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MARCH 2-6, 2020

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INTENSIVE CLIENT CARE

WHY ADVISERS ARE ADDING HEALTH CARE PLANNING TO THEIR PRACTICES PAGE 8

TopNews

ACCURACY / EXCELLENCE / FAIRNESS / IMPARTIALITY / INDEPENDENCE

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Fred Barstein sees a boom for plan advisers.
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EDITOR'S NOTE

Paving a road to success

As noted in this week's editorial on page 6, men and women enter the advisory industry world in equal numbers. But that parity quickly falls away as men are two times more likely to be promoted than women at the first opportunity.

This disparity weakens the profession and speaks volumes as to why *InvestmentNews* develops events that support women advisers and help to change the narrative, building out opportunities for success. Over the course of the year, we will host events around the globe that we believe will inspire discussion and pave a smoother path for female advisers.

GEORGE B. MORIARTY

- **March 12:** Women to Watch Think Tank
- **March 18:** Women Adviser Summit: Huntington Beach
- **March 25:** Women in IT Summit & Awards
- **April 22:** Women Adviser Summit: Chicago
- **June 30:** Women Adviser Summit: Boston
- **Sept. 1:** Women in Asset Management Summit
- **Sept. 30:** Women Adviser Summit: Denver
- **Oct. 19:** Women Adviser Summit: San Francisco
- **Nov. 18:** Women Adviser Summit: New York

Also, we've introduced two new podcasts to serve this growing community: "Her Mentorship Matters," hosted by Liz Skinner and Audrey Rose Joseph, and "Her Success Matters," hosted by *InvestmentNews* CEO Christine Shaw.

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Weak state oversight of insurance sales hurts investors and advisers

BRUCE KELLY

ONADVICE

The more one looks into the divide between the states' oversight of agents selling insurance products and the regulation of advisers and reps selling securities like mutual funds or individual stocks, the more the brain shakes and rattles.

Insurance salesman and financial advisers operate under two completely different regulatory regimes, although they frequently offer similar services that address a client's overall financial health, including financial and estate planning.

This is where the two sides of the financial advice industry divide.

Brokerage executives routinely — but privately — complain about the highly regulated industry in which they operate. They believe they work under the oppressive watch of the Securities and Exchange Commission, the Financial Industry Regulatory Authority Inc. and individual state regulators, chief among them William Galvin, the Secretary of the Commonwealth of Massachusetts, who is disliked by many industry executives.

On the insurance side of the street, individual state insurance commissioners oversee the salesmen and whether they have a license to sell products. And when it comes to bad actors hanging onto their insurance licenses and holding themselves out to the public as a planner, the states are doing a pretty terrible job.

Take, for example, the case of Brett Pittsenbargar, an insurance agent in Texas who was arrested this month and faces felony charges of securities fraud, money laundering and theft, according to the Texas State Securities Board. The charges stem from Mr. Pittsenbargar's sale of $9.3 million of notes from the Woodbridge Group of Companies Ponzi scheme.

'ACTIVE' STATUS

According to the Texas Department of Insurance website, Mr. Pittsenbargar's status as an insurance agent is deemed "active," giving him the appearance of propriety. On his website, Mr. Pittsenbargar, who did not return calls to comment, touts himself as a "business investor & turnaround strategist," with a focus on small businesses.

There's no mention of the charges he faces on either the Texas site or his own.

Confusion over such salesmen reigns. Why?

"Insurance is regulated on a state-by-state basis and state systems are often fragmented," said Benjamin Edwards, associate professor of law at the University of Nevada, Las Vegas. "Functionally, this means that brokers with checkered pasts may slip through the cracks and

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SEC fines Wells $35 million over ETF sales

BY MARK SCHOEFF JR.

THE SECURITIES AND Exchange Commission ordered Wells Fargo to pay a $35 million fine for selling complex exchange-traded funds that were unsuitable for the retirement savers who bought them, the agency announced last Thursday.

In its order, the SEC said that from April 2012 through September 2019, Wells Fargo Clearing Services and Wells Fargo Advisors Financial Network recommended that retail investment advisory clients and brokerage customers — many of whom were senior citizens and retirees on limited incomes — add risky single-inverse ETFs to long-term portfolios.

That kind of ETF is designed to reap gains by betting against an index for a limited trading period, typically a day. If they're held longer, customers may experience significant losses.

SEC CHARGES

The SEC charged that Wells Fargo sold the complex ETFs to investors who had no business owning them. The firm didn't implement adequate policies and procedures to monitor the transactions nor did advisers understand the products.

"Wells Fargo recommended that certain clients buy and hold, in many cases for months or years, single-inverse ETFs with daily reset features, including in retirement accounts," the SEC order states. "Some of these clients had little or no relevant investing experience and had been identified to Wells Fargo as clients with moderate or conservative risk

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Advisers urge clients not to rush to gold as pandemic hits markets

BY EMILE HALLEZ

AS U.S. INVESTORS panicked last week amid global reports of a wider outbreak of the coronavirus, financial advisers urged their clients to avoid reacting negatively to the market dip.

More new cases of infection were reported outside of China — including dozens of patients in the U.S. — and the Centers for Disease Control and Prevention warned the public to prepare for widespread contagion within the U.S.

The markets tumbled all last week. The Dow Jones Industrial Average fell 1,190 points last Thursday, the biggest single-day point drop in history. That followed 1,000-point plunges last Monday and Tuesday, respectively. By Friday's close, the index had dropped more than 3,500 points, its biggest-ever weekly loss.

PREPARING CLIENTS

Adviser Paul Schatz, president of Heritage Capital, said he has tried for months to prepare clients for the volatility. Because of that, he heard from only a few people after the market drop.

But for anyone thinking of rebalancing, Mr. Schatz had one piece of advice. "Certainly don't run to gold right now," he said. "People are going to look for safe havens."

Advisers told clients to sit tight, at least until the market recovers.

"I have had a few clients reach out today," Lamar Watson, founder of Dream Financial Planning, said in an email. When taking on clients, Mr. Watson uses Riskalyze to understand their risk tolerance, and he explains how volatile the stock market can be, he said. He also encourages clients to focus on what they can control, like spending and saving.

14%
LOSS ON THE DOW SINCE FEB. 12

"The coronavirus would definitely fall into the uncontrollable bucket," Mr. Watson said. "I also remind them that their investments are only a small part of their overall financial picture and that this, too, will pass."

MEMORIES OF MARKET DIP

Although many clients were concerned, they were also familiar with market volatility, advisers said. Investors' memories of the market's dip in late 2018 and its swift recovery in 2019 are a plus in that regard, they said.

"Most of our clients have been relatively calm — it has been helpful to put in perspective for them what their portfolios did during 2019 and the little volatility we saw during the year," Brett Fry, wealth adviser at Forteris Wealth Management, said in an email. "It has also been helpful for our clients to see how they are relative to their goals and relative to where they were to start the year."

When clients are well-educated

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Gold dips, dampening 'safe haven' from stocks

BY EMILE HALLEZ

INVESTORS WHO SOUGHT refuge from equities by buying gold were likely disappointed last Friday, when prices of the precious metal plummeted along with the stock market.

Gold futures fell by nearly 4% during the day, ending what had otherwise been a strong week. Behind that drop was a push for liquidity that caused some gold investors to offload their holdings, analysts said. That was exacerbated by massive bets made early in the week by futures traders who bought up gold only to find that the strategy would not have a quick payoff, according to a post on the Kitco gold-trading site by senior market analyst Jim Wyckoff.

"Futures trading is highly leveraged. That can be both good and bad for a speculative trader," Mr. Wyckoff wrote. "When the futures market's price goes the trader's way, he or she can make a lot of money in a hurry. However, when a futures market turns against a trader, the consequences can be devastating."

PRICE FOLLOWS DEMAND

Another, more obvious, factor is that prices follow consumer demand — and with the impact that coronavirus is having on China's economy, one of the world's biggest buyers is likely pulling back, Mr. Wyckoff wrote.

Investments in gold can help improve

a portfolio's risk-adjusted returns, with allocations from 2% to 10% being helpful for many investors, George Milling-Stanley, chief gold strategist at State Street Global Advisors, said in an interview. A report published last year by gold ETF provider GraniteShares even found that a 35% allocation to gold had the optimal impact on risk-adjusted returns. That company, along with most advisers, does not necessarily recommend such high allocations for most investors.

Mr. Milling-Stanley has pegged gold

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Market dive puts advisers on offensive

BY JEFF BENJAMIN

THE SUDDEN AND severe stock market correction that is now being compared to the worst days of the 2008 financial crisis is forcing financial advisers to move beyond the boilerplate replies to nervous clients to, "Just relax. You're investing for the long term."

"I've been reminding clients that when everyone else is scared, this is our cue to be bold, so I'm making calls to clients with money on the sidelines to invest that money now," said Laurie Allen, owner of LA Wealth Management.

While Ms. Allen is trying to get her clients to focus on the buying opportunity in a stock market that has dropped 14% from its peak, she said she is seeing an unexpected level of fear from younger clients.

"I'm hearing from clients, but not the ones you would think," she said. "I'm not hearing from people close to retirement, most of the fear is coming from younger clients who have built up some wealth these last couple of years in the market."

ADVISERS SCRAMBLE

As the global financial markets have been pulling back in stride with the spread of the fast-moving coronavirus, advisers are scrambling to help clients keep things in perspective.

"You only need to go back 14 months to recall the 20% correction that came and went," said Tim Holsworth, president of AHP Financial Services.

Even though medical science is still racing to catch up with the causes and treatments for the coronavirus, Mr. Holsworth is taking some solace in the idea that the market's reaction is not based on traditional fundamentals.

"Overall, this pullback is a little different because most people believe the economy is in good

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Massachusetts fiduciary rule won't cover VA sales

BY MARK SCHOEFF JR.

REGULATIONS THAT WOULD raise the investment-advice standard for brokers in Massachusetts won't apply to sales of variable annuities, the state's top securities regulator indicated last Wednesday.

Ever since Massachusetts released its final fiduciary rule on Feb. 21, the insurance industry has been scratching its head about whether it would govern variable annuities. In the adopting release, the Massachusetts Securities Division said it "removed the express language regarding advice on commodities and insurance products from the final regulations."

But insurance lobbyists remained concerned that Massachusetts considered variable annuities to be securities that would fall under the rule, based on documents on the regulator's website and the fact that it has taken enforcement actions against broker-dealers who sell VAs.

Last Wednesday, an aide to Massachusetts Secretary of the Commonwealth William Galvin said VAs are exempt from the fiduciary rule.

"Under Massachusetts law, variable annuities are not securities," Debra O'Malley, a spokeswoman for Mr. Galvin, wrote in an email. "The regulations cover securities."

INITIAL COMFORT

That gave some initial comfort to Kent Mason, a partner at Davis & Harman who represents financial industry clients.

"That is great news," Mr. Mason said. "In light of the historical position the division has taken and materials on their website, it would be great if that position was clarified officially."

The insurance industry is looking for clarity because of Massachusetts securities regulators' history of pursuing enforcement cases involving variable annuities, said Clifford Kirsch, a partner at Eversheds Sutherland.

"The [Securities Division] has been very aggressive in its interpretation of whether insurance is covered in the definition of a security," Mr. Kirsch said.

Mr. Galvin said he's promulgating an investment advice standard for the state that's separate from the Securities and Exchange Commission's Regulation Best Interest for brokers because Reg BI would not adequately protect investors from conflicted advice.

Variable annuities are defined as securities for federal regulation and fall under SEC oversight, which means Reg BI would apply to them. States vary in whether they consider VAs to be securities or insurance products.

The vacated Labor Department fiduciary rule for retirement accounts would have applied to VAs, which can provide an income stream for retirees but are often complex, high-fee products. VAs have become the poster product of the fiduciary duty debate.

DECISION WELCOMED

Massachusetts' decision not to apply its fiduciary rule — which requires brokers to provide investment advice without regard to their own financial interests — to annuities was welcomed by the American Council of Life Insurers.

Carl Wilkerson, ACLI vice president and chief counsel, said Massachusetts' interpretation on VAs moves its fiduciary rule closer to Reg BI and positions it to complement a model annuity sales rule proposed by the National Association of Insurance Commissioners.

"For the most part, the Massachusetts regulation aligns with the SEC's Regulation Best Interest," Mr. Wilkerson said. "It is a worthwhile endeavor to have harmonized regulations across all state and regulatory platforms."

There may be detours before the regulatory road reaches harmonization.

New Jersey and Nevada are poised to release their own fiduciary rules. Financial industry representatives who back Reg BI have indicated they're considering suing Massachusetts and the other states over federal preemption and other issues. Regulation Best Interest must be implemented by June 30.

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Intel ruling could bolster 401(k) class actions

BY EMILE HALLEZ

A SUPREME COURT decision published last Wednesday will make it easier for some plaintiffs to bring class actions for 401(k) fiduciary claims.

In a unanimous opinion, the court found that a three-year limit on filing claims does not apply simply because plan participants were provided with disclosures that in theory would allow them to see whether their assets are being mismanaged.

Instead, a six-year statute of limitations applies to most claims.

The decision sends a case against Intel Corp. back to a lower court, where plaintiffs can move forward with allegations that the company breached its fiduciary duty to 401(k) plan participants because of the plan's hedge fund and private-equity investments. Participants allegedly paid high fees and suffered losses because of those holdings.

Intel designed a custom target-date series for the plan, built in part with those underlying investments.

"It was always kind of a head-scratcher," said Jason Roberts, CEO of the Pension Resource Institute. "Why did a company that makes computer chips want to stick its neck out and dabble in portfolio management?"

The ruling "is a big deal in the sense that the circuit courts were split," he said. "Now we have definitively settled case law on it."

Intel argued that the case should be dismissed because the lead plaintiff accessed online documents that provided information about the investments, meaning that he had "actual knowledge" of the alleged fiduciary breach.

APPELLATE RULING AFFIRMED

The case was dismissed at the District Court level, though an appeals court sided with the plaintiff. The Supreme Court affirmed the appellate ruling, sending the case back to the District Court.

"This decision will make it harder for plan sponsors to limit their liability for 401(k) investment menu design decisions, and it may add further momentum to the ongoing wave of fiduciary breach and fee litigation class actions that have already resulted in hundreds of millions of dollars in settlements from plan sponsors," Ropes & Gray partner Josh Lichtenstein said in a statement. "The decision will be especially impactful for plan sponsors located in circuits that have traditionally been more willing to limit the period for damages to three years, and who may find themselves more likely to be targeted by class action suits in the future."

The decision has further implications, as the lower court will now consider the underlying fiduciary claims, Mr. Lichtenstein said.

This Supreme Court's decision "is going to impact the number of cases that get dismissed," said Karen Handorf, partner at Cohen Milstein.

The Supreme Court's ruling is consistent with provisions in the Employee Retirement Income Security Act that treat defined-contribution plan participants as unsophisticated investors who cannot be expected to parse complicated disclosures about their plans and investments, she said.

THREE-YEAR LIMIT

In addition, the three-year limit, even for those who were aware of potential mismanagement, was troublesome, Ms. Handorf said. If a participant notices a poorly performing, high-fee investment, for example, they must wait years to suffer any harm before suing, and that harm often doesn't happen until after three years, she said. Even the six-year limit can be difficult to meet.

"You're sitting around waiting for yourself to be hurt, and six years and one day goes by — and you're sunk," she said.

The Supreme Court decision will affect the way plaintiff firms vet lead plaintiffs for class-action cases, said Kim Jones, partner at Faegre Drinker.

"That's giving them some pretty clear details and a track for the plaintiffs to follow to determine who they should put up as their named plaintiffs," Ms. Jones said.

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Let's aim for advisers to better reflect investors by 2020

THE THEME OF THIS YEAR'S International Women's Day on March 8 is equality. Its more specific business focus asserts that "gender equality is essential for economies and communities to thrive."

For the financial advice community — where 14% of advisers are female — it's a lengthy road to gender equality. But as the financial planning business looks beyond its first 50 years, it should consider setting a goal to double that percentage over the next decade.

By 2020, nearly a third of all wealth is expected to be controlled by women – about $72 trillion – so a goal of having about 30% of financial advisers be women seems sound. In fact, the competitive landscape will likely demand it.

Getting there is the challenge.

Conclusions from a recent study, though, suggest that a focused effort on helping women move beyond entry-level positions in their financial services careers could make a meaningful dent in the dearth of female leaders in the profession.

The reality today is that women represent fewer than one in five positions in the financial services C-suite. New research from LeanIn.Org and McKinsey & Co. shows that even though women and men enter the financial services workforce in roughly equal numbers, men outnumber women by nearly two to one when it comes to that first step up into manager jobs, which are the bridge to more senior leadership roles.

EARLY DROP

That early drop in the number of women earning promotions appears to blow open a gender gap that widens with every step up the career ladder. Therefore, new strategies that increase a woman's desire and ability to reach that first level of management could make a significant impact in the numbers of women in the candidate pool for leadership.

Some firms' diversity efforts are, in fact, already pivoting to focus on helping women move up.

Lisa Burns, Fidelity Institutional's head of platform technology, said her firm is focused on recruiting more women. Speaking at the T3 Advisor conference recently, she said the firm is specifically trying to boost the diversity of its leadership development programs.

Other firms are focusing more broadly on the retention of diverse talent. Their leaders recognize that holding onto diverse advisers may require adviser business models to move beyond "eat what you kill." In addition, compensation structures may need to reward relationship-building and client service, not just sales.

FIVE THINGS FIRMS CAN DO

Joe Keefe, president and CEO of Pax World Funds, has identified five things firms can do to create a workplace that offers equal opportunities for men and women, recommending tangible steps like conducting a pay equity audit. These suggestions may be useful if your firm is looking for a way to answer the International Women's Day call to action, namely, how will you and your firm support #EachforEqual?

HELPING WOMEN MOVE BEYOND ENTRY-LEVEL POSITIONS IN THEIR FINANCIAL SERVICES CAREERS COULD MAKE A MEANINGFUL DENT IN THE DEARTH OF FEMALE LEADERS.

At *InvestmentNews*, for the past five years, our Women to Watch programs have highlighted women who have been successful in the financial advice industry so that young women have role models. Four days after the official International Women's Day this year, *InvestmentNews* will be gathering with the more than 100 women recognized over the years at an event in New York City to debate different strategies to help women rise to the top.

We'll report back soon with recommendations from these female leaders in financial advice on how to create a thriving financial adviser pool that better reflects the diversity of investors by 2020.

WE WANT TO HEAR FROM YOU. Send a letter to the editor with your thoughts about a story we've published, and include your name, title, company, address and telephone number for verification. Keep your letter under 250 words, and email it to George B. Moriarty at gmoriarty@investmentnews.com. All letters will be edited.

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THE NEW ESSENTIAL

By addressing clients' health and aging, advisers can prove their value as rising health care costs threaten the security of retirement accounts

BY EMILE HALLEZ

The costs of health care and long-term care are rising as people live longer, and many are ill-prepared to cover the exorbitant bills they might encounter. Today, people just heading into retirement can potentially pay hundreds of thousands of dollars out of pocket for health care.

Among people near retirement, worries over these costs are second only to the fear of running out of money, according to a 2019 report from Empower Retirement. For many, that concern is well-founded; out-of-pocket medical costs average $285,000 for a 65-year-old couple retiring in 2019, according to Fidelity Investments. That amount would wipe out savings accounts for many older workers — the average retirement savings among people ages 56 to 61 was less than $250,000 at the end of 2016, according to data from the Survey of Consumer Finances analyzed by the Economic Policy Institute.

It's a daunting issue – one they want their financial advisers to address.

"Some advisers may be reluctant to broach the subjects of health, aging and dementia," said Chris Heye, who co-founded Whealthcare Planning, a firm that provides health care planning services to individual clients and advisers. "But they can be assured that virtually every client they have over

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age 50, especially those over 60, are desperate to talk about this."

Advisers do not necessarily need to be blunt, Mr. Heye said. They can ask clients open-ended questions about how their parents or children are doing, for example. That can segue to conversations about long-term care and health planning.

Today, people seem to have fewer confidants for those discussions, which used to take place with family doctors or religious leaders, Mr. Heye said.

"A lot of people don't have that — and a financial adviser has a great opportunity to become that person," he said.

HEALTH CARE PLANNING ALONGSIDE 401(K)S

Demand exists within employer-sponsored retirement plans, if recent mergers and acquisitions are any indication. In early February, insurance broker OneDigital bought a $45 billion RIA, Resources Investment Advisors, establishing a full-service benefits business for small- and medium-size employers. That followed large acquisitions by benefits aggregator Hub International, which snapped up Sheridan Road Financial and Global Retirement Partners.

Adding health care planning can help advisers prove their value — and that can be useful in down markets, when investors might question why they are paying for investing services, Mr. Heye said. Adding health care planning can also help bring in new assets and clients, he said.

Fidelity's most recent estimate ($285,000, cited above) for the cost of health care in retirement is up from $280,000 for those retiring in 2018. Since 2017, estimated costs only increased by 3.6% over two years, versus a rise of 12.2% seen between 2015 and 2017, according to Fidelity.

By historical standards, those increases are relatively low, said Dr. Carolyn McClanahan, director of financial planning at Life Planning Partners.

"In general since the '70s it's been 6% to 7% [per year]," Dr. McClanahan said.

She helps clients plan to save enough for retirement in general, with health care costs being "another budget line item," rather than a figure for total savings dedicated to health care spending.

"Nobody lump-sums their health care, because you don't know how long you're going to live, and you don't know what your health care costs are going to be," she said. "Our method of planning around health care is more about shaping behaviors to reduce [costs] than they are on trying to predict future health care costs."

Indeed, trying to accurately predict health care costs decades ahead is virtually impossible. And one area of concern is the future of the Medicare system. President Donald J. Trump singled out Medicare for the chopping block in his proposed fiscal year 2020 budget, seeking to cleave more than $478 billion in federal funding from the system between 2021 and 2030.

Although that change almost certainly will not get through Congress, it shows that there is at least some political will to cut back on the system.

But advisers shouldn't consider any recommendations based on how Medicare will look in the future, Dr. McClanahan said. While other industrialized countries have overhead costs for health care ranging between 5% and 10%, that figure is at least 25% in the U.S., she said.

If the rate of inflation in health care goes unchanged, health care costs will account for half of gross domestic product in the U.S. in 25 to 30 years, she said.

"That's not politically possible," she said. "We're going to have to do something to fix health care down the road."

Telling clients to expect 6% inflation for health care would "give them a heart attack," she said.

"Trying to get people to plan for a system that is broken and dysfunctional — you can't do it," she said. "You just get that person saving as much as possible for retirement in general."

That also includes helping people be more proactive in managing their current health care costs. Advisers can support clients by encouraging them to adopt healthier lifestyles and learn "to be a good patient" by seeking lower-cost alternatives to treatment and medicines where possible, she said.

"Our health care system tends to do too much to people," she said. "We over-test more than any other country."

THE HSA BOOM

One area growing quickly within employer-sponsored benefits is health savings accounts, or HSAs. Total assets in HSAs are projected to hit $75.5 billion by the end of 2020, which would more than double the $37 billion reported in those accounts in 2016, according to HSA investment firm Devenir.

Fidelity Investments saw its HSA business hit $5.6 billion in assets as of the end of 2019, up 57% from a year prior, said Begonya Klumb, who leads the company's HSA business. There are about 1.2 million funded accounts the firm oversees, Ms. Klumb said.

The company is also seeking to expand its client base. In January, it began offering its HSAs through financial intermediaries, rather than only directly to clients in its record-keeping business, Ms. Klumb said.

Those accounts can be essential, as about 60% of people underestimate potential health care costs in retirement by about half, based on the average $285,000 figure, she said.

HSAs are available for people who have high-deductible health plan coverage, and they can be used like checking accounts or as investment accounts. Unlike flex spending accounts, the assets roll over annually and can be saved for retirement.

The annual contribution limits for HSAs in 2020 are $3,550 for individual coverage or $7,100 for family coverage, up from last year's limits of $3,500 and $7,000.

The first accounts launched in 2004, following the 2003 Medicare Prescription Drug, Improvement and Modernization Act.

Initially, HSAs were most common in small businesses with high deductible plans, though large employers have more recently added them, said Eric Remjeske, Devenir's president and co-founder. About 75% of larger employers now provide them, he said.

"Early on, there was a perception that these [accounts] were for the healthy and wealthy," Mr. Remjeske said.

The percentage of employees that opt for those accounts "depends on how the plan design is put together and what type of industry it is," he said. "You're going to get more adoption of this type of plan in office environments more than in retail and restaurant [businesses]." Currently, HSA ownership follows a bell curve of ages and is spread among different income brackets, he said.

A common selling point is that HSAs have a so-called "triple-tax advantage," meaning that contributions are made pretax, interest and investment returns are not taxed, and payments for qualifying medical expenses are tax-free.

Advisers can be helpful by getting an understanding of how different account holders use their HSAs and by making recommendations to them to maximize the benefits, said Jon Robb, senior vice president of research and technology at Devenir.

"There are a lot of HSA accountholders out there who are using these as a pass-through vehicle for spending," Mr. Robb said. Others intend to use it as a secondary retirement-savings account, he said.

"One of the common misconceptions is that people don't realize they can pay for [medical expenses] out of pocket and get reimbursed later on," he said.

Given clients concerns about health care expenses in retirement — and the resources available for planning and saving — advisers only stand to benefit by responding to the demand.

"The data overwhelmingly suggests that this is what the clients want to talk about," Mr. Heye said. "Advisers who are able to have these discussions successfully are going to do much better."

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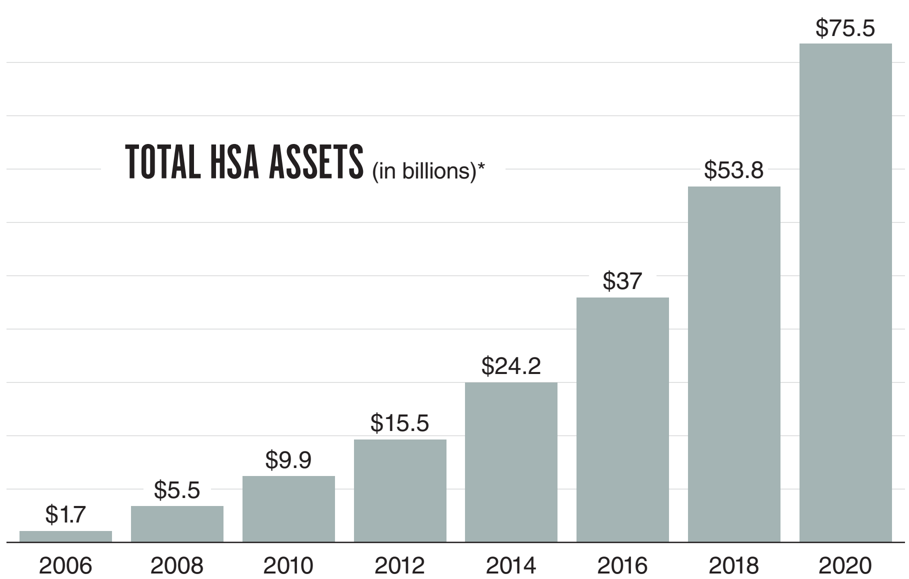
HSAs: STILL IN THEIR EARLY YEARS, BUT GROWING QUICKLY

The accounts are projected to reach more than $75 billion by the end of the year — more than doubling the size of the market in 2016.



Source: Devenir Research *Estimated

30,000 APPROXIMATE NUMBER OF EMPLOYEES IN THE CANNABIS INDUSTRY NATIONWIDE FOR WHOM ANNUITIES GROUP IS PUSHING TO OBTAIN RETIREMENT COVERAGE.

LPL Financial spends big on recruiting in 2019

BY BRUCE KELLY

AS LPL FINANCIAL looks to broaden its recruiting reach this year, it is putting its money where its mouth is: The firm reported a 44.8% increase last year in recruiting bonuses that are used to entice financial advisers to leave a competing broker-dealer and set up shop with LPL.

According to its 2019 annual report, which was filed with the Securities and Exchange Commission on Feb. 21, LPL reported a balance of $338 million in forgivable loans at the end of 2019, compared to $233.3 million at the end of 2018.

LPL defines the loans, also referred to as forgivable notes in the industry, as "made in connection with recruiting" and "forgivable over terms of up to 10 years provided that the adviser remains licensed through LPL Financial."

LPL's forgivable loan total at the end of last year was more than double its balance in 2017, when the company reported $159.9 million in such loans.

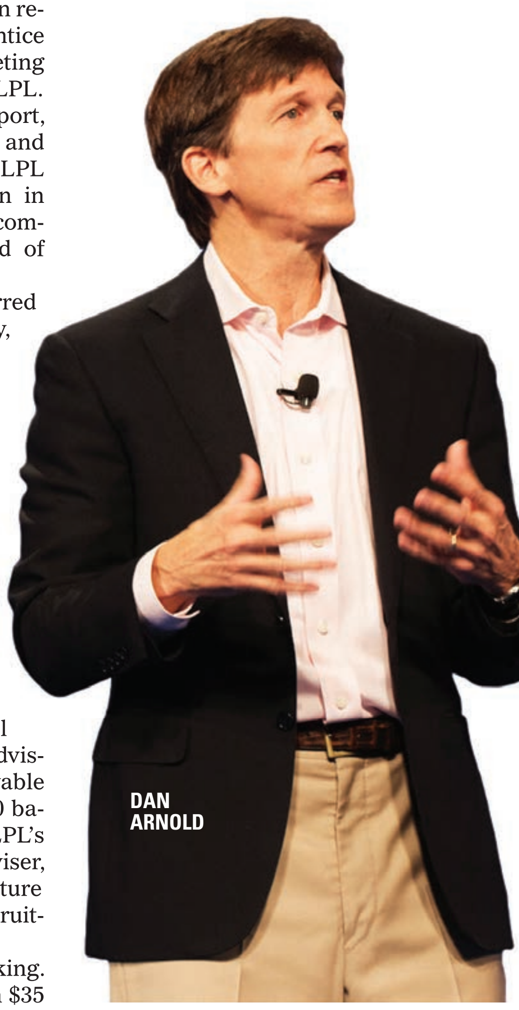
FORGIVABLE LOAN

LPL, which is the largest independent broker-dealer in the industry with 16,464 advisers, since April 2018 has been selectively offering advisers a bonus in the form of a forgivable loan that pays an adviser at least 50 basis points on assets transferred to LPL's corporate registered investment adviser, a potentially far more lucrative structure for the adviser than traditional recruiting deals.

The strategy appears to be working. In 2019, LPL recruited advisers with $35 billion in assets under management — a new annual high.

"Our recruited assets under management increased nearly 30% last year, which naturally resulted in an increase in the overall amount of transition assistance we provided to new advisers," said Rich Steinmeier, managing director and head of business development for LPL. "Our transition package has long been competitive in the market, and our approach in 2019 was consistent with other years."

Although some details of LPL's new recruiting plan are still vague, the firm's CEO, Dan Arnold, made it clear on an earnings conference call with analysts last month that it would be a focus throughout this year.


DAN ARNOLD

"OUR TRANSITION PACKAGE HAS LONG BEEN COMPETITIVE."

DAN ARNOLD, CEO, LPL

NO SURPRISE

The bump in forgivable loans at LPL came as no surprise to one recruiter.

"The increase to note money is primarily due to an increase in recruiting numbers but also due to larger basis points on assets being offered," said Jon Henschen, head of an eponymous recruiting firm. "What LPL has steered the industry toward is basing notes on profitability of the advisers' assets to a greater degree than what we've seen prior to last year, with other firms starting to follow suit."

In the past, forgivable loans and notes to recruit advisers were almost universally tied to a percentage, such as 20%, applied to overall revenue.

LPL's recruiting loan pays the largest amount for corporate RIA assets, which are highly profitable, but zero or close to zero for retirement plan assets, Mr. Henschen noted.

"We're surprised that it has taken this long to base note amounts on an adviser's profitability, but Dan Arnold has the optics on what makes sense," he said.

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FORGIVABLE LOANS AT LPL ARE WAY UP

SOURCE: LPL ANNUAL REPORTS

Retirement plan adviser M&A market is poised to explode

Looking back, the recent One Digital purchase of Resources Investment Advisors and 13 affiliated practices will be viewed as a watershed moment. That deal, which came on the heels of the Hub International transaction with GRP Financial and related firms, hints at much more to come in the retirement plan advisory business.

GUESTBLOG
FRED BARSTEIN

The volume of deals will accelerate in 2020, kicking off the evolution of what has been mostly a cottage industry. Driving that are changes in demographics and the need for scale and integrated technology.

"The next 30 deals will determine the future of the retirement advisory business,"said Rick Shoff, managing director at Captrust.

The confluence of retirement, wealth management and benefits, combined with capital that firms are anxious to deploy, has created the perfect storm.

Retirement plan specialists and dabblers alike will be forced to take a hard look at their defined-contribution practices. Not acting is no longer an option; those who wait too long will either miss out on high valuations or lose clients. The middle ground is eroding fast.

The numbers are telling.

Wise Rhino Group, an advisory firm for mergers and acquisitions, estimates that valuations have skyrocketed from 7.73 times earnings before interest, taxes, depreciation and amortization in 2016 to 10.44 times in 2019, with a maximum earnout of 14.05. And valuations of platform businesses like GRP and Resources are even higher.

ANOTHER RECORD YEAR

Wealth management M&A firm Echelon Partners reported there were 203 RIA deals in 2019, an increase of 12.2% over 2018. It was the seventh straight record year, with average annual growth of 15.4% over that time frame. In 2019, there were an additional 655 wirehouse breakaway deals.

In the DC business, scale matters more than ever. Smaller firms will have trouble keeping up with the required investments in technology and will struggle with client and talent acquisition.

"In 2006, we were able to invest $2 million back into the business,"Mr. Shoff said. "In 2020, our investment will be $20 million."

RPAs affiliated with platforms can provide vastly superior service at substantially lower prices. In a highly competitive market, that makes it nearly impossible for dabblers to compete.

"The DC business is harder to dabble [in]. It is not a lifestyle business," said Carolyn Armitage, managing director at Echelon. "We encourage our clients to be all-in or get out."

Not only do affiliated practices have greater access to tools and services, they enjoy pricing efficiencies with record keepers and money managers, in part because collective trusts are now available to smaller DC plans.

Further, RPAs owned by platforms have an even greater advantage in their ability to cross-sell.

"Our retirement practices have access to capital as well as warm leads," said Craig Reid, national practice leader of wealth and retirement at Marsh & McLennan, the largest publicly traded benefits firm, which recently purchased Centurion Group. "Our firms can close the door on the competition by offering multiple services."

12.2%
INCREASE IN RIA DEALS IN 2019 OVER 2018

And of course, money matters.

"PE firms are borrowing at low interest rates, providing significant leverage," said Randy Long, managing principal at Sageview Advisory Group. But he also warned, "They are not always patient."

Demographics also matter. The aging adviser population is well-documented, as firms struggle to attract and train younger advisers. Larger firms like NFP, which is owned by a PE firm, can hire and train younger workers, eschewing the traditional "eat what you kill" model. They can also create a culture that smaller firms struggle to duplicate.

RETIREMENT MARKET

More advisers also are trying to get into the retirement market, given the money in motion with baby boomers retiring and assets in DC plans and IRAs continuing to grow. But serving small DC accounts and millennials who demand a richer digital experience requires technology, smart data and a new breed of adviser. And capturing IRA rollovers and leveraging wealth management opportunities takes time, capital and business acumen — all of which are in short supply for most smaller firms.

Uncertainty is driving advisers to market, said Dave Reich, president of Hub International's retirement division. "The elections, historic bull market and new laws like the SECURE Act will accelerate the flight to safety. It will become harder to grow organically [for smaller firms]."

Open multiple-employer plans or pooled-employer plans that can be sponsored by financial service companies will become an option starting in 2021, courtesy of the SECURE Act. But sponsoring a PEP takes scale, capital and technology, as well as deep partnerships with providers.

The corporate retirement plan market is a complicated food chain. At the top are plans of at least $500 million, which are served mostly by institutional investment consultants. At the other end are more than 100,000 RIAs serving plans with under $3 million, based primarily on relationships.

IN-BETWEEN

In-between are 2,500 plan consultants with either $500 million in DC assets or $500,000 in revenue, focused on midmarket plans whose assets range from $25 million to $500 million. There are another 25,000 RPAs with 10 or more DC plans serving the $3 million to $25 million DC market. Each segment has its own challenges to grow efficiently and profitably.

M&A fueled by easy access to capital will accelerate the consolidation, with each group looking to gobble up the next smaller fish. Firms like Captrust are focused on the top 30 RPAs and plan consultants with more than $2 million in DC revenue. Platform providers will attract or acquire higher-end plan consultants with other specialists, looking to secure the five to 15 DC plans managed by dabblers.

Fred Barstein is founder and CEO of The Retirement Advisor University and The Plan Sponsor University. He is also a contributing editor for InvestmentNews' *Retirement Plan Adviser newsletter.*

$2.5T AMOUNT OF ROBO-ADVISER ASSETS UNDER MANAGEMENT BY 2023.
SOURCE: LEARNBONDS

3 reasons I sold a majority stake in my firm, and so should you

You've no doubt seen the rapid-fire reports of the M&A frenzy in the advisory sector. If you haven't considered a transaction, I'd like to explain why you should.

GUESTBLOG
SCOTT HANSON

My partner and I started our RIA more than 25 years ago. We'd built a team of about 60 associates and we were growing. However, we found we had some challenges: First, the investments that we were making in infrastructure were limited to the cash the business was able to generate, and, second, because we were so focused on cash flow, we never felt comfortable investing all of the profits back into the firm.

After meeting with a handful of entities, two years ago we sold a majority stake in our company to a private equity firm. Here are just three of the reasons why it was one of the best decisions we've ever made.

First, for most principals, the first few years in business are about survival. After survival, it becomes about generating enough profit to take care of the family.

INGRAINED MINDSET

As the years went by and our business grew, our cash flow improved, but having personally grown up in modest circumstances, the poverty mindset never left me. Intellectually, I knew that I could afford to take bigger risks and invest more in the business, but the nagging fear that the survival of the firm was in question never left me.

Once I sold a majority stake, much in the same way I would advise a client, I took enough "chips off the table" so that I was adequately diversified. However, and this is key, I still have enough equity that I'm highly motivated to continue to grow the business.

Frankly, I'm now able to make rational investment decisions as they relate to the business without worrying about how my family will be impacted if something doesn't go as planned. And that means that professionally, I've never been more at ease.

The second aspect of selling has to do with freedom. Over the years, I've become pretty good at delegating and focusing on the things that bring me joy, but there were always going to be operational tasks that I didn't like doing.

INCREASED FOCUS

Today, 95% of my workweek is spent doing what I'm best at: growing the firm. Now that I'm part of a larger organization, I no longer worry about payroll, taxes, rent or insurance. I'm much more energized than I've been, and more focused, and these things benefit both the business and me.

Third, and finally, comes valuations. We completed our transaction when valuations were high. Since that time, multiples have expanded even more dramatically.

When it comes to valuations, I don't know where things will go from here, but we are probably closer to the top than we are the bottom.

Over the past two years, we've acquired stakes in seven firms. In speaking with those advisers, and with advisers who have sold to other firms, we've learned that all feel the same way I do: If you're a principal, now is very good time to find out what are your options.

Scott Hanson is co-founder of Allworth Financial, formerly Hanson McClain Advisors, a fee-based RIA with $8 billion in AUM.

Sometimes best practices don't align with your personal values

For years, I've championed practice management best practices — those processes and procedures accepted as being the "best" or most effective way to do business. For example, creating a written business plan and embracing strategic marketing that encompasses everything from branding to social media are both tried-and-true activities that can generate positive business results.

GUESTBLOG
JONI YOUNGWIRTH

There are times, though, when what you know you should do is overruled by your feelings. Let's consider a few examples.

THAT NEW EMPLOYEE WHO'S STRUGGLING

You hire a new employee — let's call her Sally. You're excited by the prospect of transferring work off your plate to hers. But within weeks of starting her job, even before she's fully trained, Sally starts coming in late and taking sick days, and then she asks for a week off the following month.

She has a great attitude, and you want to be a flexible boss, so you acquiesce. By the end of the second month, though, the situation has worsened. You've already met with Sally to review her job description and discuss expectations. Now you're ready to revisit and document that conversation. During your meeting, Sally reveals that her mother has been diagnosed with cancer and the prognosis doesn't look good.

The gray zone: Employees are paid to do a job. If they don't do the job, they don't get to be an employee. Best practice says to cut the cord when an arrangement isn't working out. On the other hand, Sally's situation is a difficult one that speaks to your personal value system. How could you possibly fire someone who's going through such a tough time?

NAMING YOUR SUCCESSOR

You're coming up on your 70th birthday. The other advisers in your firm have been harping on you for years to articulate your succession plan. But the thought of letting go, giving up control and sharing your precious client relationships with someone else is overwhelming. Who are you if you're not your clients' financial adviser? You're procrastinating, of course, because you haven't defined your next chapter.

The gray zone: Best practice says that successors should be named from the outset, no matter how old you are, and that multi-adviser firms should have an internal succession policy. But times have changed — 70 is the new 50, right? If you've still got it, why make retirement an age-related issue? The individual who values innovation may look to redefine what it means to retire, while the best practice identifies succession planning as a critical component of risk management.

KNOW THYSELF

Regardless of where you are in your career, you're likely to find yourself dealing with situations like these. How will you navigate the gray zone between the decision to follow a best practice and your personal values?

Self-awareness and honesty are key to this understanding. And with that knowledge, you can more quickly identify where the conflict lies and make the choices that will allow you to see progress in your business and still abide by your personal value system.

Joni Youngwirth is managing principal of practice management at Commonwealth Financial Network.

"NOW WE HAVE DEFINITIVELY SETTLED CASE LAW ON IT."

— JASON ROBERTS, CEO, PENSION RESOURCE INSTITUTE ON SUPREME COURT DECISION ON CLASS ACTIONS FOR 401(K) FIDUCIARY CLAIMS.

Social Security's file-and-suspend option ending soon

MARY BETH FRANKLIN

ONRETIREMENT

Before Congress changed the rules regarding Social Security claiming strategies in late 2015, many financial advisers enthusiastically promoted ways to maximize lifetime retirement income benefits for married couples and eligible divorced spouses. But the Bipartisan Budget Act of 2015 put an end to two lucrative claiming strategies.

> **KEY POINTS**
> - Those who filed and suspended by April 29, 2016, can still reap rewards.
> - Divorced spouses can still collect spousal benefits.

The first was known as "file and suspend." It allowed individuals at full retirement age or older to file for benefits and then immediately suspend them, which allowed their benefits to grow 8% per year for every year they postponed claiming up to age 70.

Meanwhile, the act of filing for Social Security would trigger benefits for eligible family members, such as a spouse, minor dependent child or permanently disabled adult child.

The strategy also allowed anyone who filed and suspended to request a payout of all suspended benefits in a lump sum in lieu of receiving delayed retirement credits.

Because this strategy is no longer an option for new retirees, some advisers have forgotten the valuable benefits available to people who exercised the strategy before the April 29, 2016, deadline.

"A soon-to-be 70-year-old prospect informed me that an attorney and her financial planner had her file and suspend when she reached full retirement age at 66," a financial adviser wrote to me recently. "They said that at age 70, she will have the option to receive her full retirement age benefits plus 32% in delayed retirement credits or elect to receive her age 66 benefit and then get a lump sum payment of the money not received over the last four years.

"I can't find anything that validates that information," he wrote. "Am I missing something?"

Lucky lady! Her forward-thinking financial planner and attorney gave her good advice four years ago. If she does nothing, her benefits — including four years' worth of delayed retirement credits — will begin automatically the month she turns 70.

THE LAST BENEFICIARIES

The last group of people to benefit from the file-and-suspend claiming strategy turn 70 in April. They will automatically receive their maximum retirement benefit when they turn 70, or they could request a lump sum payout of suspended benefits. After that, this claiming strategy will also be one for the history books.

Individuals are still allowed to suspend their Social Security benefits at full retirement age or later in order to earn delayed retirement credits, but the rules are different.

For those who suspend their benefits after April 29, 2016, anyone collecting on their record, such as a spouse, would also lose their benefits. And if they suspend their benefits, they cannot collect benefits on anyone else's record, such as their spouse's, during the suspension.

But, there is one major exception. If you are divorced, you can continue receiving a divorced spousal benefit even if your ex-spouse voluntarily suspends his or her retirement benefits.

So, who may want to file and suspend their benefits under the new rules?

Assume a husband and primary breadwinner claimed his Social Security benefits at 62, permanently reducing his benefit by 25% because he claimed four years before his full retirement age. By claiming reduced benefits early, his wife would also get a smaller survivor benefit if he died first. Survivor benefits are worth up to 100% of what a deceased worker was collecting or entitled to collect at the time of death.

Once that husband reaches full retirement age, he could voluntarily suspend his benefits. Although his payments will stop, his benefits will earn delayed retirement credits worth 8% per year until age 70.

The math works like this: At 62, he began collecting 75% of his full retirement age benefit for four years. At 66, he suspends his benefits and they begin to grow by 8% per year for a total increase of 32%. When you multiply his reduced benefit of 75% by 1.32, his benefits at age 70 would be worth 99% of his full retirement age benefit amount. If he dies first, that's how much his widow could collect in survivor benefits, assuming she was at least at full retirement age at the time.

(Questions about new Social Security rules? Find the answers in my ebook at InvestmentNews.com/mbfebook.)

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Court dismisses 401(k) 'kickback' lawsuit against Fidelity Investments

BY EMILE HALLEZ

FIDELITY INVESTMENTS has won a legal challenge to its practice of collecting shelf-space payments from third-party mutual funds used in its retirement plan record-keeping business.

The company negotiated such payments with fund providers on its FundsNetwork system in 2017, applying the fees if the revenue-sharing it receives from funds are below a certain threshold.

Participants in several retirement plans sued the company a year ago, calling the charges "secret payments" or "kickbacks" and alleging that the practice violated the Employee Retirement Income Security Act.

The company has defended the arrangement as legal, stating that it is all but necessary, given the thin margins in the defined-contribution record-keeping business. Per-participant record-keeping fees have fallen over the past decade.

Between Jan. 1, 2017, and Jan. 1, 2019, Fidelity "tripled the amount of infrastructure fees charged to mutual funds," court records state.

"The mutual fund companies pass on the additional costs of the infrastructure fees to the plans through their investment fees, with the result that the plans and their participants ultimately pay more (via higher expense ratios) than they agreed to pay in the contracts," the plaintiffs stated. They also alleged that Fidelity does not properly disclose the arrangement to participants.

On Feb. 14, a federal judge dismissed the case, finding that the plaintiffs failed to show that Fidelity had acted in a fiduciary capacity in setting the fees it charges fund providers. In addition, Fidelity was not liable as a party-in-interest in a nonfiduciary capacity, Judge Leo Sorokin wrote in his order granting the record keeper's motion to dismiss.

The decision is likely to be appealed. But it is meaningful for record keepers that have started charging fund companies for shelf space.

A law firm representing the plaintiffs said they plan to appeal the court's decision.

"We take our responsibilities as a record keeper seriously, and any claims that are contrary and question our integrity in providing the best services possible for our 401(k) retirement plan sponsors and participants are simply wrong," said a company spokesman.

> **"PARTICIPANTS ULTIMATELY PAY MORE THAN THEY AGREED TO PAY."**
> PLAINTIFFS

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Bear market would benefit fixed annuities: report

BY EMILE HALLEZ

INSURERS WILL LIKELY struggle to keep pace with the record annuity sales volume they saw last year — but things could turn around in short order, an industry lobbying group predicts.

Low interest rates are hindering sales of fixed annuities, but demand for guaranteed-income products will only grow in the coming years as baby boomers head into retirement, according to the Insured Retirement Institute.

"Long-term interest rates fell steadily throughout 2019 and ended the year at 1.92%. With rates more than 100 basis points below 3%, capacity, withdrawal rates on [guaranteed living withdrawal benefits] and participation rates on fixed indexed products are constrained," the IRI said in a report.

57%

PORTION OF FIXED ANNUITY SALES IN 2019 THAT WERE FIAs

On the other hand, about 10,000 U.S. baby boomers turn 65 every day and that pace will continue until about 2033, the group wrote.

The passage of the SECURE Act also bodes well for sales long term, IRI noted, citing the legislation's fiduciary protections for plan sponsors that incorporate annuities into retirement plans.

RECORD YEAR FOR ANNUITIES

Last year saw record sales for annuity products as a whole, at $241.7 billion, with fixed indexed annuities selling well in the first part of the year and variable annuities ramping up after the first quarter. It was the best year for VA sales since 2008, according to a recent report from Limra's Secure Retirement Institute.

The increase in VA sales was due in part to demand for a new type of product — registered index-linked annuities, which provide some protection from losses. But FIAs will soon have their day, one research firm predicts.

Favorable conditions for those products — including better interest rates and a potential bear market — would give sales a big boost, as would increased sales through broker-dealers and new designs tha appeal to consumers, according to a Cerulli Associates report.

"FIAs should not be harmed greatly by Fed rate cuts, and if markets become volatile and or bearish, fixed annuities will once again serve as safe havens for risk-averse investors," Cerulli wrote.

"The largest catalyst of growth comes from changing distribution dynamics," the report said. "The independent broker-dealer channel experienced the largest 10-year gain in fixed annuity market share, at nearly 8 percentage points; regional broker-dealer market share has grown too, by almost 7 percentage points."

REG BI COMPLIANCE

This year, the Securities and Exchange Commission's Best Interest Rule will likely affect annuity sales, at least briefly, as insurers tweak products and processes to comply when the new rule goes into effect in June, said Todd Giesing, director of annuity research at the Secure Retirement Institute.

But compliance should not be a major undertaking for insurers, given the practice they got when the Department of Labor's fiduciary rule went into effect. The Obama-era rule was vacated by a federal appeals court.

"The threat of the DOL rule had been a key reason for reduced sales, especially into VAs and FIAs," Donnie Ethier, director at Cerulli, said in a statement. "The passage of the SECURE Act may open the door for further growth."

VA sales slumped in the wake of the 2008 financial crisis as the optional guaranteed benefits sold on those products became too costly for insurers to provide. While VA sales fell, FIAs were flying off the shelves. Those products represented 57% of all fixed annuity sales last year, according to Cerulli.

FIA sales are on track to outpace those of VAs by 2023, Cerulli predicted.

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Bloomberg would revive DOL rule

BY MARK SCHOEFF JR.

DEMOCRATIC PRESIDENTIAL candidate Michael Bloomberg doesn't believe the Securities and Exchange Commission's investment advice reform efforts provide enough investor protection and is seeking to revive a previous Department of Labor standard.

KEY POINTS

- Bloomberg would restore the old DOL fiduciary rule.
- The presidential hopeful doesn't think Reg BI does enough to protect investors.

In a four-page retirement security policy agenda released last Tuesday by his campaign, Mr. Bloomberg indicates that he would restore the Labor Department's fiduciary rule for retirement accounts, which was vacated in 2018 by a federal appeals court.

"Financial advisers who work on commission sometimes prey on elderly customers, steering them into expensive funds and annuities and away from better alternatives," the document states. "The Trump administration has reversed the [DOL fiduciary] rule. Mike will protect elderly investors from conflicted financial advice and improve the financial position of retirees."

The agenda doesn't mention the SEC's Regulation Best Interest, the centerpiece of its advice-reform regulatory package that is designed to raise the broker standard above suitability. Reg BI, as it's known, will go into force on June 30.

NOT ENOUGH PROTECTION

A Bloomberg campaign aide said the former New York City mayor doesn't think Reg BI will do enough to protect investors.

"It doesn't set an adequate fiduciary standard," Bloomberg spokeswoman Rachel Nagler wrote in an email to *InvestmentNews*. In a Bloomberg administration, the SEC "ideally would revise the rule to better reflect the original intent of the Labor Department's fiduciary rule."

Ms. Nagler added that Mr. Bloomberg sees the effort by several states, including Massachusetts and New Jersey, to promulgate their own fiduciary rules as a "predictable response to an inadequate rule. We need a better federal standard."

Mr. Bloomberg's position on the DOL fiduciary rule was a pleasant surprise to Barbara Roper, director of investor protection at the Consumer Federation of America.

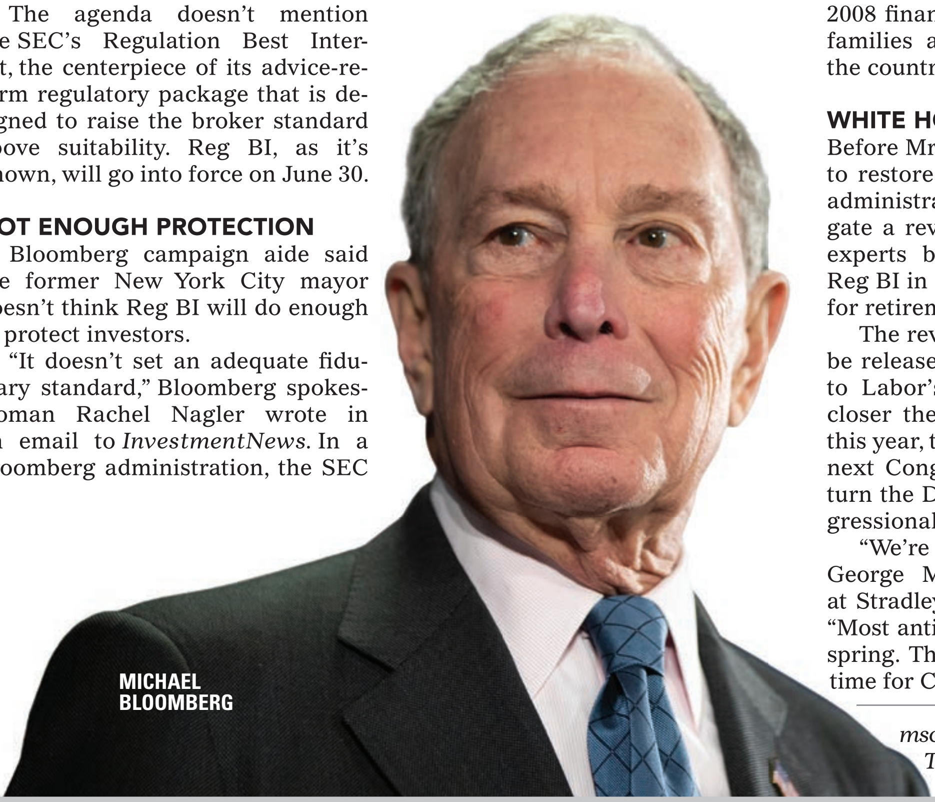
"I think both the DOL fiduciary rule and the fixing Reg BI are a natural part of the Democratic platform, and I'm delighted to see this included on Bloomberg's agenda," Ms. Roper said. "But he hasn't always been a big fan of financial regulation, so I didn't take for granted that he would embrace such a mainstream Democratic policy."

HISTORY OF CRITICISM

She noted that during his tenure as New York mayor, Mr. Bloomberg criticized financial regulations for impeding capital formation and criticized elements of the Dodd-Frank financial reform law.

"That makes me very nervous," Mr. Roper said. "It's a cause for concern. Everything is relative."

Ms. Nagler said that as mayor, Mr. Bloomberg protected financial consumers.


MICHAEL BLOOMBERG

"Mike has always recognized that financial policy should evolve to keep pace with the constantly changing market, and this plan calls for policies that make sense in today's economy," Ms. Nagler wrote in an email. "For example, strengthening the fiduciary rule in fact reflects his record of vigorously defending consumers. As mayor, Mike took many strong steps to protect New Yorkers from unscrupulous lenders."

Mr. Bloomberg, who has made billions of dollars as the head of a financial information company and has had a long Wall Street career, said ordinary investors aren't making enough from the soaring stock market.

"THE FINANCIAL SYSTEM ISN'T WORKING THE WAY IT SHOULD."

MIKE BLOOMBERG, BUSINESSMAN, D-PRESIDENTIAL CANDIDATE

"The financial system isn't working the way it should for most Americans," Mr. Bloomberg said in a statement. "The stock market is at an all-time high, but almost all of the gains are going to a small number of people, and our economy is still vulnerable to another shock like the 2008 financial crisis that devastated families and communities all over the country."

WHITE HOUSE VERSION

Before Mr. Bloomberg gets a chance to restore the DOL rule, the Trump administration is poised to promulgate a revised DOL rule that many experts believe will dovetail with Reg BI in setting an advice standard for retirement investments.

The revised rule was supposed to be released in December, according to Labor's regulatory agenda. The closer the DOL gets to the end of this year, the greater opportunity the next Congress would have to overturn the DOL rule through the Congressional Review Act.

"We're all still waiting," said George Michael Gerstein, counsel at Stradley Ronon Stevens & Young. "Most anticipate it will be out by the spring. They don't have a lot more time for CRA purposes."

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Finra is taking a closer look at zero-fee brokers

BY MARK SCHOEFF JR.

FINRA HAS LAUNCHED targeted examinations of brokerages that no longer collect commissions on trades, exploring whether they're giving customers the best prices for those transactions.

In a letter posted on the Financial Industry Regulatory Authority Inc. website on Feb. 20, the broker-dealer self-regulator said it is "conducting a review of [firm name] concerning the firm's decision not to charge commissions for customer transactions, the impact that not charging commissions has or will have on the firm's order routing practices and decisions, and other aspects of the firm's business."

The exams follow an indication in Finra's annual examination priorities letter that it would focus on best execution and "review for potential conflicts of interest in order-routing decisions."

Finra would not reveal the names or number of firms it will examine. The sweep will involve "a variety of firms in terms of size and business model," Finra spokeswoman Michelle Ong wrote in an email.

Firm responses are expected in the next several weeks.

"Finra will evaluate the information received and determine what additional steps, if any, are appropriate," Ms. Ong said.

The exam letter outlined 26 queries Finra will pose about best execution in a no-commission environment.

For instance, Finra will look at whether "changing to the zero-commission model resulted in changes to a firm's routing practices, execution quality, regular and rigorous review policies or the level of trading rebates or payment for order flow," the letter states. "Finra may also assess disclosures and advertisements related to zero commissions."

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IRI pushes for 401(k)s for all, including pot workers

BY EMILE HALLEZ

AN ANNUITIES INDUSTRY lobbying group will be pushing Congress to make it all but mandatory for employers to automatically enroll their workers in retirement plans.

The Insured Retirement Institute also plans to push for retirement plan coverage for workers at legal marijuana businesses and to expand 401(k) provisions for participants saddled with student loan debt. The IRI is also lobbying the Department of Labor to make it legal for asset management firms to sponsor multiple-employer plans.

In a federal and state policy wish list published last Tuesday, the IRI said it plans to encourage lawmakers to pass a bill that would require all employers — except for very small businesses — to provide retirement plans. Similar legislation has been floated in the past, including the Automatic Retirement Plan Act of 2017.

The lobbying agenda comes on the heels of a massive win for the retirement services industry with the passage of the SECURE Act. IRI was a longtime supporter of that legislation — including a provision requiring lifetime income estimates on plan statements, and another that will make it easier for employers to add annuities as options within 401(k)s and other plans.

300K
CANNABIS INDUSTRY EMPLOYEES IN THE U.S.

Under the proposed retirement plan legislation, employers would be required to automatically enroll workers in plans, though workers would be able to opt out, IRI noted in its announcement.

The group also plans to push Congress to expand certain provisions of the SECURE Act. For example, it will seek to have 403(b) plans made eligible for so-called "open multiple-employer plan" treatment, much as 401(k) plans now are. SECURE expanded eligibility for MEPs, allowing unrelated businesses to participate in the same plans, which are called pooled employer plans. However, SECURE did not explicitly include nonprofits, religious groups, colleges or other 501(c)(3) groups in the PEP provisions, the association noted.

CULTIVATING SAVINGS

A challenge for the relatively new cannabis industry is that businesses operate legally under some state laws but remain illegal at the federal level. That means some workers may be ineligible to participate in employer-sponsored plans, the IRI stated.

"The cannabis industry is already sizable, employing approximately 300,000 employees nationwide," the group wrote in its policy agenda. "As more states pursue and enact laws to legalize cannabis, this workforce will continue to grow."

IRI will encourage members of Congress to enact legislation that would reduce liability around retirement plans and individual retirement accounts for such businesses and their workers, it wrote.

The problem of excessive college debt is well-documented, and numerous surveys have shown that recent graduates often forgo 401(k) contributions in order to more quickly pay down loans. The IRI plans to lobby for statutory language that would allow businesses to make "matching" contributions to 401(k)s for workers who do not make contributions but instead are making loan payments. While the IRS recently hinted in a letter to a single employer that such an arrangement would be legal, the government did not specifically say that it would be allowable for all employers to do so.

This year, the IRI will encourage states to adopt the National Association of Insurance Commissioners' best-interest model regulation for annuity sales. Conversely, it is lobbying hard against states' efforts to develop their own best-interest or fiduciary standards — something that a handful began doing several years ago, when the Labor Department's now-defunct fiduciary rule began to unravel.

The IRI spent $440,000 on lobbying efforts in 2019 and works with a total of eight individual lobbyists, according to data tracked by Open Secrets.

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Advisers are slow to act on alternative investments

Financial advisers know that after a decade-long bull run, it may be time to encourage clients to diversify their portfolios away from traditional investment vehicles that will face heightened volatility in a downturn.

NUMBERSGAME
DEVIN MCGINLEY

For many, alternative investments are seen as part of the solution. In a recently published *InvestmentNews* Research study, advisers overall projected an increase in their target allocation to alternative assets over the next three years.

Yet advisers may be disregarding their own advice. Three years earlier, they said much the same thing.

In the most recent study, advisers on average said their target allocation to alternatives — investments such as commodities, hedge fund strategies and private placements — would rise to 11% from 8% over the next three years. But three years earlier, respondents to a similar survey projected an increase to 12% from 9%.

Although the surveys did not necessarily poll the same advisers, the two samples were demographically similar and largely answered identical questions. Taken together, the data suggest that advisers have put off conversations about alternatives they know they need to have.

HEDGE AGAINST RISK

One of the most commonly held views of alternative investments among advisers is that they can help hedge against stock market risk. Of the advisers who planned to increase allocations to alternatives, 63% placed them within a strategy to protect client portfolios in the event of a significant decline in equities.

Similarly, 59% of advisers who do not recommend alternatives indicated that the need to reduce portfolio volatility could change their minds.

To be sure, directing more client assets into alternatives is easier said than done.

Our study, based on surveys of advisers and investors in 2019, found several impediments to the broader adoption of alternative investment strategies, including higher fees for some of these investments and client concerns about their lower liquidity. Large numbers of advisers also expressed misgivings about both their clients' familiarity and their own knowledge of alternatives.

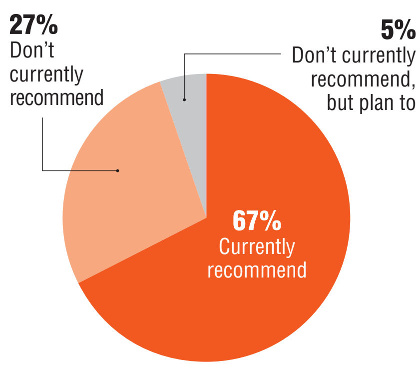
But the study also found that these impediments are far from insurmountable, and that clients could be persuaded if issues like fees and liquidity are properly contextualized by their advisers.

About half of advisers say they expect their clients to increase investments in this space over the coming years.

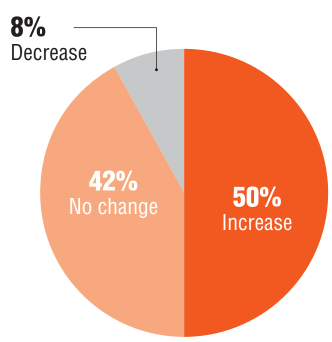
Moreover, 51% of investors said they would seek to execute alternative investment strategies through a financial adviser, preferring a professional intermediary to working directly with investment providers or through a digital platform.

Advisers may be forgiven for ignoring the uptick in client interest — and even their own plans — over a three-year period in which the S&P 500 logged an average annual return of 13%. But the bull run won't last forever, and the full benefits of exposure to alternatives will go to those who act before the bull market loses steam.

DO YOU RECOMMEND ALTERNATIVES TO ANY OF YOUR CLIENTS?



HOW WILL YOUR CLIENTS' ALLOCATION TO ALTERNATIVES CHANGE IN THE NEXT THREE YEARS?



Source: *InvestmentNews* Research

For more information on alternative investments, download the FS Investments/InvestmentNews study, "Reframing the Role of Alternatives." If you have any input or ideas for upcoming research, please contact the IN Research team at inresearch@investmentnews.com.

Investors seek tax savings for fees they can no longer deduct

BLOOMBERG NEWS

IT'S BEEN TWO years since investors were able to claim tax write-offs for investment costs and advice, but lawyers have found a potential workaround hidden in years-old Internal Revenue Service regulations and case law that may cut tax bills for some private equity and hedge fund investors.

The strategy likely won't generate a deduction as large as what was previously allowed for financial advisory fees. However, if investors hire third-party advisers for assistance picking complicated assets, like distressed debt or thinly traded stocks, they may be able to recoup some of the lost tax benefits, according to a note advisory firm RSM US sent clients on Feb. 20.

BLOW TO INVESTORS

The 2017 tax law eliminated the "miscellaneous itemized deduction" for investment management and financial planning fees if they exceeded 2% of taxpayer's income. The change was a blow to investors who pay large sums to advisers on tax, legal and financial issues.

Now that these fees aren't deductible, some may be "capitalizable" — essentially included in the purchase cost of the asset, which would minimize the tax bill when the asset is sold. The IRS, in regulations dating back to 2003 and case law from the 1980s, has argued in favor of investors using this strategy, said Don Susswein, a principal at RSM.

"This is absolutely the right answer as a matter of tax policy," Mr. Susswein said.

PRICING ASSETS

Here's how it works: Investors can take the fees they pay to third-party financial advisers, lawyers, accountants, appraisers and others to facilitate the acquisition of an investment and include that cost in the total amount they paid for the asset, which is known as capitalizing an asset. When they sell the asset, the fee would be included in the total price paid for the asset, meaning the investor would be taxed on less gain.

For example, if an investor pays $100 for an asset and $10 finder's fee to an adviser, then sells the asset later for $150, they'd only pay taxes on $40, rather than the full $50 of the asset's appreciation.

> **"THIS IS ABSOLUTELY THE RIGHT ANSWER."**
> DON SUSSWEIN
> PRINCIPAL, RSM US

This strategy could also apply to the amount paid for third parties to investigate or pursue assets. For example, fees paid to advisers to find and select assets including loans, derivatives and royalty streams could qualify.

It's not a sure-fire strategy by any means. Investors won't see tax savings for research fees they pay to pursue a deal that is never executed, and those who mostly focus on passive investments probably can't use this strategy. And it heavily depends on the "facts and circumstances" of the investment, Mr. Susswein said.

Despite prior case law and regulations, it's also unclear how the IRS would view capitalizing these costs in light of the 2017 law change. The IRS didn't immediately respond to a request for comment.

Ric Edelman makes the case for Bitcoin at 2020 T3 conference

BY RYAN W. NEAL

THE 2020 TECHNOLOGY Tools for Today conference kicked off Feb. 17 in San Diego with Edelman Financial Engines executive chairman and co-founder Ric Edelman making a case for investing client assets in Bitcoin.

While 72% of advisers say their clients own some Bitcoin, just 6% are recommending it in portfolios, Mr. Edelman said. The digital currency's infamous volatility is holding advisers back, as are fears that if Bitcoin tanks, angry clients will fire them.

But allocating just 1% of client portfolios to Bitcoin carries massive potential for returns with minimal downside risk, Mr. Edelman said. If a typical 60/40 portfolio saw a one-year return of 7% in 2017, when Bitcoin's value skyrocketed 1,500%, a portfolio with 1% in Bitcoin would have grown 22%.

When Bitcoin's value plummeted 84% in 2018, that same portfolio's two-year returns still beat a traditional portfolio. And if Bitcoin's value went all the way to zero, it would only trail the returns of a traditional portfolio by 1%, Mr. Edelman said.

"The upside reward compared to the downside risk is totally out of whack," he said. "Won't they fire you for failing to suggest it?"

One of the biggest benefits to adding Bitcoin to clients' portfolios is it has low correlation with other assets, Mr. Edelman said. Advisers can use it as a hedge against geopolitical risk.

And because digital currency like Bitcoin are not issued by any government, they are inflation proof, Mr. Edelman said.

After 2019 brought significant maturity to the cryptocurrency market, such as Fidelity announcing it would start trading Bitcoin, Mr. Edelman believes several catalysts will propel the market even further in 2020.

Mr. Edelman was joined by Matt Hougan, managing director and global head of research at BitWise, a firm creating cryptocurrency index funds (and one which attracted an investment from Mr. Edelman in 2018).

DIGITAL SOLUTION

Mr. Hougan said he sees Bitcoin not only as a digital solution to the archaic nature of currency, but also as a sovereign store of money outside of government settings.

"One way to think of Bitcoin is as a Swiss bank account with limited space that you have to buy from someone else," Mr. Hougan said. "I think people will always want an escape valve from fiat currency."

For that reason, Mr. Hougan is bullish on the value of Bitcoin and is advocating for SEC approval to bring a cryptocurrency ETF to market.

Some advisers disagree that client money should be used to make bets on technology. On Twitter, XYPN co-founder Alan Moore said he doesn't understand putting Bitcoin in a portfolio unless currencies are already a part of your investment strategy.

"PEOPLE WILL ALWAYS WANT AN ESCAPE VALVE FROM FIAT CURRENCY."

MATT HOUGAN, GLOBAL HEAD OF RESEARCH, BITWISE

"I understand the idea of investing in the platforms that support cryptocurrency if you think that's the future, but that's a great way to lose a bunch of money," Mr. Moore said.

There are still many skeptics about cryptocurrencies, including President Donald J. Trump, who said its value is "based on thin air" and are used to "facilitate unlawful behavior."

Mr. Edelman sees Bitcoin as the "only direct play in blockchain," the distributed ledger technology underlying digital assets like Bitcoin, which Mr. Edelman believes will be as transformational as the internet. He also dismisses criticism that Bitcoin is a fad, pointing out that popular crypto exchange Coinbase has more account holders than Schwab, and 94% of asset managers now own digital assets.

NO RECOMMENDATION

Despite Mr. Edelman's enthusiasm for the currency and his investment in BitWise, his own firm does not recommend clients buy Bitcoin or other digital assets because there isn't yet an approved Bitcoin ETF.

He urges people to research and understand the technology before investing and recommended keeping the investment small. Continued volatility should be expected, and investors should also be prepared for a possible 100% loss.

Some T3 attendees, like Wealth Consulting Partners president Gavin Spitzner, put an anti-climactic cap on an otherwise compelling argument for Bitcoin.

"As one of the leading ETF distributors, I'm sure he's actively pushing the industry forward towards pooled crypto vehicles," Mr. Spitzner said.

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TAX PLANNING 2020: How does the new tax law affect your clients?

A PANEL OF TAX EXPERTS AND ADVISERS JOIN *INVESTMENTNEWS* TO DISCUSS THE IMPLICATIONS OF NEW FEDERAL LEGISLATION ON TAX PLANNING

WITH THE NEW YEAR comes new tax challenges — and opportunities. In its first webcast of the year, *InvestmentNews'* Chief Content Officer George Moriarty hosted a discussion with a panel of experts who share their insights on tax planning in 2020. Below are excerpts. To hear the full webcast, go to Investmentnews.com/Tax2020.

GEORGE MORIARTY: To begin — and I'm going to start by directing this to you, Emily — how does the SECURE Act change tax planning for clients?

EMILY HARPER: Thanks, George. That's a big question because it is so client-specific. We really like to ask of our clients one big question when we start to think about how important tax planning is going to be for them and that — when you think about the four places that your money can go in a lifetime and at death you're either spending it in your lifetime, giving it to charity, friends or family, or taxes and depending on their answer to that — really creates our focus area for how important tax planning is for the client. But I think that something that the SECURE Act is making all of us think about is rules of thumb are not going to work anymore when you are giving personalized advice to your clients.

It's not enough to say, 'In retirement spend on your taxable accounts first, then your IRAs, then your Roth IRAs.' The SECURE Act has created a lot more complication surrounding how we should be strategically planning for a client based on their specific needs. It's really important to have a sense of what's important to your client. If they don't care how much money goes to the government when they die or during their lifetime, then tax planning might not be a big issue for them. It's about really just knowing your client and what's relevant, but I will say that cashflow-based planning really helps you narrow in on all of the cash flows in a lifetime and figure out how to best strategize a plan for that client when it comes to drawdowns from their different taxable accounts, retirement accounts and I know that Marc has some interesting thoughts along a similar vein.

MARC FREEDMAN: I guess I'll just jump right in here. One of the things that I want to be sure that we realize, because of the SECURE Act, is the importance of what financial planning really means within the relationship that we have with our clients. I mean, no longer can we just 'be.' If you will be [an] investment guy or gal for our clients, it just can't be that anymore, and I think we have an obligation, especially as we throw around this term of fiduciary amongst our clients and within even our own profession, is that we take that word fiduciary really seriously and not just say we intended [to] place clients' interests first, but really do it. And what I mean by that is that it starts with us making sure that we have a comprehensive net worth and cashflow statement for our clients whenever we meet with them and that it's verified not just what they tell us, but what we prove and what we verify with them.

Because without that, how can we really be providing them the proper advice, whether it's through the SECURE Act or any other type of legislation that passes through our hands? I strongly encourage anybody that's listening to this webinar to ask yourself, are you able to produce a comprehensive net-worth statement for all of your clients within a moment's notice. Whether you use eMoney or MoneyGuidePro or any of these financial planning software systems. You should be able to do that and if you're not, ask yourself, why am I not doing that. And also, can I provide proper tax planning, proper cash-flow planning, proper financial planning to our clients and seriously be a fiduciary for them.

GM: Great. Thank you, Marc. That's really helpful. Bob, any thoughts on this one?

ROBERT KEEBLER: Well, I would echo a little bit of what I heard here and that this has become much more complex. We have seven different potential solutions to deal with the most important aspect of SECURE. I think I'll [have] more comments as we work through this, but it's very important to realize that massive paradigm shift and really we're starting over. I mean, that's what we found out real quick when we started running the math.

MARTY SHENKMAN: Another quick comment, when we look at the different uses and sources to where clients can give their money versus spending taxes, family, etcetera, especially for planning for retirement account assets post-SECURE Act, charity is going to be a bigger factor because that may provide for some clients a cure or a possible better result than some of the other options. We should be prepared to introduce the benefits of charitable planning for retirement account assets to clients and I guess the biggest change with respect to tax planning is going to be dealing with this potentially massive income tax cost when the SECURE Act kicks in. I don't want to jump ahead on the other questions, so we're going to cover more of that later, but that's going to be a big number for people to deal with and something that we have to address that's going to be very different than in the past. And to just make a point that I think is really important, we have to really rethink the entirety of a client's plan because of how significant these changes are from a tax perspective.

It's not really enough to just look at retirement plan assets and say, OK, now we have the 10-year rule which we're going to talk about and we have to change what planning we're doing for that retirement account. That's not going to be enough. We're going to have to step back and look at everything the client is doing, their entire estate plan and their entire income tax plan. The big picture is going to be more critical than ever before.

GM: That's interesting. Just looking at the questions. There's somebody who came in here and I'm not going to use their name just because they are discussing client lists. A little bit of specificity, but they mentioned a client has a $2.5 million IRA with one beneficiary but doesn't trust the beneficiary to spend the money wisely and is really stressing over the 10-year rule. How does one go about managing that? Seeing as we've been discussing a lot about this, getting client-specific.

MS: It's a simple answer. Not simple necessarily to implement because of all the planning, Bob and I and everyone's talked about. You need to put that in a trust and if they're not going to be an eligible designated beneficiary — and I wish we had more time to cover that in more detail — but the five categories are spouse, disabled beneficiary, chronically ill beneficiary, child as a beneficiary in someone less than 10 years, if I said it right, younger than the plan holder. If they're not an eligible designated beneficiary, you should pay that perhaps to an accumulation trust ... Perhaps if the client has a revocable trust, you create an accumulation trust in that document named that as the beneficiary, the $2.5 million IRA and name a trustee other than the child who's the beneficiary, so that when that 10-year rule kicks in and that slug of money comes into that accumulation trust, it's protected so that the beneficiary can't be irresponsible.

That then presents the tax problem, and this is where you sort of get this complex planning that we've all been talking about. Now you have a large slug of money, $2.5 million in a trust tax at the maximum bracket for everything over 13 grand and that's when considering perhaps that it gets much more costly and complicated use of a charitable remainder trust, use of a life insurance trust, owning insurance, use of this 678 grantor trust, maybe naming not just the child but all future descendants so that you can sprinkle income to different people to try to lower the rate but that's where you have to integrate the tax and asset-protection planning. And that was really kind of the last bullet point of the nontax impact.

MS: The question that was raised is an outstanding one because that to me is one of the biggest worries of the SECURE Act. Without the stretch, with a conduit trust really is not working anymore for those that set that up, for those that left monies outright from a plan because they assume the stretch would motivate the heir to spread it out. Like this example, here are the $2.5 million could fall into the child's hands. I think the answer — but then it raises a lot of tax issues — is to use an accumulation trust.

RBK: That's absolutely right. If you have somebody with over two million, the serious solutions to look at are: A. Should you get some of that under the Roth side of the equation? And we've been coaching people on a lot of what we call micro-conversions; B. Should we buy a [second to die] policy in an [irrevocable life insurance trust] outside the estate? Now, for those of you in states with a state estate tax — I have one in Connecticut right now — makes a lot of sense to do that because you're avoiding the state income tax when you do that. Those are all things we have to wrestle with.

I think those are your solutions to look at, follow Marty's advice with the trust. Can we get our money into a Roth before we die so that we don't have to deal with trust income tax rates so we can thread the needle of lower rate, and are there situations where insurance is going to work out better than doing Roth conversions? And that's just math but you have to compare the numbers.

MS: I think this also. And I think just listening to all four of us on the call — because I'm learning a lot, listening to everyone else talk as well — here's really an obvious but important point that I think was worth emphasizing. The kind of planning that we used to do with stretch IRAs, any one of the advisers on the team — the accountant, the attorney, the financial adviser — may have been able to do a lot of that planning on their own. I think it's becoming very clear. I hope it's becoming clear that if you really want to address this when you have a meaningful-size IRA, you need a smart accountant involved because you've got all sorts of complex income tax issues. You absolutely have to [have a] financial adviser involved. You're going to need to do forecasting to see if it pays to do a Roth conversion, how much of a conversion, how much each year.

MS: You're going to probably need a lawyer involved because in a lot of cases, without the stretch you're going to want an accumulation trust. If it's an eligible designated beneficiary, you may prefer a conduit trust but the trust planning becomes more important — almost — than ever before, and you may now need to involve an insurance consultant because you may need to and want to have an insurance component to it. I think one of the real take-home messages is even if you did a lot of this planning on your own before, you really need a collaborative team to do it well, given the incredible complexity for those that do it. Now I acknowledge the comment that was made earlier that for a lot of clients it's just not going to matter. You divide it up between all the kids and whatever and it's just not a large enough money. That's fine but once you get beyond that, this stuff gets complicated. It's client specific and you really need a collaborative team of different specialists.

GM: Thanks. That's really great. I want to throw this next question over to you, Emily, because you touched on people referencing insurance earlier and somebody here asked if there's been any uptick in ILIT creation or new life insurance policies. Is that something you are seeing currently?

EH: Yeah, I mean the SECURE Act is still so new. I think so many people are scrambling to try to meet with their advisers, their trust and estate attorneys, their accountants. I couldn't echo what Marty said more about the importance of the collaborative team working together but I think that it's definitely a question we've been hearing for more clients and I think advisers have maybe been a little more receptive to permanent life insurance policies as a potential solution given the passing of the SECURE Act.

I wouldn't necessarily say that it's our number one go-to; we're going to recommend this for every single person. Again, it's very specific to the client's needs, their health status, if a permanent policy is even going to be attainable and make sense and kind of offset some of the other tax considerations that we're thinking of with beneficiaries receiving money from IRAs over 10 years. I would say it's a question that we're hearing more of from clients, but I think that we are still being very careful in analyzing whether or not it makes sense in a client's particular situation but you can't deny that the tax-free aspect of the life insurance policy and the ability to hold that money inside of a trust for future generations and kind of eliminate that worry of G2 spending everything down.

EH: I think it sheds new light on permanent policies and eyelids where advisers may have not been thinking about them as frequently before.

"THE SECURE ACT HAS CREATED A LOT MORE COMPLICATION SURROUNDING ... SPECIFIC NEEDS."

EMILY HARPER, CFP, MONUMENT WEALTH MANAGEMENT

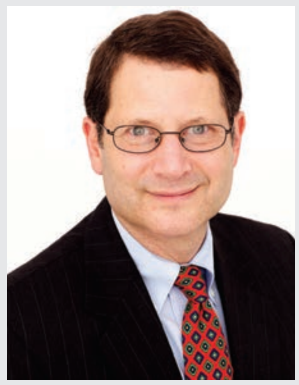
GM: And Marc, how about in your world? Anything for you to add here?

MF: I've got to tell you, like ... we said, it's still early in this space. We have not seen a demand for it or even requests for it right now. If it is an issue, something that we're proactively having to bring up to our clients, they have not certainly been asking us about it.

GM: OK.

MS: Yeah, I think Emily's comment that it's new is important. I think we're all going to see a lot more of a lot of ... everything we're talking about on this call. Wait a year, you're going to see a lot more of all of it. I think people are still digesting it and, given the complexity that we as advisers are struggling with, you can imagine how clients are ... trying to absorb all this. It's a lot for those that are affected. One of the things that I think is key to remember, with life insurance especially, and it should be inside of an insurance trust and the acronym for those that may not know ILIT is an irrevocable life insurance trust, but it is incredibly flexible. You can set up an insurance trust and the trustee of the insurance trust can monitor what's going on with the retirement plans if there's a kick-out of a large sum of money in the 10th year following death and there's a large income tax, they can make a distribution or pay for it, if it's appropriate.

OUR EXPERT PANELISTS



FROM TOP: Marty Shenkman, attorney, CPA, RIA and estate planner; Emily Harper, CFP, Monument Wealth Management; Robert "Bob" Keebler, partner, Keebler & Associates; and Marc Freedman, president, Freedman Financial

PANDEMIC VOLATILITY

CONTINUED FROM PAGE 3

about volatility, they don't tend to worry after two days of market drops, Mr. Schatz said.

"I don't think people will ever get comfortable with volatility," he said. But "I'll hear from people when the [earnings] statements come out and it's a quarterly decline."

Despite last week's performance, "the bull market remains alive and well," Mr. Schatz said. "And after this decline, we will see fresh, all-time highs by summer."

The severe acute respiratory syndrome, or SARS, pandemic in 2003 showed that some market volatility should be expected, advisers noted.

Along with SARS, the outbreak of Middle East Respiratory Syndrome in 2012 is recent enough for many investors to remember. "Both SARS and MERS caused a lot of volatility in the market, but overall, markets recovered quickly and reverted back to the underlying trend," Mr. Lies said.

Other financial professionals noted that some clients see the market dip as an opportunity.

"Several weeks ago we sent out communication to our clients letting them know that historically the market has had a short-term negative reaction to previous outbreaks and that the market quickly rallied," Leibel Sternbach, founder of Yields4U, wrote in an email.

One adviser cautioned a client against being too hasty about buying during the market dip.

"I spoke to a client of mine yesterday who asked whether we should reconsider investing some of her excess cash now," said Michael Caligiuri, chief executive officer of Caligiuri Financial.

Instead, he advised the client to stay on course by incrementally investing that cash over 12 months.

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MARKET DIVE

CONTINUED FROM PAGE 3

shape and the fundamentals are good, and it's not hard for them to buy into the idea that this sell-off is completely overblown," he said. "So far it's been pretty easy to talk with clients and ask if they think we're really all going to die of the flu."

But because common sense can fly out the window after heavy stock market declines, some advisers are embracing a forward-looking approach to head off client inquiries.

"We pride ourselves in being proactive in these types of situations," said Derek Eichelberger, director of investment strategy at Schneider Downs Wealth Management Advisors.

Mr. Eichelberger categorizes the inbound client calls he's getting as viewing the pullback as an overreaction, a concern that doesn't warrant major portfolio changes or a dire reason to sell off everything.

"People who are scared want to sell now because they're worried, and then they want to sit on sidelines until they're more comfortable," he said. "That's a strategy that sounds good but in actuality never works, because in order for it to work you've got to sell now and buy in at a lower level when things actually feel worse."

To help clients keep things in perspective, Mr. Eichelberger is reminding clients of the likely economic effect.

"The coronavirus has the potential to shut factories down and have a negative economic impact, but it's still a virus," he said. "We're looking at a likely scenario where we'll probably see the economic impact over the next four or five months. We're trying to give clients perspective that this has the potential to impact the short-term pricing of their investments."

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'SAFE HAVEN'

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prices to reach $1,700 per ounce this year, a figure that he said was conservative. Spot gold reached nearly $1,650 by midday last Thursday, but prices have since fallen. The category was down by about 3.5% late in the day last Friday, with prices hovering around $1,580 per ounce, according to Gold Price.

But the price drop should not discourage investors from turning to gold as a "safe haven," at least not yet, said Kris Inton, director of basic materials equity research at Morningstar Inc.

"It seems like people are just selling for liquidity purposes," Mr. Inton said. "In terms of the actual investment case for gold — which is what drove the sharp rise of the past couple of weeks, that hasn't changed … If anything, it's getting stronger."

That is because the potential further impacts the coronavirus would have on the stock market would work in gold's favor, he said. However, that same issue, along with the possibility that the Fed could raise rates later this year, means there's "a big uncertainty right in front of us" that could lead to lower price expectations in the coming months.

Morningstar has an average price forecast of $1,500 per ounce for gold, "which is meaningfully lower than it is today, but still higher than it was last year," Mr. Intron said.

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ON ADVICE

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operate in the insurance space when they should be barred."

"When state systems allow known bad actors and fraudsters to operate, they put their citizens at significant risk," Mr. Edwards said. "This issue remains a frequent priority for state regulatory organizations for both the securities and insurance spaces."

Why would the insurance industry tolerate this?

Unfortunately, there is no clear answer. *InvestmentNews* has focused on this issue for years, and recently this column has renewed that spotlight on the topic. Instead of gaining clarity around the issue, each column seems only to raise more questions.

I've been pestering the National Association of Insurance Commissioners about this issue for several weeks. The general response is that, although the NAIC and Finra have recently embarked on an attempt to share data regarding brokers and agents in the industry, it is up to the states to police insurance agents.

On the surface, the data-sharing agreement between the two groups seems profoundly inadequate in terms of protecting not only the public, but also the reputations of financial advisers, who recoil when they hear tales of advisers like Mr. Pittsenbargar. A stain on one financial adviser is a stain on all.

NO DISCLOSURE EVENTS

The data feed that Finra provides to the NAIC includes all registered reps in BrokerCheck, current and former, with their registration numbers (known as CRD numbers in the industry) and a flag indicating whether their registration status is active or inactive.

The data feed does not include disclosure events, such as investor complaints, being fired from a firm or tax liens, because those disclosure events are already made public through Finra's BrokerCheck system. Such disclosure events are commonly regarded as red flags and are important for consumers to know about because they scream, "Buyer, beware."

The NAIC does not provide disclosure events to Finra; nor does the group have a public website similar to BrokerCheck where Finra and the public can retrieve that information. Finra wants to get such information in the future.

LIMITED INFORMATION

A spokesperson for the NAIC, Alana LaFlore, noted that the two groups are sharing limited information, such as whether an active insurance agent holds a license or registration with a broker-dealer.

The NAIC also shares Finra's public monthly disciplinary report with state insurance regulators, who then review Finra actions and decide whether they should take action on an individual's producer license, Ms. LaFlore added.

This is the flimsiest level of information sharing between the two groups. If a state insurance commissioner had not already been checking Finra's monthly report for bad actors in his or her state, that commissioner is incompetent.

The collapse of the $1.2 billion Woodbridge Ponzi scheme, much of which was sold by active insurance agents like Mr. Pittsenbargar, brings the issue of weak insurance regulation into focus.

Why doesn't the insurance industry give information about a sales agent's misconduct to Finra and the broader public, keeping in mind, as Mr. Edwards earlier noted, that the insurance business works under a fractured, porous regulatory regime?

And how can the industry improve itself so its salespeople don't become the conduits for the another massive Ponzi scheme, the next Woodbridge-type disaster?

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WELLS FARGO

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tolerances."

The SEC said the Wells Fargo fine would be distributed to harmed investors.

Wells Fargo conducted the unsuitable sales despite a previous Financial Industry Regulatory Authority Inc. sanction for similar behavior prior to 2009. In May 2012, the firm paid more than $2.7 million in fines and sanctions. At that time, it said that it had reformed its policies and procedures for sales of single-inverse ETFs.

But the SEC said it found no improvement.

"Firms must maintain effective compliance and supervisory programs to ensure that the securities they recommend are suitable for their clients," Antonia Chion, associate director of the SEC Enforcement Division, said in a statement. "As a result of Wells Fargo's failure to meet these important obligations, some of its employees recommended complex instruments to retail investors who did not understand the risks involved."

Wells Fargo neither admitted nor denied the SEC's charges. The firm said it has abandoned the complex ETFs that consistently have caused it problems.

"Wells Fargo Advisors settled claims with the U.S. Securities and Exchange Commission related to our policies and procedures and supervision of single-inverse exchange-traded funds," Wells Fargo spokeswoman Jackie Knolhoff wrote in an email statement. "Wells Fargo Advisors no longer sells these products in the full-service brokerage."

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