SECURE ACT: HOW THE NEW LAW WILL AFFECT RETIREMENT ADVICE PAGE 5

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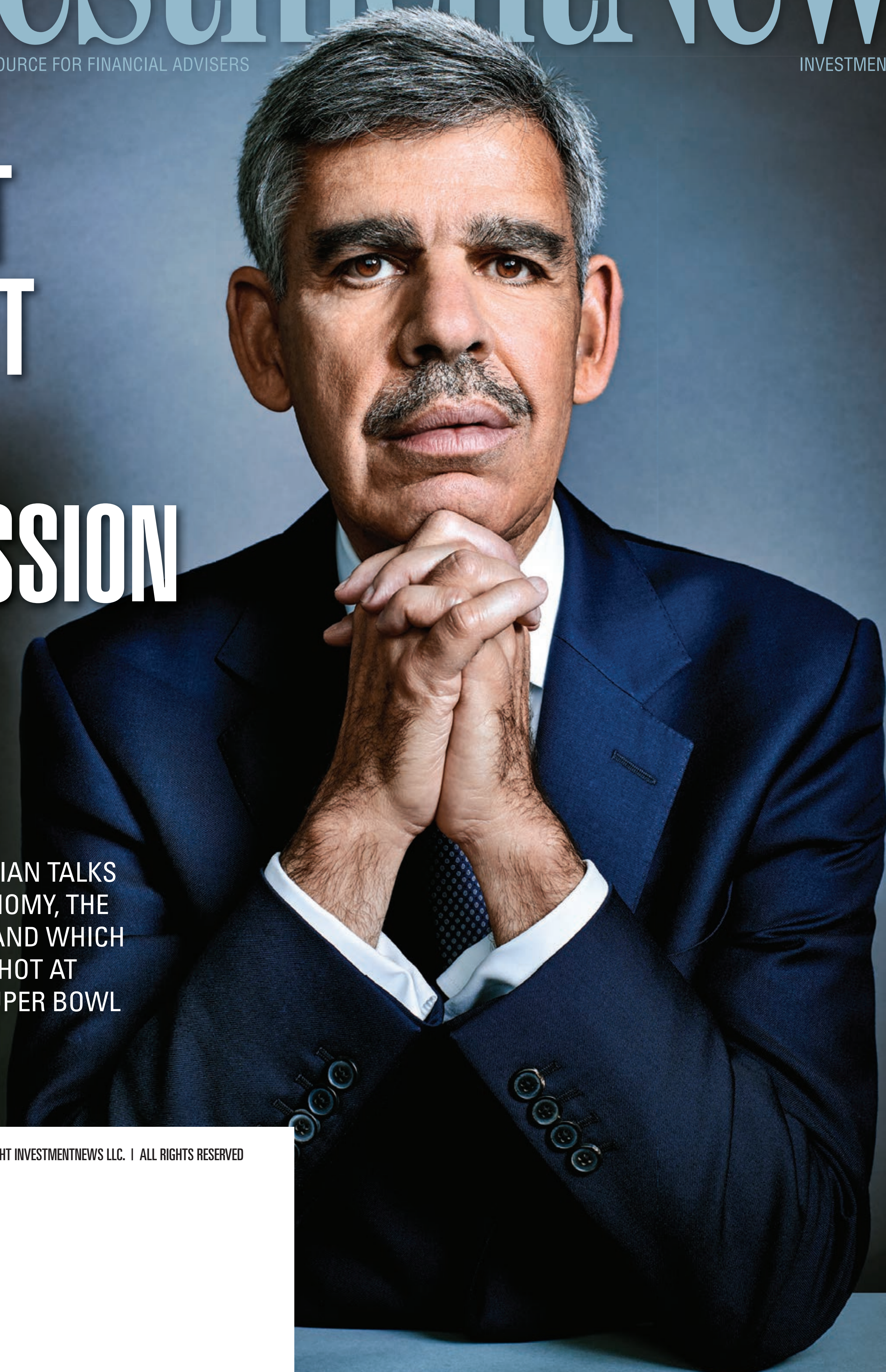

DON'T COUNT ON A RECESSION THIS YEAR

MOHAMED EL-ERIAN TALKS ABOUT THE ECONOMY, THE STOCK MARKET AND WHICH TEAMS HAVE A SHOT AT WINNING THE SUPER BOWL

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EDITOR'S NOTE

At *IN*, lots in store for coming year

Welcome to 2020, a year that will bring you a lot of new features from *InvestmentNews.*

Let's begin with the product. As you've surely noticed, we have reduced the size of your weekly print edition. We hope you find this cosmetic change easy to adapt to, and we expect that it will only improve your reader experience. But that's not all that will be changing. Over the course of the year, you will see us launch a new, easier-to-use website, introduce new multimedia features, and create new tools and reports that will enhance the value we bring to you and your practice.

GEORGE B. MORIARTY

In addition, *InvestmentNews* has a new chief content officer: me. I joined the company in mid-November and I cannot overstate my enthusiasm at the opportunity. The *InvestmentNews* brand and reputation stand out in the field, and I look forward to continuing the great work that's been done. I'm amazed at the knowlege of our readers, reporters and authors who engage across the magazine, its website, videos, and events, and I look forward to finding new ways to share their collective wisdom.

Most important, I want to hear from you. So if you have suggestions, comments or criticisms, please reach out to me.

Finally, rest assured the quality and insight of our content will remain the same. The changes we have made, and will continue to make, reflect the opportunity that lies ahead for the industry, for us, and for you. I look forward to the ride.

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Vanguard joins free-trading crowd

BY JEFF BENJAMIN

THE VANGUARD GROUP, which was ahead of the curve in 2018 when it eliminated trading commissions on most exchange-traded funds, kicked off the new year last week by extending commission-free online trading for stocks and options for all Vanguard brokerage clients.

The change, effective last Thursday, was described as "just another day at Vanguard," by Andrew Kadjeski, head of retail trading.

"We've been doing this on the brokerage side for the past decade," he added, referencing commission-free trading of Vanguard ETFs since 2010.

Even though Vanguard's brokerage platform has offered commission-free trading of Vanguard mutual funds since 1977, the expansion last week to include stocks and options brings the low-cost asset manager up to speed with the likes of Charles Schwab Corp., TD Ameritrade, Fidelity Investments, and Etrade Financial Corp., all of which announced free online trading commissions for ETFs, stocks and options last fall.

The market has essentially come to expect free trades.

"This is just a continuation of the inevitable race to zero for transactions," said Dennis Nolte, vice president of Seacoast Investment Services.

INEVITABLE MOVE

Kashif Ahmed, president of American Private Wealth, said the move by Vanguard is a way of not being "left behind."

"Anyone who thought that this was not inevitable was being naïve," he said. "Even though Vanguard vacuums up the lion's share of new investors, this was pretty much expected."

Todd Rosenbluth, director of mutual fund and ETF research at CFRA, agrees that Vanguard simply "leveled the playing field" and that it often leads when it comes to low fees.

"The recent commission-free war and the dominos that fell were partially a response to what Vanguard originally did," Mr. Rosenbluth said.

Mr. Kadjeski declined to comment on how much trading revenue the change will likely cost Vanguard but said history has shown that clients don't typically alter their trading activity when such fees are cut.

Mr. Kadjeski also said the latest commission cuts are not a response to rivals.

"We've been thinking about a move like this since 2018," he said. "We were mindful of a change in trading activity after 2018 and the trading activity didn't change, because we're a firm built on buy-and-hold."

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SEC moves to open up private markets

BLOOMBERG NEWS

U.S. REGULATORS ARE poised to add new criteria for who's considered a sophisticated investor in an effort to allow more people to invest in hedge funds or hot startups that have become known for raising billions of dollars outside of public markets.

The changes proposed by the Securities and Exchange Commission Dec. 18 would revise rules that determine who is an "accredited investor," which qualifies them to buy into riskier, but potentially more lucrative, deals. Currently individuals must have a net worth of $1 million to be eligible for those investments.

The new SEC plan, adopted on a 3-2 party-line vote, would permit people with some professional financial certifications, such as Series 7, 65 and 82 licenses, to qualify.

It would also allow "knowledgeable" employees at money management companies to invest in their firms' offerings.

The revamp is part of an effort by SEC Chairman Jay Clayton to open up private markets to more retail investors, many of whom have been unable to profit off of technology or biotech startups that raise money from the rich long before an initial public offering. Because those investments are lightly regulated and have a higher potential for fraud, the agency has long required they be set aside for more savvy individuals.

The issue has gotten more attention in recent years with the rise of so-called Sil-

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SECURE ACT BRINGS MAJOR CHANGES

More business for plan advisers

BY MARK SCHOEFF JR.

RETIREMENT PLAN advisers could see an uptick in demand for their services as the SECURE Act becomes law.

The SECURE Act represents the biggest change to retirement policy in more than a decade. One of its major provisions would allow businesses of differing sizes, sectors and locations collectively to offer retirement programs to their workers under so-called open multiple employer plans.

"WE THINK THIS WILL BE TRANSFORMATIONAL FOR EMPLOYER-SPONSORED RETIREMENT PLANS."

RICK JONES, SENIOR PARTNER, AON

The bill also increases tax credits to $5,000 from $500 annually for three years for small businesses that launch new retirement plans.

The changes are designed to increase the number of employers — especially small businesses — that provide retirement savings options for their workers. The idea is that small firms that don't sponsor plans are more

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New year, new law

DEPENDING ON YOUR POINT OF VIEW, Congress delivered retirees and advisers either an early Christmas gift or a lump of coal last month in the form of the SECURE Act. The law provides legal protections for employers that include annuities in retirement plans, makes it easier for small businesses to band together to offer such plans, and increases the age to 72 from 70 1/2 to take minimum distributions from retirement accounts. The law also requires most non-spouse beneficiaries of inherited individual retirement accounts to take distributions over a 10-year period instead of over their lifetimes. The law creates winners and losers, and advisers will need to familiarize themselves with its provisions.

MORE Advisers weigh in on legislation. PAGE 6

Stretch IRA era comes to an end

The SECURE Act is the law for 2020 and beyond. Advisers are already scurrying to explain the retirement rule changes to clients, especially those with large IRAs who had planned on a stretch IRA for their heirs. We are receiving an avalanche of questions on exactly how and when this major change will be applied.

IRAALERT ED SLOTT

The SECURE Act ends the stretch IRA. All of those plans have to be reviewed and probably revised. Under the now "old rules" (before 2020), an individual designated beneficiary could extend post-death "stretch IRA" required minimum distributions over his lifetime. A young grandchild might have a 70-year payout period. But no more. The SECURE Act eliminates the stretch IRA and replaces it with a 10-year payout for

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Annuity providers emerge as big winners

The SECURE Act will impact annuities in a number of ways, but I want to focus on two, starting with a provision that changes how annuities would be treated, which can be found in Section 204 of the act.

GUESTBLOG JAMIE HOPKINS

The provision's goal is to help relieve fiduciaries' responsibilities in selecting and reviewing annuity providers and annuities to ease the burdens of getting annuities into 401(k) plans. Seen as a huge gift to the annuity world, this is a big win for annuity providers and those who believe retirees need more lifetime income options in their retirement plans.

Fiduciaries won't be required to select the lowest-cost product for their plans. The provision would allow them to meet their fiduciary requirements if they choose an annuity provider who's in good standing with state regulators. They're no longer pressured to do a full due diligence review on the products and provider, although I still suggest fiduciaries do so.

The other annuity provision I want to discuss circles back to stretch distributions. The law eliminates most beneficiaries' ability to stretch distributions from individual retirement accounts and defined-contribution plans over their life expectancy — excluding spouses, who can still take advantage of stretch strategies.

10-YEAR DISTRIBUTION

As stretch distributions are removed, any annuity contract held within a defined-contribution plan or individual retirement account would fall into the 10-year distribution period for non-spouse beneficiaries. This will be a big problem for IRAs and 401(k)s holding certain types of annuity contracts.

However, a provision in Title IV, Section 401(a)(4) of the act provides an exception for certain existing annuity contracts. The law states that certain qualified annuity contracts meet the exception. To meet the

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InvestmentNews readers react to top stories

PROS AND CONS OF THE SECURE ACT

THE SECURE ACT, which Congress passed at the end of last month, will bring about the biggest changes in retirement policy in a decade. While advisers generally like most parts of the law, such as increasing the age for required minimum distributions to 72 from 70½, they dislike other provisions. One they especially don't like is the loss of the stretch IRA, which allows beneficiaries to withdraw money from an inherited individual retirement account over a lifetime. Under the new law, beneficiaries would have to withdraw money within 10 years. Read the full story at InvestmentNews.com/SECURE.

"The elimination of the stretch provision for non-spouse beneficiaries will increase taxes for the government but will push some beneficiaries into a much higher tax bracket and will reduce their inheritance. This effect is only compounded by increasing RMD to 72."
— TOM_PEMBERTON

"Maybe if you don't have any serious money. But if you do, postponing your distribution for 1.5 years is like rearranging the deck chairs on the Titanic."
— Sixshooter

"From an adviser standpoint, I'm more than happy to trade off the loss of the stretch IRA to postpone the RMD age a bit longer. When it comes to IRA benefits, I am philosophically far more concerned about how it treats the original owner (or their spousal beneficiary) than I am the children/grandchildren. And let's keep in mind that a decade of spreading out the income is still awfully favorable."
— No one of Consequence

"I asked my senator about the IRA change and the explanation was that it offset the tax loss of delaying RMDs."
— _

"The Supreme Court indicated a few years ago that inherited IRAs are not retirement plans. The stretch IRA was good, but it also benefited the wealthy at the expense of paying the deferred taxes to Caesar. You cannot really have a program 'save for your retirement' and yet at the same time, expect that money to last for generations past your death."
— 80504

"An annuity is more of an income stream set up for the insurance salesman at the expense of unknowing vulnerable clients."
— Joseph_Julien

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OPINION

EDITORIAL / LETTERS / OP-ED / GUEST BLOGS

Time to end mandatory arbitration

FOR YEARS, LAWMAKERS HAVE been trying to eliminate mandatory arbitration clauses in legal agreements covering consumer, employment, antitrust and civil rights claims, as well as agreements between investment professionals and their clients.

Legislation introduced this year in both the House and Senate once again seeks to ban forced arbitration clauses in a wide range of legal documents — from content licenses to employment contracts. The practice of mandatory arbitration has over time been widely adopted by brokers and investment advisers. The latest bill, the Investor Choice Act, would prohibit them from strong-arming clients to pursue claims in a private forum.

The reasoning behind the arbitration clause, as it pertains to brokers and financial advisers, is that it spares firms and their customers the cost and inconvenience of a lengthy court battle in the event of a dispute.

That's admirable. There's nothing inherently wrong with an arbitration system to resolve disputes. In some cases, such a system can offer quicker relief than the courts.

But the crux of the issue is about more than convenience, speed or cost. It's about preserving a right guaranteed by the U.S. Constitution — the right to have one's day in court. By forcing arbitration, customers are precluded from creating or joining class actions to address disputes. This denies claimants with limited resources their right to band together and fight on a more level playing field.

Aggrieved customers also forego the benefit of judicial oversight and authority. The bench has the full weight of the U.S. government behind it to enforce judgments. That matters. The Financial Industry Regulation Authority Inc. has been wrestling for some time over the question of how to ensure that investors who win arbitration cases actually get paid. Too often, firms that lose their case simply go out of business, leaving investors out of luck.

> **REQUIRING INVESTORS TO RELINQUISH THEIR LEGAL RIGHTS IS FUNDAMENTALLY WRONG.**

Removing the yoke of mandatory arbitration wouldn't mean that claimants couldn't use arbitration if they so chose. In some cases, claimants might opt to decide on that venue.

But requiring investors to relinquish their legal rights in advance of any future dispute is fundamentally wrong. It removes choice. It should always be up to investors to decide how, when and where they want to pursue a legal remedy.

LETTERS

Let individuals direct retirement assets

In your recent editorial (Stop coming up with ideas to raid retirement savings, Dec. 9), you argue that using retirement plans to repay student debt or to fund long-term care is a poor way to utilize retirement funds. I would propose that looking beneath the surface may reveal something different.

If someone is saving for retirement and what they can save is limited due to the student loan debt payments, why not consider an alternative?

While I agree in principle that retirement plans should not be "tapped" foolishly, it is also true in any retirement plan the entire picture of a client's assets and liabilities should be factored into the equation.

Would repaying a student debt with pre-tax dollars and then taking the monthly debt payment and increasing the retirement savings not be a strategy some people would need to consider?

Allowing people to decide for "themselves" how to use existing assets is something we should applaud because they are addressing the issue instead of expecting government to fix it for them.

The same is true when looking at long-term care coverage. Allowing people to use retirement assets is one solution. Why not allow them to fully tax deduct (even if they do not itemize) premiums for long-term care coverage. As baby boomers age, the potential strain on Medicaid is going to be overwhelming. Plus, if Medicaid is used, they lose control of their investment assets.

Why not allow for solutions that allow an individual to make personal decisions on very personal matters. We cannot expect or accept that government should be the end-all to end all!

Frank R. Owen III
President
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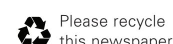

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BRAD TRENT

HOW LONG CAN THE GOOD TIMES LAST?

BY JEFF BENJAMIN

MOHAMED EL-ERIAN DOES NOT SEE A RECESSION COMING THIS YEAR, BUT HE'S MOVING MORE OF HIS PERSONAL PORTFOLIO INTO CASH

Mohamed El-Erian, chief economic adviser at Allianz and former chief executive at Pimco, believes the United States is riding a "liquidity wave" that can't last forever.

With that in mind, he recommends advisers embrace a combination of "resilience, optionality and agility" to navigate several unprecedented realities of the current global economy.

We sat down with Mr. El-Erian in December for a candid conversation about everything from global monetary policy and what's driving the stock market's historic run to how he's allocating his personal portfolio and which team he thinks could win the Super Bowl.

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Jeff Benjamin: What factors continue to hold up this historic stock market?

Mohamed El-Erian: There are three things keeping it so strong. One is massive liquidity support from central banks, which has been turbocharged by strong corporate balance sheets that have allowed for significant M&A activity.

Two is the hope of a handoff to more comprehensive pro-growth policies, particularly in Europe.

And three is the fact that it has been the most unloved rally, which means it has had technical support throughout its duration.

JB: Is the U.S. economy heading into recession anytime soon?

ME: I've repeatedly dismissed the notion that the U.S. will fall into recession in 2020. In fact, given the strength of the household sector, it's hard to get the numbers to show a recession unless you assume a massive policy mistake or a very big market accident.

Without that, the U.S. will continue in a 1.5% to 2.25% growth range. I'm much more concerned about recession when it comes to Europe.

I think there's a general complacency around the economic risks facing Europe. And I think that there's a high probability that Europe will hit stall speed, which means show growth rates of around 1%, but that won't be fast enough to overcome headwinds. That will be followed by a recession.

JB: President Trump's tax cuts: good or bad?

ME: The combination of deregulation and tax cuts is one of the reasons why the U.S. has economically outperformed other advanced economies.

Economists disagree on two things regarding the tax cuts: Were they efficient and were they fair. There should be a lot of disagreements on these issues.

What they don't disagree on is that tax cuts have given a short-term boost to economic growth in the U.S.

The longer-term boost has come from the deregulation measures. And the hope, which remains a hope rather than a reality, is that the third leg of this pro-growth policy effort would be infrastructure spending.

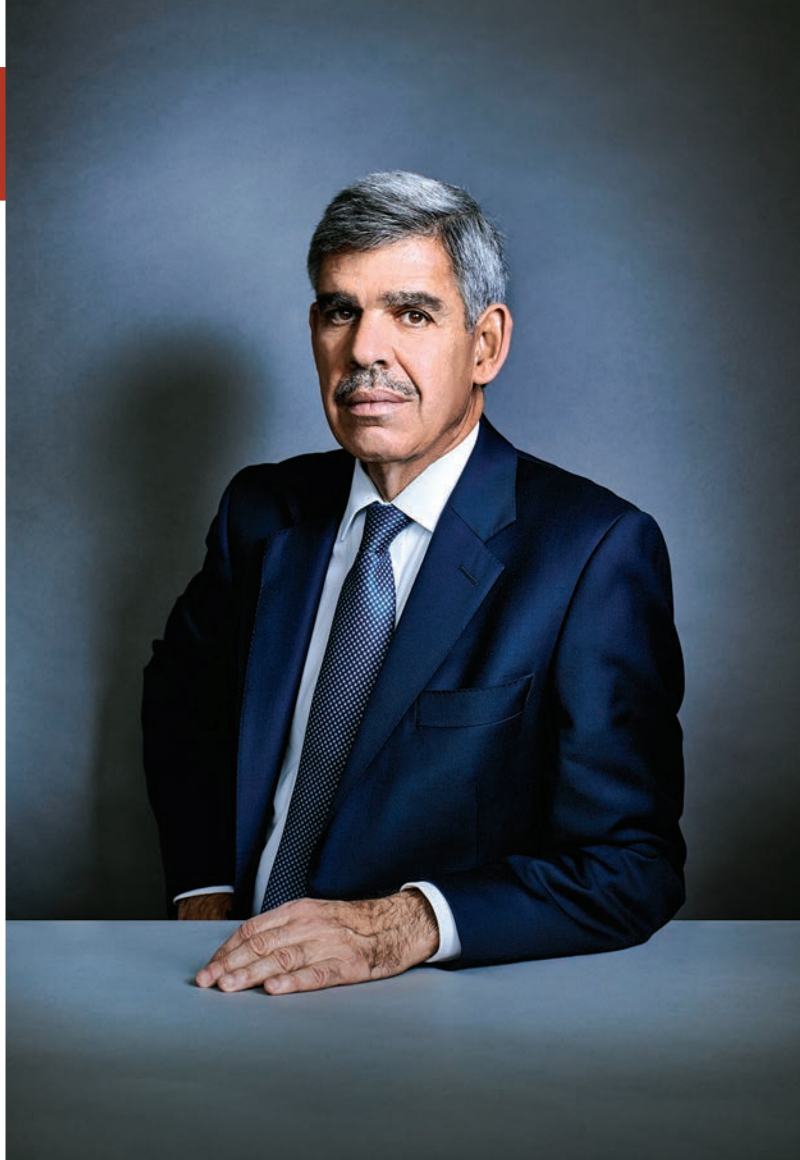
JB: How worried should we be about the threat of global trade wars?

ME: One of the big uncertainties of 2020 and beyond is whether we have simply pressed a pause button on globalization or whether we are pressing the rewind button on globalization.

If it's just a pause, then the market is right to react short-term to every indication of where the discussions between the U.S. and China stand.

If, however, this is a much bigger process, a secular process, then the market must ask the question that it has not asked itself, which is how do you rewire the global economy for de-globalization?

That is such a basic question, and it's one that the market has not dealt with yet.



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Book author: "The Only Game in Town," 2016; "When Markets Collide," 2008
Columnist: Bloomberg View
Contributing Editor: The Financial Times

JB: Is that a big part of the risk in the financial markets right now?

ME: I view it as one of the major uncertainties. What we have in the financial markets is short-term supportive dynamics and major long-term uncertainties. And these uncertainties speak not only to the globalization issue, they also speak to the effectiveness of central banks, they also speak to the collateral damage and unintended consequences of all this liquidity that has been pumped into markets, and they speak to the political uncertainties, where we are seeing country after country move more toward inward-oriented policies that have less respect for the global rule of law.

JB: What is your take on the roughly $13 trillion worth of negative-yielding sovereign debt outside the United States?

ME: Negative-yielding bonds, an issue that was dismissed in most textbooks until it became a reality, are yet another example of the unthinkable becoming fact. And this list of unthinkables is getting quite long. They include not just negative-yielding bonds, but negative policy rates in much of Europe. The fact that the U.S. has gone from being the champion of free trade and globalization to be the most protectionist advanced economy is among other unthinkables.

So far, we have dismissed as a marketplace each of these as noise, and we have not taken the more valid interpretation, in my opinion, which is that they are signals of underlying tensions in the global economy.

As to the direct answer, a prolonged period of negative rates would break a market-based economy. And we are already seeing concerns grow about the unintended consequences of negative rates.

They start with the extent to which they undermine the financial system — not just banks, but most importantly the providers of long-term protection services, financial protection services to households, including life insurance and retirement plans. These are very difficult to run at negative rates.

Secondly, they encourage excessive risk-taking by nonbanks.

Third, they support what I call zombie companies and therefore retard the process of rejuvenating a capitalist economy.

And fourth, they encourage economywide misallocation of resources.

I think even within the [European Central Bank] today, which has been the main proponent of the negative rates policy, they are starting to question the equation of benefits and costs and risks.

I believe the benefits of negative rates have become overwhelmed by the costs and risks, and I believe that we are going to look back on this period of negative rates as being problematic to the functioning of a market-based economy.

JB: Could we see negative bond yields in the U.S.?

ME: I think that's very unlikely because the Fed fully understands the risks and the costs. And secondly, it's very unlikely because I do not believe we're going to go into recession.

I do think one of the reasons why U.S. yields have been so low is because they have been depressed by what is happening in Europe.

JB: How concerned are you about the nearly $4 trillion balance sheet the Federal Reserve built up through several rounds of quantitative easing in the immediate wake of the financial crisis?

ME: The Fed has a very large balance sheet, and after a period of attempted normalization, it has reversed again and is now increasing that balance sheet. It is not calling it [quantitative easing], but the markets have behaved as if it is QE.

The reality is, there was an attempt at normalization. But it turned out that the markets did not want normalization, and they forced the Fed into a very dramatic U-turn at the end of 2018, and now we're seeing an expansion again, not just in the Fed balance sheet, but also in the ECB balance sheet, which is a contributor to how well equities did in 2019.

JB: You were recently quoted saying you are building up cash reserves in your personal portfolio. Does that suggest you're feeling risk-averse?

ME: Like many other investors, I have benefited from a very unusual trifecta, which is, one, significant returns; two, correlations that have broken down in favor of investors, in the sense that both risk assets and risk-free assets have gone up in price; and three, extremely low volatility.

Having said that, the longer this trifecta continues, the greater the risk of a change. So what I have done is very slowly and very gradually reduced my exposure to public markets, both equities and fixed income, and allocated that reduction to two alternatives.

One is cash, which provides two things in this environment: risk mitigation and the optionality to pick up good companies at depressed prices should we have a liquidity event.

Then, with a smaller portion of the reduction in exposure to public markets, which has been very gradual and slow, I've looked for two types of opportunities. One is distressed situations where

the sell-off far exceeds the worsening fundamentals, and second is what I call market failures.

What it looks like from the outside world is a gradual move to a more barreled approach. The middle of the curve is slowly coming down. One side is the true risk-free asset, which is cash, and that's going up. The other side is the less liquid, more opportunistic exposure, and that's slowly going up.

JB: What is your general outlook on this year's presidential election?

ME: I'm not a political scientist and I don't have views on how the election will play out, because I think there's lots of uncertainties.

What these elections represent is what we have seen play out over the last few years and is also playing out in Europe, which is the difficulty of the political center to gain traction and a greater attractiveness to political positions that are on either side of the political center.

We see this in terms of the lack of traction so far for a centrist candidate, and we see that in terms of the support that President Trump, and Elizabeth Warren and Bernie Sanders combined, attract. That speaks of a more general phenomenon, which is, years of growth — that has been too low and insufficiently inclusive — has been hollowing out the middle distributions politically, economically, socially and institutionally.

That is a phenomenon that will continue to play out until we get a pivot to higher and more inclusive economic growth.

JB: What do you view as the biggest areas of concern going into 2020?

ME: Whether they apply only to 2020 or 2021 is hard to say because timing is really difficult in technically driven markets, and we are in technically driven markets that are underpinned by liquidity.

But I worry about a few things. One is the big medium-term uncertainties we talked about earlier: globalization, policy effectiveness, political support for rule of law, weaponization of economic tools. There's a lot of uncertainties.

Second, I worry about the big valuation gap that has appeared between high market prices and struggling fundamentals. And I worry that the gap is getting bigger and bigger. I worry that the system has overpromised market liquidity to the end users, that we have seen a proliferation of less liquid products that are liquid for now.

And what we have seen in the past is when the paradigm of liquidity changes, you get contagion. In other words, when investors can't sell what they want to sell because there isn't enough liquidity, they'll end up selling what they can sell, and that generalizes liquidity strains.

JB: What about areas of opportunity in the year ahead?

ME: In the short term, it's about being able to continue to ride this liquidity wave. Over the long term, I think you want to have the combination of resilience, optionality and agility.

"THE COMBINATION OF DEREGULATION AND TAX CUTS IS ONE OF THE REASONS WHY THE U.S. HAS ... OUTPERFORMED OTHER ADVANCED ECONOMIES."

Resilience to navigate a potential liquidity shock without having to sell things you don't want to sell.

Optionality to keep your mind open as to the timing of the transition from supportive short-term dynamics to more uncertain medium-term issues.

And agility to act quickly when opportunities arise, which will be name-specific to begin with and then asset-class-specific thereafter.

JB: Setting aside your loyalty to the New York Jets, what's your prediction for this year's Super Bowl?

ME: My fear is that it will be the Patriots again. As much as I respect the coach and the quarterback, they appear recurrently in my nightmares. If you are a beaten-down Jets fan, you'll understand why.

My hope is one of the NFC teams — whether it's the 49ers or the Saints or the Green Bay Packers — one of the NFC teams will ultimately prevail.

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E&O insurance could help with unpaid claims

BY MARK SCHOEFF JR.

STATE SECURITIES REGULATORS are encouraging brokerages to use insurance to fund arbitration payouts to customers who win disputes, saying it would help reduce the number of unpaid awards.

The North American Securities Administrators Association released a survey last month of 64 firms that showed that 77% of them carried errors & omissions insurance, while 23% did not. Of the firms participating in the survey, 23% reported paying at least one E&O claim over the past year, and 17% reported that an arbitration claim was paid by insurance.

Most of the firms in the study were small, according to NASAA. The survey showed that at least 28 insurance carriers offered E&O policies.

State regulators see insurance coverage as part of the answer to the growing problem of unpaid arbitration awards. From 2012 through 2016, the amount of unpaid arbitration awards has ranged from a high of $75 million in 2013 to a low of $14 million in 2016, according to Financial Industry Regulatory Authority Inc. statistics. Finra runs the arbitration system for brokers.

POLICIES HAVE PAID UP

"The survey results reveal that the majority of the responding firms had E&O insurance and that their policies have paid claims," the NASAA report states. "Further, the results of the survey contradict the blanket assertion that E&O insurance is too expensive or too difficult for smaller firms to obtain."

77%

PORTION OF FIRMS IN SURVEY THAT HAVE E&O INSURANCE

The NASAA report acknowledged that E&O insurance often excludes claims that are made in arbitration cases, such as fraud, sales of alternative products and selling away by a registered representative. It also said E&O doesn't solve some major causes of unpaid arbitration.

"Because E&O insurance may not necessarily address awards against inactive firms or claims involving fraud or other excluded conduct, it is not a complete solution to the problem of unpaid arbitration awards," the report states.

In 2018, Finra released a report outlining several steps that could be taken to address unpaid arbitration, including legislation or regulations requiring firms to carry insurance to cover unpaid arbitration awards. The report said unpaid arbitration is a problem requiring a response from Congress and several regulators.

"We look forward to reading NASAA's report," Finra spokeswoman Michelle Ong wrote in an email.

One critic of the Finra arbitration system praised NASAA for holding Finra's feet to the fire.

'A CRITICAL ISSUE'

"Finra was hoping the unpaid arbitration issue would blow over and disappear," said Andrew Stoltmann, a Chicago securities attorney and a board member of the Public Investors Arbitration Bar Association. "But to NASAA's credit, it remains a critical issue for the organization."

State regulators are trying to spur action on unpaid arbitration awards.

"We appreciate that this issue is complicated and are pleased that Finra and others are studying it," Christopher Gerold, chief of the New Jersey Securities Bureau and NASAA president said in a statement. "But this problem is not fixing itself."

Mr. Stoltmann said the NASAA insurance suggestion is helpful.

"It's an important step, and one that will cure part of the unpaid arbitration problem," Mr. Stoltmann said. "The best solution remains an industry-funded unpaid arbitration pot."

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Finra seeks SEC approval for rule that cracks down on firms hiring rogue brokers

BY MARK SCHOEFF JR.

THE FINRA BOARD has sent a rule proposal to the Securities and Exchange Commission that would place higher capital standards on brokerages that hire an above-average number of registered representatives with disciplinary histories.

The Financial Industry Regulatory Authority Inc. released the proposal last May. Under the measure, firms that are deemed "restricted" because they have a high percentage of rogue brokers or a history of misconduct would have to maintain a deposit in a segregated account from which they could not make withdrawals without Finra's permission. Other conditions would also be placed on the firms.

During its Dec. 4-5 meeting, the Finra board agreed to forward the proposal to the SEC, which will publish it for comment. The SEC must approve Finra rule proposals before they can go into effect.

The Finra board also sent the SEC proposals to amend the suitability rule and rules for noncash compensation to conform with the SEC's Regulation Best Interest. And it approved the organization's 2020 proposed budget, which has not been released.

Finra took comments on the rogue broker proposal over the summer and has amended it, according to a statement by a board member. Finra has not released the revised proposal.

REVISED PROPOSAL

The proposal "has been under discussion for two years, we received comments back from the first notice, and really the regulatory policy committee went through those comments," Jack Ehnes, a Finra board member and chief executive of the California State Teachers' Retirement System, said in a Finra video. "We made adjustments to the regulation. [The board] is now prepared to advance that on to the SEC."

At a Senate Banking Committee hearing in December, Sen. Catherine Cortez Masto, D-Nev., highlighted the proposal in her questioning of SEC Chairman Jay Clayton. She and some of her Democratic colleagues want Finra to add a provision that would expel from the industry firms and financial advisers with many disciplinary blemishes.

"Will you ensure that rule is clear that unscrupulous financial professionals cannot continue to operate?" Ms. Cortez Masto asked Mr. Clayton.

He responded by saying that it's a privilege to work in the securities market and that financial advisers can be kicked out if they "misbehave."

But Mr. Clayton did not tip his hand on the Finra proposal.

"I want to be careful not to prejudge," Mr. Clayton told lawmakers. "I haven't seen the text of the rule. But I will say I have long been supportive of the concepts that are in [the Finra] rule. If you're going to hire somebody who has a history, the registration and other requirements that Finra imposes should reflect that you're taking more risk than someone who doesn't."

"WILL YOU ENSURE THAT RULE IS CLEAR THAT UNSCRUPULOUS FINANCIAL PROFESSIONALS CANNOT CONTINUE TO OPERATE?"

SEN. CATHERINE CORTEZ MASTO, D-NEV.

The SEC also must review and approve the Finra proposals to amend the suitability rule and noncash compensation, which are meant to clear up whether those rules or Reg BI apply to recommendations to retail customers.

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Wells Fargo sweetens adviser succession plan

BY BRUCE KELLY

AFTER WELLS FARGO Advisors watched a steady stream of brokers and advisers leave in the wake of corporate banking scandals, executives at the wirehouse said that more than 1,000 advisers have signed up for a new succession plan that ties them more closely to the firm.

Introduced earlier this year and dubbed the Summit Program, the plan offers a bonus to advisers who stay on until retirement and also gives financial help to young advisers acquiring the business of those advisers who are retiring.

"I think they got it right on this one," said one Wells Fargo adviser, who asked not to be named. "It solves many issues. It facilitates the older advisers to set up a transition plan, and locks the acquiring advisers to the firm, long-term."

ADDED INCENTIVE

Under the new program, Wells Fargo reps and advisers who are eligible and retiring can receive an additional deferred bonus of 25% of the adviser's prior year's fees and commissions, known as the "trailing 12" in brokerage industry parlance. That means a retiring adviser, who under the existing succesion plan could have received up to 200% of his trailing 12, now could receive a total valuation of 225% of his annual fees and commissions. The new bonus has a five-year vesting period.

In September 2016, Wells Fargo & Co. reported that bank employees had secretly created millions of unauthorized accounts in the names of customers without their consent. The bank was fined $185 million and then-CEO John Stumpf resigned. Other bank-related scandals followed.

Partly as a result, Wells has seen a net decrease of more than 1,300 brokers and advisers through the end of the third quarter. Wells Fargo Advisors now has about 13,700 advisers across its various business channels.

"The Summit Program has had really good adoption by the advisers, with over 1,000 advisers" signing up for the plan, said Rich Getzoff, head of Wells' adviser-led business, in an interview. "We're giving a path to loyal financial advisers for their retirement," he said.

> **"WE'RE GIVING A PATH TO LOYAL FINANCIAL ADVISERS FOR THEIR RETIREMENT."**
>
> RICH GETZOFF, HEAD OF WELLS FARGO'S ADVISER-LED BUSINESS

COMPENSATION PLAN

Meanwhile, Wells Fargo Advisors in December rolled out its 2020 compensation plan. According to a presentation, the plan is similar to 2018's and keeps in place many of the same hurdles for its wealth management advisers.

The 2020 compensation plan offers incentives to advisers who work in Wells Fargo bank branches, now called Community Banking Advisors, particularly for those who bring in new clients without using the bank for a referral.

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Alt investment site YieldStreet targets IRAs with WealthFlex acquisition

BY JEFF BENJAMIN

DIGITAL ALTERNATIVE investments platform YieldStreet has acquired a digital IRA platform, WealthFlex, as part of a strategy to bring the individual retirement account market into the 21st century.

"The IRA industry is stuck in the '80s," said Milind Mehere, founder and chief executive of YieldStreet, a robo-advice platform founded four years ago to offer wealthy investors access to sophisticated and mostly secured debt investments across real estate, shipping, marine, legal, art finance and commercial loans.

New York-based YieldStreet had until now been affiliated with seven external IRA platforms, including Bellevue, Wash.-based WealthFlex, but decided that adding an internal IRA platform would make the process of owning alternatives in qualified accounts easier to manage.

"Our investors wanted a tax-efficient method of investing on YieldStreet, and we listened," Mr. Mehere said. "Anyone who has ever tried to move their 401(k) or IRA understands that the process is not consumer-friendly or designed for today's world."

Joe DiDomenico, founder of WealthFlex who will be joining YieldStreet as director of retirement services, called the deal a "match made in heaven."

"The playing field for individuals to be able to invest for themselves has radically improved as a result of this acquisition," he said.

GROWING THE PLATFORM

WealthFlex, founded in 2014, has $250 million in client assets across 500 accounts. Since its 2015 launch, the YieldStreet platform claims to have funded 160 investments worth nearly $1.2 billion.

Mr. Mehere said about 200,000 investors have signed up on the platform.

Most of the investment offerings are made up of senior secured debt with durations of between one and four years.

As the investments mature, the principal and interest are paid to investors on the platform, and so far, nearly $550 million has been paid to investors, he said.

Despite the affiliations with IRA platforms, only about 10% of the investments on YieldStreet are held in IRA accounts, which is something the WealthFlex deal is designed to change.

The deal also leverages the 2012 JOBS Act, expanding access to alternative investments to more investors.

Mr. Mehere believes there is an untapped market of wealthy investors looking for ways to allocate to alternative investments through IRAs for advantages that include tax efficiency.

"We believe the $27.1 trillion retirement market is currently underutilized and lacking diversification," he said.

ALTERNATIVE REALITIES

Paul Platkin, co-head of investments for RegentAtlantic, currently uses traditional IRA platforms to help his clients invest in alternatives, and he agrees that certain less-liquid investments are best held inside qualified accounts.

Tax management is among the advantages of owning certain alternatives inside a qualified account, said Mr. Platkin.

"Inside an IRA there is no K-1 to deal with and no tax filing," he said. "If you can put it in an IRA and you're younger, you didn't have liquidity anyway."

Todd Rosenbluth, director of mutual fund and ETF research at CFRA, concurred that alternatives often gain appeal when markets get volatile or transition to new cycles, which might be the tipping point YieldStreet needs.

"Advisers look to alternative investments to provide diversification for clients," Mr. Rosenbluth said.

However, Paul Schatz, president of Heritage Capital, wonders if there's enough of an appetite for alternatives inside IRAs.

"This is a very small market in and of itself," he said. "I don't think many clients wake up and decide they want to invest their IRA or 401(K) specifically in the alts space. And alternatives remain fringe investments."

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MILIND MEHERE

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"THE CFP BOARD SHOULD TAKE THE DEFAULT POSITION ... THAT ALL SELF-REPORTING FAILURES SHALL BE SUBJECT TO AT LEAST SUSPENSION IF NOT REVOCATION."
— CFP BOARD TASK FORCE ON ENFORCEMENT

Reg BI test: 'reasonableness'

BY MARK SCHOEFF JR.

THE SECURITIES AND Exchange Commission's investment advice reform regulatory package requires that financial advisers take costs into account and consider a range of available alternatives for investment recommendations to clients.

The rules don't provide details on what steps to take to comply with the new rules, the centerpiece of which is Regulation Best Interest to raise the broker advice standard.

It all boils down to "reasonableness," said Emily Westerberg Russell, chief counsel in the SEC Division of Trading and Markets, at a Financial Industry Regulatory Authority Inc. conference in Washington. "Is there a reasonable basis to believe that the recommendation is [in the client's] best interest based on the facts and circumstances at the time the recommendation is made?"

HIGHER BAR

The SEC rule, known as Reg BI, is meant to set a higher bar than the current suitability rule that governs brokers and make it parallel to the fiduciary duty that investment advisers will continue to meet under SEC reform.

Brokerages have until June 30 to implement Reg BI. The measure does not define what "best interest" means, nor does it lay out how brokers should mitigate conflicts of interest. Ms. Russell acknowledged there will be gray areas when determining whether advice was given in the best interests of clients.

"It's not always going to be a black and white, yes-no decision," she said. "What I would ask myself in situations that might be close calls: 'Can I demonstrate how I got to this recommendation and how it's reasonable?'"

KEY POINTS

- SEC's new advice rules require advisers to consider costs when making investment recommendations to clients.
- Focus placed on thought process behind choices offered.

One area where this approach will be tested is in evaluating whether clients were put in the right kind of accounts — brokerage or advisory — and whether they received sound advice on rolling over retirement funds from a 401(k) to an individual retirement account.

"These account recommendations happen at a critical moment in an investor's relationship with a broker-dealer," Ms. Russell told an audience of nearly 500.

Evan Charkes, managing director and associate general counsel at Bank of America, said the firm is setting up a system to document how Merrill Lynch financial advisers discuss fees and services when opening accounts and how the decision was made.

"We built into our enrollment process the financial adviser demonstrating that particular rationale," Mr. Charkes said on the panel with Ms. Russell at the Finra conference.

Stephen Youhn, chief compliance officer at ProEquities Inc., said his firm will also track account-opening decisions.

"We need to document more clearly why you're making a brokerage or advisory [account] recommendation," he said on a conference panel.

During the rollover process, Merrill Lynch will have its advisers document the questions they cover with clients and will review the answers with the client.

"That's something that will help us document, if challenged, why we thought a rollover was in the client's best interest," Mr. Charkes said.

As June 30 draws closer, firms will continue to grapple with Reg BI compliance.

"It's a challenge," Michelle Kelly, senior vice president and associate general counsel at LPL Financial, said at the conference. "It's hard to know if you're meeting the requirements."

The SEC is trying to help firms align their policies and procedures with Reg BI, Ms. Russell said. The agency is taking questions from the financial industry.

"We're looking through them to find places where we can provide additional clarity to assist firms with compliance," she said in an interview.

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Platform eases tax concerns over nonqualified assets

BY RYAN W. NEAL

BLACKROCK INC. IS HOPING to make it easier for registered investment advisers to embrace model portfolios with a new platform that alleviates the tax consequences of moving assets in nonqualified accounts.

Built in partnership with 55ip, a technology firm that helps advisers automate tax management, the new technology lets advisers select a BlackRock model portfolio for an existing client portfolio and automatically transition assets in a tax-conscious manner over time.

The tool, which is co-branded by BlackRock and 55ip, also provides ongoing, automated trading and tax-loss harvesting across both qualified and nonqualified accounts.

The tool is available to advisers who custody assets with Fidelity, TD Ameritrade Institutional and Schwab Advisor Services. Using the tool is free for RIAs; 55ip will receive a fee from BlackRock for the service.

Model portfolios are increasingly popular among advisers, but growth has largely been limited to qualified accounts, according to BlackRock head of model portfolios Eve Cout.

Roughly 70% of BlackRock's model portfolio assets are in qualified accounts, Ms. Cout said in an emailed statement.

"ONE OF THE ... REQUESTS FROM ADVISERS IS TO MAKE IT EASIER TO USE MODELS WITH NONQUALIFIED ACCOUNTS."
EVE COUT, HEAD OF MODEL PORTFOLIOS, BLACKROCK INC.

"It became clear to us that the most significant roadblock to further model adoption of nonqualified accounts [was] embedded gains," she said. "One of the most frequent requests from advisers is to make it easier to use models with nonqualified accounts — specifically to reduce the friction of transitioning an existing portfolio into a model portfolio in a tax-aware manner."

While other technologies offer advisers automated tax management features, 55ip CEO Paul Gamble said they require advisers to set the assumptions and configurations.

The partnership with BlackRock is the latest example of BlackRock partnering with technology vendors to ensure advisers have easy access to its investment products.

The asset manager acquired a 4.9% equity stake in fintech giant Envestnet, provides risk analytic software to Morgan Stanley and owns the white-labeled robo-advice platform FutureAdvisor.

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So far, talk of focus on outcomes is just talk

GUESTBLOG
FRED BARSTEIN

The accepted wisdom among the retirement plan adviser intelligentsia is that Triple F advisers — those focused on fees, funds and fiduciary — are passé at best and dangerous at worst.

Some elite plan advisers self-righteously proclaim that we must shift the focus to improving participant outcomes. But few have changed their business models to reflect this new focus, and even fewer have put their money where their mouths are. Most still charge an asset-based fee and pride themselves on their status as a fiduciary, their skills at negotiating lower fees and their ability to select superior investments.

The danger is that sanctimonious talk without real action or, more importantly, without real results, can lead to less-than-optimal outcomes for participants even as we think we are helping.

As with financial wellness, there's a lot of talk about outcomes. But who is really measuring results or dramatically changing their business model?

As an example, the Society for Human Resource Management's 2019 Benefits Survey, which covers plans with less than $250 million in defined-contribution assets, shows that only 42% of plans deploy automatic enrollment for new employees (22% do for current workers), and just 19% offer auto escalation. The most important measure — the income replacement ratio — is hard to find anywhere.

Needless to say, we have a long way to go.

So rather than self-righteous talk, the industry — especially American workers — needs action. That comes through aggressively pushing more clients to adopt auto-features, which are proven techniques to boost income replacement in retirement. The real question is how.

It might start with a change in advisers' business models and focus, along the lines of what one large independent DC consultant in the Midwest has adopted.

Pension Consultants Inc., based in Springfield, Mo., has just under $4 billion in assets, mostly in the 88 DC plans it manages. Started in 1994 by Brian Allen, Pension Consultants quickly moved to a fee-based fiduciary model, before that came into vogue.

BEATING BENCHMARKS

PCI has gone beyond talk by moving to a flat-fee arrangement in which the company does not get paid investment-related fees unless it beats the benchmark. If it beats it by 26 basis points net of its fees, it gets additional compensation. Performance is measured for the period of time a plan has the fund, not the one-, three- or five-year averages.

Fees in new client contracts are based on boosting income replacement over the 70% level and keeping record-keeping fees under the industry averages, with a bump if they are in the 25th percentile. PCI professionals, even the advisers, get paid a salary and bonus based on these key performance indicators and a few others.

"Once we changed the internal focus on outcomes, the culture of our company changed dramatically," Mr. Allen noted.

He wants to shift the way DC plans select advisers from image and brand to performance, which he hopes will happen through more adviser RFPs which, by the way, most retirement plan advisers still resist. No surprise.

So it's all well and good to say, "I'm squarely focused on outcomes." We need to educate plan sponsors to focus on the performance of advisers and their business and compensation models, not their image or their sanctimonious and often-times hollow words.

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

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UBS team takes a family approach to wealth building

BLOOMBERG NEWS

A PENCHANT FOR planning and unflappability are good traits to have if you're in Angela Mwanza's line of work. She's co-founder of UBS Group AG's New York-based Evergreen Wealth Management, a nine-person team that manages $1.2 billion for 25 ultrahigh-net-worth families.

In an interview, the 49-year-old Ms. Mwanza, who gres up in Zambia, talks about the risks to consider for 2020 and some of the findings from UBS's Billionaires Insights 2019 report. She also shares why her clients like impact investing, how to prepare younger generations to take on a family mission, and why diversity is a business imperative for wealth management.

Bloomberg: When we look ahead to 2020, are events or trends such as the U.S. presidential election, Brexit, or the slowing of the Chinese economy affecting the conversations you're having with clients?

Angela Mwanza: Our global family office report says that 55% of family offices expect a recession in 2020. If you're a billionaire or ultrahigh-net-worth, you don't really need to care about the short term. You're really looking across decades, you're really looking through multiple generations. This is technically a blip on the horizon, but you can't help but look into it.

Bloomberg: How do you set investment goals for your clients, and do priorities differ across generations?

AM: When we engage with clients, we talk about the intersection between family, philanthropy, and finance. I put this at the core of what we do. If you have strong family values, that gets executed in how you engage with your family, how you invest your portfolio, and how you run your businesses. It doesn't necessarily mean the same thing to everybody, but it's important to help identify with them and what they care about.

We just found that on average the next generation takes over at age 45.

Bloomberg: Are any of your clients taking a portion of their portfolio and handing the reins to their children?

AM: We're seeing a couple of things happening. We're seeing the younger generation coming to the old generation saying, "I want to see [an investment] happen in the books earlier," and the older generation saying, "You have no experience in investing and have no idea. Come back when you have a little credibility." I think there's a little frustration with that. With other families we try to really foster this mindset: Whether or not you're part of the decision-making, be a part of the discussion. It is almost like training on the job. You're in the board meeting, you're in the investment committee meetings, you're hearing the conversation, [and] you're participating, so that by the time you're talking about recommendations, they're not coming out of the blue.

ANGELA MWANZA

And then you see the third group, who are really very entrepreneurial. They're the ones that go forth and say, "I want to do something completely different."

$1.2B ASSETS MS. MWANZA'S TEAM MANAGES FOR 25 ULTRAHIGH-NET-WORTH FAMILIES

And I think that's where it gets interesting, because they tend to want to be a B Corp [a sustainably certified company] or want to build a company in a way that is sustainable and get away from industries that may not be as appealing to them.

Bloomberg: Does the increased interest in environmental-, social- and governance-focused investing surprise you?

AM: Some of us would say it's been a really long journey. You know, I've been involved in sustainable investing for 15 years or so. It was very nascent. There were not a lot of investment opportunities back then. Fast-forward to today, and 70% of investors [in general] are very interested in sustainable investing, but only 20% actually have sustainable investments in their portfolios.

Bloomberg: How does Evergreen Wealth Management define success or whether a portfolio is working well?

AM: Markets go up, markets go down. While we cannot influence that, ultimately our focus has to be on what the families' objectives are. If they are in preservation mode, then success is protecting portfolios in more volatile markets.

My team is making sure that we're making decisions not just looking at investments in isolation, but taking all aspects of their wealth into consideration — from their tax situation, to their liquidity and liability positioning, to their philanthropic intent, and beyond. Success is family unity. Success is sowing the seed of entrepreneurship to help sustain the wealth.

Bloomberg: The asset management industry has a reputation for being male-dominated. Could more diversity improve how the industry serves its clients, especially as UBS's recent report points out there's been a 46% increase in female billionaires globally from 2014 through 2018?

AM: What I find exciting about the recent UBS Billionaires Insights report is that it makes it very apparent that diversity is not just nice to have, but a real business imperative. Not only do we need to look like the families that we advise, but investors across the board are demanding it.

Bank of America sees early market uptick in 2020

BLOOMBERG NEWS

FINANCIAL MARKETS are set for a "risk asset melt-up" in the first quarter of the new decade, according to Bank of America Corp.

As Brexit and trade war risks recede, and with the Federal Reserve and European Central Bank still adding liquidity, the outlook for the beginning of 2020 is bullish, strategists including Michael Hartnett wrote in a note last month to clients.

POSITIVE SENTIMENT

"We continue to expect returns to be front-loaded in 2020," the strategists said.

The strategists expect the S&P 500 to reach 3,333 by March 3 and see the 10-year Treasury yield hitting 2.2% by Feb. 2.

Global stocks climbed to record highs at the end of 2019 after the U.S. and China agreed to a phase-one trade deal and the U.K. Conservative party won a parliamentary majority, clearing the path for the country's exit from the European Union. While equities in Asia were mixed at one point in December, they climbed in Europe alongside futures on U.S. stock indexes, as investors awaited further detail on the trade front.

"Some of these geopolitical risks seem like they are somewhat resolved, but they're only on hiatus," Seema Shah, chief strategist at Principal Global Investors in London, said in an interview December 13.

2.2% BANK OF AMERICA'S FORECAST FOR 10-YEAR TREASURY YIELD AS OF FEB. 2

While a rally should ensue in the short term, she said investors should take a defensive stance in their asset allocation.

Many investors are "agnostic" about the next move for the market, Daniel Tenengauzer, head of markets strategy at BNY Mellon, wrote in a research note, citing client feedback.

"Following conference calls with investors in Asia, EMEA and the Americas, as well as meeting with investors in the U.S. and Canada, we conclude that investors are uninterested in adopting a strong bias in any direction," he said.

Lawsuit raises question: What defines a passive fund?

BLOOMBERG NEWS

FOR ALL THE DEBATE over passive versus active investing, a recent lawsuit raises a simple, fundamental question: What does it even mean to be a passive fund?

The suit alleges that managers of the Global X S&P Covered Call ETF — a $147 million indexed fund trading under the ticker HSPX — actively traded its portfolio to speculate on stocks and generate commissions.

The fund's prospectus said it tracked the S&P 500 Stock Covered Call Index at the time of the alleged activity, according to a complaint filed last year in November, in New York state court in Manhattan.

So how much leeway do funds have? Most index-based stock ETFs commit in their offering documents to investing at least 80% of their assets in the component securities of their underlying benchmarks, a provision intended to give fund managers time to trade in volatile markets and run the fund in the most efficient way to benefit investors. HSPX sought a 0.95 correlation to its index, where 1.0 would indicate the two moved in lockstep, according to the suit.

Any "wiggle room still has to be used to invest in securities or other instruments that the manager thinks will help track the index," said attorney Eric Simanek, a partner at Sullivan & Worcester who specializes in financial services and who is not involved in the litigation. "It's not there to be used to generate performance that exceeds the index."

KEY POINTS

- Suit alleges ETF actively traded portfolio to generate commissions.
- Plaintiff has sought whistleblower status with SEC.

THE ALLEGATIONS

ETFs — of which about 98% are passively managed in the U.S. — have more than doubled their assets to $4.3 trillion over the last four years as investors seek cheaper products that are less susceptible to the decision-making failures of humans.

But funds that track nontraditional gauges have raised questions about the line between active and passive management. Custom-built indexes do not follow a broad market but instead seek exposure to securities based on factors like financial strength or environmental, social and governance concerns, for example. These measures are constructed to reflect strategies that would typically be actively managed, and that rebalance more frequently.

The lawsuit, filed by Kevin Kelly, formerly the chief investment officer of Recon Capital Partners and now a managing partner at Benchmark Investments, states that he learned about the alleged active management of HSPX as his firm was being bought by South Korea-based Mirae Asset Global Investments — which oversaw HSPX — in 2016.

He said that during deal negotiations, he discovered that HSPX outperformed its underlying index by buying back options before their roll date, writing calls midmonth and writing calls with strike prices outside the index's methodology — among other practices.

"The prospectus was materially false and misleading because HSPX engaged in acts, practices and a course of business which was fraudulent, deceptive, and manipulative," according to the complaint.

Mr. Kelly says he flagged his concerns to Mirae and Horizons — the Mirae unit that ran HSPX — in December 2016. He says he recommended that HSPX's underlying index be changed to tackle some of the alleged behavior, but his complaints and recommendations were dismissed.

INDEX CHANGE

After leaving Mirae in May 2017 and retaining counsel, Mr. Kelly said he filed a whistle-blower complaint with the Securities and Exchange Commission. The agency declined to comment.

In December 2017, HSPX began following the Cboe S&P 500 2% OTM BuyWrite Index. The Cboe index differs from the previous one in that its written call component is achieved by writing call options on the S&P 500 Index rather than on individual stocks that compose the S&P 500.

HSPX was rebranded with the Global X name in 2018 after Mirae added Global X Management Co. to its stable of issuers.

Global X declined to comment on the lawsuit, and Mirae did not immediately respond to an email seeking comment. Exchange Traded Concepts, which set up HSPX in 2013 under the Horizons brand, also declined to comment.

BROADER COMPLAINT

The allegations against HSPX are part of a broader complaint brought by Mr. Kelly against his former business partners Garrett Paolella, Troy Cates and Ray Bartoszek. Mr. Kelly is seeking monetary damages in an amount to be proven at trial.

"The New York Supreme Court filing is a baseless attempt by a disgruntled former colleague of Mssrs. Paolella, Cates and Bartoszek to extract monies that do not exist," said attorney Elizabeth Acee of Barclay Damon, who represents the trio. "The suit is wholly without merit, and we intend to defend it vigorously and are analyzing other potential legal remedies."

The case is Kelly v. Paolella, Supreme Court of the State of New York, County of New York, 657090/2019.

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MAKE THE SMARTER MOVE

PRIVATE MARKETS

CONTINUED FROM PAGE 4

icon Valley unicorns, private companies that have a market value exceeding $1 billion.

"[These] proposals are an important step in our ongoing efforts to assess the private offering framework as a whole, including ways to increase opportunity for more of our Main Street investors to participate in the private capital markets," Mr. Clayton said.

NOT MANY MORE INVESTORS

An SEC official, speaking to reporters last month, said the commission hasn't been able to determine how many new investors will be deemed accredited under the new proposal. It's not likely to be a large expansion, the official added.

Wall Street has long pushed for the SEC to lower the sophisticated investor requirements, and the proposed plan doesn't go as far as many firms would like. Nevertheless, the industry did get at least a small win as the commission decided not to raise the income and net worth thresholds required to invest in private funds.

SALARY RESTRICTIONS UNCHANGED

The annual salary restrictions will remain at $200,000 for individuals and $300,000 for couples. And the net worth test will continue to be $1 million, not counting the value of a home.

STRETCH IRA

CONTINUED FROM PAGE 5

most beneficiaries.

The clients most affected are those with the largest IRAs who had planned on leaving the lion's share of those accounts to extend over the lives of their children and grandchildren. This especially includes any clients who named a trust as their IRA beneficiary. These trusts will not work well under the new rules. These estate plans need to be readdressed immediately.

1. Are current stretch IRAs for those who died before 2020 still good? Yes, they are grandfathered, but only until the beneficiary dies, so payouts to the successor beneficiary (the beneficiary's beneficiary) will be limited to 10 years.

Example:
An IRA owner died in 2019 and left his IRA to his grandchild. The grandchild's stretch period is 60 years. That schedule is grandfathered and remains the same. When the grandchild dies, though, any funds remaining in the inherited IRA that go to the grandchild's beneficiary will have to be paid out within 10 years.

2. Does this kill stretch IRAs for all beneficiaries? No. The law carves out exemptions for certain beneficiaries now called eligible designated beneficiaries, or EDBs. Eligible designated beneficiaries are:

- Surviving spouses.
- Minor children, up to "majority" – but not grandchildren.
- Disabled individuals – as defined under strict IRS rules.
- Chronically ill individuals.
- Individuals not more than 10 years younger than the IRA owner (generally, siblings around the same age).

The old stretch rules still apply to these beneficiaries, the same as before, but only while the beneficiaries still qualify as EDBs.

Example:
An IRA owner dies in 2020 and leaves his IRA to his minor child. The minor child can still stretch the same as before, but only until that child reaches the age of majority (which is age 18 for most states). Once the child reaches majority, he is no longer an EDB, and then is subject to the new 10-year rule.

3. Do grandchildren qualify as minors for the EDB exemption? No. The law is clear on this. The EDB exemption from the 10-year rule is only for the child of the IRA owner or plan participant.

Example:
An IRA owner dies in 2020 and leave her IRA to her grandchild. The grandchild, no matter what age, will be subject to the 10-year payout after death, unless that grandchild qualifies as disabled or chronically ill. It's likely that a trust was named for that grandchild. That trust, too, is subject to the 10-year rule. That's probably not what the client wanted. The reason she named a trust was to protect those funds for the grandchild. Certain trusts may still do this but they would all still be limited to a 10-year payout.

4. How do the RMDs work under the 10-year rule? Are there RMDs during the 10 years? No. Under the 10-year rule, there are no RMDs during the 10 years. Instead, the entire IRA balance must be emptied by the end of the 10 years. Beneficiaries can withdraw any amounts they wish over the 10 years, so beneficiaries do have some planning flexibility during the 10 years to withdraw funds when it best fits their tax situation during that time.

5. Do Roth IRAs still qualify for the stretch? No. Inherited Roth IRAs are subject to the same 10-year payout rule, however the distributions will generally be tax-free. Advisers will want to look at doing more Roth conversions to eliminate what could be a big tax bill within 10 years after death.

Ed Slott, a CPA, created the IRA Leadership Program and Ed Slott's Elite IRA Advisor Group. He can be reached at irahelp.com.

MORE BUSINESS

CONTINUED FROM PAGE 5

likely to do so if they band together with other small businesses.

Investment advisers might be able to insert themselves into the process.

"To the extent retirement plan advisers can be a catalyst or an organizer for putting plans together, this could be a business opportunity," said Christopher Jones, chief investment officer at Edelman Financial Engines. "We'll have to see how aggressively plan sponsors and industry embrace" the new approach.

ECONOMIES OF SCALE

The most powerful aspect of multiple employer plans, or pooled employer plans, is the economies of scale they will introduce, according to David Whaley, a partner at the law firm Thompson Hine. For instance, a new $1 billion retirement plan could be created from the accumulation of many $10 million plans.

"It increases the ability of more large-plan investment advisers to have access to more large plans," Mr. Whaley said. "It opens up the ability of an investment house to offer a plan to all of its clients."

Smaller investment advisers who work with small businesses also may find new opportunities, said Mike Hennessy, chief executive of Harbor Crest Wealth Advisors.

"For instance, if an adviser's secret sauce is developing and overseeing low-cost plans for small businesses, then scalability is now on the table," he said.

Mr. Hennessy, who works with small business owners, will start offering 401(k) advisory services next year, thanks in part to the changes introduced by the SECURE Act.

"It increases your stickiness" with small-business clients, Mr. Hennessy said.

NEW OPPORTUNITIES

Small businesses may not understand the ramifications of the SECURE Act, and financial advisers can help there, too, said Eric Stevenson, president of Nationwide Retirement Plans.

"Advisers will play a critical role helping their small-business clients navigate and leverage these new employee benefit opportunities," Mr. Stevenson said in a statement to *InvestmentNews*.

The changes introduced by the SECURE Act could lead to 700,000 more employees saving for retirement at work, according to the American Council of Life Insurers.

"We think this will be transformational for employer-sponsored retirement plans," said Rick Jones, a senior partner in the retirement solutions group at Aon.

But advisers will have to close the deal, Mr. Hennessy said. He pointed out that other attempts to increase the number of workplace retirement plans have fallen short of expectations.

"Absent advisers getting in there and selling the plans, I'm hesitant to say we'll see a massive uptake of plan adoption by employers on their own," Mr. Hennessy said.

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ANNUITIES

CONTINUED FROM PAGE 5

exception, they must be commercial annuities that make payments over the life of the employee or life of the employee and a designated beneficiary's life.

In addition, the annuity would need to have made payments before Jan. 1, when the SECURE Act went into effect, or an irrevocable election before that date.

Grandfathered annuities under the SECURE Act will pay for the lifetime of two people. An example is a single premium immediate annuity or annuity in payout that would continue payouts to children or grandchildren over their lives. As long as the annuities meet the grandfathering rules, there should be no issue.

10
NUMBER OF YEARS ANNUITIES WILL GENERALLY HAVE TO PAY OUT UNDER THE SECURE ACT

ELIGIBLE DESIGNATED BENEFICIARY

However, new annuities or annuities without a definitive payout decision wouldn't fall under the grandfathering rules. According to annuities expert Gary Mettler, annuity contracts' ability to pay out over two nonspousal lives will only remain possible if the nonspousal individual qualifies as an eligible designated beneficiary.

Under the SECURE Act, an eligible designated beneficiary is an individual who is either disabled or chronically ill (as defined by the IRS) or any individual who is no more than 10 years younger than the IRA owner.

If the nonspousal annuitant is within the 10-year age range, the annuities could still be placed for siblings and significant others. Annuities paying out to the surviving spouse will be OK.

While Mr. Mettler sees some opportunities for better planning under the SECURE Act, he also sees significant challenges for certain annuities, especially single premium indexed annuities.

MODIFICATION FEATURES

New annuities sold with joint nonspouse beneficiaries moving forward in IRAs might not be able to adhere to the 10-year distribution rules. These annuities would need some cash-out or modification feature moving forward. This could be a real issue for some annuities currently inside of IRAs without this option or annuities that are sold after the SECURE Act.

The SECURE Act might not secure retirement for everyone, but it does offer some common sense changes. The gut reaction to the law is that the huge impacts on the stretch IRA distributions and annuities are for the better.

Still, the law is not the completely positive outcome for annuities that some might expect.

Despite the moderate strength and uncertain future of the SECURE Act, knowing that retirement planning will change is important. Understanding how, now, will help your clients and their beneficiaries in the long run.

Jamie Hopkins is director of retirement research and vice president of private client services at Carson Group.

InvestmentNews

WOMEN to WATCH

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