

# NAPA Net

*Insight for the Retirement Plan Advisor*

## UNDER 40, OVERACHIEVING

NAPA'S 2026  
TOP YOUNG  
RETIREMENT  
PLAN ADVISORS!

### PLUS

Americans are living longer —  
But (Still!) Not Planning for It

Changing 401(k) Recordkeepers:  
Cost, Service, and Investment  
Considerations from Fred Reish

Why 'Digital Natives' May Actually  
Be Behind on AI



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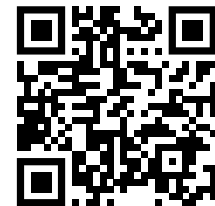
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**Nevin E.  
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*Former Chief Content Officer  
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Former Chief Content Officer of the American Retirement Association, Nevin now claims to be “retired.” 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 PLANSPONSOR.com’s NewsDash.



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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.



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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.



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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.



**Fred  
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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.



**Bonnie  
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*Chief Solutions Officer  
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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)RST™ program, and others to come.



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# The 401(k)'s Weirdest Rebrand Yet

*Making 401(k)s cool to encourage workers to save at younger ages has always been (and is) a challenge, so — begrudgingly — we'll accept the help.*

**T**his is one of the stranger stories we've come across, but we'll take whatever help we can get.

The 401(k)'s Achilles Heel is its name. It's tough to get young workers to take a serious interest in a retirement savings vehicle named for Section 401(k) of the U.S. Internal Revenue Code.

Target marketing, this is not.

There's always the belief that our future selves will somehow miraculously bail out our present selves, leading to savings procrastination that destroys (or blunts) the miracle of compounding interest over time.

It's the reason the retirement plan industry has advocated for a rebrand; call it something, anything other than a term that makes people think of fluorescent green visors and a 10-key machine, so that young people engage.

We have to make 401(k)s cool, and we're not sure this is it, but at least it's ...something.

The "401k Mullet" is now a thing (seriously).

The late 1980s, early 1990s fashion statement/abomination made famous by tennis great Andre Agassi and country music artist Billy Ray Cyrus has gone corporate with a more professional, sanitized version that's growing in popularity.

Whether it reaches the level of the midtown uniform (fleece vest over a button-down shirt that's ubiquitous on Wall Street) is yet to be seen, but rapper T-Pain gave it a steroid shot on Instagram in November, posting



**“The 401(k)'s Achilles Heel is its name. It's tough to get young workers to take a serious interest in a retirement savings vehicle named for Section 401(k) of the U.S. Internal Revenue Code. Target marketing, this is not.”**

“401k and a quarter zip” with pictures of his new ‘do.

Even Vogue gave its seal of approval, including a piece in its spring issue titled, “All the Hottest Guys Have the 401k Mullet,” complete with pics.

Citing young heartthrobs like Joe Keery, Austin Butler, and Harry Styles, the mag described it this way:

*This cut is a little (or a lot) more grown-up than that Joe Dirt version. The back is neat but still a little swishy and overall, a much shaggier, more textured shape. The front hits just at the top-mid section of the forehead. It's still business in the front and party in the back, but the party these guys are taking you to is martinis at that sexy red vinyl members-only club, not beer in the backyard.*

From what we can tell, it resembles the Bay City Rollers in the late 1970s (for you kids, it was a boy band before there were boy bands).

“The 401k mullet is a natural and smart evolution of the persisting cut that's both polarizing and somehow always

in fashion,” Vogue's Christian Allaire added.

Razzing aside, and this is important, CNBC thinks it's a positive development for 401(k)s and retirement savings overall, believing it's broken through in pop culture and has people talking.

“The old 401(k) is now cool,” according to the network. “These employer-sponsored retirement savings plans have been steadily gaining steam for years, but in 2026, they've tapped into the zeitgeist. According to Vogue, the ‘401(k) mullet’ is catching on, which is a more grown-up version of its shaggy predecessor.”

Making 401(k)s cool to encourage workers to save at younger ages has always been (and is) a challenge, so — begrudgingly — we'll accept the help, no matter how Faustian the bargain.

But we draw the line at Day-Glo IRAs. **NTM**

**John Sullivan**  
Editor-in-Chief

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# Reflections at the Finish Line

*My final message as your 2025 – 2026 NAPA president.*

By Lisa (Garcia) Drake

Serving as President of the National Association of Plan Advisors (NAPA) has been truly an honor and a highlight in my professional career, one I will always remember. As I conclude my term, I find myself reflecting on the progress our industry has made, the challenges we have navigated, and the work that still lies ahead.

Retirement plan advisors occupy a critical role in helping millions of Americans achieve financial security, and it has been an honor to represent such a dedicated and forward-thinking community.

When I began my term as president, the retirement industry was already in a period of significant change. Change seems to be the only constant. Legislative developments, evolving client expectations, technological innovation, and demographic shifts were transforming how advisors serve plan sponsors and participants.

Through it all, NAPA has continued to advocate on behalf of retirement plan advisors, elevate the profession, and ultimately improve retirement outcomes for workers across the country.

One of the missions I am proud of being part of before, and during my term, has been the continued strengthening of the advisor's voice in Washington. This work is incredibly important. Our advocacy efforts have helped ensure that policymakers understand the critical role advisors play in the retirement

system and the implications those policies have on American workers.

The passage and implementation of recent retirement reforms have created new opportunities – and new responsibilities – for advisors to guide plan sponsors through an increasingly complex landscape. As discussions about Secure 3.0 have already begun in Washington, our focus on advocacy will continue and I encourage the NAPA members to get involved and play role in this mission. The **2026 NAPA D.C. Fly-In Forum** will be held July 14 - 15 and registration is currently open.

Equally important has been NAPA's continued commitment to professional development and education. The advisor community looks to NAPA as a trusted resource for that support, with **more than 10 educational programs** – along with conferences, webcasts, and credentialing opportunities – designed to help advisors stay ahead in an evolving retirement landscape.

In recent years, we all have been navigating the rapid pace of regulatory and technological change. While these developments present opportunities to enhance service and efficiency, they also require advisors to continually invest in their practices, processes, and professional expertise. I'm excited about the work that is being done in this area as well, by ARA and those tools will soon be announced. Technology will streamline many administrative tasks but as the retirement system



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

continues to evolve, advisors will remain at the center of helping plan sponsors navigate change.

While we have made meaningful progress in many areas of our industry, one of the most pressing opportunities which remain a focus for the organization is the persistent retirement savings gap. Too many Americans still lack access to workplace retirement plans, and too many participants remain underprepared for retirement.

Expanding coverage – particularly among small businesses and underserved communities – must remain a priority; while preserving and success we have achieved through the years of consistent, steady progress and I trust the future leaders of NAPA working alongside ARA will continue to make progress in this area.

While there are many competing priorities, and regulatory events that demand our attention, NAPA hasn't lost sight of the importance of continuing to broaden the diversity of our profession. The retirement industry serves an incredibly diverse workforce, yet our advisor community does not always reflect that reality.

Encouraging more women, young individuals, and professionals from diverse backgrounds to pursue careers in retirement advising is not simply a matter of representation – it is essential to ensuring that our industry remains innovative, inclusive, and capable of meeting the needs of future generations.

A particularly meaningful development during my time



“While there are many competing priorities, and regulatory events that demand our attention, NAPA hasn’t lost sight of the importance of continuing to broaden the diversity of our profession.”

as president has been the continued momentum behind **RISE: The Women in Retirement Leadership Forum**. Our industry, like many others continue to have an under representation of women in executive positions and this initiative represents an important step forward in creating space for women leaders within the retirement industry to connect, share perspectives, and elevate one another.

As I close this chapter, I am filled with gratitude for the many advisors, volunteers, and industry partners who make NAPA such a powerful and impactful organization. The last six years serving on the Leadership Council have been very fulfilling and I’m proud of the organization’s dedication of our advisor community and to the mission of improving retirement outcomes. It is truly inspiring

and makes our work more meaningful.

While my term as president may be coming to an end, my commitment to this industry and to the work of NAPA certainly is not. I look forward to seeing so many of you in Tampa at the NAPA Summit! It is shaping up to be yet again another incredible, fun-filled, and content rich event.

Thank you for the privilege of serving as your president. [NNTM](#)

# Stewardship and Momentum: A Vision for America's Retirement System

*Why stability, smart modernization, and practical expansion must guide the next chapter of retirement policy.*

By **Brian H. Graff**

**A**s we chart the course for retirement policy in 2026 and beyond, strengthening and sustaining America's employer-sponsored retirement system requires more than technical adjustments or legislative victories.

It requires a steady, long-term vision that balances stability with thoughtful modernization, resilience with innovation, and expanded access with practical implementation.

Over recent years, the retirement landscape has weathered shifting economic conditions, regulatory recalibrations, and intense legislative debate.

Through it all, one thing has remained constant: the enduring importance of a retirement system built on private-sector plans, guided by knowledgeable sponsors, empowered by professional advisors, and grounded in bipartisan support. This system's resilience is no accident. It is the product of incremental refinement, deep experience, and a shared commitment to helping Americans save and secure financial futures.

That durability was tested when Congress considered sweeping fiscal legislation last year that could have significantly altered core retirement policy provisions. In moments like these, the danger is not only obvious policy change, but the subtle erosion of confidence among employers and

advisors who make the system work every day. When technical plan features become political bargaining chips, the risk isn't merely to the law; it is to the system's foundation.

Our advocacy in these debates was guided by a simple principle: protect what works, improve what needs improvement, and avoid destabilizing changes that would harm sponsors and participants alike.

Preserving the fundamental tax-advantaged framework of workplace retirement plans was not merely a defensive win; it was an affirmation that policymakers continue to recognize the system's value.

Stability matters because participation depends on predictability. Employers invest in retirement benefits when they trust the rules will endure. Advisors and consultants build strategies around a reliable framework. Participants save consistently when they believe the system is sound. Safeguarding that foundation ensures that innovation can continue without fear of abrupt structural change.

At the same time, stewardship does not mean standing still. The retirement system has always evolved in response to workforce realities and practical experience. From the early growth of defined contribution plans to the rise of automatic enrollment and digital engagement tools, progress has been driven by measured reform grounded in operational insight.



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

Today's modernization efforts reflect that same philosophy. Policymakers increasingly understand that expanding access and reducing administrative friction can strengthen the private retirement marketplace. Improvements aimed at small employers, greater plan flexibility, and the removal of outdated structural barriers are not ideological shifts; they are pragmatic adjustments designed to align policy with practice. Effective reform recognizes the diversity of the employer landscape and seeks solutions that broaden opportunity without imposing rigid mandates that could discourage participation.

The system is also confronting important questions about fiduciary standards and litigation trends. Accountability is essential. Participants deserve protections that ensure prudent oversight of their savings. But when ambiguity or repetitive litigation creates excessive uncertainty, innovation slows, and risk aversion grows.

Policymakers are increasingly engaging in a thoughtful conversation about balance: how to preserve participant protections while ensuring clarity and fairness for plan sponsors and advisors. Clear, workable standards allow professionals to focus on improving outcomes rather than managing avoidable risk.

Perhaps the most encouraging development in recent policy discussions is the bipartisan focus on expanding access to workplace



retirement plans. Coverage gaps – particularly among small businesses, nonprofits, and evolving workforce models – remain a real challenge. Yet the conversation has matured.

The emphasis is no longer simply on whether to expand access, but on how to do so in ways that reinforce participation, preserve employer flexibility, and harness the strengths of the existing system.

In this environment, the role of advisors and consultants becomes even more vital. You translate policy into practice. You guide plan sponsors through fiduciary responsibilities. You help participants navigate savings decisions. You are not merely

implementers of regulation; you are architects of retirement readiness.

Looking ahead, discussions about the next phase of retirement reform are already taking shape. While specifics will evolve, the guiding principles should remain consistent: reduce unnecessary complexity, strengthen incentives that meaningfully drive savings behavior, address persistent coverage gaps, and adapt to the realities of a changing workforce.

These are not radical ambitions; they are logical extensions of bipartisan progress achieved over the past decade.

Washington will remain dynamic, and policy debates will continue with intensity. That is

inherent in the legislative process. But if we remain anchored in stability, guided by practical modernization, and committed to expanding access responsibly, the employer-sponsored retirement system will continue to thrive.

The work before us is both a responsibility and an opportunity. By maintaining focus on long-term sustainability rather than short-term disruption, and by continuing the partnership between policymakers and the professional community that supports workplace plans, we can ensure that America's retirement system remains strong for generations to come.

I am confident that, together, we will rise to that moment. **NTM**

# Trends ‘Setting’

*What you don't know can hurt your retirement, CITs continue their target date fund dominance, and 401(k) balances rose in 2025, but ...All this and more in this issue of 'Trends Setting.'*

## Women and Wealth

*Generational gender savings gaps narrow.*

A recent survey finds dramatic differences in how generations of women approach their finances – but a common factor is confidence and satisfaction.

Nearly all (90%) women with a financial advisor have a financial plan, and those with plans consistently report higher confidence in their ability

to maintain their lifestyle in retirement.

Advisor satisfaction is high across all generations, with over 90% of women reporting that their advisor personalizes solutions to fit their goals and helps them feel confident they will achieve them.

The report finds that Millennial women have a dynamic approach to risk-taking and technology-driven financial planning. At the same time, Gen X Women are “leading with resilience” by

balancing competing pressures and priorities.

As for Boomer women, the report says they're focusing on legacy and stability as they step into a historic role managing wealth – including \$40 trillion through interspousal wealth transfer alone.

According to the survey from RBC Wealth Management, while investments remain the primary source of wealth for all generations (86-92%), Millennial women are



far more likely to cite business ownership and innovation (62%) and executive roles (43%) as key drivers of wealth, compared to just 20% and 22% respectively for Gen X women and 10% and 14% for Boomer women.

Interestingly, Millennial women surveyed outpaced men in both total and investable assets, signaling a new era of financial dominance among younger wealthy clients. And – despite traditional survey findings, this one found no significant difference between women and men across generations in engaging with higher-risk investments.

The survey also asserts that for women, the definition of wealth has expanded beyond the balance sheet with a trend now evidenced toward “inner wealth,” the integration of personal values, priorities, and passions[i].

The survey also found that over 90% of women working with an advisor have a financial plan and say that the partnership helps them feel confident they’ll achieve their financial goals.

However, Millennial women are leading the charge on “giving while living,” with 61% planning to transfer wealth to children during their lifetime, creating generational wealth and charitable giving earlier.

On the other hand, 50% of Boomer women plan to transfer most of their wealth upon their passing, as well as needs-based gifting, adhering to more traditional inheritance models.

Half of Boomer and Millennial HNW women completely agree that they can enjoy life without worrying about money, compared with only three in ten Gen X women.

Millennial women expect digital-first interactions and 24-hour response times, while Gen X and Boomers value the reliability of regular check-ins with clear agendas.

The 2026 RBC Wealth Management Women and Wealth report is based on a survey conducted in December 2025 among 2,010 high-net-worth

respondents in the U.S. (1,505 women and 505 men).

Respondents were required to be 18 years of age or older and have investable assets of \$1 million or more, with respondents exceeding \$ 20 million. The study provides a deep dive into generational nuances, featuring significant sample sizes for Millennials (463), Gen X (405), and Boomers (511).

[i] 81% of women prioritize values related to “Body, Spirit, and Soul,” believing that true wealth starts internally with clarity, well-being, and emotional alignment.

- NAPA Net Staff

### **Blissfully Ignorant**

*What you don't know can hurt your retirement.*

**T**urns out ignorance isn't bliss – at least when it comes to retirement savings.

Ascensus, the independent technology and service platform, released the aptly, if somewhat inelegantly titled Eligible Not Contributing Employee (ELND) Survey.

It found that lack of plan awareness and understanding of plan features is holding back participation (cited by 60%), NOT the perceived unaffordability of retirement savings (23%).

In fact, 30% of employees indicated they did not know how the plan works or even how to get started.

The research also found that the time since eligibility is one of the strongest predictors of whether an employee will ever begin saving; once employees remain unenrolled for 24 months, the likelihood of never enrolling doubles.

Perhaps not surprisingly, when asked what would motivate them to start saving, targeted education to address plan understanding and specific plan enhancements rose to the top, with 50% of employees citing those areas.

Twenty-seven percent said improving plan understanding would motivate them to action, with two specific plan enhancements also noted: 13% citing plan offering

employer match, and 10% citing simplified enrollment.

The report also notes some startling gaps in enrollment across generations. While it's not unusual for younger generations to be slower to participate, the research found that more than half of Gen Z workers eligible to enroll are not participating (50.5%), compared with 38.3% of Millennials and 37.2% of Gen X.

“Access to retirement savings is critical, but not sufficient to solve the retirement savings crisis in America,” said Nick Good, CEO of Ascensus. “If employees do not understand their plans or how to begin, they rarely take action. Clearer onboarding and enrollment, smarter personalization to encourage savings, and coordinated education with employers all help more individuals move from eligibility to actively saving.”

The Ascensus Eligible Not Contributing Employee (ELND) Survey was conducted between July 16 and August 15, 2025, and distributed to more than 186,000 eligible but nonparticipating employees.

- John Sullivan

### **CITs Reign Supreme**

*CITs continue their target date fund dominance.*

**A** recent report notes that collective investment trusts (CITs) held more than half of total target-date assets, though a handful of providers dominate the market.

Morningstar found that they now represent 54% of total target-date assets, up from 52% the prior year – when they first topped mutual fund holdings – fueled by lower costs and greater flexibility in large retirement plans.

In fact, all 21 new target-date series launched in 2025 were CITs, according to the report – many based on existing mutual fund lineups from managers such as T. Rowe Price. Closures were modest, with six mutual fund series and four CIT series shutting down, most under \$1 billion.

The report said that conversions from mutual funds to CITs also

played a key role, reflecting the ongoing shift toward lower-cost institutional vehicles and reinforcing CITs' growing dominance in the market.

Overall, in 2025, assets in target-date strategies climbed to \$4.8 trillion, expanding 20.3% over the prior year as strong equity markets lifted portfolio values. Over the past decade, the industry has grown 11.9% annualized, reflecting both market appreciation and steady retirement-plan contributions.

The report noted that asset flows continued to favor the largest providers. Vanguard led in target-date asset growth in 2025, adding \$35.9 billion in new assets, followed by Capital Group (\$24.0 billion) and State Street (\$22.2 billion).

The five largest providers control roughly 80% of all target-date assets, underscoring the dominance of established firms in employer-sponsored retirement plans.

Vanguard remains the industry leader by a wide margin, overseeing \$1.8 trillion, or 37% of all target-date assets. Strong markets and steady retirement plan contributions pushed total target-date assets to \$4.8 trillion, according to the report – allowing managers to collect about \$580 million more in revenue in 2025.

Target-date portfolio construction has also evolved over the past decade. Managers have gradually increased equity allocations during the early saving years, reflecting longer time horizons and the goal of boosting long-term returns.

By the end of 2025, the median equity allocation for investors 45 years from retirement reached 93%, up from 89% a decade earlier.

As starting allocations have risen, glide paths for younger investors have become more similar across strategies, while differences remain more pronounced during the midcareer years.

The report concluded that managers have also modestly increased US equity exposure within global portfolios as US stocks have expanded to represent a larger share of global markets since the global financial crisis.

- NAPA Net Staff



### Private Opportunity

*Study suggests private assets can enhance DC target date funds.*

Speaking of target-date funds, a recent study by independent financial services firm Mesirow suggests that private assets can improve target date fund efficiency when implemented with disciplined fiduciary guardrails.

In *“The Mesirow Approach to Private Assets in Defined Contribution Plans”* by Mesirow Fiduciary Solutions, the firm examines how private assets – particularly private equity, private credit, and private real estate – can be incorporated into defined contribution (DC) retirement plans, especially within target date funds (TDFs).

It comes as interest in private assets has grown substantially, particularly as plan sponsors and

fiduciaries continue to explore ways to enhance diversification and return potential within DC plans as they await forthcoming guidance from the Department of Labor.

Authored by Christopher O’Neill, Managing Director, Chief Investment Officer and Director of Quantitative Research at Mesirow Fiduciary Solutions, and Keith Gustafson, Managing Director of Asset Allocation and Retirement Income, the research details the firm’s asset-class-specific analysis of private equity, private credit and private real estate, including how each differs from its public market counterparts and how those differences influence asset allocation decisions.

In examining the potential benefits and tradeoffs, the paper suggests that adding “modest allocations” to private markets may improve the risk-return tradeoff of

TDF portfolios, as private assets may offer potential return premiums relative to public markets, as well as diversification benefits due to lower correlations with traditional stocks and bonds. What's more, it notes the possibility of smoother reported volatility because valuations change less frequently.

Evolving fund structures also now make them more compatible with DC plans, the paper further emphasizes. Among those changes are improved liquidity mechanisms, daily pricing or periodic valuation frameworks, and operational structures compatible with participant-directed plans. This evolution, the paper notes, is enabling TDF managers to begin incorporating private assets into diversified lifecycle portfolios.

That said, the paper stresses that private assets should not be added indiscriminately. Instead, fiduciaries must apply strict governance standards, including with respect to manager selection, transparency, liquidity management policies, and ongoing monitoring and risk assessment.

The authors further emphasize that disciplined implementation is essential because private markets involve complexity and limited transparency compared with public securities.

As such, allocation should be modest and integrated into a multi-asset glide path, rather than treated as a standalone sleeve. According to the paper, key principles include maintaining prudent allocation limits, funding private investments through carve-outs from public equity or fixed income, and adjusting allocations across the lifecycle of the TDF as participant risk tolerance changes.

"Our goal with this research is to move the conversation beyond theory and into implementation," noted O'Neill. "Private assets can play a meaningful role in defined contribution plans, but only when they are evaluated and monitored through a disciplined fiduciary framework designed specifically for DC participants and then sized appropriately within multi-asset class portfolios."

- Ted Godbout



### Balance Boost (With a 'But')

*401(k) balances rose in 2025, but so too did hardship withdrawals.*

Retirement account balances are up by over 10%, according to Fidelity Investments. Year-over-year balances in 401(k)s are up by 11% from the fourth quarter of 2024 to the fourth quarter of 2025, and 403(b) balances are up by 13%. IRAs grew more modestly at 7%.

Stock market performance was a key driver of this growth, but increased use of automatic enrollment has also driven growth. Use of automatic enrollment grew to nearly 45% at the end of 2025, up from 36.5% at the end of 2020, according to Fidelity.

Fidelity's data also showed that larger sponsors are much more likely to adopt automatic features than smaller ones. Employers with 50 or fewer employees used automatic enrollment 28.3% of the time, and those with 500-999 employees were at 68.4%.

A similar pattern was found in PSCA's 68th Annual 401(k) Survey. According to PSCA survey data from 2024, 64.3% of plans in the sample used automatic enrollment. However, the smallest of plans, those with 1-49 participants have automatic enrollment 36.2% of the time.

Employee savings rates were skewed in favor of older generations. Boomers had an average savings rate of 12.1%, Gen X at 10.4%, Millennials at 8.9%, and Gen Z at 7.5%.

Meanwhile, a preview of Vanguard's How America Saves 2026 reported that hardship withdrawals have also increased. "Overall, hardship withdrawal activity increased modestly in 2025, with 6% of participants initiating a hardship withdrawal, up from 5% in 2024."

The report explained that "Given that it's now easier to request a hardship withdrawal and that automatic enrollment is helping more workers save for retirement, especially lower-income workers, a modest increase isn't surprising."

Fidelity's report also found that more participants are taking out loans from their 401(k). In 2025, 19.4% of participants had an outstanding loan, an increase from 18.9% in 2024.

Vanguard explained that "for a small subset of workers facing financial stress, hardship withdrawals may serve as a safety net that may not otherwise have been available without plan-implemented automatic solutions."

- Paul Mulholland

## Ownership Awakening

*What is a KSOP and why are they growing?*

**E**mployee Stock Ownership Plans (ESOP) are on the rise, as is employee ownership in general, according to the Employee Ownership Initiative Report. The report also noted that mandates given to the Employee Benefits Security Administration (EBSA) to promote employee ownership have not been properly funded.

Section 346 of the SECURE 2.0 Act established the initiative and provided for \$50 million in grants to be paid from 2025 to 2029 to promote employee ownership. The report explains that “Congress directed the Department to submit a report both on progress related to employee ownership within the United States and an analysis of the costs and benefits of the activities carried out by the Department to promote employee ownership.”

“Over the past half century, the number of ESOPs grew from a few hundred in 1975 to 6,525 plans in 2023,” according to the report. In more recent years, the number of participants covered by ESOPs grew from 14 million in 2014 to 15.1 million in 2023.

Additionally, ESOPs “hold estimated assets of \$2.0 trillion (including employer securities and other retirement plan assets). Large ESOPs (those with 100 or more participants) made \$160.6 billion in direct benefit payments in 2023.”

Many ESOPs are also known as “KSOPs,” or plans that combine a 401(k) with an ESOP, and this type of plan is especially popular with larger employers, though many small businesses opt for the “standalone” ESOP model.

ESOPs have been particularly popular in certain industries. According to the report, “approximately 29% of ESOPs are in service sectors, 20% in

manufacturing, 16% in construction, and 13% in finance, insurance, and real estate combined.”

The increase in ESOPs has been primarily pushed by large numbers of business owners retiring and looking for an exit strategy. The report explains that “there appears to be an increase in the use of employee ownership as an exit and liquidity strategy for owners of privately held businesses. The 28% increase in leveraged stand-alone ESOPs, for example, may be driven in part by business owner retirements.”

Greg Facchiano, VP of Government Relations & Public Affairs at the ESOP Association (TEA), says that TEA and its members have been encouraged by the initiative, as well as “other important actions, like ending the National Enforcement Project against ESOPs.” He added that “this constitutes a major shift from the DOL’s prior posture, which has long been adversarial.”

Nine states have launched programs to promote employee ownership: Colorado, California, Massachusetts, Michigan, Washington, New Jersey, Vermont, Iowa, and Ohio. Some, such as Colorado and Iowa, offer subsidies for the administrative cost of creating an ESOP, and New Jersey and Michigan offer financial assistance with the early stages of ESOP creation such as a feasibility study.

The report explained that though SECURE 2.0 passed \$50 million “to support employee ownership programs within the states, as well as funding for administration of the grant program and development of the Employee Ownership Initiative,” this funding has not yet actually been appropriated.

“EBSA is using funds from its budget to cover the full-time Chief’s role. This is especially notable in the context of EBSA’s overall funding and responsibilities,” the report said.

About a year ago, the head of the Division of Employee Ownership, Hilary Abell, was terminated during the DOGE cuts at the Department of Labor (DOL) and was later rehired.

- Paul Mulholland





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# When Your Marketing Loses Altitude, Competitors Enter Your Airspace

*If every plan is a future client, every quiet period is an introduction your competitor gets to make.*

By Rebecca Hourihan AIF, PPC

**D**ing. Seatbelt signs off. Cabin secure. At 30,000 feet, the engines are humming steadily. The ride is smooth, and you're on your way!

But what you don't see is that the plane isn't staying in the air by magic. The pilots are busy maintaining thrust, monitoring instruments, and making adjustments to keep the aircraft moving forward.

However, when thrust is reduced, the plane doesn't drop from the sky; it gradually descends.

That's exactly how marketing erosion works in a 401(k)-advisory practice.

You don't wake up one morning and lose five clients. You don't suddenly erode your

competitive position by skipping a few emails or pausing an event budget. Instead, you drift.

- Visibility softens.
- Touchpoints thin out.
- Mindshare fades.

And somewhere in your market, another firm increases thrust and moves into the airspace you once occupied.

A few years ago, I wrote about marketing using a similar airplane metaphor. In "[How Your 401\(k\) Business Can Go Farther and Reach New Destinations](#)," I compared marketing to the thrust required to get a plane off the ground. It takes energy to build awareness, generate momentum, and reach cruising altitude. But maintaining altitude requires consistent fuel. When you stop adding fuel, it slowly descends.

Consider this the next phase of that conversation.

## The Quiet Risk No One Talks About

Let's start with a familiar scenario.

You used to host an annual client appreciation event. It reinforced relationships and kept your firm top-of-mind. Over time, it became harder to justify the cost or effort. So, you stopped.

Ask yourself:

- Did your clients stop attending events altogether?
- Or did they start attending someone else's?

You used to send monthly educational emails to plan sponsors. Nothing flashy, just steady communication. Eventually, it felt repetitive.

Or compliance felt heavy. Or priorities shifted.

Now ask:

- Are your clients hearing from anyone else monthly?
- Are they building trust elsewhere?

Here's the uncomfortable truth: When you stop showing up, someone else does.

### “Every Plan Is a Future Client”

There's a line a friend of mine often uses when talking about business development: “Every plan is a future client.”

Every plan you don't stay connected to – through education, visibility, or engagement – becomes easier for a competitor to influence over time, not through a dramatic takeoff, but through incremental, steady familiarity.

Most advisor-client transitions don't occur because of a single catastrophic failure. They happen because:

- Another firm was more **present**
- Another firm **explained** things more clearly
- Another firm felt more **relevant** when a decision moment arrived

Marketing keeps you in the conversation before that moment.

### Why Hesitation Feels Rational, But Is Risky

If you're hesitating to invest in marketing right now, you're not alone. Many firms are asking:

- What if we spend money and don't see immediate ROI?
- What if we don't need to grow aggressively right now?
- What if we wait until things feel more certain?

But pause for a moment and reflect:

- Has uncertainty ever truly disappeared in our industry?
- Have regulatory, economic, or market conditions ever been “settled”?
- If your clients feel uncertain, wouldn't they benefit from more communication, not less?

Here's the perplexing irony: the stock market is at all-time highs, yet advisory firms are hesitant about investing in marketing. Frugality feels responsible, but responsibility without visibility is vulnerability. Silence doesn't protect your

position; it creates an opening your competitors are ready to occupy.

### What Actually Happens When Your Marketing Stops

Here's what that looks like in practice:

- Clients hear from you less often
- Prospects don't see your name as often
- Centers of influence start meeting new 401(k) advisors
- Competitors begin shaping the narrative around 401(k) value
- When a client reassesses their relationship with their advisor, your firm may no longer feel like the obvious choice.

That's not because your service declined; your visibility did.

### Actionable Ways to Maintain Your Hard-Earned Altitude

Maintaining marketing momentum doesn't require doing everything. It requires doing the right things consistently.

Ask yourself: Are we doing at least some of the following?

#### Client & Prospect Touchpoints

- Monthly educational emails to plan sponsors
- Annual client appreciation events (in-person or virtual)
- Consistent updates tied to regulatory, plan design, or participant trends

#### Brand Visibility

- Strong website with consistent branding throughout
- Fully developed LinkedIn company page
- Optimized, professional LinkedIn profiles across your advisory team

#### Relationship Protection

- Educational resources that help clients explain decisions internally
- Content that reinforces why they hired you
- Proactive communication before clients have questions

#### Scalability Check

- Are these efforts documented, repeatable, and efficient?
- Or do they rely on starting from scratch every time?

If your answer to most of these is “not consistently,” that's not a

judgment; it's just a signal. As the pilot of your business, what's your next move?

### The Question You Can't Avoid

If you feel hesitant to invest in marketing, ask yourself honestly:

- Is it a budget issue or a confidence issue?
- Do you trust your value enough to communicate it consistently?
- Are you protecting existing relationships or assuming they'll always stay?

Your competitors are not waiting for certainty. They're publishing and hosting events, sending emails, and explaining 401(k) value in ways that feel current and accessible. And every time they do, they gain altitude.

### Are You Ready to Climb?

If you're thinking this is your opportunity, you're right.

Marketing is part of your business instruments. It's about building your relevance in a competitive landscape where plan sponsors are constantly evaluating services, fees, and value.

Use your business development campaigns to:

- Establish trust
- Develop relationships
- Earn visibility
- Position yourself as the steady presence in uncertain times

The firms that win in the long term aren't the ones that market the hardest during booms; they're the ones that stay consistent when others hesitate.

### Altitude Requires Intention

Marketing is your altitude control system. When you stop investing in it, your business doesn't fall from the sky but does descend - gradually and quietly. You may not notice it until a competitor is flying alongside clients you once assumed were secure.

Now – and always – is the time to invest in scalable, efficient solutions that keep your firm visible, trusted, and positioned as the obvious choice.

Because if every plan is a future client, every quiet period is an introduction your competitor gets to make.

*Thanks for reading & Happy Marketing!* **NNTM**

# Why 'Digital Natives' May Actually Be Behind on AI

*The next time someone tells you that you're behind on AI because you're over 40, remember: you learned to talk to computers back when they actually required it.*

By Spencer X Smith

**"I**f you're not a digital native, you're at a disadvantage with AI." That's what we keep hearing. I disagree.

The term "digital native" gets thrown around like it's an automatic credential. If you grew up with a smartphone in your hand, you must be more tech-savvy.

But being comfortable using technology isn't the same as understanding how it works or why it matters. And when it comes to AI, that understanding is what actually counts.

Those of us over 40 have two distinct advantages that most people overlook.

## **We didn't inherit technology. We adapted to it.**

The "digital native" generation inherited a world where technology already worked. Wi-Fi was everywhere. Apps just downloaded. Cloud storage was the default.

We didn't inherit any of that. We watched it get built, and we adapted our work every single time something changed.

Paper files to digital documents. On-premise servers to the cloud. Fax machines to email to Slack. Rolodexes to CRMs. Manual compliance testing to automated 5500 filings. Paper enrollment forms to online participant portals.

None of those were just new tools. Each one forced us to rethink how we do our work.

And we did it.

Not because we were young. Not because someone held our hand through it. We did it because we had enough context to understand why the change mattered and how to apply it.

That's exactly what AI requires. Understanding how a new capability fits into work you're already doing.

You know who's good at that? People who've done it several times before.

## **You already know how to talk to a computer.**

Here's where it gets ironic.

Many of us learned to use computers when they weren't friendly. No touchscreen. No drag-and-drop. No colorful icons. Just a blinking cursor on a black screen, waiting for you to type a command.

If you wanted to open a file, you had to know where it lived. You had to navigate through directories, one level at a time, and tell the computer exactly what to do.

That was DOS. And if you used it, you already understand something that's becoming incredibly valuable with AI.

Why?

When you work with AI using your own data, the structure of your files and folders matters enormously. AI gives you much more consistent output when your information is organized in a clear hierarchy. Folders, subfolders, naming conventions. The more

organized your data, the better the AI performs.

Here's a simple example: if you ask AI to help you analyze plan documents, but everything lives in a single messy folder with no naming convention, the output is scattered and unreliable. But if your files are organized the way we were trained to organize them, with clear folders by plan sponsor, logical subfolders by document type, and consistent naming conventions, the AI delivers dramatically better results.

"Digital natives" grew up swiping through apps on a phone. They've been trained to let the software figure out where things go. Search for it, and it'll turn up somewhere.

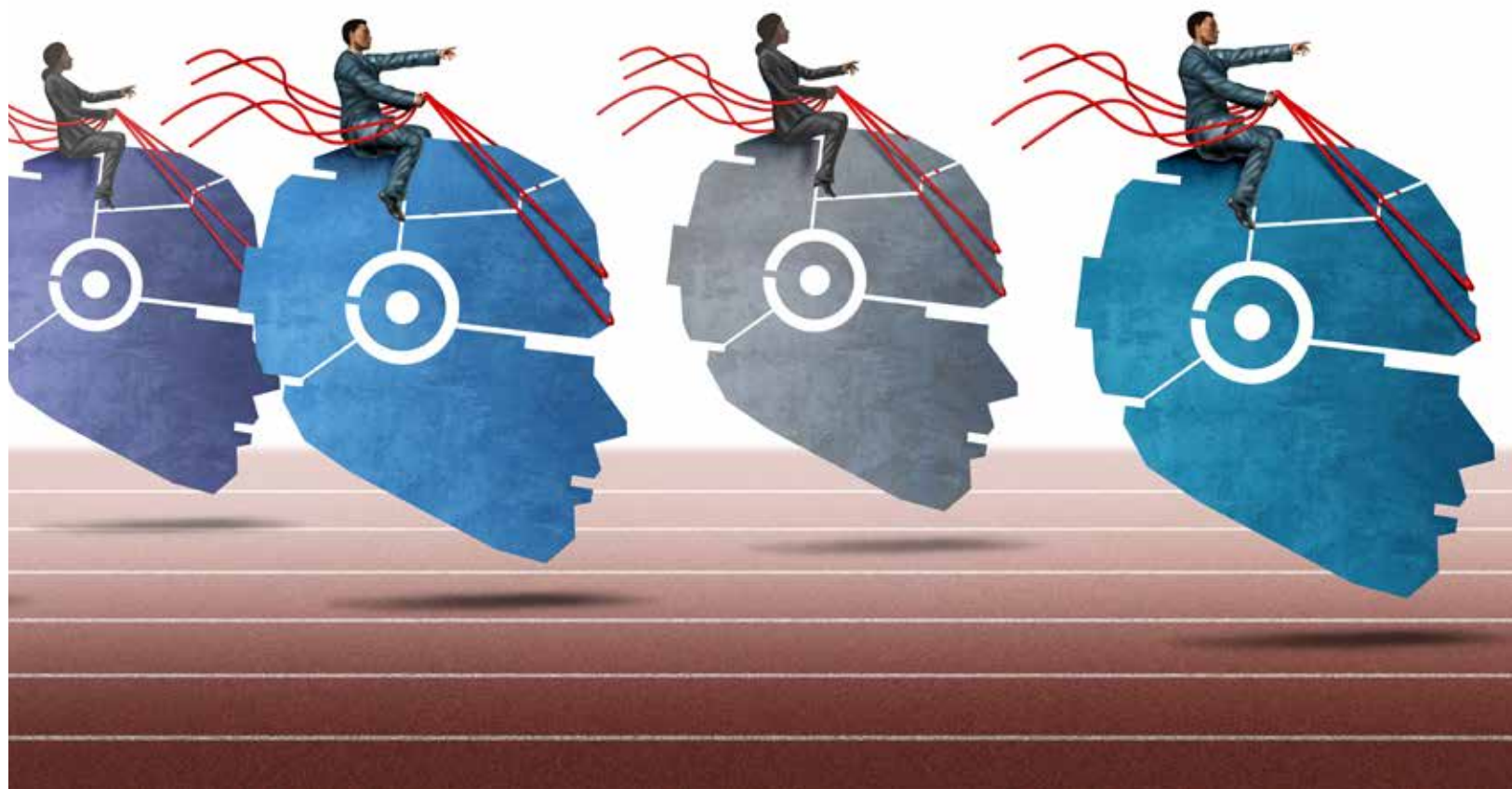
We were trained to *tell* the software where things go. We think in files and folders. We understand hierarchies of information because that's how we learned to use computers in the first place.

That's not a disadvantage. That's a head start.

## **Here's what that looks like in practice.**

When I started college, I was a computer science major. I switched out freshman year because I couldn't stand writing code. COBOL, debugging, rigid syntax. I wanted nothing to do with it.

Fast forward to today. I recently built an employee benefits dashboard called Beacon for organizations with lean HR teams. If you've ever worked in or around



benefits administration, you know the problem: the same questions come in over and over. "What's our 401(k) match and how does it work?" "What's covered under our dental plan?" "When is open enrollment?" "How do the PPO and HDHP compare?"

Beacon consolidates every plan detail, cost comparisons, and enrollment deadlines into a single branded, searchable portal that employees can access on their own. No more fielding the same questions five times a week. No more digging through PDFs to find a coverage detail.

How long did it take me to build? About three days.

I didn't write the code by hand. I started by describing the problem clearly to my AI: what HR teams were dealing with, what employees needed to find on their own, and how the information should be organized. Then I structured the benefits data the way I've always structured

information, in clearly labeled folders and files, grouped by plan type, with consistent naming conventions.

That organizational step is the one most people skip. But it's also the one that made everything else work. Because the data was well-structured, the AI could build something useful from it. If I'd dumped everything into one folder with filenames like "PlanDocument\_FINAL\_reviewed\_v2.pdf," the output would have been a mess.

That's the part most people miss. The skill that made Beacon possible wasn't coding. It was understanding the problem deeply enough to describe it well, and organizing information in a way the AI could work with effectively.

Those are skills you've been building your entire career.

### **Use your experience to your advantage.**

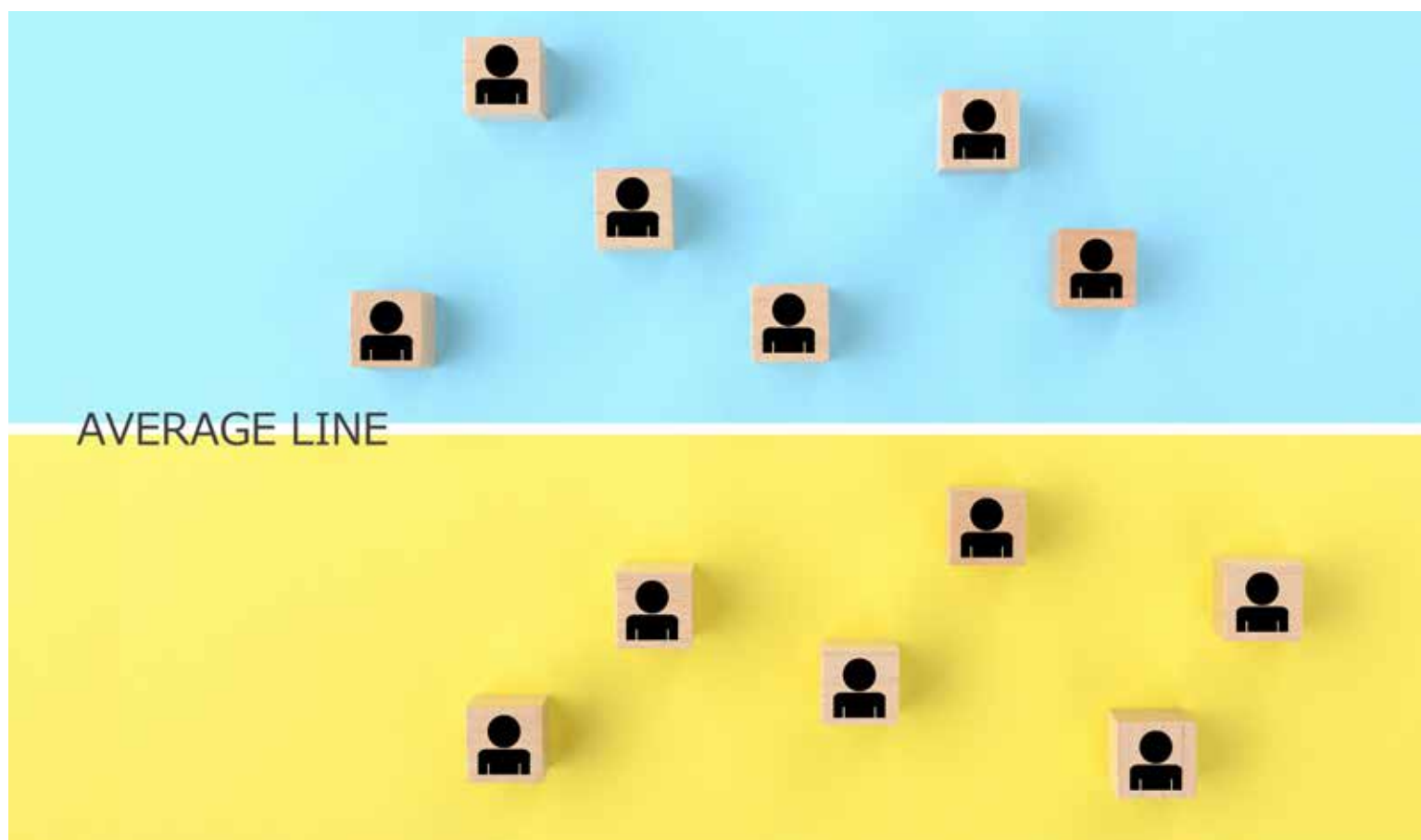
If you've been hesitant to dig into AI because you feel like you're

too far behind, I suggest you rethink that.

You've already adapted to bigger technological changes than this. You already think about organizing information in ways that make AI work better. And you have decades of professional context that no 25-year-old "digital native" can shortcut.

So, try this: pick one problem you repeatedly deal with. It could be the same participant-fee disclosure question that appears every quarter. It could be preparing plan comparison summaries for a prospect meeting. Describe it to an AI in plain language, the same way you'd explain it to a sharp new hire on their first day. You might be surprised by how much it can do for you.

The next time someone tells you that you're behind on AI because you're over 40, remember: you learned to talk to computers back when they actually required it. **NTM**



## What ‘Average’ 401(k) Balances Really ‘Mean’

*For those who actually use it as intended, the 401(k) was never meant to be the end. It’s a means to one.*

By Nevin Adams

**E**very few months, another headline pops up lamenting the inadequacy of the “average” 401(k) balance. The implication is usually the same: Americans aren’t saving enough, retirement is in peril, and the numbers prove it.

The problem isn’t that the math is wrong.

The problem is that the math is answering the wrong question.

I’ve noted before how misleading averages can be – and, frankly, medians aren’t a lot better when it comes to tracking 401(k) savings. The issue isn’t the

arithmetic; it’s the reality of how people actually work and save.

Because people change jobs.

And when they change jobs, they change 401(k)s – and 401(k) providers.

They might leave the balance behind with the old employer (something that happens a lot). They might roll it over to an IRA (which probably happens a lot as well), in which case it disappears from 401(k) tracking altogether. Or they might roll it into their new employer’s plan – though that still seems to be the minority outcome.

Regardless of what they do, something important happens

at that moment: their 401(k) accumulation effectively resets.

Fast forward 10 years. That old 401(k) left behind at a previous employer has received no new contributions. When someone looks at that account as an accumulation, it appears stagnant – and usually inadequate.

Meanwhile, the 401(k) at the new employer started from scratch. Contributions resumed, of course, but from a starting point of zero. They might be aged 40, mid-career, but THAT 401(k) balance looks like they just started.

In other words, the saver didn’t stop saving. Their savings

**“Among participants with 15 years of continuous savings, balances are approaching \$700,000. Even those with just five years of continuous participation are near \$400,000. What’s especially striking is who’s leading the way. Gen X.”**

are split into two (and sometimes more than two, depending on job change. As a result, when each recordkeeper publishes reports on “average” balances – well, they only have part of the picture.

Sometimes far less than half.

#### **The Rare Glimpse of the Full Picture**

Over the years, one of the few organizations able to transcend these limitations has been the Employee Benefit Research Institute (EBRI). By combining data from multiple recordkeepers and tracking individual participants over time, EBRI has occasionally been able to piece together a closer approximation of the real story.

When they do, the results look very different from the usual headlines.

In analyses that follow, consistent participants – people who remain in the database and continue contributing over time – have balances that are dramatically higher than the averages typically cited in the press.

In one such analysis, consistent savers had nearly double the average account balance of the broader database, and nearly four times the median balance.

Which makes you wonder about all those conclusions based on averages of inconsistent participants.

Or, put differently, averages that mix savers with non-savers, continuous participants with short-term ones, and workers

who may have balances scattered across several plans.

The math is correct – but the conclusion is anything but.

#### **Encouraging Signs in the Latest Data**

That context makes the latest quarterly report from Fidelity particularly interesting.

Now, to be clear, Fidelity’s data only reflects account balances within its own system. But because it can track participants who have been saving continuously within its plans, it offers another useful lens on long-term saving behavior.

And the numbers are actually pretty encouraging.

Among participants with 15 years of continuous savings, balances are approaching \$700,000. Even those with just five years of continuous participation are near \$400,000.

What’s especially striking is who’s leading the way.

Gen X.

Yes, that much-maligned “middle child” generation between the Boomers and Millennials appears to be saving more aggressively than either group in these cohorts.

Apparently, the forgotten generation has been quietly doing its homework.

Now, none of this is meant to suggest that 401(k) balances are universally sufficient, or that retirement readiness isn’t a legitimate concern.

But averages – particularly

the ones most often cited – are, at best, a blunt instrument for measuring that reality.

They frequently combine savers and non-savers, new participants and long-tenured ones, small plans and large plans, high earners and entry-level workers, those at the cusp of retirement and those just getting started. They split individuals’ savings across multiple accounts and sometimes lose track of them entirely. Oh, and things like compensation level, geography, and even gender? Never even acknowledged.

The resulting number is mathematically accurate.

But as a measure of retirement readiness?

It’s nearly useless. Worse, actually – it paints a reality that is, surely, for some, disheartening.

Which brings us back to what actually matters.

Consistent saving.

Because when you look at people who contribute regularly over time – whether through EBRI’s long-term datasets or recordkeeper cohorts like Fidelity’s – the story changes dramatically.

Balances grow. Substantially.

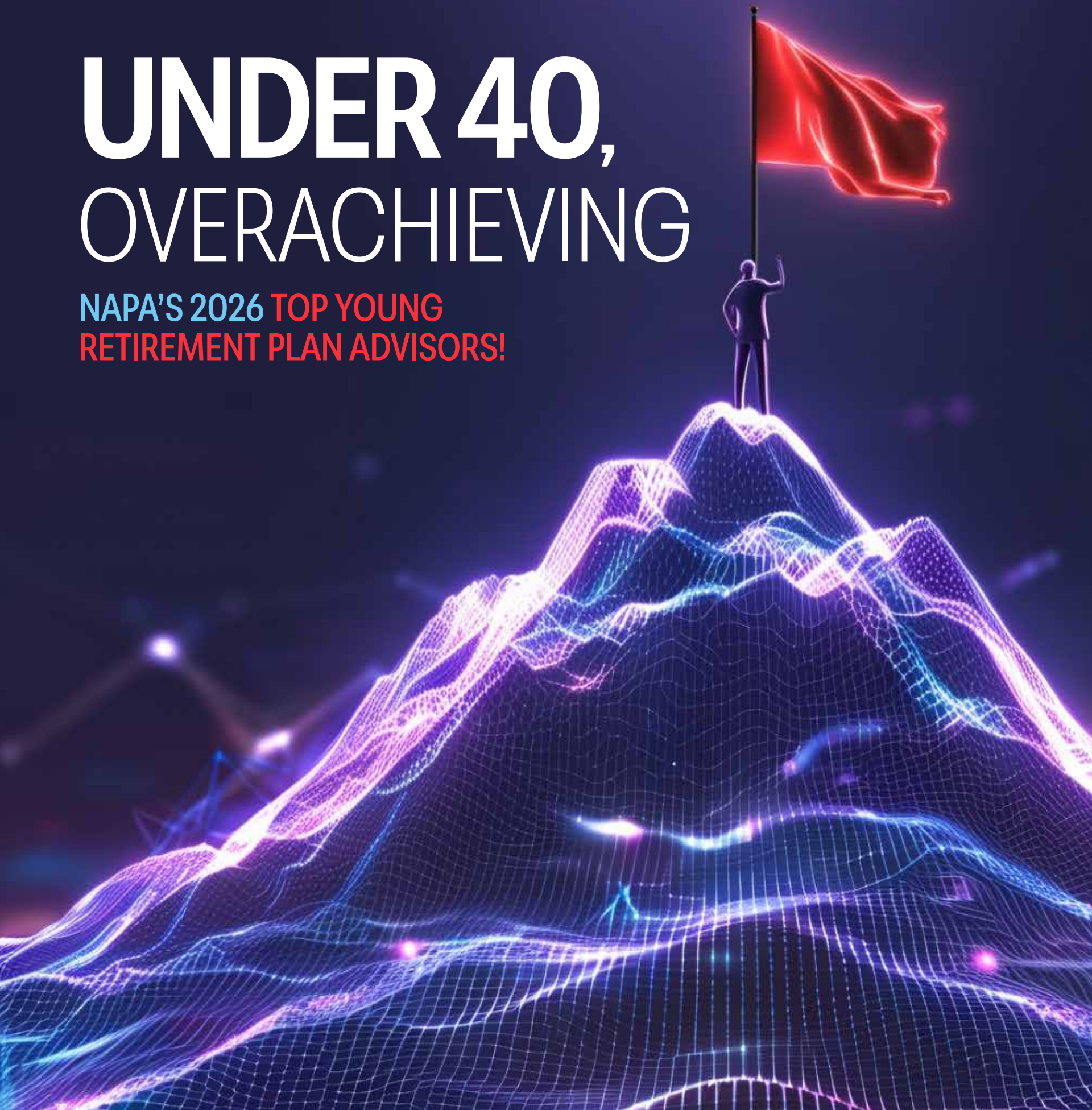
And that suggests something worth remembering the next time someone waves around the latest “average 401(k) balance” headline as proof that the system is failing.

For those who actually use it as intended, the 401(k) was never meant to be the end.

It’s a means to one. **NTM**

# UNDER 40, OVERACHIEVING

NAPA'S 2026 TOP YOUNG  
RETIREMENT PLAN ADVISORS!





## NAPA'S TOP PLAN ADVISORS UNDER 40

These **exceptional** retirement plan advisors were selected from a pool of almost **700** nominations.

### BY NAPA NET STAFF

They're here! The nominees have been sorted, and the list is made.

Announcing the National Association of Plan Advisors (NAPA) 2026 Top Retirement Plan Advisors Under 40 – NAPA's "Aces."

These young, dedicated retirement plan professionals go above and beyond, standing out for their leadership and success in raising the bar for the industry as a whole. They are the next generation of financial professionals to propel and expand retirement plans for millions of American workers.

The exceptional retirement plan advisors were selected from a pool of almost 700 nominations. They exhibit outstanding dedication to their practice and are regarded as future leaders of the retirement plan advisor industry.

As always, we're proud to note that the Aces is one of the first of NAPA's standard-setting industry lists, and many of the individuals recognized here have gone on to become the very industry leaders this recognition was designed to help identify.

Established in 2014, this list – officially the NAPA Top Retirement Plan Advisors Under 40, a.k.a. "Aces" – is based on applications received from nominees designated by NAPA

Broker-Dealer/RIA Firm Partners. Those applications are then vetted by a blue-ribbon panel of senior advisor industry experts based on a combination of quantitative and qualitative data submitted by the nominees, as well as a broker-check review. These "Aces" are widely seen as the future leaders of the retirement plan advisor industry.

These Top young retirement plan advisors will be honored in several ways – here in the Spring issue of NAPA Net the Magazine (NNTM) and acknowledged at the 2026 NAPA 401(k) Summit in Tampa, Fla., April 19-21, 2026, which is sure to be the best Summit yet.

Our thanks to all who participated in the nomination and voting process, the hundreds of nominees, and our panel of judges, who selflessly gave their time and energy to make this year's process another resounding success. Your participation and engagement make it all worthwhile.

Most importantly, our heartiest congratulations to this year's Top Retirement Plan Advisors – and for all you have done, and will continue to do, for the many plans, plan sponsors, and plan participants you support.

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Anderson Financial

**JARED ANDERSON**  
CAPTRUST

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**MATTHEW AREY**  
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NFP Retirement

**BLAKE HIETT**  
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In it for the

# LONG (G

AMERICANS ARE **LIVING LONGER** – BUT NOT PLANNING FOR IT – AND NEED TO THINK ABOUT IT IN A **HOLISTIC** WAY.

BY JUDY WARD





**EVITANCE)  
HAUL**

// **L**iving a long life is a great thing,” said Wayne Park, CEO of Boston-based Manulife John Hancock Retirement. “But if you don’t prepare holistically in advance – if you just focus on your retirement savings – then your retirement may not be the best.”

Projections call for the U.S. population aged 65-plus to jump from 58 million to 82 million by 2050, and people over 85 make up today’s fastest-growing age cohort, according to a report released in October 2025 by John Hancock in collaboration with the MIT AgeLab. So John Hancock and the MIT AgeLab put together the Longevity Preparedness Index (LPI), a framework for thinking about how to age well.

Surveying conducted in conjunction with the report found many Americans underprepared, with an average overall longevity-preparedness score of 60 out of 100.

The LPI framework allows evaluating people’s readiness for a long life across eight domains, with finances as one domain. The project aims to broaden the conversation beyond the retirement industry’s “negative drumbeat” that too many people aren’t financially prepared for retirement, Park said. Retirement savings are important, he said, but he suggested thinking about longevity planning a lot more broadly.

“Part of the reason we did this is because we thought, ‘Let’s help advisors have a more meaningful conversation with people thinking about their retirement,’” Park said. The LPI survey found that people who’d worked with a financial advisor to make holistic plans for their life in retirement had an average overall preparedness score of 57%, versus 50% for those who didn’t work with an advisor.

“That’s a meaningful difference for clients—and for a financial advisor, providing that service can be a differentiator,” Park said.

### Longevity Literacy

The TIAA Institute coined the term “longevity literacy” a couple of years

ago, when its financial literacy surveys found that many people lack an accurate sense of life expectancy, said Paul Yakoboski, a Charlotte, North Carolina-based senior economist at the TIAA Institute.

When asked in a survey, one-third of adults underestimated the average remaining life expectancy for a 65-year-old person. An additional one-quarter responded “don’t know,” according to a paper released in April 2025 by the TIAA Institute and Stanford University’s Global Financial Literacy Excellence Center, “[Retired for how long? Worker expectations for how long they’ll live in retirement.](#)”

Yakoboski defines longevity literacy as a basic understanding of how much longer people tend to live after age 65. A lot of people likely do not fully comprehend the life-expectancy numbers they’ve seen reported, he said.

Even if people know the average life expectancy at birth (currently 75.8 years for males and 81.1 years for females in the United States, according to the U.S. Centers for Disease Control and Prevention), those are just midpoints, and half of people will live longer, he explained.

Pre-retirees need to understand the realistic chances that a 65-year-old will live longer than the average, Yakoboski added. The “Retired for how long?” paper that he co-authored noted that a 65-year-old man will live another 19 years on average, while a 65-year-old woman will live another 22 years on average.

“It’s good for people to understand the average life expectancy, but even better is for people to understand, what are the chances that a 65-year-old man or woman lives to 90? For a 65-year-old man, it’s 30%, and for a 65-year-old

woman, it’s 40%. And for a couple who are both 65, the chances that at least one of them is alive at 90 are even higher, more like 60%,” Yakoboski said. “So maybe the most important figure for people to know isn’t average life expectancy, but the chances of living to at least 90—and then for people to recognize, ‘OK, I probably should be planning for that possibility.’ People have got to think beyond average life expectancy, because there is a 50/50 chance that they will live beyond that.”

A brief released in October 2025 by the Center for Retirement Research at Boston College (CRR), “[Can We Help People Improve Their Life Expectancy Estimates?](#)”, examines how to communicate about life expectancy. For this study, researchers tested whether providing simple information about the probability of living to older ages could improve people’s estimates of their likelihood of reaching those ages.

So researchers gave the first group of study participants information about the probability of living to ages 90 and 100, based on Social Security death records.

The researchers then asked the people in this group to estimate how long they thought they might live, and their probability of living to various ages between 75 and 100. A second group of study participants, in addition to getting data about the likelihood of living to older ages, received information on rising longevity across population cohorts and on how much longer people now live compared to their parents or grandparents.

Then the researchers also asked this second group to estimate their probability of living to various ages between 75 and 100.

The information interventions worked well, but only for one group



**“The Longevity Preparedness Index aims to guide people through a holistic roadmap for planning a longer life. It identifies eight key components of a holistic approach to aging, which it calls domains: care, community, daily activities, finance, health, home, life transitions, and social connections.”**

of respondents: the 26% of study participants who base their life-expectancy beliefs on the opinions of medical professionals or financial advisors. (A much larger number, 59%, base their beliefs on a parent’s or other relative’s age of death.)

Respondents who trust experts became more optimistic about living to older ages after receiving either of the informational interventions. For example, the research participants in the first group—who received only material on the probability of living to ages 90 and 100—were 8 percentage points more likely than the study’s control group to say that they think they will live to at least age 85.

People often don’t intuitively understand life-expectancy statistics, said Angie Chen, CRR’s Boston-based associate director of savings and household finance, and a co-author of the CRR brief.

“When they see an average life expectancy number, they think of it as a sure thing, without realizing that there’s a decent chance they will live longer,” Chen said.

Chen believes that when thinking about longevity, many people anchor on the average life expectancy because it’s easier to understand than a probability statistic, and simpler to make decisions based on an average than a probability percentage.

“It’s really hard to make a decision when people get into numbers such as, ‘There is a 30% chance that you will live to at least 90.’ People don’t know what to do with that,” Chen said. “It’s hard for people to understand what it really means, from a financial decision-making perspective.” That’s where an advisor can help.

#### **A Holistic Approach to Aging**

The Longevity Preparedness Index aims to guide people through a holistic roadmap for planning a longer life. It identifies eight key components of a holistic approach to aging, which it calls domains: care, community, daily activities, finance, health, home, life transitions, and social connections.

The suggested focus areas within the domains range widely and include

planning for care if someone is no longer able to fully care for themselves, as well as being intentional about how someone spends their time on daily activities.

The LPI also offers benchmark scores to help people gauge their preparedness, based on the survey done in conjunction with the initial report. Researchers asked survey participants to gauge their preparedness in each of the eight domains on a scale of 0 to 100, and compiled an overall score as the average of the domain scores.

Survey participants characterized themselves as best prepared in the domains of community (average score of 70) and social connection (score of 69). The lowest average score by far (at 42) came in the care domain, followed by the home and health domains, which both scored 56. Plans call for surveying Americans annually for the report.

The LPI framework emphasizes the opportunity for people to take specific, practical steps in each domain to improve their ability to take charge

of how they'll age. Consider the home domain, for example.

"When they're first thinking about where they'll live in retirement, a lot of people will say things like, 'Oh, do I want to go live at the beach?' Maybe," Park said. "But we've learned that most people really want to stay in their home. If they want to do that, they need to make sure that it's accessible for an older person, and that there are the services they'll need nearby."

Many people haven't put much emphasis on that yet: Just 39% of survey respondents said their community has ample resources for older adults, and only 35% said their community has good public transportation.

Park sees a valuable role for advisors to help pre-retirees think through longevity-planning issues holistically. Overall, only 22.5% of LPI survey respondents currently work with a financial advisor, and among those who do, 62.5% have discussed longevity-planning issues with the advisor, while 37.5% have not.

He isn't recommending that advisors spend a bunch of time on the non-financial aspects of aging. Instead, he's thinking about a high-level, holistic discussion, plus more detailed conversations about financial topics, such as how someone will pay for potential care needs.

"I'm not suggesting that financial advisors talk with people about the details of structuring their daily activities in retirement," Park said. "But there are other domains where an advisor can add real value."

### **Starting a Holistic Dialogue**

To understand the need for a holistic dialogue on longevity planning, Yakoboski said pre-retirees first need to understand the likelihood that they'll live longer than they think. He suggested that advisors can help by sharing simple data on the percentage odds of a 65-year-old in the United States living to at least age 90: 30% for men, 40% for women, and about 60% for at least one person in a couple.

Then an advisor can help someone think through the ramifications of this longer potential timeframe, he said. That can impact decisions such as smoothing consumption plans so



**“There’s a lot of space between ‘I’m completely independent’ and ‘I need to be in a nursing home.’ When people are five to 10 years away from retirement, the biggest thing they have got to realize is that 30% to 40% of older Americans will at some point need some care—and they need to start to plan for that.”**

someone has money left in later life, and deciding whether and when to annuitize part of someone’s balance.

“There’s a lot of moving pieces there, and that’s where an advisor has huge value, to figure out how to move the pieces around,” Yakoboski said.

Jessica Ballin and her colleagues at 401k Plan Professionals educate pre-retirees about realistic longevity expectations as part of a holistic approach to helping them prepare for retirement. They talk with pre-retirees so that they have the knowledge they need to plan for a longer timespan in retirement than they might have expected, said Ballin, principal at the Edina, Minnesota-based advisory practice.

Their holistic approach begins with discussing a person’s vision and goals for retirement, and an advisor then guides the pre-retiree through the pragmatic planning needed to achieve those goals.

Once an advisor answers the first question pre-retirees have – can I afford to retire when I want to retire? – then the dialogue tends to shift to more of a “soft” conversation, said Jeanne Sutton, managing director, Nashville at Strategic Retirement Partners. Meaning: Is that person emotionally ready for retirement? She likes to ease into that dialogue by suggesting books and podcasts that help a pre-retiree start thinking about that.

Pre-retirees often don’t spend enough time identifying what their sense of purpose will be as they age in retirement, Sutton has seen.

“During our working years, we get other forms of satisfaction from our job than just the monetary aspect of it. Many people don’t think much about how they’re going to replace that sense

of community and personal satisfaction that they got from their work,” Sutton said. “But if you ask people, ‘How are you going to build a sense of community when you’re retired?’ that is too big a question for them. So, I always ask my clients, ‘When you’re 74, what does an ideal Tuesday look like for you?’”

That’s a less-daunting way of approaching the topic, she’s found.

People also need guidance on pragmatic steps they can take to prepare for the thornier issues of aging. For example, many pre-retirees don’t make clear plans for what will happen if and when they need care as they age, said Kelli Send, co-founder and senior vice president at Brookfield, Wisconsin-based Francis LLC.

Send, and her colleagues often talk with people about how, if a pre-retiree has a high-deductible health plan, contributing to a health savings account (HSA) can be a good way to prepare for longer-term care expenses. So many people want to age in place at home, she said, and to do that, a significant number will need some level of help in their homes.

“There’s a lot of space between ‘I’m completely independent’ and ‘I need to be in a nursing home,’” Send added. “When people are five to 10 years away from retirement, the biggest thing they have got to realize is that 30% to 40% of older Americans will at some point need some care—and they need to start to plan for that.”

Francis LLC’s advisors teach people the compounding rule of thumb that with a 7% annual rate of return, someone’s savings double every 10 years, Send said.

So if someone contributes to an HSA account and, at age 60, decides to keep

the money in that account and invest it rather than spend it in the near term, it’s a realistic scenario that the balance could quadruple by the time they start withdrawing the money at age 80 to pay for care expenses.

Asked how to get into the topic of care planning in a way that resonates with people, Send said she keeps it simple.

“I like to frame it as, ‘This is something you can do to make it easier for your family, when the time comes,’” Send said. “So much of this is that people really like to have the ability to talk to somebody about this without feeling judgment from that person or feeling discouraged by that person.”

It takes time for people to build trust with an advisor to manage their money, Sutton said, and it takes even longer to build the trust an advisor needs to have sensitive conversations about longevity planning.

“We try to weave these issues in, in a non-high-pressure way, just to at least get the wheels spinning for people,” Sutton said. “Thinking these issues through is something that happens over time, in bits and pieces. It’s not like people are going to have one big intervention meeting, where all of these issues are decided.”

Ballin and her colleagues talk with pre-retirees about factors in aging they can control versus those they cannot, and give people small, actionable steps to improve the areas they can control (such as building emergency savings).

“We connect with them where they’re at,” Ballin said. “It’s a ‘soft’ approach. Over a longer period of time, we’re building trust with them as an advisor, and slowly building their confidence about their retirement years.” **NNTM**

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401(k)

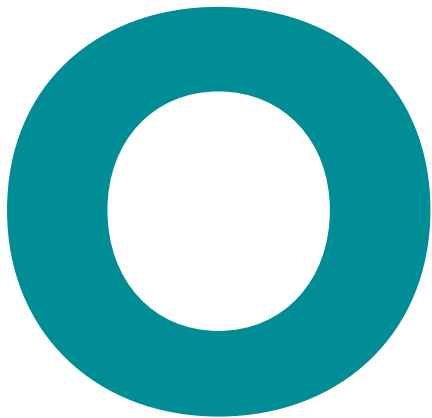
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**BY FRED REISH**





One of the responsibilities of fiduciaries of 401(k) plans – typically committee members – is to select and monitor the plan’s service providers, such as the plan adviser and recordkeeper. When making those decisions, fiduciaries are required under ERISA to act prudently and loyally.

From time to time, though, fiduciaries may consider changing recordkeepers, perhaps because of dissatisfaction with the incumbent recordkeeper or simply because of a recommendation of another recordkeeper.

The decision to change recordkeepers for a 401(k) plan is also a fiduciary decision.

As a result, fiduciaries need to engage in a prudent and loyal process to make that decision. ERISA requires that fiduciaries, such as committee members, act *“with the care, skill, prudence, and diligence...that a prudent man acting in a like capacity and familiar with such matters would use in the conduct”* of a retirement plan.

That requires fiduciaries to determine the facts to be evaluated, gather information about those factors, and then evaluate that information and make a decision in the best interest of the plan’s participants.

If fiduciaries do not have the experience or knowledge needed to make prudent decisions – for example, the information that needs to be gathered (the “relevant factors”) or how to evaluate the information – the courts require that they obtain the services of an experienced adviser or consultant. (See, e.g., *Donovan v. Bierwirth*, 680 F.2d 263 (2d Cir. 1982).)

The important considerations for a change of recordkeepers are factors that affect participant outcomes – that is, financial security in retirement. (As explained in ERISA section 404(a), fiduciaries must act *“for the exclusive purpose of: providing benefits to participants and their beneficiaries...”*.) Those relevant factors include the

investments, participant services, and costs of the current recordkeeper as compared to those of the possible new recordkeeper.

#### Investments

On the first matter – the investments – fiduciaries should evaluate the managers of those investments, their costs, their past performance, and the likelihood that that performance will continue. For example, if the current plan investments have consistently outperformed the investments proposed by a new recordkeeper, the fiduciaries should consider this information and whether the outperformance is likely to continue.

A change of recordkeepers, accompanied by investment changes in funds that have historically performed less well and for which there is no confidence that their future performance will improve, could constitute a fiduciary breach. On the other hand, if the investments on both platforms have performed equivalently well, a key question would be: which provider offers services to participants that help them appropriately use those investments in their accounts?

#### Costs

Costs are always an important consideration for both investments and services. ERISA is clear on that point.

In fact, ERISA has two separate sets of rules governing costs. The first is the fiduciary rule in section 404(a), which provides that, among other things, fiduciaries can only “defray”, or pay, only *“reasonable expenses of administering the plan...”*.

The second rule is in the prohibited rules in section 408 of ERISA, which provides at subsection (b)(2) that *“No contract or arrangement for services between a covered plan and a covered service provider...is reasonable”* unless the conditions in that section and the underlying regulation are satisfied. In other words, it is a prohibited transaction for fiduciaries to pay more than reasonable amounts for services to the plan and its participants.

The same limits apply to investments; that is, their costs cannot exceed a reasonable amount. A common mistake among some commentators, though, is to compare the lower costs of index, or passive, funds with those of more expensive actively managed funds. As several courts have pointed out, that is a false comparison. (See, for example, *Davis v. Washington University in St. Louis*, 960 F.3d 478 (8th Cir. 2020).)

Actively managed funds are, by design, more expensive than index funds. As a result, for comparative cost purposes, actively managed funds should be compared to other actively managed funds, and index funds should be compared to other index funds.

Then, when deciding between indexed and actively managed funds, the issue is performance net of costs. For example, if an index fund produces superior investment results as compared to a comparable actively managed fund, after all costs are deducted, the index fund would have produced better results for participants.

While future performance is unpredictable, an examination of past performance can help fiduciaries as they

make decisions about the future.

After all, the fiduciaries' responsibility is to make informed and prudent decisions about investments that will, in the future, help participants achieve financial security in retirement.

### Services

Services are also an important consideration. The primary focus should be on services that could help the participants. Fiduciaries should consider the range of services offered by recordkeepers, focusing on those that align with participants' needs. For example, does the recordkeeper offer services that help participants make appropriate investment decisions, and does it offer services that help them understand how much to defer?

In addition to the availability of services, fiduciaries should obtain and consider information about the actual use and benefits of the services by participants in plans recordkept by the provider.

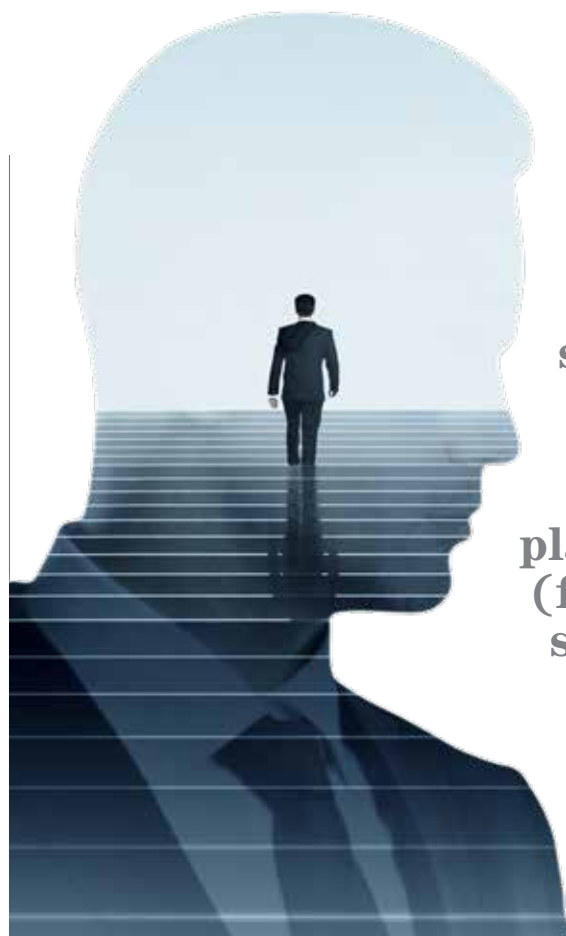
That is, do the participants actually use the services, and are they producing results? Obviously, if the services help participants have a better chance of achieving financial security in retirement, they should be considered a positive point for the recordkeeper.

In addition, the fiduciaries should consider services to support plan administration. For example, do the services reduce the burden on the employer's administrative staff?

As another example, does the recordkeeper provide support for a plan that automatically enrolls and automatically increases deferrals for participants? If so, that helps both administer the plan and increase participants' retirement security.

However, cost is just one factor. The costs of the recordkeepers should be considered and compared. That includes both direct costs paid from the plan and indirect costs (for example, revenue sharing paid from the investments to the recordkeeper or an affiliate). However, costs are not the only factor.

The issue is whether the services of the recordkeepers provide sufficient



**“The costs of the recordkeepers should be considered and compared. That includes both direct costs paid from the plan and indirect costs (for example, revenue sharing paid from the investments to the recordkeeper or an affiliate). However, costs are not the only factor.”**

value to participants and fiduciaries in the plan's administration to justify the costs. If the services are identical (which is not always the case) but one recordkeeper is more expensive than the other, it is difficult to justify the additional costs and their long-term impact on the participants. On the other hand, if additional or more valuable services justify the higher costs to participants and to the plan's administration, fiduciaries can prudently select the higher-cost provider.

### Benefits

Investments, services, and costs are considerations for selecting, monitoring, or changing recordkeepers. While each is important in its own right, they should also be viewed as the building blocks for the ultimate goal...financial security for participants in retirement. As section 404(a) of ERISA explains, a fiduciary “shall discharge his duties with respect to a plan solely in the interest of the participants and their beneficiaries and—for the exclusive purpose of: providing benefits...”.

### Concluding Thoughts

The fiduciary process for selecting and monitoring recordkeepers and considering a change of recordkeepers is complex. This article discusses ERISA's fiduciary requirements and some of the most important considerations for that process.

Fiduciaries need to keep in mind that ERISA requires that they engage in a careful, skillful, prudent, and diligent process to make that decision, and that the key measurement is whether that process produces a decision that is justifiably in the best interest of the participants. **NNTM**

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# As Retirement Coverage Solutions Evolve, Advisors Play a Central Role

*An advisor can provide valuable advice to an employer and empower them to implement benefit programs for their workforce.*

By David Levine, Groom Law Group, Chartered

**F**or decades, the retirement plan industry has grappled with a persistent challenge: the retirement savings gap. Millions of American workers, particularly those employed by small businesses, have limited access to workplace retirement savings vehicles. Lawmakers, regulators, and retirement

industry stakeholders continue to evaluate and consider solutions to try to bridge this gap.

Over the past two decades, several solutions have been introduced. At the Federal regulatory level, the myRA, a government-sponsored individual retirement account starter account aimed at encouraging low- and middle-

income workers to begin saving, was introduced and eventually phased out. In addition, at the state level, many states have implemented state-developed and run IRA programs that require employers not offering a retirement plan, such as a 401(k), to participate. Similarly, legislation to create a Federal version of these IRA programs

“Advisors help businesses evaluate whether to simply comply with the state-run auto-IRA or to establish a newly formed private plan, which may offer higher contribution limits, employer matches, and greater flexibility for companies and their employees.”

has been introduced in Congress multiple times.

More recently, significant legislative changes have fostered the development of pooled employer plans and groups of plans. These structures are intended to leverage economies of scale, allowing multiple employers, especially smaller employers, to band together to offer robust benefits while mitigating administrative burdens. Other legislation would expand programs like the Federal Thrift Savings Plan to uncovered individuals.

The latest potential catalyst for change emerged from President Trump’s State of the Union speech in February 2026. Based on the President’s address, the industry is now anticipating the introduction of a new vehicle tailored explicitly for workers who are not currently covered by traditional retirement plans. While details are still emerging, this signals an enhanced federal focus on bridging the coverage gap.

It is 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. When considering this rapidly changing environment, several key themes emerge regarding the advisor’s vital role:

- **Driving the Adoption of PEPs and GOPs.** Advisors

have proactively stepped in to help develop and support the roles of PEPs, GOPs, and other innovative plan designs. By evaluating administrative efficiencies, cost structures, and fiduciary implications, advisors help employers offer competitive benefits. Advisors guide employers through the complexities of joining these pooled structures, ensuring the chosen plan aligns with the employer’s specific workforce demographics and corporate goals.

- **Navigating State Mandates.** State mandates have directly led to the creation of new plans, and advisors play a vital role in this. Faced with a mandate, some employers rely on advisors to determine the most advantageous path forward. Advisors help businesses evaluate whether to simply comply with the state-run auto-IRA or to establish a newly formed private plan, which may offer higher contribution limits, employer matches, and greater flexibility for companies and their employees.
- **Integrating New Federal Solutions.** A new solution like the one proposed by President Trump can bring significantly more individuals

and employers into the private retirement system. Whenever a new vehicle is introduced, participants and plan sponsors immediately seek clarity on tax implications and operational rules. Advisors will be instrumental in translating these new directives for their clients.

- **The Constant Need for Investment Advice.** Despite the continuous introduction of new vehicles, the need for investment advice remains constant. Whether a worker saves through a 401(k), a state IRA, a PEP, or a new federal program, the core principles of asset allocation and long-term financial planning remain the same. Clients will need guidance, and advisors should be ready to help fill this need.

As we move further into 2026, the role of advisors as fiduciaries and the advice given to their clients will continue to evolve. We have seen rules finalized, vacated, resurrected, and stayed. Through all of this, the advisor’s mission remains unchanged. By helping clients document their prudent process for selecting and monitoring service providers and investments, an advisor can provide valuable advice to an employer and empower them to implement benefit programs for their workforce. [NTM](#)

# An ‘Activist’ DOL, and a Turnaround in Forfeiture Suit Dismissals

*Here’s what you need to know for emerging trends in the most recent quarter of ERISA litigation.*

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

**T**he first quarter made one thing clear: the ERISA litigation environment is evolving – not in wholesale reversals of doctrine, but in meaningful shifts in emphasis, posture, and tone.

Underperformance claims are resurfacing. And perhaps most strikingly, current and former leaders of the Employee Benefits Security Administration (EBSA) have publicly diverged on fiduciary standards for pension risk transfers.

## Here’s What You Really Need to Know:

- The Supreme Court’s review of a 401(k) case involving alternative investments and the concept of a “meaningful benchmark” appears delayed until at least 2027, leaving existing pleading standards in place for now. This means that some federal courts will require a “meaningful benchmark” to get past the motion to dismiss stage of the suit – and others won’t.
- The DOL has reversed its prior position on burden shifting in ERISA fiduciary breach cases and now supports placing the burden of proving causation squarely on plaintiffs.
- In forfeiture reallocation litigation, the DOL has now filed its fourth amicus brief

backing plan fiduciaries; most of these cases have been dismissed at the motion-to-dismiss stage, though a small number of courts have begun allowing the cases to proceed.

- Underperformance cases targeting specific funds are resurfacing, reminding fiduciaries that process-related claims remain very much alive.

## Let’s Dig In!

The year got off to a quick start with the nation’s highest court agreeing to hear arguments in a 401(k) case involving alternative investments and the need for a “meaningful benchmark.”

The suit, originally filed in 2019, argued that the fiduciaries on the Intel 401(k) Savings Plan breached their fiduciary duties by “investing billions of dollars in retirement savings in unproven and unprecedented investment allocation strategies featuring high-priced, low-performing illiquid and opaque hedge funds.”

It was a suit that failed to make its case at both the district and appellate courts.

In their petition for consideration of their case by the Supreme Court, the plaintiff basically argued that the application of a “meaningful benchmark” standard baseline for consideration required “that a

complaint must identify a ‘relevant comparator’ fund with ‘similar objectives’ against which the performance of the challenged fund can be measured” – even though, and as the Ninth Circuit “freely admitted,” nothing in ERISA’s text explicitly requires such a rule.

That said, a month later, the United States Supreme Court agreed to extend the briefing due dates in the case, setting an April 13 due date for the petitioners’ brief and a June 22 due date for the respondents’ brief. But its recent absence on the court’s April calendar indicates a delay in this case till next term.

## Burden of Proof Pivot — Paused?

Speaking of pivots, the parties in a separate case under consideration by the nation’s highest court – with implications for resolving the burden of proof in ERISA fiduciary breach litigation – filed to dismiss the suit in January. Though this case was dismissed, it presented important issues.

The issue raised by the plaintiffs was that the First, Second, Fourth, Fifth, and Eighth Circuits had held that the burden shifts to employers to disprove causation once plaintiffs allege an injury resulting from a fiduciary breach. However, decisions in the 10th and 11th circuits had held



that the burden of proving a link between the alleged injury and the actions (or lack thereof) of the plan fiduciaries.

Interestingly enough, the DOL just – in response to a request from the U.S. Supreme Court – reversed its earlier position on which party bears the burden of proof in cases alleging a fiduciary breach. In an amicus (“friend of the court”) [filing](#) in response to the request, the DOL commented that, “Following the change in Administration and this Court’s invitation, the government has reviewed its position and concluded that the relevant authorities are better understood as leaving the burden of proving causation on ERISA plaintiffs.”

### **Burden ‘Shift’**

Speaking of shifts in position, during the quarter, the DOL withdrew its prior support of

plaintiffs in a Yale University case concerning the burden of proof.

As has been the case with most in that genre, it alleged that employees paid excessive recordkeeping fees and selected and imprudently retained funds that the plaintiffs claim have historically underperformed for years. Moreover, the complaints challenged the use of multiple recordkeepers, rather than a single recordkeeper – a practice that they claim “...caused plan participants to pay duplicative, excessive, and unreasonable fees for plan recordkeeping services.”

The suit concluded with a rare ERISA jury trial – a jury finding a fiduciary breach but no monetary injury. That said, in a letter to the United States Court of Appeals for the Second Circuit, the DOL recently requested that the DOL’s 2023 amicus brief be withdrawn.

The DOL “has reconsidered its

position on shifting the burden on loss causation for claims alleging a breach of fiduciary duty under [ERISA], as recently articulated in the government’s amicus brief filed in *Pizarro v. Home Depot*” – and respectively asked the court “not to rely on the previously filed brief for any purpose.”

### **Different ‘Strokes’**

Just in case there was any doubt that the current DOL views the world differently than previous ones, Phyllis Borzi, who headed the DOL’s EBSA during the Obama Administration, and Ali Khawar, who served as EBSA’s acting assistant secretary under President Biden in February – “submit this brief to provide the Court with the perspective of former officials charged with ERISA enforcement.”

The amicus brief goes on to comment that their perspective

“may assist the Court in evaluating arguments advanced in this appeal that diverge from longstanding Department of Labor interpretations and enforcement approaches across multiple administrations.”

Those “arguments” almost certainly include those provided by the current DOL in the case involving pension risk transfers (PRT) at Lockheed Martin Corp. just [last month](#). The case – [Konya v. Lockheed Martin Corp.](#) – is one of the few in this genre to get past the motion to dismiss stage. In this case, as in most others, the suit challenges the transfer of pension obligations to Athene.

The argument? “Instead of selecting the safest possible annuity to ensure that their employees and retirees would have continued financial security of Lockheed employees and retirees, Lockheed Martin selected Athene, which is substantially riskier than numerous traditional annuity providers,” the suit noted.

Indeed, in its amicus filing with the court, the DOL noted that pension risk transfer, or PRT, is a process “expressly permitted by ERISA,” that “over the last three decades, no annuity selected in a PRT transaction has defaulted or failed.”

It also focused on Interpretive Bulletin 95-1, which outlines six factors to be considered in that process, factors that it says are expected to be weighted and balanced. It further notes that IB 95-1 advises fiduciaries to “take steps calculated to obtain the safest annuity available, unless under the circumstances it would be in the interests of participants and beneficiaries to do otherwise.”

And that, the brief notes amounts to “little more than restate a fiduciary’s general duty of loyalty and process-based duty of prudence; then, it applies those duties to the specific PRT context.”

#### **Pivot ‘Tell’**

In contrast, the position of the former EBSA heads argued not only that participants “...suffer a cognizable injury when fiduciaries allegedly expose their earned benefits to materially greater risk through an imprudent or disloyal selection process” – but that the suit – perhaps particularly at the pleading stage – “... plausibly alleges a concrete and particularized injury: a non-speculative, materially increased risk of nonpayment that is fairly traceable to the challenged fiduciary decision and redressable through ERISA’s remedial

provisions, including equitable relief.”

Those differing perspectives notwithstanding, to date most of these suits have been dismissed, typically because no injury had (yet) been suffered by the plaintiffs (and thus no “standing” to bring suit), and also that the decision to transfer the pension obligations to a third party was a settlor, rather than a fiduciary decision.

Time will tell how these perspectives factor into future litigation which - with record volumes of PRT transactions underway – seem unlikely to fade anytime soon.

#### **Forfeiture Forays**

We’ve noted the extraordinary number previously – closing in on one hundred now – of lawsuits challenging the use of plan forfeitures to offset employer contributions, rather than offsetting plan expenses. That decision – widely characterized as a fiduciary one by the courts – has been challenged as not in the best interests of plan participants, even though the practice has long been sanctioned by IRS regulations and DOL guidance (and, in most cases, by language in the plan document).

However, and noting that “the fiduciary-centered issue in this



case – one of dozens percolating through the courts – lives in the heartland of those standards in which clarity, uniformity, and consistency must prevail,” the DOL has now filed its FOURTH amicus brief backing plan fiduciaries.

The most recent involves the Honeywell 401(k) and echoes comments already made in similar lawsuits involving HP, JPMorgan Chase, and Siemens. Plaintiffs have appealed district court decisions dismissing forfeiture claims with the U.S. Court of Appeals for the Third, Eighth and Ninth Circuits, and the U.S. Department of Labor (DOL) has now filed amicus curia briefs supporting the defendants in four of those appeals. The basic arguments are that the participants received all the benefits promised by the plan and – critically for the cases in which the DOL has weighed in – the terms of the plan document specifically supported the forfeiture reallocation decision.

However, in recent weeks, several federal judges have been willing to allow these suits to move beyond the motion-to-dismiss stage – acknowledging that, in so doing, they are adopting a “minority” position in these suits.

Additionally – and acknowledging the distinction that might be applied at the motion to dismiss stage of the proceedings – in a recent case involving the Fresenius Medical Care North America 401(k) Savings Plan, Judge William G. Young went so far as to comment that “merely following the Plan document, however, does not insulate a fiduciary from ERISA liability, and the Plan Participants, at least at the motion to dismiss stage, have stated a claim for breach of fiduciary duty and loyalty.”

*That said, and with the majority of cases failing to get past that motion to dismiss stage and on to trial, there is currently little in the way of judicial precedent on which to rely.*

### **Imprudent Underperformance**

Suits challenging imprudent

investments are hardly novel, but as the first quarter wound to a close, a number emerged targeting specific investment choices. Those suits targeted Bloomberg, Dell, and Stifel, among others.

While the suits involved different plans, and different investment options, they shared common allegations that the funds challenged were held in the plan(s) for extended period of times despite poor performance (compared to comparables, and in many cases, the benchmarks named by the plan’s investment policy statements), and that they ultimately “breached their fiduciary duties through an imprudent process for investigating, evaluating, and monitoring investments”.

Along those lines, a five-year-long litigation was settled – on the eve of a rare ERISA jury trial for \$13,400,000. The suit, with plaintiffs represented by Schlichter Bogard LLC, had targeted the fiduciaries of the \$7 billion Liberty Mutual plan for failing to monitor, control, and evaluate the plan’s recordkeeping fees, managed account fees, and two specific plan investments.

### **Continuing Cross-Selling Cases**

A potentially massive class-action suit targeting some 9,900 plans that used TIAA as recordkeeper and had rollovers was significantly trimmed by a federal judge.

At issue was a managed account program that places the plan participant in a model portfolio that often included TIAA-affiliated funds, providing ongoing investment advice that rebalances the assets if the account deviates from the model portfolio allocation by a certain amount.

The participant-plaintiffs further alleged that their ERISA plan sponsors were unaware of TIAA’s cross-selling campaign and took no action, thereby violating the fiduciary duties the plan sponsors owed to their participants under ERISA.

However, the judge ruled that it would require a detailed

analysis of many factors for each plan. It’s a reminder that while fiduciary duties may be similar across plans, the way those duties are carried out – and evaluated – is often anything but uniform.

Whether a plan sponsor acted prudently depends on its own monitoring process, its interactions with service providers, and its understanding of what was happening within the plan.

### **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, ensure that the plan document includes specific language. Consider changing any language that provides discretion in applying forfeitures to language that directs how forfeitures 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 deliberate 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 there are healthcare fiduciary duties under ERISA as well, and act accordingly to ensure that the fees and services rendered are reasonable and in the best interests of participants and beneficiaries. **NFTM**

# How 2026 Could Shape Retirement Policy for the Next Decade

*Retirement policy may not always move quickly, but when it does, it has the power to transform the financial futures of millions.*

By Josh Oppenheimer

**W**ashington, D.C. is no stranger to drama, but rarely does retirement policy sit so squarely front and center.

As we move through 2026, advisors, plan sponsors, and consultants are witnessing a rare moment where political upheaval, legislative momentum, and regulatory change are converging in ways that could shape the retirement system for a generation.

Over the past year at the American Retirement Association, I've been in the room with lawmakers, regulators, and industry stakeholders on your behalf. What I've seen firsthand is both surprising and encouraging: even in a deeply divided Washington where the stakes for our industry have never been higher, retirement policy remains one of the few areas where real bipartisan progress is still possible.

## **A Turbulent — but Telling — Year in 2025**

To understand what lies ahead, we must first reflect on the extraordinary events of 2025.

Unified Republican control of Congress and the White House created both momentum and tension. That tension culminated in the longest government shutdown in U.S. history, with

significant implications for the industry.

During the shutdown, key agencies like the Internal Revenue Service (IRS) and the Department of Labor's Employee Benefits Security Administration (EBSA) operated with severely reduced staffing, delaying guidance, audits, and regulatory activity. In many cases, retirement policy functions effectively ground to a halt.

At the same time, Congress passed sweeping tax legislation known as the "One Big Beautiful Bill." From a retirement policy perspective, the most notable outcome was what did not happen. Proposals that could have fundamentally altered the employer-sponsored retirement system — such as forcing retirement contributions into Roth accounts — were ultimately excluded.

This outcome reflects the sustained advocacy of industry groups and policymakers who recognize the strength and effectiveness of the current employer-sponsored system.

That success reinforces an important lesson: retirement policy remains a priority in Washington, but its future depends on continued engagement from the plan sponsor and advisor communities.

## **The Push for Parity: 403(b) Plans and Collective Investment Trusts**

One of the most significant legislative developments of the past year was the House's passage of the Retirement Fairness for Charities and Educational Institutions Act. This legislation would allow 403(b) plans to invest in collective investment trusts (CITs), bringing long-overdue parity between nonprofit and corporate retirement plans.

For plan consultants and advisors, the implications are substantial. CITs often provide lower costs, greater flexibility, and enhanced customization compared with mutual funds.

Allowing 403(b) plans access to these vehicles could significantly improve retirement outcomes for millions of teachers, healthcare workers, and nonprofit employees.

The bill now awaits action in the Senate, where it will likely move as part of a broader capital markets package. There is a strong reason for optimism, and your ARA Government Affairs team remains actively engaged with Senate offices to ensure this important legislation advances at the earliest opportunity.

## **Litigation Reform Moves to the Forefront**

If there is one issue dominating conversations with



**“Under new leadership, the Department of Labor has become more active in filing amicus (“friend of the court”) briefs in ERISA cases, advocating for clearer legal standards and a more balanced interpretation of fiduciary duties.”**

plan sponsors today, it is litigation risk.

Over the past decade, retirement plans have faced an unprecedented wave of lawsuits alleging fiduciary breaches related to fees, investments, and plan governance.

While accountability is essential, many of these lawsuits follow identical templates, creating significant costs even when claims lack merit.

To address this trend, Congress has begun considering targeted reforms. One recently introduced bill, the ERISA Litigation Reform Act, would raise pleading standards and limit costly discovery until courts determine whether a case should proceed.

These reforms are designed to discourage opportunistic litigation while preserving participants’ rights to bring legitimate claims.

At the same time, the regulatory agencies are moving forward on their own. Under new leadership, the Department of Labor has become more active in filing amicus (“friend of the court”) briefs in ERISA cases, advocating for clearer legal standards and a more balanced interpretation of fiduciary duties.

For plan consultants and advisors, these developments could meaningfully alter the litigation environment, resulting in greater innovation among plan offerings.

#### **Expanding Access Remains Washington’s Top Priority**

Beyond litigation, one issue unites policymakers across party lines: expanding access to retirement savings.

Several legislative proposals

introduced over the past year reflect this shared goal. These include efforts to improve retirement coverage for gig workers, create federally facilitated savings programs, mandate employer participation in retirement plans or state auto-IRA programs, and extend retirement plan tax incentives to nonprofits.

Each of these proposals approaches the access challenge from a different angle. But the underlying objective is the same: ensuring that more Americans – particularly those in small businesses, nonprofits, and alternative employment models – have access to workplace retirement savings.

For plan consultants and advisors, expanding access represents both a policy objective and a business opportunity. As more employers adopt retirement plans, advisors will play an increasingly central role in plan design, implementation, and fiduciary guidance.

#### **The Housing Debate Highlights Retirement Policy’s Broader Role**

One of the more surprising policy debates this year involved the potential use of retirement savings to support homeownership.

A senior advisor in the Trump administration briefly floated a proposal that would allow individuals to use retirement plan assets to purchase equity in their homes.

The idea was ultimately abandoned (for now) when President Trump dismissed the idea during a media scrum aboard Air Force One: “I’m not a huge fan of it...Other people like

it. They’re talking about taking money out to put a deposit down on a home. And one of the reasons I don’t like it is that their 401(k)s are doing so well. I like keeping their 401(k)s in great shape.”

Even though the proposal itself is unlikely to move forward, the broader debate is instructive. Policymakers are increasingly focused on the interaction between retirement savings and other financial priorities, including housing, healthcare, and education.

This trend will likely shape future legislation, reinforcing the importance of preserving retirement savings while recognizing participants’ evolving financial needs.

#### **The Regulatory Landscape Is Developing Rapidly**

Legislation is only part of the story. Regulatory agencies are also reshaping the retirement landscape.

The Department of Labor has already updated its Voluntary Fiduciary Correction Program, expanded its opinion letter process, and issued new guidance addressing missing participants and unclaimed benefits.

Perhaps most importantly, regulators are reevaluating prior guidance related to alternative investments. A proposed rule addressing fiduciary prudence standards could clarify how plan fiduciaries evaluate private equity and other alternative assets within defined contribution plans.

This development could open up new investment opportunities, while also reinforcing the importance of prudent fiduciary decision-making. For consultants

advising plan sponsors, staying ahead of these regulatory changes will be critical.

### **SECURE 3.0: The Next Major Legislative Frontier**

Even as the industry continues to implement SECURE 2.0, attention in Washington is already turning to the next phase of retirement reform.

SECURE 3.0 is unlikely to pass in 2026, particularly given the approaching midterm elections. But the groundwork is being laid now. Key areas of focus include expanding retirement plan access, improving incentives for both defined contribution and defined benefit plans, reducing administrative complexity, and addressing retirement plan leakage.

These reforms build on the success of prior legislation and address emerging challenges in the retirement system.

Importantly, retirement policy remains one of the few areas where bipartisan cooperation is possible. As political gridlock continues in other areas, retirement legislation may represent one of Congress's most viable opportunities for meaningful policy achievement.

#### **What Plan Consultants and Advisors Should Expect**

Looking ahead, several themes will define retirement policy over the next 12 to 24 months:

- Continued legislative focus on expanding retirement coverage
- Increased scrutiny—and potential reform—of ERISA litigation
- Greater regulatory clarity around fiduciary standards and investment options



- Ongoing discussions about the role of retirement savings in broader financial security
- Early positioning for comprehensive retirement legislation in the form of SECURE 3.0

These developments reinforce the importance of staying engaged – not just with clients, but with policymakers.

The retirement system's strength is not accidental. It reflects decades of collaboration among policymakers, industry professionals, and advisors. Continued engagement will ensure that the system evolves in ways that protect participants while supporting innovation and growth.

#### **The Path Forward**

Despite political uncertainty, the outlook for retirement policy is encouraging.

Washington may remain volatile, but the momentum behind improving the retirement system is real. Policymakers across party lines recognize the critical role employer-sponsored retirement plans play in ensuring financial security for millions of Americans.

For plan consultants, this moment presents both challenges and opportunities. Regulatory changes will require adaptation, legislative reforms will create new possibilities, and evolving participant needs will demand continued innovation.

But one thing remains certain: the plan advisor community will continue to play a central role in shaping the future of retirement.

And if the past year has taught us anything, it is this: retirement policy may not always move quickly, but when it does, it has the power to transform the financial futures of millions. **NNTM**

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