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FIDUCIARY FOCUS

WHAT CAN WE LEARN?

The experiences of the U.K. and Australia may hold valuable lessons for how the DOL fiduciary rule will play out in the U.S.

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BROKER-DEALERS

Cetera CEO says new owners plan to stick around.

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TECHNOLOGY

LPL turns to BlackRock for its robo-adviser.

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ETFS

SEC is taking a close look at trading problems.

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8	American Intl Group	AIG	2.21%
9	Goldman Sachs	GS	2.20%
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EDITOR'S NOTE

Fiduciary rule abroad

If you haven't been living under a rock, you've probably heard a little something about a Labor Department rule change that will soon impose a tougher fiduciary standard on all brokers and advisers overseeing retirement assets.

The U.S. is not the first country to move down a path that raises the bar on financial advice. The United Kingdom and Australia several years ago made similar changes, and each country had slightly different outcomes. So we thought it would be interesting to look at those outcomes with an eye toward ascertaining whether U.S. advisers can expect the same thing.

Frederick P. Gabriel Jr.

To be sure, comparing the DOL rule change to changes made in England and Australia is not an apples-to-apples comparison. It's more like an apples-to-pears comparison.

For starters, both the U.K. and Australia applied their respective rule changes to all savings. Second, both countries banned commissions entirely.

That said, the spirit of the rule changes in all three countries is the same: to increase transparency around fees and to raise the ethical standards to which financial advisers are held.

InvestmentNews correspondent Evan Cooper poured through dozens of studies examining the effects of the rule changes in England and Australia. He also talked with experts in all three countries about what U.S. advisers can expect.

What he found is that the rule will change the complexion of financial advice here in the U.S.

In all likelihood, clients with low-balance retirement accounts will be even less appealing to most financial advisers than they already are.

Now the big question is whether those clients were well-served by advisers to begin with.

We're also likely to see an increase in merger and acquisition activity among advisers as firms look to add scale to offset increased regulatory costs, and as older advisers look to get out of the business.

Again, you have to ask yourself whether that's bad.

One other thing is clear: The financial advice business will adapt, survive and even thrive.

fgabriel@investmentnews.com
Twitter: @fredpgabriel

New owners of Cetera are in it for the 'long haul,' says CEO Roth

By Bruce Kelly

"THEY BELIEVE in the independent broker-dealer model."
Larry Roth
CEO
Cetera Financial Group

The institutional investors that will eventually own the new Cetera Financial Group after it emerges from bankruptcy have indicated they will be in the business for the "long haul," according to Cetera Financial Group CEO Larry Roth.

Cetera's parent company, RCS Capital Corp., at the end of January filed for a pre-arranged, Chapter 11 bankruptcy reorganization, in which its debt would be converted to equity in Cetera, a network of 10 independent broker-dealers with close to 9,000 registered reps and advisers.

RCAP's first and second lien holders include large financial institutions, such as Fortress Investment Group, Carlyle Investment Management and Eaton Vance Management.

Those institutions are pleased with the direction of Cetera, which could emerge from bankruptcy by the end of May, Mr. Roth said in an interview last Tuesday.

"They know the business well and they like it very much," said Mr. Roth, noting the bondholders' pledge to Cetera of $150 million in capital, a large chunk of which is earmarked for retention bonuses, as an indica-

Continued on Page 31

Stifel fined for reserve fund errors

Finra determined brokerage did not account for customer assets properly

By Greg Iacurci

Stifel Nicolaus & Co. Inc. was fined $750,000 by Finra for not properly accounting for customer assets in a reserve fund as well as assets held in a proprietary trading account.

The broker-dealer used customer assets as collateral for bank loans it procured from 1999 to 2012, which is permissible for certain assets under current rules.

However, Stifel didn't appropriately account for such use of customer assets in a reserve fund meant to back up this collateral, according to a disciplinary action signed April 8 by the Financial Industry Regulatory Authority Inc.'s Department of Enforcement.

MISTAKES IN CALCULATIONS

Separately, Finra alleges that over an eight-month period in 2013, Stifel made mistakes in calculating how much money it needed to have on hand for its Proprietary Accounts of Introducing Brokers and Dealers. A PAIB is a reserve account for broker-dealer assets.

"We are pleased to have reached a mutually acceptable agreement with Finra. We fully cooperated throughout the process and have modified our compliance policies to correct the situation," Stifel CEO Ron Kruszewski said in an emailed statement.

$750K
Amount Stifel will pay Finra

LOAN SWAPPING

Broker-dealers using customer money as collateral for a loan must maintain a customer reserve account to help ensure funds are available to pay investors in the event of a firm's liquidation. Brokerages must compute the amount to go into the account the last business day of every week and month.

But prior to computing reserves for the customer reserve account, Stifel swapped the loans for other loans secured with company assets, which meant it didn't have to compute necessary reserves for the customer reserve account, according to Finra. If loans were required again the next week or month, it would collateralize the loans again with customer assets and repeat the practice, which is prohibited under current rules, the disciplinary action states.

Such a practice potentially reduces the amount Stifel would need to keep in reserves to cover customer collateral, Finra says. The Department of Enforcement monitored Stifel's activity in this regard over a five-week period in 2012 and found in one instance that "had the substitution of customer securities not occurred, an additional deposit of approximately $36 million would have been required."

giacurci@investmentnews.com
Twitter: @gregiacurci

FIDUCIARY FOCUS

Thomas Perez: Labor Secretary

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Just say no
So far, advisers have not been turned on by marijuana stocks.
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Cover illustration: Benedetto Cristofani

Counting down on file and suspend

What a difference a day makes — particularly when that day is April 30.

Mary Beth Franklin
On Retirement

Anyone who will be 66 or older by the end of this month can still file and suspend their Social Security benefits by April 29 under existing rules that allow them to trigger benefits for an eligible family member while their own retirement benefit continues to grow by 8% per year up to age 70. Those who file and suspend by April 29 also reserve the right to request a lump-sum payout of suspended benefits instead of collecting delayed retirement credits.

For example, a higher-earning husband who is 66 or older may want to file and suspend his benefits by April 29 to trigger a spousal benefit for his wife or a dependent benefit for a child under age 18 or a permanently disabled adult child. Each benefit is worth up to 50% of the worker's full retirement age amount, subject to family maximum limits.

In the meantime, the husband's own retirement benefit would continue to earn delayed retirement credits worth up to 8% for every year he postpones collecting his benefit beyond his full retirement age up to age 70, potentially boosting his benefit by 32%. A larger retirement benefit also translates into a larger survivor benefit for whichever spouse is left behind.

PROTECT LUMP-SUM PAYOUT

Or a worker who will be 66 or older by the end of April may want to file and suspend by the April 29 deadline to protect the option of requesting a lump-sum payout of suspended benefits instead of collecting delayed retirement credits. This strategy works particularly well for single people who have no spouse to collect a survivor benefit in the case of their premature death.

If you suspend your benefits, they will start automatically the

Continued on Page 30

LPL to deploy FutureAdvisor

BlackRock robo will serve as the firm's digital advice platform

By Alessandra Malito

LPL Financial announced last Wednesday that it will use BlackRock Inc.'s FutureAdvisor for its adviser-driven digital advice platform, paving the road for its own future robo-adviser offering.

ROLLOUT IN SECOND HALF

The independent broker-dealer had said last July during its annual conference that it planned to introduce a robo-adviser pilot program within two months, but the firm has held off. It will now begin a phased rollout of its new offering, called Guided Wealth Portfolios, in the second half of 2016, a spokeswoman said.

The company explored plugging robo-technology into existing LPL programs last fall, but decided not to proceed until they had found the right partner, she said.

Despite the slow pace, having a digital advice offering can benefit LPL advisers in a number of ways, including expanding their reach to more prospective clients, improving investor experiences and working more efficiently within their practices, Ryan Parker, managing director of investment and planning solutions for LPL, said in a statement.

"We believe that our robo advice solution will support our mission by improving investor experience and adviser efficiency, allowing advisers and their staff to focus more on what matters most to their clients," Mr. Parker said.

The firm has not yet determined a price structure for its robo, a spokeswoman said.

PART OF DASHBOARD

LPL will integrate FutureAdvisor, which BlackRock acquired last summer, on its custodial dashboard, with access to the firm's model investment portfolios as well as data aggregation, portfolio management and a client portal.

"Members of the financial services community believe that digital, especially digital together with the relationships and value an adviser already provides to clients, is the wave of the future," said Bo Lu, chief

Continued on Page 30

Overcharging for mutual funds costs B-D $225K

By Greg Iacurci

PNC Investments, a broker-dealer and the registered investment advisory arm of PNC Financial Services Group Inc., has agreed to pay restitution of almost $225,000 for overcharging retirement clients in connection with mutual fund purchases.

Since at least July 2009, PNC Investments had failed to apply waivers for investors in some Class A share mutual funds, even though a waiver of front-end sales charges in the funds was available to eligible customers and disclosed in fund prospectuses, according to a disciplinary action document signed last Monday by the Financial Industry Regulatory Authority Inc.'s Department of Enforcement.

Instead, PNC Investments, which has approximately 2,300 registered representatives, sold these customers Class A shares with a front-end load, or Class B or C shares with a back-end load and higher ongoing fees and expenses, "causing such customers to pay higher fees than they were actually required to pay," the document said.

121
Number of customer accounts affected

As a result, PNC Investments overcharged 121 customer accounts by approximately $191,740 for mutual fund purchases, estimated to total $224,750 including interest, which PNC Investments has agreed to pay in restitution to eligible investors, according to Finra.

The lapses were self-reported by PNC Investments following a review the broker-dealer conducted in July 2015 to determine if it was providing available sales waivers.

PNC Investments also had supervisory lapses, according to Finra, for failing to maintain "adequate written policies or procedures" to help financial advisers determine when to apply sales waivers. It also failed to adequately notify advisers when waivers were available and didn't adopt adequate controls to detect instances when sales waivers weren't applied during a mutual fund purchase, Finra said.

A PNC spokeswoman declined to comment, citing the firm's policy not to comment on legal or regulatory matters.

giacurci@investmentnews.com
Twitter: @gregiacurci

Thirst for TIPS funds tempers inflation view

John Waggoner
On Investments

If you're an investment adviser, you've probably had The Inflation Talk, which goes roughly like this:

You: "I'm using 2% for our inflation estimate…"

Client: "You're a moron."

For baby boomers in particular, inflation is a touchy subject. After all, they lived through the biggest burst of inflation since the 1920s and are constantly haunted by fear of inflation. You might be able to soothe their fears — and make them some money — by investing in Treasury Inflation-Protected Securities, or TIPS.

Most economists agree that inflation is unusually low, and probably will stay that way for some time to come. The government's Consumer Price Index gained 1% over the 12 months that ended in February. The members of the National Association of Business Economists estimate inflation will run at a 1% rate for all of 2016.

The government bond market seems to agree. The 10-year Treasury note yields less than 2%, a level that doesn't indicate fears of price hikes any time in the near future. Yet mutual funds that invest in TIPS have been one of the top performers among fixed-income funds. The average TIPS fund has gained 3.11% this year versus 2.89% for high-yield bond funds and 2.13% for intermediate-term government bond funds, according to Morningstar. What gives?

THE BEGINNING

Let's start at the beginning. The current yield on 10-year TIPS implies a 1.56% average inflation rate for the next decade, said Maura Murphy, co-portfolio manager of the Loomis Sayles Inflation Protected

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On InvestmentNews.com

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Slide show

Advisers evaluate the DOL fiduciary rule

High-profile financial advisers and executives rate the Department of Labor's fiduciary rule thumbs up, thumbs down or in the middle.

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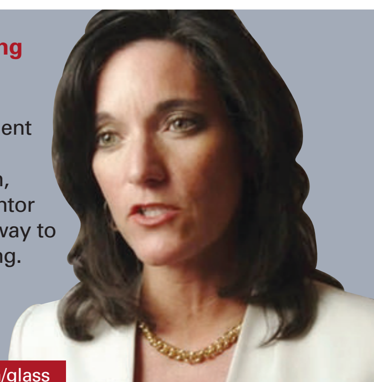

How to avoid hitting the glass ceiling

Amy Webber, president of Cambridge Investment Research, says her earliest mentor taught her the best way to elude the glass ceiling.

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WealthTrack

Why commodity prices are key to understanding the global economy

Government numbers from countries such as China or Greece should not be considered reliable, according to **Robert Kleinschmidt**, president and CEO of Tocqueville Asset Management.

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Labor's next task: Enforcing the rule

It's the IRS that has the task of overseeing IRAs, not the DOL

By Greg Iacurci

The Labor Department released the final version of its fiduciary rule April 6, bringing major structural changes for how investment advice is delivered in retirement accounts. Yet arguably the most important and challenging step in the process — enforcement of the new rule — is just beginning.

The enforcement impact will be most pronounced in the retail market, experts said, because individual retirement account owners essentially will become the army through which the Department of Labor wields indirect enforcement influence.

> THE IRS "has not been particularly interested or vigilant in enforcement."
>
> **Daniel Bernstein**
> Chief compliance counsel
> MarketCounsel

"The DOL is shifting the enforcement burden from the government to the individual," said Robin Solomon, a partner in law firm Ivins Phillips & Barker's employee benefits practice.

ROLE OF BICE

The Labor Department isn't the government agency with enforcement jurisdiction over IRAs. That responsibility falls to the Internal Revenue Service, which enforces prohibited transactions on the part of advisers through excise taxes.

However, the IRS "has not been particularly interested or vigilant in enforcement," according to Daniel Bernstein, chief compliance counsel at MarketCounsel, a regulatory compliance consulting firm. Even if the agency were vigilant, the IRS can't easily enforce prohibited transactions currently with regard to brokers, who aren't fiduciaries and therefore wouldn't be subject to the rules if they were to give conflicted investment advice, Mr. Bernstein said.

To step up oversight of investment advice in the IRA market, the DOL came up with the best interest contract exemption. The BICE is a portion of the fiduciary rule that allows for certain transactions that would otherwise be prohibited — such as receipt of variable compensation, like commissions or 12b-1 fees — as long as parties enter into a contract stating an adviser is a fiduciary acting in a client's best interest, and satisfy other requirements.

TOOL FOR CLIENTS

"The DOL, which otherwise doesn't have enforcement authority for IRAs, has thrown a tool to clients, knowing the IRS would otherwise struggle with that," Mr. Bernstein said.

At present, investors can sue brokers or go to arbitration if they feel they've been wronged. But once the fiduciary rule is phased in, the BICE will give IRA holders a stronger case against brokers in a court or arbitration setting than had been the case previously, according to Barbara Roper, director of investor protection at the Consumer Federation of America.

Continued on Page 32

'Reasonable' is a tricky term to define

Greg Iacurci
On DOL Fiduciary

What is "reasonable" compensation? It's a question brokers may not have considered prior to the Labor Department's recent push to regulate investment advice in retirement accounts.

However, brokers need to start paying attention, because this seemingly simple question will have a big influence on the way they are able to do business in qualified retirement accounts going forward.

The Department of Labor on April 6 issued its landmark fiduciary rule, which says intermediaries giving investment advice in accounts such as 401(k) plans and IRAs must adhere to a "fiduciary" standard as laid out under the Employee Retirement Income Security Act of 1974. Until now, brokers have been able to operate under a less-stringent "suitability" standard.

INTUITIVE UNDERSTANDING

Fiduciaries are obliged to act in their clients' best interests, and explicit in this discussion is the notion of receiving reasonable compensation for services.

The idea of reasonable compensation has been baked into ERISA since the law's inception more than 40 years ago, and is therefore something knowledgeable fiduciary 401(k) plan advisers understand intuitively. However, for non-fiduciary brokers, who will now be fiduciaries courtesy of the DOL's new rule, it may not be as intuitive, said Jason Roberts, chief executive of the Pension Resource Institute, an ERISA compliance consulting firm.

That lack of knowledge could trip up the unwary, and trigger prohibited transactions that ultimately will result in lawsuits. Which brings us back to the initial question — what is "reasonable"?

The perhaps frustrating answer: It depends.

"There's no hard-and-fast rule," according to Michael Davis, a former deputy assistant secretary at the Department of Labor. "What's reasonable for one engagement might be completely unreasonable for another."

"The Department doesn't typically prescribe numerical targets," Mr. Davis said. It can be dangerous to be too prescriptive, so the DOL has built flexibility into its rule, he added.

Reasonable compensation has been a sticking point in many of the now-burgeoning 401(k) fee lawsuits, in which plan fiduciaries are targeted for alleged excessive investment management and record-keeping fees charged. Lawyers for plaintiffs are able to frequently allege fiduciary breach in these circumstances due to the "gray spot" in the interpretation of reasonable cost, according to David Levine, principal at Groom Law Group.

> "THE DEPARTMENT doesn't typically prescribe numerical targets."
>
> **Michael Davis**
> Former deputy assistant secretary, DOL

In the absence of a specific road map of rules to follow, having and documenting a process to come to a determination is key, Mr. Levine added.

'FACTS AND CIRCUMSTANCES'

"It's always a situation of facts and circumstances in how you make that determination," said Blaine Aikin, executive chairman at fi360 Inc., a fiduciary consulting firm.

To demonstrate the decision-making process an adviser could

Continued on Page 32

Despite changes, fiduciary still faces fight

By Mark Schoeff Jr.

The final version of the Labor Department investment-advice rule released April 6 contains enough changes that opponents are stepping back to absorb the revisions, but they're likely to resume their fight against the measure.

Advocates for the rule say the revisions have helped ensure that the rule fulfills its central purpose — requiring advisers to act in the best interests of their clients in 401(k) and individual retirement accounts — while protecting it from legislative and court challenges.

These opposing views were aired at an *InvestmentNews* regulatory roundtable on April 8 conducted at the Washington headquarters of the Certified Financial Planner Board of Standards Inc.

'GRASS-ROOTS IMPACT'

When the rule was released on April 6, the National Association of Insurance and Financial Advisors praised the DOL for making several modifications that the group had sought, including changing the way a major exemption works to ensure advisers have flexibility in how they are paid.

But the group is not necessarily going to make a 180-degree turn and support the rule, which it is reviewing, and previously characterized as too complex and costly.

"We have a government with three branches, and we can certainly utilize all three in order to get things done," NAIFA CEO Kevin Mayeux said at the roundtable. "Our strength is more in the grassroots impact we have in the legislative branch. We'll be continuing to review our options with our elected representatives in the U.S. Congress."

> "WE HAVE a government with three branches, and we can certainly utilize all three in order to get things done."
>
> **Kevin Mayeux**
> CEO, National Association of Insurance and Financial Advisors

His comments alluded to legislation that has been introduced that would halt the rule and replace it with a fiduciary standard of care written by lawmakers. Congress also has 60 legislative days to pass a resolution that kills the rule. Both efforts are likely to be vetoed by the measure's biggest backer, President Barack Obama.

Another likely avenue of attack is a lawsuit by financial industry interest groups. The Chamber of Commerce has not yet decided whether to take action in court, according to David Hirschmann, president and CEO of the chamber's Center for Capital Markets Competitiveness.

CHANGES AS INSULATION

"Even in a lawsuit, if there is one somebody files, the goal is not necessarily to cancel out the rule," Mr. Hirschmann said at the roundtable. "Sometimes the goal of a lawsuit is to force an agency to fix fundamental problems with the rule."

The changes that the DOL made to the rule improved it and insulated it against attacks, said David Certner, legislative counsel and director of legislative policy, at AARP.

"It's going to be more helpful to

Continued on Page 32

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VIEWPOINT

EDITORIALS

Securitizing health care loans

Can securitized debt instruments, those same products that helped inflate the housing-market bubble and played a major role in the 2008 financial crisis, be used to finance the cost of catastrophic health care expenses?

A small group of big thinkers believes they can. Andrew Lo, MIT professor and director of the MIT Laboratory for Financial Engineering, and David Weinstock, associate professor at Harvard Medical School and the Dana-Farber Cancer Institute, co-authored a recent op-ed piece in *InvestmentNews* promoting securitized health care loans as a workable solution for accessing high-cost medical treatments.

CONSUMER ACCESS

In theory, securitizing health care loans would create a market for certain health-care-related debt, encouraging lenders to make such loans, thereby creating more consumer access to expensive drug therapies and medical treatments.

Of course, lenders will only be interested in making such loans if they know there's a secondary market ready to purchase them for inclusion in investment pools. That's where hedge funds come to the rescue. Mr. Lo believes there are hedge fund managers champing at the bit for access to such loans.

It's not a completely terrible idea. If nothing else, it addresses a real need facing some consumers. Along the way, it creates an opportunity that could get some investors excited, while at the same time making financial advisers really nervous.

Though this might sound like something that is a long way off, proponents believe we're less than a year away from seeing the first securitized health care loans.

This is where financial advisers should be paying attention, because the loans will be neatly packaged, offer decent yields and sound logical enough.

Mr. Lo anticipates the safest senior-level tranches will yield between 5% and 7%, while riskier junior tranches will produce yields in the 6% to 9% range. There could be an even riskier equity-level tranche, representing whatever's left over after all the bondholders get paid.

Securitized health care loans have a good chance of becoming a reality because of some huge gaps in insurance coverage for certain medical treatments, such as the $84,000 list price for a curative therapy for the hepatitis C virus.

The treatment has proven 90% effective in curing hepatitis C. Since the insurance industry would likely deem it too cost-prohibitive to provide the treatment to all 2.7 million Americans with chronic hepatitis C infection at a cost of $227 billion, Mr. Lo believes loans are the answer.

HARKEN BACK to 2008 and recall what happens if loan payments aren't made.

According to his model for this particular treatment, insurers would shoulder $44,000, and the patient would borrow the remaining $40,000 at a 9.1% rate, with nine annual payments of $6,700.

For potential investors, the temptation is to harken back to 2008 and recall what happens if loan payments aren't made. In this case, we're talking about unsecured debt whose default could be triggered by any number of things, including the death of the borrower.

Mr. Lo says such variables are being factored into the risk-return profile of the pools. Among the considerations is linking payment duration to continued health, and precluding these types of healthcare securitization loans for therapies with marginal benefit.

TUGGING AT HEARTSTRINGS

Mr. Lo supports his securitization argument by tugging at the heartstrings with references to the inhumanity of forcing someone to pay the full cost upfront or, worse, making them go without treatment. A valid point, for sure, which raises broader questions about health coverage and the role of government.

But as an investment, this is an idea that adopts the same general form as the mortgage-backed securities that were loaded down with subprime loans 10 years ago.

To that, Mr. Lo contends the "financial crisis occurred not because these techniques didn't work; it occurred because they worked too well."

Assuming a best-case-scenario that regulators are smarter now and the financial engineering infrastructure is sound this time around, securitized health care debt should still be approached with extreme caution.

Chinese acquisition raises questions

The Chinese are coming! The Chinese are coming! They're coming to the U.S. investment advice market, as reported by Alessandra Malito in *InvestmentNews* (Page 27).

Huatai Securities Co., a Nanjing, China-based securities firm, has acquired AssetMark Inc., a Concord, Calif.,-based technology firm, for about $780 million. AssetMark provides analytical, portfolio and custodial services to financial advisers, brokers and investors, and its customers advise on $29 billion in assets.

AssetMark offers a service called eWealthManager that advisers can use to research investments, develop portfolios, create and maintain client accounts, view current portfolio details, and access custodial resources. An affiliated company, AssetMark Trust, had approximately $16 billion under custody.

FOOTHOLD IN U.S.

Huatai provides financial services to individual, institutional and corporate clients in China, such as brokerage and wealth management, including stock, bond and futures trading. It also engages in investment banking and asset management. It is China's fourth-largest brokerage firm, and in 2015 it went public in a $4.5 billion initial public offering.

Huatai likely wishes to establish a foothold in the U.S. wealth management market and also likely wants access to AssetMark's technology. It is unlikely to pose a threat to U.S. advisers for the foreseeable future even if it should want to compete with them eventually.

Huatai also might want to serve as an access point for advisers wishing to invest client assets in China and other parts of Asia. These are legitimate business motives.

ACCESS POINT

But a few questions loom. First, does Huatai have any connection to the Chinese government and its security forces? Will the acquisition give Huatai access to the private information of U.S. investors that could be used for ill? Could its acquisition of AssetMark's technology provide a new access point for Chinese hackers into U.S. systems?

We hope the responsible U.S. authorities have considered these questions and satisfied themselves that the answer to each of them is no.

ADD YOUR VOICE to the mix. Readers: Keep letters brief. Include your name, title, company, address and a telephone number for verification purposes. Email Frederick P. Gabriel Jr. at fgabriel@investmentnews.com. All mail may be edited.

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VP-Publisher: Suzanne Siracuse, ssiracuse@crain.com

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Inside Account Manager: Letitia Y. Buchan, lbuchan@crain.com 212-210-0451

MARKETING AND AUDIENCE DEVELOPMENT
Audience Development Director: George Ortiz, gortiz@crain.com
Senior Marketing Manager: Diana Cheruvil, dcheruvil@crain.com
Creative Marketing Manager: Lorenzo John, ljohn@crain.com
Marketing Project Manager: Shannon Rosic, srosic@crain.com
Digital Marketing Coordinator: Shannon Murphy, smurphy@crain.com
Executive Assistant to the Publisher: Irma Rodriguez, irodriguez@investmentnews.com 212-210-0430

PRODUCTION
Prepress/Production Director: Simone Pryce

INVESTMENTNEWS OFFICES
Headquarters:
685 Third Avenue, New York, NY 10017-4024
Editorial fax: 212-210-0444
Bureau office:
Washington: 814 National Press Bldg., Washington, DC 20045, Fax: 202-638-3155
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KEEPING AN EYE ON ETFS

THE SEC IS LOOKING AT THREE AREAS OF PRIME CONCERN WITH THE VEHICLE

BY JOHN WAGGONER

The Securities and Exchange Commission has its eye on the exchange-traded fund industry, and that increased scrutiny may be making ETF providers uncomfortable.

The SEC is concerned about three areas: trading during exceptionally volatile periods, such as the Aug. 24 flash crash; liquidity and redemption issues with some ETFs; and highly leveraged ETFs.

Foremost on the SEC's mind are the trading problems that many ETFs encountered during the flash crash.

"One fact that is crystal clear about Aug. 24 is this: Many ETFs behaved in an unpredictable and volatile manner," Commissioner Kara Stein said in a speech in February. "As a class, ETFs experienced greater increases in volume and more severe volatility than corporate stocks. Nearly 20% of all ETFs trading on the morning of Aug. 24 exhibited abnormally high volatility. Over 40% of the 499 ETFs invested in U.S. equities experienced a trading pause."

Ms. Stein was quoting from an SEC research note on the flash crash released in December. The study found that trading problems on Aug. 24 occurred for ETFs regardless of their asset size. "Of the 50 largest capitalization ETPs, 20 (40.0%) declined by 10% or more, while 36.5% of more than 1,300 other ETPs also declined by 10% or more," the study said. The agency refers to ETFs as exchange-traded products, or ETPs.

LIMIT UP-LIMIT DOWN RULES

Many of the problems occurred not because of the ETFs themselves, but because of the exchanges' limit up-limit down rules, which mandate a trading halt if an issue — ETF or not — rises or falls precipitously during a session. In a March 10 letter to SEC Chairwoman Mary Jo White, the ETF industry (represented by, among others, Martin Small of BlackRock Inc. and Dave Nadig of FactSet) outlined a set of proposals to help prevent another flash crash.

Among the proposals: Have exchanges harmonize their reopening procedures for securities halted due to limit up-limit down rules. Many ETFs were closed and reopened dozens of

Continued on Page 16

VIKTOR KOEN

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There are risks involved with investing, including possible loss of principal. Performance depends upon the underlying index in which it invests. Smaller capitalization companies may be less stable and more susceptible to adverse developments, and their securities may be more volatile and less liquid than larger capitalization companies.

Performance for very short time periods may not be indicative of future performance. JSMD and JSML are new ETFs and have less than one year of operating history.

ETF shares are not individually redeemable and owners of the shares may acquire those shares from the Fund and tender those shares for redemption to the Fund in Creation Units only, typically consisting of aggregations of 50,000 shares.

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JNS112

EXCHANGE-TRADED FUNDS

Equity ETFs

First quarter 2016

Ranked by quarterly returns

	Name (ticker)	3-month return	1-year return	Net assets ($M)	Expense ratio*	3-month average trading volume
1	PureFunds ISE Jr Silver ETF (SILJ)	**70.50%**	25.06%	$9.0	0.69%	28,223
2	iShares MSCI Global Gold Miners ETF (RING)	**58.38%**	16.86%	$95.8	0.39%	211,387
3	ALPS Sprott Junior Gold Miners ETF (SGDJ)	**48.93%**	21.54%	$27.4	0.57%	25,364
4	iShares MSCI Global Silver Miners ETF (SLVP)	**47.15%**	2.99%	$21.5	0.39%	58,867
5	PowerShares Global Gold & Prec Mtls Port (PSAU)	**46.61%**	11.50%	$36.5	0.75%	32,327
6	ALPS Sprott Gold Miners ETF (SGDM)	**46.20%**	12.27%	$160.9	0.57%	118,282
7	Market Vectors Gold Miners ETF (GDX)	**45.85%**	10.35%	$6,221.0	0.53%	83,063,017
8	Market Vectors Junior Gold Miners ETF (GDXJ)	**45.22%**	22.46%	$1,796.8	0.55%	3,865,746
9	Global X Silver Miners ETF (SIL)	**42.56%**	5.39%	$183.8	0.65%	100,689
10	Global X Gold Explorers ETF (GLDX)	**39.02%**	29.98%	$35.5	0.65%	19,259
11	SPDR S&P Metals & Mining ETF (XME)	**37.40%**	-20.15%	$455.2	0.35%	5,120,438
12	iShares MSCI All Peru Capped ETF (EPU)	**28.90%**	-6.50%	$165.5	0.62%	121,423
13	Market Vectors Steel ETF (SLX)	**27.87%**	-15.57%	$62.4	0.55%	40,894
14	iShares MSCI Brazil Capped ETF (EWZ)	**27.73%**	-12.09%	N/A	0.62%	22,720,929
15	First Trust Brazil AlphaDEX Fund (FBZ)	**23.67%**	-10.61%	$2.7	0.80%	256
16	Global X Brazil Consumer ETF (BRAQ)	**23.06%**	-13.82%	$3.4	0.77%	440
17	Global X Brazil Mid Cap ETF (BRAZ)	**22.22%**	-13.68%	$3.4	0.69%	459
18	Global X MSCI Colombia ETF (GXG)	**21.15%**	-12.28%	$83.5	0.61%	68,853
19	iShares MSCI Colombia Capped ETF (ICOL)	**20.87%**	-11.71%	$22.3	0.61%	6,586
20	iShares MSCI Turkey ETF (TUR)	**20.84%**	-2.65%	$367.5	0.62%	335,957
21	Global X Copper Miners ETF (COPX)	**20.75%**	-29.27%	$21.4	0.65%	7,962
22	iShares MSCI Brazil Small-Cap ETF (EWZS)	**20.25%**	-18.74%	$27.6	0.62%	24,192
23	Market Vectors Coal ETF (KOL)	**19.84%**	-40.73%	$45.5	0.59%	63,889
24	iShares MSCI Emerging Mkts Latin America (EEML)	**19.01%**	-9.54%	$8.7	0.49%	1,898
25	Market Vectors Brazil Small-Cap ETF (BRF)	**18.89%**	-20.23%	$78.8	0.60%	70,158
26	IQ Canada Small Cap ETF (CNDA)	**18.89%**	-14.00%	$8.5	0.69%	925
27	iShares Latin America 40 ETF (ILF)	**18.28%**	-11.70%	$674.9	0.49%	668,020
28	Global X FTSE Andean 40 ETF (AND)	**18.25%**	-8.47%	$3.7	0.72%	595
29	SPDR S&P Emerging Latin America ETF (GML)	**17.84%**	-10.54%	$24.9	0.49%	4,596
30	First Trust Latin America AlphaDEX Fund (FLN)	**17.27%**	-8.27%	$4.7	0.80%	390
31	Tierra XP Latin America Real Estate ETF (LARE)	**16.87%**	N/A	$2.7	0.79%	811
32	First Trust Utilities AlphaDEX Fund (FXU)	**16.51%**	13.35%	N/A	0.70%	1,467,812
33	SPDR S&P North American Natural Res (NANR)	**16.41%**	N/A	$740.9	0.35%	102,658
34	iShares Gold Trust (IAU)	**16.39%**	3.92%	$7,408.6	0.25%	9,468,790
35	Van Eck Merk Gold Trust (OUNZ)	**16.34%**	3.79%	$99.1	0.40%	54,019
36	SPDR Gold Shares (GLD)	**16.34%**	3.80%	$32,572.4	0.40%	11,699,451
37	ETFS Physical Swiss Gold Shares (SGOL)	**16.34%**	3.81%	$964.6	0.39%	10,876
38	PowerShares DB Gold Fund (DGL)	**16.29%**	3.35%	$217.9	0.79%	95,922
39	iShares MSCI Russia Capped ETF (ERUS)	**16.16%**	2.72%	$265.2	0.62%	113,219
40	Guggenheim Canadian Energy Income ETF (ENY)	**16.08%**	-22.47%	$28.2	0.70%	17,075

Largest inflows

	Name (ticker)	3-month estimated net flows ($M)	3-month return	1-year return	Net assets ($M)	Expense ratio*
1	SPDR Gold Shares (GLD)	**$6,702.2**	16.34%	3.80%	$32,572.4	0.40%
2	iShares MSCI USA Minimum Volatility ETF (USMV)	**$3,564.2**	5.63%	8.86%	$11,270.4	0.15%
3	Vanguard 500 Index Fund (VOO)	**$2,632.6**	1.34%	1.75%	$43,481.6	0.05%
4	iShares MSCI Emerging Markets ETF (EEM)	**$2,611.0**	5.55%	-12.48%	$25,450.0	0.69%
5	Vanguard FTSE Developed Markets ETF (VEA)	**$2,268.3**	-1.99%	-7.33%	$30,915.3	0.09%
6	Consumer Staples Select Sector SPDR Fund (XLP)	**$1,738.9**	5.60%	11.53%	$10,358.5	0.14%
7	Utilities Select Sector SPDR Fund (XLU)	**$1,533.8**	15.48%	15.85%	$8,242.1	0.14%
8	iShares MSCI EAFE Minimum Volatility ETF (EFAV)	**$1,421.2**	2.04%	3.55%	$5,997.5	0.20%
9	Vanguard REIT Index Fund (VNQ)	**$1,371.3**	6.28%	3.88%	$30,394.3	0.12%
10	iShares Gold Trust (IAU)	**$1,231.0**	16.39%	3.92%	$7,408.6	0.25%
11	iShares Core MSCI EAFE ETF (IEFA)	**$1,205.2**	-2.65%	-6.79%	$10,591.2	0.12%
12	Vanguard High Dividend Yield Index Fund (VYM)	**$1,188.3**	4.11%	4.74%	$13,125.9	0.09%
13	SPDR S&P 500 ETF Trust (SPY)	**$1,056.6**	1.29%	1.71%	$184,424.6	0.10%
14	Energy Select Sector SPDR Fund (XLE)	**$1,000.4**	3.35%	-17.49%	$12,853.1	0.14%
15	Vanguard Total Stock Market Index Fund (VTI)	**$989.6**	0.94%	-0.45%	$58,748.9	0.05%
16	First Trust Energy AlphaDEX Fund (FXN)	**$987.5**	1.95%	-32.04%	$1,273.6	0.67%
17	Vanguard Value Index Fund (VTV)	**$914.9**	1.64%	1.30%	$19,792.7	0.09%
18	United States Oil Fund LP (USO)	**$914.8**	-11.61%	-42.24%	$3,581.1	0.76%
19	Vanguard Total Intl Stock Index Fund (VXUS)	**$734.9**	-0.16%	-8.17%	$5,536.8	0.13%
20	iShares Core S&P Total US Stock Market ETF (ITOT)	**$708.6**	0.94%	0.51%	$3,685.2	0.03%

Largest outflows

	Name (ticker)	3-month estimated net flows ($M)	3-month return	1-year return	Net assets ($M)	Expense ratio*
1	Vanguard FTSE Europe ETF (VGK)	**-$808.0**	-2.37%	-7.80%	$13,649.8	0.12%
2	SPDR S&P Regional Banking ETF (KRE)	**-$809.1**	-9.75%	-6.02%	$1,514.8	0.35%
3	iShares Russell Mid-Cap ETF (IWR)	**-$883.7**	2.21%	-4.17%	$12,171.2	0.20%
4	Guggenheim Invest S&P 500 Eql Wght ETF (RSP)	**-$887.3**	2.92%	-1.41%	$8,968.6	0.40%
5	iShares Core S&P Mid-Cap ETF (IJH)	**-$913.2**	3.77%	-3.67%	$26,373.9	0.12%
6	First Trust Dorsey Wright Focus 5 ETF (FV)	**-$1,001.2**	-7.82%	-9.70%	$3,413.5	0.79%
7	iShares MSCI ACWI ex US ETF (ACWX)	**-$1,001.5**	-0.28%	-9.14%	$1,913.9	0.33%
8	iShares Russell 1000 Value ETF (IWD)	**-$1,260.3**	1.60%	-1.66%	$26,315.3	0.20%
9	iShares MSCI Eurozone ETF (EZU)	**-$1,326.0**	-2.12%	-8.48%	$12,752.6	0.48%
10	iShares MSCI Japan ETF (EWJ)	**-$1,392.6**	-6.60%	-7.79%	$17,122.7	0.48%
11	Health Care Select Sector SPDR Fund (XLV)	**-$1,485.3**	-5.55%	-5.33%	$11,518.5	0.14%
12	First Trust Dow Jones Internet Index Fund (FDN)	**-$1,519.3**	-8.56%	5.19%	$2,972.0	0.54%
13	iShares Russell 2000 ETF (IWM)	**-$1,769.3**	-1.49%	-9.67%	$25,310.2	0.20%
14	First Trust NYSE Arca Biotechnology Index Fund (FBT)	**-$1,801.3**	-22.50%	-25.85%	$841.1	0.58%
15	First Trust Health Care AlphaDEX Fund (FXH)	**-$1,888.3**	-7.74%	-16.85%	$1,260.0	0.66%
16	iShares Russell 1000 Growth ETF (IWF)	**-$1,945.1**	0.70%	2.34%	$29,677.3	0.20%
17	Financial Select Sector SPDR Fund (XLF)	**-$2,336.6**	-5.09%	-4.62%	$16,004.2	0.14%
18	WisdomTree Europe Hedged Equity Fund (HEDJ)	**-$2,506.9**	-3.83%	-13.85%	$13,732.6	0.58%
19	PowerShares QQQ Trust Series 1 (QQQ)	**-$2,984.3**	-2.12%	4.53%	$38,964.1	0.20%
20	WisdomTree Japan Hedged Equity Fund (DXJ)	**-$3,167.9**	-13.68%	-15.63%	$9,794.8	0.48%

New launches

Ranked by average daily volume during the first quarter of 2016

	Name (ticker)	Classification	3-month average daily volume	Expense ratio*
1	First Trust Dorsey Wright Dynamic Focus 5 ETF (FVC)	Specialty/Miscellaneous Funds	**86,397.8**	0.79%
2	Eaton Vance Global Income Builder NS (EVGBC)	Flexible Portfolio Funds	**52,133.0**	0.90%
3	Principal Shareholder Yield Index ETF (PY)	Large-Cap Core Funds	**52,050.0**	0.40%
4	PowerShares DWA Tactical Multi-Asset Inc (DWIN)	Flexible Portfolio Funds	**38,362.2**	0.69%
5	Principal Price Setters Index ETF (PSET)	Large-Cap Core Funds	**35,385.0**	0.40%
6	Vanguard Intl Dividend Apprec Index Fund (VIGI)	International Equity Income Funds	**17,990.2**	0.25%
7	Goldman Sachs ActiveBeta Japan Eq ETF (GSJY)	Japanese Funds	**16,228.9**	0.25%
8	Goldman Sachs ActiveBeta Europe Eq ETF (GSEU)	European Region Funds	**14,796.9**	0.25%
9	Vanguard Intl High Div Yield Index Fund (VYMI)	International Equity Income Funds	**14,776.8**	0.30%
10	Victory CEMP Emerging Mkt Volatility Wtd Index (CEZ)	Emerging Markets Funds	**12,726.3**	0.50%

One-year anniversary

Ranked by average daily volume during the first quarter of 2016

	Name (ticker)	3-month average daily volume	3-month return	1-year return	Net assets ($M)	Expense ratio*
1	WisdomTree Europe Hedged SmallCap Eq Fd (EUSC)	**132,957**	-3.19%	-3.80%	$267.7	0.58%
2	WisdomTree Coal Fund (TONS)	**110,949**	4.10%	-14.47%	$0.8	1.25%
3	iShares Exponential Technologies ETF (XT)	**79,471**	-2.89%	-2.50%	$692.7	0.47%
4	ETFis Tuttle Tactical Management US Core ETF (TUTT)	**31,826**	-3.92%	-10.30%	$77.7	1.34%
5	Fidelity MSCI Real Estate Index ETF (FREL)	**28,326**	5.20%	2.36%	$53.9	0.12%
6	ALPS Sprott Junior Gold Miners ETF (SGDJ)	**25,364**	48.93%	21.54%	$27.4	0.57%
7	ProShares Russell 2000 Dividend Growers ETF (SMDV)	**12,474**	7.95%	8.43%	$35.8	0.40%
8	CSOP FTSE China A50 (AFTY)	**12,438**	-9.19%	-22.42%	$10.5	0.70%
9	Lattice US Equity Strategy ETF (ROUS)	**11,774**	0.72%	-2.74%	$27.3	0.35%
10	ProShares S&P MidCap 400 Dividend Arst (REGL)	**11,231**	10.46%	9.22%	N/A	0.40%

As of March 31. Excludes leveraged and inverse funds, and exchange-traded notes. *Most recently reported net prospectus expense ratio.

Source: Lipper, a Thomson Reuters company

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EXCHANGE-TRADED FUNDS

Fixed-income ETFs

First quarter 2016

Ranked by quarterly returns

	Name (ticker)	3-month return	1-year return	Net assets ($M)	Expense ratio*	3-month average trading volume
1	WisdomTree Brazilian Real Strategy Fund (BZF)	**14.80%**	1.29%	$17.6	0.45%	11,276
2	PIMCO 25+ Year Zero Coupon US Treas ETF (ZROZ)	**12.26%**	0.34%	$250.0	0.16%	6,253
3	Vanguard Extended Duration Treasury Index Fd (EDV)	**11.69%**	1.33%	$521.0	0.10%	105,674
4	Market Vectors JPM EM Local Curr Bd ETF (EMLC)	**10.23%**	-2.10%	$1,399.5	0.47%	165,542
5	PIMCO 15+ Year US TIPS Index ETF (LTPZ)	**9.97%**	-1.78%	$111.4	0.21%	4,864
6	WisdomTree Emerging Mkts Local Debt (ELD)	**9.28%**	-2.16%	$425.4	0.55%	169,373
7	SPDR Barclays Emerging Mkts Local Bond ETF (EBND)	**9.12%**	-0.49%	$56.9	0.50%	6,085
8	First Trust Emerging Mkts Local Curr Bond ETF (FEMB)	**8.87%**	-2.12%	$4.2	0.85%	17,872
9	iShares Intl Treasury Bond ETF (IGOV)	**8.67%**	6.58%	$583.8	0.35%	113,861
10	iShares 20+ Year Treasury Bond ETF (TLT)	**8.52%**	2.44%	$9,840.3	0.15%	9,615,760
11	SPDR Barclays Intl Treasury Bond ETF (BWX)	**8.49%**	5.24%	$1,695.0	0.50%	380,270
12	iShares Emerging Mkts Local Curr Bond ETF (LEMB)	**8.34%**	-0.85%	N/A	0.50%	206,380
13	Vanguard Long-Term Govt Bond Idx Fund (VGLT)	**8.23%**	2.74%	$510.4	0.10%	118,865
14	SPDR Barclays Long Term Treasury ETF (TLO)	**8.11%**	2.66%	$534.7	0.10%	174,539
15	WisdomTree Commodity Curr Strategy Fund (CCX)	**7.89%**	-2.77%	$4.9	0.55%	323
16	iShares Intl Inflation-Linked Bond ETF (ITIP)	**7.84%**	0.00%	$25.2	0.40%	2,881
17	WisdomTree Australia & New Zealand Debt (AUNZ)	**7.70%**	2.17%	$159.1	0.45%	8,604
18	FlexShares Credit-Scored US Long Corp Bond (LKOR)	**7.56%**	0.00%	$7.8	0.22%	2,172
19	Vanguard Long-Term Bond Index Fund (BLV)	**7.45%**	0.40%	$1,955.1	0.10%	163,053
20	Guggenheim CurrencyShares Canadian Dollar (FXC)	**7.29%**	-2.38%	$218.4	0.40%	87,679
21	iShares Core 10+ Year USD Bond ETF (ILTB)	**7.14%**	0.45%	$165.0	0.12%	19,844
22	SPDR Citi Intl Govt Infl-Protected Bond ETF (WIP)	**7.01%**	0.04%	$579.8	0.50%	72,704
23	ProShares German Sov/Sub-Sov ETF (GGOV)	**7.01%**	6.50%	$3.8	0.45%	6,167
24	SPDR Barclays Long Term Corp Bond ETF (LWC)	**6.97%**	-1.23%	$135.1	0.12%	44,428
25	Vanguard Long-Term Corp Bond Idx Fund (VCLT)	**6.94%**	-1.16%	$1,154.3	0.10%	15,257
26	Guggenheim CurrencyShares Japanese Yen (FXY)	**6.93%**	6.27%	$279.9	0.40%	248,455
27	iShares 10+ Year Credit Bond ETF (CLY)	**6.76%**	-1.20%	$861.1	0.20%	23,999
28	SPDR Barclays Intl Corp Bond ETF (IBND)	**6.58%**	5.49%	$131.2	0.50%	7,211
29	Market Vectors Fallen Angel High Yld ETF (ANGL)	**6.58%**	-1.27%	$123.6	0.40%	99,382
30	Market Vectors Em Mkts Agg Bond ETF (EMAG)	**6.49%**	1.83%	$15.0	0.49%	894
31	WisdomTree Emerging Currency Strategy Fund (CEW)	**6.15%**	-2.04%	$40.9	0.55%	36,477
32	Guggenheim Currency Shares Australian Dlr (FXA)	**6.04%**	2.02%	$181.0	0.40%	42,207
33	iShares Intl High Yld Bond ETF (HYXU)	**5.96%**	4.56%	$164.6	0.40%	22,121
34	iShares Global Inflation-Linked Bond ETF (GTIP)	**5.79%**	0.31%	$14.6	0.40%	1,180
35	iShares 10-20 Year Treasury Bond ETF (TLH)	**5.57%**	4.18%	$834.4	0.15%	115,139
36	SPDR Nuveen Barclays Bld America Bond ETF (BABS)	**5.49%**	2.72%	$50.6	0.35%	1,042
37	PowerShares 1-30 Laddered Treasury Portfolio (PLW)	**5.47%**	2.88%	$204.8	0.25%	98,661
38	iShares 1-3 Yr Intl Treasury Bond ETF (ISHG)	**5.46%**	5.08%	$123.2	0.35%	4,894
39	SPDR Barclays Short Term Intl Treas Bond ETF (BWZ)	**5.40%**	3.60%	$341.9	0.35%	124,072
40	WisdomTree Asia Local Debt Fund (ALD)	**5.34%**	-0.16%	$31.7	0.55%	1,125

Largest inflows

	Name (ticker)	3-month estimated net flows ($M)	3-month return	1-year return	Net assets ($M)	Expense ratio*
1	iShares Core US Aggregate Bond ETF (AGG)	**$3,479.72**	3.02%	1.85%	$34,868.8	0.08%
2	iShares 20+ Year Treasury Bond ETF (TLT)	**$3,129.80**	8.52%	2.44%	$9,840.3	0.15%
3	SPDR Barclays High Yld Bond ETF (JNK)	**$2,426.12**	2.21%	-7.39%	$12,198.6	0.40%
4	iShares iBoxx $ Inv Grade Corp Bond ETF (LQD)	**$2,107.61**	4.51%	0.82%	$27,112.7	0.15%
5	iShares iBoxx $ High Yld Corp Bond ETF (HYG)	**$2,044.44**	2.70%	-4.98%	$16,770.7	0.50%
6	iShares 7-10 Year Treasury Bond ETF (IEF)	**$1,768.13**	4.68%	3.72%	$10,215.1	0.15%
7	iShares TIPS Bond ETF (TIP)	**$1,736.58**	4.42%	1.33%	$16,561.9	0.20%
8	Vanguard Intermediate-Term Corp Bond ETF (VCIT)	**$1,290.96**	4.09%	2.29%	$7,873.4	0.10%
9	Vanguard Total Bond Mkt Index Fund ETF (BND)	**$1,178.89**	3.12%	1.83%	$29,203.5	0.07%
10	iShares 3-7 Year Treasury Bond ETF (IEI)	**$1,070.04**	2.92%	2.84%	$6,221.0	0.15%
11	Vanguard Short-Term Bond Index Fund ETF (BSV)	**$979.71**	1.59%	1.57%	$18,622.0	0.10%
12	iShares JPMorgan USD Em Mkts Bond ETF (EMB)	**$856.96**	5.12%	3.46%	$5,684.4	0.40%
13	iShares Short Treasury Bond ETF (SHV)	**$769.66**	0.16%	0.12%	$3,851.2	0.15%
14	Vanguard Intermediate-Term Bond ETF (BIV)	**$653.85**	4.09%	2.87%	$8,507.4	0.10%
15	Vanguard Short-Term Corporate Bond ETF (VCSH)	**$634.59**	1.74%	1.77%	$11,711.8	0.10%
16	Vanguard Total Intl Bond Index Fund ETF (BNDX)	**$600.25**	3.44%	2.36%	$5,086.2	0.15%
17	PowerShares Preferred Portfolio (PGX)	**$550.53**	1.33%	6.16%	$3,830.0	0.50%
18	iShares National Muni Bond ETF (MUB)	**$456.50**	1.48%	3.65%	$6,425.4	0.25%
19	SPDR DoubleLine Total Return Tactical ETF (TOTL)	**$450.51**	2.00%	1.67%	$2,261.1	0.55%
20	iShares 10-20 Year Treasury Bond ETF (TLH)	**$360.28**	5.57%	4.18%	$834.4	0.15%

Largest outflows

	Name (ticker)	3-month estimated net flows ($M)	3-month return	1-year return	Net assets ($M)	Expense ratio*
1	SPDR Barclays Long Term Corp Bond ETF (LWC)	**-$30.20**	6.97%	-1.23%	$135.1	0.12%
2	iShares Intermediate Credit Bond ETF (CIU)	**-$32.52**	2.61%	1.56%	$6,012.5	0.20%
3	Guggenheim BulletShares 2016 High Yld Corp (BSJG)	**-$33.60**	0.55%	1.63%	$644.8	0.43%
4	PIMCO Total Return Active ETF (BOND)	**-$36.86**	2.01%	0.03%	$2,613.3	0.57%
5	WisdomTree Australia & New Zealand Debt (AUNZ)	**-$39.18**	7.70%	2.17%	$159.1	0.45%
6	WisdomTree Emerging Mkts Local Debt Fund (ELD)	**-$43.12**	9.28%	-2.16%	$425.4	0.55%
7	FlexShares iBoxx 3-Year Tgt Duration TIPS (TDTT)	**-$46.45**	1.98%	1.35%	$1,843.5	0.20%
8	Guggenheim CurrencyShares Euro Trust (FXE)	**-$46.71**	4.72%	5.44%	$306.2	0.40%
9	PowerShares Senior Loan Portfolio (BKLN)	**-$48.61**	2.05%	-2.21%	$3,962.5	0.65%
10	iShares Em Mkts Local Currency Bond ETF (LEMB)	**-$55.89**	8.34%	-0.85%	N/A	0.50%
11	PIMCO Low Duration Active ETF (LDUR)	**-$69.31**	0.55%	1.20%	$57.7	0.51%
12	Guggenheim BulletShares 2016 Corp ETF (BSCG)	**-$69.59**	0.27%	0.70%	$633.7	0.24%
13	PowerShares 1-30 Laddered Treas Portfolio (PLW)	**-$73.14**	5.47%	2.88%	$204.8	0.25%
14	iShares Core US Credit Bond ETF (CRED)	**-$144.39**	3.87%	0.74%	$775.9	0.15%
15	SPDR Barclays Short Term Corp Bond ETF (SCPB)	**-$146.02**	1.12%	1.20%	$4,457.9	0.12%
16	SPDR Barclays Short Term High Yld ETF (SJNK)	**-$154.08**	1.48%	-6.58%	$2,714.5	0.40%
17	iShares Floating Rate Bond ETF (FLOT)	**-$185.82**	0.17%	0.08%	$3,382.8	0.20%
18	SPDR Barclays Intermediate Term Treas ETF (ITE)	**-$208.50**	2.32%	2.14%	$452.0	0.10%
19	iShares Core Total USD Bond Mkt ETF (IUSB)	**-$215.44**	3.14%	1.82%	$478.2	0.12%
20	PowerShares DB US Dollar Bullish Fund (UUP)	**-$278.07**	-4.41%	-5.46%	$818.8	0.75%

New launches

Ranked by average daily volume during the first quarter of 2016

	Name (ticker)	Classification	3-month average daily volume	Expense ratio*
1	Eaton Vance TABS 5-15 Yr Ldrd Muni NS (EVLMC)	Intermediate Muni Debt Funds	**52,385**	0.35%
2	Cambria Sovereign High Yield Bond ETF (SOVB)	High Yield Funds	**5,622**	0.59%
3	Guggenheim Total Return Bond ETF (GTO)	Core Bond Funds	**979**	0.50%

One-year anniversary

Ranked by average daily volume during the first quarter of 2016

	Name (ticker)	3-month average daily volume	3-month return	1-year return	Net assets ($M)	Expense ratio*
1	SPDR DoubleLine Total Return Tactical ETF (TOTL)	**431,164**	2.00%	1.67%	$2,261.1	0.55%
2	iShares iBonds Dec 2021 Term Corp ETF (IBDM)	**53,024**	3.27%	1.69%	$89.3	0.10%
3	iShares iBonds Dec 2019 Term Corp ETF (IBDK)	**45,791**	1.96%	1.75%	$90.9	0.10%
4	iShares iBonds Dec 2022 Term Corp ETF (IBDN)	**40,299**	3.95%	2.18%	$75.8	0.10%
5	iShares iBonds Dec 2017 Term Corp ETF (IBDJ)	**27,044**	0.81%	1.13%	$62.0	0.10%
6	iShares iBonds Dec 2023 Term Corp ETF (IBDO)	**16,929**	4.13%	2.07%	$39.7	0.10%
7	iShares iBonds Dec 2024 Term Corp ETF (IBDP)	**16,224**	4.06%	1.45%	$32.0	0.10%
8	iShares iBonds Dec 2025 Term Corp ETF (IBDQ)	**15,799**	4.57%	1.89%	$38.3	0.10%
9	Sit Rising Rate ETF (RISE)	**5,682**	-5.25%	-5.48%	$19.5	1.50%
10	iShares Short Maturity Municipal Bond ETF (MEAR)	**4,723**	0.41%	0.78%	$30.0	0.25%

As of March 31. Excludes leveraged and inverse funds, and exchange traded notes. *Most recently reported net prospectus expense ratio.

Source: Lipper, a Thomson Reuters company

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Eye on ETFs

Continued from Page 10

times during the flash crash. The ETF industry urged that new rules ensure ETFs don't reopen for trading until appropriate steps have been taken to minimize or offset order imbalances. Mr. Nadig noted that while the SEC has not formally replied to the letter, he felt that it was well-received.

Michael Iachini, managing director of mutual fund and ETF research at Charles Schwab Investment Advisory, thinks part of the problem is the concern among market makers that their trades will be disallowed.

"What's interesting to me is why we didn't see participants step up to buy earlier than they did," Mr. Iachini said. "If I'm a market maker, that means I'm leaving a big opportunity on the table."

MARKET MAYHEM

When an ETF's share price is far out of whack with its underlying index, large investors can swap stock for the fund's creation units, profiting from the price difference and bringing the fund's share price back in line with its index. That's what normally happens.

>40%
Portion of U.S. stock ETFs hit by Aug. 24 trading pause

If, however, the trade is disallowed as a "clearly erroneous trade" — which happened to many trades during the earlier 2010 flash crash — market makers will be much less inclined to step up and make the trades that put ETFs back in line with their index, Mr. Iachini said. One fix might be to assure market makers that their trades won't be disallowed during moments of market mayhem.

ETF trading isn't the only item on the SEC's agenda. The commission is also concerned about the ability of funds to sell their holdings in a big downdraft, a concern that extends to open-ended funds as well. Junk bonds are one of the most frequently cited concerns.

"As you all know, last December also witnessed the total suspension of redemptions by one open-end fund," David Grim, head of the SEC's Division of Investment Management, said as he recited a litany of problems with fund liquidity in a March 14 speech at an Investment Company Institute conference. That was a reference to the 2015 collapse of the Third Avenue Focused Credit Fund, which abruptly suspended redemptions.

UNINTENDED CONSEQUENCE

While most of the commentary on mutual fund liquidity has focused on open-ended funds, it would affect ETFs as well, particularly those that invest in high-risk junk bonds.

One unintended consequence of new liquidity rules might be to push high-yield investors to exchange-traded notes that follow high-yield indexes. While this would avoid liquidity problems — after all, a note doesn't own the actual securities — it would add another layer of risk because exchange-traded notes are unsecured debt.

"That's not what the SEC wants to happen," Mr. Iachini said. One solution might be simply to add additional disclaimers saying that fund shares may be difficult to redeem in periods of extreme volatility.

Finally, the SEC also seems to be cracking down on highly leveraged funds, such as those that promise triple the gains and losses of the S&P 500 index. A proposed rule would outlaw triple-leveraged funds and threaten double-leveraged funds as well. Already a few funds are rolling out "leverage lite" products, such as the Direxion Lightly Leveraged ETFs, which rise and fall 1.25% for every percentage-point change in their respective indexes.

None of the SEC's proposals spell ruination for ETFs. Fixing trading problems keeps the industry from getting another black eye, as do the proposed liquidity regulations. And few will shed tears over the loss of triple-inverse funds. But no financial services industry is entirely comfortable when it's in regulators' sights. And sooner or later, the ETF industry will have to adapt to new regulations.

jwaggoner@investmentnews.com
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[1] 2015 Retirement Confidence Survey, Employee Benefit Research Institute.

[2] VARDS, 1/1/2016. In the key retirement ages of 65—74, Nationwide ranks in the top 98% of guaranteed income with the purchase of an optional living benefit rider at an additional cost. Please see website for more details.

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Taking a cue from insiders

A promising strategic-beta ETF approach monitors 'smart money' moves

It's no secret that strategic-beta exchange-traded products have become a pervasive part of the marketplace, rewarding investors with innovative tools to diversify and fine-tune portfolios in ways traditional market-capitalization-weighted indexes don't allow. As access to sophisticated strategies has become democratized in recent years, advisers now can wield more control over how they seek income or minimize risk for clients.

The astounding growth of these products — there were 950 with assets of $478 billion worldwide as of the end of last year, according to Morningstar Inc. — is a testament to the benefits of a transparent, low-cost exchange-traded fund structure with a clear, documented methodology that comfortably marries elements of passive and active management.

But with that rapid proliferation comes the surprise that advisers often overlook strategies that are not abundantly employed by funds or simply pass over ones that don't immediately appear to fit anywhere in their clients' precision-crafted portfolios.

INSIDER-SENTIMENT STRATEGY

One particular excess-return strategy that has not become ubiquitous but has shown consistent outperformance involves a remarkably simple idea: Investors who want to outperform the market should take cues from corporate insiders who have access to key information.

Those executives, directors and major shareholders can give clues to the health of a company based on their own publicly available stock activity. The approach has resonated with some advisers. But for those who still struggle with what role it plays in a portfolio, there are a few things they should know.

This insider-sentiment strategy, which is available in only a handful of vehicles on the market, involves tracking "smart money" by watching what insiders are buying to gain insights into what stocks are most likely to perform well.

The idea is first to use a filtering process to eliminate stocks of companies with overly aggressive accounting practices; then examine other factors, such as the number of insiders buying company stocks on the open market or increases in analysts' expectations.

AFFORDS GREATER EXPOSURE

It is a strategy that has been successfully employed by institutional investors for years and now affords the average retail investor much greater exposure to decisions of key shareholders. Unlike other strategies in this space, it is not complex and runs little risk of deterring investors who shun products they don't understand.

Sophisticated portfolio builders can determine how much excess return they can handle and carefully balance the strategy alongside other strategic-beta investments that address volatility reduction and income generation.

An insider-sentiment strategy with fewer constraints on the amounts that need to be allocated to certain sectors will have the flexibility to overweight sectors when necessary. And some products feature a defensive overlay that can help mitigate downside risk in volatile markets by using a heavier weighting on stocks that have performed well during periods of distress.

MOMENTUM WILL CONTINUE

Strategic-beta ETFs have transformed our approach to investing and no doubt their momentum will continue. With this evolution, advisers will need to work a little harder to sift through the endless choices to find strategies that fill the critical gap in their clients' portfolios.

For some investors searching for excess return, smart money may be just the exposure they need. With it, those looking to outperform the market can react to the decisions of informed participants, relying on some of the smartest minds in the industry.

Andy O'Rourke is managing director and chief marketing officer at Direxion.

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advisers on the move

1ST QUARTER RECAP

More advisers are taking the independent route

Indie B-Ds picked off billion-dollar teams during first quarter

By Christine Idzelis

Financial advisers shopping around for new employers have shown they like their independence.

The biggest moves by advisers in the first quarter were to independent broker-dealers, as teams managing at least $1 billion joined firms including Raymond James Financial Inc., Prospera Financial Services and U.S. Capital Advisors, according to data gathered by *InvestmentNews*.

HITTING THE ROAD For all adviser moves and recruiting activity, go to InvestmentNews.com/aotm

Brokers are coping with the new fiduciary regulation from the Department of Labor. Many also are involved in merger activity, and in the case of Cetera Financial Group's advisers, a bankruptcy. For many, independent broker-dealers offer the right mix of resources.

'FRACTURED INDUSTRY'

It's "where the puck is heading," said Mindy Diamond, president and CEO of recruiter Diamond Consultants Inc. "That's where people are going, and it's become much more fractured than ever before," she said of the brokerage industry.

It used to be that brokers aspired to join the dominant Wall Street firms, including Bank of America Corp.'s Merrill Lynch, Morgan Stanley, UBS Group AG and Wells Fargo & Co. But as the industry evolves, they're seeing their alternatives increase, according to Ms. Diamond. Many find their way to large independent broker-dealers such as LPL Financial or Raymond James, or smaller ones such as Prospera and U.S. Capital Advisors.

SUPPORT FROM BOND DESK

Prospera, founded in 1982, recruited a $1 billion-asset five-person team led by Andrew Toshie in Orlando, Fla., and Steve Almond in San Antonio in January from Sterne Agee Group Inc. after the company was acquired by Stifel Financial Corp.

The team, which produces about $1.5 million of annual revenue, liked the support Prospera offered on its fixed-income trading desk, according to Tim Edwards, executive vice president at Prospera.

While about 80% of the team's assets are tied to municipalities, he said it also advises individuals on investing in government and corporate debt.

Dallas-based Prospera now has about $6 billion of assets under management, mostly from individual investors, and about 135 advisers in 23 states, Mr. Edwards said.

The firm is positioned to purchase other firms as the fragmented industry consolidates, according to Ron Edde, co-founder and CEO of Millennium Career Advisors, a recruitment firm based in San Diego.

"I think they're in growth mode," he said. "Independents are on the rise."

U.S. Capital Advisors, a smaller wealth manager in Texas that was founded in 2010, also recruited a $1 billion team in the first quarter: Joseph Klein, Stephen Hines and Doug Masterson joined from Houston-based Amegy Bank. U.S. Capital Advisors owns both a broker-dealer and a registered investment adviser, according to its website.

Neither Patrick Mendenhall, CEO of U.S. Capital Advisors, nor Jamie Moulle, a spokeswoman for Amegy, returned phone calls seeking comment.

Raymond James, which has been aggressive in its recruitment of advisers while also expanding through acquisitions, picked up two large teams in the first quarter.

'DEFINITELY A BUYER'

A $1.3 billion asset firm, Fernberger Fernberger Loeb Wealth Management in Jenkintown, Pa., joined Raymond James last month from Bank of America Merrill Lynch. Also joining Raymond James during the quarter was the $1 billion asset Goeas Group in Honolulu, which left Stifel, according to *InvestmentNews* data.

The industry has been shaken this year by the DOL's long-anticipated fiduciary rule, which requires brokers to act in the best interests of their clients when it comes to advising them on their nest eggs. The regulation may prompt some advisers to look for new job opportunities while spurring industry consolidation as firms face increased compliance costs.

"We're definitely a buyer," Mr. Edwards said. "We are currently looking at a couple of opportunities." He declined to identify the broker-dealers, but said, "I do have expectations of something happening this year."

Mr. Edwards sees the DOL's new rule potentially drawing some advisers away from small wealth management firms and into the hands of broker-dealers that have the scale and resources to analyze and implement the complex regulation.

Prospera's recruitment pipeline is larger than ever, with total trailing-12-month revenue of $80 million, he said, though not all the identified opportunities will turn into new hires.

The firm believes it might benefit in part from the uncertainty surrounding Cetera Financial Group and its nearly 9,000 brokers after its parent RCS Capital filed for Chapter 11 bankruptcy protection in January.

"We're seeing a lot of interest out of those firms," he said. "There's a lot of tire-kicking for sure."

cidzelis@investmentnews.com Twitter: @cidzelis

1st Quarter

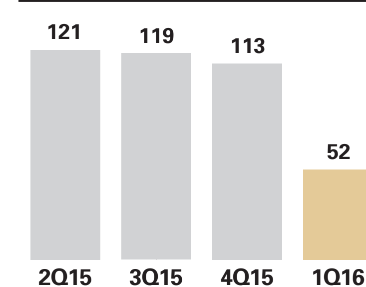
Top-ranked firms by net change in AUM

	AUM ($M)			# of teams	
	Gained	Lost	Net change	Gained	Lost
Raymond James	$3,680	$301	$3,379	7	3
Prospera Financial Services	$1,323	$0	$1,323	2	0
U.S. Capital Advisors	$1,000	$0	$1,000	2	0
Steward Partners Global Advisory	$861	$0	$861	3	0
Wells Fargo Advisors	$1,460	$720	$740	9	7

Lowest-ranked firms by net change in AUM

	AUM ($M)			# of teams	
	Gained	Lost	Net change	Gained	Lost
Bank of America Merrill Lynch	$330	$2,390	-$2,060	1	6
Morgan Stanley Wealth Management	$0	$1,427	-$1,427	1	8
Amegy Bank	$0	$1,000	-$1,000	0	1
Sterne Agee	$0	$1,000	-$1,000	0	1
Stifel Nicolaus & Co.	$0	$1,000	-$1,000	0	1

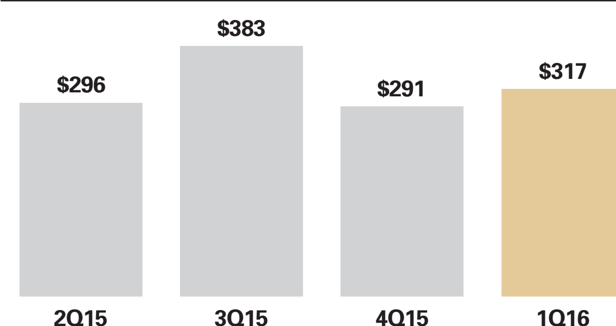
Total teams moving



Top moves in the first quarter

	Name of advisers	Adviser AUM ($M)	Firm adviser left	Firm adviser joined	Location of adviser
1	David S. Loeb Jr., Edward (Ted) Fernberger Jr., Jim Fernberger, Alex Fernberger, Donna Dembeck, Jean Schneider	$1,300	Bank of America Merrill Lynch	Raymond James	Jenkintown, PA
2	Larry Goeas, Leo Goeas	$1,000	Stifel Nicolaus & Co.	Raymond James	Honolulu, HI
3	Joseph Klein, Stephen Hines, Doug Masterson	$1,000	Amegy Bank	U.S. Capital Advisors	Houston, TX
4	Andrew Toshie, Steve Almond	$1,000	Sterne Agee	Prospera Financial Services	Oviedo, FL
5	Jim Murray	$663	U.S. Trust Bank of America Private Wealth Management	Wells Fargo Advisors	Westlake Village, CA

Average AUM size of moves ($M)



Source: *InvestmentNews* Data

To submit an adviser move, complete the form at data.InvestmentNews.com/aotm

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JHMT Technology	**JHMU** Utilities	

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Advisers still shunning cannabis-related stocks

By Jeff Benjamin

A public filing last Monday by cannabis social-networking company MassRoots Inc., which hopes to sell $6.5 million worth of shares and warrants, could move marijuana investing another step toward the mainstream.

But so far, most financial advisers are not biting.

"It has too much to do with emotions and almost nothing to do with valuations," said George Gagliardi, owner of Coromandel Wealth Management.

FACEBOOK FOR POTHEADS

MassRoots, which has been described as akin to Facebook for cannabis fans, is already trading over the counter, but hopes to become the first marijuana-related company to trade on Nasdaq, according to the filing.

The closely held MassRoots shares, trading under the ticker symbol MSRT, are up 16.36% since the start of the year.

That compares to a 4.73% decline for comparable software-application companies, and a gain of 81 basis points for the Standard & Poor's 500 Index over the same period.

Arthur Ebersole, owner of Ebersole Financial, is only mildly impressed with the short-term performance of a company that is operating in an area that is still illegal at the federal level.

"I've had some inquiries from some clients about investing in cannabis companies, but it's still on my list of wait-and-see-what-happens," he said. "It's a tricky situation because marijuana is not yet legal at the federal level."

TENTATIVE LEGALITY

So far, 40 states have legalized the use of medical marijuana in some form, and four have legalized marijuana for recreational use.

Even though the Department of Justice has extended for a second year, through the end of 2016, its "cease-fire" on enforcing federal marijuana law over state laws, those states are still in technical violation of federal law. That is the reality that has a lot of financial advisers placing pot stocks on the extreme end of the risk curve.

"If somebody were doing something with these companies as part of a microcap portfolio, I might take a look at it. But it's not something I would want to spend a lot of time following," Mr. Gagliardi said. "I guess I could see somebody investing a half a percent of a portfolio and just crossing your fingers."

Ditto Kashif Amed, president of American Private Wealth, who said the tentative legal status is a big deal.

"I would not advise clients to invest in something that has questionable legitimacy and legality," he said. "People seem to forget that it is still illegal at the federal level. They have simply chosen to look the other way."

$6.5M Worth of shares MassRoots hopes to sell

The legality part gets tricky for some companies, including MassRoots, which doesn't actually touch marijuana, but does accept advertising revenue from businesses that do, which could hinder its ability to be listed on Nasdaq.

VOLATILE STOCK PRICES

Meanwhile, it is easy to understand how some could get caught up in the pot-investing buzz.

There are literally dozens of cannabis-related companies already trading over the counter, and many of them share similarly volatile stock-price histories.

The volatility speaks for itself, which is why most financial advisers still see the marijuana space as high-risk noise to be tested at the margins, if at all.

"Given that there are still a number of legal uncertainties regarding cannabis, an investment in that field would be classified as aggressive," said Chris Chen, a wealth strategist at Insight Financial Strategists. "If a client was interested, I would want them to invest solely in legal businesses and with a small percentage of assets."

jbenjamin@investmentnews.com
Twitter: @jeff_benjamin

First meeting, first impression

Get to know prospective clients and then show them how you can help

By Liz Skinner

ADVISER'S CONSULTANT COMMUNICATION

Evelyn Zohlen doesn't just use discovery meetings to wheedle personal information out of prospects. She uses them to differentiate herself from the competition.

The founder of Inspired Financial, which has $125 million in assets under management, uses a rectangular piece of butcher block paper in discussions with prospective clients to illustrate their goals and relationships. The visual places the person or couple at the center of these priorities.

THE FIRST HOUR

During the first hour of the 90-minute meeting, Ms. Zohlen sketches out a "mind map" of what's important to the prospective clients and reviews their finances and opportunities. In the final half hour, she describes how the firm would help them reach their goals.

"In that meeting, we see if we are a good fit for each other," she said. "If so, I expect to be working with them for 20 years."

Evelyn Zohlen: Illustrating clients' goals on paper

Ms. Zohlen said that after about 40 minutes she can tell whether the prospect's needs match the services the firm provides; then the conversation goes one of two ways.

If she believes they'll work well together, she'll present a list of the firm's services and highlight one or two that will immediately help the prospect, as well as a few others that could play a role in their financial success in the future.

CLIENTS WORTH AVOIDING

Investing time in the discovery process is worth it to avoid taking on certain clients, Ms. Zohlen said. "If it's not a good fit, it will be hell for about five years and then they'll leave anyway."

Her process, for instance, can reveal a client who wants to be called about every trade. She's not looking for clients who won't trust her decisions.

During the first meeting, she does not bring up the fees charged by her Huntington Beach, Calif.-based firm unless she's asked about them. Ms. Zohlen talks about fees during the second complimentary meeting the firm offers prospective clients, which is dedicated to demonstrating the value of the firm.

At that meeting, she'll provide a written investment statement she has created for the prospect, including a fee schedule.

"After that presentation, no other adviser they may be considering looks like us," Ms. Zohlen said.

Prospects sign on to become clients about half the time after that second session, she said.

lskinner@investmentnews.com
Twitter: @skinnerliz

Tip sheet

- After learning about the individual or couple, use a written list of the advisory firm's services to point out and describe how you would help the prospect achieve their goals.
- Ask prospective clients about their values and how money was handled in their home growing up. Try to drill down to their deep feelings about money.
- Discuss the prospect's aspirations, such as having a beach house or philanthropic endeavors, so you can describe how the firm can make their lofty goals a reality.
- Conduct client surveys to see what services truly resonate with clients and mean the most to them. These may be the best ones to point out to prospects.
- Invest time in discovery meetings with prospects to make sure they are a good fit with your business.

Brokers: Either uphold a fiduciary standard or have one forced upon you

Danny Sarch On Recruiting

As everyone in the industry knows by now, the Labor Department finally produced its fiduciary rule for retirement accounts. After months of fighting by the brokerage industry, the final iteration of the new regulation gives a much longer runway for brokerage firms to comply. It also creates a best interest contract exemption, or BICE, that enables clients to still pay commissions in their individual retirement accounts as long as their adviser contractually promises to adhere to a fiduciary standard.

NO STOPPING 'BAD BROKERS'

In addition to information about the rule, the DOL's website features interviews with investors who lost a significant percentage of their retirement assets, presumably as a result of "bad brokers." Does the DOL truly believe the new regulation will prevent this type of behavior? I have sympathy for the families of those depicted on the website, but I believe that the regulation, had it been in place, would not have protected them. Unethical advisers will take advantage of unwary clients regardless of the business model.

Suggesting to the public that this new regulation will somehow protect them from the unscrupulous salesmen in this industry is like the police promising that your house will never be robbed simply because robbery is against the law. Just as I still lock my doors and set the alarm when I leave my house, investors should have their guard up and be wary of the predatory financial salesman.

YEARS OF SCANDALS

Many in the industry are bemoaning the extra burden, the extra regulation. But has the industry done enough to police itself and force out unethical firms and predatory brokers? I believe 99% of the advisers in the brokerage industry are ethical practitioners who care passionately about their responsibilities to their clients. However, the wealth management industry has given the general public years of scandals to fuel their suspicions that financial advisers do not always act in their best interest. And there are still bad brokers who manage to keep their licenses, no matter how many "dings" they have on their compliance records.

I believe the wealth management industry must be proactive to win back the trust of both the regulators and the public. The biggest firms can start by publicly terminating those few advisers whom they have continued to employ despite horrible compliance records. Unethical advisers, no matter how productive, harm the industry every single day.

TIME TO GET AHEAD

With that in mind, I believe the wealth management-brokerage industry should proclaim that it is moving toward a fiduciary standard. It is naive to think that this action by the DOL will not eventually lead to similar actions by other government agencies for non-retirement accounts. The BICE carve-out gives the wealth management industry a road map for how to permit commissions with transparency and full disclosure for the protection of clients. Being on the side of the argument that says you do not have to act in the best interest of your client is laughable to even say out loud.

It's time for the brokerage industry to get ahead of the fiduciary train instead of standing in front of it in a futile attempt to stop it without getting run over.

Danny Sarch is the founder and owner of Leitner Sarch Consultants, a wealth management recruiting firm based in White Plains, N.Y.

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IN VOICES

InvestmentNews **readers weigh in on top stories**

Too weak, too strong or all wrong?

A story last week about whether Labor Department Secretary Thomas Perez made too many concessions to the brokerage industry in revising the fiduciary rule for retirement advice drew lots of reader comments. Some argued that the teeth had been taken out of the rule, while others insisted that it is just another example of government overreach and should never have been proposed in the first place. To read the full story and leave your own comments, visit InvestmentNews.com/critics.

"The rule as proposed was a tremendous overreach by the DOL. As it is, attorneys will have a field day in a down market. This was a non-issue, as there are plenty of rules on the books to stop investors from being taken advantage of, if the SEC would be willing to use them."

—Wolf Barone

"A shell of itself. Thank everything holy. That BICE was going to be a nightmare. Either way, I've always acted in my clients' best interests."

—D.S.S.

"I think it's more nanny-state B.S. If you're a 'retirement saver,' stick to savings accounts and CDs. If you're an investor, it's your responsibility to have some clue as to what's going on with your money.

"I see a coming flood of lawsuits brought by 'investors' with losing investments, especially when the next downturn in the market starts. I can hear the whining now: 'My advisor should not have had me in stocks.' Boo! Hoo!"

—kk164

"This is just like Dodd-Frank. A well-meaning but basically incompetent regulator goes against a powerful lobby and, as usual, nobody wins. We end up with a complex (so the industry can bash it) yet ineffective rule (so brokers can continue to abuse unsophisticated investors). I miss the days of strong, simple, effective regulation like Glass-Steagall. Banks didn't like it, but they understood it, and they did just fine. And they didn't destroy the economy for three generations."

—loneMADman

"Consumers need to be protected against unscrupulous con men. As far as health care, education and the social safety net, I am all for it."

—A_Real_Einstein

"You make the mistaken assumption that regulators can protect anyone from con men. It's the same argument that the police protect us from criminals or that the government can protect us from anything. They can't."

—ATM

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RALIA BOTH PASSED A
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VICE. HOW HAVE THEY FARED?

OOPER

AS THE ADVICE BUSINESS DIGESTS the Labor Department's new adviser fiduciary requirements for retirement accounts, it's too early to know whether the rule's advocates or its critics will be vindicated.

Long-time proponents say the new standards will produce higher quality, less conflicted advice for American workers' retirement nest eggs, while those who criticized the change foresee less availability of advice and fewer advisers, largely as a result of more expensive and cumbersome compliance.

Based on the recent experiences of our British and Australian cousins, both sides may be right. After rule changes in those countries analogous to those just made here, advice became more transparent and less conflicted, while the number of advisers declined and the cost of compliance climbed.

"Is more perfect advice for fewer people better than the possibility of less-than-perfect advice for the mass of people? That's a key question facing all our countries, yet it's largely a societal and public policy question for which there is not a right or wrong answer," said Geoffrey Towers, chief executive officer of Pershing Ltd., the U.K. arm of the U.S. clearing and custodial giant.

CHANGES IN THE U.K.

The British approach to addressing the advice question began in 2006 and culminated

in full adoption of new standards known as the Retail Distribution Review in early 2013.

The United Kingdom's securities regulator, the Financial Conduct Authority (formerly known as the Financial Services Authority), concluded that despite an existing "best-interests" standard for advisers that was much like the U.S. fiduciary standard and a requirement that all commissions and fees be disclosed, the market for financial advice was not working well for U.K. investors. As a public policy matter, the government wanted to insure investors received unconflicted advice, the cost of which would be clearly stated and paid for directly by the investor.

Britain made three important changes to the financial advisory landscape:

• Commissions were banned. Advisers can charge a one-time fixed fee for advice, a fee based on an hourly rate, a fee based on assets under management or under advisement, or a combination of the three.

• Advisers and their advice now fall into two categories: independent and restricted. Independent advisers, who constitute about 60% of the U.K. market, must document that their advice encompasses the entire market of product providers and includes the full range of retail products available. Advice is restricted when it is limited to the products of one provider or if it encompass all providers but is restricted to a specific type or types of products.

• The FCA raised the bar in terms of qualifications necessary to be licensed as a financial adviser. It requires that all advisers — whether they are independent or restricted — adhere to a code of ethics, complete at least 35 hours of continuing professional education annually and hold a "Statement of Professional Standing" certificate from an accredited institution attesting to their formal training and fulfillment of all requirements.

THE RESULTS

In a white paper published six months after the changes went into effect, Andrew Clare, associate dean and chairman of the asset management department at the Cass Business School of the City University London, predicted that the rule would widen the existing "advice gap," or access to affordable financial advice by less affluent investors.

Mr. Clare's early prediction largely has come true. In a report issued last month, the FCA found that while commission-driven conflicts of interest have been eliminated and transparency has increased, advice "remains expensive and is not always cost-effective for consumers, particularly those seeking help in relation to smaller amounts of money or with simpler needs."

The report cited a recent survey conducted on behalf of the Association of Professional Financial Advisers in which 69% of advisers said they had turned away potential clients over the last 12 months, with 43% of those advisers saying that their advice services would not have been economic given the circumstances of those potential clients.

Specifically, the authority found that the proportion of advisory firms that ask for a minimum portfolio of more than £100,000 (about $142,000) has more than doubled, from around 13% in 2013 to 32% in 2015. The authority also found that 45% of firms very rarely advise customers on retirement income options if those customers have less than £30,000 ($42,600) to invest.

Still, 58% of British advisers polled by Schroders Investment Management in December said that the changes have had a positive effect on the overall quality of advice and have helped to increase professionalism and awareness of adviser value.

The U.K. rules also resulted in a shrinkage in the adviser population, as U.S. critics have warned will occur here. The numbers have declined from roughly 40,000 in 2011 to about 31,000 currently.

But sheer numbers don't tell the whole story. The FCA found that most of the advisers who left the business were restricted advisers who worked at banks and building societies, the British equivalent of savings and loan associations, which generally serve less affluent segments of the population.

IN THE U.K., THE NEW STANDARD REDUCED THE ADVISER POPULATION, WHILE AUSTRALIA SAW NO CHANGE IN THE NUMBER OF ADVISERS

"Many of the independent advisers who left were older advisers who didn't want to change their way of doing business or meet the new licensing requirements," said John Anderson, a managing director and head of practice management solutions at SEI, which provides a range of services for U.K. advisers.

A spokesperson for the FCA agreed, noting anecdotal evidence that the rule change simply may have hastened the retirement of many advisers who were planning to leave over the next several years anyway. Another reason for the departures was the need for independent advisers to meet compliance reporting requirements.

The decline in advisers may be bottoming out, however; a recent FCA survey found that around 30% of firms expect to add advisers over the next year.

WHAT HAPPENED DOWN UNDER

In Australia, the enactment of the 2012 Future of Financial Advice laws — a reaction to cases of wealth management firm malfeasance during the 2008 financial crisis — seems to have had little effect on the number of advisers or the ability of investors to receive advice.

As in the U.K., the new laws banned commissions and mandated a best-interest duty and disclosure of all fees. It also required clients to affirm their advisory agreement every two years.

Amendments in 2014 permitted certain incentive payments in connection with providing general advice, as long as that advice is not conflicted and the payments were not upfront or continuing in nature.

An ethics standard and adviser educational requirements are scheduled to be taken up later this year.

Daniel Brammall, president of the Independent Financial Advisers Association of Australia, said that during the debate leading up to the changes there were fears that the financial industry would lose 35,000 jobs as a result of the legislation.

"But there hasn't been a blip," largely because aside from the elimination of overt commissions (which now sometime take the form of various payments from product vendors), "not that much has actually changed," said Mr. Brammall, whose group represents the small number of Australian advisory businesses — an estimated 50 — that are truly independent in the sense of American fee-only registered investment advisory firms.

Neil Salkow, the head of one such firm, the Brisbane-based Roskow Independent Advisory, said that about 80% of Australian advisers work for a bank or a bank subsidiary, while the remainder are independently owned, but may be selling products from a platform owned by a bank or an investment company.

"Everybody is disclosing more, but clients are still not sure that the advice they're receiving is unconflicted," Mr. Salkow said.

Unlike the changes in the U.K. and Australia, the advisory rule changes in the U.S. affect only retirement accounts, which in all three countries increasingly are dominated by defined-contribution plans. The primary public policy motive of the DOL in pushing for changes was concern that the owners of the approximately $4.7 trillion of assets in 401(k)s and similar plans, as well as the $7.6 trillion in IRAs, get the best possible advice to help those assets provide sufficient retirement income.

On that score, the lessons from Australia and the U.K. are less clear.

The high level of compulsory retirement savings through Australia's government-sponsored and privately managed superannuation retirement program — which requires employers to contribute 9.5% of an employee's wages into a "super" fund, a level rising gradually to 12% in 2025 — diminishes policy concerns about adequate retirement savings.

"Even if an employee is not advised as to which product they should choose or if he fails to choose at all, deposits go into what is called a 'MySuper' product that is like a target-date fund and is required under the law to hold appropriate diversified assets," said Meghan Milloy, director of financial services policy at the American Action Forum.

But given the lack of clarity over the impartiality of advice, it's unclear whether Australians grappling with decumulation issues are any better off after the 2012 changes.

The U.K.'s reforms also did not specifically address advice surrounding defined-contribution retirement plans. But the FCA is encouraging employers and others to provide advice on the subject, promising that it will do everything possible to avoid ensnaring them in financial advice regulations if they are not primarily in the financial advice business and if they are not being compensated for their advice. The government itself offers advice through a free service, Pension Wise, over the phone or in person.

BOTTOM LINE FOR THE U.S.

Based on the experiences of Australia and the U.K., the DOL rules could well result in some of the outcomes opponents had feared. The "advice gap" probably could widen as fewer people of modest means would be able to afford or would be willing to pay for advice explicitly.

The expense of creating and maintaining new compliance procedures no doubt will add to costs, although that could lead to outsourcing, mergers and greater industry consolidation that probably would produce offsetting efficiencies.

And the number of advisers may well decline as smaller customers exit due to higher minimums and older advisers decide to retire rather than change their practices.

Whether the changes would be better or worse for retail investors is an open question.

"The brokerage industry talks about a loss of access to advice, but they don't provide advice to the average investor; they provide a sales pitch disguised as advice," said Micah Hauptman, financial services counsel to the Consumer Federation of America.

But regulators too often focus on the transparency of advice rather than on the clarity of advice, said Pershing's Mr. Towers.

"The difference is like explaining how a car works by going into the details of an internal combustion engine rather than explaining that the gas pedal is on the right and brake pedal is on the left," he said. "If there is clarity about fees and everything else, people tend to see the value and benefit of advice and will pay for it."

Evan Cooper, a former deputy editor of InvestmentNews, *is a freelance writer.*

BANS AND MANDATES

U.K.

New advice standards known as the Retail Distribution Review were adopted in early 2013. Among the changes:

• Commissions were banned.

• The standards created two categories of advisers. Independent advisers must document that their advice encompasses the entire market of product providers and includes the full range of retail products available. Restricted advisers' advice is limited to the products of one provider or encompasses all providers but is restricted to a specific type or types of products.

• Advisers now have to be licensed. They must adhere to a code of ethics, complete at least 35 hours of continuing professional education annually and hold a "Statement of Professional Standing" certificate from an accredited institution attesting to their formal training and fulfillment of all requirements.

AUSTRALIA

The Future of Financial Advice laws were enacted in 2012. Among the changes:

• Commissions were banned.

• The laws mandated a best-interest duty.

• Disclosure of all fees was required.

• The laws required that clients affirm their advisory agreement every two years.

• Amendments that were passed in 2014 permitted certain incentive payments in connection with providing general advice, as long as that advice is not conflicted and the payments were not upfront or continuing in nature.

• An ethics standard and adviser educational requirements are scheduled to be taken up later this year.

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INSURANCE INSIGHTS
Barry D. Flagg

Out with the old, in with the new

Case highlights vulnerability of advisers when they don't use up-to-date methods to project costs

Times are changing in the life insurance business. Age-old industry practices are being questioned by authorities and increasingly are a cause of litigation.

For instance, convicted felon Joseph Nacchio and his wife, Anne M. Esker, were recently awarded $14.2 million in a lawsuit against a division of Goldman Sachs for a breach of advisory duties that resulted in disappointing performance of their life insurance. The couple initially paid $4.5 million for $95 million in coverage, but they were forced to cancel the policies and paid $26 million in order to replace what they thought they had initially purchased. The jury awarded the couple $14.2 million, or the equivalent of $30 million minus the $16 million they should have paid.

CLIENT MISUNDERSTANDING

According to a statement from Mr. Nacchio's attorneys, Mr. Nacchio and his wife had been working with an adviser at The Ayco Co. — a division of Goldman Sachs — for almost 14 years when, in 2000, they invested about $4.5 million in two life insurance policies with the help of the Ayco adviser.

It was Mr. Nacchio's understanding that the policies would provide about $95 million in benefits upon his death to satisfy the inheritance tax on his estate. He also understood those policies would cover him until age 100, but in reality they would have lapsed once he reached the age of 72, leaving him and his wife uninsured.

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The issue was discovered in 2010, prompting the couple to engage a new insurance adviser. Their new adviser ran numerous illustrations, and concluded it would have cost Mr. Nacchio about $14 million in 2000 to buy the life insurance policies he thought he was getting.

In other words, two different financial advisers, both with reputable firms and credible backgrounds, calculated the premium required to maintain the same death benefit, using the same information, and yet their calculations differed by an order of magnitude.

This case is yet another example of client disappointment and adviser vulnerability caused by relying on prevailing life insurance industry practices now considered "misleading" by the chief regulatory body of the financial services industry.

Had the advisers in this case applied to life insurance the same prudent investor principles widely accepted in other segments of the financial services industry, the result almost certainly would have been different and better for all involved.

VULNERABLE TO ACCUSATION

For instance, Mr. Nacchio's lawsuit charged, in part, that the recommended life insurance policy earned less than 1% over a 10-year period and that he was forced to spend $27 million to buy new policies. In other words, the lawsuit claimed that the policy cost was greater than expected because its earnings were less than expected. And because such cost and performance expectations were based on "misleading," "fundamentally inappropriate" and unreliable illustration comparisons, the advisers here left themselves vulnerable to an accusation of breach of duties that clients reasonably and rightfully have come to expect from advisers.

Had the advisers here examined policy costs and expenses and had they discussed the reasonableness of performance expectations instead of comparing hypothetical illustrations, Mr. Nacchio most likely would have paid more initially but less in total for the life insurance policies he thought he was getting, and the advisers could have defended the prudence of their recommendation without litigation.

INSULT TO INJURY

In fact, the jury found the adviser had breached his duty of care and made negligent misrepresentations of material facts that Mr. Nacchio relied on to purchase the recommended life insurance policies. Adding insult to injury, Mr. Nacchio, the former CEO of Qwest Communications (since taken over by CenturyLink), had been convicted of insider trading in 2007; he served five years in prison and paid fines of $70 million.

So if a convicted felon can successfully sue one of the industry's most highly regarded and sophisticated financial services firms, what does that mean for advisers with clients who don't suffer such credibility challenges?

It means times are a changin' in the life insurance business. Those who adapt to these changes can thrive. Those who don't are at risk.

Barry D. Flagg is the founder of Veralytic Inc., an online publisher of life insurance pricing and performance research, and product suitability ratings.

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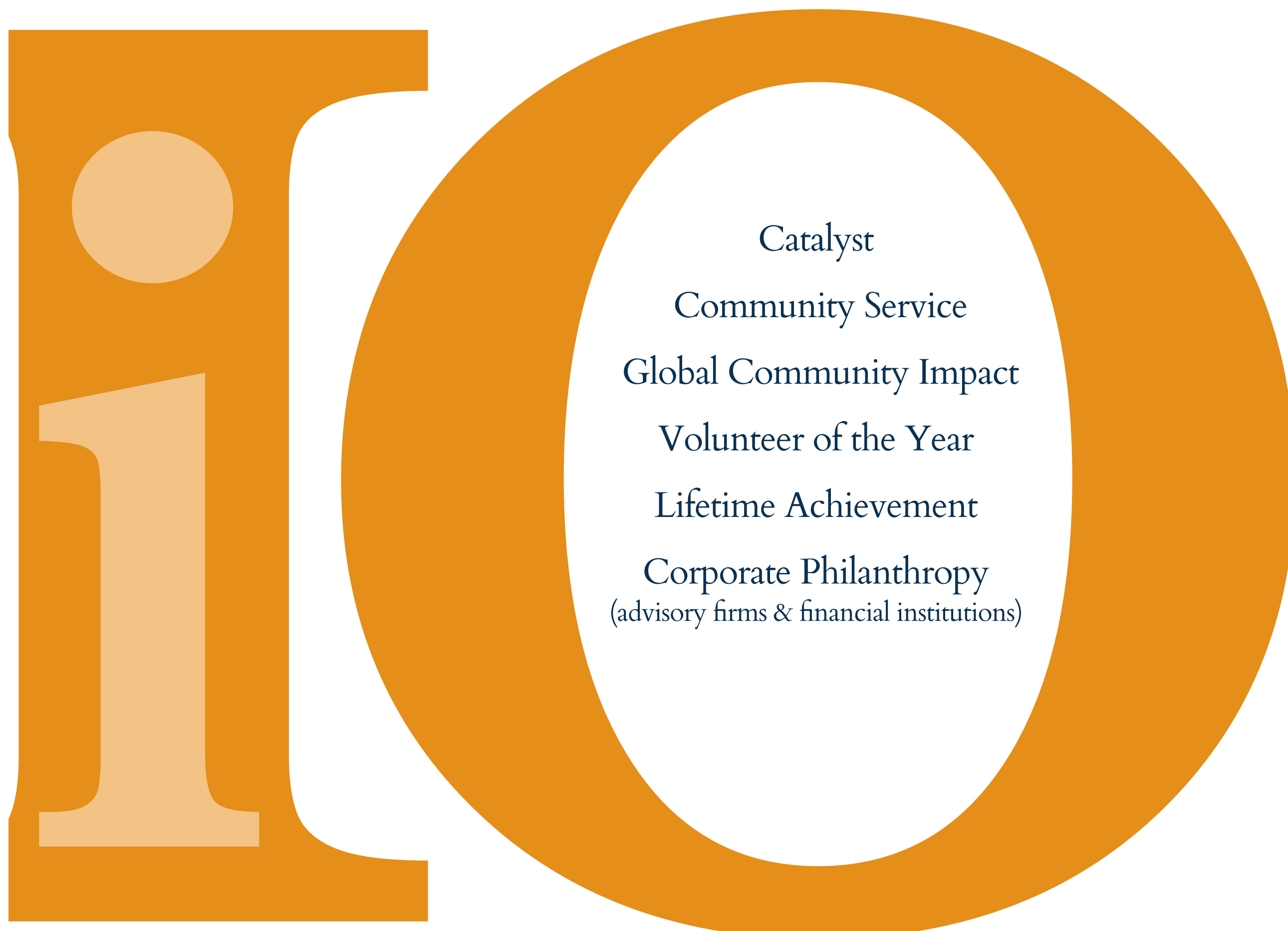

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Huatai Securities to buy AssetMark

Chinese company pays $780M for tech vendor

By Alessandra Malito

Huatai Securities, a Chinese securities company, has acquired AssetMark, a wealth management technology provider previously owned by Aquiline Capital Partners and Genstar Capital, it announced in a press release.

The transaction is expected to close by the end of the year. Huatai is paying about $780 million in cash for AssetMark, according to a public document.

$18.5B Huatai's market capitalization

AssetMark, which has $29.3 billion in assets under management, offers financial advisers a tool called Investing Evolved, which creates and visualizes portfolios for clients; and an adviser portal, eWealthManager, for client and account management, the company said. It will continue as an independently operated company.

Before Aquiline and Genstar owned AssetMark, Genworth Financial had owned the company.

MANY PARTNERSHIPS

AssetMark partners with numerous other third-party vendors in the industry, including Finance Logix, Redtail, ActiFi, Riskalyze, Advisor Websites and Money Quotient.

This is Huatai's first investment in the United States. The company offers brokerage, wealth management, investment banking, asset management and investment and trading to retail, institutional and corporate investors. It is publicly traded on the Shanghai and Hong Kong stock exchanges with a market capitalization of more than $18.5 billion in U.S. dollars.

"As a management team with ownership that ensures alignment of interest in our continued success, we are confident we have the right partner to invest in AssetMark's next stage of growth," Charles Goldman, president and CEO of AssetMark, said in a press release. "We are excited to work with Huatai through this transition and beyond as we share a common belief in delivering outstanding service and innovative solutions."

amalito@investmentnews.com
Twitter: @malito_ali

What Guns N' Roses says about technology

Anyone who knows me knows that I love music of all types. I was fortunate enough to see the recent Guns N' Roses concert in Las Vegas. Axl Rose's voice growled and soared with power and range. Slash was a virtuoso on the guitar, fearlessly pounding out complex riffs and other times evoking angelic serenades from his guitar's magical strings. The entire group was *on.* Their energy and combined sound merged into music that entered our pores and surged through our bloodstreams.

There is just no experience like live music. Sure, we can get music anytime, anywhere with the click of a mouse or a tap on the phone. Any artist, any song — new or old, classical or country, rock or jazz, folk or blues, heavy metal or rap — can fill the room or our ears on demand; the purity of sound offered by online services, CDs or downloads and amplified by full sound systems or noise-cancelling headphones is near perfect, allowing precise replay of recordings time after time. In other words, we can listen to music whenever we want, but it is only live and in person that we can truly engage with the music.

TECH AS COMPLEMENT

By now, many of you are likely wondering what this has to do with financial technology. The short answer is, nothing. It has to do with remembering that technology should be a complement to human interaction, not the primary means of client communication.

We can hear music on Sirius and enjoy listening to our personal mix on Pandora. But when we attend a concert, we build a relationship with the band. From that point on, when we hear a new album from that band, it means more to us; we are more invested. Our connection and commitment to that band increases with each shared live experience.

As advisers, we can communicate with our clients through newsletters, emails and blogs, or even videos and webinars. As important as these touches are, they are not interactive. Building and cementing long-term relationships can only be accomplished through real conversation and live meetings.

Sheryl Rowling is head of rebalancing solutions at Morningstar Inc. and principal at Rowling & Associates. She considers herself a non-techie user of technology.

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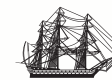

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RIAs expect to make some changes to comply with DOL

Will need to modify, adjust and provide additional disclosures

By Liz Skinner

Brokers aren't the only ones who will have to make changes as a result of the "best interest" rules on retirement advice that the Department of Labor issued April 6. Changes are also in store for registered investment advisers.

Even though RIAs already are held to a fiduciary standard — something brokers will now have to do when giving retirement advice — they will need to marginally modify their policies and procedures, adjust client agreements and other documents, as well as provide additional client disclosures, advisers said.

The considerable and costly compliance changes that some feared after viewing the proposed rule, though, were avoided under the final rule. The regulation would boost the advice bar for brokers, who currently only have to ensure their recommendations are "suitable" for clients, rather than in their best interests.

RULES ON CONVERSATION

"We are going to have to have more specific operational and procedural rules around conversations with clients about their retirement accounts," said Michael Kossman, chief operating officer at Aspiriant, a Los Angeles-based RIA.

For instance, if a client asks his adviser to look at the particulars of his 401(k) plan, an account the adviser hasn't been involved with previously, the adviser is going to need to stop and make additional disclosures to the client about fees the firm might charge, versus fees that are part of the plan, Mr. Kossman said.

It also seems that new procedures may be required for discussions with prospective clients about the comprehensive services RIAs provide because those talks would include retirement assets, too, he said.

Robert Gerstemeier, who has an eponymous firm in Lisle, Ill., said he expects to need additional documentation for individual retirement account rollovers.

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"It will require more disclosure showing how we put client interests first," Mr. Gerstemeier said.

Many other questions remain, such as whether the additional documentation and calculations needed to show best interest will need to be retained at the firm level or for each individual client.

PRESSURE TO GET IT RIGHT

Advisory firms will want to get it right because enforcement for this rule will play out in the courts.

"We live in a litigious world and at some point markets are going to go sideways or a particular client situation is going to go sideways and someone in the industry is going to get sued," Mr. Kossman said. "We all need to have good policies and procedures and systems to show we followed the rule."

Some experts wonder if the rule will boost the number of fiduciary advisers in the marketplace and put pressure on RIAs to reconsider how they show their value and what they charge for advice.

> "WE LIVE IN a litigious world and at some point ... someone in the industry is going to get sued."
>
> **Michael Kossman**
> Chief operating officer
> Aspiriant

"RIAs will have to make their pricing variable," said Lou Harvey, chief executive of DALBAR, a research and consulting firm. "Fees will have to reflect the service and scope of services in the price they charge."

Fees on simplistic investments, such as an S&P 500 Index mutual fund, are going to have to go down and those on complex investments will be able to increase, he said.

"There will need to be a differentiation on the part of the RIA simply because their competitors will have different pricing."

Most RIAs, though, do not agree at this point that fee changes will be necessary.

Mr. Gerstemeier, who is a former chairman of the National Association of Personal Financial Advisors, said he doesn't expect to have to make any changes to fees.

Ray Ferrara of ProVise Management Group, which is a hybrid adviser, said after his firm makes the procedural and contract changes, he doesn't expect the rule will require ongoing changes.

"The DOL removed a lot of what would have been burdensome," he said, mentioning cost projections and website changes that the proposed fiduciary rule would have required.

lskinner@investmentnews.com
Twitter: @skinnerliz

$750M firm Waddell joins Focus Financial Partners

By Christine Idzelis

Registered investment adviser Waddell & Associates has joined Focus Financial Partners.

The RIA oversees about $750 million of assets, according to a March 21 ADV document filed with the Securities and Exchange Commission.

The Tennessee-based RIA joined at the start of April, expanding Focus Financial's presence in the Southeast, according to a statement last Monday. The firm has offices in Memphis and Nashville.

Waddell is the fourth RIA to join Focus Financial in 2016 and follows the move last year by another Southeastern wealth manager, Patton Albertson & Miller in Georgia, to become part of the group.

"The addition of Waddell in Memphis and Nashville will further open up the local RIA market for Focus, creating additional opportunities in the region," Rudy Adolf, Focus Financial's founder and CEO, said in the statement.

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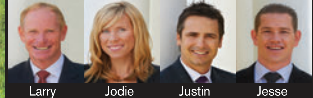

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Counting

Continued from Page 4

month you reach 70. Or, if you change your mind and want your benefits to start before age 70, just tell Social Security when you want your benefits to begin. But if you start benefits before 70, you will receive only the delayed retirement credits you had earned through December of the previous year. You will have to wait until the following January to receive the rest of your delayed retirement credits.

Anyone who requests to file and suspend their benefits beginning April 30 will face a different set of rules. No one — not an eligible spouse nor a dependent child — will be able to collect benefits on the worker's earnings record during the suspension, and the lump-sum payout option will disappear. That means if an eligible family member is collecting on your benefits now and you suspend your benefits after April 29, their benefits will stop too.

STILL A VALUABLE STRATEGY

So why would anyone want to file and suspend after April 29? It is still a valuable strategy in some situations. Imagine a husband who collected his retirement benefits as early as possible at age 62. His retirement benefit would be permanently reduced by 25%. Although he may have been willing to accept smaller monthly benefits in exchange for four additional years of income, he may not have realized that by claiming reduced benefits early, his potential widow would be stuck with a smaller survivor benefit if he died first.

That is a perfect scenario in which to file and suspend even after the April 29 deadline. Once the husband is at least 66 years old, he could voluntarily suspend his benefits and earn delayed retirement credits of 8% per year up until age 70. But if his wife were collecting spousal benefits on his earnings record, her benefits would stop, too.

Don't confuse suspending benefits at age 66 or later with a one-time do-over option that allows you to withdraw your application for benefits within 12 months of first claiming them. You do not have to be 66 to withdraw your application for benefits, but you must have started collecting your benefits within the past 12 months. This withdrawal option will continue even after the April 29 file-and-suspend deadline.

> **WITHDRAWING** your application for benefits wipes the slate clean as if you had never filed.

A CLEAN SLATE

But there's a catch. When you file Form 521 to withdraw your application for benefits, you must repay all the benefits you have received. And if anyone else claimed benefits on your earnings record, such as a spouse or a child, you must repay those benefits, too. Why bother? Withdrawing your application for benefits wipes the slate clean as if you never filed for Social Security, so at a later date when you are older you can claim a bigger benefit.

One more thing to consider: If you voluntarily suspend your retirement benefits, you will be responsible for paying your own Medicare Part B premiums, which normally are deducted from Social Security benefits. You will be billed directly by the Centers for Medicare & Medicaid Services for future Part B premiums.

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

Mary Beth Franklin is a contributing editor to InvestmentNews *and a certified financial planner. She can be reached at mbfranklin@investmentnews.com. Follow her at @mbfretirepro.*

LPL to deploy FutureAdvisor

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executive of FutureAdvisor.

Ross Gerber, president and chief executive of Gerber Kawasaki Wealth, will be a part of the pilot program and said he thinks LPL chose the right vendor with FutureAdvisor. The partnership gives LPL advisers "all of the tools that all of our digital competitors have," he said. "We are on an equal playing field."

Though the robo took longer than anticipated, Mr. Gerber said the firm had to take its time to find the right platform for all 14,000 advisers to use.

PUSH FROM DOL RULE

Jon Ulin, managing principal of Ulin & Co. Wealth Management, said the robo comes at a great time, what with the Department of Labor's final fiduciary rule, which requires all advisers to act in their clients' best interest on retirement accounts. One concern was that the rule would hurt small accounts, but Mr. Ulin said he would consider using this robo-adviser for retirement accounts under $50,000.

"With the new DOL regulations pushing financial advisers to focus more on utilizing 'fee-based' investment platforms in retirement accounts, I am looking forward to having access to the new LPL robo-platform," he said in an email.

> "IF YOU WANT to customize and integrate, you need to take time for that."
>
> **Alois Pirker**
> Research director
> Aite Group

Having a robo-adviser could benefit LPL's business in the long run by allowing advisers to reach out to clients with whom they might not otherwise engage. Mr. Parker also said in the press release that a robo-adviser will expand services to current or potential clients who may prefer a digital method.

"That is obviously a platform you can shift clients or work on bringing in clients that otherwise you'd have to turn away because they are not big enough," said Alois Pirker, research director of wealth management at Aite Group.

TECH FAST TRACK

Providing a robo-adviser is one of the initiatives LPL is taking to get on the technology fast track. The company aims to ramp up its level of automation from 15% to 85% within the next few years, it said last July, which will include opening new accounts, executive account transfers, rebalancing and moving money from one investment to another.

The speed at which a firm picks and then implements a robo-adviser also depends on what type of integration it wants to offer its clients, Mr. Pirker said.

"It can be pretty quick if you're not putting a lot of emphasis on the integration," he said. "If you want to customize and integrate, you need to take time for that."

amalito@investmentnews.com
Twitter: @malito_ali

Fund may pay investors shares

Hit by Valeant's losses, Sequoia limits cash redemptions to under $250K

By John Waggoner

The snakebit Sequoia fund is warning investors that it may pay large redemptions in securities, rather than cash.

Sequoia (SEQUX), which has tumbled 24% in the past 12 months on a big, bad bet on drugmaker Valeant Pharmaceuticals (VRX), notified investors on its webpage about its policy. The notice says in part:

"The fund has adopted a policy under which the fund may limit cash payments in connection with redemption requests to $250,000 during any 90-day period. As a result, the fund may pay you in securities or partly in securities if the amount of fund shares that you redeem is more than $250,000.

"It is highly likely that the fund will pay you in securities or partly in securities if you make a redemption (or series of redemptions) in the amount of $250,000 or greater."

A provision in the 1940 Investment Company Act allows funds to pay redemptions in securities rather than cash, but it's a provision that's rarely used, in part because in-kind redemptions could damage a fund's reputation.

LITTLE DIVERSIFICATION

Under the law, the fund doesn't have to distribute in-kind redemptions in proportion to its holdings. According to the Wall Street Journal, one investor received 5% of his redemption in cash and the rest in shares of O'Reilly Automotive (ORLY).

Someone who gets just one stock as a distribution clearly doesn't get any benefit from diversification. And transferring shares from the fund to the shareholder can be a complex operation. The advantage to the fund: The investor, not the fund, bears the cost of liquidating the security.

The tax basis for the fund would be its purchase price, and its sale price that day would determine the investor's gain or loss. If you received shares of a stock from the fund and the shares fell before you sold them, you'd have a capital loss.

Sequoia, long a highly ranked value fund, took a large stake in Valeant that grew to 30% of its portfolio. The stock has plunged 84% in the past 12 months. The fund's 15-year record still tops the Standard & Poor's 500 Index and 97% of the funds in its Morningstar category.

jwaggoner@investmentnews.com
Twitter: @johnwaggoner

New Cetera owners

Continued from Page 4

tion of their commitment. "They're telling us they intend to hold the firm for the long haul.

"They believe in the independent broker-dealer model," he said. "They are telling us they are going to be long-term investors."

SOME EXPECTED QUICK EXIT

Some Cetera advisers and observers in the independent broker-dealer marketplace expected Cetera's new owners to strike a different posture regarding owning the broker-dealers. Indeed, they expected RCAP's first and second lien holders to exit the business as quickly as possible.

The ownership issue affects advisers, who crave stability in their businesses because each change presents a potential set of problems.

Cetera will have had four owners since the credit crisis. In 2010, the ING Groep sold it to Lightyear Capital. Four years later, RCAP, at the time controlled by former non-traded real estate investment trust czar Nicholas Schorsch, bought it for $1.15 billion from Lightyear. Now, after the bankruptcy, RCAP's bondholders will own the broker-age network.

Mr. Roth's comments seemed to conflict with what he told advisers in January, when RCAP announced the pre-arranged bankruptcy, according to one Cetera adviser who asked to speak anonymously.

"It's contrary to what has been said on calls," he said, adding that the intention of the institutions was to own Cetera for three to five years.

WON'T SPECULATE ON YEARS

A Cetera spokesman, Joseph Kuo, said he could not clarify how long Cetera's new owners would hang on to the business.

"We're very encouraged by the support and enthusiasm shown by our prospective new owners in our business," Mr. Kuo wrote in an email. "Beyond that, it would be premature at this time to speculate on exactly how many years their period of ownership will ultimately extend."

> "WE'RE VERY encouraged by the support and enthusiasm shown by our prospective new owners."
>
> **Joseph Kuo**
> Spokesman
> Cetera Financial Group

In the interview, Mr. Roth said Cetera advisers have been loyal, patient and focused on their clients throughout the bankruptcy. He also said the company was in the process of identifying new board members.

bkelly@investmentnews.com
Twitter: @bdnewsguy

Thirst for TIPS funds

Continued from Page 5

Securities and Multi-Asset Income funds. That's not much.

But it's well above the 1.21% break-even rate in February, which was the lowest since March 2009. So you could argue that February's deflation jitters simply pushed TIPS too low.

You could also argue that TIPS have room to run. "It's probably both things," Ms. Murphy said. What could push TIPS higher?

• **Energy.** TIPS rise with the headline Consumer Price Index, which includes energy. If oil prices rise — or even if they remain firm — TIPS should benefit.

CARE AND SHELTER PRICES UP

• **Health care and shelter.** One reason clients think the current inflation rate is a myth is because of rising prices for health care and shelter. Inflation for both has increased 3.9% in the past 12 months.

• **Fed policy.** Bond markets worried the Fed was raising short-term rates too aggressively, which could slow the economy and, if pushed too hard, press it into deflation. "Now they have set the stage for letting inflation run a little," Ms. Murphy said.

• **Yield.** The real yield of TIPS is now about 0.2%. On the other hand, inflation-adjusted bonds in the U.K. have a 1% yield, and many other global inflation-adjusted bonds are negative, too. Low yields elsewhere make U.S. TIPS look attractive.

> **2.25%**
> Increase in average hourly wages since the financial crisis

Finally, there's the matter of wages. You can't have a wage-price spiral without a rise in wages, and since the financial crisis, wrestling a raise out of an employer has been hard. But average hourly wages are up 2.25%.

More importantly, there have been rising demands for higher wages as unemployment falls.

The National Employment Law Project says that nearly 17 million workers have received wage increases since 2012, largely because of the movement to raise the minimum wage. Major work stoppages, such as strikes, idled 47,000 workers in 2015, vs. 34,000 in 2014.

VERIZON STRIKE

Last Wednesday, 36,000 Verizon workers went on strike, the largest U.S. strike since 2011. In Minneapolis, city janitors went on a one-day strike in January, their first in decades. A second strike was averted with an agreement to push hourly wages to $15.

Clearly, no one is getting rich here. On the other hand, companies are struggling to find qualified workers, which may signal an inflation increase ahead.

"There's room for inflation expectations to move back to average," Ms. Murphy said. And that, of course, would benefit TIPS.

jwaggoner@investmentnews.com
Twitter: @johnwaggoner

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InvestmentNews

Add transparency to fund fees: IAC

By Mark Schoeff Jr.

An advisory group told the Securities and Exchange Commission last Thursday to consider increasing transparency of mutual fund fees.

In a unanimous vote, the SEC Investor Advisory Committee approved a recommendation for disclosure of fees in dollar amounts on customer account statements. In a second recommendation, the panel said the SEC should look for ways to put the cost information into market context — high, low or average — and explain how the costs will affect total accumulation.

The IAC, which was created by the Dodd-Frank financial reform law to represent retail investor concerns before the agency, said current fee disclosure requirements are not effective.

For nearly 30 years, mutual funds have had to describe fees as a percentage of net assets in a prospectus. Since 2004, they also have had to disclose in annual reports the costs per $1,000 investment in dollar amounts.

The IAC said average investors don't understand, read or know where to find current fee information. If fees are represented in dollar amounts on their statements, the information is more likely to catch their attention.

'SOME TENSION'

Although the committee voice vote was unanimous, one member expressed concerns. Adam Kanzer, managing director of Domini Social Investments, said the mutual fund industry reports performance net of fees and expenses, and that there is "some tension" between that practice and the IAC proposal.

He also warned that the goal of the SEC should not be to favor low-cost index funds.

The IAC subcommittee chairwoman, Barbara Roper, who's also director of investor protection at the Consumer Federation of America, said, "There is nothing about this recommendation that sends the message, or is designed to send the message, that index funds are preferred or better."

SEC Chairwoman Mary Jo White as well as SEC members Kara Stein and Michael Piwowar attended the IAC meeting. Each of them praised the IAC for tackling the issue.

WHITE PRAISES IAC

"Making sure investors have information they need to make informed decisions about their investments in mutual funds and the costs of those investments is critically important," Ms. White said.

"We can still do more to ensure that investors both understand the importance of cost and are easily able to determine the costs they are paying," Ms. Stein said.

Mr. Piwowar cautioned that the agency should assess different disclosure methods before settling on one. "I fully support engaging in a robust investor-testing program that examines the efficacy of various mutual fund cost disclosures," he said.

The SEC does not have to act on IAC recommendations. The agency has had a mixed record of following up on the committee's work.

The IAC recommendation would be especially helpful to workers managing their own retirement savings and buying their own mutual funds, said Damon Silvers, an IAC member and associate general counsel at the AFL-CIO.

mschoeff@investmentnews.com
Twitter: @markschoeff

Tricky term

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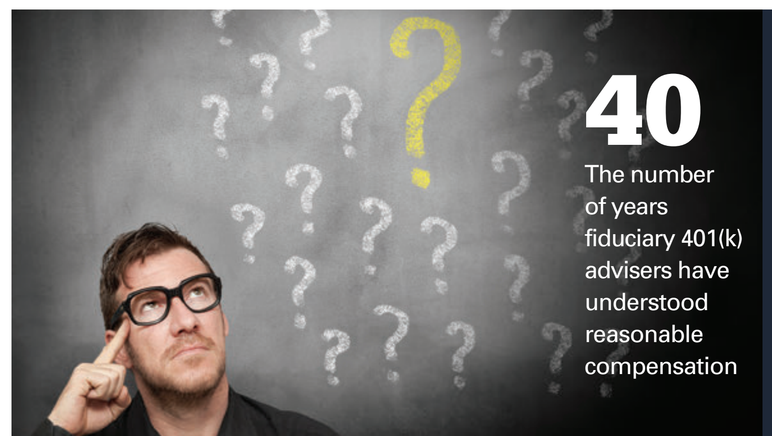
use, let's consider a hypothetical situation in which an IRA adviser is recommending a 401(k) plan participant roll over assets to an IRA, a fiduciary recommendation under the new DOL rule. Determining if this is in the individual's best interest requires assessing a few particulars: For example, does the prospective client want holistic wealth management services, and are those services available in the 401(k) plan, Mr. Roberts said.

Let's say the rollover is ultimately deemed to be in the client's best interest, and the adviser is now making 100 basis points of additional compensation due to that rollover. The adviser needs to be able to articulate why that cost is reasonable, according to Mr. Roberts. A number of determinations are involved: online versus in-person advice; the scope of the services; the frequency of meetings; even the expertise and experience of the adviser, he explained.

"It strikes me that really the only way to test that is to look at the market," said Bruce Ashton, partner in law firm Drinker Biddle & Reath's employee benefits and executive compensation practice group. "What is the market charging for comparable services?"



40 The number of years fiduciary 401(k) advisers have understood reasonable compensation

BENCHMARK ANALYSES

This type of benchmarking is a common practice among 401(k) fiduciaries to determine reasonable cost for a particular service, whether it be administration, investment management or advisory. And there are firms such as Fiduciary Benchmarks Insights Inc. that can provide benchmarking reports to help with this type of analysis.

But benchmarking is largely uncharted territory in the IRA market, because enforcement of prohibited transactions with respect to reasonable compensation in the retail retirement market was largely absent prior to the DOL's new regulation, ERISA attorneys said.

"The IRA context will be tougher, because right now there aren't, so far as I know, benchmarking services that actually look at IRA compensation," Mr. Ashton said.

What's considered "reasonable" in the IRA market might be different from the 401(k) market, Mr. Davis said.

"I think there'll be a lot of evolutionary learning around how it's all going to work," he said.

giacurci@investmentnews.com
Twitter: @gregiacurci

Rule opponents to continue fight

Continued from Page 6

have a rule that is really a little bit simpler and cleaner than the initial proposed rule, and I think it will, therefore, be easier to implement and withstand challenges in court and in Congress," Mr. Certner said.

The Insured Retirement Institute is reviewing the rule to determine how it will affect products that deliver lifetime guaranteed income, such as annuities.

"Is there a clear pathway for commission-based transactions?" asked Cathy Weatherford, president and CEO of IRI. "Can that still be part of a holistic [retirement] plan? That's where we're going to be digging in."

Marilyn Mohrman-Gillis, CFP Board managing director for public policy and communications, said the final rule clarified that commissions are not banned. She also pushed back against charges that advice will become prohibitively expensive for investors with modest assets.

> "THE SINGLE BEST way to increase investor trust has been rejected by the rule."
>
> **Knut Rostad**
> President, Institute for the Fiduciary Standard

"What you're going to see is innovation and adaptation in the marketplace," Ms. Mohrman-Gillis said. "The future is technology-enabled advice. Human advice is not going to go away."

A practitioner who participated in the roundtable said that the DOL did a good job of crafting a rule that is practical while changing an advice landscape in which investments costs can be opaque.

"Any evaluation of the rule has to be done in the context of the status quo," said Scott Puritz, managing director of Rebalance IRA. "What we see every day in the marketplace is very suboptimal. Market mechanisms simply are not working."

But a fiduciary advocate said the DOL went too far in reducing disclosure requirements to accommodate industry concerns.

"The single best way to increase investor trust has been rejected by the rule, and that's transparency in fees and expenses," said Knut Rostad, president of the Institute for the Fiduciary Standard.

mschoeff@investmentnews.com
Twitter: @markschoeff

DOL's next task is enforcement

Continued from Page 6

Until the Labor Department's fiduciary rule, proving a broker was a fiduciary with an obligation to act in a client's best interest was difficult — brokers could easily skirt taking on fiduciary status by claiming their advice wasn't continuous or didn't serve as the primary basis for an investor's ultimate investment decision, Ms. Roper said.

Now, if investors believe they have a claim against a broker for not acting in their best interest, "the question of whether they're a fiduciary or not is now clear," making it easier to prove in arbitration or court and granting investors a stronger claim, she said.

Firms still can force investors into mandatory arbitration, as they often do currently, rather than have a dispute go to court. Most cases will likely still go to arbitration, Ms. Roper said.

However, investors will always have the right to bring class-action litigation against a firm.

'HEAVY BUCKS' FOR FIRMS

"This is a really big deal," said Louis Harvey, president and chief executive of Dalbar Inc., a market research firm. "It becomes heavy bucks" for firms to settle these types of cases for potentially billions of dollars, he said.

Michelle Ong, a spokeswoman for the Financial Industry Regulatory Authority Inc., said in a statement that the brokerage industry regulator was reviewing the DOL's rule, including how it applies to the broker-dealer business model and aligns with existing Finra rules.

Knut Rostad, president of the Institute for the Fiduciary Standard, is skeptical of the consumer protections granted by the terms of the BICE, saying there's "enormous faith" being placed in the private right of action granted by the BICE.

There isn't a consensus definition of what a best interest standard means in concrete terms — it's a principle that can be broadly defined, much like the principle of reasonable compensation — and the courts will ultimately interpret what that standard of care is, Mr. Rostad said.

"I don't know that it's true to assume there will be a definition that's going to be really beneficial to investors," he said.

"It's an improvement over the old suitability standard, but we don't know how the best interest standard will be interpreted by the courts," Ms. Solomon said.

MULTIPLE FRONTS

The 401(k) market is already well-versed in class-action litigation. Suing for fiduciary breach under ERISA has been one of the main methods of recourse for plan participants over the past decade. In addition, the DOL has the authority to file civil actions against advisers for fiduciary breach in the ERISA-plan market, and the IRS is able to assess an excise tax on the adviser.

From an enforcement standpoint, not much will change in the 401(k) market as a result of the fiduciary rule. However, there will be more advisers falling under a fiduciary standard of care, and therefore more intermediaries to oversee on the part of the DOL and the IRS, according to Ms. Solomon.

Mike Trupo, spokesman for the DOL, said in a statement the agency will be "very focused on compliance assistance as the rule goes into effect." Highlighting this point, the fiduciary rule's preamble says the DOL expects to emphasize compliance assistance over "using investigations and enforcement actions as a primary implementation tool" during the transition period to the new regulatory regime.

Ultimately, experts believe enforcement will occur naturally solely as a result of the threat of enforcement. The DOL has one major trump card that gives the agency de facto enforcement over the retail market in a big way — being able to rescind firms' ability to use the BICE if firms don't put adequate policies and procedures in place to mitigate conflicts of interest, Ms. Roper said.

giacurci@investmentnews.com
Twitter: @gregiacurci

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April 28, 2011

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I am Mike Piershale and this is my Independence Day.

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