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JANUARY 14-18, 2019

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REGULATORS ARE COMING

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Georgetown University latest to beat back employee suit on high fees.
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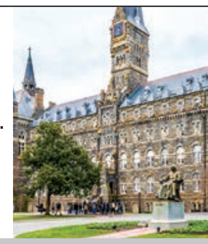

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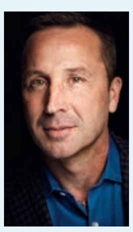
EDITOR'S NOTE
Eat your kale

I'm convinced cybersecurity is the kale of running an advisory firm.

Everyone knows that a steady diet of policies and procedures to safeguard client data is essential to the health of a firm as well as the overall financial advice profession. But relatively few find it palatable.

As a result, advisory firms and the clients they serve remain vulnerable to cybercriminals. Enter the regulators.


FRED GABRIEL

This week's cover story looks at how 2019 likely will be the year we see a crackdown on firms dropping the ball on cybersecurity. As *InvestmentNews* technology reporter Ryan W. Neal reports, the Securities and Exchange Commission is leading the charge. The agency last year named cybersecurity an exam priority and asked Congress for an additional $52 million to expand personnel, including four people for cybersecurity.

If that's not enough to get you to eat your vegetables, consider this: The SEC in September announced that Voya Financial Advisors would pay $1 million to settle charges relating to a 2016 data breach.

This is getting serious, folks.

In putting this week's cover story together, Ryan asked leading cybersecurity experts for their recommendations on how to safeguard data. See them on Page 10.

At the risk of sounding like a spokesman for the American Kale Association (yes, there really is such a thing), it's time for advisory firms to add a little more of the leafy green to their practice management diet.

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Vanguard cuts funds

Buy-and-hold advocate drops funds with rapid-fire strategies

BY JEFF BENJAMIN

THE VANGUARD GROUP, underscoring its dedication to buy-and-hold investing, is taking another step to give day traders the boot from its brokerage platform.

The $5 trillion asset management complex announced last Tuesday that it is removing access to leveraged and inverse-strategy funds, both popular day-trading tools, starting Jan. 22.

"If you think about the investment philosophy long espoused by Vanguard, these products are just not aligned with that," said spokeswoman Emily Farrell. "These products are incompatible with a buy-and-hold strategy."

An example of the kinds of funds being removed from the platform is the $344 million ProShares Short VIX Short Term Futures (SVXY), which declined by more than 91% last year but gained more than 181% in 2017.

Another example is the $25 million Direxion Daily Natural Gas Related Bull 3X (GASL), which lost almost 80% last year and was down more than 43% in 2017.

EXTREME VOLATILITY

The number changes almost daily, but Vanguard estimates there are at least 400 mutual funds, exchange-traded funds and exchange-traded notes that use inverse and leveraged strategies,

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LPL affiliate wants brokers en route to RIA

BY BRUCE KELLY

LPL FINANCIAL'S largest affiliate, Private Advisor Group of Morristown, N.J., is launching a new platform its partners believe will give it the ability to attract wirehouse brokers who want to transition to the RIA channel.

Private Advisor Group is a giant hybrid brokerage and advisory platform, with $17 billion in assets under management and 644 advisers.

There has been a surge over the past few years in advisers who work at the four Wall Street wirehouses who want to move to independent registered investment advisers or independent broker-dealers, with some IBDs landing a large share of such recruits and others lagging. Over time, it's possible for advisers to keep more revenue they produce and earn more income working in the RIA or IBD channel than at a wirehouse.

"We will create the path" for the advisers who are looking to move from a wirehouse, said Abby Salameh, chief marketing officer at Private Advisor Group. "We will

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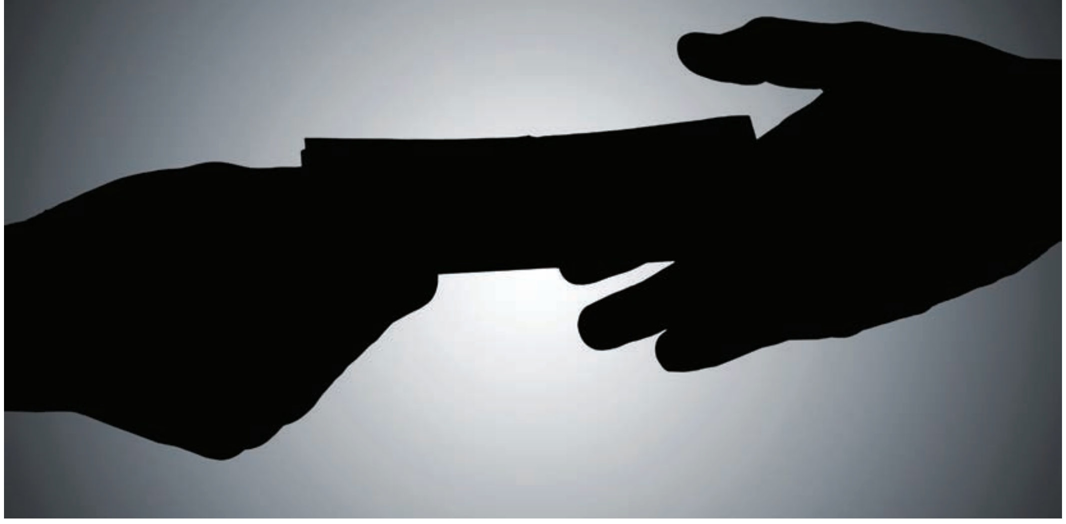

SEC shutdown opens door for fraud


BRUCE KELLY

ONADVICE

Investment fraud is on the rise, and the SEC, which is supposed to be Wall Street's cop on the beat, is closed for business.

Due to the partial shutdown of the federal government, the Securities and Exchange Commission is currently working with a skeletal crew and can't do its essential job: protecting investors and markets.

KEY POINTS

- Regulator is currently working with a skeletal crew.
- Situation is dangerous for investors because crackdown on fraud is on hold.

"Effective Thursday, Dec. 27 and until further notice, the agency will have a very limited number of staff members available," according to the SEC's website. "The SEC has staff available to respond to emergency situations involving market integrity and investor protection, including law enforcement."

Such a statement fails to instill confidence. Investors are clearly less protected than they were before the work stoppage.

The SEC's current state is dangerous for investors and bad news for the investment advice industry, which took a severe blow to its reputation after the massive Bernie Madoff Ponzi scheme and is still laboring under the shadow of his titanic fraud.

The government shutdown means that Ponzi schemes the SEC was about to bust will remain open for business, continuing to harm the elderly. The government shutdown means SEC lawsuits against financial institutions committing fraud won't be filed. The government shutdown means the bad guys are getting a pass.

The timing could not be worse. As this column noted in October, big-time investment

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GOVERNMENT SHUTDOWN

Newly filed ADVs in limbo

BY MARK SCHOEFF JR.

FINANCIAL ADVISERS whose New Year's resolution it was to open a registered investment advisory firm are in limbo thanks to the government shutdown.

The partial closure of the federal government has curtailed most Securities and Exchange Commission work, including exams and the processing of new or pending investment adviser applications, according to the agency's shutdown operations plan.

Normally, the SEC has 45 days from the time that an adviser files a Form ADV with the agency to either approve the application or start a proceeding to review it more in depth. But during the shutdown, which began Dec. 22, new applications are not being approved or considered.

"Are you going to open your doors tomorrow without approval from the SEC?" said David Tittsworth, counsel at Ropes & Gray. "I don't know how people are going to assess that risk. It's confusing. It's frustrating. You shouldn't have to deal with these issues."

NO CLEAR END

President Donald J. Trump and congressional Democrats don't appear close to resolving their differences over approval for the funding of a border wall between the United States and Mexico, which has caused a lapse in appropriations

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2019 Social Security and Medicare changes

1. Retirees will get a **2.8%** increase in their Social Security benefits, the biggest COLA in seven years.

2. Medicare Part B premiums, which pay for doctors' visits and outpatient services, will increase only slightly.

3. About 3 million high-income retirees will pay more for both Medicare Part B and Part D prescription drug plan premiums.

4. The maximum wages subject to payroll or FICA taxes increase by **$4,500** this year, to **$132,900**.

5. Retirees younger than 66 can earn up to **$17,640** in 2019 before losing any benefits, $600 more than last year.

6. The current full retirement age of 66 is increasing for workers born after 1954. It'll be **66.5** for those turning 62 this year.

7. An individual must earn at least **$5,440** in 2019 for the maximum four credits used to qualify for benefits.

8. Despite talk of lower income taxes when filing **2018** returns this year, Social Security benefits are still taxed the same way.

— Mary Beth Franklin, contributing editor

Cyberscam snags broker

INVESTMENTNEWS

A FORMER broker for Charles Schwab & Co. was fined $5,000 and suspended for 90 days by Finra for lying to Schwab about a phishing scam in which he wired nearly $800,000 to someone impersonating one of his customers.

Deming Payne, who resigned from Schwab in September 2017 after admitting he violated firm policy regarding the documentation of outbound calls, is no longer employed in the securities industry.

The Financial Industry Regulatory Authority Inc., in its letter of acceptance, waiver and consent, said in August 2017 Mr. Payne received requests via email from an individual posing as a customer to process eight wire transfers from the customer's account.

MORE
Regulators go after cyber lapses.
PAGE 8

NO VERBAL VERIFICATION

It said Mr. Payne failed to obtain verbal verification of the instructions from the actual customer, who was unaware of the imposter's requests, even though the requests presented several red flags.

On five occasions, Finra said Mr. Payne falsely attested to Schwab that he had obtained such verbal verification, noting that on another occasion, Mr. Payne instructed another Schwab employee to falsely attest that she had verbally verified one of the requests.

In total, wire transfers totaling $794,860 were made in response to the imposter's requests, Finra said.

Mr. Payne began his career at Schwab in 2011, moved to Options Express the following year, and returned to Schwab in 2014.

Finra has made cybercrime prevention and punishment a priority, issuing investor alerts to inform the public about the problem and punishing brokers for involvement or laxity in connection with cyberfraud activities.

Deals for 401(k) advice firms on rise

BY GREG IACURCI

ACQUISITIONS OF financial advisory firms focused on the retirement plan market appear to be gaining momentum.

A handful of recent deals involving large 401(k)-focused firms and a more varied group of buyers have led some experts to believe that the previously subdued acquisition market is turning a corner.

The latest development is Hub International's acquisition of Sheridan Road Financial, a $14 billion firm headquartered in Chicago. *InvestmentNews* reported in November that the two firms had been in talks over a deal, which was formally announced last Wednesday. Terms weren't disclosed.

That follows on a blockbuster deal announced last April that saw private-equity firm Hellman & Friedman pay around $3 billion for Financial Engines, a managed account provider for 401(k) plan participants. The PE firm combined Financial Engines with Edelman Financial Services, another of the country's largest registered investment advisers, to form Edelman Financial Engines.

KEY POINTS

- More deals are expected for 401(k) advice firms.
- Hub International has acquired Sheridan Road.
- Last year, PE firm Hellman & Friedman bought Financial Engines for about $3 billion.

CONSOLIDATION TREND

"I think we're on the very, very front end of this," Troy Hammond, president and CEO of Pensionmark Financial Group, said of the consolidation trend.

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Fifth university wins 403(b) dismissal

BY GREG IACURCI

LOSSES CONTINUE to mount for university employees suing their schools over allegedly excessive retirement plan fees. Georgetown University became the fifth defendant to successfully beat back such claims in court.

Roughly two dozen lawsuits against universities for imprudent management of their 403(b) plans, which are defined-contribution plans for nonprofits, have been filed since August 2016.

The Georgetown case involved similar allegations to the others: that the university retained high-cost investment options and multiple record keepers, included imprudent investments and offered too many funds, all of which lost money for retirement savers.

Judge Rosemary M. Collyer of the U.S. District Court for the District of Columbia dismissed all claims against Georgetown last Tuesday. She dismissed the class-action case without prejudice, which gives plaintiffs a chance to try again.

Attorneys for plaintiffs Darrell Wilcox and Michael McGuire, who work for Georgetown, didn't respond to a request for comment. A spokesperson for Georgetown also didn't respond.

The University of Pennsylvania, Northwestern University and Washington University in St. Louis also obtained dismissals before trial. New York University won after a trial hearing. Two schools, Duke University and the University of Chicago, settled their lawsuits. Plaintiffs have yet to receive a favorable ruling from a judge.

'HIT A WALL'

"It seems like the plaintiffs in the university cases have, for the most part, hit a wall," said Duane Thompson, senior policy analyst at fi360 Inc., a fiduciary consulting firm.

However, since some of these cases will likely go on for a decade or more, Mr. Thompson cautioned that the lawsuits are still in their nascent stages and it's too soon to say they're "going nowhere."

Jerome Schlichter, the attorney who brought 401(k) fee lawsuits en masse in the mid-2000s and filed the first several 403(b) cases, is petitioning a New York district court to rehear his case against NYU. He claims the judge, Katherine B. Forrest, had a conflict of interest and should have recused herself from the case.

A common complaint of plaintiffs is the inclusion of annuities in university retirement plans. Georgetown plaintiffs took issue with costs associated with the annuities offered and restrictions on moving assets into other investment options.

However, the judge in the Georgetown case — Wilcox et al v. Georgetown University et al, filed in February 2018 — said 403(b) plans have different characteristics than corporate 401(k) plans. 403(b) plans, she said, had included annuities as investments for decades before section 401(k) was added to the tax code.

"If a cat were a dog, it could bark. If a retirement plan were not based on long-term investments in annuities, its assets would be more immediately accessed by plan participants. These two truisms can be summarized: cats don't bark and annuities don't pay out immediately," the judge wrote.

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Bob Oros takes over as HighTower CEO

BY JEFF BENJAMIN


BOB OROS

HIGHTOWER ADVISORS confirmed last Monday that industry veteran Bob Oros has taken over as CEO of the Chicago-based RIA consolidator.

The news, which was originally reported in November, puts Mr. Oros at the head of a $60 billion wealth management business with 92 adviser teams.

HighTower, which was launched in 2007, announced in August that founder Elliot Weissbluth would be transitioning from CEO to board chairman.

That transition became official last Monday when Mr. Oros took over the CEO role.

"To hand over the reins to Bob is a pleasure and honor," Mr. Weissbluth said. "My technical title is chairman, but whether it's carrying Bob's briefcase or helping with some thorny situation, I'm here."

Mr. Oros, 53, joins HighTower from HD Vest Financial Services, where he spent less than two years as CEO of the Texas-based broker-dealer.

Prior to HD Vest, Mr. Oros spent five years at Fidelity Investments in Boston, where he became head of the RIA segment.

Earlier, Mr. Oros was a national sales manager at Trust Company of America, executive vice president at LPL Financial, and vice president at Charles Schwab Corp.

Mr. Weissbluth, 51, said he will

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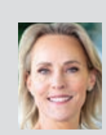
diversity&INCLUSION

Want to support gender diversity? Here's how

The asset management industry is awakening to the importance of gender diversity across its ranks, from investment professionals to executive leadership. Recent studies have shown that mixed-gender portfolio management teams not only yield superior investment returns, but also increase the ability to attract assets.

Moreover, gender-diverse executive leadership has been found to positively impact company profitability and stock performance.

However, even asset managers that support having a gender-diverse talent pool can be at a loss for ideas on where to start. Mainstream issues like the gender pay gap and the #TimesUp initiative have provided some low-hanging fruit for improvement, but they stop short of ensuring tangible success in retaining and promoting women over the long term.



GUESTBLOG
MELISSA NORRIS

Equality in the workplace starts at the very first promotion and grows at every subsequent step. Thus, to foster women leaders, asset managers must sup-

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THIS STORY IS part of an ongoing initiative by *InvestmentNews* to cultivate a financial advice profession in which diverse perspectives are welcomed and respected, and industry best practices are shared across organizations.

OPINION

EDITORIAL / LETTERS / OP-ED / GUEST BLOGS

Better screening by Finra could curb number of expungements

NO ONE WANTS A BLACK mark on their record, especially if you're a broker trying to attract clients and those clients know how to use Finra's BrokerCheck system to research your background.

That reality, especially over the past decade as the Financial Industry Regulatory Authority Inc. has beefed up its public data on brokers, has created a curious conundrum for brokers, lawyers and regulators.

About 10% of the industry's roughly 600,000 brokers have at least one customer complaint or dispute on their record. Of those 60,000 brokers, at least half are saddled with multiple complaints.

Recognizing that some customer claims are bogus or don't hold up through an arbitration process, Finra established specific criteria for having complaints removed from a broker's record. The basic criteria for expungement are that the claim was false or impossible, or that the registered representative was not involved in the alleged investment-related sales practice violation.

Seems simple enough, if you can look past the unintended consequence: the emergence of a cottage industry of lawyers helping brokers clean up their records.

As detailed recently in *InvestmentNews*, one Denver-based law firm was responsible for almost 60% of the more than 400 expungement requests last year.

The firm, Advisor Law, fueled by the aggressive marketing tactics of founder Doc Kennedy and his team of three-dozen lawyers, boasts a 90% success rate in getting customer disputes expunged.

That 90% rate of getting arbitration panels to approve expungements is in line with expungement requests overall. The figure has some consumer advocates seeing red and pushing Finra to do something about it.

Finra doesn't dispute that the approval rate appears lopsided.

The 90% success rate for expungement requests that's most commonly referenced comes from the Public Investors Arbitration Bar Association, which believes expungement lets brokers hide tainted histories. That's certainly what the data look like at first glance. But the expungement rate only applies to the small percentage of customer disputes brokers are seeking to expunge.

BLIND EYE

Finra, which trains arbitrators and provides a forum for arbitration, rarely gets involved in the process, and some argue it turns a blind eye to the results.

But in 2013, in response to criticism about the portion of expungements that are approved, Finra calculated that of the 17,635 customer disputes filed against brokers over the prior five years, there were just 838 expungements, which is less than 5% of all customer disputes.

Last month, as part of an announcement on its latest efforts to reduce the high volume of expungements, Finra explained in a statement, "Expungement is an extraordinary remedy that should be recommended only under appropriate circumstances."

The regulator continues to revise and restrict those circumstances. Up until a few years ago, for example, dispute settlements could require customers to agree not to oppose a broker's efforts to have a claim expunged.

THE REAL PROBLEM IS THE VOLUME OF CLAIMS THAT DON'T BELONG.

The revisions introduced in December include enhanced training and guidance for arbitration panelists. But that's not nearly enough for some consumer advocates, who want Finra to step in and take the other side of each expungement request.

That doesn't make sense for several reasons related to resources and the established criteria for expungement.

The real problem with expungements is perception, and a system that sends all claims directly to a broker's record.

Lawyers like Mr. Kennedy admit to cherry-picking claims that qualify for expungement, thus producing the 90% success rate.

Finra is backed against a wall of its own making, swiping at ways to lower the expungement rate but reluctant to address the volume of claims that don't belong.

A good start would be to better screen claims before they hit BrokerCheck, and then focus on the 95% of customer disputes that aren't being expunged.

Barring that, expect an ongoing bonanza for one set of lawyers and an ongoing righteous fight for another set.

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

How investors fight climate change matters

Sustainable and impact investors are set to intensify their decades-long support for action on climate change on the heels of a recent report from the Intergovernmental Panel on Climate Change and the Fourth National Climate Assessment, issued by the U.S. government.

The report notes that unless urgent action is taken, climate change could shrink the U.S. economy by hundreds of billions of dollars every year in direct costs. Consistent with these findings, the IPCC's alarming (and unsurprising) conclusions are that urgent global economic transformation is needed to head off catastrophic damage to ecosystems, communities and economies beginning within a quarter century.

> **KEY POINTS**
> - Lack of attention to societal aspects of investment decisions could lead to unintended consequences that offset environmental benefits.
> - Investment policy statements should explicitly incorporate climate change and related social issues.

Many investors now understand that climate change is not merely an environmental issue, but also a material economic risk for long-term portfolios. However, investors should avoid a single-minded focus on climate change that ignores the relationship between ecosystems and human development.

The report stresses that an effective fight against climate change must include efforts to achieve sustainable development goals such as gender equality, the eradication of poverty and food security.

GUESTBLOG
JOHN WILSON

In other words, how we fight climate change matters. Even the most optimistic scenarios will require substantial human adaptation to changed ecosystems, which will be especially challenging for poor or marginalized communities. Achieving sustainable development goals will strengthen the ability of poor communities to adapt to inevitable change and complement more direct efforts to mitigate climate change. However, these efforts by themselves may help or hinder progress toward the sustainable development goals.

For example, strategies such as reforestation or biofuel development may reduce the land available for agriculture at a time when crop yields are already declining because of rising temperatures and water stress. The resulting increases in food prices would have the effect of reducing buying power and possibly destabilizing civic and political cultures in developing countries.

FOOD SECURITY

Conversely, sustainable agricultural strategies, conducted with attention to social equity, can increase food security and counteract some of the negative effects of climate change on drinking water, biodiversity and income inequality, while reducing greenhouse gases associated with intensive farming practices.

The empowerment of women can support and reinforce both climate change mitigation and adaptation. Improving the quality of cookstoves available to poor women has the direct effect of reducing fuel use and deforestation. It also reduces asthma rates, which improves educational outcomes, and empowers women by freeing them from the labor-intensive "drudgery" of traditional cooking methods.

Numerous studies have also shown that as women gain education and empowerment, they earn more income and often choose to have fewer children, which is associated with reduced poverty and lower greenhouse gas emissions.

The introduction of modern technologies such as cookstoves into poor households would have an undeniably positive effect on the quality of life for the poor and the resilience of their communities.

But, the resulting increase in demand for energy could undermine the intended climate benefits unless these strategies are accompanied by investments in renewable energy and energy efficiency, both of which come with additional benefits for income and energy access.

These and many other examples demonstrate the need for a holistic understanding of the connection between climate issues and human development. Yet, much of the financial capital flowing into climate-change mitigation today is motivated solely by opportunities for financial return arising from new public policies and the dramatic improvement in renewable energy technology.

These flows are important for achieving global scale for environmental solutions. But a lack of attention to the social dimension may create a blind spot for unintended consequences that counteract environmental benefits.

The insights of sustainable and impact investment offer an essential complement to mainstream financial analysis. Integrating environmental, social and economic concerns into investment analyses can yield a more nuanced understanding of the complex interactions between climate and society. As part of this analysis, a commitment to stakeholder engagement will help investors incorporate the perspectives of local communities that will be affected by investment decisions because, as the IPCC report notes, climate change will affect people differently depending on geography, income and culture.

EXPLICIT INVESTMENT POLICIES

So what can concerned investors do? First, their investment policy statements should explicitly incorporate both climate change and key related social issues, such as gender equity, poverty alleviation, food security, and health.

Second, the evaluation of investments or investment strategies intended to address climate change should integrate an analysis of their impact on broader sustainable development goals.

Third, investors should ask companies, governments and financial markets how climate change and sustainable development are incorporated into policy, planning and performance measurement.

An effective response to climate change will require the mobilization of every resource available to society, including governments, business and civil society. Investors can contribute to a long-term solution, or exacerbate existing problems. Sustainable and impact investors have an opportunity to influence the outcome, if they choose to take it.

John Wilson is head of research and corporate governance at Cornerstone Capital Group.

Should you be doing pro bono work?

Doesn't everyone want to make a positive difference in the world? We are fortunate to have advisers in our industry who are role models for making a difference within and outside of our arena. But in the daily hustle of life, weeks and months pass without notice. Years later, we find that volunteerism and pro bono work have become afterthoughts.

If you are a busy adviser whose good intentions have yet to materialize into action, there are plenty of ways to get started.

The Foundation for Financial Planning, whose volunteer advisers help people in need get their financial lives in order, is one option. Along with partners like the Financial Planning Association and the Certified Financial Planner Board of Standards, the FFP helps engage and train volunteers to participate in programs that serve financially vulnerable members of society: wounded veterans, domestic-violence survivors, struggling single parents and others.

GUESTBLOG
JONI YOUNGWIRTH

Counseling for cancer victims through the FFP is a charitable, professionally oriented pro bono opportunity for CFPs that can be done virtually. Interested CFPs can go to the Financial Planning for Cancer program section of the FFP website to get information on how to participate.

For advisers who wish to engage locally, many FPA chapters have volunteer pro bono directors and collaborate with FFP grantees and other nonprofits to help underserved residents in their local areas.

WHERE THE MONEY IS, AND ISN'T

In working with advisers over two decades, I've found that some financial professionals don't know specifically where their revenue comes from. To find out, they go through a scale-and-capacity process to determine the revenue that each household contributes to their top line. After arriving at the answer, they inevitably face an unanticipated moment of truth: They learn which clients they lose money on.

Should they eliminate these clients from their practice? Surprisingly, many advisers have a hard time discontinuing their relationships with such clients. But this business segment can offer opportunities to adopt some of these clients formally as pro bono cases, particularly when no remuneration exists for the services rendered.

When we open our eyes to them, opportunities to contribute are all around us. Some are big and sponsored by organizations in the profession. Some are local and community-oriented. Others are private, individual initiatives.

CLIENTS THAT ADVISERS LOSE MONEY ON COULD BE ADOPTED FORMALLY AS PRO BONO CASES.

I recently attended a luncheon at my own company to thank individuals who spearheaded grassroots charitable events in 2018. Who would have thought that a beard-growing contest, a used-shoe drive or a program to knit chemo caps for children could be so inspirational and so much fun?

The volunteers who spoke passionately about their efforts all wanted to make a difference in the world well beyond doing good work in their professional lives. Don't we all? It's just that some people actually get around to it. No surprise, these initiators are often among the busiest people we know.

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

ARE ADVISERS READY FOR A REGULATORY CRACKDOWN IN 2019?

CYBERSECURITY ENFORCEMENT IS COMING

BY RYAN W. NEAL

AFTER SPENDING MOST OF A decade offering guidance and stern warnings, regulators are ready to put enforcement muscle behind cybersecurity rules.

A flurry of activity in 2018 at federal and state levels has many legal and security experts expecting 2019 to be a watershed year for holding firms accountable for clients' digital data. Penalties are coming for advisory firms that don't do enough to prevent a data breach or don't respond to a breach effectively.

The Securities and Exchange Commission is leading the charge. The agency took several actions in 2018 that should alert every adviser that any grace period in adopting data security controls has expired.

"The honeymoon phase is over," said Askari Foy, managing director of ACA Aponix's global regulatory cybersecurity practice and a former SEC associate director. "As they identify issues, they're less likely to be friendly, for lack of a better word. They tend to roll up their sleeves and really dig into the issues, particularly if they smell blood or sense potential harm to investors."

VOYA TROUBLES

No alarm rings louder than the SEC's Sept. 26, 2018, announcement that Voya Financial Advisors would pay $1 million to settle charges relating to a 2016 scam that compromised the personal information of thousands of customers. It was the first time the SEC enforced its "identity theft red flags rule," which has been on the books since 2013.

Even though Voya had a cybersecurity policy in place and responded to the breach within a matter of hours, it wasn't good enough for the SEC. The regulator said Voya's cybersecurity policies and procedures were out of date and failed to do enough to ensure they applied to the entire workforce of financial advisers.

This issue of scant policies or ineffective effort is common throughout the industry and it's exactly what the SEC wants to eliminate. For many advisers, cybersecurity is

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just another compliance procedure — put a policy in place, do some basic training, check off the box and move on to more pressing business issues.

"Firms have cybersecurity policies, they get one from an attorney or compliance firm. The policy looks great, but it doesn't actually reconcile to reality in any way," said Sid Yenamandra, CEO and co-founder of cybersecurity firm Entreda.

For example, the policy may say advisers can only access the firm's network using a secure connection such as a virtual private network, but there are no checks that the policy is actually followed, he said.

Entreda's experts, who have provided data protection software and training services to thousands of advisers, see a lot of lip service paid to cybersecurity.

"People talk about having a good cybersecurity policy, but who is actually implementing it? Our view on this entire issue is we tend to see there is a false sense of security that a lot of firms have," Mr. Yenamandra said.

These firms are more vulnerable to an attack, and this year they also could face stiff fines and censure. Regulators' gloves are off, and they are ready to crack down.

2018 WARNINGS TO HEED

When the SEC first developed regulations regarding email communications, it gave firms a few years to acclimate to the new rules and get programs in place. As guidance became more detailed and rules more specific over time, that's when sanctions started coming. Regulators are following a similar pattern with cybersecurity, said Kim Peretti, co-chair of law firm Alston & Bird's national security and digital crimes practice and its cybersecurity preparedness and response team.

"Investment advisers and broker-dealers of all sizes may be under scrutiny and should expect more enforcement actions moving forward," she said. "For registered investment advisers and broker-dealers, the primary implication of this focus is that the SEC will continue to expect more mature cybersecurity programs that adapt to the changing threat environment and appropriately manage and communicate risks to investors."

The agency last year named cybersecurity as a priority in its examinations of investment advisers and brokers; asked Congress for an additional $52 million to expand personnel, including four people dedicated to cybersecurity; and issued new guidance on public companies' obligations to disclose cybersecurity risks and incidents, updating its previous guidance issued in 2011.

The SEC published a report last year detailing an investigation of nine undisclosed public companies that fell victim to cyberfraud and collectively lost nearly $100 million. Though no charges were filed, the report served as a stern warning to consider cybersecurity when implementing internal account controls and specified the exact rule — Section 13(b)(2)(B) of the Securities Exchange Act of 1934 — that holds firms accountable.

It isn't just the SEC getting tougher with cybersecurity. In August, the Financial Industry Regulatory Authority Inc. censured and fined a small broker-dealer $50,000 for having inadequate procedures for preventing hackers from transfering money from client accounts. In December, the self-regulatory organization updated its 2015 report on cybersecurity best practices for broker-dealers.

State regulators are making their own rules. Since New York issued rules requiring financial institutions to establish cybersecurity programs, the number of bills and proposals addressing cybersecurity at the state level has continued to grow. According to the National Conference of State Legislatures, 265 bills were introduced in 2018, up from 240 bills in 2017 and 104 in 2016. As of Nov. 6 (the latest data available), 52 of the bills proposed last year became law.

The increased activity provides a window into where regulators are focusing their energy and what future enforcement actions might involve.

For example, the SEC's February guidance on disclosure obligations and subsequent charges against Yahoo — $35 million for failing to disclose a cybersecurity breach — show how seriously the regulator wants firms to report data breaches. According to the *New York Times*, only 24 public companies (across all industries) reported breaches to the SEC in 2017, but researchers believe more than 4,000 breaches occurred.

The Voya charges reveal another common weakness, specifically for financial advisers. It's not enough to just have a cybersecurity plan in place. Regulators want to see firms continually testing, reviewing and updating cybersecurity policies and procedures to ensure they remain effective as threats evolve.

> "WE TEND TO SEE THERE IS A FALSE SENSE OF SECURITY THAT A LOT OF FIRMS HAVE."
>
> SID YENAMANDRA, CEO AND CO-FOUNDER, ENTREDA

BUSINESS EMAIL

Another area of focus, as evidenced by the SEC's investigative report and Finra's updated best practices, is compromised business emails — an increasingly popular attack method in which hackers pose as corporate executives or third-party vendors and use emails to trick other employees.

"There's been an increasing focus on the nexus between cyberintrusion and cyberfraud," Ms. Peretti said.

Preventing harm due to phishing scams requires firms address human susceptibility to such scams in addition to the technology element itself, she said.

Finally, the Voya breach was caused by hackers impersonating an independent adviser and using the custodian's support line to reset passwords and gain access to the system, illustrating the vulnerability from third parties.

Regulators want advisers to have an inventory of everyone who can access their data, including both third-party technology vendors and independent contractors.

WHERE ADVISERS CAN IMPROVE

The good news is that the financial services industry has done a pretty good job of adapting to new cybersecurity requirements, at least in comparison to other industries like retail, said Robert Cattanach, partner at law firm Dorsey & Whitney.

Where it's most often falling apart is with the smaller registered investment advisers and broker-dealers.

"Modest-sized companies lack the resources to really make good on their paper policies," Mr. Cattanach said. "Someone can gin up the right-sounding IT governance policies and procedures. But it's a whole additional step to make sure they are followed."

At smaller firms, there can be a sense of fatigue and helplessness when it comes to cybersecurity, because even the largest companies get hacked.

"There is this general feeling of, 'Holy cow, how can I, this little RIA out here, protect [against a breach] if these large institutions can't?'" said Wes Stallman, provider of cloud-based cybersecurity for advisers. "I do think that causes some frustration."

Experts said the adviser mindset should not be fixed on trying to safeguard data 100% because, with attacks always evolving, it's less of a matter of "if" and more of "when" there's a breach.

Regulators understand this, and really just want firms to have checks and balances in place to ensure they are doing the best they can to prevent breaches. More importantly, regulators want firms to have an up-to-date and battle-tested plan for an effective and timely response to a breach.

Finra's December update to its best practices includes a new appendix to help small firms adopt and implement cybersecurity controls. When used alongside Finra's previously released small firm cybersecurity checklist, it should give smaller advisers an effective guide to remaining compliant.

The bigger challenge is how to get all financial advisers to move beyond the lip service and actually realize that cybersecurity is something more important than another compliance chore. The key to that may lie in thinking of cybersecurity as a competitive advantage, Mr. Yenamandra said.

Clients are going to increasingly ask what advisers are doing to protect data, and firms that can give a satisfying answer will build trust with investors.

"Cybersecurity needs to be viewed as not only an operational risk but also a strategic function," he said.

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5 EXPERT RECOMMENDATIONS FOR SAFEGUARDING DATA

1. Have a complete understanding of how all confidential information is shared. How far down the stream is your data going, and who is sharing it?
— Bridget Gaughan, co-founder and chief risk officer, cleverDome

2. Create a cross-disciplinary team to meet regularly to discuss and understand cybersecurity risks. IT staff alone can't identify the threats and snap their fingers and have them taken care of. Management, legal and technology teams need to work together.
— Kim Peretti, co-chair of the national security and digital crimes practice and cybersecurity preparedness & response team, Alton & Bird

3. Examine the physical security of client data. I can't tell you how many times I walk into somebody's office and there's either insecure servers or just paper files with personal information lying around.
— Joel Bruckenstein, president, Technology Tools for Today

4. Make sure firm leaders understand the importance of cybersecurity. If the CEO gets it and follows the same rules, everybody gets it. If there's an exception for leadership, then cybersecurity won't be taken seriously.
— Robert Cattanach, partner, Dorsey & Whitney

5. There needs to be significant and continuous collaboration between a firm's chief compliance officer and chief security officer to demonstrate a shared responsibility and ownership of cybersecurity. It's important that compliance isn't just handed to tech staff who may not stay abreast of new regulations.
—Askari Foy, managing director, ACA Aponix's global regulatory cybersecurity practice

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SPEAKERS:

Colleen Denzler
Founder
Colleen Denzler Strategy Partners

Mary Beth Franklin,
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"IT SEEMS THAT THE RAINY-DAY FUND WE HAVE ENCOURAGED OUR CLIENTS TO ESTABLISH HAS FINALLY FOUND ITS RAINY DAY."
— ADVISER ERIC SCUDDER ON NEED FOR FEDERAL WORKERS TO TAP THEIR EMERGENCY FUNDS DURING GOVERNMENT SHUTDOWN

Social Security benefits and gray divorce

A financial adviser recently contacted me with questions about how to help one of his newly divorced clients, who was a classic example of the growing trend of gray divorce, which occurs when a long-time marriage dissolves in or near retirement.

The adviser was certain that the former wife, who is collecting a Social Security benefit worth less than half of her ex-husband's benefit amount based on their joint claiming strategy, would receive some sort of increase. He was sorely disappointed.

KEY POINTS

- Coordinating claiming strategies may backfire if a couple later divorces.
- The spouse with less of a benefit who claims early could receive a lower payout for life.

MARY BETH FRANKLIN

ONRETIREMENT

Both former spouses were born in 1950, which means they had access to a Social Security claiming strategy no longer available to people born after that date. The husband filed and suspended his Social Security benefit when he turned 66, a few months before the April 29, 2016, deadline that eliminated the strategy forever. It allowed him to trigger spousal benefits for his wife while his own retirement benefit continued to grow by 8% per year up until age 70.

If his wife had waited until her full retirement age of 66 to claim Social Security, she could have taken advantage of another claiming strategy. Because she was born before Jan. 2, 1954, she had the option of filing a restricted claim for spousal benefits, which would have allowed her to collect half of her husband's full retirement age benefit while her own retirement benefit continued to grow by 8% per year up until age 70.

But she decided not to wait and forfeited her ability to use that claiming strategy.

Instead, she claimed her Social Security benefits as soon as her husband filed and suspended his benefits. She was 65 at the time and received a benefit worth about 46.5% of her husband's benefit — about 3.5% lower than what she would have received if she had waited until age 66 to claim.

Fast forward to 2018, when the couple decided to divorce in their late 60s. The husband decided to go ahead and claim his Social Security benefit, now worth nearly $3,000 per month, including 2½ years of delayed retirement credits. The wife's benefit remains at $1,115 a month, slightly less than half of his full retirement age amount, because she claimed Social Security early.

8%
AMOUNT BENEFITS GROW EACH YEAR UNTIL AGE 70 BY DELAYING CLAIMING DATE

SAD TRUTH

"It seems like she gets the short end because she gets stuck with 50% of a lower amount, while he keeps the higher amount for life," the adviser said in an email. That's the sad truth.

While I often recommend that married couples coordinate their Social Security claiming strategies to maximize their benefits during their lifetime, as well as to create the largest possible survivor benefit for the spouse who is left behind, this case demonstrates how such a strategy can backfire in a late-in-life divorce.

Normally it makes sense for the higher-earning spouse — the husband in this case — to delay his benefit as long as possible to create the largest possible retirement benefit while both spouses are alive, as well as the largest possible survivor benefit for his widow should he die first. A survivor benefit is worth 100% of what the deceased working spouse was collecting (or entitled to collect) at the time of his death — assuming the surviving spouse was at least full retirement age at the time.

In the meantime, it often makes sense for the lower-earning spouse — the wife in this case — to collect reduced benefits early as a way of increasing cash flow to the household while the other spouse waits to collect benefits.

It's a cautionary tale to advisers who are working with older clients who may be inclined to divorce. An optimal Social Security claiming strategy for a married couple may not work as well for two ex-spouses.

For more information, check the Social Security Administration's summary of rules at ssa.gov/planners/retire/divspouse.html.

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

Mary Beth Franklin, a certified financial planner, is a contributing editor to InvestmentNews. *mbfranklin@investmentnews.com Twitter: @mbfretirepro*

Tax reform can be a growth engine

Business 101 teaches us that in order to grow a business, you continually need to iterate, providing products or services that solve problems and meet the needs of consumers. For millionaire investors, one of the things we found they needed was advice on how to navigate the new tax rules.

GUESTBLOG
DAVID CANTER

Fidelity's annual Millionaire Outlook study revealed that tax reform provides an opportunity for advisers to connect with potential clients — but that opportunity may have been overlooked by most.

One of the things we uncovered in this year's study was that advice users didn't always feel their adviser spent time on the most important things, with too much time allocated to investment management. So here's the opportunity: Only four in 10 millionaire advice-users reported that their financial adviser proactively reached out to them regarding the impact of tax reform.

When advisers did engage with clients around taxes, investors recognized the value of the service: 63% of millionaires with an adviser felt that their adviser added value by helping them deal with the latest tax reforms. We believe that engaging current clients around this topic could be a quick win for advisers.

Millionaire investors are often self-directed. But when it came to tax planning, even millionaires who previously declined advice said they would be willing to pay for it.

David Canter is executive vice president and head of the RIA segment at Fidelity Clearing & Custody Solutions.

Lack of investment options plague HSAs

BY GREG IACURCI

HEALTH SAVINGS accounts are getting more popular, and some retirement plan advisers are integrating them into a service offering for 401(k) clients. But there are a few stumbling blocks. One big hurdle: a dearth of investment options.

While advisers can practically add any mutual fund they desire to a 401(k) plan's investment lineup — a feature known as "open architecture" — that is far from the case with HSAs. The choices are limited and the mutual funds that are available are often of relatively poor quality and costly, advisers said.

"I think a lot of them so far have a bunch of funds with no thoughtfulness behind it," Jania Stout, managing director and co-founder of Fiduciary Plan Advisors, said of existing providers.

"A LOT OF [HSAs] HAVE A BUNCH OF FUNDS WITH NO THOUGHTFULNESS BEHIND IT."

JANIA STOUT, MANAGING DIRECTOR, FIDUCIARY PLAN ADVISORS

Other HSA administrators, she added, have assembled respectable off-the-shelf products, but don't allow advisers and plan sponsors to select the funds available to employees.

For advisers, that poses the practical problem of being unable to set up similar or identical investment lineups for employers' HSAs and 401(k) plans, adding a degree of complexity for participants.

But providers are starting to address the problem. HSA Bank, a division of Webster Bank, rolled out a platform this month with more than 5,000 funds available to advisers.

PLATFORM PARTNERSHIPS

The administrator, which partnered with the record keeper Aspire Financial Services to serve as the platform's technology backbone, is focusing distribution through retirement plan advisers working with employers that have at least 50 participants.

Ms. Stout said other HSA administrators such as Connect Your Care are working on similar open-architecture platforms.

"The fact they're doing this, I think, is a big deal because it sends a signal," said Aaron Pottichen, senior vice president of retirement services at Alliant Retirement Consulting. "It's another example of how the HSA market is slowly recognizing it can actually be a retirement vehicle, too."

Advisers tout HSAs — a savings account that's paired with a high-deductible health plan — as a tax-efficient way to save for retirement. They offer savers a triple tax advantage, via tax-free contributions, investment growth and withdrawal (if the money is used for qualifying medical expenses).

For this reason, many advisers advocate that HSA participants pay medical costs out-of-pocket now instead of paying with HSA funds, and invest the HSA money for long-term growth, just as they do with 401(k) assets.

KEY POINTS

- Retirement plan advisers are integrating HSAs into service offerings for 401(k) clients.
- Right now, many investment choices are of poor quality and costly.

However, many people use HSAs as a savings rather than long-term-investment account. Of the total $54 billion estimated to be held in HSAs at the end of 2018, just 20% of it is in investments, according to Devenir Research. That share is projected to grow to 22% in 2020.

"Don't focus on the money, focus on the value-add [to clients], because the money will be there eventually," Mr. Pottichen said of 401(k) advisers helping clients with HSAs.

There were 23.4 million health savings accounts as of the end of June, a jump of 11.2% over the previous year, according to Devenir.

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ALEXA VON TOBEL LEFT NORTHWESTERN MUTUAL, WHICH PURCHASED HER ROBO-ADVICE STARTUP, LEARNVEST, IN 2015,TO START A VENTURE CAPITAL FUND.

INVESTMENTNEWS.COM/VONTOBEL

PAC spending spiked in recent cycles

BY BRUCE KELLY

A HANDFUL OF political action committees funded by leading broker-dealers and custodians for registered investment advisers sharply increased their campaign spending in recent election cycles during which time the Department of Labor's now defunct fiduciary rule was being challenged by the securities industry.

The firms with significant increases in campaign spending from the 2014 campaign cycle to the 2018 cycle include political action committees formed by LPL Financial, which almost tripled its spending; Charles Schwab Corp., which more than doubled its spending; and Ameriprise Financial, which almost doubled its spending.

KEY POINTS

- Big firms increased campaign spending from 2014 to 2018, as DOL rule was being challenged.
- LPL Financial almost tripled its campaign spending over the last three election cycles.
- Schwab and Ameriprise roughly doubled their spending.

An election cycle is a two-year period, according to statistics provided by the Federal Election Commission, which tallies campaign finance data. That means, for example, the 2014 cycle counts spending from Jan. 1, 2013 to Dec. 31, 2014.

The 2018 campaign cycle statistics are from Jan. 1, 2017 to Nov. 26 of last year.

From the 2014 to 2018 cycle, the LPL PAC increased its campaign spending from $258,000 to $742,668; the Schwab PAC increased spending from $251,000 to $520,500; and the Ameriprise PAC increased spending from $164,000 to $302,000.

Not all firms with large numbers of brokers and financial advisers saw such an increase in campaign spending. Morgan Stanley's political action committee, for example, increased its campaign spending by 31% over the same three election cycles, to roughly $1.1 million. The Edward Jones PAC actually decreased its campaign spending by $23,000, from $187,000 to $164,000, between the 2014 and 2018 cycles.

LPL Financial increased its lobbying footprint in Washington over the three election cycles. In 2016, LPL opened a dedicated office in Washington for its team of government relations executives. It also resigned from the FSI, the largest trade group for the independent contractor brokerage industry.

A spokesman for LPL, Jeff Mochal, said, "We're proud to have grown our presence in D.C. over the last four years so that we can better represent our advisers and their clients — as well as LPL — in Washington."

A spokesman for Schwab, Rob Farmer, did not return calls for comment. A spokesman for Ameriprise, Paul Johnson, declined to comment.

It was not surprising that PACs connected to large brokerage firms saw such an increase in fundraising and spending while the fate of the DOL fiduciary rule was being contested in Washington, political consultants said.

OPPONENTS OF DOL RULE

The securities industry was widely seen as opposing the DOL's fiduciary rule, its complaint being the potential for added costs from compliance and lawsuits by clients. Indeed, several financial industry trade associations opposing the DOL fiduciary rule in 2017 maximized their campaign donations to Rep. Ann Wagner, R-Mo., the author of legislation intended to kill the rule.

In the case of the LPL PAC, campaign spending increased more heavily for Republican candidates over that period. In the 2014 election cycle, 54% of contributions to political candidates went to Republicans, who run on a broad anti-regulation agenda; and 46% to Democrats, according to the website OpenSecrets.org. By the 2018 cycle, LPL PAC contributions to Republicans climbed to 74% of its total, with contributions to Democrats falling to 26%.

The LPL PAC contributed the maximum of $10,000 to a dozen congressional candidates in the 2018 cycle, 10 of whom were Republicans.

Mr. Mochal declined to comment.

"Timewise, and given the nature of those firms and businesses, it makes sense to see an increase in political spending tied to the advice rule," said Dan Barry, managing director of Atlantic Policy Solutions.

In the end, a lawsuit brought by several industry groups, including the U.S. Chamber of Commerce, the Securities Industry and Financial Markets Association and the Financial Services Institute, wound up killing the DOL fiduciary rule. Last March, the 5th U.S. Circuit Court of Appeals vacated the DOL regulation in a split decision, overturning a Dallas district court that was just as adamant in upholding the measure.

"The fiduciary rule could have prompted more giving to a PAC because of the heightened interest in it. But that doesn't mean you get what you want," said Duane Thompson, president of Potomac Strategies and former head of government relations at the Financial Planning Association. "It was the courts that were the deciding factor in this case, not Congress."

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CAMPAIGN SPENDING

Adviser groups shake up lobbying donation levels

BY MARK SCHOEFF JR.

ONE OF THE best ways for trade associations representing financial advisers to open doors on Capitol Hill is by contributing to lawmakers' campaigns.

Two lobbying groups in the advice industry ramped up political action committee spending during the 2018 election cycle by a notable percentage: the Investment Adviser Association and the Insured Retirement Institute.

The IAA contributed $61,000 in the 2018 cycle, compared to $40,000 in 2016. Spending was $34,000 in the 2014 cycle.

"We are focused on strengthening our advocacy efforts, both with regulators and on Capitol Hill," said Neil Simon, IAA vice president for government relations. "A PAC is a useful tool in building relationships on Capitol Hill, and we're putting greater efforts into giving. We're hoping to increase [political spending] substantially in the years ahead."

55

NUMBER OF MEMBERS OF CONGRESS WHO DID NOT SEEK RE-ELECTION LAST YEAR

The IRI donated $266,500 to 2018 campaigns, up from $223,000 in 2016.

"We've really tried to expand the reach of our PAC to ensure a robust relationship-building and education program among members of Congress," said Paul Richman, IRI vice president for government affairs.

The Financial Services Institute's spending, on the other hand, fell dramatically from $332,000 in 2016 to $207,000 for the 2018 cycle. It was $286,000 in 2014.

FSI SPENDING DROPS

The FSI declined to comment on the donation decline from 2016 to 2018. The 2018 total could change based on its fourth-quarter report due later this month.

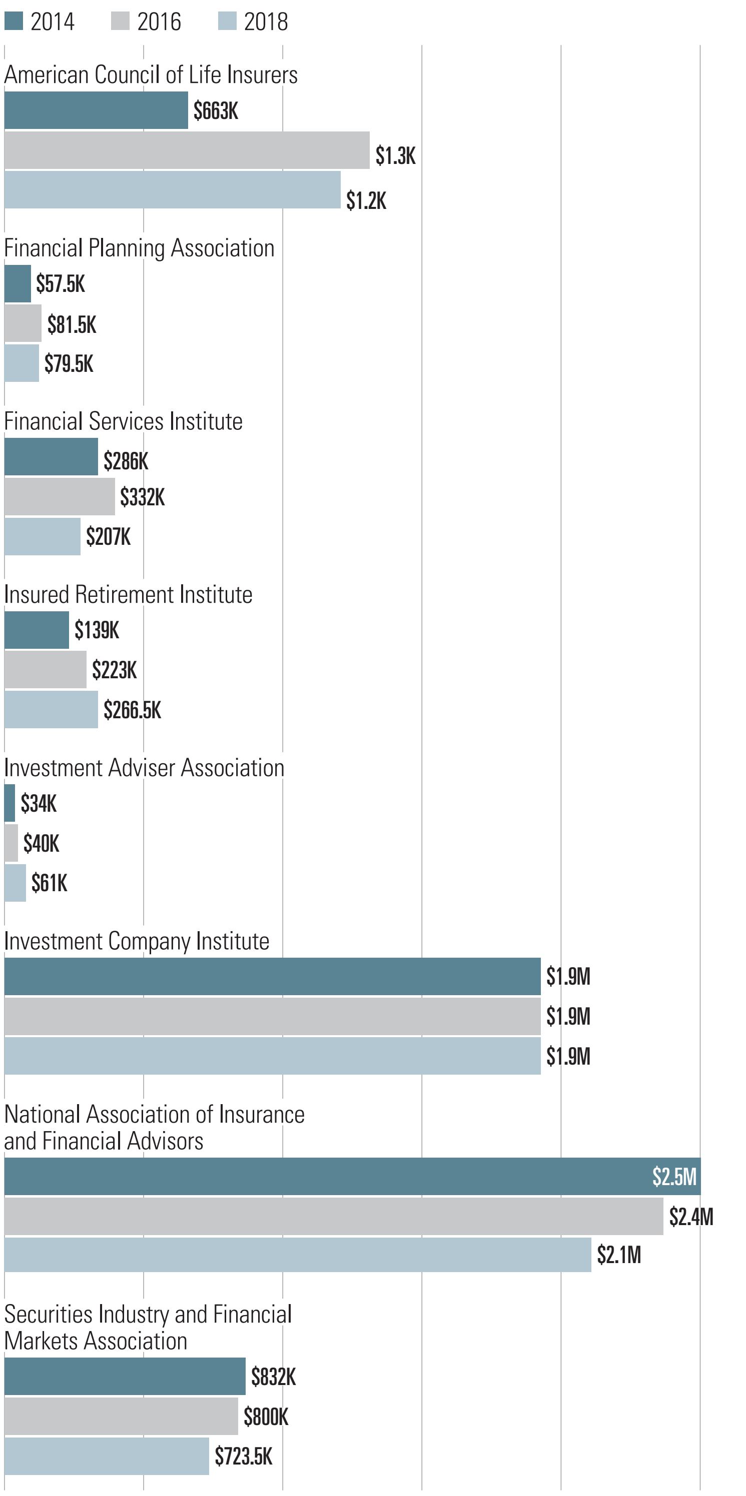
The National Association of Insurance and Financial Advisors' spending dropped from $2.5 million in 2014 to $2.4 million 2016 to $2.1 million in 2018.

NAIFA chief executive Kevin Mayeux attributes the decline in donations last year to the fact that 55 members of Congress did not seek re-election, an unusually high number. Like most organizations, NAIFA contributes mostly to incumbents.

NAIFA spending is likely to go back up in 2020, Mr. Mayeux said. "I would anticipate more incumbents will run for re-election than they did in this cycle," he said.

Below is an overview of

CAMPAIGN SPENDING BY ADVISER TRADE ASSOCIATIONS



Source: Federal Election Commission (data for 2018 cycle are through Nov. 26)

campaign spending by other trade associations with membership in and around the financial advice sector. Most maintained their political spending or decreased it slightly last year, according to data filed with the Federal Election Commission.

PRESIDENTIAL ELECTION

It's worth noting that the 2016 cycle included a presidential election. The 2018 cycle spending data reflects FEC filings from Jan. 1, 2017, through Nov. 26, 2018. An election cycle runs for two years.

The American Council of Life Insurers contributed $1.2 million in the 2018 cycle, little changed from $1.3 million in the 2016 cycle.

"ACLI has been able to contribute more to congressional candidates that support the life insurance industry's efforts to help Americans achieve financial and retirement security," Alane Dent, ACLI senior vice president for federal relations, said in a statement.

The Financial Planning Association contributed $79,500 in 2018, up from $81,500 in the 2016 cycle.

The Investment Company Institute spent $1.9 million in 2018, matching its contributions in 2016 and 2014.

Typically, trade association PACs donate to lawmakers who sit on committees with jurisdiction over policies that affect their industry, such as the House Financial Services Committee and the Senate Banking Committee, and to those who promote their policy positions. They also tend to donate to both Republicans and Democrats, with a majority of spending tilted toward the majority party.

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Carson Wealth snags Wells Fargo team

BY BRUCE KELLY

CARSON WEALTH has picked up a team of four financial advisers from Wells Fargo Advisors in Des Moines, Iowa.

Led by 30-year brokerage veteran Joel Worsfold, the team moved on Jan. 4, according to Mr. Worsfold's BrokerCheck report.

Ron Carson, Carson Wealth's founder and CEO, said that Worsfold Wealth Management had close to $500 million in client assets and that it was the first team from a wirehouse to move to Carson Wealth, an independent RIA and brokerage. Like Mr. Carson, Mr. Worsfold's team will now be affiliated with Cetera Advisor Networks.

Mr. Worsfold has recently appeared on Barron's ranking of top advisers nationally and locally in Iowa, Mr. Carson noted.

"This is a big deal for us," Mr. Carson said. "He's able to walk in and use a turnkey setup for his office. He's excited to be a true fiduciary for his clients."

A spokeswoman for Wells Fargo Advisors, Shea Leordeanu, did not return a call seeking comment.

Mr. Carson added that "several" more wirehouse advisers and brokers have committed to join Carson Wealth over the next several months.

When they join, advisers can brand either under their own firms' names or the Carson Wealth brand, Mr. Carson noted. "Wirehouse brokers are champing at the bit to put their clients' interests first," he said. "This is a movement that is accelerating."

Carson Wealth has more than 100 offices with $7.5 billion in assets under management.

Two years ago, Mr. Carson left his former, longtime broker-dealer, LPL Financial, to move to Cetera. At the time, he said he had lost faith in LPL's ability to provide the technology and services he felt he needed in order to move his firm into the future.

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TOP THREE ASSET CLASSES INSTITUTIONAL INVESTORS PLAN TO ADD TO IN 2019: **REAL ASSETS, PRIVATE EQUITY AND REAL ESTATE** (FOLLOWED CLOSELY BY FIXED INCOME).

SOURCE: BLACKROCK INC. SURVEY

Frustrated banks, brokers form new stock market

BLOOMBERG NEWS

A GROUP OF big banks and brokers is forming a new U.S. stock market, funneling years of frustration about how much exchanges charge into the creation of a competitor.

The nine founders, including Fidelity Investments, Morgan Stanley, UBS Group, Citadel Securities and Virtu Financial Inc., are seeking to "increase competition, improve operational transparency, further reduce fixed costs and simplify the execution of equity trading in the U.S.," according to a statement last Monday.

The Members Exchange, or MEMX, raised $70 million from the original group and is open to other investors, according to a person with knowledge of the matter.

The move recalls the days when the New York Stock Exchange and other exchanges were owned by their members rather than being for-profit, publicly traded corporations whose interests sometimes conflict with those of their customers. In recent years, brokers have complained that exchanges are charging too much for services, including market data — the vital stream of price information that traders can't live without.

KEY POINTS

- Banks and brokerages presumably can save money on trading costs by opening their own exchange.
- The market is called Members Exchange, or MEMX.
- MEMX raised $70 million and is open to additional investors.

SAVE MONEY

By sending orders to an exchange they own, banks and brokers presumably can save money on trading costs. Many of these firms already own private dark pools where they transmit trades, but a public exchange could be a more formidable competitor to Intercontinental Exchange Inc.'s NYSE, Nasdaq Inc. and Cboe Global Markets Inc.

Success isn't guaranteed, but the group brings a tremendous amount of trading firepower, which could help the business flourish. Banks such as Morgan Stanley, UBS and Bank of America Corp. bring in huge client bases. So do retail brokers, including TD Ameritrade, Charles Schwab and E-Trade Financial Corp. And Citadel Securities and Virtu are automated trading firms that are two of the biggest market makers in the business.

Even if it doesn't attract a large amount of trading volume, the Members Exchange could succeed if it simply prompts the incumbent markets to slow down price increases for their services.

The NYSE's shares slumped when the news hit last Monday, as did those of the Nasdaq and Cboe.

There are currently 13 stock exchanges in the U.S. All but one is owned by either ICE, Nasdaq or Cboe, which are publicly traded companies that have shareholders to keep happy. The other is the Investors Exchange, the market formed by closely held IEX Group Inc. that has a speed bump designed to slow down trading.

8 strange investment ideas

Some investment ideas are a bit crazier than others. Here are eight questionable ones advisers said their clients wanted to get in on.

Pirate treasure

A young couple instructed Kronos Wealth Management president Joel Sproul to liquidate their IRAs to invest in a company that discovered two sunken pirate ships they believed held treasure worth millions.

Uncut tanzanite

Leon LaBrecque, managing partner and CEO of LJPR Financial Advisors, had a client return from a cruise with a giant chunk of uncut tanzanite he bought for $18,000, believing he could turn it into $80,000.

Alpaca farm

Dennis Nolte, adviser with Seacoast Investment Services, had a woman come in asking for help buying land to open an alpaca farm, though she had no experience in the field.

Bees

Johnny Daswani, founder of Alpha Street Inc., recalls a prospect wanting to invest in a bee farm, which he said isn't uncommon in Florida. However, the prospect knew nothing about bees, and the investment was $50,000.

Chanel purses

Someone recently approached Alexander Koury, wealth adviser with Values Quest, for help with her investment: a collection of Chanel purses.

Golden bitcoin

Scott Bishop, executive vice president at STA Wealth Management, had a client say many in his retirement community wanted to invest in bitcoin, thinking the currency was gold or gold-plated.

Marijuana

Pamela Horack, financial planner with Pathfinder Planning, told a prospect she still views marijuana-related stocks as speculative. He replied that the drug got him through college and thought it could do the same for his retirement.

Next big thing

Rockie Zeigler, planner with RP Zeigler Investment Services, said he often has clients who don't have a crazy idea, they just don't have any idea. They simply want the next stock that's going to hit it big.

Gundlach pans buy-the-dip mentality

Jeffrey Gundlach is worried that investors are getting suckered into buying the dip in stocks, high-yield bonds and leveraged loans.

In his annual "Just Markets" webcast last Tuesday, DoubleLine Capital's chief investment officer sounded off on a range of topics, including bitcoin, Federal Reserve chairman Jerome Powell's "pivot," the growth of the U.S. national debt and the problem of underfunded state and local government pension plans. But it was the "BTFD [buy the f------ dip]" mentality that's lasted for so long in risky corners of the financial market that had him drawing comparisons to the subprime mortgage crisis. He explained his chief cause for concern.

"People were panicking in the later part of December. They were panicking, actually, but the flow data shows they were panicking into stocks, not out of stocks. People have been so programmed, and feel so frustrated by selling when we get dips, that this time they weren't going to be fooled. This time, they were going to buy the dip. I worry about that, though, because it reminds me a little bit about how the credit crisis developed in 2007 and 2008."

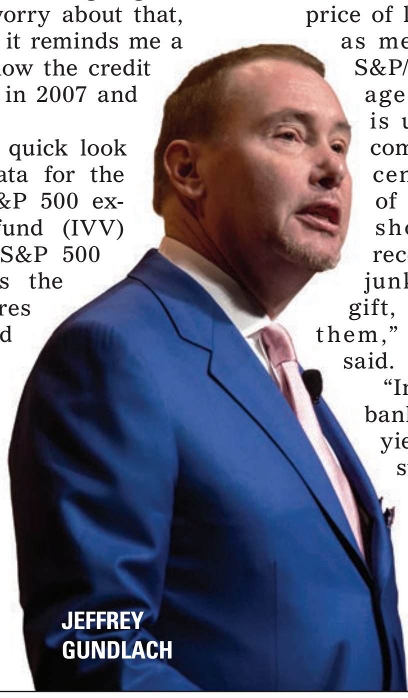
He's right. A quick look at fund flow data for the iShares Core S&P 500 exchange-traded fund (IVV) and the SPDR S&P 500 ETF (SPY) tells the story. The iShares fund avoided outflows from Dec. 11 through Jan. 4, even as stocks fluctuated wildly, according to data compiled by Bloomberg. The SPDR fund drew the most money since February on Dec. 21, the day it tumbled 2.62%, part of the fund's longest losing streak since January 2008.

Whoever did that is "feeling good today," Mr. Gundlach said. But he offered a reminder of what happened more than a decade ago to investors who snapped up subprime mortgages at what they thought were low prices.

GUESTBLOG
BRIAN CHAPPATTA

"The people who bought the dip, they didn't sell, they hung on, and the market started to crack again," he said. "And we have that waterfall that ended up happening. The people who bought the dip ended up getting scared and turned from buyers into sellers. There's potential for that here."

It's not just the U.S. stock market that's witnessing this, either. Junk bonds have come roaring back, with the Bloomberg Barclays U.S. Corporate High Yield Bond Index already returning 2.5% so far in 2019. The average price of leveraged loans, as measured by the S&P/LSTA Leveraged Loan Index, is up to 96 cents, compared with 93.8 cents at the end of 2018. Investors should use this recent strength in junk bonds "as a gift, and get out of them," Mr. Gundlach said.



JEFFREY GUNDLACH

"Investors bought bank loans and high yield, I can understand why you buy the dip, I get it. Buying the dip certainly worked back in 2016, and if you missed that, you feel bad about it," he said. "But like I said about subprime back in 2007, the first people, they buy the dip, they've never done that before, but they've been trained now to do it after continued frustration for not doing so, and then when prices head lower, suddenly those buyers turn into sellers. And with all the supply that's coming, it's a really interesting issue who's going to buy it."

All of this is to say Mr. Gundlach doesn't seem to be a fan of risky investments at these prices. By his thinking, capital preservation is key because markets may be approaching the point at which some of these dips are going to end up being much more than just that. But he wouldn't necessarily load up on long-term U.S. Treasuries, either; that rally might be over after a nice rebound to end 2018, he said.

Dismiss his gloomy outlook if you wish, but, as Bloomberg News' John Gittelsohn noted ahead of the webcast, a lot of what Mr. Gundlach predicted in 2018 came true. He called for U.S. equities to rise early in 2018 but then eventually reverse and leave the market down for the year. He nailed the direction of stocks better than some of his equity counterparts.

If you're an active fund manager, it's hard not to sympathize with his view on buying the dip. It has been so prevalent for so long that it seemed almost inevitable that the late 2018 drop wouldn't last. The wave of cash coming into passive ETFs tracking the S&P 500, even as the market tumbled, says it all.

No one is perfect when it comes to predictions, but Mr. Gundlach's 2018 calls were largely spot-on. If that happens again in 2019, investors had better buckle up for some turbulent times.

Brian Chappatta is a Bloomberg Opinion columnist covering debt markets.

Galvin fine highlights use of third-party tech

BY RYAN W. NEAL

BROKER-DEALERS may need to re-evaluate their policies regarding third-party adviser technology following a recent action by Massachusetts Secretary of the Commonwealth William Galvin.

Mr. Galvin's securities division fined Summit Equities, a New Jersey-based broker-dealer, $100,000 on Dec. 27 for failing to supervise registered representatives who mishandled the information of Massachusetts clients held within third-party customer relations management software.

KEY POINTS

- Massachusetts Secretary of the Commonwealth William Galvin fined Summit Equities.
- Ding involved failing to supervise rep who mishandled information.
- Firm allowed advisers to select own third-party CRM system.

According to a consent order, Summit allowed advisers affiliated with the firm to select their own third-party CRM system. Four advisers opted to use Redtail CRM to store clients' information, including names, addresses, phone numbers, dates of birth, Social Security numbers, account details, communication histories and adviser notes.

Summit had no access to or control over the data that advisers put into Redtail and the firm was unable to monitor the data and who had access to it. After the advisers terminated their relationship to Summit, they were still able to access client data through their CRM.

Though Summit has a policy of wiping all client personal data from a departing rep's devices, the policy was not in place for third-party technologies like Redtail. Mr. Galvin's office decided this violated the Massachusetts law requiring firms to protect investors' private information.

'VERY SERIOUS ISSUE'

"The security of personal information is a very serious issue for me and my office," Mr. Galvin said. "It is more important than ever that companies gathering personal information keep that information as secure as possible."

Summit Equities did not respond to a request for comment.

Terry Lister, a legal consultant and former Waddell & Reed chief regulatory officer, believes that this is the first enforcement action of its kind and that it's a "shot across the bow" to IBDs to re-evaluate how policies regarding client data are being applied to third-party technologies.

Most IBDs allow, and even encourage, advisers to select their own CRM systems, Mr. Lister said. But the technology is ultimately owned by the adviser and not the firm. As a result, there is no oversight in place for what data goes into the technology and no plan for an adviser leaving firm.

"In the current environment we work in, the reps are going to have to recognize the fact that they can't just automatically assume that they can take that CRM data with them," Mr. Lister said.

Mr. Lister recommends firms take time to inventory every third-party technology used by their advisers, what data those platforms store, and whether or not the data will need to be retrieved if an adviser leaves the firm. Part of the reason Summit was fined was that the firm wasn't following its own rules, he said.

If this is the first case of its kind, Mr. Lister wonders if it'll slow technology adoption in the IBD space.

"Instead of having a plethora of different CRM systems … rethink that business model and think more about providing a CRM system for the firm that all reps will use and the firm will control," Mr. Lister said.

For Paul Ewing, CEO of Prosperity Advisory Group, the case raises questions about who ultimately has sovereignty over client data.

"In the IBD space, it's a long-held tradition that it's owned by the adviser," Mr. Ewing said.

The CRM has more than just identifying information, he said. It also contains meeting notes, financial planning information and records of client interactions, so how can the broker-dealer demand that information be deleted, Mr. Ewing asked.

"Advisers have to ask the question: 'What are the rules at my firm?'" Mr. Ewing said. "'What does Cetera require? What does LPL require? Could we be in violation of the same rule?'"

AUTHORITY VS. OWNERSHIP

What's most interesting to Mr. Ewing is that the broker-dealer has authority over information on a technology paid for and owned by the adviser, not the firm. What does this mean for third-party tech such as Redtail and how it works with IBD advisers going forward?

Redtail said it doesn't comment on client engagements.

Mr. Lister said he expects this is only the first case of regulators looking at how firms are governing advisers' third-party technologies.

"You're going to see more of this. Advisers either don't know or choose not to pay attention," he said. "Firms need to make sure that their advisers understand what the policies are in these areas and how it applied in all situations."

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LPL continues to grapple with snafus

BY BRUCE KELLY

LPL FINANCIAL was fined a total of $490,000 last month by two states for its alleged failure to review emails of its brokers and to conduct yearly exams of branch offices, and its misclassification of nontraded REITs and BDCs, which are alternative investments, as equities, according to the firm's profile on BrokerCheck.

LPL, the largest independent contractor broker-dealer with more than 15,000 affiliated brokers and financial advisers, has been dogged for years by issues relating to emails, broker supervision and nontraded real estate investment trusts.

In 2013, the Financial Industry Regulatory Authority Inc. fined LPL a stunning $7.5 million for 35 separate significant email system failures. Finra had said at the time it was the largest fine it had imposed because of a firm's violations of industry email rules. Two years later, Finra ordered LPL to pay $11.7 million in fines and restitution for what it deemed to be "widespread supervisory failures" related to sales of complex products.

NONTRADED REITs

Sales of nontraded REITs have also been a persistent thorn in the firm's side. In 2017, LPL said it could end up refunding $8 million to clients under a settlement it reached with the New Hampshire Bureau of Securities over sales of nontraded REITs.

A spokesman for LPL, Jeff Mochal, did not return a call last Monday for comment.

From 2013 through September 2017, LPL allegedly failed to review certain emails of brokers in Indiana and also failed to conduct annual examinations for certain branch offices in the state, according to the BrokerCheck report. The Indiana Securities Division fined LPL $450,000 on Dec. 3.

LPL agreed to undertake an independent review of its Indiana operations related to email supervision and branch exams.

On Dec. 12, the Mississippi Securities Division fined LPL $40,000 for allegedly misclassifying certain nontraded REITs and business development companies as equities on certain client account statements, in violation of state rules, according to BrokerCheck. LPL neither admitted nor denied the findings in the state's order.

ONGOING REGULATORY ISSUES

The firm has had a steady stream of regulatory issues with the states.

In May, LPL and the North American Securities Administrators Association announced a settlement that could total as much as $26 million when it is eventually closed. Under the terms of that state settlement, LPL also agreed to repurchase from investors securities held in LPL accounts that are determined to have been unregistered, non-exempt equity or fixed-income securities sold since Oct. 1, 2006.

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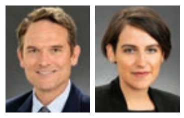
2019 is the year of the algorithm for the SEC



GUESTBLOG
NICOLAS MORGAN AND LILY LYSLE

As 2018 wound down, the Securities and Exchange Commission for the first time charged two robo-advisers for violations of federal securities laws. These cases represent a trend that has been a long time in the making and will culminate in more such actions in 2019 and beyond: the clash between algorithms and the SEC.

One aspect of the trend is investment advisers' increased use of algorithms — essentially procedures or sets of rules telling a computer how to accomplish an end. Robo-advisers invest based on input from investors followed by the output of algorithms, rather than recommendations of human advisers.

The underlying technology is not new — traditional financial advisers have had similar tools available to them for decades. In 2014, one Hong Kong venture capital fund famously appointed an algorithm to its board of directors. With robo-advisers, however, the technology is available directly to retail clients, much like a self-checkout line in a grocery store.

KEY POINTS

- Increased use of algorithms has led to clashes with the SEC.
- Robos collectively manage over $200B in assets.
- Federal securities laws apply to robos.

As accounts typically have low minimums and carry minimal fees, robo-advisers are popular with beginner and lower-net-worth investors, for whom traditional financial advisers may be out of reach. By some estimates, robo-advisers collectively manage over $200 billion in assets.

SAME LAWS APPLY

In 2016, the SEC said it would begin auditing robo-advisers for compliance with securities laws, and in February 2017, the SEC issued an investor bulletin and guidance on the topic. Now, in two separate cases, the SEC has made the point that using an algorithm does not relieve investment advisers of their obligations under the federal securities laws.

On Dec. 21, the SEC announced a settlement with Wealthfront Advisers, an online robo-adviser that provides software-based portfolio management, including a tax-loss harvesting program for clients' taxable accounts. In connection with that program, the SEC alleged that Wealthfront falsely represented to clients it would monitor their accounts to avoid transactions that might trigger a wash sale. In fact, the SEC alleged, Wealthfront failed to conduct such monitoring, rendering its representations misleading.

In a separate action against another robo-adviser, Hedgeable Inc., the SEC alleged that the adviser misleadingly compared its results to performances of other robo-advisers. According to the SEC, Hedgeable calculated its returns based on a small subset of client accounts and miscalculated its competitors' trading model returns.

While groundbreaking because they involved robo-advisers, the Wealthfront and Hedgeable actions allege misconduct by humans rather than as a result of malfunctioning algorithms. The SEC has a long history of cases against investment advisers for misrepresenting to clients, so it comes as no surprise that advisers who make such misrepresentations in connection with an algorithmic trading platform will meet a similar fate. The impact of automated trading first became clear after a five-minute span on May 6, 2010, in which the Dow Jones Industrial Average dropped by 1,000 points — the so-called flash crash, an event largely attributed, correctly or incorrectly, to algorithmic trading.

With such potential for large market impacts, algorithmic misbehavior will be shown little tolerance by regulators. The SEC's message has been clear: Although the federal securities laws were enacted long before anyone imagined trusting a robot with investment decisions, they will be applied to robo-advisers in full force.

Nicolas Morgan is a partner at Paul Hastings and former senior trial counsel at the SEC. Lily Lysle is an associate at Paul Hastings.

1.12% AVERAGE ADVISORY FEE ON CLIENT ASSETS OF $500,000. (THAT FEE INCREASES AS ASSETS FALL, AND VICE VERSA.)

SOURCE: *INVESTMENTNEWS* 2018 STUDY OF PRICING & PROFITABILITY

TECHNOLOGY / BUSINESS DEVELOPMENT / MARKETING / NEXT GEN / CLIENTS / EMPLOYEES

5 ways to make the most of social media in 2019

SCOTT KLEINBERG

ONSOCIALMEDIA

I just read a story on social media about some guy who time-traveled here from 2030 to tell us what's going to happen this year.

That guy is going to have a hard time getting anyone to believe him. Back to the present, let's talk resolutions — five things you can do to be better on social media in 2019.

1. Know your audience. Where are the people you are trying to reach? You should find out, otherwise you might as well be talking into space because no one will hear you. People get caught up in how many followers they have and how fast "the numbers grow." I'm here to tell you after 12 years of doing this that numbers do not matter. I say this many times a year, but it's always true: I'd rather have 10 extremely engaged followers on one account than 10,000 barely active, probable bots on multiple ones.

Once you identify your audience, keep it and grow it by being useful and interesting. If you post photos on Instagram and someone comments on that photo, comment back, even if it's just to give a simple thank you.

KEY POINTS

- More followers don't always mean more engagement.
- Disconnect, unfollow and unlike where appropriate.
- Check your settings on each account four times a year.

2. Listen to your colleagues and industry peers. What trends are like-minded people capitalizing on? Has everyone jumped ship from LinkedIn and moved to Facebook Groups? Just because they have doesn't mean you should, but it also doesn't mean you shouldn't.

Be well-read, well-versed and always up to speed, because things change fast in the digital world.

3. Keep secure, please. Terrible passwords are so 2018. And 2017. And 2016. And … I write this every single year. And just when I think people will listen and create secure passwords, another story comes out about how this past year's most popular passwords were "Donald," "baseball" and "123456." While technology is advancing enough where we have some sites secured using fingerprints and facial recognition, plenty of websites are still old-fashioned and digitally weak.

You can't prevent a company from being hacked and having your information compromised, but you can minimize the damage by creating secure and unique passwords for each of the different sites you visit.

4. Clean up your followers and connections. Once upon a time, I clicked yes to every single connection request I ever received on LinkedIn. Fast forward to a few thousand people later — people whom I don't know and who have never engaged with me in any meaningful way — and I have a bloated follower count that means nothing. As I noted in the first resolution, numbers are just numbers. Take the time to disconnect, unfollow and unlike where appropriate.

5. Update your settings four times this year. We're talking 10 minutes of your time, once every three months. A whole 40 minutes out of 525,600. And by "updating settings," I mean go to the settings menu on Twitter, Facebook, LinkedIn, Instagram, etc., and check what's under there. Here's a great example: Did you use Facebook and take one of those seemingly harmless quizzes? If so, there's a 99.9% chance you inadvertently gave someone access to your Facebook account. They might not have your password, but they might be able to post on your behalf. Pro tip: Make it easy for yourself by setting an Outlook reminder on the first day of each season for you to make sure your passwords are secure, and make sure things look the way they should in your settings.

You could spend days or weeks tweaking your social media until everything is perfect, but unless your job is in social media and you have all that time to do that, these quick and easy resolutions are more than sufficient to get you safely and securely to 2020. That's when my future self will be working on next year's social media resolutions column.

If you have a social media question or an idea for a column, tweet to me with the hashtag #onsocialmedia or email me.

And remember to follow *InvestmentNews.* We're at @newsfromIN on Twitter, Facebook and Instagram, and just search *InvestmentNews* to find us on LinkedIn.

Happy New Year.

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Firms must be careful about U-5 filings in #MeToo era

GUESTBLOG
ALICE KOKODIS

Financial institutions conducting sexual harassment investigations must take a vigilant and measured approach to performing sensitive internal investigations, especially firms that employ registered representatives. These firms must balance their regulatory duty to disclose wrongdoing to the investing public with the need to mitigate liability for defamation or other claims.

Although firms have historically protected their own, the current social climate has led to more employers separating an employee accused of sexual harassment. If the terminated employee is a registered broker or financial adviser, the firm is required to file a Uniform Termination Notice for Securities Industry Registration, or Form U-5, with Finra.

REASONS FOR TERMINATION

Most terminations on Form U-5 are described as (1) voluntary; (2) involuntary/terminated, meaning the firm terminated the representative, often following allegations of misconduct; or (3) permitted to resign, meaning the representative was allowed to resign prior to an involuntary termination.

This third option usually applies when an internal investigation is pending but the employer hasn't rendered a decision on the alleged misconduct. When a rep is terminated or permitted to resign, firms also are required to describe on the form the circumstances leading to the termination or resignation.

Issues often arise on how the termination is described and, in the case of a sexual harassment investigation, what, if anything, about the alleged misconduct is included on the form. False or misleading information can have devastating effects on an employee's future career, so accuracy is paramount. Moreover, inaccurate statements or unsupported conclusions may expose the firm to defamation actions.

To reduce the potential for litigation, consider who should take the lead in sexual harassment investigations. Appropriate investigators may include someone in HR, an in-house attorney, an outside investigator or a committee created for such investigations.

The firm also should have procedures on how to draft and approve Form U-5 filings that must be implemented as early as possible in the decision to terminate an eligible employee. Some firms rely on their compliance departments to prepare the form, but the final termination language should be reviewed by the investigator prior to filing to ensure consistency with the findings and to confirm that all supporting documents are ready if litigation ensues. Diligent confirmation of the U-5 disclosures may help demonstrate that a potentially defamatory statement was not knowingly or recklessly false.

Most U-5 defamation claims are subject to Finra arbitration, and demonstrating a good-faith investigation can go far in arbitration settings where standards are often less rigorous and the panel is focused instead on who is in the wrong.

Alice Kokodis, an attorney in the Boston office of Littler, represents employers in a broad range of employment law matters.

Asking for referrals is beneath you

At the Schwab Impact conference in Washington, I was on a panel discussing client experience. One part of the discussion caused quite a stir in the media, both traditional and social.

While sharing our thoughts about wealth management, I made a pejorative comment about how our industry asks for referrals and the absurd "how to get referrals" education many of us grew up with.

GUESTBLOG
JOE DURAN

I sincerely believe the way most of us have been taught to ask clients for referrals is demeaning and insults our profession. Imagine if, after curing you of cancer, your doctor asked you for a referral by saying, "Now that I've cured you, can you introduce me to your friends or coworkers who might need my service?" Asking for referrals in this way is embarrassing for you and for your clients.

Referrals are the No. 1 source of growth for most advisers, and our national firm is no exception. Heck, just last year we obtained over $1 billion in assets under management in referrals. Am I being hypocritical by talking down about something that gives us so much benefit? I hope not. Referrals are the lifeblood of our profession.

LOSE THE 'ICK' FACTOR

I think there is a far better way to get referrals that isn't quite so "icky."

1. Understand your value. In the past, most advisers made their living selling investment products, like salesmen in a transactional relationship. That's when the original referral language was developed. Today, most advisers in wealth management have insights that go way beyond investing. They have a professional, long-term relationship with clients. Their knowledge and time are valuable.

Whether it's figuring out the most efficient wealth transfer strategy or helping somebody manage their financial life through a divorce, most advisers have important skills that can help people avoid costly mistakes. That's something to be treasured by your clients and their friends.

IS YOUR PRIMARY GOAL TO MAKE MORE MONEY OR TO HELP MORE PEOPLE? YOUR INTENTIONS MATTER.

2. Check your intentions. Is your primary goal to make more money or to help more people? Your intentions matter. You can grow your firm the "old school" way of asking for referrals to find more clients and make more money, or you can help your dearest clients take care of their closest friends. As nuanced as the difference might appear, it changes everything.

Your intentions determine how you frame and approach the topic of referrals. If you offer your expertise to help your clients' friends, they will view your service as something to appreciate, not something to dread. If your primary goal is to help people, that intention permeates the organization and drives a mindset of service that makes you more referable whether you ask or not.

3. Offer your help in the right way. Offer your help, don't ask for a referral. Here's a simple example: "Jen and Steve, if you're ever in a situation where someone you care about needs my help, I want you to know that I'm here for you to have a call and help them in any way I can. I might not be able to take them on as a client, but I can at least give them some guidance and help them avoid making big mistakes." By doing this with a genuine intention to help, you offer an act of service instead of asking your clients for a favor. Imagine if your doctor or lawyer offered this service. You would be grateful, not painfully uncomfortable, right?

4. Offer your help to the right people. If your clients aren't comfortable telling their friends about you, it could be that you have not yet done enough to help them. Be selective. Offer your time to people with whom you have an authentic connection, folks who really love working with you and on whose lives you've made a big impact.

Your time might occasionally be spent on a call with a person who will never qualify to be your client, such as an irresponsible brother-in-law, but your clients will not abuse this service and will genuinely appreciate you. They will return your favor with their loyalty. It goes without saying that some of their friends will be people who end up becoming clients.

Joe Duran is founder and CEO of United Capital. Follow him at @DuranMoney.

VANGUARD

CONTINUED FROM PAGE 2

which can generate extreme volatility if used for long-term investing purposes.

"These kinds of strategies can be harmful to investor portfolios if used incorrectly because the trends can quickly move against you," said Todd Rosenbluth, director of mutual fund and ETF research at CFRA.

The news is the latest in a series of platform and fund management changes at Vanguard, but this is one that investors might have seen coming. Last summer, when Vanguard lifted commissions on 1,800 ETFs, which was an expansion from 77, the inverse and leveraged funds were not included.

"[Vanguard officials] had previously put up a roadblock on frequent trading of leveraged and inverse ETFs, and now they put up a permanent barrier," Mr. Rosenbluth said.

Asked about the potential for losing some trading activity, and revenue, on the brokerage platform, Ms. Farrell said, "It is certainly possible."

"This is new, but the underlying philosophy at Vanguard is certainly not new," she added.

Direxion, a fund complex made up largely of leveraged and inverse-strategy products, released a statement that reads in part, "We are aware of the long-term focus held by most Vanguard investors, but also believe the more tactical trading instruments we offer can be effective tools for well-suited investors who understand their short-term focus."

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ADVs IN LIMBO

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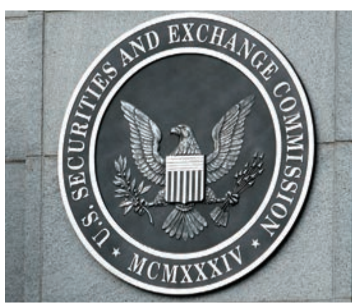
for the SEC and other government agencies.



As the shutdown grinds on, some fledgling RIAs are taking other steps to launch their businesses, said Christopher DiTata, vice president and general counsel at RIA in a Box, a compliance consulting firm.

Mr. DiTata is advising his clients to concentrate on establishing custodial relationships, doing due diligence on vendors, and setting up office operations while waiting for the SEC to reopen.

So far, the RIAs-in-waiting are maintaining a good attitude.

"We've seen these new SEC applicants be relatively understanding of the situation," Mr. DiTata said.

300 WORKERS

Under shutdown operations, only about 300 of the SEC's 4,436 employees are working. The Investment Adviser Registration Depository is still operating because it's run by a contractor. The IARD is accepting annual amendments to Form ADV, Form ADV-W and Form ADV-E filings.

It's difficult to know how many newly filed registrations are piling up. The SEC has not indicated how long it will take to process them when it's back in business.

"Every day that goes by that the shutdown continues, the backlog grows," Mr. Tittsworth said.

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RIAs saw 18% growth in 2018: TD survey

INVESTMENTNEWS

REGISTERED investment advisory firms, on average, increased assets and revenues by 18% in 2018, according to an annual survey of RIA sentiment conducted by TD Ameritrade Institutional. The firm cited market volatility and investors' preference for independent advice as key drivers of the gains, noting that 63% of advisers are somewhat or very optimistic about the economy for 2019 and 47% expect stock prices to rise.

More than three-fourths of advisers said they expect their firms to continue to grow in 2019, and nearly half said the pace of growth will be faster than last year.

About 25% of RIA firms' new clients previously had been self-directed or were new to investing, and nearly one-third of new clients came from commission-based platforms, TD Ameritrade said in a release.

The findings were based on a telephone survey conducted by an independent research organization between Nov. 27 and Dec. 13, 2018, of 302 RIA firms representing clients and non-clients of TD Ameritrade Institutional.

The RIAs surveyed said that cybersecurity is the most important issue facing the industry and should be a top concern for regulators. They said that outside of compliance issues, technology is their biggest management challenge.

LPL AFFILIATE

CONTINUED FROM PAGE 2

not bind them in any way and will act as kind of a halfway house for these teams. If they choose to establish their own RIA in a year or two, we will help them go independent."

The new wrinkle in the firm's platform includes LPL waiving a five-basis-point fee it usually charges advisers who hold assets in custody at competing custodians, including Schwab Advisor Services and Fidelity Clearing & Custody Solutions.

CORPORATE RIA

LPL's willingness to cut a fee for assets held at a competing custodian comes at a time when the firm has been tinkering with its strategy to drive assets to its corporate RIA platform.

LPL does not report the amount of assets its advisers hold at outside custodians. But affiliates have said in the past it could be at least 10% more profitable for LPL to have adviser assets with its own corporate RIA rather than at a competitor such as Schwab or Fidelity.

"We are delighted to help support Private Advisor Group with this new offering," said Andy Kalbaugh, LPL Financial's managing director and divisional president, national sales and consulting, in an email. "The firm's commitment to supporting independent advisors has proven to be a huge success, and we look forward to partnering with them and empowering wirehouse teams to make this move to independence."

It was not clear whether LPL would consider waiving the five-basis-point custody fee for other branch offices looking to recruit wirehouse advisers.

Private Advisor Group's marketing material labels the new offering as a "fully integrated" RIA and branch office, known as an "office of supervisory jurisdiction." While recruited brokers may choose a custodian other than LPL, they will park brokerage assets on LPL's clearing and custody platform.

The firm's target adviser or team is one with less than $1 billion in assets who is looking for a complete, all-in-one set of compliance, reporting and trading tools, Ms. Salameh said. Private Advisor Group is working with Orion Advisor Services for technology and MarketCounsel for the recruiting leads in the introduction of the new platform, she said.

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SEC SHUTDOWN

CONTINUED FROM PAGE 3

fraud is back.

Just last month, the SEC said it charged 13 individuals, including a former financial journalist, with unlawfully selling the securities of Woodbridge Group of Companies, a $1.2 billion Ponzi scheme that collapsed in December 2017 and filed for bankruptcy. In November, the SEC fined the former CEO of Woodbridge, Robert Shapiro, $120 million to settle allegations that he defrauded investors in the scheme.

1 GLOBAL CAPITAL

And the SEC and the U.S. Attorney's office in July said they were investigating an alleged fraud called 1 Global Capital, a company that raised $283 million from investors to make short-term business loans. The money was raised, at least in part, through a network of unregistered brokers and financial advisers.

(The 1 Global Capital loan business is a separate, unrelated company from 1st Global Capital Corp., an independent broker-dealer.)

A call last Wednesday to the SEC's press office seeking comment was not returned.

The government shutdown, which started on Dec. 22, apparently had an almost immediate impact on the SEC. According to the agency's website, it has not filed an enforcement action against a firm or individual since Dec. 26.

Rep. Maxine Waters, D-CA, chairwoman of the House Committee on Financial Services and not a favorite of many who work in the financial services industry, said last Wednesday that the government closure opened the door for bad actors looking to commit fraud.

"This president has all but closed the doors of the SEC, furloughing 94% of the agency and essentially providing fraudsters and schemers with a free pass to swindle investors and small businesses," Ms. Waters said in a statement. "With such a skeleton crew of less than 300 staff, the SEC cannot possibly oversee the activities of the over 26,000 registered entities, such as investment advisers, broker-dealers, and stock exchanges."

She added: "Worse, the SEC is unable to hold bad actors accountable through most enforcement actions, preventing harmed investors from obtaining relief."

If the SEC can get back to work over the next week or two, the risk to the public would be real but not as serious as if it remains closed for the next several months, one lawyer said.

"IF THE SEC IS SHUT DOWN FOR SEVERAL MONTHS, THERE WILL BE SERIOUS PROBLEMS."

BRANDON REIF, MANAGING PARTNER, REIF LAW GROUP

"If the SEC is shut down for several months, there will be serious problems in the securities marketplace," said Brandon Reif, managing partner of his eponymous law firm. "You will see a lot of fraud, and the [SEC] won't have the time or resources to investigate."

Wall Street's cop on the beat right now is MIA. If the SEC's staff does not get back to work soon, investors and the financial advice industry are certain to suffer. A government shutdown, particularly one that goes on for months, has only one result.

The bad guys win.

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BOB OROS

CONTINUED FROM PAGE 4

"remain as an active part of Bob's team focusing on M&A and organic growth," and said he has known Mr. Oros for several years.

"Bob's reputation at Schwab preceded him," Mr. Weissbluth said. "When I met him at Fidelity, I saw firsthand what kind of a man he is."

Amit Dogra, CEO of Third Seven Advisors, cited Mr. Oros' career history as a potential challenge.

"It will be interesting to see how he fits into a company of HighTower's size," he said. "At Schwab and Fidelity there are thousands of advisers, but only a handful that might require Bob's time. At HighTower there are no small teams and they are all worthy of Bob's time."

NO 'DETAILED' PLANS

Mr. Oros, who said it is too early to have a "detailed road map" of what he plans to do at HighTower, said, "I want to focus on the teams that are here, first and foremost."

Mr. Oros, who never relocated from the Boston area for the HD Vest job in Texas, plans to move to the Chicago area once the school year is over in New England.

In the October announcement that he was leaving HD Vest, there was a reference to needing to help care for a family member.

Mr. Oros said that being in Chicago will allow him to be closer to his aging mother, who is living in a nursing home in Dearborn, Mich.

> **"WE'RE INTENTLY FOCUSED ON ... CONSOLIDATION IN THE RIA SPACE."**
>
> ELLIOT WEISSBLUTH
> FOUNDER AND FORMER CEO
> HIGHTOWER ADVISORS

Mindy Diamond, president of the recruiting firm Diamond Consultants, said she is a big fan of Mr. Oros' expertise and experience, and believes he is the right person to lead HighTower.

However, she questioned his abrupt departure from HD Vest after just two years for reasons presented as family-related.

"That seems disingenuous, and a little odd, and disingenuous is not the adjective you'd want anyone to use to describe a leader," Ms. Diamond said.

Regarding the HD Vest announcement, Mr. Oros acknowledged, "I made the decision to leave for personal reasons, partially."

One of the things that Mr. Oros is expected to bring to HighTower is clarity of focus on the registered investment advisory channel.

While Mr. Weissbluth launched the business primarily as a safe haven for breakaway wirehouse brokers, it has evolved and expanded to include various platforms to offer multiple affiliation models.

"We're intently focused on the greatest opportunity, which is the consolidation in the RIA space," Mr. Weissbluth said.

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401(K) FIRM DEALS

CONTINUED FROM PAGE 4

"The Financial Engines and Sheridan Road transactions are of particular interest because we're starting to see outside money recognizing the fact that our businesses are undervalued and getting their toes in the water," Mr. Hammond said.

Up until the Financial Engines deal, private-equity money was largely absent from 401(k) adviser market, experts said. And Hub, an insurance brokerage, is a relatively new entrant into the 401(k)-firm acquisition market. It joined the ranks of these so-called aggregators in 2017, when David Reich, formerly an LPL retirement executive, was hired as its president of retirement services.

Captrust is the largest of the aggregators, with nearly $300 billion in assets. Hub Retirement Services, by comparison, has nearly $25 billion following its recent acquisition, Mr. Reich said.

"It used to be that scale was $1 billion, then $5 billion, then $10 billion," he said. "Now it's starting to be that $25 billion is probably the entry point, and some people argue $50 billion."

Dick Darian, CEO of The Wise Rhino Group, a consultant that advises on M&A, said Sheridan Road is among the "elite regional" firms, which typically have annual revenue ranging from $3 million to $15 million. There are about 75 to 100 of these firms that are coveted acquisition targets for aggregators, said Mr. Darian.

Some retirement plan advisers have turned toward aggregators to offload business responsibilities and help make their businesses more efficient in the face of declining fees and growing demand for services from plan-sponsor clients.

While the wealth management business is more mature in terms of M&A — think of it like the sixth inning of a baseball game — the retirement market is nascent, more like the first inning of a ball game, according to Mr. Darian. He believes the Sheridan Road deal is an indicator that the market could become more active.

"It's certainly a sign," he said. "It's a proof statement that the consolidation is game on."

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DIVERSITY

CONTINUED FROM PAGE 4

port women throughout the entirety of their careers.

INTRODUCE TRAINING

This support begins with increasing awareness of gender bias across the company, which has been shown to help bring awareness to hidden biases and eliminate them. It is important for companies to establish a baseline by providing all employees with unconscious-bias training.

For decades, the industry has been led by men, and in the process, the perception of what leadership looks and sounds like has coalesced around styles more commonly exhibited by men. This puts female managers in a double bind: Those who act in stereotypically feminine ways may not appear to be prepared for leadership in the eyes of their colleagues, but those who seek to pre-empt this bias by taking a stereotypically male-oriented approach risk backlash for not being "warm" or "likeable." When administered correctly, unconscious-bias awareness training can shine a light on these leadership preconceptions.

CALL OUT BIAS

When an unconscious bias inevitably manifests itself in behavior, it is especially important for employees at all levels to call it out. Even the most well-intentioned individuals may not realize when an incident has occurred.

Pointing out when a woman is cut off in a meeting or is written off for an opportunity will gradually expose how deeply unconscious bias might be ingrained in corporate culture. Without this, progress in fostering women leaders will be slower than desired.

EXAMINE BENEFITS AND POLICIES

Additionally, it is no surprise that women often drop out of the leadership pipeline during their childbearing years. Providing substantial family-friendly benefits is a nonnegotiable component of nurturing women's professional potential. This includes offering a robust parental leave program; child-care options in the office or during business travel; lactation rooms; flexible, remote and part-time work options; and/or "returnship" programs for women reentering the job market after time spent raising children.

Furthermore, encouraging men to take advantage of parental leave and other benefits normalizes such benefits in company culture and decreases the opportunity cost for the women who need or choose to take advantage of them.

MAXIMIZING SUCCESS

Finally, once a woman is identified as a leader, it is vital for the company to support her and maximize her chance of succeeding in the role. Providing executive coaching will help to ensure a smooth transition and discern her full value. It will facilitate her growth by identifying her leadership style to best meet her team's culture and the demands of the role. Providing coaching will demonstrate to the organization that the company is committed to her development, expediting the adoption of her management style by the team.

Melissa Norris is a founding partner of Jamesbeck Global Partners, an executive search firm focused on investment management.

KNOW SOMEONE?

Do you know a successful adviser from a diverse background who has an inspirational story to tell? If so, email special projects editor Liz Skinner at lskinner@investmentnews.com.

Plaid buys rival Quovo for $200 million

BY RYAN W. NEAL

QUOVO, ONE of the biggest names in data aggregation for the wealth management and brokerage industry, will be acquired for $200 million by Plaid, a rival startup in the financial data aggregation business, according to Bloomberg.

Like Quovo, Plaid facilitates data connections between banks and technology startups. When someone enters bank account log-in information into a third-party website or app, Plaid checks those credentials with the corresponding financial institution and if they're accurate, passes banking information back to the app.

Plaid counts some of the most popular consumer-facing fintech startups among its clients. Cryptocurrency exchange Coinbase, PayPal's peer-to-peer payments app Venmo and stock-trading app Robinhood have all used Plaid.

$2.65B

AMOUNT AT WHICH PLAID WAS VALUED IN THE HIGHEST BID FOR THE COMPANY

The San Francisco-based startup was the subject of a bidding war among venture capitalists and at least one tech company, ultimately resulting in a $250 million investment last month.

But Plaid primarily interacts with checking and savings accounts, so it's using only part of that investment to buy Quovo, which aggregates investment and brokerage data.

Traditional firms like Janney Montgomery Scott, digital-advice companies like Betterment and adviser-facing technology vendors like Advizr and Advicent use Quovo's data aggregation. Quovo also is popular among independent financial advisers and broker-dealers, attracting investments from big names like Ron Carson, Steven Lockshin and Marty Bicknell.

"This represents the merging of two complementary but both very important businesses," Zach Perret, Plaid's CEO, told Bloomberg.

SINGLE-PLATFORM

In a blog post, Mr. Perret and co-founder William Hockey said acquiring Quovo will help them build a single-platform software that developers can use for financial applications that can handle everything from payments and lending to wealth management.

"Combining our platforms will create a better experience for our customers while also enabling new services to be developed that consider the full financial picture of today's consumer," Quovo co-founder and CEO Lowell Putnam said in his own blog post. "It is our sincere hope that it ushers in a new wave of innovation, from the smallest startups being founded today to disrupt the status quo, all the way to the largest banks in the world that are looking to supercharge their customer relationships with data."

YODLEE

The arcane business of securely transmitting banking data online had long been dominated by a company called Yodlee. It was established in 1999, signed on several large banks, and went public in 2014. Less than a year later, financial services company Envestnet Inc. bought Yodlee for $660 million.

ByAllAccounts, another aggregator focused on independent advisers, asset managers and broker-dealers, was sold to Morningstar for $28 million in 2014.

Aggregator upstarts like to draw contrasts to Yodlee, particularly in the area of customer privacy. When someone uses one of these services to log in to their bank, the provider can see their bank balances and other information. Yodlee has said it sells anonymized user data to hedge funds. Plaid and Quovo say they don't.

In 2016, Goldman Sachs Group Inc. led an investment in Plaid that valued the business at less than $500 million. Last year, Square Inc. expressed interest. It held discussions to acquire Plaid for about $1 billion, said people familiar with the matter. Square, which makes cash registers and payments software, has been expanding into online financial services, such as a lending business and a Venmo-like app to pay friends. The talks, which haven't been previously reported, failed to result in a deal. Square and Plaid declined to comment.

In the ensuing months, VCs jockeyed for a piece of Plaid. One investor pledged to buy shares at more than four times the share price of the earlier funding round. Mary Meeker of Kleiner Perkins Caufield & Byers came in with an even higher bid. She won in a deal last month that valued Plaid at $2.65 billion.

AGREEMENT WITH JPMORGAN

Signing on all the big names in finance was a challenge. Last summer, Plaid was in a very public disagreement with Capital One that has since been resolved. It recently locked in an agreement with JPMorgan Chase & Co., a longtime holdout.

Plaid's revenue last year was close to what Yodlee was generating four years ago, said a person familiar with Plaid's financial performance. That number was $89 million. To live up to the hype, Plaid knows it will have to expand faster. Last Tuesday's deal could help with that.

Additional reporting provided by Bloomberg.

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Envestnet Yodlee CEO steps down

BY RYAN W. NEAL

ANIL ARORA is stepping down from his role as chief executive of Envestnet Yodlee.

Mr. Arora joined Yodlee in 2000, guiding the company from a startup to arguably the biggest name in financial account aggregation. Under Mr. Arora, Yodlee filed for an initial public offering in 2014 and was acquired by Envestnet Inc. for a reported $660 million in 2015.

According to Envestnet, Yodlee's revenue has nearly doubled since the acquisition, while profitability has increased five-fold.

In a statement, Mr. Arora called his time with Yodlee "the most compelling professional adventure I have ever undertaken." He did not elaborate on his reason for stepping down, or plans for the future; however, he will remain on Envestnet's board of directors.


ANIL ARORA

Envestnet did not immediately respond to a request for comment.

At the same time, Envestnet is restructuring its business by consolidating its operations into two business units.

The Yodlee platform and other data management Envestnet provides will fall under the Envestnet Data & Analytics division. Leading the team is Stuart DePina, who currently runs Envestnet Tamarac.

Tamarac provides portfolio management, reporting, trading, client portal and client relationship management software to more than 1,000 registered investment advisers. That team will be a part of Envestnet's other new division, Envestnet Wealth Solutions.

Envestnet's Wealth Solutions will focus on innovation and market growth for RIAs, independent broker-dealers, banks and other financial institutions. Leading the team is Bill Crager, who runs Envestnet's Enterprise business.

"These changes will give our clients greater access to our integrated technology and improve operational effectiveness," Jud Bergman, Envestnet chairman and CEO, said in a statement.

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Marstone integrates with Interactive Brokers

BY RYAN W. NEAL

MARSTONE, a white-label digital-advice provider, is now fully integrated with Interactive Brokers Group's custody and clearing platform to provide advisers with a "turnkey wealth management solution."

Financial institutions working with Interactive Brokers can use the combined platform to launch a customized robo-advice product. Marstone's platform can support a fully digital robo-adviser, a hybrid tool or a more sophisticated platform that meets the needs of ultrahigh-net-worth investors, according to Marstone founder and CEO Margaret Hartigan.

Marstone is also fully integrated with Pershing's platform and powers the robo-adviser introduced by HSBC Bank USA in October. The technology company also has a partnership with Fiserv.

The market for adviser-facing digital advice continues to expand as the technology quickly becomes table stakes for custodians and broker-dealers. But advisers' excitement about offering their own robo-adviser has cooled in recent months, now that the initial rush to compete with Betterment and Wealthfront has worn off.

LACK OF GOOD STRATEGY

Ms. Hartigan recognizes that the adoption of robo-advice technology by advisers hasn't been what some companies claimed it would be, and she attributes that to a lack of good strategy around pricing, marketing or implementation into advisers' overall business strategies.

> **KEY POINTS**
> - Financial institutions can use the combined platform to launch a customized robo-product.
> - Marston says the experience can be completely digital.

Ms. Hartigan said she knows how to help firms use digital advice to reach next-generation investors, assist with succession planning and support breakaway RIAs. Part of it is creating a framework that goes beyond exchange-traded funds and allows firms to automatically build portfolios with the more advanced products and strategies demanded by wealthier clients.

"We've created this incredible piping on the back end that is unique and very difficult to replicate that gives us access to inventory … that affords us flexibility," she said. "We know that every client has slightly different needs, and [we know] the different types of advisers to service them."

By integrating directly with Interactive Brokers' electronic system, firms can provide a completely digital experience for both advisers and investors that increases efficiency, reduces errors and lowers costs, Ms. Hartigan said.

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