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SEC APPROVES ADVICE REFORM

FULL COVERAGE BEGINS ON PAGE 10

SEC CHAIRMAN JAY CLAYTON

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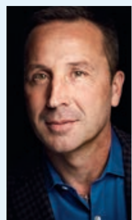
EDITOR'S NOTE

Lots to come on SEC's new rules

Well, here we are — again. Fifteen months after the 5th U.S. Circuit Court of Appeals vacated the Labor Department's fiduciary rule, the Securities and Exchange Commission last Wednesday approved its long-awaited investment advice reforms. The centerpiece is Regulation Best Interest, which raises the broker standard above the suitability requirement.


FRED GABRIEL

Needless to say, *InvestmentNews* was all over the story.

Actually, we've been on it for months. Anticipating the rule changes, and knowing they represent the most significant changes to advice standards in more than two decades, we formed an internal team two months ago to plan our coverage around the SEC's final vote.

Our goal all along was to do more than report the news. We wanted to be the first to put the news in context and provide a level of analysis that would make clear to our readers what the new rules would mean for them, their practices and their clients.

This week's issue does all that and more.

Our story, "What's in the final SEC advice rules?" provides readers with everything they need to know about the rule changes. Our package also includes a timeline on how the rules came into being as well as a detailed list of fast facts for those trying to get up to speed quickly. We also included a story that gauges adviser reaction to the rules.

In addition, our team produced an insightful webcast on the rule. You can register to hear an archived version of it at InvestmentNews.com/SECwebcast.

The SEC's reforms will reverberate throughout the industry for many years. You can rely on *InvestmentNews* to stay on these developments as they unfold.

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Superstar team with $17B bolts First Republic

BY BRUCE KELLY

A TEAM OF all-star financial advisers who manage $17 billion in assets for wealthy clients has bolted from First Republic Bank's elite wealth management group to set up two RIAs in California.

The advisers — David Hou, Mark Sear, Robert Skinner and Alan Zafran — left First Republic Investment Management Inc. on May 31, according to regulatory filings, industry reports and an individual familiar with their move who asked not to be identified.

Mr. Hou and Mr. Sear are owners of a new RIA, Evoke Wealth, that's based in Santa Monica. According to its Form ADV, Evoke Wealth has a staff of 20.

Meanwhile, Mr. Skinner and Mr. Zafran are opening an RIA in Monterey called IEQ Capital.

Neither firm returned calls for comment last week. A spokesman for First Republic, Greg Berardi, declined to comment.

KEY POINTS
- Four advisers are setting up two RIAs in California.
- Team has a history of breaking away.
- First Republic has been aggressively recruiting.

The four advisers have a unique history of breaking away from employers, setting up their own shops and then selling their practice.

In June 2008, Mr. Hou and Mr. Sear made headlines as the leaders of a group of advisers in charge of $7 billion that left Merrill Lynch to set up their own RIA, Luminous Capital Holdings. Mr. Skinner and Mr. Zafran also left Merrill at that time and were also founders of Luminous Capital.

Four years later, at the end of 2012, First Republic bought Luminous Capital, which had $5.5 billion in assets by then. The amount of the transaction was not disclosed at the time.

An industry website, RIABiz, originally reported the news of the four advisers leaving First Republic. The bank has been aggressively recruiting financial advisers since at least the start of 2017.

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Indexed annuity illustrations are hurting consumers: CEJ

BY GREG IACURCI

AN INVESTOR ADVOCACY group took a shot at indexed-annuity illustrations — the primary sales tool used to sell insurance products — and said that current rules around illustrations are too flimsy, allowing insurers to use them in a way that benefits them but hurts consumers.

In a recent comment letter submitted to the National Association of Insurance Commissioners, the Center for Economic Justice specifically took issue with indexed-annuity products linked to a "hybrid" index.

Whereas traditional indexed annuities tie their returns to a well-known market index like the S&P 500, hybrid products often combine several different indices, have a bond or cash component and allow an asset manager to control for volatility. These indices, according to the CEJ, are "opaque" and "can be created out of thin air."

The NAIC created a working group toward the end of 2016 to look at whether it should amend current rules around annu-

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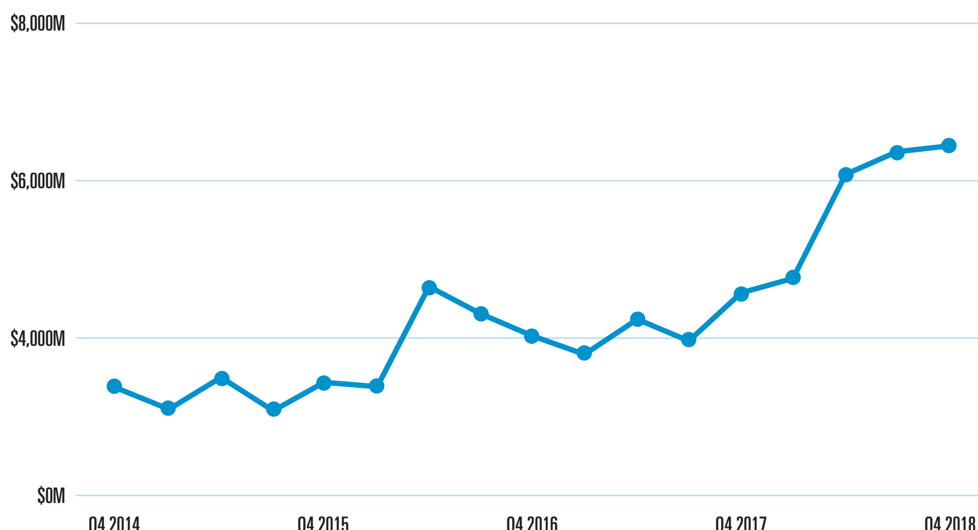
SALES OF INDEXED ANNUITIES WITH HYBRID INDICES



Source: Fidelity Investments

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Fidelity builds account platform to rival TAMPs

BY RYAN W. NEAL

FIDELITY IS FIRING another shot in the escalating battle over financial advisers' workstations with a new managed account platform to rival turnkey asset management platforms.

The firm announced a new wealth management platform last Thursday called Fidelity Managed Account Xchange, or FMAX, that ties together Wealthscape adviser technology, financial planning from eMoney Advisor and investment products from Fidelity and third-party asset managers.

The idea is to give advisers a single platform they can use for everything from prospecting and new client onboarding to financial planning, investment allocation and ongoing management. FMAX will integrate with Fidelity's AMP robo-adviser for advisers looking to offer digital advice to young investors or small accounts.

"Today, a lot of financial planners work with the planning technology and work with a separately managed account technology," said Gary Gallagher, Fidelity Institutional's head of investment and managed solutions. By bringing it all together, Fidelity can eliminate what Mr. Gallagher called the "swivel chair experience" of reentering information into multiple systems.

NEW RIA

To support FMAX, the mutual fund giant is creating a new registered investment adviser, Fidelity Institutional Wealth Adviser. The entity will allow Fidelity to handle investment management and due diligence, as well as provide advisory consulting and support to broker-dealers, banks, family offices and RIAs using FMAX.

FMAX is still in development, with an initial rollout planned for 2020, but Mr. Gallagher said the finished platform will offer a combination of Fidelity model portfolios and managed account solutions alongside investment products from third parties. The idea is to support the full range of adviser service models, including portfo-

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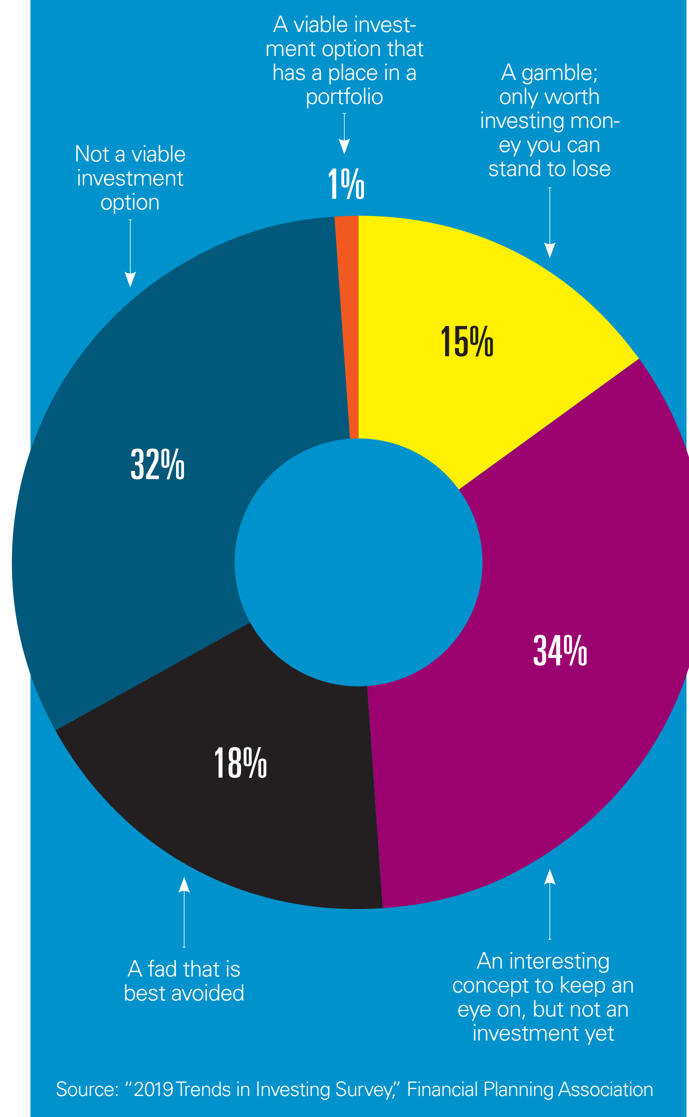
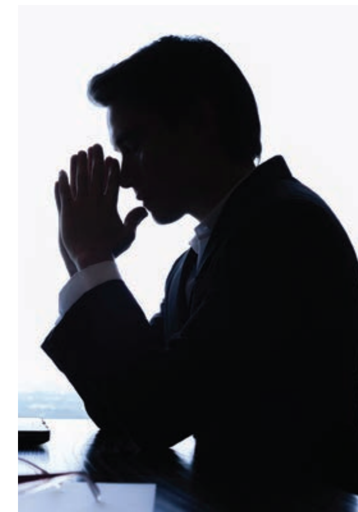


Brokers are more worried about the CFP than the SEC



BY BRUCE KELLY

LAWYERS ACROSS the brokerage industry are busy reading and digesting the Securities and Exchange Commission's investment advice reforms approved last week. But some firms are also gearing up for more changes promulgated by the organization that administers one of the most sought-after designations in the industry: the certified financial planner, or CFP.

In 2018, the Certified Financial Planner Board of Standards Inc. approved a new code of ethics and standards of conduct, expanding a fiduciary standard as part of its revamp to the designation's conduct requirements. Under the new standards, all CFPs — including brokers — must act in the best interests of their clients when providing financial advice.

Under the new SEC reforms, brokers do not have to operate under a fiduciary standard.

Many in the retail securities industry dislike the CFP Board's updated code of ethics and standards of conduct, which is to take effect in October.

"Similar to state fiduciary efforts, the CFP Board's code adds yet another standard demanding compliance by firms and advisers," Chris Paulitz, a spokesman for the Financial Services Institute, wrote in an email. "And with more standards come greater complexity, higher costs and increased likelihood of error."

EIGHT BIG BROKERAGES

The FSI is a trade organization that represents independent contractor broker-dealers.

Last February, eight major brokerage firms called on the CFP Board in a comment let-

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Advisor Group execs to hit road this summer

BY BRUCE KELLY

NOW THAT THE sale of Advisor Group is in the bag, the management of the broker-dealer network will hit the road this summer, visiting financial advisers in 20 cities to provide an update from CEO Jamie Price.

Last month, Advisor Group said that private-equity firm Reverence Capital Partners had agreed to acquire 75% of the broker-dealer network from Lightyear Capital, PSP Investments and other investors.

According to a memo sent to Advisor Group reps last Tuesday, Mr. Price and other Advisor Group executives will hold the town hall-type meeting so advisers can get a general briefing from Mr. Price, as well as updates on Reg BI, enhancements to cybersecurity, improvements to unified managed accounts and other topics.

Advisor Group will kick off the meetings in Atlanta on July 26, according to the memo.

As part of the transaction, Advisor Group, in coordination with Reverence Capital, said last month that it expected to establish an adviser recognition and retention program, with details to be announced between signing and close.

RETENTION BONUS?

But there was no mention of any retention bonus for advisers in last Tuesday's memo, noted one Advisor Group rep, who asked not to be named. Retention bonuses, sometimes called "stay bonuses" in the industry, are at times paid to brokers and financial advisers after a broker-dealer is acquired in order to ensure that advisers stay put for a period of years.

"Nobody has told us about the deal," the adviser said.

Mr. Price wrote in an email, "There is no better way to demonstrate that we are in our advisers' corner than taking the time to meet with them in small, intimate settings with our senior management to talk about their businesses, announce new programs to help them grow and serve clients even more effectively and discuss key trends in the industry." He added, "We look forward to announcing further details of these roadshows in the near future."

The four broker-dealers in the Advisor Group network are: FSC Securities Corp., Royal Alliance Associates Inc., SagePoint Financial Inc. and Woodbury Financial. According to *InvestmentNews* data, the four combined to produce $1.7 billion in total revenue last year.

InvestmentNews data show there were close to 11,800 total registered reps at the four firms at the end of last year, with 6,500 of those advisers producing revenues.

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Oranj, TradeWarrior move forward

BY RYAN W. NEAL

THE EXECUTIVES behind Oranj and TradeWarrior are looking to move on from a litigious breakup following Oranj's majority-share acquisition of the rebalancing software in April 2017.

One year after the deal, TradeWarrior founder and former CEO Damon Deru sued Oranj and its CEO David Lyon, claiming Mr. Lyon knowingly exaggerated Oranj's number of clients, revenue and product functionality. Mr. Deru also alleged he was shut out of business discussions and was improperly fired in December 2017.

Mr. Lyon filed a countersuit against Mr. Deru and three other TradeWarrior employees, claiming Mr. Deru withheld material information about TradeWarrior's operations and liabilities, including Securities and Exchange Commission findings that the company engaged in securities fraud. The lawsuit alleges Mr. Deru was terminated for "unauthorized business activities," and that TradeWarrior responded by destroying or hiding computers and code.

"It was not a good fit, not a good partnership," Mr. Deru said when asked about his departure from the company he created in 2008. He did not respond to additional questions about the lawsuits.

DAVID LYON

'AMICABLE' RESOLUTION

In a written statement, Mr. Lyon said, "Although our business relationship did not work out, we amicably resolved our disputes in a way that is best for both companies and we wish Damon and his team all the best."

Now the battle appears to be moving from the courtroom to the

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Fidelity cuts target-date fund fees

BLOOMBERG NEWS

FIDELITY INVESTMENTS is cutting fees for a popular retirement vehicle called target-date funds as a price war among financial giants spreads across products.

Last Wednesday, the company announced a 14% price reduction on entry-level share classes of the Fidelity Freedom Index Funds and its institutional Index Target Date Commingled Pools. With the cuts, 21 of 22 of the firm's index funds will have total net expenses lower than comparable Vanguard Group products, Fidelity said in a statement.

14% REDUCTION IN PRICE OF FIDELITY FREEDOM INDEX FUNDS

Target-date funds are increasingly popular as a retirement option, allowing investors to pick the year they expect to retire.

The all-in-one vehicles contain a variety of stock and bond funds, and they gradually and automatically get less risky as retirement approaches.

Last Monday, Fidelity expanded its lineup of commission-free exchange-traded funds in the race with rivals to offer cheaper products. It added 150 ETFs to its platform, bringing the total to more than 500, as well as 11 new ETF providers.

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Needs identified by advisers, clients differ

It's amazing how much I learn from fellow advisers, even after being in this profession for more than 35 years. As 1,300 advisers, team members and industry executives descended on the Excell 2019 conference in Chicago last month, the energy in the air from that collective wisdom was palpable.

You'd be surprised at the perspective you can gain by stepping back and looking at adviser behavior from a distance. Patterns reveal themselves.

I want to take a step back and examine two fundamental questions we asked our advisers and their teams.

The first focused on the feedback they're getting from clients. **What have your clients requested the most when it comes to the experience they desire?** The top response was "better technology," followed by "more communication" and "better performance." It was a fairly even race within several areas, which tells me clients are asking for more from their advisers across the board.

There is no "one thing" clients are asking for. Yet you could argue technology is perhaps the best way in which to deliver or improve on all other service areas listed, including client service itself.

Tech could soon prove to be one of the best leading indicators of adviser success and business sustainability. Think of how integral it is when seeking a fair valuation of your firm.

This ties back to your tech (CRM systems, online client portals, website, financial planning software, rebalancing software, trading, risk-assessment tools and the list goes on). What are you doing to integrate technology into every corner of your business so you are able to scale with the demands of business and rising client expectations?

Our second question shifted from clients to advisers, and how the adviser is steering the ship. **What business area do you feel will require the most attention and development in 2019?** The top two responses, by a large margin, were "systematizing the office/hiring talent" and "marketing (branding and lead gen)." Inorganic growth appears to be the lowest priority on most advisers' lists, but client service and technology aren't far behind. This is interesting, considering that the No. 1 thing clients are asking for is better tech, yet it falls near the bottom on adviser priority lists.

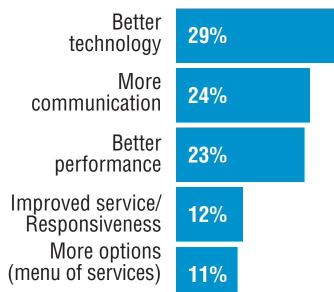
It's a fascinating dichotomy that I feel highlights the struggle advisers find themselves in all too often, forced to apply their finite time and resources to one of two competing priorities: attracting new business or supporting current clients.

The other observation I made while studying the results as they came in is that most of us, as advisers, are at a stage where we need to consider investing in the pillars of building a competitive business. Hiring talented people, systematizing our office, and building better brands account for 70% of our focus for the remainder of this year — and all three speak to our growing awareness that we must build compelling value propositions to thrive in this new era.

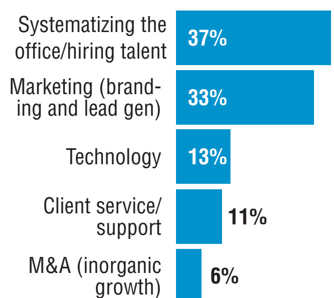
The summer months tend to remind us of how far we've come and where we need to go. Use this halfway checkpoint in the year to reflect on the future of your business. Where can you improve? What have you done exceptionally well? And what will it take to continue providing value beyond a doubt? The race to reinvent ourselves is on.

Ron Carson is CEO and founder of the Carson Group, which serves advisers and investors through its businesses: Carson Group Coaching, Carson Group Partners and Carson Wealth. ow him @RCHusker.

WHAT HAVE YOUR CLIENTS REQUESTED THE MOST WHEN IT COMES TO THE EXPERIENCE THEY DESIRE?



WHAT BUSINESS AREA DO YOU FEEL WILL REQUIRE THE MOST ATTENTION AND DEVELOPMENT IN 2019?



SOURCE: CARSON GROUP SURVEY OF 471 OF ITS ADVISERS.

HSAs are lagging in rollovers

BY GREG IACURCI

WHEN IT COMES to traditional retirement accounts such as 401(k)s and IRAs, employers or service providers often urge participants to consolidate assets in multiple accounts via a rollover. But it appears that that advice isn't prevalent when it comes to health savings accounts, an up-and-coming retirement savings vehicle.

"Right now, you see people asking for IRA and 401(k) rollovers," said Jack Towarnicky, executive director of the Plan Sponsor Council of America, a trade group for companies that sponsor retirement plans. "We're not at that point yet when it comes to HSAs, and probably won't get there for many years to come."

KEY POINTS

- Employees receive little education on HSAs.
- Having multiple HSAs, rather than rolling them into one, can cost more in fees.

Only one in five employers offering an HSA (they have a high-deductible health plan) solicits rollovers from newly hired employees, who may have an HSA from a prior employer, according to a new PSCA report on health savings accounts.

That means the vast majority of companies don't actively approach new hires about rolling over assets to their new HSA and they may not accept rollovers at all. Both could contribute to employees having several HSA accounts, which would have negative consequences.

For one, most HSA vendors require participants to hold a minimum amount of assets in a bank-like account — maybe $1,000 or a few thousand dollars — before they're able to invest the money.

MINIMUMS AND FEES

Having multiple HSAs rather than one consolidated account makes it more likely that participants won't have enough money in each account to meet these investment minimums. It also increases the chance an employee will forget about an account.

While many employers pay HSA administration fees for active employees, most don't continue to do so after workers leave the company.

Roughly 60% of employers pay the HSA maintenance fees for employees, but only 5% also cover those costs for former employees, according to the PSCA report.

"I do believe there isn't much focus on accepting rollovers. That's an area where the HSA trustees need to be more aggressive," Mr. Towarnicky said. "I just don't think it's a priority right now because of the small account balances."

GROWING POPULARITY

HSAs have been growing in popularity — the total number of HSAs at the end of 2018 was up 13% over the year prior, to 25 million accounts, according to Devenir Research, a consulting firm. Total assets of $53.8 billion were up 19% over the same period, and Devenir expects that number to swell to $75 billion by the end of 2020.

However, account balances remain relatively small — the average account balance at the end of 2018 was $5,239, according to the PSCA.

Aaron Pottichen, senior vice president of Alliant Retirement Consulting, sees communication issues among employers regarding HSAs.

More than three-quarters of employers educate their employees about HSAs just once a year, during open enrollment.

Communication around rollovers could be simple — for example, notifying participants that they can roll over their HSA assets and providing the appropriate form, a link or a number to call, Mr. Towarnicky said.

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A much hated tax break just won't die

BLOOMBERG NEWS

ONE OF PRIVATE-EQUITY and hedge-fund managers' most prized tax breaks is again in politicians' crosshairs, but Democrats would need to sweep the 2020 election if they want to pull the trigger to kill it.

President Donald J. Trump said in May that he wanted to increase taxes on carried interest, a major form of compensation for hedge-fund and private-equity managers. Several leading Democratic presidential candidates — including former vice president Joe Biden, and senators Bernie Sanders and Elizabeth Warren — also have said they want to end the break.

Yet there are a couple of reasons the carried-interest tax break, despite bipartisan opposition, isn't dead yet. Most Republicans, and even some Democrats, oppose killing a tax option that investment firms have successfully argued creates jobs. And eliminating the break wouldn't actually raise all that much money.

Partnerships such as private-equity, venture capital and hedge funds typically get compensated in two ways. They charge an annual management fee, as well as a performance fee, which can be about 20% of gains, depending on the fund. For tax purposes, the performance fee is treated as a capital gain, meaning that it gets hit by a top rate of 23.8%, rather than ordinary income, where rates can reach as high as 37%.

Various proposals to tax carried interest as ordinary income were estimated to raise between $3 billion and $16 billion over a decade. That's a drop in the bucket for federal spending, meaning that it has limited value as a money-raiser.

"As a political scalp, it's still something very hot for Democrats, but no Republicans are going to vote for a tax increase," said Stephen Myrow, managing partner of Beacon Policy Advisors.

FREQUENT TARGET

The preferred tax treatment is a frequent target on the campaign trail as a way to pay for other priorities. Democratic candidate Amy Klobuchar, a Minnesota senator, said in a CNBC interview in May that eliminating the loophole could help pay for infrastructure. Kamala Harris, a California senator, in March similarly cited carried interest when asked in an NPR interview about her proposed tax rebate to lower-income households.

The Carried Interest Fairness Act of 2019, now sponsored by New Jersey Democrat Bill Pascrell, has 28 cosponsors, fewer than a bill by former Rep. Sander Levin, D-Mich.,

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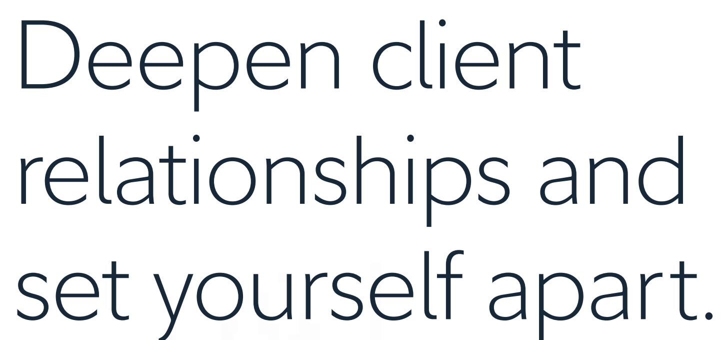

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OPINION

EDITORIAL / LETTERS / OP-ED / GUEST BLOGS

Success of SEC advice reform will depend on industry actions

THE MOMENT HAS FINALLY ARRIVED. After about 14 months, 6,000 comment letters, and many investor roundtables and individual meetings with SEC staff and commissioners — not to mention dozens of *InvestmentNews* articles — the 1,363 pages of SEC advice reform rules and interpretations are final.

Though the regulations encompass the most significant changes to investment advice standards in more than two decades, it's hard to say at this early stage just how much broker and adviser interactions with clients will shift as a result — and if they shift, in which direction.

Codifying the idea of putting a client's best interest first into regulation is important. Though the rules lack many specifics and rely heavily on the word "flexibility," the fact that considerations of the costs of various products and accounts are required is key. Rolling over a client's workplace retirement account into an individual retirement account was particularly highlighted in Regulation Best Interest as a material conflict. Broker-dealers will now be required to "establish, maintain and enforce written policies and procedures reasonably designed to identify and at a minimum disclose, or eliminate, all material conflicts that are associated with a recommendation."

It's the disclosure part that's tricky, though. The effectiveness of disclosures will depend greatly on how they are written and presented. Will they be used to truly arm an investor with the necessary information they need to make smart choices about the conflicts of the financial professional before them? Or will those disclosures be written simply to check off a compliance box that information was provided, while ensuring consumer haze remains to obscure the conflict?

The upshot of these rules and interpretations is that a tremendous weight has been put on the industry to rise to a standard of best interest. There is relatively little that is prescriptive in the language; there is a lot about what is "reasonable." There's nothing wrong with principles-based rules, as long as there are principled people to carry them out. It ultimately will be up to brokers, brokerage firms, financial advisers and advisory firms whether this tremendous effort for advice reform is meaningful or not.

Regulators must scrutinize advice by insurance agents

"AN UNPOLICED MARKET." That's how one investor advocate described the practice of insurance agents who are not licensed to conduct securities transactions advising investors to roll over 401(k) funds into insurance products.

The rollover market for 401(k) funds is especially tempting right now because so many baby boomers are retiring. In many cases, they have hundreds of thousands — or even millions — of dollars in their accounts that they have saved over a lifetime.

Advising rollovers can be a tricky business, even for financial advisers. In some cases, it might make sense to roll 401(k) funds over into an individual retirement account where other investments might be considered, but in other cases it may not. The client's best interest should be made the highest priority.

That may not be happening when an insurance agent is giving the advice. As reporter Greg Iacurci recently pointed out, insurance agents who are advising clients to take funds invested in the stock market out of a 401(k) account to buy insurance products such as annuities are in violation of the law if they are not also licensed to conduct securities transactions.

But enforcement has been spotty at best. The insurance industry is largely regulated by states, and enforcement varies state-by-state. The Securities and Exchange Commission has jurisdiction over nonlicensed individuals conducting securities transactions, but it rarely goes after insurance agents in rollover cases.

The investing public, as well as advisers who are properly licensed, have a lot to lose if regulation is allowed to remain haphazard. Investors dealing with unlicensed individuals could find themselves in overly expensive investments with long lock-up periods. And advisers could be losing out on a substantial stream of revenue that is being diverted to nonsecurities-licensed insurance agents. Regulators need to step up enforcement, and both investors and the securities industry should put pressure on them to make sure they do their job.

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WHAT'S IN THE FINAL SEC ADVICE RULES?

REQUIREMENTS IN THE REFORM PACKAGE AFFECT BOTH BROKERS AND INVESTMENT ADVISERS

BY MARK SCHOEFF JR. AND JEFF BENJAMIN

The Securities and Exchange Commission's long-awaited investment advice reforms, which were approved last Wednesday in a 3-1 vote, will make the most significant changes to advice standards in more than two decades.

After receiving more than 6,000 comment letters and hosting several investor roundtables and one-on-one meetings with interested parties, the SEC has made only minimal revisions to its original proposed rules, which have been examined at length since their release in April 2018.

The SEC released a statement and fact sheet during the hearing that said its actions "are designed to enhance and clarify the standards of conduct applicable to broker-dealers and investment advisers, help retail investors better understand and compare the services offered and make an informed choice of the relationship best suited to their needs and circumstances, and foster greater consistency in the level of protections provided by each regime."

Only time will tell the extent to which the agency's final rules will accomplish these goals.

"Instead of having a uniform fiduciary standard for identical advisory services, there will continue to be two somewhat different market conduct standards to what can be identical advisory services," said Duane Thompson, senior policy analyst at Fi360. "It's another tangible sign that the broker-dealer business model has changed dramatically in recent years, where advice is a dominant feature of what they provide."

The centerpiece of the four-part reform package is Regulation Best Interest, which SEC chairman Jay Clayton said raises the broker standard above the current suitability requirement. The SEC hearing statement said the best-interest standard cannot be satisfied through disclosure alone and "explicitly requires the broker-dealer to consider the costs of the recommendation." These requirements extend to

MILESTONES ALONG THE ROAD TO REFORM

JUNE 1, 2017
SEC SEEKS COMMENTS ON CONDUCT STANDARDS
Less than a month after Jay Clayton is sworn in as Securities and Exchange Commission chairman, the agency releases a request for comment on conduct standards for brokers and investment advisers. It's the first signal that Mr. Clayton has made advice reform a priority.

Jay Clayton

MARCH 15, 2018
DOL FIDUCIARY RULE DIES
The 5th Circuit Court of Appeals vacates the Labor Department's fiduciary rule in a split decision, overturning a Dallas district court that had upheld the measure. On June 21, the court issues a mandate making its decision effective.

MARCH 29, 2018
CFP BOARD EXPANDS FIDUCIARY STANDARD
The Certified Financial Planner Board of Standards Inc. unanimously approves an expanded fiduciary standard as part of a revamp of the designation's conduct requirements. Under the new rule, all CFPs — including brokers — must act in the best interests of their clients when providing financial advice. The standard will become effective Oct. 1, 2019.

APRIL 18, 2018
SEC RELEASES PROPOSED RULE
The SEC votes 4-1 to release its proposed rule to reform financial advice standards. The nearly 1,000-page package includes three parts: a best-interest standard for brokers (Regulation Best Interest), new disclosure requirements for all advisers and title reform, and an interpretation of the fiduciary standard for investment advisers. A 90-day comment period begins.

JUNE 14, 2018
SEC INVESTOR PANEL CONDUCTS FIRST PUBLIC DEBATE
The SEC Investor Advisory Committee, established to speak for ordinary investors, holds its first public debate about the proposal. Four of the five SEC commissioners attend. Critics say that the proposal does not subject brokers to a fiduciary standard, and that Regulation Best Interest for brokers is hazy. Proponents say the SEC rule would raise the bar for brokers by requiring them to mitigate conflicts of interest and act with diligence and prudence.

any suggestions that clients roll their workplace retirement plan into an individual retirement account handled by the broker.

Other conflicts, such as contests or compensation that reward the sale of some products or a high volume of sales in general, were addressed in the language of Reg BI but not entirely eliminated. Written policies and procedures must eliminate such contests related to specific securities or types of securities within a limited time period, but not compensation for total products sold or asset accumulation. Broker-dealers also can offer only proprietary products or a small menu of products and use compensation to incentivize sales of these.

FORM CRS

Both investment advisers and broker-dealers will be required to produce a client relationship summary at the start of the relationship. Form CRS will summarize information about services, fees and costs, conflicts of interest and the legal standard of conduct, and disclose any disciplinary history related to the firm or the adviser. A survey conducted on behalf of the SEC last fall showed that investors embraced but failed to grasp such disclosures meant to help them distinguish between investment advisers and brokers.

Language in the final rule gives some leeway to broker-dealers on their Form CRS, saying "firms are not expected to disclose every material conflict of interest, and should instead consider what would be most relevant for retail investors to know." In a change from the proposed rule, the agency said it wanted to provide broker-dealers with more flexibility in the wording used on these forms and removed the prescribed language required in the original regulation.

Finally, the SEC advice reform package includes two interpretations of current law.

The rule states that an investment adviser owes a fiduciary duty to its clients, under the Investment Advisers Act of 1940, that is principles-based and applies to the entire relationship between an investment adviser and the client. It clarifies, however, that not all conflicts need to be eliminated — some can merely be disclosed — and that the scope or ongoing nature of a client relationship may vary among clients.

'WEAKENS' FIDUCIARY STANDARD?

Rick Fleming, the SEC's investor advocate, said last Wednesday that the regulator's plan "weakens the existing fiduciary standard by suggesting the liability for nearly all conflicts can be avoided through disclosure."

Mr. Fleming added that the new broker requirements are "a step in the right direction," but that they were undermined by the SEC's revised interpretation of the fiduciary obligation for investment advisers.

One addition to the original proposed rule package was an interpretation of the "solely incidental" exemption in the Investment Advisers Act of 1940, which allows brokers to provide some advice without requiring them to register as investment advisers and become fiduciaries, but does not allow them to be compensated. The new interpretation clarifies that advice about the "value and characteristics" of securities or about transacting them is allowed in the normal course of business.

The SEC approved all four measures last Wednesday in a partisan result. Republican commissioners Hester Peirce and Elad Roisman voted with Mr. Clayton for passage, while Democratic member Robert Jackson dissented on all four measures.

EFFECTIVE DATES

The Reg BI and Form CRS rules will become effective 60 days after their publication in the Federal Register, and firms must be prepared to comply with them by June 30, 2020. The two interpretations are effective as soon as they land in the Federal Register. The SEC is setting up a committee to help firms meet the new requirements, and provided the following email address for questions during implementation: IABDQuestions@sec.gov.

"The winners here are clearly the securities and insurance industries, because they prevailed in overturning the [Labor Department's fiduciary] rule and argued that the SEC is the appropriate body to oversee those industries," Mr. Thompson said. "But if you're a broker-dealer, there are still big changes coming when it comes to managing and avoiding conflicts of interest."

Bloomberg News contributed reporting to this story.

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SEC REFORM FAST FACTS

- The Securities and Exchange Commission passed its four-part advice reform package last Wednesday in a 3-1 vote.
- SEC chairman Jay Clayton indicated a main purpose of the rules was to help investors better understand the differing conduct standards and services of brokers and investment advisers, which will continue to be regulated separately.
- The centerpiece of the package is Regulation Best Interest, which requires brokers to act in clients' best interests by considering such things as costs when making product or rollover recommendations.
- Firms must have written policies in place to eliminate some sales contests, such as those that promote particular securities, but can provide financial incentives for things like total products sold or the sale of proprietary products.
- A client relationship summary (Form CRS) must be given by both brokers and investment advisers at the start of a client relationship that explains services, fees and conflicts, among other matters.
- An interpretation of the investment adviser fiduciary standard was included, which clarified that while advisers are fiduciaries, not all conflicts must be eliminated and the scope of client relationships can vary.
- An interpretation of the "solely incidental" exemption brokers can use to give advice without being an investment adviser clarifies that such advice can include the "value and characteristics" of securities and the advisability of transacting them.
- Brokers and advisers must be in compliance with the new standards by June 30, 2020.

AUG. 7, 2018
SEC RECEIVES MORE THAN 6,000 LETTERS
The comment period closes on the SEC advice rule, with the agency receiving more than 6,000 letters. Comments continue to trickle in through April 2019.

SEPT. 11, 2018
USABILITY TESTING OF FORM CRS STRIKES OUT
AARP, the Consumer Federation of America and the Financial Planning Coalition send Mr. Clayton the results of usability testing of investors on a disclosure form included in the proposal: the client relationship summary, or Form CRS. The groups' independent analysis finds that investors do not comprehend differences in services, legal obligations, fees and costs, and conflicts of interest.

SEPT. 20, 2018
SEC WRAPS LAST OF SEVEN ROUNDTABLES
The SEC conducts the last of seven investor roundtables, held in cities around the country beginning June 4, to discuss Regulation Best Interest and other parts of the advice reform package. The last session, in Baltimore, featured Mr. Clayton and other commissioners.

NOV. 7, 2018
SEC INVESTOR PANEL RECOMMENDS MAJOR CHANGES
The SEC Investor Advisory Committee votes 16-3 to send an eight-page recommendation of changes to the advice proposal to the SEC. It calls on the agency to clarify that the best-interest obligation for brokers means they must recommend products and strategies they believe are the best available options for investors at the time the advice is given; states that recommendations about account types and whether to roll over money from a 401(k) to an IRA must be made in the best interests of the investor; and says the SEC should make explicit that Regulation Best Interest is a fiduciary standard.

JAN. 18, 2019
NEVADA UNVEILS FIDUCIARY RULE
Nevada releases a fiduciary rule proposal more than a year after the law authorizing it was signed by the state's governor. Nevada took public comments and is planning workshops on the measure.

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Advisers, experts either hate or love SEC reforms

PASSIONS ARE HIGH, BUT IT WILL TAKE YEARS TO GAUGE THE RULES' IMPACTS

BY MARK SCHOEFF JR.

It may take years to determine whether investment advice reform regulations approved by the Securities and Exchange Commission last week will better protect investors from conflicted advice, but that's not stopping advisers and others from offering widely divergent opinions of them.

The four-member commission last Wednesday approved in a series of 3-1 votes each part of the package, including Regulation Best Interest, which is designed to raise the broker standard above suitability by preventing brokers from placing their interests ahead of their clients' interests.

"This is nearly the best regulation we could have hoped for," said John Taft, vice chairman of R.W. Baird & Co. "It's a major win for individual investors and for trust and confidence in the financial markets."

INVESTOR PROTECTION

Like SEC Chairman Jay Clayton and Republican commissioners Hester Peirce and Elad Roisman, who voted in favor of the reforms, Mr. Taft is confident Reg BI, as it's known, will increase investor protection.

"It says advisers must put their clients' interests first," Mr. Taft said. "That's never been stated as a regulatory principle before now as it relates to brokerage."

Democratic SEC member Robert Jackson Jr. and consumer and investment-adviser advocates, however, denounced Reg BI.

"The rules are a catastrophe for investors that will become known as Black Wednesday," Knut Rostad, president of the Institute for the Fiduciary Standard, said after emerging from the SEC meeting. "Investors will have to search even more diligently for real fiduciary advisers."

Other parts of the regulatory package included Form CRS — a disclosure requirement — and SEC interpretations of the investment adviser fiduciary duty and language in the Investment Advisers Act of 1940 that allows brokers to give some advice without registering as advisers.

The SEC will continue to regulate advisers and brokers separately. Mr. Clayton emphasized the rules are designed to protect what he calls the pay-as-you-go brokerage model, while raising the broker standard using fiduciary principles that govern advisers. He said there's no "one-size-fits-all" solution.

But Hubert Ross, an adviser at Polaris Wealth Management, said the SEC appeased the brokerage industry.

"I am disappointed that the SEC appears to be more concerned about the industry as opposed to the individual investor," Mr. Ross said. "They made the decision that one size can't fit all because they're trying to accommodate the way the industry is structured today and not force the industry to evolve."

'STRIKING A BALANCE'

Dean Harman, owner of Harman Wealth Management, gives the SEC credit for listening to industry and consumer groups and devising pragmatic rules.

"It did a really good job of striking a balance between the practical and protecting the consumer," Mr. Harman said. "There are certain parts of the ecosystem where it would be highly impractical to eliminate every single conflict in the value chain."

WON'T CHANGE A THING

But there are investment advisers who say the new SEC rules will not change the status quo for brokers.

"It's an added obligation for brokers, but there's no proof it's going to improve their advice or the experience clients receive," said Michael Branham, partner at The Planning Center.

It will take time to see how brokerage practices change under Reg BI, as firms establish best-interest policies and procedures for the new rules and as regulators examine and enforce them, according to Mr. Taft. The major rule changes take effect in June 2020.

"We need to be patient," he said. "Over time, this will evolve."

But Reg BI and the other parts of the package will still leave investors in the advice wilderness, said Jim Allen, head of capital markets policy for the Americas at the CFA Institute.

"I think it probably is better than suitability," Mr. Allen said. "The question is, does it end investor confusion that's out there [about the differences between brokers and advisers]. I don't think it ultimately will achieve that."

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"The question is, does it end investor confusion that's out there ... I don't think it ultimately will."

— Jim Allen, head of capital markets policy for the Americas, CFA Institute

Phil Murphy

CONTINUED FROM PAGE 11

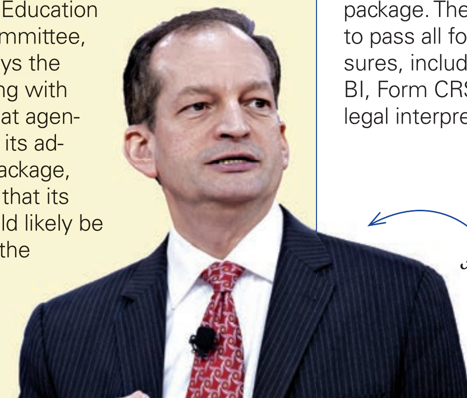
FEB. 6, 2019
FORMER SEC OFFICIALS ADMONISH ECONOMIC ANALYSIS
In a sharply worded comment letter, 11 former SEC officials fault the SEC advice proposal, citing what they call a "weak and incomplete" economic analysis.

MARCH 29, 2019
SIFMA, NASAA SEND CONTRARY LETTERS ON STATE EFFORTS
The Securities Industry and Financial Markets Association sends a comment letter to the SEC suggesting it should include preemption language in the final Regulation Best Interest to block state laws and regulations on broker conduct standards. The North American Securities Administrators Association Inc. answers with its own letter on April 25, saying the final measure is not the appropriate place to stop each state effort, but rather the courts are.

APRIL 3, 2019
MARYLAND FIDUCIARY BILL DIES
A Maryland bill that would impose a fiduciary duty on all financial professionals in the state, including brokers and insurance agents, dies in committee. For the second year in a row such a fiduciary requirement fails to make it through the state legislature.

APRIL 15, 2019
NEW JERSEY ANNOUNCES FIDUCIARY PROPOSAL
New Jersey releases a fiduciary rule proposal for public comment. Under the regulation, a broker who fails to act as a fiduciary would be engaging in an "unethical or dishonest business practice."

MAY 1, 2019
DOL SAYS IT WILL REVISIT FIDUCIARY RULE
Labor secretary Alexander Acosta tells lawmakers the agency will revive its fiduciary rule. In a hearing of the House Education and Labor Committee, Mr. Acosta says the DOL is working with the SEC as that agency completes its advice reform package, and indicates that its own rule would likely be contoured to the SEC's final regulations.



Alexander Acosta

JUNE 5, 2019
SEC VOTES ON FINAL RULE
The SEC commissioners meet to discuss the advice reform package. They vote 3-1 to pass all four measures, including Reg BI, Form CRS and two legal interpretations.

2019

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What the new DOL fiduciary rule may look like

BY GREG IACURCI

THE FORM AND substance of the Department of Labor's new fiduciary rule, set to be unveiled by the end of the year, is anybody's guess. But there are a few clues, and attorneys who specialize in fiduciary and retirement law have mined them to offer some likely scenarios.

In May, Labor Secretary Alexander Acosta told lawmakers the agency was collaborating with the Securities and Exchange Commission, which issued a final advice reform rule last week. Many have taken this to mean the DOL rule, which would amend advice standards in retirement accounts, will largely mirror whatever the SEC finalizes. But that's not exactly possible.

"It's a foregone conclusion that that's not going to happen," said Jason Roberts, partner at the Retirement Law Group and CEO of the Pension Resource Institute.

The answer boils down to something called "prohibited transaction exemptions," Mr. Roberts said.

The Labor Department's fiduciary rule — expected in December — would be regulating the Employee Retirement Income Security Act of 1974. That law provides answers to such questions as: What is a fiduciary? When is someone deemed to have given investment advice?

ERISA fiduciaries aren't allowed to engage in any sort of self-dealing when handling retirement assets. However, the law has built-in mechanisms called prohibited transaction exemptions, which permit otherwise conflicted behavior such as self-dealing if a broker meets certain requirements.

THE DOL RULE'S BICE

The best-interest-contract exemption, part of the Obama-era DOL fiduciary rule later killed in court, was a type of prohibited transaction exemption. It allowed brokerages to receive compensation such as commissions — which ERISA otherwise prohibits — as long as they met certain conditions, such as entering into a contract allowing unhappy investors to bring class-action lawsuits.

Kevin Walsh, principal at Groom Law Group, said there are several directions the DOL could take.

In one scenario, advisers and brokers who comply with terms set in the SEC's Regulation Best Interest would also meet conduct standards under ERISA. In the second scenario, the exemption could be a hybrid approach, meshing elements of the SEC rule and additional requirements laid out by the DOL. The third scenario could see the DOL completely overhaul the scope of who is considered a fiduciary under ERISA.

Ultimately, the new fiduciary rule is highly unlikely to expand the fiduciary definition to the extent of the Obama-era rule, attorneys said.

"I do not see anything similar to the [Obama-era] conflict-of-interest rule," said George Michael Gerstein, attorney at Stradley Ronon Stevens & Young. "I think that's a real long shot — almost inconceivable from this DOL."

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A lack of visuals could be your blind spot

FINANCIALLITERACY
H. ADAM HOLT

Most learning and communication happen through visual experiences. The human brain is designed to process visual information quickly, and the saying, "A picture is worth a thousand words," has become iconic partly because there's so much truth in it.

When it comes to working with and educating people on complex financial matters, we make learning visual: Performance graphs, asset-allocation pie charts and cash-flow burndowns all aim to communicate complicated concepts in a more digestible manner.

However, the financial planning industry still needs a better way to make the full story of a financial household understandable. It's hard to build a house without a blueprint, and most people are cobbling together a shanty of financial instruments rather than assembling a well-structured residence with a solid foundation.

One of the biggest blind spots for investors is understanding whether they have the right tools at their disposal to build that solid foundation. Promoting the adoption of visual inventories of financial households can help bridge that gap. As financial professionals, the onus is on us to help people better understand what they have and how different investment vehicles fit together. At the end of the day, everyone could use more simplicity in their lives.

BUILDING UNDERSTANDING

Only 57% of adults in the U.S. are financially literate, according to a 2016 study by S&P Global. So it's critical to build a more robust understanding of strategies that will allow for more fluent conversations about overall financial well-being. Visualization and literally drawing where assets sit can make the learning curve less challenging by providing all the pertinent details of an investor's current financial state on one page.

57%
PORTION OF FINANCIALLY LITERATE ADULTS

What we need to think about well before allocation is asset location. The location of holdings dictates legal, tax and control implications. Visualizing where assets are offers a full rendering of the current framework and whether it serves the overall plan. The key is to reach a point where investors can be honest about their financial condition and how to improve it to achieve greater security.

When you illustrate everything on one page, you can see how each piece of the puzzle fits, reflect on it, ask better questions and gain a clearer understanding.

H. Adam Holt is founder and CEO of Asset-Map.

diversity&INCLUSION

Mentoring is key to diversity: Rene Nourse

BY BRUCE KELLY

RENE NOURSE thinks that a relationship in which an experienced financial adviser mentors a rookie is key to building diversity in the financial advice industry.

KEY POINTS
- Only 1,200 of the 80,000 CFPs in the U.S. are black.
- Diversity requires connecting people to other people within an industry.

An African-American adviser who started her career in the go-go '80s, Ms. Nourse said there has been some progress for women and minorities, but more is still needed. Giving younger professionals help with their careers should be a significant part of that effort, she said.

"We're seeing more women who want to enter Wall Street, and we're seeing more diverse people because they are being connected to people in the industry," Ms. Nourse said.

Wall Street has talked for decades about becoming more diverse and increasing the number of female and minority financial advisers, but achieving that has been a struggle. According to the Association of African-American Financial Advisors, of which Ms. Nourse is currently president, only 1,200 of the 80,000 CFPs in the U.S. are black.

Ms. Nourse's goal is to see the advice business look like the rest of the country, and she is hopeful.

"Now in the industry, there are some younger people, people of color, LGBT," she said. "We're in a different world right now."

"Mentoring, messaging — that is a big part of building community and getting the word out," said Lazetta Rainey Braxton, a board member for the association and CEO of Financial Fountains, a financial planning firm. "Rene hears and sees where people are and has an appreciation of how a business needs to be run."

It hasn't been quick or easy succeeding in the business.

With a background in insurance, Ms. Nourse knocked on doors of brokerage firms 35 years ago, and Dean Witter Reynolds in Southern California finally gave her a shot in 1985.

POSITIVES AND NEGATIVES

"First off, being in that traditional wirehouse was extremely beneficial to me," she said. "We learned about capital markets, investments and a number of things, and that is not easily replicated today in the independent or breakaway space."

The downside, however, was the culture at times of such institutions, she said.

"There were definitely times when clients did not want to work with me," Ms. Nourse said. "Back when I was cold-calling clients, they knew I was a woman. But when they came to the office and found out I was African-American, that ... did not always work out."

"I loved Dean Witter," Ms. Nourse said. "The firm was open, diverse, and they hired women and people of color."

Dean Witter Discover & Co. merged with Morgan Stanley in 1997. She started her firm, Urban Wealth Management, in 2012, and today it has $120.7 million in client assets.

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Fintech hindered by lack of standardization

BY RYAN W. NEAL

ONE REASON IT'S so difficult to develop new technologies for financial advisers, or perfect the ones they use right now, is there is no universal standard for data in the financial services industry.

Each digital platform at a bank, broker-dealer, custodian, record keeper, insurer or asset manager uses a unique language to define and process information. The way one platform accounts for an equity, for example, is likely totally different than another.

Imagine trying to build a house if the wood were measured with the U.S. system, the dry wall with the metric system and the flooring in some other system you've never seen before. That is sort of what fintech vendors have to contend with, only with thousands of different variables, said Lex Sokolin, founder of AdvisorEngine. The discrepancies make seemingly simple tasks such as opening accounts, moving money or executing trades much more difficult to code.

> **"THE LANGUAGE IS RARELY COMMON, AND EVERYONE IS SELFISH."**
>
> LEX SOKOLIN, FOUNDER ADVISORENGINE

"The language is rarely common, and everyone is selfish and greedy, meaning they don't release their data, or they release their data in different ways," Mr. Sokolin said.

So one fintech vendor may get 1% of a financial firm's information, while another gets 15%.

"The companies play kingmaker," Mr. Sokolin added.

While Mr. Sokolin is skeptical, he offered ideas for how to streamline the process.

One way involves data aggregators like Envestnet Yodlee or Plaid, which already take disparate data sets and normalize them for third parties to use. The problem is that could be expensive, with the data aggregator capturing all the revenue (hence the large valuations commanded by aggregation companies).

Another idea is blockchain, the distributed ledger technology behind digital currencies like bitcoin. It's far off, but blockchain could provide a standardized way to exchange data without requiring firms to make too many changes to their legacy systems.

'CRYPTO CONSORTIUM'

"You couldn't get UBS and Morgan Stanley, or Schwab and Fidelity, or LPL and Transamerica to reveal the inner workings of their data layer and then mutualize it," Mr. Sokolin said. "But crypto consortia provide a neat excuse and a bunch of cost savings to do it."

His third idea is a third-party group pushing the industry toward an agreed upon standard. This could come from a regulatory body, which is what has happened in Europe.

But groups like the International Securities Association for Institutional Trade Communication and the Fintech Open Source Foundation believe they can get the industry on board without government interference.

'KNEE-DEEP' IN CONFUSION

"Every single constituency is knee-deep in this," said Lisa Iagatta, ISITC chairwoman and Fiserv's director of account management for investment services. "It's not just 'garbage in and garbage out,' it's the quantity of data. We need to have clean, accurate, up-to-date data powering the decision-making process."

If the industry can set aside competitive differences to agree on a universal standard for collecting and processing data, it would improve operations and pave the way for technologies like AI, Ms. Iagatta said. That would make all-in-one platforms much easier to build.

Consider apps like Uber that can pull in maps from Google and overlay real-time information and payment processing.

Now imagine building a similar system for financial advice. The next-gen experience becomes much easier to build when data are standardized and consistent.

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Widows, widowers and Social Security claims

I've seen an uptick in questions from financial advisers about widowed clients and what happens to their Social Security survivor benefits if they remarry. The good news is that surviving spouses have more claiming options than other types of Social Security beneficiaries, regardless of when they were born. But timing is crucial.

MARY BETH FRANKLIN

ONRETIREMENT

Anthony Capristo, financial adviser and retirement income specialist with Forthright Wealth Planning, asked about a client, Jon, who is 59. Jon is dating Jean, 53. Both Jon and Jean were married but their spouses passed away.

"They have been hesitant to get married at some point in the future because they do not want to lose valuable benefits from Social Security," Mr. Capristo wrote in an email. "Can Jon and Jean both collect widows' benefits when they turn 60 and still get married after Jean's 60th birthday without losing those benefits?"

A widow or widower who was married at least nine months to a worker who died, including at the time of the worker's death, is entitled to survivor benefits, which range from 71.5% of the deceased's benefit if collected at age 60 up to 100% of the deceased's benefit if collected at full retirement age.

REGULAR VS. SURVIVOR BENEFITS

Full retirement age for survivor benefits may be different than the full retirement age for retirement benefits. For example, someone who was born in 1955 has a full retirement age of 66 and 2 months for retirement benefits but can still collect full survivor benefits at 66.

If surviving spouses remarry after 60 (or 50 if disabled), it does not affect their survivor benefits.

Eligible surviving divorced spouses who were married at least 10 years before their divorce are also entitled to Social Security survivor benefits if they wait until 60 or later to remarry. However, they lose the right to collect spousal benefits on a living ex's earnings if they remarry at any age.

"If Jon and Jean both wait until at least 60 to remarry, they can each collect reduced survivor benefits on their late spouses' earnings record," I replied. "But they would be subject to earnings restrictions if they continue to work and claim any type of Social Security benefit before full retirement age."

In 2019, they would lose $1 of benefits for every $2 earned over $17,640.

> **$1**
> AMOUNT OF BENEFITS LOST FOR EVERY $2 EARNED OVER $17,640

If they are still working, they may want to wait until full retirement age, when the earnings test disappears, to collect full survivor benefits. Survivor benefits are worth the maximum amount when collected at the survivor's full retirement age.

But survivor benefits don't qualify for delayed retirement credits.

Technically, these surviving spouses could restrict their Social Security claim to survivor benefits while allowing their retirement benefits to continue to grow to the maximum amount at age 70 and then switch to their own retirement benefits if those are larger.

Don't confuse this recommendation to file a restricted claim for survivor benefits, which can be done by any surviving spouse or surviving ex-spouse, with a different strategy of filing a restricted claim for spousal benefits at age 66. That strategy, which allows one spouse to collect half of a living mate's or ex-mate's full retirement age benefit, is being phased out.

Another adviser asked about a widowed client who lost two husbands to cancer, one after 10 years of marriage and the other after eight years. The client is 67 and plans to let her own retirement benefit grow until she reaches age 70.

"Can she apply for benefits on her first husband's record even though he died before claiming Social Security?" the adviser asked.

Yes, she can file for survivor benefits on whichever late husband had the bigger benefit.

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

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Outlook bleak for US retirement savings

BLOOMBERG NEWS

MOST AMERICANS aren't financially prepared for retirement.

About 44% of Americans said their retirement savings are not on track, versus 36% who said they are, according to the Federal Reserve Board's sixth annual survey of household economics. The rest of Americans aren't sure whether their plan is on track or not. One-quarter have no retirement savings or pension whatsoever.

The lack of retirement savings is more pervasive among the young and diminishes with age, but 13% of those 60 and older have no savings. Even among those who had some savings, people commonly lacked financial knowledge and were uncomfortable making investment decisions.

POOR HEALTH

About 25% of retirees were forced into retirement because of a lack of available work, while an even greater percentage noted poor health.

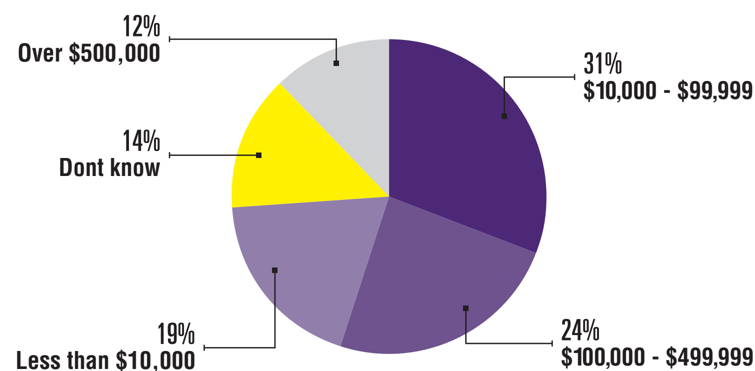
There are different ways Americans save for retirement. Common funds include a 401(k), 403(b), Keogh or other through an employer. About 4 in 10 Americans have savings outside of a retirement account.

More than 30% of Americans have an IRA or Roth IRA, and slightly more than 20% have a defined-benefit pension. Income-producing real estate or land is expected to help fund 14% of retirements.

One fact that dims the prospects for a prosperous retirement: Six in 10 non-retirees who hold self-directed retirement savings accounts, such as a 401(k) or IRA, said they are somewhat uncomfortable or very uncomfortable with managing their investments.

In 2018, nearly half of those retiring were younger than 62, while one-fourth retired between the ages of 62 and 64. The current full retirement age to collect Social Security for people born in 1960 and later is 67.

RETIREMENT MONEY



Source: Federal Reserve

Note: Survey of 5,064 adults

Finra suspends rep for hundreds of CD trades

BY BRUCE KELLY

A VETERAN BROKER formerly with Morgan Stanley was suspended May 31 for 18 months by the Financial Industry Regulatory Authority Inc. over a matter involving hundreds of trades of bank-issued certificates of deposit in the account of an elderly client that caused losses of $100,000.

The broker, David Strnad, was registered with Morgan Stanley and its predecessor firms from 1989 to 2016, according to his BrokerCheck report. In September 2016, a client's daughter made an allegation of churning with respect to the trading of CDs in her father's account, according to BrokerCheck. Finra soon after opened an investigation into the matter.

According to the settlement with Finra, the broker made more than 270 trades from 2013 to 2015 involving CDs in accounts of an elderly customer. Although the client authorized Mr. Strnad to buy the CDs, the broker went beyond "the scope of his authority" by selling those CDs prior to their maturity and using the proceeds to buy more CDs for the client.

Mr. Strnad's trading caused the client to pay almost $4,300 in unnecessary commissions, according to Finra. After the client's daughter made the complaint, Morgan Stanley provided compensation to the client, according to the Finra settlement, which was in the form of a letter of acceptance, waiver and consent. Mr. Strnad agreed to the settlement without admitting or denying the findings, according to Finra.

A spokesperson for Morgan Stanley declined to comment.

Mr. Strnad's attorney, Alan Wolper, said that "while we do not deny the findings of the matter, the context of what happened is more in line with [Mr. Strnad] exceeding the scope of discretion he received orally from the client."

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$36B AMOUNT GREG FLEMING, CHIEF EXECUTIVE OF ROCKEFELLER CAPITAL MANAGEMENT, SAID THE FAMILY OFFICE'S ASSETS UNDER MANAGEMENT SHOULD BE BY YEAR-END. AUM WAS ABOUT $18 BILLION WHEN THE BUSINESS WAS ACQUIRED IN MARCH 2018

Lessons learned on what makes a good deal

While I didn't start out as a deal-maker in wealth management, I have found it to be a dynamic, fast-paced, exciting and fulfilling role in my nearly 20-year career as an executive at Mercer Advisors, currently a $15 billion independent registered independent adviser.

So after recently completing our 21st deal, here are my best ideas, thoughts, suggestions and lessons learned.

1. Pricing. You don't want to go for the highest price and then be unhappy with your new partner. The sale price is broken down into "closing consideration" and earn-out. Closing consideration is typically around 60% of the total purchase price paid at the close of the transaction, with the 40% balance paid over a two-year period based upon revenue and/or net income retention.

The industry uses three different valuation techniques: discounted cash-flow analysis; multiple of net income or EBITDA (Earnings before interest, taxes, depreciation and amortization); and multiple of top-line revenue. Most deals are reviewed under both a multiple of net income and a multiple of top-line revenue.

2. Target markets. Identifying your geography is important. You want to be in or near major urban markets, because that gives you the opportunity to grow substantially.

3. Deal terms. Terms for deals are very specific to the situation, but common themes do emerge. These include providing a reasonable valuation, describing what the seller/founder's "life after sale" role will be and establishing reasonable compensation, defining which staff are staying and understanding whether there will be role redundancies, and helping staff members know what their role will look like at the acquiring firm and what they want their career path opportunity to be.

GUESTBLOG
DAVE BARTON

4. Timeline. Time is the greatest enemy to deal success — the certainty of closure is greatest with a shorter process. Sellers need to understand the mechanics of a sale process.

Typically the flow is:

- Introduction
- Negotiation
- Letter of Intent
- Due diligence
- Signed purchase agreement
- Seller consent letter goes out to their clients notifying them of the sale

- The deal closes 45 days from date the consent letter is sent
- The seller is paid closing consideration (roughly 60% of purchase price)
- Integration of seller firm into Mercer Advisors begins (takes about a year to complete)

5. Seller mindset. Sellers care about three things: receiving a fair price, making sure their clients are taken care of and ensuring their staff members stay and have career path opportunities. Don't waste a seller's time: Shoot straight and be brutally honest.

6. One voice. Too many voices speaking for one buying entity creates confusion for the seller and introduces unnecessary complexity and possible inconsistency.

7. Manage emotions. You have to be able to walk away from any deal. Do not become emotionally invested. Some of the best deals you do are the ones you walk away from.

8. Growth and people. Organic growth matters. It shows that consumers are buying into the business model and that the seller can grow with you. M&A also adds CFP capacity and professional capability (attorneys, CPAs, CTFAs, adding/augmenting tax services, estate planning). In a talent-starved industry, this is just as valuable as AUM and revenue.

9. Financials. Determining "reasonable compensation" for the seller is the hardest conversation you have in any sale process. You need to agree on what the seller's reasonable compensation is before you can determine the profitability of the RIA. Financial statements are a reflection of the seller and not just about the numbers. Poorly reported financials are a red flag.

Dave Barton is vice chairman of Mercer Advisors.

"THEIR PASSION AND CONVICTION TO DO WHAT THEY SAW AS 'RIGHT' FAR OUTWEIGHED ALL OF WHAT MAKES MANY OF THEIR COLLEAGUES STAY PUT."

MINDY DIAMOND, FOUNDER AND CEO OF DIAMOND CONSULTANTS, ON REASONS SOME WOMEN MAKE THE LEAP TO INDEPENDENCE WHILE OTHERS DON'T

Proceed with caution when going off script

The inspiration for this column comes from "Game of Thrones." The funny thing is I've never seen the show. And don't worry about spoilers, as I don't plan to watch it. The problem as it relates to this column is that too many brands have watched it. And by brands, I mean the people who do social media for your favorite brands.

It's not a bad thing across the board. Done with an elegant hand, it's possible to create something fun and memorable that can even go viral.

Where we start getting into trouble is when it's done without that elegance. And it's not just "Game of Thrones." Any current event that can be used in a social media share is fair game to be fantastic or a disaster.

SCOTT KLEINBERG
ONSOCIALMEDIA

I don't want to embarrass any other brands; they've paid enough via all the angry replies they've had to read over the past several weeks. Generally speaking, politics and other hot-button topics in the news that make your blood boil for one reason or another should be dissected carefully before posting — posting as yourself, and especially as your brand.

In general, sticking to your message and your voice is best. Going off script is tempting because you want to be a part of the wider conversation, but the wider conversation may not be where you belong.

Ways to proceed with caution:

Anticipate the response. This is a skill I've honed over many years in the social media field. Taking a step back and viewing the post through a different lens before it goes out is crucial. Think about what your followers could say. Also remember that your post may be seen outside your industry, especially if it goes viral. Ask yourself what will happen if you don't interject and what will happen if you do. Then, make the call.

Ask yourself: Why am I wading into these controversial waters? If the topic is about saving money or retirement, and you think it makes sense to dive in, by all means, change into your swimsuit. If it has nothing to do with your brand and what you usually talk about, but you're reacting to a trending hashtag, hang on.

Ask someone to read over your shoulder. Is this a bad idea? Watch that person's facial expression. You can learn a lot from that.

BUT IF IT MAKES SENSE TO DIVE IN, BY ALL MEANS, CHANGE INTO YOUR SWIMSUIT.

So what happens if you mess up and make the wrong call? If that happens, consider removing the post but only if you post something in its place explaining your stance. Just deleting and pretending that no one saw it is the worst way to handle it. Believe me, they saw it — and they won't let you forget it.

If you have a social media question or an idea for a column, please let me know. Tweet them to me with the hashtag #onsocialmedia or email me. And follow *InvestmentNews* on Twitter, LinkedIn, Instagram and Facebook.

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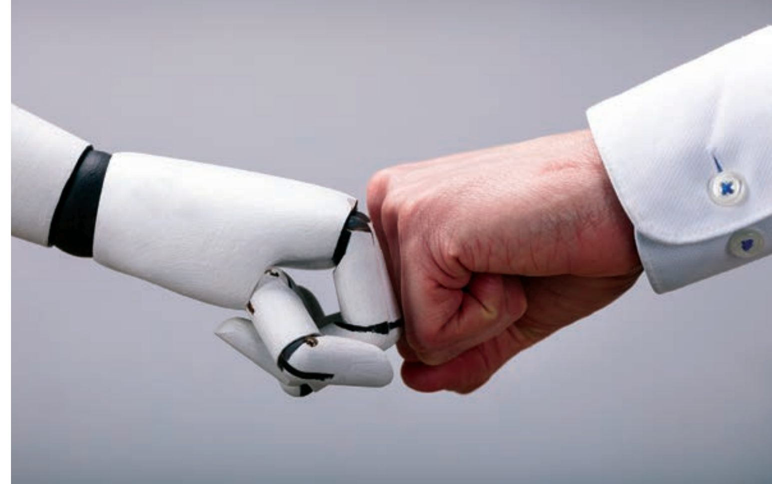
Merrill adds human advisers to robo to fill gap



BY RYAN W. NEAL

BANK OF AMERICA is adding human financial advisers to its digital-advice platform, Merrill Guided Investing.

The advisers will fill a service gap between the firm's self-directed robo and the full-service advisers of Merrill Lynch Wealth Management. Clients with at least $20,000 can talk to an adviser, receive some goals-based financial planning, select an investment strategy based on the adviser's recommendation, open and fund an account, and receive ongoing advice.

KEY POINTS

- Bank of America adding advisers to digital-advice platform.
- The platform, Merrill Guided Investing, fits into growing trend of hybrid-robo services.

Bank of America will charge an annual 85-basis-point fee for the service, compared to the 45 bps for Guided Investing, which has a $5,000 minimum. The hybrid model also offers access to 10 additional investment strategies beyond the 15 on Guided Investing.

Supporting the service is Merrill Financial Solutions Advisors, a salary-based team launched in 2011 to provide model-based managed account services from Bank of America branch offices and call centers at a lower price than traditional Merrill advisers.

Clients can interact with the FSAs via phone, chat or video conferencing as they would with other hybrid-robo services, or book an in-person meeting at brick-and-mortar Bank of America and Merrill offices around the country.

Aron Levine, Bank of America's head of consumer banking and investments, said the company already employs 2,700 FSAs and is adding 300 more to work in Merrill offices.

25 MODEL PORTFOLIOS

The advisers generally have about 10 years of experience and many were brought up through the bank's training program, Mr. Levine said. They can provide advice on banking, lending and investing using one of the 25 model portfolios built and managed by the firm's chief investment officer. Clients with more advanced needs will be recommended to a full-service Merrill wealth manager.

This creates a continuum of service models, Mr. Levine said: Merrill Edge for self-directed trading, Merrill Guided Investing for mass-affluent accounts, Guided Investing with an adviser for slightly wealthier clients, and Merrill Lynch Wealth Management for high-net-worth individuals.

The company has about 100,000 client referrals flowing back and forth between the Merrill FSA and wealth management businesses, said Kirstin Hill, strategic performance executive at Merrill Lynch Wealth Management. Bringing FSA advisers into Merrill branch offices also creates an effective talent pipeline for the full-service advisory business.

GROWING TREND

David Goldstone, research analyst at Backend Benchmarking, said Merrill's platform fits into a trend of hybrid-robo services that's been driven by the success of Vanguard Personal Advisor Services and tiered models like Schwab Intelligent Portfolios and Betterment.

"Platforms want to service different types of investors and investors at all wealth levels," Mr. Goldstone wrote in an email.

A recent Aite report predicted full-service firms like Merrill will be the fastest-growing segment of digital advice over the next five years. UBS, HSBC and U.S. Bancorp have all launched direct-to-consumer digital-advice services over the last year, and JPMorgan is preparing to launch one this year.

Mr. Levine said Merrill now manages $211 billion across its digital investing platforms.

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Supreme Court to hear 401(k) stock-drop case

BY GREG IACURCI

THE SUPREME COURT accepted a 401(k) lawsuit last Monday that could reframe how employers think about company stock in their retirement plans.

Plaintiffs in the case, Retirement Plans Committee of IBM v. Larry W. Jander, allege that plan fiduciaries acted imprudently by continuing to offer IBM stock as an investment option to retirement plan participants despite knowledge of "undisclosed troubles" relating to the company's microelectronics business.

In October 2014, IBM announced the sale of its microelectronics business to GlobalFoundries Inc., revealing it would pay $1.5 billion to GlobalFoundries to take the division off its hands and supply IBM with semiconductors. IBM's stock price declined by more than $12 per share in the wake of that announcement, costing investors in the IBM Company Stock Fund some of their retirement savings, according to court documents.

The U.S. Court of Appeals for the Second Circuit overturned the district court's dismissal of the lawsuit. IBM subsequently petitioned the Supreme Court to hear the case, which was granted last Monday.

'SIGNIFICANT IMPACT'

If the Supreme Court were to affirm the Second Circuit's decision, it would have a "significant impact," said Marcia Wagner, principal at The Wagner Law Group. A plaintiff in a stock-drop case would have a much better chance of surviving a motion to dismiss, which increases the likelihood of a case being settled to avoid a costly legal defense, she said.

Use of company stock in retirement plans has declined substantially over the past decade. Only 13.5% of 401(k) plan assets were invested in company stock at the end of 2017, a decline of roughly 10 percentage points from 10 years earlier.

The Supreme Court decision to hear the IBM case follows a few years after a significant Supreme Court decision in a different stock-drop case, Fifth Third Bancorp v. Dudenhoeffer. The high court delivered mixed results for plaintiffs and defendants in stock-drop cases in a unanimous decision in the case handed down in 2014.

COMMON DEFENSE OVERTURNED

On one hand, the court overturned a common employer defense that presumed company stock to be a prudent retirement-plan investment. However, it also imposed more stringent standards for bringing a stock-drop case, such as a requirement to offer a plausible alternative action that a defendant could have taken with respect to its stock fund, and an affirmation that a defendant can't be imprudent for failing to buy or sell stock in violation of insider-trading laws.

Almost all cases since Dudenhoeffer have been dismissed at the motion to dismiss stage, Ms. Wagner said.

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'Avatar' director's family office focuses on ESG funds

BLOOMBERG NEWS

JAMES CAMERON has thrived on disaster and dystopia over his 40-year career. But when it comes to personal investing, the Hollywood director is betting on a better future.

Mr. Cameron, whose films have grossed about $6 billion worldwide, and his wife Suzy Amis Cameron have increasingly focused their family office on plant-based investments, from an organic farm in New Zealand to a Canadian plant that makes protein concentrates from peas and lentils.

Sustainable investing has been booming among the wealthy. Firms including BlackRock Inc. and T. Rowe Price Group Inc. are among those bulking up such offerings, which have become a key strategy for attracting assets from wealthy individuals, foundations, endowments, pensions and family offices.

Socially responsible investments reached $31 trillion at the start of 2018 in Europe, Japan, Canada, the U.S., Australia and New Zealand, a 34% increase over two years, according to the Global Sustainable Investment Alliance. About 45% of family offices have said they plan to increase their sustainable investments over the next 12 months.

For the Camerons, their investments align with their focus on climate change. The agricultural sector produces about a quarter of all greenhouse gases, second only to energy generation.

REPORT WARNINGS

A report by the United Nations' Intergovernmental Panel on Climate Change in 2018 warned of drought, extreme temperatures and rising sea levels based on the current pace of climate change. Among its recommendations was adopting less resource-intensive diets. A 2018 article in Science showed that meat and dairy farming uses about 83% of the world's farmland and contributes around 60% of agriculture's greenhouse gas emissions, despite providing only about a fifth of calories.

JAMES CAMERON

"From the moment we went plant-based, our world did a 180," Ms. Amis Cameron said in an April interview. "We started looking at our investments, our business opportunities. At this point, aside from Jim's film work, they all go through a plant-based lens."

More and more investors are turning to plant-based investments as younger consumers increasingly weigh sustainability when it comes to what they consume. Retail sales of plant-derived meat alternatives rose by almost 25% to an estimated $770 million in the 12 months ended August 2018 from a year earlier, according to a February report by Rabobank, while vegan alternatives to products such as milk, cheese and yogurt are estimated to ring up $4.1 billion in sales.

PLANTS-ONLY DIET

The Camerons, who met on the set of "Titanic," have gone further than most. They now solely eat plant products and have stretched their holistic approach to their children's education.

In 2006, Ms. Amis Cameron and her sister Rebecca Amis opened the private Muse School in Calabasas, Calif., the first in the U.S. to be solar powered and zero waste, with a fully organic, plant-based lunch program. They shifted the lunch offering to entirely plant-based in 2015 over the objections of some parents.

"My husband's a doomsday kind of guy," Ms. Amis Cameron said. "But we were walking on the beach about a month afterwards and he stopped and he said, 'For the first time in my life I have hope.'"

Crypto pioneer pays $4.6M for Buffett lunch

BLOOMBERG NEWS

CRYPTOCURRENCY pioneer Justin Sun bid a record $4.57 million to have lunch with Warren Buffett, who famously referred to bitcoin as "probably rat poison squared."

Oh, to be a fly on the wall.

Sun launched Tronix, also known as Tron or TRX token, in 2017. It's valued at $2.56 billion and is the 10th largest cryptocurrency in the world, according to data provider CoinMarketCap.com. The 28-year-old Chinese entrepreneur said he hopes to educate the Oracle of Omaha on cryptocurrency and the underlying technology, called blockchain.

"It is very common in investment circles that people will change their minds," Mr. Sun said in a telephone interview. "Investment opportunities are best when lots of people are underestimating the technology."

Mr. Buffett and his longtime business partner Charles Munger have criticized cryptocurrencies in the past. The 95-year-old Mr. Munger called bitcoin a "noxious poison." Mr. Buffett, 88, who says there's no value being produced from the asset, at least gave a nod to blockchain technology as "important" in an interview with CNBC earlier this year.

"Even one of the most successful investors of all times can sometimes miss a coming wave," Mr. Sun wrote in a letter to the crypto community.

The annual auction of a lunch with Mr. Buffett raises money for San Francisco-based charity Glide, which provides meals for the city's homeless, offers support to domestic violence victims and helps people find shelter.

WARREN BUFFETT

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Trump news acts as a market indicator

BY JEFF BENJAMIN

WHETHER YOU LIKE him or not, President Donald J. Trump is having a measurable impact on the financial markets, although maybe not in the way he expects or would prefer.

"Trump has a particular talent for causing wedges, driving markets and providing leading signals," said Zak Selbert, chief executive and co-founder of Indexica, an alternative data firm that measures the impact of news reports on financial markets.

Mr. Trump is far from the sole focus of Indexica, but he is providing the steadiest stream of quantifiable data.

Firms in the alternative data space like Indexica are obsessed with measuring things that have been difficult to measure. Some firms will measure credit card data or satellite imagery, for example. But Indexica uses textual data, where 90% of all information resides.

"It's the low-hanging fruit," Mr. Selbert said. "News data is narrating what's happening around the world."

Enter Mr. Trump.

"We built this under the assumption that anything can move markets," Mr. Selbert said. "It just turns out that Trump happens to move lots of markets."

> **KEY POINTS**
> - Indexica measures impact of news reports on markets.
> - Rather than focus on Trump's tweets, data firm analyzes conversation around him.

What's important to understand is that the Indexica analysis is not related to the president's social media activity. Those often draw lots of attention but their impact on markets is usually short-lived.

"How Trump moves markets in the short term is that the markets react in three seconds and there's no way to predict that, so it's not helpful to pay attention to his tweets," Mr. Selbert explained. "We're paying attention to the broader conversation around Trump, because the news will continue to impact markets for weeks."

An example of how the research applies to investing is found in Indexica's BuzzSentiment metric, which measures the ratio of news related to the president.

While the metric found that most news reports related to Mr. Trump qualify as negative, the data show that a spike in the volume of news reports that are negative toward the president is a dependable predictor of market volatility.

"If you model the BuzzSentiment of Trump to a broad index like the S&P 500, we have found when the combination is such that Trump is being spoken about more often in a negative tone, equities become more volatile, which usually implies equities will decline," Mr. Selbert said. "The key is it has to be more than the moving average, because generally he is being spoken about a lot in a negative tone."

BLOOMBERG

The looming global trade war is another example of how the data are being applied.

QUANTIFY THE STATEMENTS

"Some countries do well under a trade war and some won't, but you have to quantify what Trump says and how the news is responding, and then you look at how it peaks and evolves," Mr. Selbert said.

This kind of alternative data is currently most popular with hedge fund managers, but has the potential to migrate into retail-class products like mutual funds and exchange-traded funds.

The general idea is to identify leading indicators of asset movements, which could be anything from political news to weather-related items.

"Trump happens to come up a lot because he really moves markets in a systematic way," Mr. Selbert said. "He incites extreme levels of emotion and news discourse, and he takes up a lot of space, and the discourse around him is so erratic."

Of course, not everyone is sold on the idea.

"While they attempted to quantify the Trump factor, they basically said it's all short-term noise," said Paul Schatz, president of Heritage Capital. "Markets are like a flowing river, they can be temporarily diverted or held back, but in the end, they will find their own levels and end up wherever they were going in the first place."

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CARRIED INTEREST

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had four years ago.

"Mr. Trump campaigned on giving regular Americans a fair shake. His repeated support for closing this egregious loophole combined with Americans desiring real reform gives me genuine hope for passage this Congress," Mr. Pascrell said in a statement issued through a spokesman.

BILLIONAIRE MAKER

Private-equity magnates such as Blackstone's Stephen Schwarzman, who is also a Trump adviser, have become protective of a break that helped make them billionaires. When President Barack H. Obama tried to close the loophole, Mr. Schwarzman reportedly likened it to Adolf Hitler invading Poland. He later apologized for the comparison.

In a Fox News interview in May, Mr. Trump said he'd still like to end the benefit and claimed that he traded keeping the loophole open in the 2017 legislation in exchange for a lower corporate tax rate. But in fact, raising the tax rate for carried interest would have raised more revenue in the tax bill, making it easier to lower corporate rates.

"NO REPUBLICANS ARE GOING TO VOTE FOR A TAX INCREASE."

STEPHEN MYROW, MANAGING PARTNER
BEACON POLICY ADVISORS

Analysts note that the tax treatment of carried interest doesn't have a large effect on the federal budget either way, making the change a strong political talking point without a real fiscal impact.

"It certainly seems to be a likely target, given the current environment," said Don Snyder, tax lobbyist for Federal Policy Group.

Changing the treatment of carried interest also carries significant policy hurdles, Mr. Snyder said. Taxing all partnership gains the same way would encourage short-term trading, since hedge funds would no longer have a tax incentive to hold an investment long-term, he said.

Trade associations that support the break say that eliminating it could reduce investments in companies and kill jobs. The American Investment Council releases an annual study calculating private-equity investment by congressional district.

"Raising taxes on carried interest capital gains will destroy jobs, decrease investment, and discourage entrepreneurship across America," the group's president, Drew Maloney, said in a statement.

ORANJ, TRADEWARRIOR

CONTINUED FROM PAGE 4

marketplace.

Mr. Deru is joining forces with Pete Giza, vice president of business development at Wealthsite and co-founder and former chief technology officer of RedBlack, to launch AdvisorPeak, a new portfolio trading and rebalancing software the two fintech veterans believe can find footing in an already crowded market.

While existing trading and rebalancing software was revolutionary when introduced, the market has grown stagnant. Mr. Deru and Mr. Giza said they have an aggressive roadmap to bring something new to advisers.

"Nothing has really progressed that much," Mr. Giza said. "There are a ton of people claiming rebalancing capabilities. They are like a Ferrari body with a Volkswagen engine in it."

Joining them are several former TradeWarrior management and staffers, notably head of engineering Darren Collins and vice president of client relationships Patrick Keel, who were both named in the countersuit.

REACQUIRING CLIENTS

Mr. Deru said AdvisorPeak is on track for a 40% to 50% growth rate, starting with reacquiring several clients from TradeWarrior.

Pinnacle Advisory Group partner and director of planning research Michael Kitces said on his blog that despite there already being a number of rebalancing software options available, adoption among advisers is relatively low.

"Which means there's still plenty of room for 'new' providers like AdvisorPeak to grow — especially given that rebalancing software is arguably one of the most time- and cost-saving software solutions there are for advisory firms managing client portfolios," Mr. Kitces said.

As for Oranj, Mr. Lyon said TradeWarrior is still an important part of building the company's next-generation adviser platform.

"Our team of developers led by our CTO, head of engineering and head of product has delivered more than 40 years of institutional trading experience to help build upon and expand TradeWarrior's legacy, making it a competitive player in the industry," Mr. Lyon said.

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ILLUSTRATIONS

CONTINUED FROM PAGE 2

ity illustrations, which project annuity performance, to accommodate hybrid products. Current rules only allow insurers to illustrate annuities that are at least 10 years old — creating a conundrum for the industry since most hybrid annuities aren't that old.

While insurers want to reduce the 10-year provision, the CEJ argued that there are "serious problems" with the current model and industry ideas on how to amend it. It wants to double the time frame to 20 years.

Insurers are currently incentivized to "create products designed to produce ever more extravagant and fantastic illustrations," with the ultimate effect of consumers seeing their "scarce retirement assets stripped away," according to the CEJ's comment letter.

There are currently more than 90 hybrid indices available on the market, many of which have been developed since 2012, said Sheryl Moore, head of consulting firm Moore Market Intelligence.

UNLIMITED UPSIDE?

Indexed annuity products typically have features that limit investor returns to the upside, such as an interest-rate cap. However, insurers market hybrid products, which typically have built-in volatility control features, as having unlimited upside.

Quarterly sales of hybrid products have nearly doubled since 2014, to $6.4 billion in the fourth quarter of 2018, according to Wink Inc.

"Development of hybrid indices is the single-biggest driver of new product development in the indexed annuity market," Ms. Moore said. "When regulators propose potentially decimating a $24 billion annual market, it certainly gets the attention of insurance companies, investment banks and other stakeholders."

Industry trade groups, such as the Insured Retirement Institute, the American Council of Life Insurers and the National Association of Fixed Annuities, disagreed with the CEJ's argument in comment letters submitted to the NAIC.

Jason Berkowitz, IRI's chief legal and regulatory affairs officer, said doubling the illustration time frame to 20 years would "create an unlevel playing field" among insurers. Further, while the proposal is intended to capture a more complete economic cycle to help consumers evaluate products, IRI sees "no evidence or data" suggesting the change would be helpful or outweigh market disruption.

Upping the illustration requirement "brings no additional client transparency, no additional disclosure, and no greater protection," said NAFA president and CEO Charles DiVencenzo.

All three groups suggest a time frame of 15 years rather than 10 if the NAIC does, in fact, amend the disclosure rules at all. The time frame for the NAIC's regulatory project is unclear.

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BROKERS

CONTINUED FROM PAGE 3

ter to halt its effort to raise the investment-advice requirement attached to the designation until the SEC proposed its own standard. The firms also criticized the new standards of conduct as impractical and duplicating existing regulations as well as for being overly broad.

> **THE CFP DESIGNATION "WILL BECOME A LOT MORE VALUABLE TO CONSUMERS."**
> KEVIN KELLER, CEO, THE CFP BOARD

One of those firms, Edward Jones, recently sent a letter to advisers expressing concerns about the new standards and how they may affect financial advisers, according to an industry source who asked not to be named.

A spokesman for Edward Jones, John Boul, said that the firm is reviewing the SEC's Regulation Best Interest to see how it would work alongside CFP's fiduciary standard and will have more to say, possibly as early as next month.

Similarly, other large broker-dealers are in the process of reaching out to financial advisers in their network who hold the CFP designation to ensure they have the information they need to prepare for the Oct. 1 compliance date.

FIDUCIARY TEETH

Meanwhile, Kevin Keller, chief executive of the CFP Board, said he would have liked to see more fiduciary teeth in the SEC's rule, but is now relishing the idea that the CFP designation "will become a lot more valuable to consumers."

"Now that the SEC has issued its Regulation Best Interest rule and related guidance for investment advisers, consumers should know that nearly 85,000 CFP professionals will be obligated to provide financial advice under a fiduciary standard," he said.

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FIDELITY PLATFORM

CONTINUED FROM PAGE 3

lio managers who want to create their own models and advisers who rely on model portfolios, separately managed accounts or unified managed accounts.

Mr. Gallagher did not specify which third-party providers will be included.

Though Fidelity doesn't use the word TAMP — Mr. Gallagher said FMAX is an alternative to a TAMP and that Fidelity still supports other TAMPs on the upsell more product, consulting or related services.

"[Fidelity is] looking at Envestnet saying, 'Hey, if we let Envestnet get all of this and they control the desktop, all we're going to have left is the custody business, which is low-margin,'" he said.

It's not just Envestnet, either. FMAX helps Fidelity play defense against emerging competition from fintech vendors like Orion, Riskalyze and Oranj, which are introducing investment model marketplaces to their platforms, Mr. Bruckenstein said.

> **"IF PEOPLE ARE LOCKED INTO YOUR WORKFLOWS ... THEY'RE NEVER GOING TO LEAVE YOUR ECOSYSTEM."**
> JOEL BRUCKENSTEIN, PRODUCER, TECHNOLOGY TOOLS FOR TODAY

market — industry observers said FMAX is functionally indistinguishable.

"They're not in the business of replicating what TAMPs are doing," said Alois Pirker, research director of Aite Group's wealth management practice. "But at the core ... it is an outsourced investment management process that comes out of it."

ENVESTNET

When Envestnet, the largest TAMP on the market acquired MoneyGuide, many saw it as a challenge to Fidelity and eMoney. Now Fidelity appears to be firing back by taking over the investment management process, Mr. Pirker said.

The real competition is around who can ultimately control the adviser workstation, said Joel Bruckenstein, producer of Technology Tools for Today.

"If people are locked into your workflows and you're providing everything, they're never going to leave your ecosystem," Mr. Bruckenstein said.

This provides opportunity to Envestnet did not respond to a request for comment.

Mr. Gallagher denied that FMAX is a response to Envestnet and said the companies remain partners. Envestnet is actually powering FMAX's core managed account engine, and Fidelity provides custody and clearing services to Envestnet.

"We've been working through this platform for a while," Mr. Gallagher said. "It's really in response to the broader market trend of advisers moving to a planning-centric approach and growth in the managed account space."

Citing data from Cerulli Associates, Mr. Gallagher said Fidelity expects assets in managed accounts to grow from $5.7 trillion in 2017 to $8.1 trillion by 2020.

"We think there is tremendous opportunity in the marketplace, and we've done research to validate demand for this kind of product from Fidelity," Mr. Gallagher said.

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