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Visa A	V	4.30%
Nvidia	NVDA	3.96%
Mastercard A	MA	3.81%
Adobe	ADBE	2.98%
Salesforce.com	CRM	2.96%
PayPal Holdings	PYPL	2.88%
Intel	INTC	2.60%
Cisco Systems	CSCO	2.15%

*Components and weightings as of 8/31/20. Please see website for daily updates. Holdings subject to change.

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FORTUNATE SON

AFTER DECADES CHALLENGING THE SYSTEM, LABOR SECRETARY EUGENE SCALIA IS NOW THE ULTIMATE INSIDER PAGE 8

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TopNews

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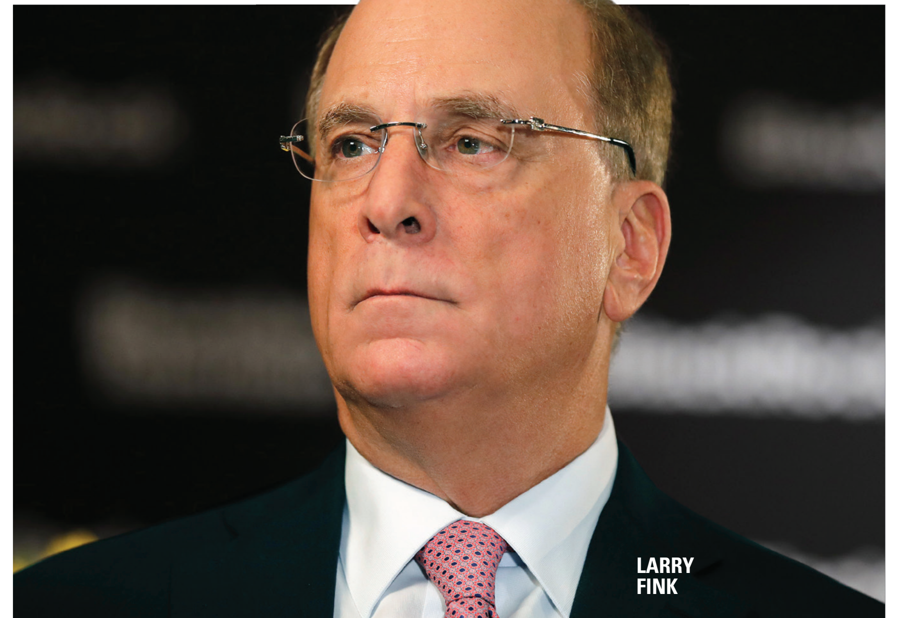
BlackRock CEO talks firm culture, reopening

BY JEFF BENJAMIN



LARRY FINK, CHIEF executive of BlackRock, said the most difficult part of running the giant asset management firm in the midst of a global pandemic has been working to ensure the "retention of our culture."

Speaking at the Morningstar virtual conference last week, Fink said the disruptions and adjustments related to remote work have had a minimal impact on business operations. But with most of the company working remotely, "I'm still not sure how we'll we're doing on a cultural basis," he said.

KEY POINTS

- CEO Larry Fink lays out the effect of remote work on company culture.
- BlackRock is returning about 30% of its workforce to its offices.

With that said, Fink admitted the mega asset manager has been chugging along quite nicely even if the future of the business and the industry remains uncertain.

"We have 400 young people who joined our workforce in July and have never been to the office," he said.

Like the rest of the financial services industry, Fink said BlackRock has been realizing some silver linings of remote-work policies.

"Many issues will be tested over time if we're working remotely for a longer period," he said.

OFFICES REOPENING

BlackRock is slowly transitioning about 30% of its workforce at main offices in San Francisco, New York and London back into the office. And Fink said he plans to start going to the office about three days a week starting this week.

But the long-term outlook is for a "new paradigm," he said.

"I don't believe BlackRock will ever be 100% back in the office, and I don't

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Ex-Voya broker allegedly flees country as complaints mount

BY BRUCE KELLY

A FORMER BROKER based in South Carolina who racked up dozens of investor complaints from alleged sales of unsuitable, non-liquid and high-priced investments is no longer in the country, according to multiple sources.

The broker, James T. Flynn, was barred from the securities industry in 2018 by the Financial Industry Regulatory Authority Inc. after he failed to cooperate with its investigation, according to his BrokerCheck report, which tallies 64 disclosure events, including dozens of investor complaints, settlements and a tax lien.

According to a report last week in The Post and Courier of Greenville, Flynn is "believed to be living outside the country," and he has been the target of 57 investor complaints since 2013, of which 25 have been settled for a total of more than $3.5 million. Twenty-one investor lawsuits remain pending and are currently going through the stages of Finra arbitration.

FOLLOWING THE TRAIL

"It's something his ex-wife told me," Connor Hughes, the Post and Courier reporter who has been chronicling investors' lawsuits against Flynn, said of the information that Flynn is outside the U.S.

"We have heard from six or seven clients or former employees that Flynn is located in the Dominican Republic," said Chetan S. Patil, an attorney representing several clients with investor complaints. "He called me a year ago and did a poor job of defending his loading clients up with nontraded [real estate investment trusts] and flipping to variable annuities."

It's not clear what impact a broker's leaving the country could have on the outcome of any investor lawsuits that are ongoing, but it draws attention to the matter and is certainly unusual.

"Flynn had hundreds and hundreds of clients, and we represent dozens of them at this point," Patil said. "Many

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Obama-era fiduciary rule cut sales of expensive annuities

BY MARK SCHOEFF JR.

JUST THE THREAT of the Obama administration's fiduciary rule caused a decline in sales of high-expense variable annuities that continues today, according to a new academic study.

In April 2015, the Department of Labor proposed a regulation designed to curb broker conflicts of interest in retirement accounts. The DOL released a final rule in April 2016. Although the Trump administration began to undermine the measure before it was implemented in 2017 — and a federal appeals court vacated it in 2018 — it still had a profound impact on variable annuities, which produce high commissions for brokers.

The sales of all variable annuity products declined by 19% — from $32 billion in the first quarter of 2015 to $26 billion in the first quarter of 2016 — while the sales of costly variable annuities dropped by 52% over the same period, according to the analysis, "Conflicting Interests and the Effect of Fiduciary Duty — Evidence from Variable Annuities."

FIDUCIARY MINDSET

The study found that brokers became more sensitive to expenses and insurers increased the availability of lower-cost variable annuities thanks to the Obama-era rule. That mindset continues despite the rule's demise, in part as a result of the subsequent development of the Securities and Exchange Commission's Regulation Best Interest, which was implemented in June.

"This persistent impact of the fiduciary rule suggests that many insurers kept the changes to their business operations that they initially implemented to comply with the DOL rule," the study says. "This may be due to industry anticipation of subsequent fiduciary standards being implemented by the SEC and other federal and state regulators as well as the threat of enforcement action brought by state regulators for violations of the DOL fiduciary rule."

While high-cost VA sales went down, the sales of less expensive products remained constant, the study found. Sales of high-expense annuities fell by 43% more than those of low-expense annuities. Average expenses paid by investors declined by 10%, while risk-adjusted returns increased by 92 basis points.

"Even after accounting for the decline in annuity sales and under conservative assumptions, our results suggest that investors, on average, benefited from the fiduciary rule," the study said.

The financial industry asserted that the Obama-era fiduciary rule would significantly increase legal risk and regulatory costs and prevent brokers from working with retirement savers with modest assets.

That didn't turn out to be the case, said study co-authors Mark Egan, an assistant professor at Harvard Business School,

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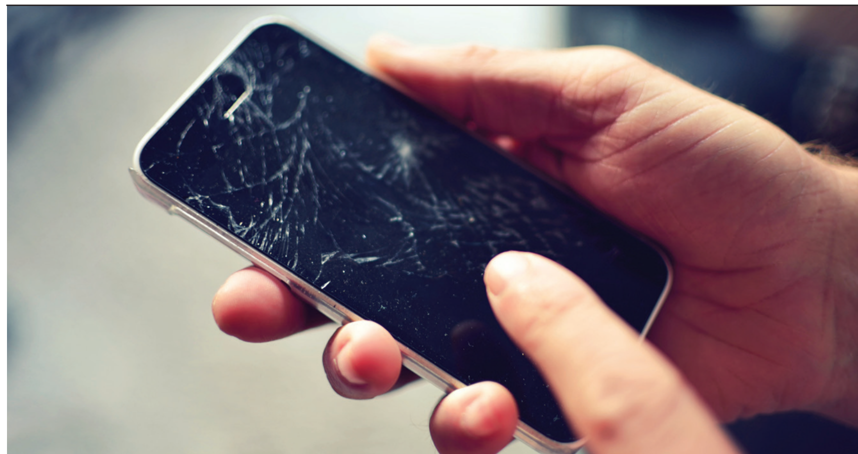

Betterment now offers investors cellphone insurance

BY NICOLE CASPERSON

BETTERMENT IS ADDING cellphone insurance — similar to coverage like the popular AppleCare for iPhones — to a laundry list of new products available to investors on digital wealth management platforms.

The digital adviser announced last Thursday a partnership with an insurance tech firm, Sure, which will bring cellphone insurance to customers using its Betterment Checking feature. The average person spends more than $1,000 on their cellphone bill and cellphone insurance can cost up to $229, according to a release.

With Betterment's cellphone insurance, users pay nothing.

"We want to give customers an immediate value add by integrating something that is an everyday need — their cellphones," said Katherine Kornas, Betterment's vice president of growth. "It's a part of our story to tell users: 'If you consolidate finances with a provider like Betterment, you can have a holistic picture of your financial life.'"

The offering, which covers phone damage or theft, further cements Betterment's larger business strategy of consolidating wealth, banking and insurance services under one umbrella, Kornas said.

ARMS RACE

Not only does offering insurance enhance Betterment's value proposition in a way that doesn't disrupt the robo-adviser's core business, it introduces customers to the idea that Betterment can be their one-stop financial services provider, Kornas said.

The move is indicative of the race to add features across platforms as fintech providers continually step up their ability to compete with traditional banks and try to stay a step ahead of their competitors, said David Goldstone, head of research at Backend Benchmarking.

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Raymond James lays off 500 employees, but spares advisers

BY BRUCE KELLY

RAYMOND JAMES Financial Inc. said last Tuesday it was cutting 500 jobs, spelling layoffs for 4% of its workforce, to control costs during the pandemic.

The job cuts reportedly do not affect any financial advisers. The company, which has 13,900 employees, began telling its workers of the decision last Tuesday.

While other industries like travel and dining have seen wholesale layoffs during the COVID-19 pandemic and the attendant economic falloff, the broad financial services industry has been fairly robust, benefiting from a stock market that rebounded sharply after falling 35% in March. Raymond James for several years has seen increases in profitability as well as consistently strong recruiting.

The reason for the job cuts was to control costs, CEO Paul Reilly said in an email to employees.

PAY CUTS

"This has been a year like no other," Reilly's email said. "A year when we've all had to make hard decisions, decisions where none of the available options are the ones we would usually choose."

"Among the most difficult choices I have made, along with the other members of the executive and operating committees, is the decision that was shared with affected associates this morning — that we are eliminating their jobs as part of overall cost controls," Reilly noted.

He added that senior executives including himself would take pay cuts and that the company did not intend another round of job cuts.

> **"THIS HAS BEEN A YEAR LIKE NO OTHER ... WHEN WE'VE ALL HAD TO MAKE HARD DECISIONS."**
>
> PAUL REILLY, CEO, RAYMOND JAMES

The large majority of positions eliminated were corporate roles, and cuts were limited in adviser and client support areas to avoid impacting service levels, spokesperson Steve Hollister said in an email. The reductions bring the company back to 2019 levels of employment, he added.

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How the NFL union protects its players from fraudsters

Pro football is back in full swing this week, and New Yorkers like me can take comfort amid COVID-19 that the Jets and the Giants both appear fully prepared to have awful seasons. Yes, life during the pandemic is getting back to some state of normal.

Also on a roll is the NFL Players Association, or NFLPA, and its unique program to provide the members of its union with qualified financial advisers. Now 20 years old, the NFLPA adviser program has been steadily increasing the professionalism and depth of the choices available over the past few years, which is a most welcome development for all players, from stars to backups.

BRUCE KELLY

ONADVICE

STARS FELL PREY TO SCAMMERS

The NFLPA's vetting process had to change and improve; in 2013, the Financial Industry Regulatory Authority Inc. barred an NFLPA-approved adviser, Jeff Rubin, for recommending to 31 NFL players that they invest in a casino project that led to losses of $43 million. Big-name players, including Plaxico Burress, Santonio Holmes, and Terrell Owens, were reportedly involved.

Other fraudsters, including Jinesh "Hodge" Brahmbhatt and Kirk Wright, had also been approved at one time by the NFLPA.

Football players are a unique bunch when it comes to their finances; they have a higher rate of bankruptcy than their compatriots who play professional baseball, basketball and hockey for a living. Their careers are shorter, they get paid less and, if they divorce after ending their careers, they often wind up paying alimony based on past, not current, earnings.

Add in the free-spending lifestyles of some players, and the financial planning picture is potentially a disaster.

That means the roughly 2,000 players in the union need the extra layers of financial protection the NFLPA adviser program has recently embraced.

Individual financial advisers must submit a detailed application and agree to an extensive background investigation, which searches for any criminal convictions or civil judgments, as well as meeting various other requirements.

"All these modifications that the players association is undertaking are to protect the players from fraud and from being taken advantage of by unqualified or under-qualified financial advisers or sports agents," said Jordan Waxman, an adviser in the program and managing partner at Nucleus Advisors, which has $2.5 billion in assets and counts pro athletes as clients.

"When our players requested for us to create a financial adviser program 20 years ago our mission was to provide an additional avenue and layer of protection to help in navigating their unique financial situation as professional athletes," Dana Shuler, the NFLPA's co-senior director of player affairs and head of the financial adviser program, wrote in an email. "Our recent enhancements of the program include expanded resources, increased educational opportunities and the inclusion of reputable institutions."

NEW GAME PLAN

The timing for tightening up the program could not be more fortuitous. The stock market has rebounded strongly after hitting the skids earlier this year and dropping 35%; in times of intense volatility, investors are particularly vulnerable to fly-by-night investment schemes.

Professional athletes, with their quick riches and lack of financial sophistication, are especially vulnerable targets. After the financial crisis of 2008, several NFL players found themselves ensnared in alleged Ponzi schemes or legal battles over failed investments.

Perhaps most notable was former Denver Broncos quarterback John El-

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Major asset managers ask SEC to adopt e-delivery of documents

BY MARK SCHOEFF JR.

MAJOR ASSET MANAGEMENT firms are pressing the Securities and Exchange Commission to allow for more widespread use of digital delivery of investment paperwork.

In a Sept. 8 letter to the agency obtained by *InvestmentNews*, Fidelity Investments, Charles Schwab Corp. and BlackRock Inc. called on the SEC to make electronic delivery the default option for sending regulatory documents — such as account and confirmation statements, mutual fund prospectuses and annual and semiannual reports — to investors.

"We believe that the SEC's current framework that focuses on paper delivery as the primary method of transmission should be replaced with an approach that establishes the first means of communication as digital, with paper as an alternative, rather than the other way around," the letter states.

ALIGNING WITH THE TIMES

The asset managers are asking the SEC to enable financial firms to use an investor's email address or smartphone number as the primary delivery address for regulatory documents.

A change in the SEC's interpretive guidance and regulations to allow for digital-first investor and shareholder communication would align with growing investor use of the internet, smartphones and tablets to manage their finances, the firms said.

"Fidelity believes that electronic delivery should be the default means of communication and disclosure," Fidelity spokesperson Vin Loporchio said in a statement. "The data is clear that investors strongly prefer engaging with their financial firm digitally."

An SEC spokesperson declined to comment.

"ELECTRONIC DELIVERY SHOULD BE THE DEFAULT MEANS OF COMMUNICATION."

VIN LOPORCHIO, FIDELITY SPOKESPERSON

The SEC has allowed temporary regulatory relief for electronic delivery during the coronavirus pandemic. The agency could be inclined to go further.

"I do not believe that we should override any expressed delivery preference, but we should consider guidance that treats physical and electronic delivery as equals rather than measuring delivery against a paper standard," Dalia Blass, director of the SEC Division of Investment Management, said in a July 28 speech.

FOLLOWING THE DOL RULE

The effort to push the SEC toward easing restrictions on digital communication comes a few months after the Department of Labor promulgated a final rule allowing retirement plan administrators to deliver retirement account information electronically by default.

Although the DOL rule was widely endorsed by the financial industry, it drew opposition from the Pension Rights Center. The organization

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Estimate puts 2021 Social Security COLA at 1.3%

BY MARY BETH FRANKLIN

MORE THAN HALFWAY through a year of unending bad news, it looks as if there is a glimmer of hope that the nearly 65 million Americans who collect Social Security retirement, disability and survivor benefits will receive a 1.3% cost-of-living adjustment in 2021.

Although it would be the second-lowest COLA on record, it's an improvement over the no-COLA forecast earlier this year as a result of the devastating impact of COVID-19 and

CONTINUED ON PAGE 22

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Opinion

EDITOR'S NOTE

Lessons from 2020: Moving forward

Earlier this week, I was thrilled to introduce the first in a series of short polls we will be conducting over the balance of the year to gather adviser learnings and sentiments around 2020. This first survey addresses prospecting in the new normal.

GEORGE B. MORIARTY

In partnership with Transamerica, these surveys will take the pulse of the advisory industry over the next four months, as advisers reflect on lessons from 2020 and navigate the ongoing uncertainty of this new paradigm with their clients.

Please take the time to go to our website and complete this survey, which will take less than five minutes of your time. We look forward to sharing the results, and your input will inform upcoming research on best practices in the industry. We will be rolling these out about every 10 business days, and we expect the findings to be very useful.

Future topics will include:

- A geographic review of where people will be back in the office and where they will remain virtual.
- A pre-election survey of adviser sentiment around key issues.
- Communication strategies that best build relationships.
- Digital marketing strategies to attract new clients and retain existing ones.
- A post-election survey of the adviser's role in the issues that emerge from the election results.
- Strategies to address financial planning for 2021.

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We've come a long way, but still not far enough

At a time when much of the nation is demanding equality and diversity, Citigroup Inc. has beaten the other major U.S. banks in answering the call.

In case you didn't hear the glass ceiling shattering, on Sept. 10, Citigroup became the first of the largest global banks to name a woman as its chief executive. It will become one of the shockingly few Fortune 500 companies in any industry to be led by a woman.

Jane Fraser, Citi's president and leader of consumer operations, will become CEO when Mike Corbat retires from that role in February.

Now let's see what happens at Citi's competitors when it's time to replace their CEOs, most notably at the nation's largest bank, JPMorgan Chase, where Mary Callahan Erdoes has been CEO of the asset and wealth management division for 11 years. Jamie Dimon, 64, has to retire at some point, right?

Honoring, celebrating and encouraging women and minorities in the financial advice business is a responsibility taken seriously at *InvestmentNews*, which itself has been woman-run for more than two decades. Earlier this month, our parent, Bonhill, hosted its first virtual Women in Asset Management Summit and it's planning four days of Women in Finance virtual summits later this year.

The Aug. 31 issue of *InvestmentNews* highlighted 14 individuals and 15 firms leading the way in diversity and inclusion in the advice business, and we'll recognize 22 women in our 2020 Women to Watch in the Nov. 23 issue.

But how will we know the when the job is done?

First, consider how far the industry has come toward broadening its palette. A decade ago, it seemed perfectly acceptable to say that there were so few women and diverse individuals in what was then largely the brokerage business because so few were qualified. As it became increasingly evident that qualifications were not the issue, the stumbling block became an interest in and confidence with selling.

> **CONTINUED ACTIVISM AND PRESSURE HAS OPENED THE DOOR TO SOME WOMEN AND MINORITY ADVISERS.**

Since advice was considered ancillary to sales, and since selling securities required finding customers with sufficient funds to buy investments, people considered not forceful enough to sell (i.e., women) or lacking enough wealthy contacts to sell to (i.e., minorities) were not sought.

But the rise of financial planning and the growth of the independent space forced change by upending the business and making securities sales ancillary to providing advice. That, plus continued activism and pressure, has opened the door to some women and minorities.

Many advice providers are working strenuously to forge workforces that better reflect — and better serve — today's increasingly female and diverse customer and prospect bases. But more must be done, including ensuring that the nation's largest financial advice providers include diverse leadership at the CEO level.

We commend Citigroup, but we'll continue our women and diversity efforts — even though our ultimate goal is for that to become unnecessary.

Here's how we'll know when our job is done: When a Black woman is running a wirehouse and the LGBTQ child of immigrants is designing retirement portfolios for millionaires — and nobody thinks either instance is unusual.

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THE WHITE
WASHINGTON

SCALIA MAKING HAY IN HIS TIME INSIDE

FIRST HE CONVINCED THE COURTS TO THROW OUT THE FIDUCIARY RULE; NOW HE'S CRAFTED A NEW ONE AS AGENCY CHIEF BY EMILE HALLEZ AND MARK SCHOEFF JR.

As a top securities lawyer in private practice for most of the past 25 years, Eugene Scalia sent shock waves through the Department of Labor and the Securities and Exchange Commission with lawsuits that kneecapped or totally dismantled major regulations.

But as head of the Labor Department during the past 12 months, he's generated just as much controversy with a handful of highly consequential investment advice proposals rolling out of the agency at a breakneck pace.

For stakeholders — who range from investor advocates to fund managers — Scalia's tenure has been dizzying. Under his leadership, the DOL has been more active in rulemaking than at any time in recent memory. For his critics, this is especially challenging, because Scalia is nothing if not adept. He knows the regulatory process well, both as an insider and outsider.

"He is exceedingly bright," said William Kilberg, a partner at Gibson Dunn & Crutcher, the firm at which Scalia spent his career in private practice. Kilberg, a former DOL solicitor and friend to the late Supreme Court Justice Antonin Scalia, Eugene Scalia's father, has known the younger Scalia since he was 10 years old. He has a "great sense of humor" but is "very much given to busting balloons. It is hard to be egotistical around Gene, because he won't let you," Kilberg said.

Scalia, a Cleveland native who graduated from the University of Virginia and the University of Chicago law school, has seven children. He was nominated as Labor Secretary by President Donald Trump after Alexander Acosta resigned from the

CONTINUED ON PAGE 10

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post over a plea deal he made years ago with disgraced financier Jeffrey Epstein. Scalia took over the agency Sept. 27, 2019.

Scalia declined to be interviewed or provide comment for this story.

One of Scalia's biggest legal victories came in 2011, when the U.S. Court of Appeals for the D.C. Circuit vacated an SEC rule on proxy access. The court held the agency had done an inadequate cost-benefit analysis and acted in an arbitrary and capricious manner. The decision elevated the importance of cost-benefit justification for regulations and made that dimension of rulemaking the first area opponents turn if they want to launch a legal challenge. Essentially, it's caused regulators to look over their shoulders ever since.

FIDUCIARY FOE

In 2018, Scalia was the lead attorney for a financial industry lawsuit against an Obama-era Labor Department regulation, well-known as the fiduciary rule, which would have raised the retirement account advice standard for brokers. The U.S. Court of Appeals for the 5th Circuit vacated the regulation, finding the DOL exceeded its authority. The Justice Department, under Trump, declined to appeal that ruling to the Supreme Court.

Scalia, 57, has helped shape the advice industry regulation that would replace that Obama rule. The proposed measure aligns with the SEC's Regulation Best Interest, a Trump administration rule setting a new broker advice standard that went into effect June 30. The aim is that brokers who adhere to Reg BI automatically comply with the DOL's fiduciary exemptions regarding retirement advice.

The DOL is on an unusually fast track, introducing the rule proposal in late June while most of the nation was still working from home due to the pandemic and giving it a 30-day comment period. The agency held a virtual public hearing on Sept. 3 and is expected to move quickly to a final rule that would become effective before the end of the first Trump administration.

The agency also allowed only 30 days for public comment on a separate proposal that would strongly limit retirement plans from including investments that incorporate environmental, social and governance factors. Federal agencies generally provide 60 days or more for input on rulemakings, let alone complex ones such as the fiduciary and ESG proposals.

Phyllis Borzi, assistant Labor secretary in the Obama administration and architect of its fiduciary rule, said that Scalia the lawyer would file a lawsuit against Scalia the regulator.

"If this was the Obama administration and [it] followed these procedures, Scalia would be the first one at the courthouse door," Borzi said.

She characterized the cost-benefit analysis attached to the investment advice proposal as a "pile of garbage."

"It is striking that a guy who made his reputation by attacking the economic analysis of the SEC in their regulatory process now presides over a regulatory process in which … [they are] putting out such weak economic analysis," she said.

RULEMAKING APPROACH

Barbara Roper, director of investor protection at the Consumer Federation of America, said Scalia's proposals are vulnerable to legal challenges.

"He's taken everything he's learned about how to abuse the regulatory process and put it on steroids," Roper said. "Would Scalia sue Scalia? Just on the process question, he would. And he would win."

But not everyone agrees.

Valerie Mirko, a partner at Baker McKenzie, said she doubts the fiduciary proposal would be vulnerable to a lawsuit based on the length of the comment period, because the issue has been debated for years.

"There is a lengthy record feeding into this rulemaking," Mirko said.

Scalia's rulemaking approach, though, also has drawn backlash from Democrats on Capitol Hill.

"Over his first year in office, Secretary Scalia has bent over backwards to help big businesses and the president's political donors, while ignoring the struggling workers, retirees, and families it is his duty to protect and entrench inequalities we desperately need to address," Sen. Patty Murray, D-Wash., the ranking member of the Senate Health, Education, Labor and Pensions Committee, said in a statement to *InvestmentNews*. "I've been pushing back on his efforts to rush through harmful rules that weaken people's retirement security and I'm going to keep fighting for the workers and families who are being sold out by this Administration."

The U.S. Chamber of Commerce, the leading plaintiff in the lawsuit that killed the Obama fiduciary rule, has a more positive view of Scalia's regulatory approach.

"Secretary Scalia has put the pedal to the metal, and they're full steam ahead," said Tom Quaadman, head of the Chamber's Center for Capital Markets Competitiveness. "He wants to get things done in a quick manner while abiding by all the legal procedures and ensuring the rules are done in the right way. Anything the DOL comes out with is going to pass muster if it's challenged in court."

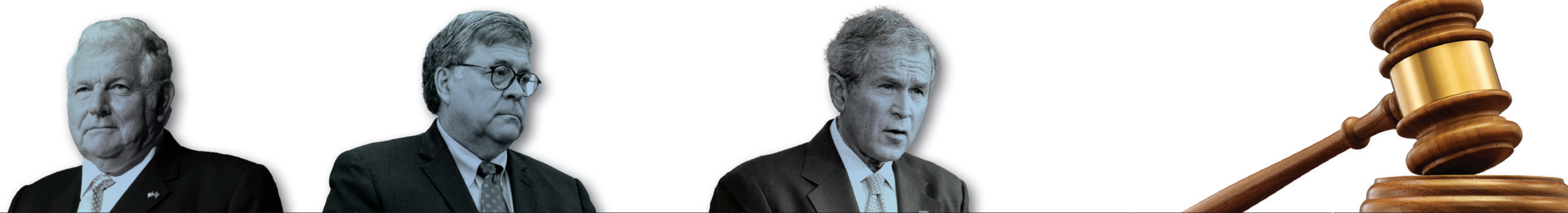
BEST INTERESTS

The financial industry, meanwhile, has not fallen in line behind the fiduciary proposal just because it bears Scalia's imprimatur.

The measure would provide an exemption for investment fiduciaries to earn compensation, such as commissions and 12b-1 fees, which would otherwise be prohibited under federal retirement law, as long as they act in the best interests of plan participants. The brokerage and insurance industries object to the agency's interpretation of a five-part test that determines whether a financial adviser is a fiduciary for retirement savings clients. That test, which had been in place since 1975, was reinstated separately from the fiduciary proposal but addressed in the preamble.

In comment letters and at the Sept.

EUGENE SCALIA: A TIMELINE



1985-1987
Aide and speech writer to U.S. Education Secretary William J. Bennett

1990
Graduated from University of Chicago Law School, where he was editor-in-chief of the Law Review

1992-1993
Special assistant to U.S. Attorney General William Barr

1995-2001
Attorney at Gibson Dunn & Crutcher

2002-2003
Solicitor of Labor, the top DOL lawyer, nominated and appointed by former President George W. Bush

2003-2019
Attorney at Gibson Dunn & Crutcher

2005-2006
Represented Chamber of Commerce in two cases to successfully challenge parts of the SEC's mutual fund governance rule

2010
DOL proposes fiduciary rule that is never finalized

2011
Represented Business Roundtable in its case against the SEC, whose proxy access rule was vacated by the U.S. District Court of Appeals and set the stage for cost-benefit analyses of proposed regulations

2015
DOL proposes a new fiduciary rule, labeled the conflict of interest rule

3 hearing, industry representatives said the agency casts the fiduciary net too widely. For instance, the rule would make an adviser a fiduciary based on a single recommendation to roll over assets from a retirement plan to an individual retirement account. They also object to the agency's finding that a rollover recommendation can constitute investment advice.

The proposal is "more consumer protective than people would have expected," said Brian Graff, CEO of the American Retirement Association. "It has caught some people by surprise. [Agency staff] were able to persuade him this was something that needed to be done to protect consumers."

Scalia's known for being demanding, but also is said to entertain opposing points of view.

WHO IS A FIDUCIARY?

The fiduciary proposal itself is a compromise, said George Michael Gerstein, counsel at Stradley Ronon Stevens & Young.

"I don't think any one group is the winner," Gerstein said. "They were trying to please as many different constituencies as possible."

David Bellaire, general counsel at the Financial Services Institute, said Scalia did a "fantastic job" representing FSI and other plaintiffs in overturning the Obama fiduciary rule. "He's in a different role as labor secretary and needs to be responsive to [an array of] concerns," Bellaire said.

The DOL could still appease the financial industry by modifying its interpretation of who is a fiduciary in

"SCALIA HAS BENT OVER BACKWARDS TO HELP BIG BUSINESSES."

SEN. PATTY MURRAY, SENATE HEALTH, EDUCATION, LABOR AND PENSIONS COMMITTEE

the final version of the rule.

"The industry groups are incredibly greedy," Roper said. "They were outraged they didn't get that missing 0.1%" of what they wanted in the fiduciary proposal.

If Scalia faces a storm of criticism about the fiduciary proposal, on the ESG measure, he's confronting a hurricane.

A study led by US SIF: The Forum for Sustainable and Responsible Investment found 95% of the 8,700 comment letters opposed the proposal. The rule would severely restrict ESG investments and instead require fiduciaries to consider only performance when vetting funds for their retirement plan menus.

ESG OPPOSITION

That proposal favors the interests of corporate clients Scalia represented in private practice, according to Bryan McGannan, US SIF director of policy and programs.

"He's made a career of overturning government regulations," McGannon said. But the ESG proposed rule "is completely out of step with where the financial services industry is at large. [There is] a fundamental misunderstanding of how investors incorporate [these] criteria."

The DOL also recently proposed a rule to prevent pension plan fiduciaries from voting for proxy proposals that are not specifically tied to financial performance — a measure that is seen as further restricting ESG investing.

That proposal "tilts the scales … toward corporate oversight and [away from] input from investors, by restricting shareholder rights," McGannon said.

The DOL's approach to ESG policy "is very politically motivated," said Jon Hale, global head of sustainable research at Morningstar. "This is part of the administration's continued denial of climate change. They sense that ESG as an investment discipline is taking root in the U.S. and they want to cut off the growth of ESG before it establishes itself in the mainstream the way it already has in Europe."

Both the fiduciary and ESG proposals are vulnerable to being overturned if Democrats win the White House. But if the Trump administration promulgates final rules before Inauguration Day on Jan. 20, it could make the effort a much heavier lift.

"They want to make sure if a new administration comes in in January, they have to go through a new regulatory process," Borzi said.

Even if the election truncates Scalia's tenure, he will be remembered for a flurry of activity and controversy while he was at the DOL helm.

"None of us knows what's going to happen," given the presidential election, Kilberg said. "Gene has to look at this as something which might be short-tenured, to try to accomplish as much as he can in the time frame that he has."

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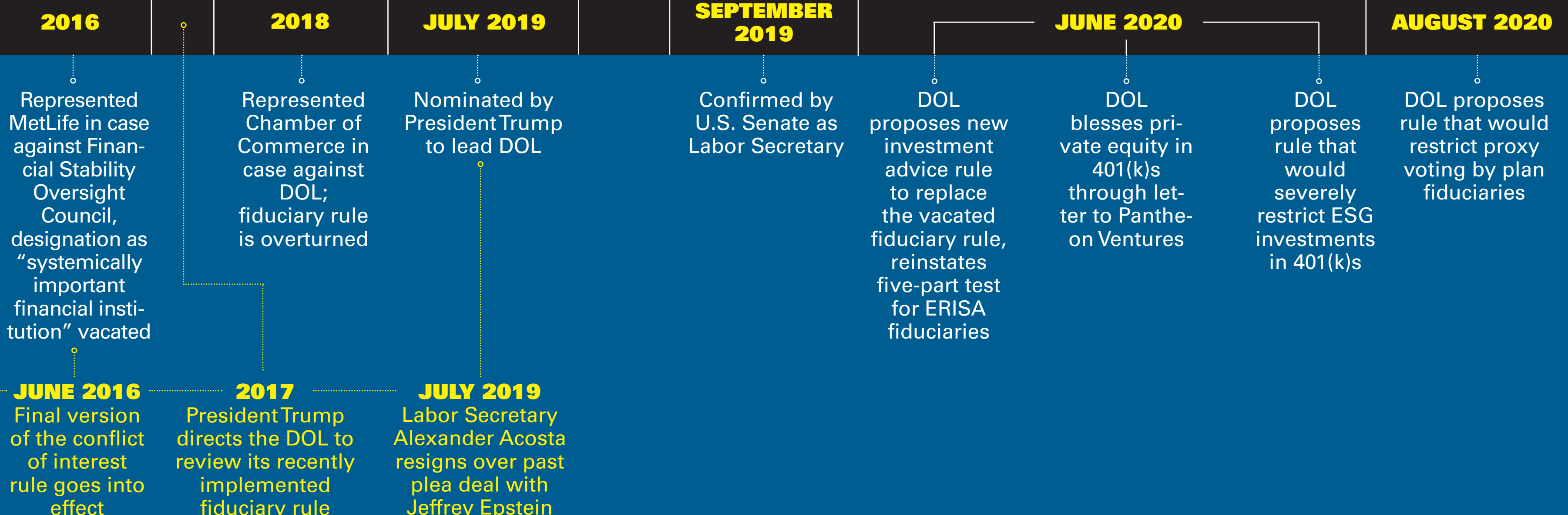

Here's how a Biden win reshapes advice rules

Democrats' ability to scrap the Trump administration's reforms hinges on who's picked to succeed Jay Clayton at the SEC

BY MARK SCHOEFF JR.

It is said in Washington that personnel is policy. That aphorism borders on being a cliché, but it also is true and could influence the extent to which a new president undertakes a do-over of Trump administration investment advice reform.

Opponents of the Securities and Exchange Commission's Regulation Best Interest, the new broker advice standard that was implemented in June, say that it will do little to curb broker conflicts of interest. Their primary objection is that Reg BI, as it's known, is not the same as the fiduciary standard that will continue to govern investment advisers.

Those who want to see Reg BI scrapped are pinning their hopes on an election outcome in which Democratic presidential nominee Joe Biden defeats President Donald Trump.

Although it didn't mention Reg BI — or a related Department of Labor advice rule — the Democratic party platform said financial advisers should be "legally obligated to put their client's best interests first."

That language harkens back to the Obama administration's DOL fiduciary rule. The platform goes on to say Democrats will "take immediate action to reverse the Trump administration's regulations allowing financial advisers to prioritize their self-interest over their clients' financial wellbeing."

But carrying out that policy goal depends on whom Biden appoints to the chairmanship of the Securities and Exchange Commission. The president's party controls three of the five SEC seats.

Some investor advocates were disappointed by the previous Democratic-majority SEC when it came to their holy grail — a single fiduciary standard for brokers and investment advisers. That is making them take a wait-and-see attitude toward a potential Biden SEC.

"The objective of coming up with a uniform fiduciary rule didn't happen during the Obama administration," said Knut Rostad, president of the Institute for the Fiduciary Standard.

President Barack Obama's first SEC chairman, Mary Schapiro, gave a speech in June 2009 in which she said "all securities professionals should be subject to the same fiduciary duty."

But when the Dodd-Frank financial reform law gave the SEC the authority to promulgate a uniform fiduciary standard, it did not act. Instead, objections to such a regulation were raised by two Republican commissioners and the Schapiro-led commission never proposed a rule.

Obama's next SEC chairman, Mary Jo White, studied the issue of investment advice standards for the first two years of her term before announcing in 2015 that she supported a uniform fiduciary standard and would push the agency toward a regulation. Again, there was a split among commissioners and the agency did not make a proposal.

"They didn't want to come up with a split vote, so nothing got done during the Obama SEC-chair era," Rostad said. He is not optimistic that Biden will appoint an SEC chair who will move to replace Reg BI with a fiduciary standard.

"Where does Joe Biden want to plant his legacy flag?" Rostad said. "It's not obvious to me he's going to plant it in investor protection."

But Biden was vice president when the Obama administration advanced the DOL fiduciary rule. Perhaps he'll take up advice standards as a way to protect retirement savers from conflicted advice, as the Democratic platform promises.

"There is reason for optimism, if the right [SEC] chair is picked," Rostad said. "The chief criteria is [choosing someone] who is not wanting to exit to a Wall Street job or a job that depends on Wall Street support."

LETTER TO THE DOL

Biden's running mate, Sen. Kamala Harris, D-Calif., joined 28 other House and Senate Democrats in signing a letter asking the DOL to withdraw its investment advice rule.

CONTINUED ON PAGE 14

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CONTINUED FROM PAGE 12

The coalescing of Capitol Hill Democrats around a fiduciary standard gives one investor advocate hope that the party will choose an SEC chairman with a similar goal.

"The corporate Democrats still exist in Washington and they have a lot of influence," said Ron Rhoades, associate professor of finance at Western Kentucky University. "But I am very hopeful we'll see an SEC chair without ties to Wall Street — a pro-consumer expert in financial services."

With Trump and Biden locked up in what looks as if it will turn into a close race, there hasn't been much speculation about potential appointments in a Biden administration — especially at the SEC.

But some observers say Reg BI will be in the cross hairs of the SEC no matter who leads the agency in a Biden administration.

"This is the most prominent vulnerable rule," said Milan Dalal, a partner at Tiger Hill Partners, a government relations consulting firm, and former Democratic aide on the Senate Banking Committee. "If not outright repeal and replace, there certainly will be significant surgery to implement a more robust fiduciary standard as opposed to what currently exists."

A Biden SEC will definitely revisit Reg BI, said Duane Thompson, senior policy analyst at Fi360, a fiduciary technology and training firm.

"That would be a top priority for a Biden administration," Thompson said.

The Biden SEC likely would tackle the thorny issue of the extent to which disclosure of conflicts satisfies the duty of loyalty to a client.

Investor advocates blast Reg BI and the financial industry mostly supports it. But one thing everyone can agree on is that SEC Chairman Jay Clayton finally got an advice rule over the finish line, advancing it on a 3-1 vote.

Given the struggle to get to this point, a new SEC chair in a Biden administration is not likely to completely scrap it, said Niels Holch, executive director of the Coalition of Mutual Fund Investors.

"They would give it a little time to see how it's working and then make some judgment on how to improve it," Holch said.

A POST-CLAYTON SEC

Reg BI was a signature accomplishment for Clayton but he isn't likely to see how it plays out even if Trump wins a second term. He has indicated he wants to leave his post.

It's not clear who Trump might tap to replace Clayton. But in a second Trump term, a Republican-majority SEC likely would maintain Clayton's agenda — for instance, the agency's enforcement focus on areas, such as investment expenses and fees, that impact Main Street investors.

"Jay Clayton has been very pro-investor in his stewardship of the commission," Holch said.

The SEC crackdown on inadequate disclosure of mutual fund charges, such as 12b-1 fees, is another Clayton legacy that likely will continue.

"Jay Clayton has been a supporter of enforcement," said James Lundy, a partner at Faegre Drinker Biddle & Reath. "The consensus across the industry has been that he has been a good chairman."

Even so, a Democratic takeover of the agency could be a shot in the arm for enforcement.

"Historically, the Enforcement Division has felt a little more empowered under Democratic-appointed chairmen," said Lundy, a former SEC senior trial counsel.

Indeed, a change of political leadership would provide a jolt to the entire agency. "You'll likely see a more aggressive view on investor protection and enforcement matters," Dalal said.

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Investor advocates focus on educating lawmakers

Outspent by Wall Street, one goal of these groups is to fortify Democratic opposition to Reg BI

Major financial firms and the trade associations representing them are once again overwhelming investment adviser organizations and investor advocates organization in political spending.

But investor advocates say they're making inroads on Capitol Hill by educating lawmakers about their position on investment advice policy.

As is the case in every election cycle, Wall Street is opening its wallet wide to contribute to political campaigns, according to Federal Election Commission filings.

For the 2020 election cycle so far, the top financial firm spenders include UBS Americas ($1.9 million), Morgan Stanley ($958,500), Goldman Sachs ($858,500), TIAA ($829,000), LPL Financial ($617,700), Charles Schwab ($452,000), Vanguard Group ($442,500), Ameriprise Financial ($263,500) and Edward Jones ($168,100).

Trade associations representing financial services firms also are spending heavily. The Investment Company Institute, which represents the mutual fund industry, has donated $1.6 million. Other groups include the Securities Industry and Financial Markets Association ($448,500) and the Financial Services Institute ($177,000).

Investment adviser organizations and investor advocates, however, spend much less on campaigns. The Investment Adviser Association has contributed $38,000, while the Financial Planning Association has made $32,500 in donations and the Consumer Federation of America has contributed $12,000.

Despite being outgunned on campaign spending, which can be crucial in building relationships with lawmakers, one investor advocate said they're succeeding in spreading the word about the importance of fiduciary duty on Capitol Hill, especially among Democratic lawmakers.

Ron Rhoades, associate professor of finance at Western Kentucky University, points to the growing number of Democrats opposing the Securities and Exchange Commission's Regulation Best Interest and a recent Department of Labor advice rule.

"It's led to a much greater awareness of what the fiduciary standard is and how it's been diminished," Rhoades said. "The message has been heard on Capitol Hill."

— Mark Schoeff Jr.

Biden's tax plan means bigger bills for millionaires

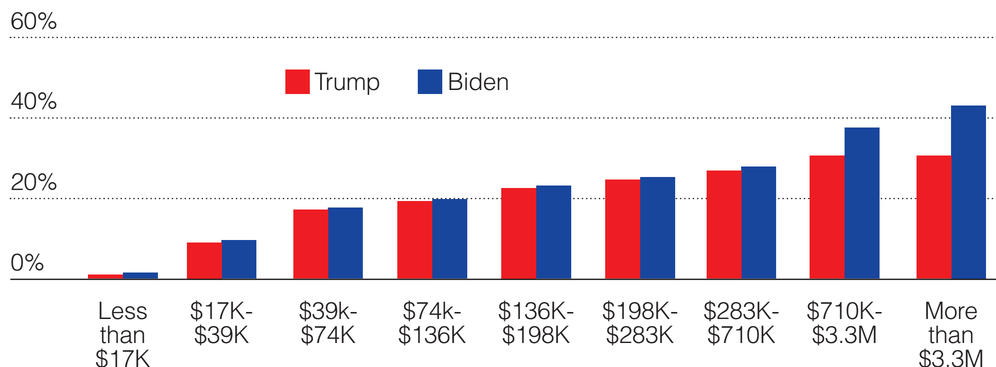
BLOOMBERG NEWS

Millionaires could see much bigger tax bills if Democrat Joe Biden is elected president in November, but levies on most households below the top income brackets would stay about the same as under President Donald Trump, an outside analysis shows.

Biden's tax proposals would have the top 0.1% of earners — those currently making about $3.3 million or more annually — paying a 43% rate on their income, according to the Penn Wharton Budget Model. That top group pays a rate of about 30.6% under Trump's 2017 tax law, according to the report, which accounts for income, payroll and corporate duties.

Tax Rate Trajectory

About 80% of Biden's tax increases would be paid by top 1%



Source: Penn Wharton Budget Model

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SOURCE: SURVEY BY THE AMERICAN COLLEGE OF FINANCIAL SERVICES

Retirees are faring better than pre-retirees amid the pandemic

Despite COVID-19's severe health impact on aging adults, older Americans report they are coping far better both emotionally and financially than younger adults, according to a study that Edward Jones and Age Wave released in August.

MARY BETH FRANKLIN

ONRETIREMENT

"COVID-19's impact forever changed the reality of many Americans, yet we've observed a resilience among U.S. retirees in contrast to younger generations," said Ken Dychtwald, CEO of Age Wave, in unveiling the research project, The Four Pillars of the New Retirement.

The extensive study of more than 9,000 people across five generations in the U.S. and Canada uncovered a new definition for retirement that encompasses far more than simply the end of work. The majority of U.S. retirees — 55% — defined retirement as a whole new chapter filled with new choices, freedoms and challenges across four interconnected areas of their lives: health, family, purpose and finance.

LONGER RETIREMENTS

Increasing longevity means more people have longer retirements, making retirement a more important stage of life. As the outsized baby boomer generation moves into retirement (about half are already retired), they are swelling the ranks and the economic importance of retirees.

COVID-19's initial dramatic impact on the U.S. economy and personal finances may have long-lasting implications for families and their financial advisers. And there is a lot of money at stake.

"Men and women age 50-plus control more than 70% of total wealth, representing the greatest concentration of wealth in human history," said Dychtwald. "This stage of life is about to get busy and take up a bigger footprint."

Two-thirds of Americans said the pandemic has brought their families closer together emotionally, even if they had to remain physically apart. Reflecting the enhanced intergenerational connectivity, the study found that 24 million Americans have provided financial support to adult children as a result of COVID-19, and an overwhelming 71% of retirees said they would offer financial support to their family even if it could jeopardize their own financial future.

Older generations — including both retired baby boomers and members of the silent generation that preceded them — have fared better during the pandemic both emotionally and financially as most have fewer responsibilities around work and family and they rely less on income from employment.

Retirees tend to be more insulated from financial shocks through Social Security and Medicare. Individuals receive an average of $1,500 per month in Social Security benefits while couples receive an average of $31,000 per year.

Most retirees also have the security of home ownership. More than three-quarters of retirees own their own home, with 60% of them having paid off their mortgages. And older Americans are more likely to be receiving guaranteed defined-benefit pensions from their former employers.

In contrast, the pandemic has significantly reduced the financial security of a quarter of Americans, with the greatest impact on younger generations, particularly those who have lost jobs and health coverage.

LESS CONFIDENCE

Those planning to retire are feeling less confident now about how much they are saving for retirement, with only 46% expressing confidence, compared to 58% before the pandemic struck. And 20 million Americans have stopped making regular retirement saving contributions.

"We've certainly seen COVID-19's disruptive force on finances, with the pandemic influencing retirement timing and financial confidence," said Ken Cella, principal in the client services group of Edward Jones. "However, this has brought several silver linings in terms of family closeness and important discussions about planning earlier for retirement, saving more for emergencies and even talking through end-of-life plans and long-term care costs."

As Americans redefine retirement in new broader terms, the majority of U.S. respondents described their ideal financial adviser as a guide who can understand them and help them achieve their goals. And more than 80% of those working with an adviser said that professional relationship gave them a greater sense of comfort regarding their finances during the pandemic.

But figuring out how to tap their savings in retirement can be confusing and retirees need help. More than one-third of retirees surveyed (36%) said managing money in retirement is more confusing than saving for retirement. More than half of the retiree respondents (52%) cited health care costs, including long-term care, as their most common financial worry.

KEY POINTS

- Study shows older people are coping better emotionally and financially.
- Retirees are more insulated from financial shocks by Social Security and Medicare.

And despite the high risk that many older adults face during the pandemic, it isn't COVID-19 that scares them. It's Alzheimer's and other forms of dementia.

"Beyond finances, we can help our clients envision and truly realize a holistic retirement which we know includes decisions about their health, family and purpose," Cella said.

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

Mary Beth Franklin, a certified financial planner, is a contributing editor for InvestmentNews.
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INmail

BY MARY BETH FRANKLIN

Step-up to larger spousal benefit is automatic

Judy: A friend turns 70 on Nov. 18. His wife will be 70 next year. She is already collecting her own Social Security benefit of about $700 per month. His benefit will exceed $3,000 per month. Will she be eligible to receive a spousal benefit when he turns 70?

MBF: Once the husband begins collecting his Social Security, his wife should automatically step up to a larger Social Security benefit.

Although retirement benefits earn delayed retirement credits worth 8% per year for every year a worker postpones claiming them beyond full retirement age up until age 70, spousal benefits do not. The wife's spousal benefit would be worth up to 50% of her husband's full retirement age benefit that he was eligible for at 66, not half of his larger age 70 benefit.

The Social Security Administration will calculate the "excess spousal amount," which is the difference between her FRA amount and half of his FRA amount. For example, assume the husband's benefit at full retirement age was $2,300 per month and assume the wife's FRA benefit was $700 per month. The excess spousal amount would be $450 per month ($2,300/2 – $700).

The excess spousal amount will be added to her full retirement benefits if she claimed at 66 or to her reduced benefit if she claimed before FRA. Once her husband claims his Social Security, she will step up to a larger benefit of about $1,150 ($700 + $450). If she claimed her own benefit early, the combined total of her retirement and spousal benefit would be worth less than half of his age 66 amount.

Presumably the husband's benefit application included details about his wife, so her larger benefit should begin soon after he receives his first payment. If not, she should contact SSA. Given the fact that Social Security field offices have been closed since March 17 as a result of the pandemic, some transactions are taking longer than usual.

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Prescribing the perfect retirement plans for young doctors

BY EMILE HALLEZ

MOST PHYSICIANS see their first big paychecks many years after people in other fields, which sets them back considerably in terms of retirement planning.

That requires special considerations for financial planning, advisers say.

By the time doctors finish residency, they will have spent four years in medical school and as many as four to six years in specialty training. During that time, they've seen many college classmates enter professions and earn income.

Watching those former classmates buy houses and take other major life steps involving money can make it tempting to try to catch up, said Jude Boudreaux, senior financial planner at The Planning Center. "They feel behind, financially," Boudreaux said. "They have friends who enter the workforce or went to law school for a few years, and they see the life they're living."

Savings rates in defined-contribution plans in health care lag those in other industries, on average, according to data published this month by Vanguard. The median deferral rate in plans in the industry was 5.3% in 2019, compared with 6% in all other plans in Vanguard's record-keeping business. Average contribution rates were 6.4% in health care industry plans, compared with 7% in all other industries, according to Vanguard. Overall participation rates were also lower in health care businesses than others, the report found.

"THEY STILL REMEMBER THE TASTE OF RAMEN NOODLES AND HAVE ... DISCIPLINE."

ROSE SWANGER, FINANCIAL PLANNER, ADVISE FINANCE

Health care workers, including doctors, were also much less likely than other defined-contribution participants to be invested in managed accounts. In small health care businesses, just 0.6% of participant assets were invested in managed accounts, compared with 1.9% for health care businesses with more than 250 participants and 5.6% among all Vanguard DC plans.

ALL IN ONE PLACE

Balancing financial priorities takes some restraint, but it doesn't mean that young physicians have to live on a shoestring, Boudreaux said. Rather, they need to recognize the importance of saving for retirement while also paying down massive student loans and saving for other priorities, like buying a home.

Boudreaux, about 70% of whose clients are doctors, tells them they can do everything they want financially — just not all at once, he said.

"Most physicians I work with didn't pursue this path for the money," he said. "They're not in a breakneck rush to retire. They might want to have more flexibility, have less [time on] call ... they're not desperate to stop practicing as soon as possible."

Having a flat-fee model is helpful, as early-career doctors usually don't have a large asset base, he noted.

While physicians have considerably higher incomes than most workers, their delayed earning potential means that they need a budgeting plan when they start their careers, Rose Swanger, financial planner at Advise Finance, wrote in an email. Swanger cited her husband as an example.

"He didn't come out to practice until he was 32. A whopping 10-year delayed earning!" she wrote. "Meanwhile, the minute he earned the income commensurate with his experience, the higher income tax and non-deductible student loan set him behind again. This is what all current young physicians are facing: 'Do I need to save for my retirement or pay down the student loan?'"

Post-residency doctors make good clients, as "they still remember the taste of ramen noodles and have the financial discipline," she said. "Together, we formulate a plan in budgeting and saving that they can stick with."

Doctors usually do not get much financial education while in school, financial planner and CPA Laurette Dearden wrote in an email. About 85% of Dearden's tax practice involves recent post-residency doctors, she said.

LATE LEARNERS

"They only know that they are behind in saving for their retirement compared to their peers in other occupations, but they don't really know how far behind," Dearden said. "I do educate them on prioritizing contributing to their employer's plan as well as contributing to Roth IRAs if they are still eligible."

New doctors often get financial advice from other doctors, Robert Schultz, partner and wealth adviser at Rollins Financial, said in an email.

"We have seen that other doctors have acted as mentors trying to guide them from very early — and potentially residency — to understand how to structure their financial lives," Schultz wrote. "We do try to push them to understand that they need to have substantial savings for retirement."

Doctors are less likely to be self-employed these days as a result of medical care systems acquiring practice groups, Boudreaux said, and they have access to workplace retirement plans such as 403(b)s and 401(k)s. However, income can vary significantly, and some doctors who work as contractors can benefit from extra financial planning, he said.

Retirement account balances are higher than average in health care plans with 250 participants or fewer, at an average of about $250,000, according to Vanguard. That is about twice the average across all health care plans, and higher than the average of $107,000 in all of the company's DC plans. The small health care plans have much higher utilization of catch-up contributions — about 43% of participants use them, compared with 15% of participants in other plans, according to Vanguard. And 21% of the participants in those small plans contribute to Roth accounts, compared with 12% across other Vanguard plans.

BIG LOANS

Strategies to pay down six-figure student loans are another matter.

"Young doctors with large student loans should consider who they are working for, and if they are going to be eligible for public service loan forgiveness programs," Aaron Clarke, wealth adviser at Halpern Financial, wrote in an email. "If so, they may consider paying only the minimum required to meet the forgiveness provisions, while investing alongside these payments to build an after-tax account, in the event they change jobs or are no longer eligible."

CPAs who specialize in tax planning can help with strategies for doctors who are ineligible for loan forgiveness, Clarke said. But getting doctors to work with just one financial adviser can be a struggle.

"They tend to have multiple SEP IRAs in different places. This affects the planning strategy in that most of the doctors believe that different advisers means diversification," Michael Whitman, managing partner at Millennium Planning Group, wrote in an email. "What they do not realize is that most of their investments are in the same securities (not diversified enough). More education is needed."

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diversity&INCLUSION

Adjust the interview process to boost D&I

I know from personal experience how difficult it can be to be different from most of the people around you. As a Sikh, I am no stranger to being stared at, mocked, insulted and threatened because of my identity. From the time I was growing up into my early 20s, whenever there was a terror attack or diplomatic incident in the Middle East, I was told to go back to my country — even though I was born in Bloomington, Indiana, and raised in New York.

GUESTBLOG
GURINDER S. AHLUWALIA

I tried (just as any normal teenager does) to be as "normal" as I could. When I began my freshman year at New York University, I saw first-hand what a truly diverse community looks like. On the NYU campus and surrounding neighborhoods, students and residents from different backgrounds and cultures not only co-existed but brought out the best in one another.

America is often referred to as a melting pot. In my experience, many people believe the melting pot is meant to blend Americans of all backgrounds into a normative, common society.

But the goal of a melting pot shouldn't be that the cultures and customs of different groups are mixed into a single integrated culture. Instead, the melting pot should welcome and celebrate the differences of various Americans, which like ingredients for a stew, make the American culture richer and more diverse — something to be celebrated, not feared.

Despite significant progress in recent years, the financial advisory space still has a diversity problem, and simply hiring or appointing a chief diversity officer isn't the way to make a meaningful impact.

According to the Bureau of Labor Statistics, 82.2% of personal financial advisers in 2019 were white; only 6.9% were Black or African American; and just 6.3% were Hispanic or Latino. Meanwhile, 32.1% of personal financial advisers in the U.S. last year were women — a big increase from previous eras, but obviously still lower than the makeup of the U.S. population. The Census Bureau reports that as of July 1, 2019, 13.4% of Americans were Black or African American, while Hispanics and Latinos accounted for 18.5% of the U.S. population.

DIG DEEPER TO SEE WHAT MINORITY APPLICANTS CAN DO

So what can we do to change this disparity?

During the interview and selection process, those in charge of hiring at financial advisory practices should try harder to identify the full potential of minority candidates. I fully understand that human resources professionals are tasked with hiring candidates who are the most qualified and most promising. However, a candidate's true aptitude could be obscured by cultural differences or behavioral norms.

As an example, while most people practice social distancing in the wake of COVID-19, historically, many Asian cultures have tended to emphasize respect for personal space more than other groups. This may make them appear, albeit unintentionally, more reserved, or less outgoing and friendly.

KEY POINTS

- The potential of minority candidates may be obscured by cultural differences.
- Managers should focus on professional attributes, not social ones.

To level the playing field, focus on the professional attributes, not the social ones. Of course, in certain jobs, client engagement requires the ability to connect, but I'm sure we can all agree that there are different styles and approaches to achieving this connectivity.

When those of us in charge of hiring take the time to look below the surface and see what a candidate is truly capable of, then we will feel more comfortable taking risks on people who might not fit the typical profile.

Gurinder S. Ahluwalia is chief executive of 280 CapMarkets, as well as lead director for Hightower Advisors.

Look again: Your annual production goals are still within reach

There's something about September that signifies change — and fresh starts.

The fall season is critically important to most advisers' production. It's often make-or-break time, when carefully nurtured prospects are moved into a practice, months of meetings with retirement plan sponsors could yield a "yes," and increased demands for your attention leave you frantically looking at a calendar, wondering how you're going to get it all done. This is a great opportunity for a reset.

REVISIT YOUR BUSINESS PLAN

Take a deep breath, step back and revisit your goals for the year. (Hopefully, you made your goals SMART: specific, measurable, achievable, relevant and time-based.) Although you may have thought your goals were impossible to achieve when March's volatility was causing stocks (and spirits) to drop, the market recovery might mean some of your goals are still within reach. Look at your goals and business plan with fresh eyes, and consider these three questions:

1. What's most important to get done before the end of the year? Think carefully about this — then do the most important things first. It's human nature to

GUESTBLOG
KRISTINE MCMANUS

procrastinate and complete easier tasks first, but with less than four months remaining in the year, try to focus on goals that will have the most impact on your business. That might mean bringing over assets from new clients or closing with prospects on their decision to join your firm, or it might involve installing new technology or spending time to gain efficiencies with existing technology. Think about what will move the dial for you and your practice, then attack the project.

2. Who needs to do it? Although it's important to determine what the critical work is, it's equally crucial to establish who will do it. The answer might be you — but be sure the goal is really something only you can accomplish. It might help to think of your hourly fees when considering who should work on a goal. If you charge $350 per hour for planning services, for example, ensure that you are doing activities that warrant that rate. Strategic and leadership goals (such as a decision to go fee-only) can seldom be delegated, but many other tactical ones can. You don't need to do all the legwork to start a podcast, for example. Your staff might welcome such a task and could help you get up to speed, find examples of great podcasts and explore publishing options. If you can't delegate, think instead of who could help motivate you, and choose an accountability partner to keep you on track.

3. When does it have to be done? If you intended to work on your social media presence for the past two years and still haven't done it, a few more months won't make a difference. If, however, a plan sponsor sent a request for proposal or a business owner is selling her firm in December, those deadlines should be prominent on your calendar and priority list. Put all the key dates in your calendar and work backward to make sure that you know when all the deliverables are due. Then block your calendar, giving yourself time to get the work done before your appointments pile up.

TURN YOUR FOCUS FORWARD

Looking back at your goals for the year might make you nostalgic for the simplicity of planning in a pre-coronavirus environment. That leads to one final recommendation: Cut yourself some slack. Don't dwell on what hasn't gone according to plan; instead, reset your focus to what you can accomplish. You still have time.

Kristine McManus is vice president and chief business development officer for practice management at Commonwealth Financial Network.

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NFL UNION

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way, who in 2010 revealed that he and his business partner gave $15 million to a hedge fund manager who was later accused of running a Ponzi scheme.

In the past, NFLPA has focused on screening individual advisers and their practices; in the past 12 months, it has started adding institutions, including Goldman Sachs and Morgan Stanley, as approved choices for the players.

TACKLING FRAUD

In addition to the improvements in the program to select a financial adviser, the group now has a requirement that at least one employee per firm must have the certified financial planner designation or have passed the chartered financial analyst series of exams. The NFLPA has also increased insurance requirements to include fidelity bonding, or protection against advisers who commit fraud.

Large institutions like Goldman Sachs and Morgan Stanley add stability and ballast to the NFLPA's financial adviser program because they protect clients in more ways than sheer competency and reach.

If a client owns way too much of an investment that tanks or an adviser turns out to be dirty, it is much easier for a client — think of an NFL rookie — to get some money back through a complaint with industry arbitration overseen by the Financial Industry Regulatory Authority Inc.

Compare that to filing a lawsuit or Finra arbitration complaint against an adviser who hangs a shingle with a small firm or a self-owned advisory practice. If there is malfeasance by an adviser who does not have the backing of a large institution, there is almost no way for an investor like a retired football star to get any of his money back.

Let's hope that these modifications at the NFLPA's financial adviser program mean that those advisers do better, for this season and in the long run, than the Jets and the Giants. The players deserve better than that.

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E-DELIVERY

CONTINUED FROM PAGE 4

warned that the measure would allow retirement plans simply to notify participants that information is available on a website and leave it to them to dig it out.

Karen Friedman, executive vice president of the Pension Rights Center, also is wary of the industry advocacy.

"This is another attempt by financial institutions to push through an electronic disclosure regime that will make it harder for consumers to get the important financial information to which they are legally entitled," Friedman said in a statement. "Studies show that consumers and investors of all ages prefer to receive financial and legal documents on paper, and there is no reason to change the system that is working for consumers."

Fidelity, Schwab and BlackRock outlined five investor protection steps, including giving investors ample notice of the switch to electronic delivery and honoring their requests to opt out.

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COLA

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the related recession.

The forecast by Mary Johnson, policy analyst at the Senior Citizens League, is based on consumer price index data through August. "There is still one more month of consumer price data to come in before we get the official [COLA] announcement in October," Johnson noted.

The projected COLA affects not just monthly Social Security benefits, but also the maximum amount of annual wages subject to payroll taxes.

The maximum Social Security benefit for someone who retires at the full retirement age of 66 this year is $3,011 per month. The maximum amount of wages subject to the Social Security portion of the payroll tax in 2020 is $137,700.

Should the forecast prove correct, 2021 would mark the fifth year since 2010 in which there will be an extremely low adjustment for inflation, or even no adjustment at all.

INFLATION ADJUSTMENT

Over the past decade, annual COLAs have averaged 1.4%, less than half of the 3% average COLA in the previous decade. The modest annual inflation adjustments over the past 20 years have failed to keep up with most retirees' expenses, particular for health care and housing, which have risen faster than overall inflation.

"This is more evidence that our system to adjust benefits for inflation is broken," Johnson said. Social Security benefits have lost about 30% of their buying power over the past 20 years, according to her research.

Under current law, the Social Security COLA is determined by the percentage change in the consumer price index for urban wage earners and clerical workers (CPI-W). The market base of goods and services that the government uses to measure inflation and calculate the annual adjustment is based on working adults under age 62 and does not reflect the costs of households of people who are retired, Johnson explained. Advocacy groups such as The Senior Citizens League have long argued that the annual Social Security COLA should be tied to a special index that more closely reflects retirees' buying habits.

The CPI-W gives greater weight to consumer items purchased more frequently by younger people, such as gasoline and electronics, and less weight to housing and medical costs, two expenses that form a bigger share of spending for older households.

The COLA also excludes Medicare premiums. The Senior Citizens League has found that Medicare Part B premiums are one of the fastest-growing costs in retirement.

The extremely low COLA forecast of 1.3% for 2021 could trigger a "hold harmless" provision that protects lower-income beneficiaries from a net reduction in their Social Security benefits from one year to the next. The provision protects about 70% of beneficiaries — almost 43 million people — from increases in Medicare Part B premiums that exceed the dollar amount of their Social Security COLA.

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UBS explores Credit Suisse merger: Report

BLOOMBERG NEWS

UBS Group Chairman Axel Weber has been studying the feasibility of a mega-merger with rival Credit Suisse Group as part of a regular thought exercise on future strategic options, according to people familiar with the matter.

UBS, the world's largest wealth manager, has been exploring the question with consultants but it hasn't raised the topic at the level of the executive board, the people said. The assessment is part of regular internal planning procedures and there are currently no formal discussions going on between the two banks, said the people, who asked for anonymity because the information isn't public.

Both banks declined to comment. Speculation about a deal was stoked last Monday, when Swiss finance blog Inside Paradeplatz wrote that Weber and Credit Suisse Chairman Urs Rohner could agree on a merger as early as next year.

Talk about European banking consolidation has been heating up as the coronavirus pandemic adds to challenges such as negative interest rates that have weighed on profitability for years. Spain's CaixaBank and Bankia said this month they're exploring a merger to form the largest lender in the country. While a deal between the two Swiss banks would allow for overlap to be eliminated, executing such a transaction could be difficult, said Andreas Venditti, an analyst at Vontobel.

"Regulation would be the biggest hurdle in my eyes" because requirements are tougher the larger an institution is, Venditti said, adding he doesn't think a deal is likely.

BACK-OFFICE TALKS

Weber's planning exercise comes as UBS is in the middle of a leadership transition, while Credit Suisse just completed one. The two rivals have been assessing the possibility of combining back-office functions for some time to cut costs, Bloomberg reported two years ago. Those talks are still continuing, according to people familiar with the matter.

Weber has been among bank leaders calling for Europe's lenders to consolidate so they can better compete with U.S. rivals. UBS last year briefly explored the idea of another mega-merger, with Deutsche Bank after that firm's talks with Commerzbank collapsed, Bloomberg reported at the time. Those talks never proceeded beyond the initial stage.

A full-blown merger with Credit Suisse would face major regulatory hurdles as well as additional capital and liquidity requirements, which could outweigh potential cost savings. UBS CEO Sergio Ermotti has long complained that "too-big-to-fail" rules in Switzerland were creating headwinds for the country's largest lenders.

BLACKROCK

CONTINUED FROM PAGE 2

believe we will be the same operational firm as we were pre-COVID," he said. "It's gonna be a new workforce and a new paradigm, but I believe it will be a better paradigm with less congestion in cities, and less pollution."

On general investment management topics, Fink also sees a state of constant change. Asked about government debt and deficit levels, Fink said he doesn't have short-term concerns, but he "probably" does have concerns longer term.

ACCELERATED TRENDS

"In the short run in the U.S., we need to continue to increase our deficits," he said. "COVID has accelerated the big macro trends. Some industries have many job losses, and Amazon is announcing 100,000 new jobs."

On the decade-long shift by investors from active management to passive index-based investing, Fink offered an alternate perspective that the flow of assets is actually active management in disguise.

"What we're witnessing in the past few years in the growth of ETFs is not passive investing, we're seeing more active investors use passive ETFs to get their active exposure," he said. "One of the real myths is that everyone investing in passive ETFs are passive investors. They are not."

Then there's the growing push in asset management toward environmental, social and governance investing, an area where Fink has become a vocal proponent.

"The existential health risk of COVID has only made climate risk a bigger component," he said.

At BlackRock, that increased focused tallied up to inflows into sustainable ETFs for the first six months of 2020 surpassing the flows into the category for all of 2019. Fink said the pedal is to the floor when it comes to ESG investing.

"We are committed by the end of 2020 to have all our portfolios integrated to ESG," he said. "Climate risk is investment risk."

When challenged, however, Fink said BlackRock won't be altering the makeup of broad market indexes to suit any particular ESG objective.

"This is not our money" he said. "Our job is to show investors what climate risk does to portfolios, and to educate and persuade, but our job is to always be a fiduciary."

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CELLPHONE

CONTINUED FROM PAGE 3

"This feature itself probably does not move the needle much as far as the quality of the product, but is a perk that might nudge a consumer to select their product suite over a competitor," he said.

In order to file a claim, users will need to demonstrate that a phone bill for the previous month was paid in full on their Betterment Visa Debit Card, according to the announcement. Betterment Checking users can then file their claims, view their status and get reimbursed by the Sure platform.

The cellphone insurance is provided by Sure HIIS Insurance Services, and customers will receive up to $600 per claim with a maximum of two claims per 12-month period, with a $50 dollar deductible for each claim.

Betterment — which boasts more than 500,000 accounts — is exposing users to insurance as a major client acquisition play for the firm's new debit card product focused on essential monthly spending, said Robert Norris, a managing principal at Capco.

CLIENT STICKINESS

"This is agnostic of current circumstances — mobile phone bills still need to be paid during the pandemic," Norris said. "In addition, every household has at least one mobile phone so this is applicable to 96% of Americans. Unlike a utility bill, mobile phone spending can provide a more valued perk."

Other firms, like Wealthfront, Fidelity and Robinhood, have already made moves to establish their firms as full financial services providers. In July, Fidelity launched a free mobile app to establish long-term relationships with prospects and move conversations toward proprietary products and services.

Robinhood, too, intends on leveraging its latest influx of funding to fill out its financial services offerings.

"This is designed to increase client stickiness on monthly recurring expenses," Norris said. Replacing a mobile phone can cost more than $400, he added, which is equivalent to the average emergency fund of most Americans.

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FIDUCIARY RULE

CONTINUED FROM PAGE 3

and Shan Ge, an assistant professor of finance at New York University's Stern School of Business.

"We didn't find any evidence that smaller investors were forced out of the market or differentially impacted by the rule," Egan said.

The Insured Retirement Institute, a trade association representing the annuities industry, disagreed with the conclusion of the study.

"We don't think the fiduciary rule is coming back from its grave to cause variable annuity sales to decrease," said Jason Berkowitz, IRI chief legal and regulatory affairs officer.

Sales have declined but there are several other factors contributing to the trend, including the coronavirus pandemic, Berkowitz said.

Variable annuities produce a guaranteed income stream during retirement. But they also can come with high commissions and expenses. The products became a flash point during the debate over the Obama DOL's fiduciary rule.

Berkowitz is losing patience with VAs being used as the symbol for investment advice reform, asserting that the products provide benefits investors seek.

"If the cost is not aligned with the value, then these products won't sell," he said. "We feel very good about the value proposition of VAs."

Egan and Gan said their study concluded at the beginning of 2019. They intend to do more research.

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BROKER FLEES

CONTINUED FROM PAGE 2

were given blank account forms, and Flynn and team filled them in with false information."

JOB LOSSES

Voya Financial Advisors Inc. "discharged" or fired Flynn in February 2017 for allegedly giving the firm misleading information during an investigation that involved variable annuities, according to BrokerCheck. He then moved to IFS Securities Inc., which is now defunct, and was fired from that firm a year later for allegedly making inappropriate trades involving a variable annuity.

Several complaints filed against Flynn over the summer listed Voya as the firm where he worked when the alleged misconduct occurred.

A spokesperson for Voya Financial Advisors, Laura Maulucci, wrote that Flynn was "no longer an adviser" with the firm but did not comment about his whereabouts.

Flynn could not be reached for comment.

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