March 20-24, 2017

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PRACTICE MANAGEMENT

Women advisers punished more

BLOOMBERG NEWS

THIS MONTH A statue of a young girl was temporarily installed in New York's Financial District to mark International Women's Day. Called The Fearless Girl and sponsored by State Street Corp., she was depicted bravely facing off against the bronze bull that's become a symbol of Wall Street.

Editorial
The injustice must end.
Page 10

A new study finds that, when it comes to truly celebrating women, Wall Street still has a long way to go. The results show that investment firms treat male employees very differently from female employees after they get in trouble. While women are far less likely to engage in misconduct, they're punished much more harshly for any infractions.

Finance professors Mark Egan of the University of Minnesota, Gregor Matvos of the University of Chicago and Amit Seru of Stanford University analyzed the misconduct records and employment patterns of 1.2 million U.S. financial advisers over a decade. The numbers are stark.

Male financial advisers are three times more likely to have a record of engaging in serious misconduct, with more than 9% crossing the line compared with 3% of female advisers. After misconduct is registered, however, "female advisers are 20% more likely to lose their jobs, and 30% less likely to find new jobs relative to male advisers," they wrote.

MEN COST MORE

Are women getting fired more (and rehired less) because their misconduct is more serious? No. Misconduct allegations against men cost firms 20% more to settle. Also, male advisers are twice as likely to be repeat offenders. "Both of these results suggest that firms should punish male advisers more severely than female advisers," the authors wrote.

Maybe firms are firing female advisers more often because those women are less valuable employees? Also not true, the researchers concluded. For one thing, firms with female owners or senior executives tend to treat male and female misconduct more equally.

The authors also looked at data on the productivity of advisers. "Even after we control for those things, we find women are still punished more severely for misconduct," Mr. Matvos said in an interview. "Women have a narrower margin

EDITOR'S NOTE

Adviser vs. advisor

FRED GABRIEL

In this week's issue of *InvestmentNews*, we look at why some of our readers call themselves "financial advisers" and others "financial advisors."

Though both terms are grammatically correct, the distinction seems to matters — at least, to many of our readers on both sides of the vowel.

As senior columnist Jeff Benjamin reports, the "e" convention significantly predates the "o" convention. It also corresponds to the Investment Advisers Act of 1940, which uses "e" in defining registered investment advisers and investment adviser representatives.

So why do the majority of *InvestmentNews* readers (83%) prefer financial advisor? The answer, at least according to our exclusive survey of more than 500 readers, is that the term "advisor" is perceived as more formal and suggests an evolution of the profession. By comparison, only 5.6% of "advisers" feel "e" is more formal.

Interestingly, both "advisers" and "advisors" view their moniker as being more closely aligned with a higher fiduciary standard, at 21% and 23.7%, respectively.

Here at *InvestmentNews*, we have long used the "e" convention. We do it because that is how regulators refer to individuals who dole out professional advice. In an industry as highly regulated as financial services, it seems to make sense to spell those being regulated the same way the regulators do. We also do it because we generally adhere to the rules set forth by the AP Stylebook, which calls for the "e" spelling.

That said, nothing is set in stone. And, if the majority of our readers are using the "advisor" convention, we should at least consider following suit. What do you think?

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REGULATORY ACTION

Wells hit for $357K

Wirehouse cited for unsuitable investments

BY MARK SCHOEFF JR.

AN INVESTOR WON a $357,000 arbitration award against Wells Fargo Advisors for unsuitable energy and housing investments. The case summary in the March 9 award cited "investments in unspecified energy and housing products, and use of a margin line of credit."

The investor, Anthony J. Pryor, claimed fraud, negligent misrepresentation, breach of fiduciary duty and negligent supervision, among other causes of action. The arbitration award did not provide any further detail about the allegations.

The all-public arbitration panel awarded Mr. Pryor $357,000 in compensatory damages plus 8.75% interest on that amount from March 25, 2016, until March 2 of this year. Mr. Pryor initially sought $1 million in damages, but at the close of the hearings, which ran from Feb. 28 through March 2, he requested $413,254.74.

3
NUMBER OF DISPUTES DISCLOSED ON ADVISER JEFF WILSON'S BROKERCHECK RECORD

Wells Fargo denied the allegations, according to the award statement. The firm initially sought to have the claim expunged from the Finra BrokerCheck record of its adviser, Jeff Wilson, who was not a party in the claim. But the arbitrators said that Wells Fargo "did not pursue its request for expungement" and made no ruling on it.

Mr. Wilson, who has been with Wells Fargo since 2014, has three customer disputes disclosed on his BrokerCheck record, two of which have been settled. One of the settlements, for $250,000 in May 2016, involved allegations of "unsuitable energy and other investments," according to BrokerCheck.

A Wells Fargo spokeswoman declined to comment. Mr. Wilson did not respond to a message left for him.

Mr. Pryor and Wells Fargo split the hearing session fees.

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The Fearless Girl: Statue in Manhattan's Financial District placed for International Women's Day by State Street Global Advisors

BLOOMBERG

of error for missteps."

The results won't shock many women in the investment business. Almost 88% of female financial professionals said in a 2014 survey that gender discrimination exists in their industry. Some 46% said discrimination happened at their firm.

"I'm not surprised," said Pamela Sandy, the chairwoman of the Financial Planning Association, who founded her own Cleveland-based advisory firm, Confiance, in 2008. "We're still living in a very misogynistic profession. The larger firms are very much a boys' club."

The data support the perception that, when something goes wrong, men are more likely to get a pass. Men are excused as "aggressive" or "driven," while women are branded "a bad girl," Ms. Sandy said. "Women are held to a higher standard."

Firms seem to keep a closer eye on their female employees, too, the data suggest. Women are much more likely to be accused of misconduct by their own firms, while men are more likely to be accused by customers.

PREVIOUS STUDY

This study may worsen the public relations problem already facing financial advisers in the U.S. The gender discrimination data comes from the same database as a groundbreaking study released by the same scholars a year ago: Messrs. Egan, Matvos and Seru found that 7% of U.S. financial advisers have been disciplined for serious misconduct over the course of their careers. Only about half of advisers who commit misconduct lose their jobs, and many of those fired advisers find new jobs. At some firms, 15% or more advisers were found to have engaged in misconduct.

Former U.S. president Barack Obama spent the last years of his term trying to tighten regulations on financial advisers. The White House calculated that conflicts of interests cost U.S. investors $17 billion annually. President Donald J.

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WASHINGTONWATCH

Finra's lobbying bill dips

Its spending hit a four-year low in 2016

BY MARK SCHOEFF JR.

FINRA'S LOBBYING bill fell to its lowest point in four years in 2016, but the broker-dealer regulator still spends a hefty amount to have its voice heard on Capitol Hill.

The Financial Industry Regulatory Authority Inc., the brokerage industry's self-regulatory organization, spent $670,000 on lobbying in 2016, according to reports filed with the Office of the House Clerk. That's a $150,000 decrease from 2015, when it spent $820,000, and nearly a $300,000 drop from 2012, when its total expenditure was $960,000. It spent $890,000 in 2013 and $870,000 in 2014.

It's not clear why the numbers have fallen over the last four years, although in 2012, Finra was pushing hard for legislation that would have established an SRO for registered investment advis-

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FIDUCIARY FUTURE

DOL rule's opponents file injunction

Plaintiffs say going ahead with rule would waste firms' resources

BY MARK SCHOEFF JR.

OPPONENTS OF THE Department of Labor fiduciary rule are seeking to block the measure in a Dallas federal court, while in Washington they're submitting comment letters in support of delaying next month's implementation deadline.

In the U.S. District Court of Northern Texas, the financial industry trade association plaintiffs in a lawsuit against the fiduciary rule filed a preliminary injunction March 10 to stop the regulation, which will become applicable April 10. They asked for a ruling on the injunction by Monday.

PROPOSED DELAY

The DOL has proposed delaying its implementation for 60 days while the agency conducts an assessment of the regulation, called for by President Donald J. Trump in a Feb. 3 memo. The regulation requires financial advisers to act in the best interests of clients in retirement accounts.

The industry plaintiffs argued that if the DOL is not able to delay the rule before April 10, financial firms would continue to have to "sink extensive resources into compliance capabilities." Besides, they said, the injunction is necessary to provide the DOL time to review the rule and for an appeals court to make a decision on the Dallas case, which the plaintiffs lost at the district level in February.

"The public interest heavily favors an injunction so that the serious questions about the rule's validity can be resolved without further wasteful, unwarranted and unrecoverable costs being incurred first," the plaintiffs wrote in a memo supporting the motion.

The industry groups are not likely to prevail because they previously lost at the district level not only in Dallas but also in similar suits around the country.

"There's a real question as to whether the injunction will be granted in light of the courts' treatment of the rule so far," said George Michael Gerstein, counsel at Stradley Ronon Stevens & Young. "Seeking the injunction does represent the concern and the confusion many have over the compliance [deadline] in April and particularly any litigation risk that might arise."

The Labor Department tried to alleviate some confusion about timing last Friday by issuing an enforcement memorandum intended to ease compliance concerns in the near term, as it reviews the rule and before any delay is final. But questions remain.

One of the challenges facing industry associations in their court action is that they're asking for

CONTINUED ON PAGE 27

Delaying rule will harm investors, group says

BY MARK SCHOEFF JR.

DELAYING THE DEPARTMENT of Labor's fiduciary rule would harm investors and violate regulatory requirements, groups representing investment advisers asserted in a comment letter last Wednesday.

The Financial Planning Coalition said that the proposal to push back implementation of the regulation for 60 days would cause investors to lose money over that period due to conflicted advice. It also asserted that the DOL failed to follow the Administrative Procedure Act in promulgating the delay rule.

CITING DOL's CLAIM

The FPC — which is comprised of the Financial Planning Association, the National Association of Personal Financial Advisors and the Certified Financial Planner Board of Standards Inc. — took advantage of the DOL's claim in the delay proposal that putting off implementation would reduce investors' gains by about $104 million, while lowering compliance costs for financial firms by $8 million.

"The department needs to address why it believes a delay is warranted when, under its own analysis, investor harm greatly outweighs any cost savings for the industry," the FPC wrote. "The Department has not adequately explained what environmental changes, if any, led the Department to believe that the final rule and regulatory impact analysis completed less than a year ago are now inadequate or defective."

APRIL 10 DEADLINE

The DOL is seeking to extend the April 10 implementation date of the rule to give itself time to conduct a review of the rule that President Donald J. Trump called for in a Feb. 3 memo. Mr. Trump told the agency to modify or repeal the regulation, if it found that it limited investors' access to advice or increased litigation risk for firms.

But the FPC said that making the delay effective immediately when the final delay rule is published in the Federal Register, likely sometime just before April 10, violates rulemaking parame-

CONTINUED ON PAGE 27

THE BIG DEBATE:

OR

Does the integrity, respectability and internet searchability of the industry rest on a well-placed "e" or "o"?

BY JEFF BENJAMIN

In the annals of financial advice, few questions have divided folks more than whether someone who offers professional financial advice is an "adviser" or "advisor."

Trite as it might seem, the debate lives on, possibly because the correct answer is elusive and, in some ways, simply subjective. Those on both sides of the argument are convinced they're right and that the integrity, respectability and internet searchability of the entire financial advice industry rests on a well-placed "e" or "o."

"We spell it with an 'e' because spelling it with an 'o' connotes a soothsayer," said Carolyn McClanahan, founder and director of financial planning at Life Planning Partners. "All the palm readers and tarot card readers have 'advisor' on their signs."

Them's fightin' words to Bob Veres, financial planning industry veteran and owner of Inside Information, a consulting firm for the financial planning profession. "Whenever I see someone spell adviser with an 'e,' I know it's a securities attorney or an industry lobbyist who specializes in the SEC," he said.

BASIC GRAMMAR

Beyond basic grammar, which deems either spelling acceptable, the battle lines are often drawn around alignment with the Investment Advisers Act of 1940, which locks in the "e" version for some professionals. The flipside of that argument is that there are myriad interpretations of what it means to provide professional advice, which leads much of the industry to favor the "o" version.

"I'm high compliance, so if I'm a regulated individual or firm, I'm going to use the same spelling as the regulators use, which means spelling adviser with an 'e,'" said Bill Winterberg, founder and president of FPPad, a financial services industry technology consulting firm. "Don't unnecessarily confuse things; just use what the SEC uses and move on."

For his part, Michael Kitces, partner at Pinnacle Advisory Group, opts to straddle the fence with a policy that doesn't contribute much in the way of a resolution, but it does provide some enlightenment on the rift.

In his blog, Nerd's Eye View, Mr. Kitces spells adviser with an "o," "to describe the general label of financial advisers."

But he spells it with an "e" "anytime we're talking about investment advisers legally registered as such or the Investment Advisers Act or being a registered investment adviser, because that's the actual legal term."

There is no debating that in creating the Investment Advisers Act of 1940, the word was spelled with an "e."

Ditto for RIAs, which are defined in the Act as a "person or firm that, for compensation, is engaged in the act of providing advice, making recommendations, issuing reports or furnishing analyses on securities, either directly or through publications."

REGULATORY HISTORY

Thus, for reasons tied to regulatory history, some have opted for and are sticking with the "e" version.

"The SEC and members of Congress, when they were looking at this back in 1937, used the 'e,' and folks who identify with the history of advisers identify with spelling adviser with an 'e,'" said Karen Barr,

president and chief executive of the Investment Adviser Association.

"Adviser with an 'o' sounds a little more squishy, if you ask me," she said. "But the lines have blurred, and what was clear in 1940 is not clear today, because there has been a lot of branding around adviser with an 'o.'"

The Financial Planning Association is also in the "e"-version camp, "because we follow the SEC spelling," said spokesman Ben Lewis.

Clearly, the rest of the financial advice industry is less concerned about following naming convention set by regulators. The vast majority of broker-dealers, custodians and mutual fund companies prefer the "o" spelling.

"We spell it with an 'o' and have been for 20 years, and I don't know why that is," said Tom Nally, president of TD Ameritrade Institutional.

Fidelity Investments spokeswoman Kate Taylor could only confirm that they have been spelling it with an "o" "for a while; it's reflected in our product naming."

In the published English language, the "e" version has a history dating back to well before 1800, while the "o" version started showing up only around 1900.

And usage of the "e" version spiked around the time Congress was writing the Investment Advisers Act in the late 1930s.

INSIDE THE NUMBERS

In the long-running battle over whether someone who gives professional advice is an "adviser" or an "advisor," the "o" side is clearly winning.

An *InvestmentNews* survey of more than 550 readers found that nearly 83% refer to themselves as an "advisor," versus 17% who call themselves an "adviser."

The findings support the growing popularity of the "o" version, despite the legal and regulatory history linked to the "e" version through the Investment Advisers Act of 1940 and the Registered Investment Adviser title as described within the Act.

While both versions are correct in the eyes of grammarians — and spelling it with an "o" does not confer any amnesty from the Investment Advisers Act — both sides of the debate remain passionate in their positions.

When asked why they spell the word one way over the other, about 28% of respondents from both camps cited the reason of "most commonly used."

Among those advisers using the "e" version, 35.2% cited legal reasons, while just 4.1% from the "advisor" camp chose that reason.

However, 30.1% of the "advisor" camp respondents said they believe their spelling is more formal, which was cited as a reason by just 5.6% of "advisers."

In terms of a symbol of fiduciary responsibility, the two sides are essentially split, with 21.1% of "advisers" saying their spelling is more closely aligned to a higher standard of care, compared to 23.7% of "advisors."

The two camps were also virtually even in justifying the spelling as "how my firm spells it" — 29.6% of "advisers" and 28.9% of "advisors."

It is also clear that neither side is keen on altering the way they are now spelling the word.

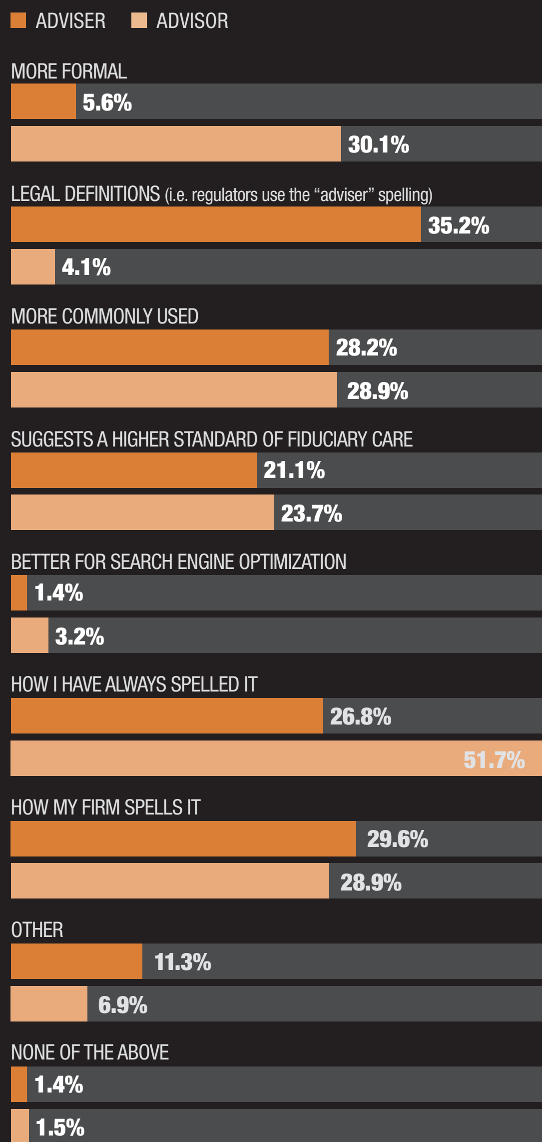
Nearly 55% of "adviser" respondents said they are "somewhat" or "extremely" committed to the spelling, compared to nearly 63% of "advisor" respondents.

The support for "advisor" is most stark when looked at through various financial services segments.

"Advisor" was preferred over "adviser" by between 64% and 78% of respondents in the following sub-categories: Investment adviser representative, regional representative/securities broker, insurance agent/broker, certified public accountant, bank trust officer, financial planner, retirement plan adviser, and owner or partner at an independent advisory firm.

— *Jeff Benjamin*

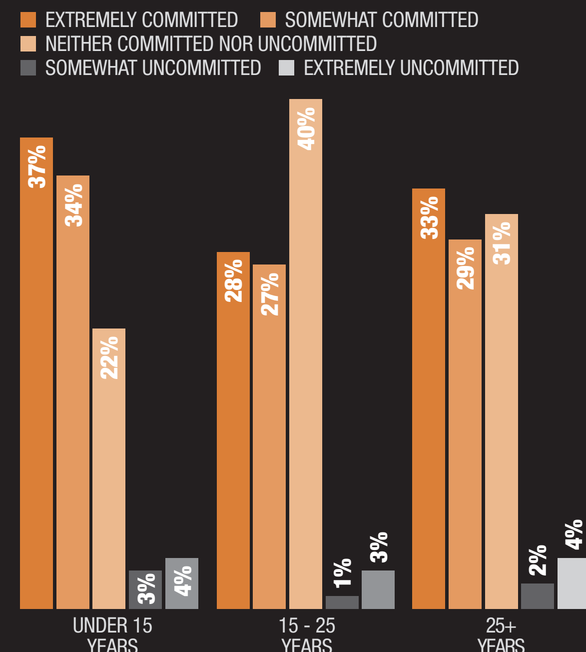
WHY DO YOU USE YOUR SPELLING?



DO YOU TYPICALLY REFER TO YOURSELF AS AN "ADVISER" OR "ADVISOR"?*

*Among respondents who refer to themselves as an "adviser" or "advisor"

HOW COMMITTED ARE YOU TO YOUR SPELLING?



But since that peak, published usage of the "e" version has been trending downward, while usage of the "o" version has been climbing to the point where both versions are about equal.

Mr. Kitces, who produced a video last summer analyzing the two different ways to spell adviser, theorizes that the growth of the "o" version reflects a trend toward a more formal act of providing advice.

But there are other theories.

"Technically, either way is correct, but it can matter depending on the context in our industry," said Amy Lynch, president of FrontLine Compliance.

> **"IT CAN MATTER DEPENDING ON THE CONTEXT IN OUR INDUSTRY."**
> AMY LYNCH
> PRESIDENT
> FRONTLINE COMPLIANCE

Ms. Lynch, like Ms. Carr of the Investment Adviser Association, believes at least part of the popularity of the "o" version can be tied to the migration by brokerage reps away from pure commission-based sales and toward more holistic financial planning.

BROKERAGE FIRMS

"Whenever brokerage firms or independent firms refer to their financial planners or reps, they typically refer to them as financial advisors with an "o," Ms. Lynch said.

From Ms. Barr's perspective, the migration of brokerage reps into the financial planning business also fueled the popularity of a host of monikers along the lines of financial consultant, financial planner and wealth manager.

"People use all those terms to hold themselves out as a trusted adviser for their clients, when in fact they're not legally obligated to act in the best interest of their clients," she said. "I think the debate over spelling adviser with an 'e' or an 'o' is emblematic of a larger issue, in that people cannot tell the financial professionals apart, even though they have different services, duties and operate under different regulatory requirements."

The Associated Press Stylebook, which has long been considered the bible of American journalistic writing rules, considers the "e" version correct. That's why *InvestmentNews* has long favored "adviser."

But, according to both the Oxford and Merriam Webster dictionaries, either spelling of the noun is acceptable.

It turns out most financial advisers probably weren't thinking about grammar or style when they embraced one spelling over the other.

Jonathan Swanburg, investment executive at Tri-Star Group, said that the spelling had been debated within his firm, and that the "o" version won out because it seemed "more appropriate when describing an expert acting in a professional capacity."

The "e" version, he said, "is better when describing someone acting in a nonprofessional capacity."

SEO

But neither history, legality nor the way the word rolls off the tongue was top of mind for Kathryn Hauer when she was helping to launch Wilson David Investment Advisors in 2014.

"I don't think there's a right or wrong way to spell it, but we were concerned about the best way because we wanted to get picked up in more internet searches," she said. "We went around and around with it, and decided to spell it with an 'o' because it seemed more accepted, and we wanted the best keyword for more social media stuff."

If the goal is search engine optimization, the "o" version is the current favorite.

A measurement of Google searches over the past three years for both "financial adviser" and "financial advisor" shows between 1,000 and 10,000 average monthly searches for financial adviser, compared to between 10,000 and 100,000 for financial advisor.

Even so, that's not enough to convince proponents of the "e" spelling to switch sides.

"If you're spending hours at your firm trying to squeeze some kind of benefit out of search engine rankings, you shouldn't be a financial adviser, you should be a search-engine guru," Mr. Winterberg said.

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FROM THE WEB AND PRINT PAGES OF *IN* THIS WEEK

"I've actually seen two very close siblings who have not spoken for the past 15 years over a piece of furniture."

ERIC REICH, a certified financial planner with Reich Asset Management, on the importance of deciding before a client's death who should inherit what.

"WOMEN HAVE A NARROWER MARGIN OF ERROR FOR MISSTEPS."

GREGOR MATVOS, finance professor at the University of Chicago, on a new study he co-authored that found women are punished more strongly than their male colleagues for misconduct.

"The administration is setting itself up for a legal challenge."

MICAH HAUPTMAN, financial services counsel at the Consumer Federation of America, on President Trump's memo to the agency to review its fiduciary rule and possibly modify or repeal it.

OPINION

EDITORIAL

Discrimination against women via harsher punishment must stop

Finance professors at three top universities have found a clear example of blatant discrimination against women in the financial industry that must be addressed by the firms in the industry, or by regulators.

The professors found that women in the financial industry are punished far more severely for misconduct than men.

The professors, Mark Egan of the University of Minnesota, Gregor Matvos of the University of Chicago and Amit Seru of Stanford University, found that while women were far less likely to engage in misconduct than male colleagues, when they did so they were 50% more likely to be fired or separated from their jobs, faced longer periods of unemployment and were 30% less likely to find a new job in the industry within a year than misbehaving male colleagues.

Further, if they are not fired, the misconduct weighs more heavily on women's careers than the careers of men who have a record of misbehavior. Female advisers with recent misconduct are 67% less likely to be promoted relative to other female advisers, while men with recent misconduct are only 19% less likely to be promoted than other male advisers.

On the other hand, female advisers who were not fired after an incident of misconduct are far less likely to re-offend than are male advisers. In fact, male advisers are twice as likely to be repeat offenders.

In addition, 67% of female advisers leave the industry after an incident of misconduct compared with 53% of men.

One might wonder if women's misconduct is typically more severe than that of male advisers. Not so, the professors found. In fact, male advisers' misconduct typically costs firms 20% more to settle than misconduct by female advisers.

This injustice is inexcusable and must not, cannot continue. It is a black eye for the industry. Top officials at financial firms must examine their own records of disciplinary actions against employees to see how they stack up relative to the professors' findings.

The picture is not pretty, even for some of the largest firms. For example, Wells Fargo Advisers was found to be 25% more likely to dismiss a female adviser than a male adviser following misconduct. A. G. Edwards & Sons and Sun Trust Investment Advisers were not far behind.

These firms and others must take actions to correct the apparent discrimination against female employees.

If the industry does not acknowledge the research and immediately take steps to correct the unequal treatment, then Finra, the SEC or even the Equal Employment Opportunity Commission should intervene and pressure them to do so.

There are simple steps firms in the industry can take to correct the problem. First, hire or promote more women to the executive/ownership level. The professors found that female advisers at firms with no female representation at that level are 42% more likely to be let go after an incident of misconduct than male advisers at the same firm in similar circumstances.

THIS INJUSTICE CANNOT CONTINUE. IT IS A BLACK EYE FOR THE INDUSTRY.

EQUAL REPRESENTATION

Firms with equal representation of male and female executives/owners discipline male and female advisers at similar rates.

Second, hire more female advisers. The professors found that female advisers are only one-third as likely to engage in misconduct as male advisers, and as noted, settlements were less expensive when they did. Given that the professors also found minimal differences in productivity between male and female advisers, hiring more female advisers makes business sense.

The professors raise an important question: "Why don't some firms specialize in hiring more women who have been punished by the incumbent firms?"

They suggested two explanations: First, male executives' bias toward hiring men might outweigh their incentive to maximize profits. Second, the market is not aware of the potential cost of the discrimination, which is likely since the professors are the first to put forth this kind of information.

They note that owners and executives of financial advisory firms should ensure equal representation of the two genders, "if not for equity considerations then at least for a profit motive."

If top executives of financial firms truly are profit-maximizers they will fix the problem and let the world know they have done so.

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ONRETIREMENT

Gray divorce and Social Security

Length of marriage and time since divorce affect claiming options

While overall divorce rates in the U.S. remained stable between 1990 and 2010, gray divorce among spouses 50 or older doubled, jeopardizing the retirement security of millions of baby boomers. Now, one in four Americans getting a divorce is 50 or older, according to a 2013 study by professors at Bowling Green State University.

An email from an *InvestmentNews* reader demonstrates why older divorcing spouses and their advisers need to understand the nuances of Social Security claiming rules.

Normally, a couple must be married at least 10 years before divorcing for one ex-spouse to be able to claim Social Security benefits on the other former spouse's earnings record. To claim benefits as an ex-spouse, the person claiming benefits must remain unmarried.

Additionally, the couple must be divorced for at least two years before a former spouse can file for spousal benefits on an ex's earnings record if the ex has not yet claimed Social Security benefits. That's known as being independently entitled to a spousal benefit. Both former spouses must be at least 62 years old to exercise this option.

IN LIMBO

But in the first two years after a divorce, an ex-spouse may be in limbo. She cannot collect spousal benefits if her former spouse has not yet claimed Social Security benefits. That is the situation one *InvestmentNews* reader, who asked to remain anonymous, found herself in.

"Sadly, after more than three decades of marriage, I'm getting a divorce," she wrote. "My husband is ... 63 and I will be 65 this fall. After three calls to the Social Security office and after receiving three totally different explanations about my potential benefits, I am writing to you to see if you can figure it out."

The woman, who worked many years ago before becoming a full-time homemaker, is entitled to her own Social Security benefit of about $1,000 per month at her full retirement age of 66. Her ex-husband's retirement age benefit is substantially larger — about $2,700 per month if he claims at 66 or about $3,565 if he claims at 70.

But she cannot claim spousal benefits on her ex's earnings record because he has not yet filed for benefits. She must wait until two years after the divorce is finalized. In the meantime, she can claim benefits on her own earnings record. At 64, her benefit would be about $866 per month. Because she is not working, she doesn't have to worry about earnings restrictions.

But the reader wants to maximize her benefits. So she may want to wait until 66 to claim her full retirement benefit of $1,000 per month. Once the divorce has been final two years, she can step up to a larger benefit of $1,350, which is half of her ex-husband's full retirement age benefit, even if he has not yet claimed Social Security.

MARY BETH FRANKLIN

Although the ex-wife would be eligible to restrict her claim to spousal benefits only at 66 so her own benefits could earn delayed retirement credits of 8% per year up to age 70, it would not be worth it in this case because her maximum benefit at 70 ($1,320) wouldn't exceed her spousal benefit ($1,350). Only people born before Jan. 2, 1954, have the right to restrict their claim to spousal benefits at 66.

Should her ex- decide to wait until 70 to claim his maximum benefit, it would not affect her benefit amount because the maximum spousal benefit is worth half of the worker's full retirement age benefit if collected at 66 or later. Unlike retirement benefits, spousal benefits do not earn delayed retirement credits.

But if the ex-husband waits until 70 to claim his benefits and later dies, she would be entitled to 100% of what he was collecting at the time of his death, including any delayed retirement credits. If her ex-husband remarries, both she and his widow each would be entitled to full survivor benefits.

Because the ex-wife has earned Social Security benefits on her own work record, she is eligible for Medicare when she turns 65 this fall. Even if she did not work, she still would be eligible for Medicare at 65 as a divorced spouse who had been married at least 10 years once her ex-husband was at least 62 years old. There is no two-year waiting period after a divorce to enroll in Medicare.

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

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They are looking to advisers to be experts on retirement law.

Despite doubt, DOL rule upends 401(k) biz

Market shifts will largely remain intact in the event the regulation is amended or scrapped, and non-specialists are adjusting

BY GREG IACURCI

Even though its fate is unclear, the Department of Labor's fiduciary rule is upending the retirement plan adviser market, which spans the adviser spectrum from "dabblers" to defined contribution "specialists."

Observers say such changes began taking root prior to the promulgation of the rule last year but are being accelerated by the DOL regulation.

"The fiduciary rule has created a catalyst that has changed people's time frame," said Troy Hammond, president and CEO of Pensionmark Financial Group, with $40 billion in DC assets. "It's why we have this compression of activity."

The conflict-of-interest regulation, which raises investment advice standards for retirement accounts such as 401(k)s, is having an outsized effect on plan advisers whose primary revenue generator is individual wealth management rather than defined contribution plans. These dabblers, also known as "two-plan Tonys," represent by far the largest group of plan advisers, and they are most likely to serve plans in a nonfiduciary capacity today.

There are roughly 250,000 active, licensed financial advisers who either work on or get paid for a defined contribution plan, according to data from The Retirement Advisor University. Among them are an estimated 225,000 dabblers, those advisers who oversee fewer than five DC plans, according to TRAU.

"Core" advisers — a middle-tier group managing at least five DC plans — number 22,500. There are just 2,500 "elite" or "specialist" advisers, who manage more than $250 million in DC assets and derive the bulk of their revenue from DC business.

"These onesie-twosie folks have to make a decision if they're in [the DC business] or not, and if they're in it, they have to make some changes," Mr. Hammond said.

'ALL OVER THE MAP'

Broker-dealers are "all over the map" in terms of how they're helping their brokers comply with the regulation and mitigating their own risk in the process, if those brokers remain in the DC market, said Robin Green, head of research at Ann Schleck & Co., an affiliate of fiduciary consulting firm fi360 Inc. that provides retirement industry research.

At a minimum, there's a "broad requirement" among broker-dealers that advisers receive fiduciary training, whether through an internally created or external program, said Marcia Wagner, principal at The Wagner Law Group. Such trends had emerged prior to the DOL rule, largely as a result of 401(k) litigation that has proliferated in recent years, which has broadened awareness of fiduciary responsibility and tenets, observers say.

Thus, even if the rule doesn't survive in its current form — and many expect that it won't given the Trump administration's call to review the rule and delay its implementation, the initial phase of which is supposed to begin April 10 — experts believe many market changes are here to stay.

'HORSE HAS LEFT THE BARN'

"The horse has left the barn," Ms. Wagner said. "The question is will it trot or will it gallop?"

As a compliance example, LPL Financial, the largest independent broker-dealer in the U.S., with roughly 14,000 advisers, is telling advisers to use one of five options if they want to continue doing DC business, said David Reich, executive vice president at LPL Retirement Partners, which oversees roughly $127 billion in DC assets.

Advisers can outsource fiduciary investment services, such as fund selection and monitoring, and some administrative work, such as reporting and semi-annual benchmarking, to LPL through its Small Market Solution program. Advisers can opt to use a program called the Tool Suite that allows LPL to monitor advisers to ensure they've fulfilled their fiduciary responsibilities.

Advisers can also serve plans in an advisory rather than brokerage capacity

EDITOR'S NOTE

Retirement gets a deeper dive

As you can probably guess by the launch of our RPA supplement, *InvestmentNews* is stepping up its game when it comes to producing compelling editorial content for financial advisers who serve retirement plan sponsors and participants.

InvestmentNews' Retirement Plan Adviser will feature insightful stories on the issues and trends that affect plan advisers, as well as commentary from industry thought leaders. As the role and business of retirement plan advisers shifts dramatically, *InvestmentNews*' Retirement Plan Adviser will help financial advisers better serve existing clients — and, importantly, attract new ones.

As a new quarterly supplement produced by *InvestmentNews*' team of reporters and editors, Retirement Plan Adviser will build on the rich and varied content the magazine has covered in recent years in the retirement plan adviser market. Much of that content will be produced by *InvestmentNews* reporter Greg Iacurci, who has been writing almost exclusively about the retirement plan advice market since late last year.

FRED GABRIEL

In addition, *InvestmentNews* has recruited a nationally recognized expert in the retirement plan advice market to help guide its efforts. Fred Barstein, who was the driving force behind the launch of NAPA Net in 2012 as the founding editor-in-chief and NAPA Net the Magazine in 2013, has recently joined us as a contributing editor to help Greg and me to develop editorial content and initiatives aimed at retirement plan advisers.

In addition to editorial content, *InvestmentNews* will produce events and research aimed at helping plan advisers better serve existing clients and attract new ones.

This is an exciting initiative here at *InvestmentNews*, one that has been in the works for nearly a year. We look forward to covering the retirement plan advice market and being a part of its growth.

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through the Retirement Partners Consulting Program, which requires completion of a fiduciary educational program.

Further, they can outsource fiduciary investment responsibility to third-party providers available through record-keeping platforms and partner with specialists. LPL discourages that route because it's more difficult to supervise, Mr. Reich said.

Several observers, such as William Chetney, the founder of Global Retirement Partners, said the wirehouses are taking "pretty hard-line positions" on compliance.

One wirehouse, Morgan Stanley Wealth Management, requires partnerships on "large" DC plans, said spokeswoman Christine Jockle. She declined to quantify a specific plan-size threshold, but said the partnerships are "particularly valuable in the world of retirement plans, where the complexity grows with the size of the plan."

Less-experienced Morgan Stanley advisers can partner with a "corporate retirement director" at the firm or with a director within Graystone Consulting, the firm's institutional consulting arm.

Earlier this month, Morgan Stanley partnered with the record keeper Ascensus to offer a packaged fiduciary product for small 401(k) plans with up to $10 million in assets. The product, ClearFit, allows Morgan Stanley advisers to serve clients in a nonfiduciary capacity, while Morgan Stanley takes on fiduciary responsibility associated with 401(k) investment selection.

Spokespeople for Wells Fargo, Merrill Lynch and UBS declined to comment.

'ON THE FOREFRONT'

"I think a lot of firms will continue to move in that direction even more and put their specialists on the forefront so they can feel like they're protected," said Brady Dall, an adviser at 401(k) Advisors Intermountain, with more than $2 billion in DC assets.

Mr. Dall, whose broker-dealer is LPL, has been partnering with less-specialized advisers both in and outside of LPL for several years and believes doing partnerships "is going to get trickier" because of the DOL fiduciary rule.

That's because a dabbler getting paid for the referral of a specialist to a client could become a fiduciary under the rule, and becoming a fiduciary is "what they were trying to avoid by bringing us in" to begin with, Mr. Dall said.

Referrals may slow down as a result, depending on broker-dealers' response, he said.

Babu Sivadasan, group president of Envestnet Retirement Solutions, which provides third-party fiduciary services, believes there's another challenge as well — a nonspecialist might not be "comfortable" working with another adviser and sharing a client relationship.

COMPRESSING THE SMALL MARKET

Overall, the fiduciary rule is "compressing the small end of the marketplace, which is a good thing for mid-level and elite advisers," said Mr. Chetney, who oversees a network of independent advisory practices with $200 billion in DC assets.

However, midlevel advisers also have to make a choice to stay or go, and some are approaching specialists to buy out their practices, Ms. Wagner said.

"Are they really going to jump into the [Employee Retirement Income Security Act of 1974] pond feet-first? If they do, they'll become specialists," she said. "You can no longer be half pregnant."

Ms. Wagner advised on a recent deal in which a wealth manager sold his book of DC business, which made up roughly 25% of his revenue, to a specialist. The wealth manager decided bringing that business into compliance with the DOL rule wasn't worth the amount of resources needed to do so, she said.

"I think [wealth managers], if they're wise, will get out of the pension or ERISA world unless they intend to learn it," Ms. Wagner added.

NONEVENT

For specialist advisers, the fiduciary rule "is kind of a nonevent," Ms. Green said, explaining that specialists always have been fiduciaries and are "regimented" in how they serve clients.

Observers also say specialists advise less frequently on rollover transactions, one of the areas seen as causing the most compliance difficulty. Any operational changes required by specialists as a result of the rule are often slight nuances, such as tweaking documentation, Ms. Green said.

However, large RIA "aggregators" such as Global Retirement Partners, NFP Corp. and Pensionmark have seen an uptick in interest from advisory groups looking to join their ranks, according to their executives. Pensionmark, for example, will be onboarding more advisers in the second quarter this year than it previously has in a whole year, Mr. Hammond said.

Advisers look to leverage the firms' technology, practice management, compliance and sales support and other resources such as staff ERISA attorneys, for example, observers said.

But joining the ranks of these so-called aggregators comes with a "big haircut," whether it's a large fee or the loss of independence, Mr. Dall said. And the firms can be selective in which groups they choose to ultimately join their ranks, observers said.

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Large advisory shops build custom TDFs

Firms can deliver funds at a lower cost, but some raise concerns about conflicts

BY GREG IACURCI

Advisory practices with tens of billions in defined-contribution-plan assets are building custom target-date funds for advisers to use with clients, leveraging their scale to deliver low-cost funds to even the smallest retirement plans and, in the process, creating something of a marketing tool.

"I do see it as kind of a trend," said Todd Stewart, director of investment research at SageView Advisory Group, which advises on $70 billion in DC assets and is considering building custom funds. "It seems like more advisory firms are offering the solutions, and we're getting more questions about them when we talk to plan-sponsor prospects."

NFP Corp. has had the most traction to date. The firm's flexPATH Strategies funds, which launched in June 2015, hold $3 billion in assets among roughly 300 clients.

Pensionmark Financial Group's funds, which debuted around the same time, in April 2015, have $300 million. And Global Retirement Partners is launching its series in the second quarter this year.

LOW FEES

While each advisory firm's approach differs from the others, there is a common denominator: low fees.

The firms use their scale to pool retirement plan assets in the funds and drive fund costs below those of a typical TDF. Use of collective investment trust funds, rather than mutual funds, as an investment vehicle drives further cost efficiencies, firm executives said.

As an example of scale, NFP's network of advisers oversees $300 billion; the majority is through its Retirement Plan Advisory Group, a wholly owned subsidiary, which comprises a network of about 400 independent advisory shops servicing 28,000 retirement plans with an aggregate $200 billion in assets. Similarly, GRP has $200 billion in retirement plan assets across its advisory network, and Pensionmark Financial Group has $40 billion.

As is the case with any investment in a DC plan, lower costs most acutely benefit the small-plan market.

Participants in 401(k) plans with more than $1 billion in assets pay an average TDF fee of 46 basis points, on an asset-weighted basis, while those in plans with between $1 million and $10 million pay close to double, at 81 bps, according to a joint study by BrightScope Inc. and the Investment Company Institute. By comparison, GRP's funds will range in price from roughly 9.5 bps to 35 bps, depending on the chosen TDF suite, and are available to any plan size, GRP founder William Chetney said.

"We can bring scale to the retirement plan in the mid to small marketplace," said Barbara Delaney, founder and principal at StoneStreet Advisor Group, a GRP member firm.

Similarly, Pensionmark's TDFs, which are passive funds managed with an eye toward volatility reduction, cost about 29 bps, said Troy Hammond, president and CEO.

Executives say the funds help their respective firms stand out both among advisers and plan sponsors.

"It's designed to be a differentiator for our advisers out in the marketplace," Mr. Hammond said. "We've earned clients from it, for sure. It's been a huge competitive advantage."

Such activity is occurring as participant assets in the funds have ballooned, and TDFs have become employers' default fund of choice. Target-date mutual funds held $880 billion at the end of 2016, up from $116 billion a decade ago, according to Morningstar Inc.

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Why auto-IRAs deserve a real shot

A bipartisan effort to expand retirement savings has gotten misconstrued in a toxic political climate

Our private pension system has accomplished a great deal. But the greatest shortcoming of our system and main unfinished business of the Employee Retirement Income Security Act of 1974 is that it leaves far too many behind.

Some 55 million working Americans lack access to an employer plan or any other convenient way to save at work. These include employees of small employers — most of whom have chosen not to sponsor a plan — and independent contractors or other contingent, temporary or part-time workers.

J. MARK IWRY

Persuading the reluctant employers to sponsor plans would be the ideal way to expand coverage. We've been trying and need to continue. But despite our best efforts, including additional tax incentives, the percentage of the workforce covered has remained essentially stagnant for decades.

That's why, in 2006, under the auspices of the nonpartisan Retirement Security Project, I co-authored with David John, then a Heritage Foundation senior fellow, a proposal to finally achieve a breakthrough in retirement coverage — supporting and enhancing the employer plan system rather than competing with it. Under our proposed "automatic IRA" — which also has been the template for most state-based programs — employers choosing not to sponsor a plan would simply let employees use their payroll system to save in an automatic-enrollment, payroll-deduction IRA that allows employees to opt out.

EMPLOYER PLANS

An important purpose of the auto-IRA is to encourage more employers to adopt employer plans instead, through various incentives such as employer contributions, higher employee contributions and larger tax credits — all designed to favor adoption of tax-qualified, ERISA-governed retirement plans over IRAs. Employers currently sponsoring plans would not be part of the auto-IRA program. The smallest and newest employers also would be exempt.

The auto-IRA, developed on a bipartisan, trans-ideological basis, was co-sponsored in Congress by Republicans and Democrats, supported in 2008 by both presidential candidates Barack Obama and John McCain, and endorsed in *New York Times* editorials and in articles in the conservative *National Review* and *Washington Times*. It promised to move the nation far closer to universal retirement savings coverage — providing an estimated 30 to 40 million additional workers with private-sector, tax-favored individual accounts owned by individual savers.

But after efforts to achieve bipartisan health reform resulted in Congress' enactment of the Affordable Care Act on a party-line vote in 2010, the political atmosphere turned bitterly partisan, and the auto-IRA

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Where does social media fit in your marketing plan?

Outreach to online networks is not a silver bullet but a component of an overall strategy for growth

SHERI FITTS

I didn't start my career in marketing. In fact, my first desire to understand marketing was because I had a sizable sales goal. My position required me to reach a national audience with little to no brand recognition — or marketing budget. So in 1998, I experimented with the new world of email marketing and focused my efforts on permission marketing.

Fast-forward to 2006, when I led the marketing effort for a record-keeping firm in Portland, Ore. At that time, the social media sphere was just getting off the ground. Most of the training around social shouted, "Join the conversation!" Little attention was paid to return on investment or how social could serve sales.

I've been away from the intersection of sales and ROI for more than a decade, coaching advisers at LPL Financial or doing executing branding, marketing and digital for financial firms through my own company. But I've held firm to my belief that the purpose of marketing is to sweep the path for sales. I also believe social media is not a silver bullet but a component of an overall marketing plan.

GETTING STARTED

Recently I've made a move to be the embedded chief marketing officer for Sheridan Road Financial, a 401(k) advisory firm. Once again, I get to walk my talk with regard to permission marketing (in which a prospect explicitly agrees in advance to receive marketing information). As I step into my role and begin to plan our marketing, digital and social strategies, I'd like to share my process and thoughts around how to get started — and some important considerations.

USE THE FREE WORLD OF DIGITAL AND SOCIAL TO EXTEND EXISTING EFFORTS AND BROADEN YOUR DIGITAL FOOTPRINT.

Get clear about where we're going.

What are our social media goals? Social media is such an expansive arena that identifying a goal may be difficult. In my case, I plan to focus on three major areas: brand awareness, public relations and lead generation. These goals will drive where, when and how we opt to participate.

As an example, brand awareness for 401(k) plan participants might happen

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Plan sponsors want help with fiduciary duties

Firms look to retirement advisers to be experts on the law, and even sometimes on their investments

BY LIZ SKINNER

Fear is often present in the minds of professionals tapped to bring retirement benefits to the employees of their companies and other organizations.

Plan sponsors worry about participants suing over inferior investment choices or high fees. At the same time, they're anxious about the Labor Department or Internal Revenue Service finding fault with their plan design or processes. They want advisers who are experts on the intricacies of the laws governing retirement plans, as well as a partner to share the stressful liability.

"I'm looking for some [cover] on my fiduciary responsibilities," said Jim Richardson, financial analyst and plan administrator for Diversicare Healthcare Services Inc., a nursing home company with a $28 million 401(k) plan. "I need them to keep me apprised of what's in the pipeline of what's coming down from the DOL."

The Labor Department fiduciary rule due to take effect in April will raise investment advice standards in retirement accounts such as 401(k)s. Even though it may be delayed or thrown out by President Donald J. Trump's administration, it has helped to pique the interest of plan sponsors about the obligation to protect plan participants.

Additionally, litigation targeting corporations and universities for breach of fiduciary duty related to their retirement plans has ramped up during the past year. In one case last month, JPMorgan Chase & Co. was sued by a participant in its $21 billion 401(k) for allegedly causing employees to pay extra in fees for proprietary funds when other companies' alternatives would have been cheaper and performed better.

Nationally, plan sponsors have identified fiduciary concerns as their overriding issue when selecting an adviser.

About 38% of plan sponsors report they are most concerned about having an adviser who can help with their fiduciary duty, according to a Fidelity Investments survey released in August. Only about 24% of plan sponsors were worried about that issue in the previous year's survey.

Seven out of 10 firms said an adviser's willingness to undertake fiduciary responsibilities was "important," the survey of 976 plan sponsors found.

"We want an adviser who is willing to act as a fiduciary so that in the event we are sued or something is wrong with the plan, that they have some skin in the game," said Robert Young, controller for the Environmental Defense Fund. "We need to know they are looking out for the best interest of the plan and not necessarily for their friends or comrades in the industry."

HARD TO FIND GOOD HELP

The environmental group fired its last retirement adviser more than a year ago because he wasn't a fiduciary and he wasn't responsive to its questions about fees in the plan. EDF has an $80 million 403(b) plan for its employees, and a separate 457(b) plan for highly compensated individuals.

Two other issues came up frequently with plan sponsors when they were seeking an adviser. About 32% wanted help with plan investments and 20% were looking for a better understanding of how well their 401(k) plan was working for employees, according to the most recent Fidelity Investments survey.

About one-quarter of the plan sponsors said they currently are looking for a new adviser.

Dwyer Instruments Inc. went shopping for a new adviser a few years ago in part because it wanted help with the investments for its 401(k) plan. At the time, the company's record keeper also managed some of the funds in the plan, creating a conflict of interest.

"I would never get a recommendation to put a fund on a watch list even if it was underperforming," said Tom Alexander, Dwyer's corporate director of human resources.

The commercial instrument maker's new adviser helped Mr. Alexander revamp the plan, eliminate the conflict and create an investment policy statement with parameters for replacing funds and putting them on watch lists.

The adviser also increased the level of education that employees receive, including holding one-on-one discussions with the staff.

Under the new adviser, participation in the plan jumped to more than 70%, from less than 40%, Mr. Alexander said. Assets in the plan increased from about $350 million to over $1 billion today.

For some plan sponsors, the top priority is making the plan work better for participants.

> **"WE WANT AN ADVISER WHO IS WILLING TO ... HAVE SOME SKIN IN THE GAME."**
> ROBERT YOUNG, CONTROLLER ENVIRONMENTAL DEFENSE FUND

ENCOURAGING PARTICIPATION

Companies today are more willing to pay for employee education and tools that can help change employee behavior and boost participant rates, said adviser Daniel Bryant, CEO of Sheridan Road Financial.

Plan sponsors also are increasingly receptive to plan design changes and features that help build up individuals' retirement savings.

"We have a systemic problem in this country in that an entire generation is ill-equipped to retire," Mr. Bryant said. "People are working longer because they can't afford to retire, and that increases costs to the company and can lower its productivity."

Some retirement advisers said plan sponsors value the partnership that advisers provide, as well as the help making the thorny details of the Employee Retirement Income Security Act understandable.

"We work as an advocate for them with providers, as well as with the participants," said Jamie Greenleaf, principal and lead adviser with Cafaro Greenleaf. "They appreciate that we take work off their desks and simplify the complex."

Kurt Laubinger, president of Potomac Wealth Management, said plan sponsors are grateful for the little things that an adviser takes care of, such as jumping on conference calls between the record keeper and the company to make sure both are on the same page.

Several advisers agreed that plan sponsors don't want to get too into the nitty-gritty of benefits law.

"Knowing the nuances of what we do, and the ERISA rules, isn't always top of mind for them," Mr. Laubinger said. "Providing honest and unconflicted support is what's valuable to them."

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Metamorphosis of DC investment-only wholesalers

Asset manager units focused on defined contribution plans are facing some harsh realities. What does the future hold for them?

In the 1949 Arthur Miller play "Death of a Salesman," 63-year-old Willy Loman confronts his future. Bombastic and unrealistic, Mr. Loman looks in the mirror and sees few, if any, viable or attractive alternatives.

Though it's not as bleak, financial services wholesalers, especially with defined contribution investment-only firms, are facing some harsh realities, as are retail mutual fund wholesalers. Are we finally at a point where selling investments in defined-contribution plans will change dramatically, and what does that portend for DC advisers and the industry overall?

Many DCIO firms, especially long-only active managers without a viable target-date fund, are facing harsh realities, either exiting the market entirely, or effectively, by cutting back on outside reps. It's interesting to note that two firms entering the market, TIAA-Nuveen and State Street Global Advisors, have robust TDFs and passive strategies.

FRED BARSTEIN

So what's causing these current changes?

- The move to index funds, even for those that benefit, affects profitability.
- Asset allocation funds like TDFs are attracting 60%-70% of new contributions, leaving less for single funds to draw upon.
- Asset allocation funds take the underlying investment decision from advisers, so why send wholesalers to meet with them?
- Multimanager collective investment trusts, like asset allocation funds, take underlying investment decisions from advisers.
- Tracking results of DCIO wholesalers has always been hard and, though it's getting better, is not very good.
- Advisers looking for more revenue are using index funds to maintain or increase their fees by shifting costs.
- The DOL rule is a harbinger of a movement that limits support for advisers. The days of trips to Hawaii and even high-priced steak dinners may be over.

What does the future likely hold for DCIO firms and their external wholesalers? Successful firms will be more focused on:

1. The right advisers. Not just the ones with significant assets, which is obvious, but also those who are growing aggressively and are sympathetic to the firm's investment strategies. DC plans are attractive because assets are sticky — DCIOs should build deeper relationships with advisory practices that believe in the firm and their philosophy over different market cycles.

2. The right broker-dealers. All B-Ds will not survive the DOL rule in whatever form it may take but, more importantly, they will not survive the move to a fee-based fiduciary world where advisers need different types of support, not just compliance and access to different products.

3. The right record keepers. Not all record keepers will survive the consolidation. In the end, there will be nine survivors in the adviser-sold "smid" market ($3 million- $250 million), not including those affiliated with banks, payroll companies or micro-market outsourcers. Betting on the wrong platform can be costly and finding the right fit (those not pushing competing prop funds) will be just as important.

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In an increasingly crowded marketplace of about 60 different target-date mutual fund series, asset managers have attempted to stand out by launching funds with lower costs and different investment strategies, investment vehicles and asset allocations.

Some observers are wary of potential conflicts of interest that may arise from advisers recommending their firm's TDFs, particularly if the advisory firm receives compensation from the funds.

Mr. Stewart of SageView said that the firm has been mulling whether to offer its own custom funds, and that compensation has emerged as "the main hurdle."

'CREATE A CONFLICT'

"We don't think at this point that we could build in revenue for ourselves into a CIT that would not ultimately create a conflict of interest for us in working for our clients," he said.

NFP, for example, outsources the funds' glidepath construction to BlackRock Inc., but receives a fee for serving as an investment fiduciary, selecting and monitoring the underlying money managers, said Nick Della Vedova, president of NFP Retirement.

"We're delivering an additional service to a client, and that's something the client chooses to use or not use," he said.

The TDFs are available in either a fully passive strategy or a blended strategy (called Index+), and with three different glidepaths.

A fund fact sheet for the R1 fund class of the flexPATH Index+ Aggressive Retirement Fund lists NFP's sub-advisory fee at 10 bps, out of an overall fund cost of 43 bps; the indexed version's sub-advisory fee is 5 bps out of a total 19 bps.

GRP and Pensionmark outsource both investment management and glidepath construction to third parties, and don't receive compensation through the funds.

Mr. Stewart believes there still could be the perception of a conflict, even without earning compensation. But firm executives stress their advisers will, as fiduciaries, select another fund for clients if there's a better fit.

"The reality is, we don't sell it to everybody," Mr. Hammond said. "If the fund isn't the right solution and off-the-shelf is more appropriate, we'll make that recommendation."

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4. The right value add. Actionable support that not only helps advisers, but also benefits their clients and the market overall.

5. New platforms. Aggregators or specialty groups are growing and will only continue to expand as DC plan advisers need special support. Despite fewer advisers and overall assets than larger B-Ds, time and resources spent with these aggregators will be more fruitful. Also, next generation qualified default investment alternative providers like Envestnet, which are product-agnostic and may even allow advisers to use the plan's underlying investments, are another burgeoning market.

6. New markets. 403b plans are ripe for DCIOs, especially as they move to single-vendor platforms. Government plans should open up as states and municipalities move from DB to DC plans as private entities did over a decade ago.

7. New wholesalers. As advisers move to a fee-based, fiduciary world, they need coaching on how to build and manage their businesses. DCIO wholesalers should morph from selling products, like Willy Loman, to consulting on all aspects of the adviser's business.

Optimally, advisers should be able to run their practices without any financial support from providers — some are there already. Regardless, advisers should start weening themselves off of this direct financial support over time.

Beyond support, advisers should only work with DCIO and record-keeper firms and wholesalers that understand their businesses and are willing to provide support as well as business coaching, which includes shared wisdom with access to peers to discuss what others like them are doing.

The world is changing, heralded by the DOL rule but not caused by it. Are you prepared?

Fred Barstein is the founder and CEO of The Retirement Advisor University and The Plan Sponsor University.

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proposal lost its bipartisan co-sponsorship in Congress, at least for the time being. Eventually, though, increasing numbers of states began adopting the auto-IRA proposal in the form of state-facilitated auto-IRAs (similar in some ways to existing state-based 529 college savings plans).

As Congress failed to enact a uniform, nationwide solution, California, Connecticut, Illinois, Maryland and Oregon have enacted state-based auto-IRAs. Over 20 other states are considering similar bills.

Would more employer-sponsored ERISA-governed retirement plans be better? Absolutely. But for all our efforts, most small businesses still don't sponsor any.

OPTIONAL APPROACH

We've also tried an optional approach to payroll-deduction IRAs for nearly two decades, making them available as an option to employers that choose not to sponsor a plan. Employers haven't responded. By all accounts, hardly any payroll-deduction IRAs have been adopted, and we know of none using auto-enrollment. Yet payroll-deduction IRAs are far less effective without auto-enrollment — which can be and is provided for under state-facilitated auto-IRAs.

Would the single, uniform, federal auto-IRA solution be more efficient than multiple, state-sponsored auto-IRA programs? Certainly. But as long as Congress doesn't act, states are leading the way. Auto-IRA legislation in a growing number of states may be what it takes to finally win the support of a hesitant financial services industry — some members of which already recognize the long-term benefits to them, and the nation, of tens of millions of new savers and ultimately trillions in additional assets under management — and spur congressional action.

The sooner Congress enacts auto-IRA, the sooner states will stop adopting new auto-IRA programs, and the sooner existing state programs can be coordinated with or subsumed under the uniform federal umbrella legislation.

Once tens of millions of additional employees and their employers first experience the benefits of tax-favored workplace saving through auto-IRAs, many more employees are likely to demand the more generous ERISA plans, including employer matching contributions, and more employers should then be willing to step up and sponsor them.

In fact, once a state program is launched, it should boost 401(k) plan formation, as providers market 401(k)s to smaller employers, some of which will be more open to the 401(k) or SIMPLE IRA as alternatives to adopting a payroll deduction IRA.

The House of Representatives has passed, and the Senate is considering, a resolution under the Congressional Review Act disapproving the Department of Labor's 2016 safe-harbor rule confirming DOL's view that state-facilitated auto-IRA programs are not preempted by ERISA.

Congress should refrain from intervening under the CRA. But even if Congress disapproves the DOL rule under the CRA, the final say on these ERISA issues rests with the federal courts if they choose to address them.

DOL's rule, deregulatory in nature, makes it easier for states and localities to exercise their rights to promote retirement savings for their citizens, through use of personal accounts invested in the private sector that ultimately relieve pressure from taxpayer-funded public assistance programs. And these programs will help promote growth in our economy and retirement security for working families.

You can read the unabridged version of this column at InvestmentNews.com.

> DESPITE ALL OUR PREVIOUS ATTEMPTS TO PROMOTE PLANS, MOST SMALL BUSINESSES STILL DON'T SPONSOR THEM.

J. Mark Iwry is a former senior adviser to the secretary of the Treasury and the deputy assistant secretary for retirement and health policy at the U.S. Treasury Department during the Obama administration.

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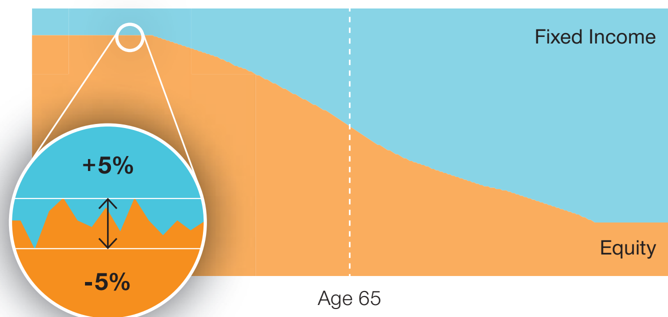

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CONTINUED FROM PAGE 15
via Facebook; public relations may be navigated via Twitter.

What is our digital footprint?

Where are we now? What does our digital footprint look like? And not just the company's digital presence, but the whole team's. Is it consistent? Professional? Human? What is our voice? Does it need to shift?

What about website traffic?

From my initial review of our Google Analytics, I see that we have a high bounce rate — more than 40%. (Bouncing is when someone lands on your site and then immediately clicks off.)

This is concerning. I want this to be down in the 10% to 20% range. I'll be tweaking our home page messaging, layout and load time to drive this down. In addition, I'll be adding valuable content in a variety of formats to increase how long folks stick around on our site.

How will social dovetail with all sales and marketing efforts?

Social media is not a silver bullet. Instead, it is a component of a broader marketing approach. All marketing budgets are limited. How can I use the free world of digital and social to extend our existing efforts and broaden our digital footprint?

As an example, we hosted an event in Nashville, Tenn., recently. As a follow-up, we're digitally touching attendees and no-shows with email thank-you notes, LinkedIn connection requests and webinars.

SWAT TEAM

Initially, I see an opportunity to create a social media SWAT team within Sheridan Road — a group of three to five of us who will continue to collaborate on how to best accomplish this. (Think photographers, onsite reporters, etc.)

What will be our success criteria?

Beginning with the end in mind is the essential piece of an effective plan. And with all types of marketing, it will take some time to learn the landscape and make an impact.

In the past, many firms simply focused on the quantity of followers or connections. These days, that doesn't make sense — it is not a popularity contest. I plan to measure quality:

- **Quality of leads generated:** How can I build out our email list? How can I sweep the path for sales?
- **Quality of web activities:** How sticky can I make our website? (Reduce the bounce rate, as an example.)
- **Quality of interactions:** How can I improve our webinar attendance?
- **Quality of press:** How might I garner more press coverage of our events and activities?
- **Quality of presence:** How can I have more of our thought leaders featured as contributors or speakers for important industry publications and events?

My intention is to continue to share my journey with you. Hopefully, we'll all learn and discover along the way.

Sheri Fitts is chief marketing officer with Sheridan Road Financial. She was most recently the founder and president of ShoeFitts Marketing, an interactive and branding agency focused on the retirement industry.

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6 essential ingredients to life insurance advice

Guidance should follow a decision-making framework that's been tested and proved reliable

There's never been a better time to provide life insurance advice. Guiding clients through a proven decision-making process to products in their best interests can be a terrific way to build a business.

Advice differs from product sales in that advice follows an established decision-making framework that's been tested in the courts and proved reliable over almost 200 years. Examples include ERISA for retirement plans, the Uniform Prudent Investor Act for private trusts (to include life insurance trusts), and fiduciary standards for investment advisers, trustees and investment committee members.

BEST PRACTICES

The elements of such an established and proven decision-making process generally include The West Point Draft of Best Practice Standards comprised of these six steps:

1. Define. Too often, conversations about life insurance start with some flavor-of-the-day product. Instead, starting the conversation with your role in the planning process distinguishes you as an adviser

> **DIFFERENT PRODUCTS ARE DESIGNED FOR DIFFERENT RISK PROFILES.**

who is serving the client's best interests, and leads to more referrals and better relationships with the client's CPA, attorney, etc.

2. Analyze. Some life insurance products are designed for maximum accumulation for a defined contribution whereas others are designed to minimize premiums for a defined death benefit. Different life insurance products are also designed for different risk profiles. As such, advising clients about the prudent selection and proper management of life insurance requires an understanding of their circumstances, goals and objectives.

3. Strategize. Most universal life and whole life products are required as a practical matter to invest cash values predominantly in high-grade bonds and government-backed mortgages. On the other hand, variable products allow for allocation to various asset classes. As such, product type is a function of the risk tolerances of the client, corresponding asset-class preferences, the time horizon and expected outcomes.

4. Formalize. The life insurance industry is full of constraints and conflicts. With more than 10,000 pricing combinations and permutations for every product, cost of insurance charges being the largest expense (not commissions), and as much as an 80% variance between best-available rates and terms and worst-available rates and terms, no insurer, product, compensation model, distribution system or proprietary product is inherently better for all clients or all situations. Understand the universe of products for the peer-group identified in Step 3 and discuss constraints and conflicts.

5. Implement. A search for best-available rates and terms considers at least the financial strength and claims-paying ability of the insurer, the competitiveness of internal policy charges, the stability of the insurers' pricing representations, the accessibility to/restrictions on policy cash values, and the historical performance of invested assets underlying policy cash values. It avoids illustration comparisons now considered misleading, fundamentally inappropriate and unreliable by industry authorities. Additional considerations can be underwriting capabilities and ongoing service and reporting.

6. Monitor. Life insurance has been the most disappointing asset type relative to client expectations for decades due in part to lack of monitoring, reporting and management. Advising about the prudent selection and proper management of life insurance, therefore, involves periodically checking on changes in the health, risk tolerance, time horizon, performance expectations and/or planning objectives of the client, changes in the financial stability and claim-paying ability of the insurer, and/or changes in internal costs, investment performance and/or the funding adequacy of policy holdings.

Barry D. Flagg is the founder of Veralytic Inc. Follow him on Twitter @BarryDFlagg.

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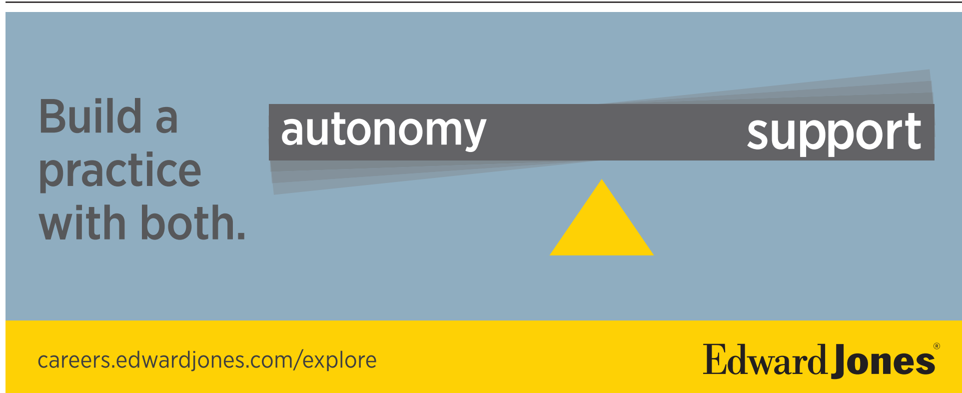

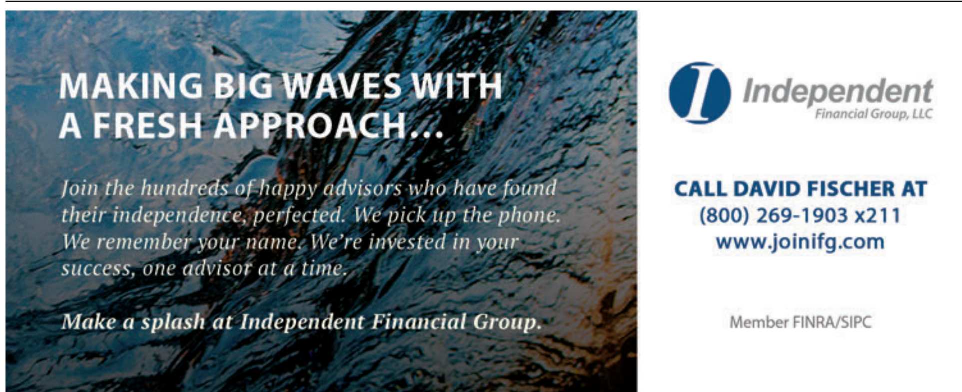

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MAKE THE SMARTER MOVE

RETIREMENTPLANS

Merrill preps 401(k) fiduciary platform

Firm will expand pool of advisers with retirement designations

BY GREG IACURCI

MERRILL LYNCH Wealth Management outlined plans last Wednesday to transition its defined contribution plan business to a fiduciary model. Its announcement came several months after the firm made public similar plans for its retail retirement business and as the implementation deadline for the Department of Labor's fiduciary rule approaches.

The wirehouse said advisers servicing DC plans of a certain size will, after a yet-to-be-determined date, be a fiduciary when providing advice or recommendations for a retirement plan's investment menu.

Merrill's 14,000-plus advisers must have a special designation from the company or partner with advisers more specialized in servicing retirement plans to keep working with these types of clients. It is broadening the pool of advisers able to receive such a designation.

> **"THIS IS REALLY AN EXTENSION OF THE FIDUCIARY CAPABIILTY."**
>
> STEVE ULIAN, HEAD OF INSTITUTIONAL RETIREMENT AND BENEFIT PLAN SALES, MERRILL LYNCH WEALTH MANAGEMENT

"This is really an extension of the fiduciary capability, offering it to all plans," said Steve Ulian, head of institutional retirement and benefit plan sales/relationship management at Merrill.

The approach differs significantly from the way many brokerage firms currently advise retirement plans, often in a nonfiduciary capacity.

Merrill and its counterparts have been announcing changes to the way they do business with retirement plans because of the DOL fiduciary rule, which raises investment advice standards in 401(k)s and other retirement accounts.

Morgan Stanley Wealth Management, for example, announced March 8 it is partnering with record keeper Ascensus on a product that aims to help advisers service small 401(k) plans in a fiduciary capacity when the rule kicks in.

Merrill also decided to disallow the use of commissions in the vast majority of advised IRAs in response to the regulation.

The DOL rule's implementation phase is set to begin April 10, but the Trump administration is currently trying to delay it, with amendments to the regulation or its rescission possible. Merrill signaled it will go ahead with its changes regardless of the outcome.

The firm has three record-keeping distribution channels: the proprietary Bank of America record-keeping platform known as ML2; the Advisor Alliance program with 11 record-keeping partner firms; and "nonplatform" record keepers, such as Fidelity Investments.

Going forward, Merrill advisers will have to service a DC plan with less than $50 million in assets as a 3(21) investment fiduciary, a co-fiduciary role under the Employee Retirement Income Security Act of 1974, in which an adviser makes an investment recommendation and a plan sponsor chooses to implement the suggestion. A 3(21) service through Merrill advisers is presently available only through the nonplatform record keepers, and on a limited basis through its proprietary record keeper, but not through Advisor Alliance.

Now, qualified Merrill advisers will be able to offer a 3(21) service across all three channels.

"Obviously, [Merrill] is broadening this program to embrace the fiduciary concept," said Denise Valentine, a senior wealth management analyst at Aite Group.

FOUR DC CLIENTS

Advisers currently offering 3(21) services must have an internal designation as a Retirement Benefit Consultant that has been earned by having at least $100 million in DC plan assets or four DC clients, as well as a certain level of specialized training. The wirehouse is easing some of the requirements. Under the new system, an adviser will need $30 million in plan assets or four DC clients, as well as training.

Merrill is also introducing another designation, a Retirement Accredited Financial Advisor, earned with specific training and a minimum of three DC clients. There's no plan asset minimum.

Advisers without these designations must partner with designated advisers to deliver fiduciary services to a DC plan.

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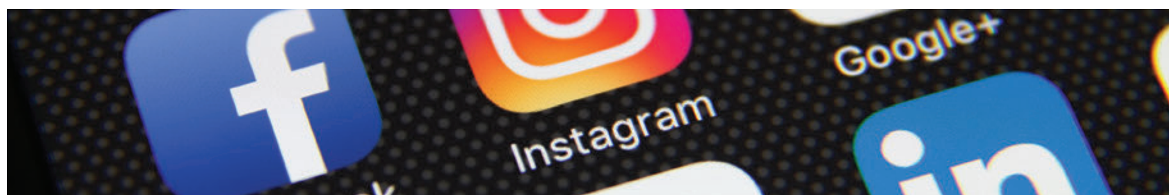

SOCIALMEDIAADVISER

Get the scoop on social

Web networking tips just for financial advisers

Welcome to the first installment of Social Media Adviser, my new column dedicated to social media tips, tricks and instruction for financial advisers.

SCOTT KLEINBERG

Before starting at *InvestmentNews* in November, I worked for many years as the social media manager at the Chicago Tribune, where I wrote a nationally and internationally syndicated social media column called So Social. My goal in nearly five years of writing the column was to make social media fun and easy to navigate.

That's exactly what I have planned for Social Media Adviser, except this time I'll be focused on what's important and relevant to you, the financial adviser.

I have 21 years of journalism experience as a reporter, designer and editor at newspapers small, medium and large, and switched gears into full-time social media engagement and management in 2008. Since then, I've built a social media following of nearly 14,000 on Twitter, 23,000 on Facebook and thousands more on Instagram, Pinterest, Google Plus and Flipboard. I've won Associated Press awards for my use of social media and am excited to share what I've learned with you.

Social media takes hard work, but it seems less daunting when you enjoy doing it. I've helped people see it through that lens and I believe I can do the same for you.

I'm going to help you be great on social media, so you can use that knowledge to find new clients and communicate with the ones you have. If your company has specific rules for social media use, make sure you comply with them first. And if you aren't sure what the rules are, this might be an excellent time to find out.

My inspiration to write this column starts with my No. 1 social media tip, which hasn't changed since my first tweet: Always be social.

Sounds like a given, right? You'd be surprised how many people think they can send out a tweet once a month or update their LinkedIn profile twice a year and successfully cultivate an audience. If you're a celebrity or singer then maybe, but I'm going to assume none of you have time to moonlight. But you do have the time to always be social.

What kinds of topics will we cover? (Spoiler alert: A little bit of everything and the things that interest you, so I'll be looking for suggestions.)

- Did you know you can use Twitter analytics to keep track of how well your tweets are resonating with your audience, and that it's absolutely free?
- How to create and use Twitter lists — and why you should.
- Should you accept every LinkedIn connection (probably not) even if you are really interested in finding new clients? (Still probably not.)
- 15 minutes to better social media (one of my favorites!).

Those are just my ideas. If you have a social media question or an idea for a column, please let me know. Tweet them to me with the hashtag #socialmediaadviser or email me. And remember to follow me on Twitter. You can also connect with me on LinkedIn.

Thanks for reading Social Media Adviser.

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MERGERS&ACQUISITIONS

Indie WFG is acquired

BY BRUCE KELLY

IN THE MIDST of a punishing business environment for small and midsize broker-dealers, National Holdings Corp. said last Monday it was acquiring select assets of Williams Financial Group of Dallas, including its independent broker-dealer, WFG Investments.

Williams Financial has approximately 230 financial professionals nationwide with approximately $6.5 billion in client assets under management. Under the terms of the transaction, National will pay $2.3 million at the closing, which is subject to the approval of the Financial Industry Regulatory Authority Inc. There is potential for additional cash and/or stock payments if certain performance targets are met within three years following the deal's closing.

TWO IBDs

National Holdings controls two independent broker-dealers, National Securities Corp. and vFinance Investments Inc., and is home to more than 1,100 independent advisers, reps, sales associates and staff.

"Of significant importance to us is the fact that [WFG's] adviser network covers parts of the United States where we have no current footprint," said Michael Mullen, CEO of National Holdings, which has large operations in New York and Florida. "We believe this transaction will help broaden our nationwide reach and scale."

More consolidation is expected in the IBD industry. Independent brokers have seen margins compress steadily since the credit crisis as low interest rates ate into their bottom lines and new regulations, including the pending Department of Labor fiduciary rule, hampered the sale of high-commission products.

"In the past, WFG relied heavily on revenues from alternative investments, like nontraded real estate investment trusts and business development companies," said Jonathan Henschen, an industry recruiter. "The sales of those products have fallen off a cliff."

For its fiscal year ended June 2016, WFG Investments posted revenues of $37.4 million, a decline of 6.5% from a year earlier, when it reported close to $40 million in revenue. It also reported a loss of $641,000 in fiscal 2017, according to a filing with the Securities and Exchange Commission.

Wilson Williams, the owner, chairman and CEO of Williams Financial Group, did not return a call for comment.

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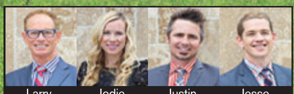

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Finra

CONTINUED FROM PAGE 5

ers. That measure died in the House Financial Services Committee, despite the fact that its then-chairman, former Rep. Spencer Bachus, R-Ala., wrote the bill.

Despite the drop in lobbying expenditures, Finra's relationship with Capitol Hill remains a priority, as signaled by its recent hiring of Gregory J. Dean as senior vice president for government affairs. Mr. Dean, who started on Jan. 30, worked in Congress for 14 years, serving as chief counsel for three Senate committees: Banking; Health, Education, Labor and Pensions; and Budget. He last worked for the Royal Bank of Canada, where he was senior director for regulatory and government affairs.

"They are very sensitive to what is happening on the Hill," said Duane Thompson, senior policy analyst at Fi360, a fiduciary training and consulting firm. "They have an ear to the ground."

SAME WORDING SINCE 2013

Finra didn't indicate what its focus on lobbying was in 2016. In its disclosure, it stated that it talked to lawmakers about "regulation of broker-dealers, securities industry and markets" as well as "investor protection and education." That's the same description it's used each year since 2013.

Unlike a trade association, such as the Securities Industry and Financial Markets Association, which spent $7.4 million on lobbying in 2016, Finra maintains a membership and functions as a regulator. Unlike the Securities and Exchange Commission, which oversees Finra but does not have industry members, Finra lobbies members of Congress.

"They occupy this strange, quasi-government, quasi-private-sector space," said Thaya Brook Knight, associate director of financial regulatory studies at the Cato Institute, a libertarian think tank. "Government doesn't lobby government, but Finra has these government qualities. It tends to be government when it suits its needs and private when it suits its needs."

Congress appears to be increasing its scrutiny of Finra. Last week, Democrats on the Senate Banking Committee indicated interest in pursuing legislation that would direct Finra to establish a fund to pay winners of arbitration claims when losing brokerages file for bankruptcy.

Last year, Sen. Elizabeth Warren, D-Mass., and Sen. Tom Cotton, R-Ark., wrote to then-Finra chairman and CEO Richard Ketchum, asking him to outline specific steps Finra is taking to address broker misconduct and firms that hire a large number of brokers with disciplinary histories.

"Finra is constantly going to have to prove itself in a number of ways," Mr. Thompson said. "Finra, because of its size and profile, is probably going to have a target on its back now and then."

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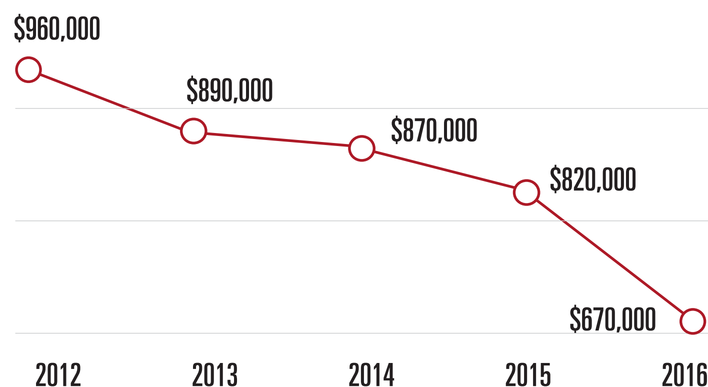
SHRINKING SPENDING

Finra's lobbying expenditures



Source: Office of the House Clerk

Opponents

CONTINUED FROM PAGE 5

the injunction from the same judge, Chief Judge Barbara M.G. Lynn, who ruled against every claim in their lawsuit.

"It's just a last-minute desperate attempt by the industry to evade the rule," said Micah Hauptman, financial services counsel at the Consumer Federation of America. "They totally disregard what the judge wrote in her district court opinion and all the evidence the DOL provided in support of the rule."

Several industry groups — including three that are plaintiffs in Dallas: the Securities Industry and Financial Markets Association, the U.S. Chamber of Commerce and the Financial Services Roundtable — filed comment letters to the DOL last Monday and Tuesday in favor of the 60-day delay.

The DOL had received 565 letters as of midday last Friday, the comment period's deadline day.

COST-BENEFIT ANALYSIS

The industry groups all assert the delay should go into effect immediately when the final delay rule is published in the Federal Register, likely later this month. They also maintain that a longer delay — up to 180 days — is needed for the review and that the DOL's original cost-benefit analysis understated the potential harm to investors and firms. In his memo to DOL, Mr. Trump directed the agency to modify or repeal the rule if it is found to limit investor choice or increase litigation risk for firms.

REHASHING ARGUMENTS

Financial industry opponents are rehashing arguments they've been making unsuccessfully for the nearly seven years the regulation has been debated, according to Mr. Hauptman.

"What they have now is an administration that just believes them, whatever they say," he said. "The administration is setting itself up for a legal challenge."

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Delaying

CONTINUED FROM PAGE 5

ters. The DOL failed to demonstrate "good cause" for such a move, the FPC argued. Rather the delay should not begin until 30 days after publication — a time that would be after the April 10 implementation date.

"An emergency of an agency's own making does not constitute good cause," the FPC wrote. "Second, contrary to the Department's assertion, good cause does not exist merely because an incoming administration considers a regulation defective."

SEVERAL COURT VICTORIES

The FPC also asserted that the DOL has not taken into account several victories for the fiduciary rule in court cases and the fact that the financial industry has already started lowering the costs of advice and products in anticipation of the rule becoming applicable.

Proponents of the rule say it is necessary to protect investors from conflicted advice that leads to the sales of inappropriate, high-fee investments that erode savings. Financial industry opponents say the regulation is too complex and costly and would price investors with modest assets out of the advice market.

The comment period for the delay proposal ended last Friday.

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InvestmentNews

INVESTINGINTELLIGENCE

Biggest low-volatility funds shrink

BY JOHN WAGGONER

LOW-VOLATILITY FUNDS saw big inflows last year because they promised to protect investors from big swings in the stock market. Now the tide is turning in the other direction — and possibly at the exact wrong time.

Low-volatility funds and ETFs simply invest in stocks with the lowest moves up and down over a set period. The $12.3 billion iShares Edge MSCI Min Vol USA ETF (USMV), for example, looks for large- and mid-sized stocks which have lower volatility than the rest of the market. In theory, these funds should deliver decent returns with below-average volatility.

By and large, they have done just that. The iShares offering, for example, gained 10.6% last year versus 12.0% for the Standard & Poor's 500 stock index with dividends reinvested. The fund has a three-year standard deviation of 8.61 versus 10.4 for the S&P 500.

TRAILING S&P

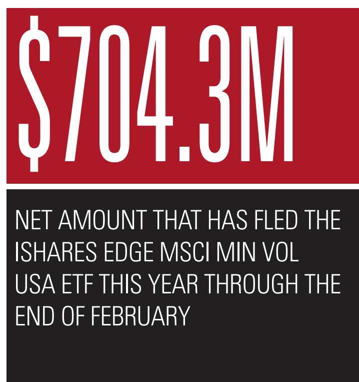
The fund has trailed the S&P 500 so far this year, gaining 5.7% versus 6.1% for the blue-chip index. And investors have been fleeing. Morningstar estimates that a net $704.3 million has fled the ETF this year through the end of February. The next-largest low-vol ETF, PowerShares S&P 500 Low Volatility Portfolio (SPLV), has watched an estimated $207.8 million flee this year.

The selling from low-vol funds and ETFs hasn't been uniform: Some, such as PowerShares S&P 500 High Dividend Low Volatility Portfolio (SPHD), have seen significant inflows this year. But the outflow from some of the largest ETFs is noteworthy.

TWO POSSIBILITIES

What's sending investors to the exits? Two possibilities. The first is that some low-volatility ETFs stock up on utilities and banking stocks. Utilities tend to be a safe haven in a down market and, because of their high dividends, often attract long-term income-oriented investors. Financial stocks also tend to be stable, unless of course, there's a financial crisis.

Both sectors, however, also tend to be sensitive to changes in interest rates. Investors typically see utilities stocks as bond substitutes, and when interest rates rise, utilities often short-circuit. Banks are more dependent on the spread between long-term and short-term interest rates: When the spread narrows, banks earn lower profits on loans. Given that the Federal Reserve is likely to continue raising short-term interest rates this year, low-volatility funds are less attractive.



A more simple reason for low-volatility strategies to lag: Volatility has been remarkably low, said Dave Nadig, CEO of ETF.com. The CBOE VIX index, for example, stands at 11.71, down from more than 25 in June. The iPath S&P 500 VIX Short-Term Future ETN (VXX) has fallen 79.4% the past 12 months.

"I think a lot of people went to low-vol funds because they saw them as an outperformance tool, rather than a way to reduce portfolio volatility," Mr. Nadig said. "But in a period of low volatility, they don't outperform, and that hot money goes out."

Given that the market has been so calm, it's likely investors are bailing at the wrong time, Mr. Nadig said.

"I fully expect to see the highest peak of selling to come just before we see the VIX spike to 25," he said.

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Women

CONTINUED FROM PAGE 5

Trump has said he wants to undo Mr. Obama's so-called "fiduciary rule" before it takes effect this spring.

Only about a quarter of financial advisers are women, according to the new study.

One way to improve how they're treated on the job is to promote more of them to leadership positions, it states. At firms with no female owners or executives, women were 42% more likely to be fired for misconduct than men. At firms in which men and women are equally represented in the executive suite, they were fired at equal rates after misconduct.

The study's authors aren't shy about naming names. They said that, among large firms, the highest rates of discrimination were at Wells Fargo Advisors, a unit of Wells Fargo & Co.

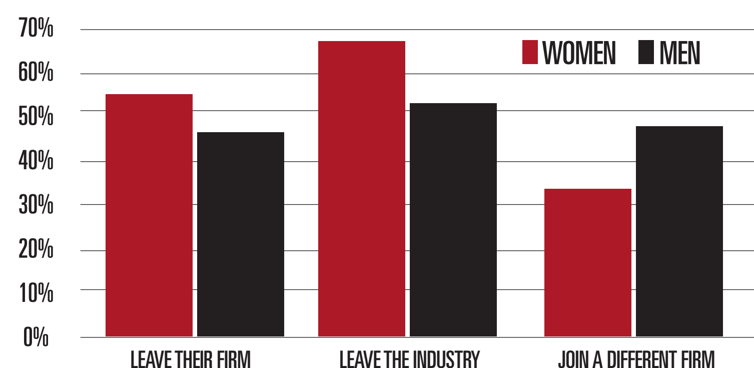
"Wells Fargo Advisors works every day to put our clients first," the company said in a statement. "We will review this study carefully to examine its assumptions and conclusions. We will continue to focus on providing a diverse and inclusive work environment where all of our team members can thrive."

Brokerage firms can't just focus on hiring women — they must also feel included in the office, Ms. Sandy said.

"I still hear from a lot of young women that say they still feel like an outsider in their firm," she said.

CONSEQUENCES OF INFRACTIONS

What happens to financial advisers after a case of misconduct, by gender



Source: Egan, Matvos and Seru 2017

INVESTINGINTELLIGENCE

Stock rally worries Shiller

Nobel laureate compares Trump to dot-com era

BLOOMBERG NEWS

THE LAST TIME Robert Shiller heard stock-market investors talk like this in 2000, it didn't end well for the bulls.

Back then, the Nobel Prize-winning economist said, traders were captivated by a "new era story" of technological transformation: The internet had re-defined American business and made traditional gauges of equity-market value obsolete. Today, the game changer everyone's buzzing about is political: Donald J. Trump and his bold plans to slash regulations, cut taxes and turbocharge economic growth with a trillion-dollar infrastructure boom.

"They're both revolutionary eras," said Mr. Shiller, who's famous for his warnings about the dot-com mania and housing-market excesses that led to the global financial crisis. "This time a 'Great Leader' has appeared. The idea is, everything is different."

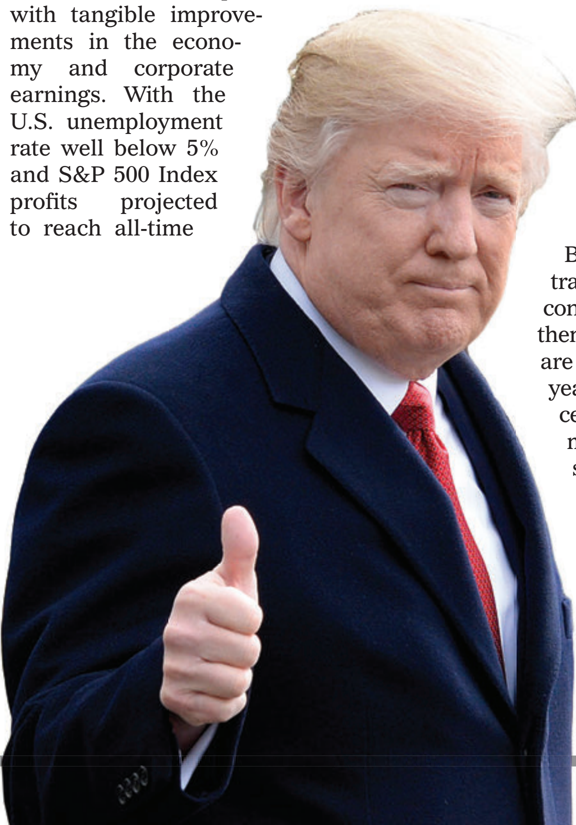
For Mr. Shiller, the power of a new-era narrative helps answer one of the most hotly debated questions on Wall Street as stocks set one high after another this year: Why are traders so fixated on the upsides of a Trump presidency when the downside risks seem just as big? For all his pro-business promises, the former reality TV star's confrontational foreign policy and haphazard management style have bred uncertainty — the one thing investors are supposed to hate most.

CHARTS SHOW CONUNDRUM

Charts illustrating the conundrum have been making the rounds on trading floors. One, called "The most worrying chart we know" by Societe Generale SA at the end of last year, shows a surging index of global economic policy uncertainty severing its historical link with credit spreads, which have declined in recent months along with other measures of investor fear. The VIX index, a popular gauge of anxiety in the U.S. stock market, has dropped more than 30% since Mr. Trump's election.

"I don't generally call the entire market wrong — investors are very smart, highly motivated individuals — but I find it hard to say why stock markets are so un-volatile right now," said Nicholas Bloom, a Stanford University economist who co-designed the uncertainty gauge with colleagues from the University of Chicago and Northwestern University.

The simplest explanation may be that share prices have less to do with Mr. Trump than with tangible improvements in the economy and corporate earnings. With the U.S. unemployment rate well below 5% and S&P 500 Index profits projected to reach all-time highs this year, perhaps it shouldn't be surprising that equities are doing so well.



But there's more to the market's resilience than just numbers, according to Ethan Harris, Bank of America Merrill Lynch's global economist in New York. Like the fable of the boy who cried wolf, Mr. Harris said pessimistic forecasters have so badly over-estimated the consequences of big events — the rolling European debt crisis since 2010, the U.S. debt-ceiling standoff in 2011, Brexit in 2016 — that traders have become conditioned to ignore them. Even when bears are right, the past eight years have shown that central banks are more than willing to save the day when markets fall.

"It's been a period of repeated shocks, and I think people get toughened against that," Mr. Harris said. "It seems like uncertainty is the new norm, so you just learn to live with it."

For Hersh Shefrin, a finance professor at Santa Clara University and author of a 2007 book on the role of psychology in markets, the rally is just another example of investors' remarkable penchant for tunnel vision. Mr. Shefrin has a favorite analogy to illustrate his point: the great tulip mania of 17th century Holland.

TULIP FRENZY

Even the most casual students of financial history are familiar with the frenzy, during which a rare tulip bulb was worth enough money to buy a mansion. What often gets overlooked, though, is that the mania happened during an outbreak of bubonic plague.

"People were dying left and right," Mr. Shefrin says. "So here you have financial markets sending signals completely at odds with the social mood of the time, with the degree of fear at the time."

Mr. Shiller said when markets are as buoyant as they are now, resisting the urge to pile in is hard regardless of what else might be happening in society.

"I was tempted to do it, too," he said. "[Mr.] Trump keeps talking about a new spirit for America and so you could (A) believe that or (B) you could believe that other investors believe that."

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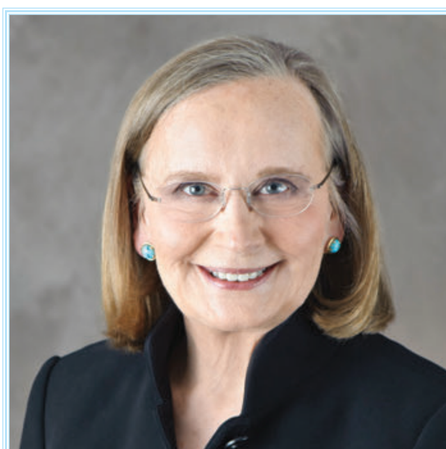

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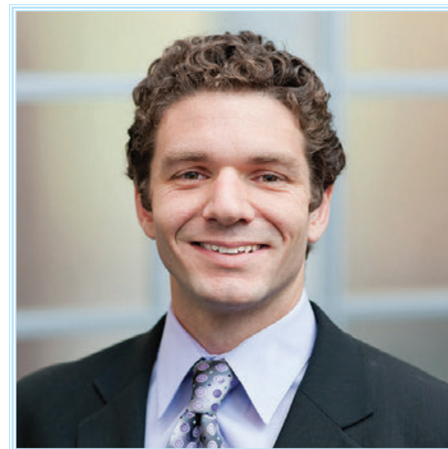

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