recordkeepers are developing their particular AI tools," Gibson said. "Are they doing it to help plans and plan sponsors to become more efficient? Or are they doing it to increase the recordkeeper's cross-selling opportunities to participants? For us as advisors, it's going to be important to make our plan sponsor clients aware of the pros and cons of each specific tool."

• **Get knowledgeable about data-security risks:** "I think that for AI tools, the first job we have as advisors will be to be 'agents of rationality,'" Chambers said. "We have to tell our clients what we can reasonably expect from AI tools, and what the potential roadblocks are."

Data will fuel the use of AI tools in retirement plans, both at the plan level and, in some cases, at the individual-participant level. There's a benefit in customized output derived from that data, but also security risks in its use.

For example, the rise of AI coincides with an increase in fraudulent withdrawals from 401(k) plans by criminals, as Chambers noted. Recordkeepers will have to figure out how to make AI-driven tools accessible to participants without making them vulnerable to unauthorized account access. If they don't, the fraud risk will go up, he said.

Plan fiduciaries and their advisors need to learn about numerous aspects of AI tools' data-security issues, Lazzarotti said. For instance, what specific information will the recordkeeper feed into an AI tool? How much individual-participant data will the recordkeeper access for an AI tool, versus plan-level data? Who at the recordkeeper will have access to that data? And for how long will the AI tool retain that information? It's also essential to understand the preventative steps a provider intends to take so that its AI chatbot for participants can't be accessed by a "bad actor" to initiate a fraudulent distribution request.

"That distribution request to a plan's AI chatbot could be coming from a bad actor," Lazzarotti said. "Remember, bad actors have AI tools at their disposal, too. I think that if you're not using AI in a defensive position, you're going to be overtaken by someone who is using AI for 'offensive' purposes. So recordkeepers will have to be constantly vigilant."

• **Learn about hallucination risks:** Data accuracy will be another crucial issue as AI tools get implemented. The topic of "hallucination" risk—meaning the risk that an AI tool produces false or misleading output but presents it as factual—came up frequently when doing interviews for this story. Several factors can lead to hallucinations, including incomplete or biased data used by an AI tool and faulty assumptions made by its model.

"Once you have data security, the question then becomes, how do you ensure that you get data accuracy? In the world of AI, good data inputs lead to better outcomes," HUB's Gibson said. "Is the output generated by an AI tool being 'directionally accurate' going to be close enough? Probably not."

Lazzarotti sees hallucinations as a legitimate risk when retirement plans use AI tools. Just because an AI tool might have an impressive-looking user interface, that doesn't mean the engine behind it will work in ways that produce an output with only accurate and helpful information. With these tools, so much of the output depends on the inputs, he said.

"But many people aren't thinking about AI that way: They think it's a magic tool, and that if you use it, you'll get the perfect answer every time," Lazzarotti said. "That's not true."

An employer's IT department may be able to help the plan's fiduciaries look into the appropriateness of a provider's AI-tool inputs, he said. However, he added that, for risk mitigation, it's important for the plan fiduciaries to understand the basics themselves and ultimately use their discretion to decide

> “It is incumbent on us as advisors to work with our industry partners to ensure that the AI tools we’re using are in the best interest of participants”

on an AI tool’s use, rather than passing responsibility for decisions to IT staff.

• **Look into protections if problems occur:** “What is going to happen if a recordkeeper’s AI tool gives a participant improper information?” Rehmann’s Gibson asked. “I am wondering, are the recordkeepers going to have AI-related guarantees?” As AI tools for participants get implemented, it will be important to understand the answer to that question.

When a plan sponsor begins a recordkeeper search, Lazzarotti recommended asking recordkeeper candidates to see an example of the provider’s standard service agreement. That way, the plan fiduciaries will have ample time during their decision-making process to consider which provisions, if any, a contract will include for liability in the event of problems with an AI tool.

For instance, what if a criminal utilizes a recordkeeper’s AI tool for participants to make a fraudulent withdrawal? Or what if an AI tool gives imprudent investment recommendations that a participant then follows?

“Many developers of AI tools really want to limit any liability that they could have for the use of these tools,” Lazzarotti said.

But sometimes plan fiduciaries and their counsel can negotiate successfully to modify a service agreement and stipulate different levels of recordkeeper responsibility to make participants whole depending on circumstances, he said.

• **Talk proactively about advisory firm’s AI use:** Ballantine sees potential for advisory firms themselves to utilize AI tools to provide a powerful benefit to participants, by customizing communications and education more efficiently and effectively. As advisors implement participant-facing AI tools, they should take the initiative to communicate with plan sponsors about this, she said.

“It is incumbent on us as advisors to work with our industry partners to ensure that the AI tools we’re using are in the best interest of participants, that plan sponsors understand the due diligence we’ve done on our side before adding an AI tool, and that sponsors understand how this tool will help their participants,” Ballantine said.

If a plan works with the type of advisory firm that interacts one-on-one with participants, Hahn said, the plan’s committee should understand how that advisory firm uses AI to talk to participants, both about the retirement plan specifically and, more broadly, about their financial life.

“The question is, does that one-on-one contact from advisors get enhanced by AI, or does it get replaced by AI?” Hahn said. An enhancement approach likely will work best, he thinks. “As AI becomes better at helping with more routine stuff, participants are going to potentially rely even more on the human touch,” he added. “They’re still going to need that reality check from an advisor that the AI tool is not hallucinating, that it’s not making mistakes.”

An advisor should be transparent with plan sponsors about how the advisor is beginning to use AI in its work with their plan, HUB’s Gibson believes.

“Advisory firms should explain, ‘Here’s how we are using AI to interact with your employees, and here’s how we’re using it to enhance our services,’” Gibson said. “It’s about visibility.” NNTM

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American Century Investments

Cracking the Retirement Code: Income Replacement Rates

Even with its foundational role in retirement planning, one critical concept often baffles participants and employers alike: the income replacement rate. This term, crucial for establishing realistic savings goals, refers to the percentage of pre-retirement income retirees need to maintain their standard of living in retirement.

While the concept may seem straightforward, the 12th annual American Century Retirement Study revealed a concerning gap in understanding among employers and employees about the ideal income replacement rate—exposing the risk that participants' retirement savings could fall short of their needs.

Unlocking the Mystery of Income Replacement Rates

Despite the importance of knowing how much income one needs to replace in retirement, employees, employers and industry professionals do not agree on an appropriate income replacement goal.

Stark Discrepancy in How Much Income Replacement Is Needed in Retirement

- **75%** Financial industry standard
- **51%-80%** Employers' responses
- **40%-100%** Employees' responses

The wide-ranging answers, particularly among participants, underscore that many retirement investors are not making informed decisions about their retirement savings. It also reveals a need for the retirement planning industry to educate and guide employers and employees in setting realistic and sufficient income replacement goals. Our 2025 survey revealed that plan sponsors believe their education is effective, but participants still feel unprepared and want more support to turn savings into income.

DC Plans vs. DB Plans as the Primary Retirement Vehicle

Granted, the need for defined contribution (DC) plans to account for income replacement has evolved. Historically, DC plans began as supplemental savings vehicles to defined benefit (DB) plans. Over the past two decades, however, employers increasingly froze or even eliminated their traditional pension plans. The result is that DC plans now serve as the cornerstone of retirement planning for most American workers. This shift necessitates a reevaluation of how these plans are structured and utilized.

Recognizing this evolution, many employers are now working toward establishing income replacement rate goals for their 401(k) plans. Additionally, a few plans are defaulting employees into investment options that allow them to convert all or part of their savings into guaranteed lifetime income.

What Participants Get Wrong About Target-Date Funds

Why would employers consider a default retirement income option when they already have a target-date fund (TDF)? One of the most revealing aspects of the 2025 participant survey is the disconnect between what plan sponsors believe they are offering and the expectations of plan participants.

- **62% of participants** believe TDFs guarantee them income at retirement.
- **34% of participants** think they are guaranteed not to lose money.
- **45% of participants** prefer a TDF that helps protect their savings from significant losses even if it means waiting out periods of underperformance.
- **46% of participants** find a loss of more than 10% unacceptable when they are within five years of retirement.

Participants' perceptions of TDFs highlight the need for clearer communication and education regarding the nature of TDFs and the risks involved. It also may explain why participants have a strong preference to have all their account balances protected in the form of a default investment—and then choose the amount of guaranteed income to take at retirement.

The Advisor's Role: Educator, Advocate and Innovator

Even with workers' overwhelming interest in guaranteed lifetime income options, only about 5% of 401(k) plans in the U.S. currently offer such products. This gap points to the opportunity for advisors to step in to help employers align plan offerings with the needs and preferences of the workforce.

Employers' responses to our survey showed their readiness to have these conversations:

- A staggering 94% of employers feel a responsibility to aid their employees in saving for retirement and managing their funds in their post-work years.
- Moreover, 81% prefer that employees keep their retirement assets within the company plan, underscoring the importance of providing options that allow for the conversion of savings into reliable income streams upon retirement.

The Path Forward for Retirement Income Planning

The findings from the American Century Retirement Study once again serve as a crucial wake-up call for the retirement planning industry. As we navigate an ever-evolving financial landscape marked by concerns over inflation, interest rates and market volatility, the need for robust, adaptable retirement planning strategies has never been greater.

By fostering a deeper understanding of the income replacement rate, clarifying the role and risks of investment options like TDFs and evolving the structure and offerings of DC plans, we can work toward a future where all participants can adequately meet their income needs in retirement.

Methodology: The participant survey was conducted between June 3, 2025, and June 23, 2025. The survey included 1,500 full-time workers between the ages of 25 and 70 saving through their employer's retirement plan. The data were weighted to reflect key demographics (gender, income, and education) among all American private sector participants between 25 and 70.

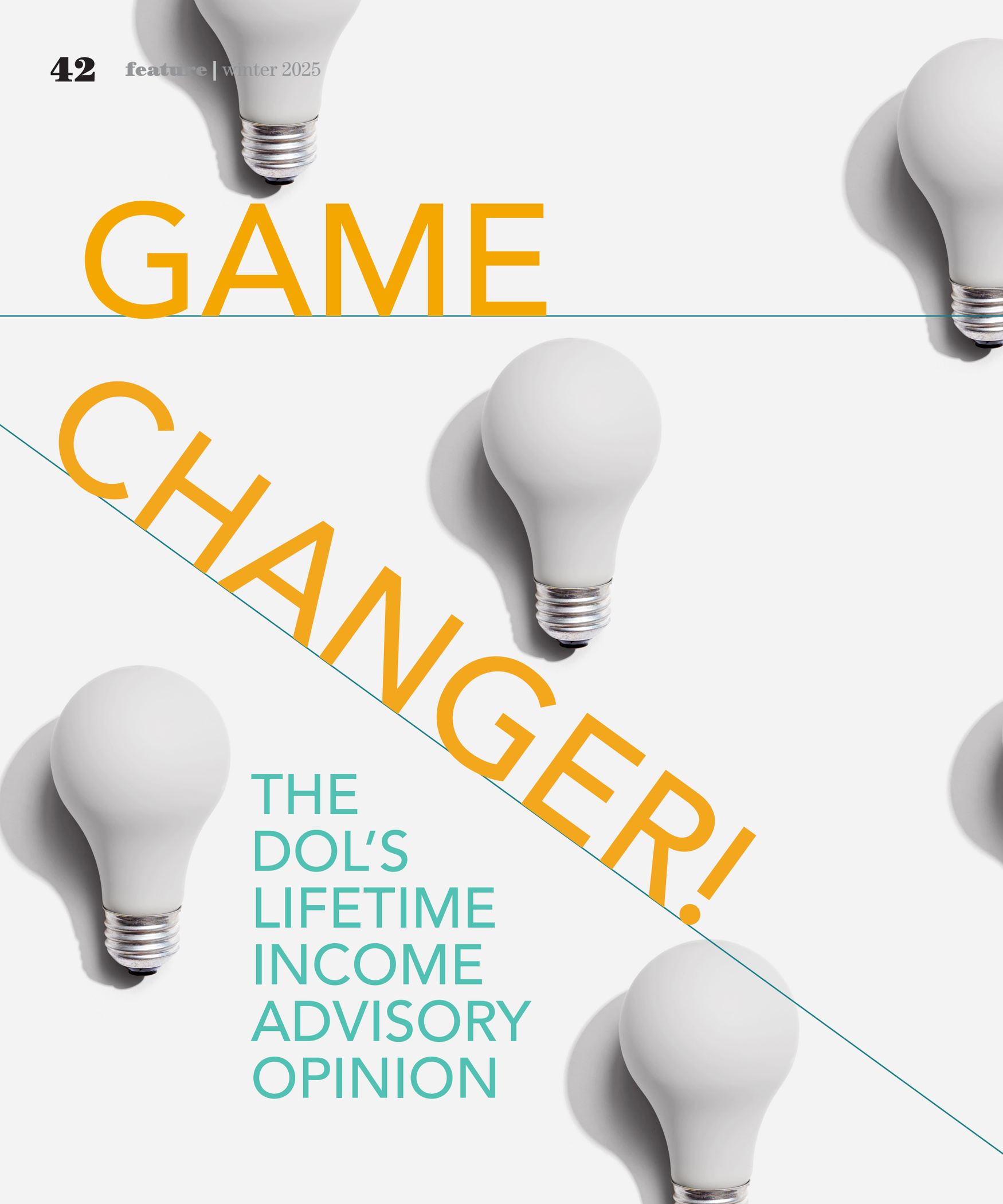
The sponsor survey was conducted between May 20, 2025, and June 16, 2025. Survey included 500 plan sponsor representatives holding a job title of Director or higher and having considerable influence when it comes to making decisions about their company's retirement plan (either 401(k), 403(b), or 457 plans). The data were weighted to reflect the makeup of the total defined contribution population by plan asset size.

Percentages in the tables and charts may not total 100 due to rounding and/or missing categories.

Greenwald Research of Washington, D.C. completed data collection and analysis.

GAME CHANGER!

THE DOL'S LIFETIME INCOME ADVISORY OPINION



THE ADVISORY OPINION IS A MAJOR DEVELOPMENT IN THE FIELD OF DEFINED CONTRIBUTION PLAN DESIGN AND RETIREMENT INCOME PLANNING. HERE ARE THE SIX KEY REASONS WHY IT MATTERS.

BY FRED REISH AND TAMIKO TOLAND

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As Baby Boomers retire in a 401(k) world, they are confronted with converting "wealth" — their 401(k) accounts — into lifelong retirement income. In effect, their 401(k)-retirement income and Social Security payments will replace their paychecks.

While Social Security retirement income is guaranteed for life, 401(k) income is not.

Wealthier clients are likely to seek prsonalized advice outside the plan, but many participants will lack the resources to do so.

However, 401(k) plans can provide a solution through a combination of investments and insurance products. In that case, retirement plan advisers will need to help plan sponsors and fiduciaries make informed and prudent decisions.

Fortunately, both Congress and the Department of Labor (DOL) are aware of these issues and are taking steps to address them.

Issues Facing Participants

At first blush, the burden of managing investments and withdrawals in retirement is manageable for the average participant. However, this objective is complicated by the need for participants to manage risks arising from two unknown factors: investment performance and longevity.

The ongoing risks of market fluctuations and the unknown duration of retirement can make managing withdrawal strategies tricky for even the most sophisticated participants. As a result, many retirees face two choices: risk running out of money at an advanced age or, out of fear of that outcome, spend less early in retirement with a lower standard of living than they could reasonably afford.

The primary levers that an individual can use to manage longevity risk are underspending and risk pooling through insurance (in other words, an annuity). Lifetime income (including that from Social Security) also reduces the risk from market volatility.

Fortunately, government policy makers and retirement industry thought leaders are deeply concerned about this issue, so retirement income security is a policy priority that enjoys widespread support.

As a result, there are now more solutions available to plan sponsors than ever, with an increased focus on offering solutions as defaults — where participants will be placed in lifetime income products that give them the option to use the guarantee if they want.

For example, fiduciary relief for automatic enrollment and for investing the accounts of participants who do not elect investments has empowered plan sponsors to enroll participants in target date funds, even for those with little knowledge or foresight about investing and saving for retirement.

Reliance on default actions means that similar relief for default investments with lifetime income guarantees would likely increase their use in retirement.

Solutions Inside 401(k) Plans

Over the past two decades, we've seen the qualified default investment alternative (QDIA) safe harbor drive the use of target date funds. In more recent years, we have witnessed insured lifetime income products included with QDIAs.

Advances in the regulation and legislation of annuities in retirement plans reflect the importance of this issue as a policy matter (for example, the fiduciary safe harbor for selecting insurance companies in the SECURE Act). However, there are still concerns that fiduciary reluctance is stifling innovation.

Because of these concerns, existing guidance often errs on the side of broadness. For example, language in existing guidance that permits the use of annuities may reasonably be viewed as including the guaranteed lifetime withdrawal benefits (GLWB). (A GLWB is an annuity provision that assures that a retiree can take (contractually defined) withdrawals from the participant's account and the insurer will continue to make payments even if the assets in the retiree's account are depleted.)

However, the absence of explicit wording to that effect leaves room for doubt, creating an air of uncertainty that makes some plan sponsors hesitant to make a move. To this end, the industry has been asking the Department of Labor (DOL) for additional guidance to ease concerns about litigation risk.

On September 23, 2025, the DOL delivered just that in the form of an advisory opinion about AllianceBernstein's Lifetime Income Strategy (LIS), which includes an allocation to the Secure Income Portfolio, which uses a bidding process to spread the guarantee among multiple insurers.

On its face, it may look like good news primarily for AllianceBernstein and its clients. However, the opinion should ease fiduciary concerns for a broad range of insured products.

There are two issues at hand:

(1) the use of a GLWB, and

(2) the role of the investment manager, as a 3(38) fiduciary , to rely on one of two available safe harbors to select and monitor

insurers and to use a bidding system to allocate among those insurers.

We focus on these two issues and conclude with the six takeaways that mark this opinion as a significant advancement for the industry as a whole and a positive step toward the adoption of lifetime income in retirement plans.

The GLWB as a QDIA Component

LIS isn't unique in its use of the GLWB, and it's a common format for guaranteed lifetime income among 401(k) solutions. Nevertheless, this is the first opinion that explicitly states that a GLWB can be used within a QDIA.

Even though the AllianceBernstein approach uses a variable annuity, the provision of guaranteed lifetime income through a contractual guarantee (not annuitization) is the point. Many of the products on the market today use a GLWB on a fixed annuity chassis or through a contingent deferred annuity, which guarantees the lifetime payment after the associated assets are depleted. The DOL has issued several pieces of guidance, including a recent advisory opinion (discussed later in this article), which are broad enough in their reasoning to cover the various forms of GLWB and annuity protections.

Fiduciary oversight

In 2014, before the existence of the safe harbor for selecting insurance companies provided through the SECURE Act (2019), the DOL held that an investment manager could rely on the safe harbor in discharging its responsibilities as a 3(38) fiduciary for the selection of a provider and annuity contracts.

That concept provides relief to plan sponsors who may be concerned that they lack the expertise to select and monitor insurers and their contracts (although plan sponsors will be fiduciaries for selecting and monitoring the investment manager).

The new opinion augments that earlier guidance by holding that the investment manager can rely on both fiduciary safe harbors and receive their protections.

While the primary plan fiduciaries will be relieved of fiduciary responsibility for selecting the insurer and the particular insured contract, they will still be responsible for prudently selecting and monitoring the 3(38) investment manager. Retirement plan advisers can help plan fiduciaries fulfill that responsibility by reviewing and reporting on the experience and qualifications of the 3(38) manager responsible for performing that task.

Six Big Takeaways

This advisory opinion is a major development in the field of defined contribution (DC) plan design and retirement income planning. Here are the key reasons it matters:

1. *Green light by DOL for use of a GLWB feature within a QDIA.* Prior to this, there was uncertainty whether a default investment could include or be paired with the use of GLWBs as lifetime income guarantees. The QDIA regulation mentions that investment guarantees, or annuity features, may be ancillary, but the DOL had not explicitly confirmed that an in-plan strategy with a GLWB could itself qualify as a QDIA. This opinion provides that clarity.

2. *Encouragement for plan sponsors to adopt lifetime income solutions.* Many sponsors have hesitated to add in-plan lifetime income options because of regulatory and fiduciary uncertainty. This opinion signals regulatory openness to guaranteed lifetime income solutions in participant-directed plans and for QDIAs. Significantly, the opinion acknowledges that investment managers can serve as fiduciaries for the selection and monitoring of insurers and the particular contracts, relieving plan sponsors and fiduciaries of that fiduciary responsibility and concerns about liability.

3. *Affirmation of fiduciary flexibility and continuity with safe harbors.* The opinion doesn't impose new, rigid obligations; instead, it bridges existing safe harbor frameworks to this new use-case. Most importantly, the opinion affirms that investment managers can rely on the regulatory and statutory safe harbors when selecting and monitoring insurance companies and the contracts.

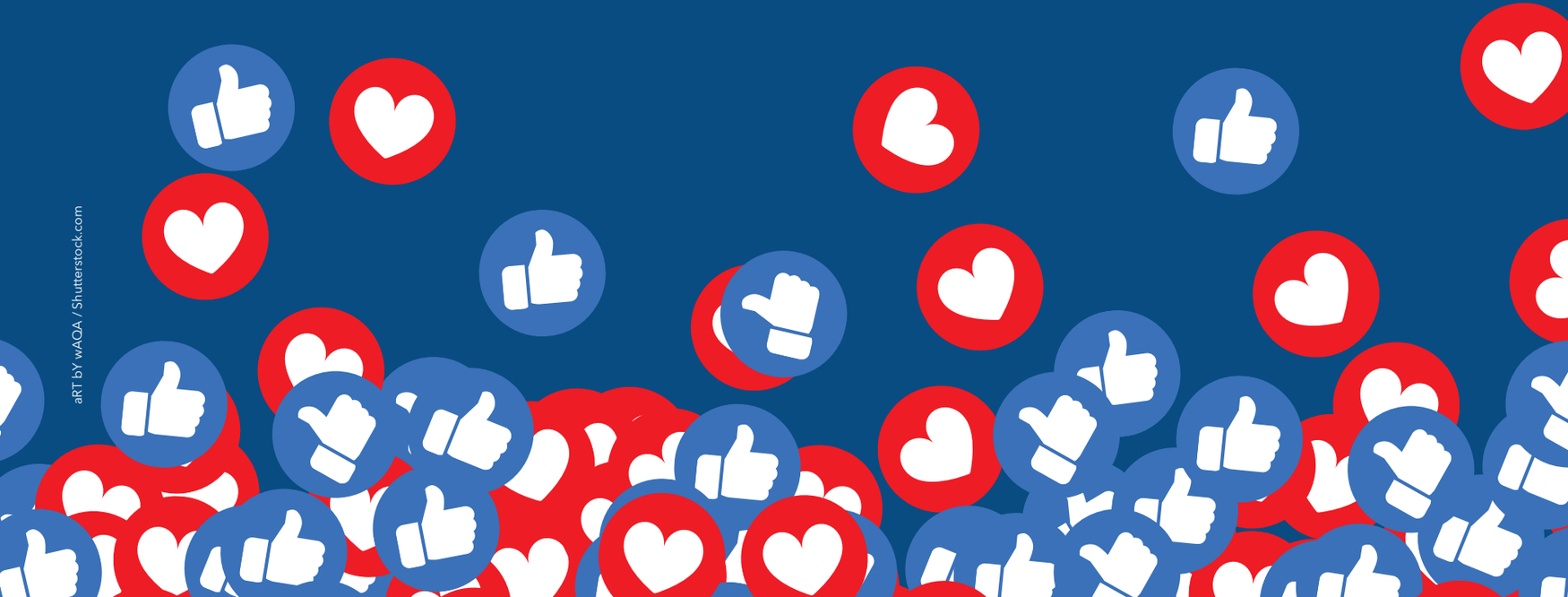
4. *Support for innovation and product development.* The opinion reduces "regulatory drag" and encourages innovation and the design of products tailored for defined contribution defaults by signaling that a product is not explicitly described in the existing language.

5. *Momentum for policy change and regulatory reform.* The opinion comes on the heels of Executive Order on alternative assets in 401(k) plans) . One of the categories of "alternative assets" in the Executive Order was "lifetime income strategies" in 401(k) plans. The DOL's press release and the advisory opinion underline that this is part of a broader push to modernize retirement plan regulation. The opinion may also presage future rulemaking to further clarify fiduciary responsibilities in the alternative-asset / lifetime-income context.

6. *Implications for litigation and fiduciary risk.* This opinion will likely be a benchmark in disputes over the prudence of default investments or annuity selections in retirement plans. In other words, plan sponsors and 3(38) investment managers can point to the guidance as support for the prudent inclusion of retirement income products in 401(k) plans. This letter signals favorable policy implications on two fronts:
    - First, there is public policy favoring the availability of guaranteed retirement income in plans.
    - Second, because of the explicit approval of a process for selecting the insurers and products, including the use of third-party investment managers to relieve the burden on plan sponsors. NNTM

Wit and Wisdom

The 2025 NAPA Top Social Media Influencers



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WHETHER IT'S A BIT OF WISDOM, A DASH OF INSPIRATION, OR RETIREMENT PLAN FUNDAMENTALS, THEIR CONTENT IS NOTICED BY PEERS AND PLAN PARTICIPANTS ALIKE.

BY JOHN SULLIVAN

The National Association of Plan Advisors (NAPA) is pleased to announce its list of top social media influencers – the newest NAPA accolade celebrating retirement professionals who are doing it right and raising the bar for the industry.

Their creative, informative – and yes, entertaining – posts stand out, and they're "all in" with spreading the word on social media.

Whether it's a bit of wisdom, a dash of inspiration, or retirement plan fundamentals, their content is noticed by peers and plan participants alike.

More specifically, the accolade is designed to do the following:

- Recognize those who post actively on social media
- Those who receive consistent engagement on those posts
- Those who innovate in how the retirement plan industry sends and receives information
- Those who are advancing the cause, driving the agenda, and are mission-focused

NAPA members nominated influencers for their use of video, infographics, text, or live platforms in the following categories: plan advisors; DCIOs; recordkeepers/TPAs; and other retirement plan industry professionals.

SO, HERE'S THE LIST OF THIS YEAR'S TOP SOCIAL MEDIA INFLUENCERS!

NAPA 2025 Top Social Media Influencers

Category: Plan Advisor

- Grant Ellis (Ellis Retirement Services)
- Betsy Kelly (Hemingway Wealth)
- Phillip Senderowitz (SRP)
- Jeanne Sutton (SRP)

Category: Other Retirement Plan Industry Professionals

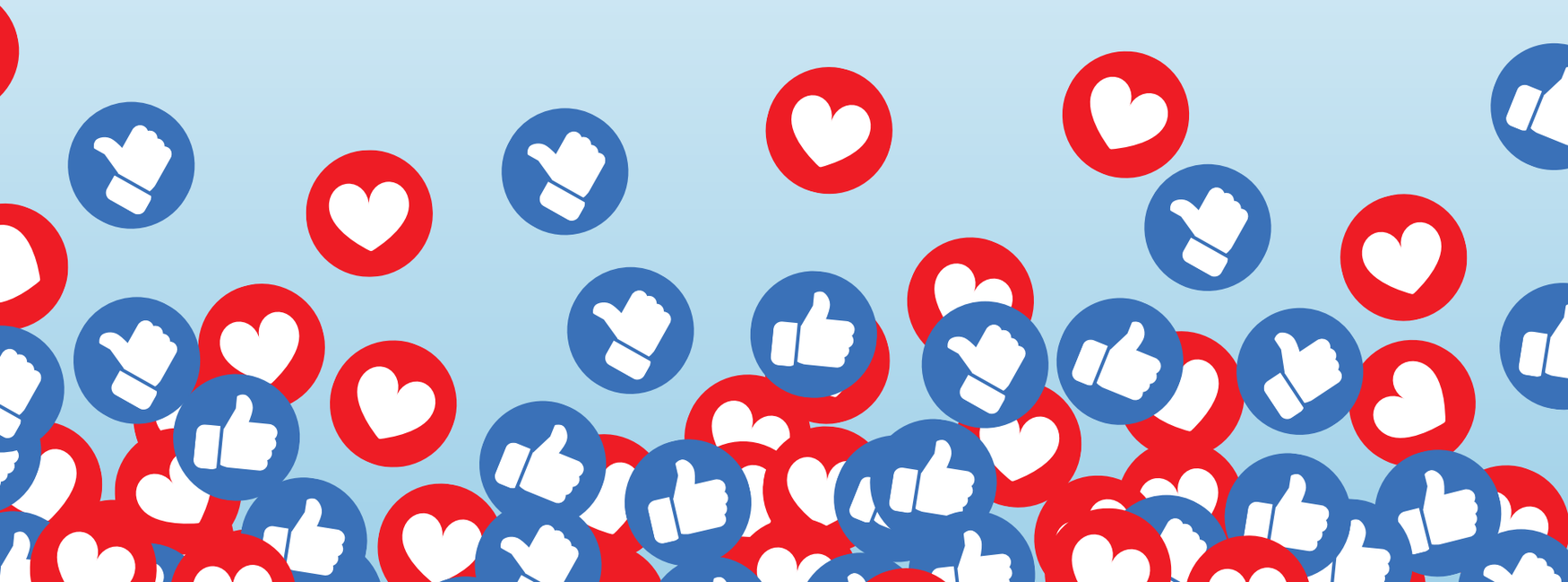
- Eric Dyson (90 North Consulting)
- Wendy Eldridge (Carnegie Investment Counsel)
- Rebecca Hourihan (401k Marketing)
- Bonnie Treichel (Endeavor Retirement)
- Matthew Wolniewicz (Income America)

Category: DCIO

- Mike Dullaghan (Franklin Templeton)
- Brendan McCarthy (Nuveen)

Category: Recordkeepers/TPAs

- Katie Boyer-Maloy (Principal Financial Group)
- Shannon Edwards (TriStar Pension Consulting)
- Jason Wroblewski (Ascensus)



Fiduciary Rule: The Saga Continues

It's easy to get 'compliance fatigue,' but for advisors, this shifting landscape presents a clear opportunity to continue providing key insight and guidance for clients.

By David Levine, Groom Law Group, Chartered

If you feel like you have seen this movie before, you are not alone. As I have written in NAPA Net many times – from comparing the industry's regulatory journey to *Back to the Future* to asking, "Guess Who's Back?" in 2023 – the fiduciary rule saga has become the retirement industry's never-ending franchise. Just when we thought the fiduciary franchise might be winding down, it is time for another reboot.

Following the recent litigation that pressed the "pause" button on the Biden administration's version of the fiduciary rule and then walked away from it, we are now looking at yet another sequel. With a new proposal likely to emerge in 2026, advisors are once again left asking: Where do we go from here?

While the new script is being written, the current landscape offers both familiar discussion topics and new plotlines involving ESG and alternative assets. So, what is essential to be aware of?

- **The "Old" Rules Are New Again.** Despite the regulatory rollercoaster, the ground beneath us has temporarily settled back to a familiar foundation. We

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> **"For advisors, this legal tug-of-war highlights that while the precise limits of the fiduciary rule may continue to fluctuate, compliance remains important. The risk of being sued has not vanished, and the plaintiffs' bar continues to look for compliance gaps, regardless of which version of the rule is proposed or in force."**

have effectively returned to the 1975 five-part test to determine who is a fiduciary. However, do not mistake this "return to the past" for a lack of regulation. The Department of Labor's Prohibited Transaction Exemption 2020-02 from the first Trump administration generally remains in place. Whether it has a role in an advisor's practice is a discussion between her or him and their compliance department. The exemption provides a potential roadmap for compliance, covering advisor activities ranging from "robo-advice" to pooled employer plans.

- **Whiplash From Recent Litigation.** The court battles over prior generations of the fiduciary rule, and a recent Supreme Court decision on deference to rules created by administrative agencies, have reinforced a "higher bar" for the Department of Labor when its rules are challenged. Courts have been repeatedly skeptical of attempts to broadly expand the fiduciary definition without clear Congressional authorization or direction. The litigation involving the Biden administration's rule mirrored past fights, with industry groups successfully arguing that the expansion overreached. For advisors, this legal tug-of-war highlights that while the precise limits of the fiduciary rule may continue to fluctuate, compliance remains important. The risk of being sued has not vanished, and the plaintiffs' bar continues to look for compliance gaps, regardless of which version of the rule is proposed or in force.
- **The Pendulum Swings Back on ESG.** If the fiduciary definition is the main plot of this pending reboot, environmental, social, and governance investing remains a heated subplot. Under the Biden administration, as in prior Democratic administrations, fiduciaries were given greater latitude to consider non-pecuniary factors (such as climate impact) as tie-breakers. However, with the changing political winds, the Trump administration is expected to pivot sharply. It would not be surprising to see a return to the "pecuniary-only" focus (although not necessarily with those exact words) that characterized the first Trump administration's 2020 guidance. For this reason, advisors who use ESG in their practices might consider a continuing focus on economic factors as they support their clients.
- **A New Opening for Alternative Assets.** Perhaps the biggest twist in this reboot is the recently signed Executive Order regarding alternative assets. While previous guidance treated private equity and cryptocurrency in 401(k) plans with "extreme caution", this new EO, titled "Democratizing Access to Alternative Assets for 401(k) Investors," directs the DOL to review and potentially clear the path for these asset classes in defined contribution plans. How plan fiduciaries implement these solutions will involve key role input and advice from advisors.

If there is one lesson from the last decade of fiduciary rulemaking, it is that a lot can change from proposal to final rule. We have seen rules finalized, vacated, resurrected, and stayed. It's easy to get "compliance fatigue," but for advisors, this shifting landscape presents a clear opportunity to continue providing key insight and guidance for their clients. As we move into 2026, the role of advisors as fiduciaries and the advice given to their clients will continue to evolve. The threat of litigation will remain. But clients will need guidance, and advisors should be ready to help fill this need. NNTM

Forfeiture Forays Fall Short, DOL Drops Fiduciary Fight, and PRT Pushbacks Prevail

Here's what you really need to know about emerging trends in litigation.

By Nevin E. Adams, JD & Bonnie Treichel, JD

As 2025 winds to a close, we've seen emerging clarity – and support – for plan fiduciaries in ERISA litigation involving pension risk transfers (PRT) and forfeiture reallocation challenges.

The vast majority of these cases have not moved past the motion to dismiss stage; the PRT cases mostly finding that in the absence of a clear and immediate injury, the defendants lack standing to sue, while the forfeiture reallocation decisions have relied mainly on grounds that the forfeiture reallocation decision was in accordance with the law and – in these cases – the language in the plan document.

That said, while those have been the majority trend, plaintiffs have been successful in moving past the motion to dismiss in several cases in both those genres.

Here's What You Really Need to Know:

- Forfeiture reallocation suits continue to be filed, but the fiduciaries in most of those suits have, to date, been successful in dismissing those suits.
- Separate suits involving stable value and target-date fund (TDF) selection have questioned the prudent application of the terms in the plans' investment policy statement (IPSs).
- An ESG-focused lawsuit has been judged to have no financial damages, but the plan fiduciaries have been saddled with a series of new participant disclosures and changes to the plan committee.
- Shifts in the interest rate environment and strong equity markets have spurred record volumes of PRT activity – corporations looking to move their pension obligations to a third-party insurer. Suits challenging PRTs have, to date, struggled to get past the motion-to-dismiss phase, mainly because the potential risk to pensions has not yet been realized or viewed as immediate.

Lets Dive In!

DOL Drops Defense of Fiduciary Rule

The Labor Department's Employee Benefits Security Administration (EBSA) has filed a motion withdrawing its appeal of court challenges to the so-called fiduciary rule issued during the Biden administration. The motion to dismiss the appeal filed in the U.S. Court of Appeals for the Fifth Circuit stated that the other parties do not oppose it.

The DOL first asked for an "abeyance" due to the change in administration on Jan. 20, 2025, as it was now "under new leadership" – something the court granted on Apr. 15. That filing explained that, "at the end of the day on Sept. 30, 2025, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the federal appellants." Several other requests for extensions followed, most recently tied to the government shutdown.

The appeal arose in the wake of two separate cases (subsequently combined) filed by the American Council of Life Insurers and the Federation of Americans for Consumer Choice, who challenged the rule on Administrative Procedure Act grounds, contending it exceeded its regulatory authority under the Employee Retirement Income Security Act.

The Trump Administration had previously indicated in its regulatory agenda that it planned to rewrite the regulation.

Forfeiture 'Forays'

Several suits asserting a fiduciary breach in the use of plan forfeitures to offset employer contributions rather than offsetting plan expenses were dismissed during the quarter, but new ones continued to emerge, and a second one was settled.

Lillian _Li28 / Shutterstock.com

During the quarter, new suits were filed against Duke University and Humana, with similar allegations made in both cases. In the former case and admitting that the plan document permitted the choice between offsetting employer contributions or administrative expenses, the suit asserted a conflict of interest on the part of plan fiduciaries. The suit further asserted that "absent any risk that Duke would be unable to satisfy its contribution obligations, using forfeitures to pay administrative expenses would be in the participants' best interest because that option would reduce or eliminate amounts otherwise charged to their accounts to cover such expenses."

The Humana suit made similar allegations – but further asserted that the defendants did not "investigate whether there was a risk that Humana would be unable to satisfy its contribution obligations if forfeitures were used to pay administrative expenses, or evaluate whether there were sufficient forfeitures to eliminate the Plan's expenses charged to participants and still offset a portion or all of Humana's own contribution obligations, as a prudent person would have done". Nor, according to the suit, did they consult with "an independent, non-conflicted decisionmaker to advise them in deciding upon the best course of action for allocating the forfeitures in the Plan, as a prudent person would have done."

Those new suits notwithstanding, most of the activity during the quarter consisted of plan fiduciaries successfully having their motions to dismiss the suits granted. That included suits against AT&T, Peco Foods, and WPP Group USA. While these were all at the motion-to-dismiss stage, the latter acknowledged the already numerous precedents in that regard, as well as the recent amicus brief by the DOL in support of HP plan fiduciaries in a similar suit currently under appeal.

Plaintiffs in the Peco Foods case had argued that the plan fiduciaries' decision conflicted with the plan document – but the judge there noted that while the document said that forfeitures may first be used to pay administrative expenses, that language didn't prohibit their discretion in choosing a different order. "It follows that Peco's use of the forfeitures to offset employer contributions did not violate the terms of the Plan and thus, that plaintiff has failed to state a claim."

Perhaps less significant during the quarter, we saw a second of these suits be settled (Capital One), while the plaintiff dropped a short-lived one against CommonSpirit, less than a month after it was filed, with no explanation provided.

All told, and while these suits continue to emerge (and in some cases are appended to more traditional excessive fee suits), the federal courts seem inclined to acknowledge the legality of the practice of offsetting employer contributions, so long as the plan document doesn't forestall that option. Meanwhile, the HP case – the only one at this point to proceed past an initial judgment – bears watching, particularly in view of the DOL's support through its amicus brief (or friend of the court), which was filed in July 2025.

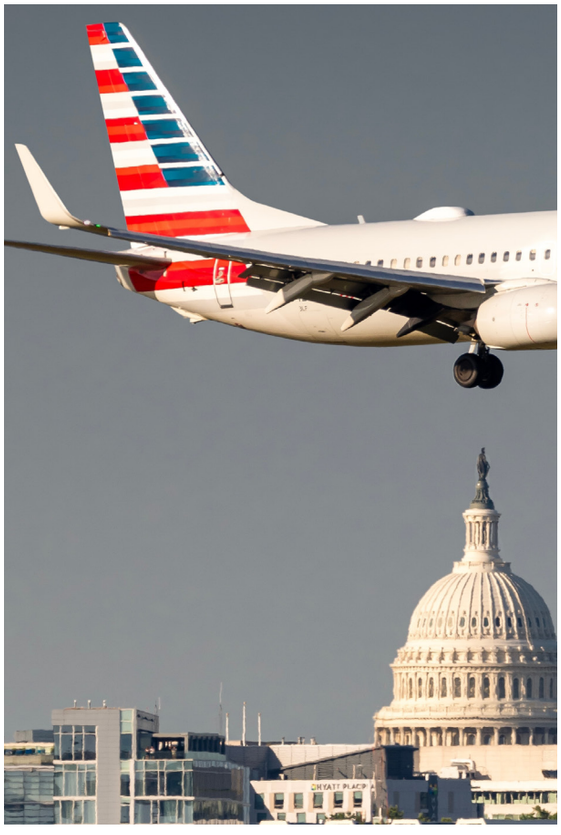
Bizarre ESG Suit Ends on an Odd Note

A federal judge has ruled on a long-running case that first challenged ESG investments (which didn't seem to exist) and then ESG-oriented voting practices

by investment managers in the American Airlines 401(k) plan. Noting that in January the court "…found that Plaintiff proved by a preponderance of the evidence that Defendants breached their duty of loyalty by failing to act solely in the Plan's best financial interests – namely, by allowing BlackRock and its focus on [ESG] investing to influence the Plan."

That said, and "despite evidence of disloyalty, the Court did not find a breach of the duty of prudence because Defendants acted in accordance with prevailing industry practices, which was fatal to Plaintiff's breach of prudence claim," Judge Reed O'Connor deferred ruling on the appropriate remedy pending supplemental briefing from the parties.

That same Judge O'Connor – who, back in January had said the plan fiduciaries were "blinded" by their employer's focus on ESG factors – ruled that while there were no monetary damages to be awarded to participant-plaintiff (and pilot) Bryan P. Spence in the case, "equitable or remedial relief" was warranted under ERISA 409(a) "to prevent recurrence of disloyal conduct and to protect participants prospectively." That "equitable relief" came in the form of a series of additional participant disclosures and certifications, as well as the addition of two independent members of the plan committee for five years that "shall not have any connection or relationship, financial or otherwise, with BlackRock, Aon, or any other administrator, advisor, and/or investment manager of Plan assets, including any of their subsidiaries and/or affiliated entities".



Subsequently, American Airlines has gone back to the court to request some "clarifications" on some of the orders, as well as offering a couple of alternative approaches to produce a similar result. Oh, and the law firm representing the plaintiff, who, in pursuing a class action suit, likely expected to get 25-40% of any financial judgment or settlement, and with a monetary judgment of $0.00 stood to collect nothing, has filed a request for nearly $8 million in compensation. This request for fees remains outstanding as we went to press.

Among the unusual aspects of this case, the January ruling found a violation of disloyalty distinct from one of prudence that, while plausible, still seems a unique finding in that it suggests that a fiduciary could do what fiduciaries broadly are expected to do in terms of process, and still ignore their obligations to participants. Thus, fiduciaries are reminded of their duties of *both* prudence and loyalty, which must be carried out together. And, while the ruling winds up in a different place than the initial suit, it does remind plan fiduciaries that they do have an obligation to monitor proxy voting as part of their responsibility regarding plan assets; practically speaking, this means that plan sponsors are not voting proxies, but rather, are monitoring the proxy voting practices of their investment managers.

Suit Claims TDF Choice Didn't Match IPS

A recent suit claims the plan fiduciaries and their advisor breached fiduciary duties in retaining an underperforming TDF too long – and that the committee "uncritically relied" on the recommendation of their advisor in doing so.

"Defendants' failure to monitor or remove the American Century TDFs as investment options for the Plans despite the long-term underperformance, high turnover, and loss of market share suggests that Defendants' fiduciary process was imprudent," according to the suit. "These same factors establish that investment advisor to the Elanco Plan, unreasonably favored retention of the American Century TDFs, even when prudent fiduciaries in similar circumstances would have advised their removal from the Plan" – and that "no reasonably prudent fiduciary would have allowed so much of the Plan participants' retirement savings, as much as 73%, to be diverted into manifestly imprudent investment options as the American Century TDFs."

Ultimately, the suit focuses on alleged inferior returns, though in this case, they also assert that the review/replace provisions in their IPS were not adhered to, explaining that this was due to excessive reliance on the plan advisor's recommendations. This case is a reminder to investment advisors that although typically the plan sponsor is the target of lawsuits, there are cases that also name the investment advisory firm in the suit.

Suit Says 401(k) Plan Stable Value Selection Imprudent

Shifts in the interest rate environment and a robust equity market have triggered yet another 401(k) suit involving a stable value fund holding.

This suit – there has been a growing number of late – was filed by Capozzi Adler PC and DLJ Law Firm PC representing plaintiffs Jessica Lagafuaina, Kailyn Robertson, Khanh Nguyen, Machella Graham, and Rabia Razaq on behalf of the Mitchell International, Inc. Savings Plan against Mitchell International, Inc., the Mitchell International, Inc. 401(k) Savings Plan Committee and its members during the Class

Period for breaches of their fiduciary duties.

More specifically, the suit *(Lagafuaina v. Mitchell Int'l, Inc., S.D. Cal., No. 3:25-cv-03018, complaint 11/6/25)* alleged that the plan fiduciaries breached the duties it owed to the plan, to plaintiffs, and to the other participants of the plan by failing to "objectively and adequately review the Plan's investment portfolio, initially and on an ongoing basis, with due care to ensure that each investment option was prudent, in terms of performance."

The suit further claimed that the defendants breached their fiduciary duty of prudence by selecting and/or maintaining a certain guaranteed investment fund with lower crediting rates when compared to available similar or identical investments with higher crediting rates. Specifically, that the defendants "allowed substantial assets in the Plan to be invested in a Guaranteed Income Fund" that the suit asserts "carried significantly more risk and provided a significantly lower rate of return than other comparable stable value funds that Defendants could have made available to Plan participants."

The arguments presented here are typical of several others alleging a fiduciary breach in the selection and retention of stable value options with what are presented as inferior crediting rates and, sometimes – as is the case here – an allegation that the stable value provider's financial status posed a heightened risk to participant interests.

Pension Risk Transfer Progress

Activity continued regarding PRT litigation, with suits involving AT&T, GE, and Allegheny Technologies Inc. (plaintiffs in all those cases represented by Schlichter Bogard LLC) being dismissed, though a similar case filed against Bristol-Myers was allowed to continue.

The grounds in all these suits basically argue that the shifting of pension obligations to an entity deemed (by the plaintiffs) to be less than the safest possible annuity provider constitutes a fiduciary breach. To date, most of the suits have targeted subsidiaries of Athene Holding Ltd and criticized its private equity ownership structure as putting those pension obligations at a higher risk of default.

That said, in the former two cases, federal judges ruled that the alleged injuries were, as yet, unrealized – as no benefit payments had been missed, nor had the firms to which the pension obligations were transferred experienced any financial distress- in the process concurring with the judgements of courts in cases involving Alcoa and GE, which both concluded that the failure to allege a "concrete, impending injury" or to credibly assert that Athene is at a high risk of failure was insufficient. Of note in the AT&T case, a magistrate judge who recommended that the suit be dismissed – as it subsequently was – noted a distinct factor in their consideration. Specifically, he said that the PRT arrangement provided for the establishment of a separate account for these obligations. This was a factor outlined as a consideration by the Department of Labor (DOL) in Interpretive Bulletin 95-1.

However, the judge in the Bristol-Myers case determined that the plaintiffs "have shown an injury necessary to confer Article III standing at [the motion to dismiss stage] of the case because they have sufficiently alleged that the Athene transaction created a substantial risk that Plaintiffs will not receive their benefits and that the Athene transaction diminished the value of Plaintiffs' benefits". This was despite acknowledging the same kind of separate account configuration noted in the AT&T case.

The judge in that case noted that the plaintiffs had specifically addressed that, noting that it was not truly "ring-fenced or insulated from Athene's general liabilities because the assets in that account 'may also be used to support Athene's payment obligations under other, separate group annuity contracts,' and that Athene has the right to, periodically withdraw assets from the separate account and transfer them to its general account." As a result, she concluded that the "extrinsic evidence" provided by the defendants failed to "controvert the material allegations of the complaint."

To date, the fiduciary defendants have prevailed mainly in their motions to dismiss these suits. However, as the contrary decision in the Bristol-Myers suit illustrates, different judges can still draw different conclusions even from largely identical fact patterns.

Action Items for Plan Sponsors

Even if you are the fiduciary of a plan that might not be at substantial risk of a significant class-action lawsuit, these back-to-the-basics best practices apply to plans of all sizes. For plan sponsors, consider the following:

1. If forfeitures are used to offset employer contributions, make sure that specific language is in the plan document. Consider changing any language that provides discretion in applying forfeitures to language that directs how they will be used. Also consider which decisions are fiduciary versus settlor in nature and document accordingly.
2. Take steps to ensure that your process for reviewing funds, fees, and services is documented (preferably in an investment policy statement), that your committee members are informed on the issues and alternatives, and that your process is deliberative and documented.
3. If you have, or are contemplating a PRT, remember that while the decision to do so is a corporate/settlor decision, the process of reviewing and selecting the provider is a fiduciary one.
4. Remember that your fiduciary duties require monitoring the proxy voting activity of investment managers hired by the plan. NNTM

Regulatory Radar

Everyone ALWAYS wants to know what regulators have planned, and retirement plan advisors are no exception. The fiduciary defense drops its case, Treasury moves to exclude a certain population from the Saver's Match, and litigation reform bill is unveiled.

By Nevin E. Adams, JD

Fiduciary Rule Fail

Trump Administration moves to drop defense of fiduciary rule.

The Labor Department's Employee Benefits Security Administration (EBSA) has filed a motion withdrawing its appeal of court challenges to the so-called fiduciary rule issued during the Biden administration.

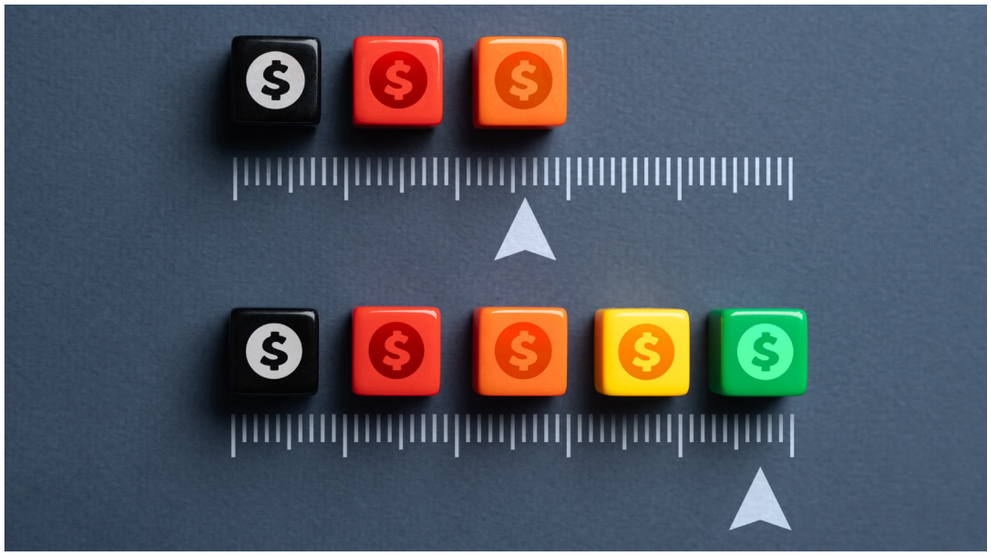
The motion to dismiss the appeal filed in the U.S. Court of Appeals for the Fifth Circuit indicated that the other parties do not oppose the motion.

Coincidentally enough, Rep. Ann Wagner (R-Mo.), chair of the House Financial Services Subcommittee on Capital Markets, along with 15 cosigners[i] submitted an amicus brief supporting the American Council of Life Insurers, the Financial Services Institute, and the Federation of Americans for Consumer Choice in their case before the Fifth Circuit Court challenging the Biden Department of Labor's 2024 fiduciary rule:

"As Chair of the Capital Markets Subcommittee, I have made it a priority to ensure families and workers have greater access to quality investment advice so they can responsibly save for their retirement and secure their future. As part of these efforts, I have fought the Biden Labor Department's misguided Fiduciary Rule that severely limits access to financial advice for millions of Americans." Wagner noted that the rule "lacks the clear congressional authorization it needs for a regulatory change of this magnitude, and the Fifth Circuit should recognize that fact in their ruling."

The Biden administration finalized a new fiduciary rule, called the Retirement Security Rule, in April 2024. The focus of that rule was to extend ERISA fiduciary duties to one-time professional retirement investing recommendations, such as rollovers, the purchase of an annuity, or plan menu design.

According to the DOL's Spring 2025 regulatory agenda, the Trump administration then said it plans to issue a new final rule on this issue by May 2026. The agenda did not provide substantive details on what the new rule might change, but it says that it "will ensure that the regulation is based on the best



reading of the statute," and is responsive to an executive order calling on departments to deregulate.

The DOL first asked for an "abeyance" due to the change in administration on Jan. 20, 2025, as it was now "under new leadership" – something the court granted on April 15. That filing explained that, "at the end of the day on September 30, 2025, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the federal appellants."

It goes on to note that "absent an appropriation, Department of Justice attorneys and employees of the federal appellants are prohibited from working, even on a voluntary basis, excepted in very limited circumstances, including 'emergencies involving the safety of human life or the protection of property.'"

In turn, they requested that that abeyance – which was set to expire on Oct. 14, 2025 – be extended until Congress restored appropriations to the Department, and that the deadline for the plaintiff/intervenor groups to file their response briefs be set for two weeks after the expiration of the abeyance. While the court denied the government's motion, it did extend the abeyance by a further 14 days – which would then expire on Oct. 28, 2025.

Most recently, "as of the filing date, with appropriations to the Department of Justice not yet restored, and since "the Department does not know when funding will be restored by Congress. The government respectfully requests that the abeyance be extended by a further 30 days, to and including November 28 (November 27 is a legal holiday)." They also request adjustments in the date for response briefs.

Which brings us to the current motion, which seeks to drop the appeal altogether.

— Nevin E. Adams, JD

A Mismatch

Treasury to issue rules barring undocumented immigrants from saver's match.

With the Saver's Match set to go into effect in 2027, the Treasury Department announced that it plans to issue guidance stipulating that undocumented immigrants are ineligible to receive the match, as well as certain other tax credits, even if they pay federal taxes.

The Treasury Department made the announcement, stating that it "will issue a forthcoming notice of proposed rulemaking to clarify that the refunded portions of certain individual income tax credits, including the Earned Income Tax Credit, the Additional Child Tax Credit, the American Opportunity Tax Credit, and the Saver's Match Credit, are 'federal public benefits' within the meaning of PRWORA. Accordingly, illegal aliens and other non-qualified aliens would no longer be able to receive these benefits funded by the American taxpayer."

As part of the announcement, Treasury Secretary Scott Bessent said in a statement: "Under President Trump's leadership we are enforcing the law and preventing illegal aliens from claiming tax benefits intended for American citizens. Treasury's Office of Tax Policy and the Internal Revenue Service have worked tirelessly to advance this initiative and ensure its successful implementation ... We will continue to ensure that taxpayer resources are directed only to those who are entitled under the law."

PRWORA stands for the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," which is the welfare reform law that was signed by President Clinton that converted the program from being Aid to Families with Dependent Children (AFDC) to Temporary Assistance for Needy Families (TANF).

The Treasury Department explained that it is basing its decision on a legal opinion issued by the Department of Justice's Office of Legal Counsel, which took the position that the PRWORA confirms this interpretation.

The analysis contends that the "refundable portions of the Earned Income Tax Credit, the Additional Child Tax Credit, the American Opportunity Tax Credit, the Premium Tax Credit, and the Saver's Match Credit are 'Federal public benefits' under 8 U.S.C. Section 1611."

Section 401(c)(B) of PRWORA defines "Federal public benefit" as "any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an

"It appears the Administration is heading towards trying to wrongly deny various tax credits to many people lawfully present in the U.S. — including those with DACA status, people with Temporary Protected Status and valid Social Security numbers, and H-1B, H-2A, and student visa holders — as well as some families with U.S. citizen children."

individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States."

The 20-page Justice Department analysis, citing an opinion it issued in 2020, further notes that, "Like the benefits specifically included in the definition, the refunded portion of a refundable tax credit is a "'payment' because it gives the taxpayer money that the taxpayer did not earn and would not have received, but for the existence of the government program' providing the benefit."

Moreover, it contends that the IRS is an "agency of the United States" and makes those payments from appropriated funds of the United States. "Hence, if the refundable tax credit is a 'retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit' – or 'any other similar benefit' – then the refunded portion is a 'Federal public benefit' that cannot be paid to non-qualified aliens, including illegal aliens, consistent with PRWORA," the DOJ stated.

Consequently, Treasury advised that it plans to "promptly issue a notice of proposed rulemaking that accounts for the Department of Justice's legal analysis," and that the final regulations are expected to apply beginning in tax year 2026.

The Saver's Match is of particular interest to the retirement community as a way to help lower-income taxpayers save for retirement. It is scheduled to go into effect for tax years beginning after Dec. 31, 2026.

Under the SECURE 2.0 Act, the match was converted from a tax credit paid in cash as part of a tax refund into a federal matching contribution that must be deposited into a taxpayer's IRA or retirement plan. The match is 50% of IRA or retirement plan contributions up to $2,000 per individual. It phases out between $41,000 and $71,000 in the case of taxpayers filing a joint return ($20,500 to $35,500 for single taxpayers and married filing separate; and $30,750 to $53,250 for head of household filers).

Apart from the Treasury Department announcement and the DOJ's analysis, the legislative text of the SECURE 2.0 Act already specifies that non-resident aliens are not eligible for the Saver's Match.

Specifically, the law states that, "The term 'eligible individual' shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of chapter 1 by reason of an election under subsection (g) or (h) of section 6013."

In general, Section 6013(g) under the Internal Revenue Code provides a nonresident alien married to a U.S. citizen or resident alien the ability to be treated as a U.S. resident for purposes of Chapter 1 and Chapter 24 and sections 6012, 6013, 6072 and 6091 of the Code for the entire taxable year. By making this election, the nonresident alien and his spouse may file a joint U.S. income tax return. According to an analysis by Attorney Phil Hodgen, this section is typically used by married couples living outside the U.S.

Similarly, an election under IRC Section 6013(h) affords a nonresident alien who is married to a U.S. citizen or resident alien, and who becomes a U.S. resident by the end of the tax year, the ability to be treated as a U.S. resident for the entire taxable year. By making the election, the individual and his spouse may file a joint U.S. income tax return.

In response to the Treasury Department announcement, NYU Tax Law Center Policy Director Brandon DeBot issued a statement saying that, "It appears the Administration is heading towards trying to wrongly deny various tax credits to many people lawfully present in the U.S. – including those with DACA status, people with Temporary Protected Status and valid Social Security numbers, and H-1B, H-2A, and student visa holders – as well as some families with U.S. citizen children."

Added DeBot, "The Administration's novel reinterpretation of the law argues that a provision of a 1996 law overrides such clear provisions of the tax code. The Administration's new interpretation directly contradicts decades of congressional understanding and administrative practice reflecting the statute's best meaning. Denying tax credits to immigrant families requires Congress to act explicitly."

As an article in Politico noted, "A lot of questions remain about how exactly the administration will write these new regulations." Presumably, the Treasury Department will need to reconcile the specific legislative text within the Saver's Match provision of the SECURE 2.0 Act with that of the DOJ's 2020 opinion and the purported applicability of PRWORA to denying the match for undocumented immigrants.

— Ted Godbout

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Pleading Predators

House to examine 'pension predators,' as new ERISA bill unveiled.

There's been a lot of talk about the need for ERISA litigation reform, but new legislation that would address a key aspect of it has been introduced in the House of Representatives.

Rep. Randy Fine (R-Fla.) recently introduced the ERISA Litigation Reform Act (H.R. 6084), legislation that would strengthen the pleading standards for lawsuits brought under the Employee Retirement Income Security Act (ERISA).

The bill seeks to ensure that retirement plan fiduciaries, employers, and participants "operate under a more predictable, fair, and efficient legal framework," according to a release by Rep. Fine's office.

If enacted, H.R. 6084 would clarify the burden of proof in certain fiduciary-related claims and establish a targeted stay of discovery during the early stages of litigation. The targeted stay would bring ERISA more in line with established federal court practices designed to deter frivolous lawsuits, the lawmaker further explained.

"American workers deserve retirement plans that are well-run and well-protected, not drained by abusive litigation tactics," Rep. Fine stated. "This bill strengthens fiduciary accountability while preventing meritless lawsuits from driving up plan costs and reducing workers' retirement security."

More specifically, H.R. 6084 would amend Section 502 of ERISA by clarifying that if someone sues a retirement plan fiduciary claiming the fiduciary caused the plan to enter into a prohibited transaction, then the plaintiff must plausibly claim in the complaint and prove that the transaction does not qualify for an exemption under Section 408(b)(2).

Similarly, if someone sues a fiduciary for causing the plan to buy or sell qualified employer securities in a way that allegedly violates ERISA Section 406, the plaintiff again must both plausibly allege and prove that the transaction is not exempt under Section 408(e).

The legislation also creates an automatic stay on all discovery and proceedings whenever a defendant files a motion to dismiss under the Federal Rules of Civil Procedure, unless the court finds limited discovery is necessary to preserve evidence or prevent unfair prejudice. During a pause, all parties would be required to preserve any potentially relevant documents, and courts may impose sanctions for willful failures to do so. Additionally, the legislation stipulates that federal courts may extend these discovery pauses to state-court actions when needed to protect a federal case covered by the stay.

While he's not listed as a cosponsor, House Education and Workforce Committee Chairman Tim Walberg (R-Mich.) offered his support for the legislation.

"Frivolous class action lawsuits against ERISA plan sponsors and fiduciaries prey on a voluntary system that exists to provide retirement savings," Rep. Walberg stated, adding that, "A growing number of plaintiffs and lawyers are looking to exploit ERISA plan sponsors and fiduciaries for a quick payout, yet these lawsuits aren't just an easy paycheck – every lawsuit strips dollars from an employer who is voluntarily maintaining a retirement plan for the benefit of employees."

"Solutions like Rep. Fine's ERISA Litigation Reform Act protect the employers who provide for retirees and clarify standards to better understand when lawsuits have actual merit so fiduciaries can do their jobs: help retirees thrive," Chairman Walberg further stated.

The bill has been referred to the House Committee on Education and Workforce, which has jurisdiction over ERISA, as well as the Committee on the Judiciary.

And as it turns out, the House Education and Workforce's Subcommittee on Health, Education, Labor and Pensions has scheduled a hearing for Dec. 2, titled "Pension Predators: Stopping Class Action Abuse Against Workers' Retirement." Presumably, Rep. Fine's ERISA Litigation Reform Act will be a major discussion point at the hearing. Rep. Fine is a member of the full committee and subcommittee.

The issue of ERISA litigation reform has been getting increasing attention in recent months (and years) as lawsuits against plan sponsor fiduciaries proliferate.

Daniel Aronowitz, who is the newly installed Assistant Secretary of Labor for the Employee Benefits Security Administration, has vowed to make litigation reform one of his top priorities and vowed to work with Congress to end what he described as "litigation abuse."

It is also something the American Retirement Association (ARA) supports. In fact, ARA CEO Brian Graff noted in ASPPA's Spring 2025 Plan Consultant magazine that lawsuit filings against 401(k) plan sponsors have increased exponentially, with 200 class action lawsuits filed between 2019 and mid-2022. Moreover, in 2023 alone, 42 settlements were reached, totaling $353 million.

"These 'cookie-cutter' lawsuits claim that retirement plan fees are too high, investment performance is too low, and the standards for judging these plans are often arbitrary or shifting," Graff noted. "Said more plainly, the current system incentivizes frivolous litigation, something the Trump Administration has signaled it intends to reform and that the American Retirement Association believes will happen."

— Ted Godbout

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RBF Capital Management, Inc.
RCM&D
Regions Financial Corporation
Renasant Bank
Resolute Investment Managers, Inc.
Retirement Clearinghouse, LLC.
Retirement Fund Management
Retirement Plan Advisory Group
Retirement Planology, Inc.
Retirement Solutions Advisors LLC
Retirement Wellness Group
RetireReady Solutions
Rixtrema Inc.
RMR Wealth Builders, Inc.
Rockefeller Capital Management
Roehl & Yi Investment Advisors, LLC
Rogers Wealth Group, Inc.
RPS Retirement Plan Advisors
Sageview Advisory Group, LLC
Sallus Retirement
Sanctuary Securities, Inc.
Sax Wealth Advisors, LLC
Schlosser, Fleming & Associates, Ltd.
Schneider Downs Wealth Management Advisors, LP
Securian Financial Group
SEI Investments Company
Shepherd Financial, LLC
Slavic401k
SmartPath, Inc.
Smith & Howard
Smith Bruer
Soltis Investment Advisors
Southbridge Advisors
Spectrum Investment Advisors, Inc.
Squire & Company
SS&C Technologies, Inc.
State Street Global Advisors
Stifel
Stiles Financial Services, Inc.
Stokes Family Office
Stonebridge Financial Group, LLC
Stonemark Wealth Management
Strategic Retirement Partners, LLC
Strive Asset Management
Strive Retirement Group
Sway Research, LLC
SWBC
T. Rowe Price
TAO Investments Hawaii
The Baldwin Group
The Fiduciary Group
The Finway Group, LLC
The Foundry Financial Group, Inc
The Hebets Company
The Pangburn Group
The Partners Group
The Retirement Advantage Inc.
The Retirement Advisor University (TRAU)
The Standard
The Vanguard Group
The Wealth Pool
Three Bell Capital LLC
Thrive, LLC
TIAA
TIFIN @Work
Titan Wealth Advisors
Transamerica Corporation
Trinity Advisors Group
Triton Financial Group
Truist Financial Corporation
Trustage
Turning Point Financial
Twelve Points Retirement Advisors
Two West Capital Advisors, LLC
Ubiquity Retirement + Savings
UBS Financial Services Inc.
UMB Healthcare Services
Valorous Advisors
Veery Capital
Venrollment
Venture Visionary Partners
Vest Financial LLC
Vestwell
Victory Capital Management, Inc.
Viking Cove Institute
Virtus Investment Partners
Vision401k
Vita Planning Group LLC
Voya Financial Inc.
vWise, Inc.
Wambolt & Associates, LLC
Wealth Enhancement Advisory Services
WealthPlus
WealthPRIME Technology, Inc.
Wealthspire Retirement, LLC
Weaver
Wells Fargo Advisors
WEX Health Inc.
WhaleRock Point Partners, LLC
Wilmington Trust Retirement Advisory
Wilshire Advisors
Wise Rhino Group
World Investment Advisors, LLC
WPWealth
WR Wealth Planners
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**As of November 19, 2025*

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