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ADVISORS BRACE FOR REGULATORY ONSLAUGHT

STORM CLOUDS GATHER AND FRUSTRATION GROWS AT PROSPECT OF IMPLEMENTING UNPRECEDENTED LITANY OF SEC PROPOSALS

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PLUS
EX-VANGUARD CEO JOINS VENTURE CAPITAL FIRM

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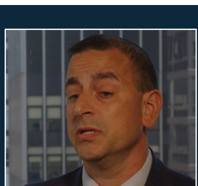

SCAN THIS QR CODE TO HEAR HOW TO SAVE MONEY WITH YEAR-ROUND TAX STRATEGIES.

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Ex-Wells Fargo Advisors chief Kowach launching new firm

BY BRUCE KELLY

A GROUP OF SENIOR executives from Wells Fargo Advisors with a $40 million war chest is planning to embrace a registered investment advisor aggregator and roll-up strategy, according to sources familiar with their plans.

The new firm is led by the former head of Wells Fargo Advisors, David Kowach, and is oddly to be christened with the symbol "&." The launch of &Partners is imminent, according to the two sources, who spoke confidentially to *InvestmentNews* about the matter.

Joining Kowach at the new enterprise is another former senior executive at Wells Fargo Advisors, John Alexander.

The identities of the major investors in the new business aren't clear.

Both Kowach and Alexander left Wells Fargo Advisors last year, the former in June and the latter in March. In a broad shakeup of Wells Fargo's wealth management operations, 2023 has seen an exodus of senior wealth-management executives with decades of experience at Wells Fargo and its numerous predecessor firms.

It's not clear when the new aggregator will open for business.

"Kowach has been laying the groundwork for this since last year," one source said. "They are using the ampersand symbol and calling it ampersand. The point is to give financial advisors the ability to self-brand, so you don't have to have the 'of' or 'with' in the title line, like Smith LLC 'of' such and such firm."

"Kowach has raised over $40 million, and John Alexander is part of it," said another well-placed industry source. "It's all former Wells Fargo guys."

"From a branding perspective, it's always a risk to use a symbol," the source added, particularly with a company's URL, or web address. "But it is certainly bold."

Kowach, who headed Wells Fargo Advisors until 2019, said last year that he was retiring. At the time, he was head of affluent at Wells Fargo. Alexander was head of the divisional network at Wells Fargo Advisors when he left the firm, and second to James Hays, head of Wells Fargo Advisors, at the time. Hays

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Finra reforms make it tougher for brokers to clear their records

BY MARK SCHOEFF JR.

ATTORNEYS WHO represent investors in actions against brokerages and registered representatives are hopeful that expungement reforms Finra enacted earlier this month will make it harder for reps to clear their records of disputes.

The Financial Industry Regulatory Authority Inc. adopted amendments on Aug. 11 to its expungement procedures, which allow reps to remove customer complaints from the Central Registration Depository system and their BrokerCheck profiles.

The new rule establishes a special roster of arbitrators to hear so-called straight-in expungement requests, or those that are filed by a registered representative separately from a customer arbitration. It also requires brokers to file straight-in requests within two years of the closing of a customer arbitration or civil litigation. Other changes include requiring earlier notification of customers and state regulators when brokers seek expungement, and allowing state regulators to participate in straight-in requests.

The Securities and Exchange Commission approved the reforms in April. Finra's regulatory notice said they will go into effect Oct. 16.

Finra has been wrestling with

CONTINUED ON PAGE 22

Advisors not buying 'Big Short' fund manager's bearish call

MICHAEL BURRY

BY GREGG GREENBERG

INVESTOR MICHAEL BURRY, who famously predicted the 2008 housing market crash and later was played by Christian Bale in the movie "The Big Short," has bet more than $1.6 billion on a Wall Street collapse, according to an SEC filing this week.

Burry is apparently going all-in, or close to it, on his bearish wager. His Scion Asset Management fund purchased $866 million in put options against the S&P 500 index and $739 million in put options against the Nasdaq 100 index. Taken together, Burry's bets add up to more than 90% of his portfolio.

The S&P 500 is up 15.5% year-to-date, while the Nasdaq 100 has soared 36.5% so far in 2023.

Burry's status on Wall Street rose following his profitable speculation on the 2008 subprime mortgage crisis that resulted in the collapse of a number of major financial institutions. His fame on Main Street resulted from his profile in the Michael Lewis bestseller "The Big Short: Inside the Doomsday Machine," which was later adapted into a film.

$1.6B

SIZE OF BURRY'S BET ON A STOCK MARKET CRASH

But while Burry's "Big Short" call has put him in the spotlight, a number of financial advisors cautioned investors against blindly following his lead simply because he made one correct bet, no matter how "big" it was.

Kashif Ahmed, president of American Private Wealth, for one, wishes he had "a nickel for every one-hit wonder" hedge fund manager or

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Former Wells Fargo private bank exec gathers assets at new firm

BY BRUCE KELLY

A NUMBER OF the old guard of senior managers in the wealth management business at Wells Fargo & Co. have been leaving over the past couple of years. At least one, Jack Ginter, rapidly built a substantial new enterprise over that time.

Ginter was the president of Abbot Downing, Wells Fargo's elite private bank for its richest clients, until he left in September 2021. Six months later, the giant bank said it was dropping the Abbot Downing name for managing ultra-rich clients' money as Wealth & Investment Management head Barry Sommers overhauled the wealth management business.

Under CEO Charlie Scharf, Wells Fargo has streamlined units, including Wealth & Investment Management, and exited nonessential operations as part of an effort to move the bank past years of scandals.

The bank's streamlining has resulted in management shakeups, including Ginter. His new registered investment advisor firm, Callan Family Office, based in suburban Philadelphia, opened in February 2022 and already has $3.5 billion in client assets.

Ginter was traveling and could not be reached for comment, according to a spokesperson for Callan Family Office. A spokesperson for Wells Fargo declined to comment when asked about Ginter's new firm.

Seven of the individual partners at

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Royal Alliance rebrands as Osaic Wealth

BY BRUCE KELLY

THE REBRANDING and consolidation of the former Advisor Group broker-dealers started in earnest as the first of the eight firms, Royal Alliance Associates Inc., saw its name erased and replaced with Osaic Wealth Inc.

The Royal Alliance name and brand had been around since 1989, and the firm has been through multiple transactions and combinations, most recently operating as part of the Advisor Group network of eight broker-dealers with 11,000 financial advisors and around $500 billion in client assets.

The giant network, currently under the control of private equity group Reverence Capital, said in June it was starting the process of combining the eight firms into one under a single brand, Osaic. The effort will take up to two years.

The shift in brand names began Aug. 7, said one financial advisor, who spoke confidentially to *InvestmentNews.*

"We didn't have to do anything except change the disclosures on our emails and websites," the advisor said. "It was absolutely painless."

"Rebranding can be tough at

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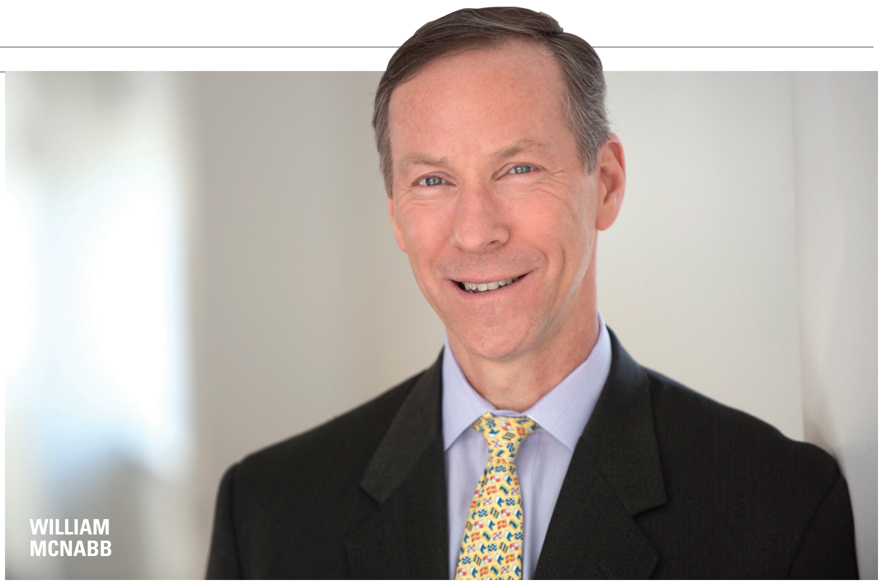
Ex-Vanguard CEO joins venture capital firm to guide investments in advisor


WILLIAM MCNABB

BY RYAN W. NEAL

FORMER VANGUARD Group CEO William McNabb has joined venture capital firm Venrock to guide the firm's future investments in wealth management technology.

Venrock grew out of successful investments in technology made by the Rockefeller family office in the 1930s and has been a force in venture capital since it officially launched in 1969, including being an early investor in companies like Apple and Intel. The company turned its attention to wealth management in 2011 as an early backer of Personal Capital, which in 2020 was sold to Empower Retirement in a deal valued at $1 billion.

Now the company has set its sights on advisor-facing technology. Venrock is a lead backer of digital custodian Altruist, which has raised a total of $290 million and acquired Shareholders Service Group to quickly become a significant player in the independent advisor custody business, and Vanilla, an estate-planning fintech launched by financial advisor and serial entrepreneur Steven Lockshin.

McNabb also invested in both companies and serves on their boards. Now he is making his ties to Venrock official and will be working closely with Nick Beim, a partner at Venrock focused on fintech, to identify future opportunities in advisor technology.

"I've really enjoyed working with Nick in particular, and I've learned a ton from them. We seem like we're a good complement to each other in terms of skill sets," McNabb told *InvestmentNews*. "He understands the fintech world in particular more than anybody I've ever met."

McNabb joined Vanguard in 1986 and was named CEO in 2008. Under his leadership, the fund company more than tripled in size, to $4.4 trillion in assets under management in 2017, when he announced he would step down. Today, the company is the second-largest asset management firm in the world, with $7.2 trillion in AUM.

VANGUARD'S ROBO

During his tenure, McNabb pushed Vanguard to embrace new technology. The firm was an early entrant into the automated investing market when it launched Personal Advisor Services in 2015, and in 2016 McNabb urged advisors to embrace robo-advisor technology. Vanguard's robo-advisor now manages $119 million, the most of any automated investing product on the market.

"I've been really blessed," McNabb said when asked about his career, adding that he was a "baby" in the industry when he was interviewed personally by Vanguard founder John Bogle. "I got a chance to live with an iconic founder and transformational leader in John Brennan, Vanguard's second CEO, and see what it was like to take something from inception to a dominant player. We changed the market. Our presence has made mutual fund investing very different."

He hopes to do something similar in advisor technology by joining Venrock. The goal isn't to back something that generates a five- or 10-time return on the investment, but rather build something that can have a significant impact on the wealth management sector, McNabb said.

Venrock's history is full of stakes in early-stage startups that grew into significant players over time, Beim said. For example, Personal Capital is now the second-largest robo-advisor in terms of AUM, behind Vanguard's, according to Robo Advisor Pros.

There is still a lot of opportunity to build technology companies that focus on helping advisors, Beim said.

'UNDERSERVED MARKET'

"As I look at the wealth management industry today, I think of it as an underserved market from a technology perspective," he said. "The industry is dominated by legacy platforms and point solutions, putting the burden of making it work together on the advisors — a burden most would rather not have. It's difficult to find an RIA today, or anyone in the industry, who would feel great about their tech stack."

Altruist, which is looking to disrupt the custodian marketplace long dominated by Charles Schwab Advisor Services, Fidelity Institutional and BNY Mellon Pershing, is an example. Building a digital custodian is difficult and costly, but has a chance to finally solve the integration problem for

CONTINUED ON PAGE 23

Massachusetts tax could hit one-off millionaires

BY MARK SCHOEFF JR.

A MASSACHUSETTS millionaires tax can encompass people who rise above the $1 million earnings threshold only briefly as the result of the sale of a home or business, but financial advisors say most of their clients won't be affected.

Last November, Massachusetts voters approved a change to the state's constitution to allow a 4% surtax on income that exceeds $1 million. Combined with the state's 5% flat tax on income, it amounts to a 9% tax on the portion of income that is in seven figures. The tax went into effect on Jan. 1.

Gov. Maura Healey included $1 billion in expected revenue from the tax to fund some education and transportation spending in the budget she signed Aug. 9.

Some taxpayers who may not feel particularly rich can exceed the $1 million threshold through property sales and other events that boost income.

"Most voters didn't realize the millionaires tax included one-time sudden windfalls like the sale of a home," said Kristin McKenna, president of Darrow Wealth Management in Needham, Massachusetts. "The surtax will affect many of our clients when they sell their homes. But it also affects clients who have a windfall from equity compensation."

Beyond the one-off events that can make someone a temporary millionaire, the effect of the Massachusetts tax is not likely to be widespread. The tax applies to about 0.6% of Massachusetts households in a given year, or about 21,000 taxpayers, according to a Tufts University report.

"Most of the time, it doesn't affect most of the people I [work] with," said Chris Chen, wealth strategist at Insight Financial Strategists in Newton. "Eventually, it's going to affect 10% to 20%."

4%
STATE SURTAX ON INCOME EXCEEDING $1 MILLION

ONE CLIENT AFFECTED

Steve Stanganelli, principal at Clear View Wealth Advisors in Amesbury, said he has one client who would be affected. He worked with one client to adjust a Roth conversion strategy last year in anticipation of a high tax bill hitting this year with the millionaire levy in place.

But he said that opponents of the millionaires tax overstated the potential for home sellers having to pay it. He said a home would have to start from a low basis and appreciate substantially. In addition, the state allows the exclusion of some capital gains on a home sale.

"The reality for most people is they are not going to be affected," Stanganelli said. "People should reach out to their tax and financial planners prior to signing the closing documents because we can find you ways to mitigate the tax bill."

The tax offers financial planning opportunities for advisors. They include basics like managing portfolios in tax-efficient ways, selling a business in installments and making charitable contributions to lower tax bills. They also might incorporate more involved strategies like the use of trusts.

"It's likely to be a complex combination of estate planning and income-tax planning," said Edward Jastrem, chief planning officer at Heritage Financial in Westwood. "I don't think there's one universal solution that's going to be the go-to answer for this. It's going to be strategies that are customized for each client."

There also is a unique Massachusetts strategy. The state allows taxpayers who file a joint return at the federal level to file as individuals with the state. That means that a couple who each come near $1 million in income can avoid the tax.

FILING SEPARATELY

"We're going to see a lot of talk about Massachusetts taxpayers filing separately at the state level," said Aletta Tibbetts, founder and principal at Eos Financial Planning in Arlington.

Overall, her clients are taking the

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Opinion

_IN_ THEIR OWN WORDS ...

from the web and print pages of *InvestmentNews*

"During a gold rush, you want to invest in the companies supplying the picks and shovels."

— Andrew Graham, managing partner, Jackson Square Capital

"Just like Meredith Whitney, [Michael] Burry got just one thing right, once"

— Kashif Ahmed, president, American Private Wealth

Preparing for clients' cognitive decline

Many advisors and their assistants have had the following experience: A long-time client calls with a question or responds to a call, and somehow seems "off" and not as focused as usual. Maybe it's a bad day, but the next call results in the same unsettling feeling that something is amiss.

Something is. As Emile Hallez recently reported, cognitive decline is a fact of life among America's aging population, and financial advisors often find themselves on the front lines of an effort to protect clients' lifetime savings and investments from the consequences of impaired mental capacity.

Advisors who once thought that managing investments to deliver a comfortable retirement was the main challenge of their work are now likely to discover that protecting nest eggs as clients become ill-equipped to deal with money matters poses an even greater challenge. As one expert noted, since half of people develop mild cognitive impairment or dementia by their mid-80s, having a great financial plan may mean nothing when hundreds of thousands of dollars, or even millions, can disappear from an account in weeks or months due to a client's declining cognitive abilities.

To deal with the reality of widespread cognitive decline among their aging clients, advisors should be proactive in taking steps to protect clients and themselves. The first step is for advisors and staff to be aware of how significant and widespread the issue of cognitive decline has become, and to look for possible signs of it when dealing with clients.

Second, start having discussions when clients are in their late 50s and early 60s about the need to determine when they should start getting help with health care and financial decisions. Asking clients to sign an "incapacity letter" ahead of time, which directs advisors to speak with surrogates if red flags appear, is a wise idea suggested by one advisor in the story.

Encouraging clients to involve trusted grown children or others in their plans and having those trusted relatives or friends get to know the advisor for this purpose is another solid step. Honestly positioning this interaction as a way to conserve assets and protect a client in the event of cognitive decline is a far better way to encourage managing intergenerational wealth than hounding parents to introduce you to their children.

IT'S ALSO IMPORTANT TO EDUCATE CLIENTS ABOUT FINANCIAL FRAUD AND THE WAYS IN WHICH SCAM ARTISTS AND, SADLY, FAMILY MEMBERS CAN PREY ON OLDER PEOPLE.

It's also important to educate clients about financial fraud and the ways in which scam artists and, sadly, family members can prey on older people, an educational effort in which many advisors and firms already are engaged. The problem is huge. Financial fraud costs older Americans an estimated $3 billion a year, and a 2020 study from the AARP Public Policy Institute found family members steal twice as much money as strangers.

Helping clients and their families prepare for and deal with cognitive decline is probably among the most delicate assignments an advisor will face. But as the advised population ages, it's a responsibility more and more advisors must be prepared to assume.

Comments? Questions? Send your thoughts to james.burton@keymedia.com.

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TSUNAMI OF NEW RULES BEARS DOWN ON ADVISORS

WITH THE SEC PREPARING TO APPROVE A NUMBER OF MAJOR PROPOSALS NEXT YEAR, FIRMS FACE ADDED COSTS AND A HUGE AMOUNT OF COMPLIANCE WORK

BY MARK SCHOEFF JR.

MANY INVESTMENT advisors broke out in a cold sweat when the SEC announced in May 2021 that the landmark marketing rule the agency had approved the previous December would go into force on Nov. 4, 2022.

The 18-month implementation deadline provided little comfort to registered investment advisors as they considered the effort that would be required to update their policies, procedures and controls related to advertising to comply with the 430-page rule that for the first time since 1961 overhauled how they can promote their firms.

Advisors worried that a year and a half wasn't enough time to get the compliance work done. But they may find the stress caused by the marketing rule was just a warm-up compared to what they could be experiencing over the next two years.

What's coming next is the finalization of a number of major Securities and Exchange Commission rules that affect advisors, including regulations regarding outsourcing, custody, cybersecurity, the use of ESG in portfolios and mutual fund liquidity, among many others.

Beginning early next year, the Investment Adviser Association anticipates the SEC will approve many final rules that will become effective from January through the early fall, many of which are hundreds of pages long. That starts the compliance clock ticking on implementation, with deadlines that could start falling in early 2025.

"For advisors to implement this many complicated, consequential rules in even close to the time

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frame the commission seems to be contemplating is unlike anything we've ever seen before," said IAA general counsel Gail Bernstein. "If you could imagine eight marketing rules coming at you at the same time, that's about what it's going to look like. It's really hard to implement more than one new rule at a time."

OVERLAPPING PROPOSALS

In a June 17 letter to the SEC, the IAA urged the agency to consider the "costs and benefits together and holistically, prior to adopting any more final rules" relating to the advisor proposals. The IAA said 12 proposals could significantly affect advisors, and many of them are interrelated and overlapping.

It's not just advisors who will be pressed by the regulatory convergence that's likely to result from SEC Chair Gary Gensler's agenda. Brokerage firms and registered representatives also are bracing for compliance challenges.

"There often isn't a sufficient appreciation for how expensive and difficult it is for industry participants to implement all these things," said Mark Quinn, director of regulatory affairs at Cetera Financial Group. "There are only so many major regulatory initiatives we can effectively digest and implement at the same time."

When the regulatory storm hits, financial advisors will have to design and implement policies and procedures, train personnel on the new rules and consider whether to hire in-house compliance expertise, said Ken Joseph, managing director at Kroll, a compliance consulting firm.

"The tsunami of rules will seriously challenge advisors' resources and the ability to react in a timely way," said Joseph, a former SEC officer who ran the examination program for RIAs in New York and New Jersey.

BREATHING ROOM

There's not much that advisors can do to prepare in advance because the SEC won't vote on final rules for weeks or months in most cases. Typically, it takes a year for a proposal to work its way through the rulemaking process. A proposal can be modified before it becomes a final rule, based on public comments and political pressure on the SEC.

But assuming almost all the proposals will go final, industry representatives want the SEC to allow some breathing room regarding when they will go into force.

The SEC should "seek public feedback on a comprehensive implementation timeline for tiered and staggered compliance requirements and dates for all these proposals," Bernstein and IAA associate general counsel Sanjay Lambda wrote in the IAA's June 17 letter to the SEC.

An SEC spokesperson did not respond to a request for comment.

Gensler has defended his agenda, saying that he wants to increase the transparency and efficiency of the financial markets while lowering costs for investors. He also asserts his roster of proposals is smaller than that of his predecessor, Jay Clayton. Clayton's total of 64 final rules was over a four-year period. Gensler took the SEC helm in April 2021.

> **"THERE ARE ONLY SO MANY MAJOR REGULATORY INITIATIVES WE CAN EFFECTIVELY DIGEST AND IMPLEMENT AT THE SAME TIME."**
>
> MARK QUINN, DIRECTOR OF REGULATORY AFFAIRS, CETERA FINANCIAL GROUP

POTENTIAL COSTS

The potential regulatory costs of pending SEC rules are on the minds of advisors and brokers.

An IAA survey of its members late last year showed that advisory firms anticipate that the cybersecurity rule will cost more to implement and maintain than the SEC estimates.

The survey showed that nearly 80% of respondents said implementation costs would be at least $20,000. About 50% said they would be $100,000 or more. That compares to the SEC's estimate of $16,013. Ongoing compliance costs could be $100,000 annually, according to the survey.

CYBERSECURITY PROPOSAL

One owner of a small advisory firm is gritting his teeth about the cybersecurity proposal. Advisory firms — and brokerages — would have to assess and report cyberbreaches to the SEC on a tight deadline and follow up later with public reporting, among other requirements.

"Cybersecurity has me beside myself," said the owner of an RIA with $150 million in assets under management, two advisors and 32 client families. "There's all kinds of traps in there for advisors, including potential fraud charges if [the SEC] believes advisors haven't done everything they can to protect client data."

The owner declined to talk on the record so that he could freely express his frustrations, which revolve in large part around regulatory costs.

"If I have to hire a full-time in-house compliance person who's qualified — if I can find that person — it's probably going to be a six-figure salary," the owner said. "You're basically going to need someone every day reviewing everything that's going on."

COMPLIANCE PAIN

Customers and clients also could feel some of the compliance pain.

"We have relatively narrow profit margins," Quinn said. "Somebody has to pay all the costs. In the long run, it's going to be investors."

A trade association that represents regional brokerages said implementing the SEC's array of rules will reallocate resources from advisors and their clients and customers to other groups.

"One thing is clear: the

SEC RACES CLOCK TO KEEP RULES OUT OF CONGRESSIONAL KILL ZONE

WHEN THE SEC finalizes rule proposals, the countdown begins on compliance deadlines for investment advisors and brokers. But the agency faces its own ticking clock when it comes to final proposals, thanks to next year's elections.

Congress can kill regulations through a parliamentary procedure called the Congressional Review Act (CRA). Congress has 60 legislative days after a rule is submitted to it to disapprove the rule by a majority vote. Final rules are usually filed with Congress around the time they're published in the Federal Register.

If a rule is released in the months before an election, there's a special look-back provision that allows a new Congress to pursue a CRA against rules that were approved during the previous Congress on a special fast-track procedure.

Regulations that go final during the summer or later in an election year can be vulnerable to a CRA when a new Congress is seated in January. Congressional disapproval of a regulation is most likely to occur when one party obtains a majority in both the House and Senate. That party also needs to control the White House to ensure the CRA will be signed by the president.

EXPANSIVE AGENDA

The SEC is pursuing an expansive agenda that contains 55 proposals in various stages of the rulemaking process. The roster has drawn strong criticism from congressional Republicans, who will be in a position to kill final rules that fall within the CRA look-back if the party wins the House, Senate and presidency.

The SEC is trying to avoid that scenario based on the final rule deadlines it has put on its latest regulatory agenda, according to an analysis by the law firm Sidley Austin.

"For example, the SEC appears to target finalization of many rules early enough that they could not be repealed under the Congressional Review Act (CRA), ensuring that such rules could not be overturned (absent a full notice and comment rulemaking process) if the 2024 election results in Republican political control of Congress and the presidency," the analysis states.

SEC Chair Gary Gensler said the agency won't rush out final rules just to beat the CRA clock.

"We will only finalize something if we think it's right and it's ready — not with an eye to the clock but just an eye to the law and policy and the economics," Gensler said during a July appearance at the National Press Club in Washington.

He sidestepped a question about the agency's timeline for releasing final rules on climate disclosure by public companies and on ESG disclosures by investment advisors.

"It's really when the staff is ready and when the commission is ready to put something out and adopt it," Gensler said.

The CRA has been used to overturn 20 rules since 1996, when the law establishing the CRA was approved. The 115th Congress (2017-18) disapproved 16 rules, while the 117th Congress (2021-22) disapproved three, according to the Congressional Research Service.

— Mark Schoeff Jr.

implementation of the chairman's unprecedented regulatory agenda will result in a significant transfer of wealth from regulated market participants, retail investors and small businesses who use their own capital to take risks to a politically connected professional class of lawyers, consultants and accountants who do not," said American Securities Association CEO Chris Iacovella.

IMPACT ON SMALLER FIRMS

Chief compliance officers who also fill other executive roles may be wearing their compliance hats longer than usual when the SEC rules start going final.

"CCOs are really under the gun," said Bernadette Murphy, managing director at compliance firm Vigilant. "They can't keep up with the regulatory environment. It's not something you can do between phone calls. The biggest challenge will be for smaller firms."

Dean Harman, managing director of Harman Wealth Management, feels lucky that he has compliance help on the broker-dealer side of his dually registered firm. His broker-dealer is part of Osaic, which was until recently known as Advisor Group.

Osaic's compliance capabilities will help Harman navigate the SEC rules when they go final. He's on the board of Osaic, whose legal team is tracking SEC proposals and trying to determine what implementation may look like if they go final.

"I don't know how the smaller RIAs and broker-dealers will do it," Harman said. "It's an incredible task for them to take on. It's why you're going to see more and more consolidation of B-Ds into larger entities with more scale. You're going to see less of the mom-and-pop businesses."

Compliance burdens also could be a catalyst for M&A in the small advisor sector.

"A lot of [firm owners] are going to decide the best thing for them to do is to merge into another firm or just retire," said the small-firm owner who asked not to be identified.

PREPARING FOR CONVERGENCE

Even if a financial firm has a well-staffed compliance function, it's going to be difficult to keep up with everything, compliance experts said. Financial advisors can gird themselves for a raft of new compliance obligations by assessing what they have in place now.

"In preparation for convergence, they should review their policies and procedures and compare them to their current business practices to make sure they're aligned," said Ann Keitner, senior principal consultant at ACA Group.

The SEC's proposals aren't out of left field. For instance, the custody proposal would reform practices surrounding the possession of client funds and securities that advisors have had to grapple with for years.

"Custody has been clear as mud," Keitner said. "I'm hopeful in a lot of areas [the SEC] will clarify best practices that have been in place for some time … [and] there's not going to be anything brand-new."

Even though the SEC may be covering areas that are familiar to advisors, the agency is proposing rules that don't provide the flexibility needed to make them work for their particular business models, the IAA's Bernstein said.

"The fact that these rules are so prescriptive will make them even more challenging [to implement]," she said.

Financial advisors shouldn't get their hopes up that the final SEC rules will be substantially different — and perhaps easier to implement — than what they've seen in the proposals. But they may get some leeway on implementation.

"I expect that there will not be significant changes to the rule proposals," Kroll's Joseph said. "I would expect the final implementation dates will be staggered."

Overall, that might be a good outcome for advisors.

"If they spread out the compliance dates for some of the rules that affect advisors so that they have an appropriate amount of time to implement policies, procedures, testing and education … that would benefit everybody," Vigilant's Murphy said.

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WHY ESG IS HARD TO SELL TO MANY ADVISORS

EXPERT SAYS TERM HAS CREATED MASS CONFUSION WHILE ONE ADVISOR SLAMS SCREENING PROCESS AS 'ARBITRARY AND POLITICAL.'

BY EMILE HALLEZ

To understand the differences between ESG funds, it's helpful to think about dogs.

For those who don't immediately conjure up an image of a golden retriever, maybe a teacup chihuahua comes to mind — or perhaps a St. Bernard. There are far too many types in between to even consider listing, let alone the category of mutts, which are infinitely variable in appearance and charms.

While the term "dog" refers to a species — canis familiaris — it doesn't say much about an animal's size, color or personality.

Similarly, one fund with "ESG" — environmental, social and governance — in its name might be virtually indistinguishable from an S&P 500 Index fund. Another could exclude certain companies or industries. The term might also pertain to an impact fund that puts social or environmental goals slightly ahead of financial returns.

Add to that the recent political attacks on ESG that have charged the broad category with everything from hurting investors' returns to quietly reshaping industries and threatening democracy. Defenses of ESG have been that it can help financial performance, that it can assist in putting the world on a course for sustainability and that it is simply a category of data that fund managers use to assess risk and opportunity.

It has come to mean so many things that it isn't necessarily a helpful descriptor.

While there are plenty of financial advisors who see benefits in sustainable investing, or at least the use of ESG criteria, those leery of ESG are not alone.

"It is bizarre that we continue to use one term, ESG investing, to describe what in reality is a variety of different investing objectives, priorities, strategies and outcomes," said Lisa Sachs, director of the Columbia Center on Sustainable Investment. "It leads to mass confusion. And it's that confusion that is then opportunistically abused in these shenanigans and culture wars. It's absurd, but it's playing on the confusion."

Because most of what is referred to as "ESG investing" has nothing to do with sustainability outcomes, Sachs said she wouldn't encourage advisors to pursue funds on the basis of being packaged as ESG products.

"The products are not clear on whether they're meeting those objectives. I sympathize with anyone expressing reluctance about this space," she said.

CHANGING PREFERENCES

Advisors' views on ESG can be complicated. Surveys show that while advisors generally use sustainable funds sparingly, preferences are shifting, both for and against it. About a third of more than 400 advisors surveyed last year by the Financial Planning Association said they include "ESG" in clients' portfolios. More than a quarter, 28%, said they planned to increase their use over 12 months, and another 15% said they anticipated cutting back.

Separately, data from Cerulli Associates show two-thirds of advisors consider ESG factors for clients, although 70% said they allocate less than 6% of assets to ESG-focused or sustainable products. However, advisors last year told Cerulli that they expected to increase use of those products over two years, with 36% allocating between 6% and 10.9% of assets, and another 17% putting that figure at between 11% and 20%.

Additionally, more than half, 56%, said they have discussions with clients about ESG, said Michele Giuditta, director of institutional at Cerulli. However, of those advisors, 77% said they wait for clients to inquire, meaning that few raise the topic, Giuditta said.

Increasingly, politics appear to be a factor. While asset managers most often point to ESG considerations as a way to assess financial risk and opportunity, that line of thought has been questioned by Republican state leaders and members of Congress.

"Every year, we ask advisors a whole host of questions on hurdles to adoption," Giuditta said. What stands out is an increase over the past year in those who say ESG is politically motivated, she said.

"The big change occurred when we started seeing the bulk of these [state] ESG bans that were put in place last year — and this year as well," she said.

The Republican effort against ESG might be encapsulated by the series of hearings and bill markups held in July, in what members of the House referred to as "ESG month." Currently, there are

numerous pieces of legislation that seek to curb the use of ESG factors in the financial services industry, although few, if any, stand much chance of getting through both sides of Congress this year.

Anecdotally, advisors' stances on ESG are also politically aligned. Research calls Cerulli has held with advisors show the highest acceptance is on the liberal-majority coasts, Giuditta said.

And the financial advice profession might skew Republican. A survey last year by *InvestmentNews* found that 60% of advisors said they would prefer Republicans to control Congress in 2023, versus 25% who said they would rather have Democrats leading, with the remainder saying they were unsure or would like control to be split between the parties.

ADVISOR PERSPECTIVE

Katherine Edwards, a financial planner at MainStreet Financial Planning, loves "the heart and motivation behind ESG and sustainable investing" but cautions clients to do their homework on such products. One group, responsible investing advocate As You Sow, has a site that compares the underlying holdings of mutual funds, which can be used to screen products for exposure to fossil fuels, weapons and other areas.

"Most normal people are going to see the ad that this ESG fund is helping save the world, but they don't have the time to look and see if that's true," Edwards said.

ESG-themed funds often hold 90% of the same stocks as their conventional counterparts, but investors pay a premium for what purports to be a more sustainable product, she said.

One client who came to her had a portfolio composed almost entirely of ESG-themed funds, although the client didn't realize many of the funds' top holdings were tech stocks and that she had some exposure to oil companies. Edwards suggested a handful of different sustainable funds that more closely aligned with the customer's values.

But another way of addressing sustainability preferences is asking clients whether they'd be better off using some of their assets to put solar panels on their homes or buy an electric car, she said. Discussions about ESG can also cover giving if clients are charitably inclined, Edwards noted.

That could be a good strategy for someone with shares of an ETF they no longer want to hold because it conflicts with their values — donating the shares would eliminate any taxes on gains on those shares, she said.

Scott Bishop, co-founder of Presidio Wealth Partners, said he found screening processes for ESG-themed funds "arbitrary and political."

"I have never purchased or used an ESG fund, SMA or ETF for any clients," Bishop said in an email. "I felt that the ESG agenda could find money flows, but the way Wall Street started with mediocre funds 'rebranded' as ESG funds, I was suspicious of execution."

His advice for investors who want ESG: "Make sure you do your research on the sector and ideas. Know the fund managers' screening process and make sure the overall idea will be able to eventually find profits, growth and/or at least a gain in market share."

> **"IT IS BIZARRE THAT WE CONTINUE TO USE ONE TERM, ESG INVESTING, TO DESCRIBE WHAT IN REALITY IS A VARIETY OF DIFFERENT INVESTING OBJECTIVES."**
>
> LISA SACHS, DIRECTOR, COLUMBIA CENTER ON SUSTAINABLE INVESTMENT

ON THE FENCE

As the creator of the College for Financial Planning's Chartered SRI Counselor program, Jennifer Coombs doesn't regularly cross paths with advisors who are outright opposed to ESG.

But at a time when the topic has become politically charged, opponents aren't going to change their minds about it, Coombs said.

"It doesn't matter how many studies you stick in front of them. They still think that it harms performance," she said.

What's important to know, especially for those who are on the fence about ESG, is that "it's meant to be a long-term strategy," as sustainability-themed funds will have periods of outperformance and underperformance, Coombs said. "It's not meant for day traders. It's meant for 401(k)s and IRAs."

What all advisors should consider is that some clients will want ESG factors used in their portfolios, and professionals need to know enough about the topic to properly guide them, she noted. For example, categories like values, integration and impact have different levels of conviction on ESG criteria.

"They need to recognize that they can help clients [who are] interested in the ESG space, but understand that they are not all the same," Coombs said. "Clients themselves might need some help understanding where they stand in that [ESG] spectrum."

The political attacks on ESG have had consequences, and some firms have become hesitant to even mention that they can advise clients on it, she said.

One company she is working with on an ESG training program is doing so because the team wants to have a knowledge base, rather than because they intend to specialize in sustainability, she said. But "it's not something that they want to advertise that they have knowledge about."

That trend, which has come to be known as "greenhushing" is the opposite of the better-known greenwashing problem.

FROM AMBIGUITY TO GREENWASHING

The Securities and Exchange Commission requires funds to invest 80% of net assets in accordance with their names — but that leaves 20% that a product, such as a sustainability-themed fund, could potentially hold in securities that have nothing to do with sustainability, Sachs said.

The SEC has proposed a rule that would help clarify an "ESG" fund's practices, such as whether it merely integrates ESG considerations or is a full-on impact fund.

"No one on the planet would be more of an advocate for aligning finance with sustainability than me," Sachs said. "I find it very hard to do that in this current environment, because of these vastly different strategies, approaches and goals."

A recent report from the Columbia Center on Sustainable Investment that addresses the confusion over ESG in financial services offers several recommendations for the industry: Be clear about climate commitments, targets, metrics and methodologies; stop any anti-climate lobbying; focus on the real economy rather than portfolio emissions; and strengthen accountability and oversight.

Despite numerous studies on performance, Sachs said issues such as methodologies varying widely and many ESG-themed funds being 99% the same as conventional ones make it hard to draw conclusions.

"It's a silly thing to say that ESG is necessarily good or necessarily bad," she said. "But it's insane to tell any investment manager to distinguish some risks from other risks … Do the Republicans really want to tell investors to not consider flood risk?"

But until there is more consensus, it would be a mistake to ignore ESG, as interest in sustainable investing is only increasing as younger generations amass wealth. More students have also been preparing for careers in sustainable finance, she noted.

"The asset owners — everyone from the retail investors to institutional investors — have and will have an increasing genuine interest in different versions of ESG investing … The absolute risks of climate [change] and systemic risks to their portfolios are impossible to ignore," Sachs said. "It would be very misguided for financial advisors to not understand these issues."

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Analysis&Commentary

RETIREMENT PLANNING

Social Security's crucial role shadowed by new doubts

Several recent studies underscore the importance of Social Security as the bedrock of a secure retirement income plan, just as more than half of pre-retirees are questioning whether the program will be there for them.

With apologies to Canadian songwriter Alanis Morrisette, isn't it ironic?

MARY BETH FRANKLIN

ONRETIREMENT

"With Americans living longer than ever and the average retirement age largely unchanged, many households struggle to make their assets last through retirement," a recent study jointly released by BlackRock Inc., a leading asset manager, and the Bipartisan Policy Center, a public policy think tank, noted. Americans with access to a retirement plan are frequently encouraged to save, but guidance on how much to spend once they reach retirement is lacking.

"Retirement spending is one of the hardest problems retirees face, so the industry needs to give people affordable, innovative solutions and tools to help them navigate this challenge," Matt Soifer, head of distribution for BlackRock's retirement business, said in a statement accompanying the new report, Paving the Way to Optimized Retirement Income.

The typical American worker could increase their retirement income by about 22% and reduce the risk of running out of money by more than 20% if they used some of their savings to buy an annuity, adjusted their remaining asset allocation to be slightly more aggressive, and delayed claiming Social Security until full retirement age, the report concluded.

KEY POINTS

- More than half of pre-retirees are worried about the long-term outlook for Social Security.
- Just 10% plan to wait until they're 70 to start taking Social Security benefits.

LONG-TERM VIABILITY

Separately, the latest Advisor Authority survey from the Nationwide Retirement Institute found that more than half of pre-retirees who are 55 to 65 years old are concerned about the long-term viability of Social Security. More than a quarter (26%) of pre-retiree investors believe Social Security will run out of funds in their lifetime, with the same portion (26%) believing Social Security will run out of funds after they have entered retirement.

Despite those concerns about the program's stability, most pre-retirees who say they have strategies to protect themselves from outliving their savings — 52% — are relying primarily on Social Security, according to the Nationwide advisor survey.

Another report, the 2023 Schroders US Retirement Survey, echoed Americans' concerns about the long-term viability of the Social Security program.

Overall, 40% of non-retired respondents in the Schroders survey said they plan to take their Social Security benefits between ages 62 and 65, leaving them short of qualifying for their full retirement benefits. Only 10% of non-retired Americans say they will wait until 70 to receive their maximum Social Security benefit payments.

The choice to forgo larger payments is deliberate, as 44% of respondents in the Schroders survey said they were concerned that Social Security may run out of money or stop making payments. In addition, 36% said they will need the money; 34% said it was their money and they wanted to access it as soon as possible; and 13% said they were advised to take benefits earlier than age 70.

"We have a crisis of confidence in the Social Security system, and it's costing American workers real money," said Deb Boyden, head of U.S.

CONTINUED ON PAGE 16

PRACTICE MANAGEMENT

Why I stepped aside as CEO of Allworth

Early this month, I made the public announcement that I'll be seeking a replacement for myself as co-CEO of Allworth, the firm Pat McClain and I founded 30 years ago.

OUTSIDEIN

SCOTT HANSON

To be clear, while I may be stepping aside, I am certainly not stepping out.

When the news broke, I received hundreds of texts, emails and phone calls that ranged from "Congratulations on your retirement" to "Why are you leaving when things are going so well?"

The fact is, I am not retiring, nor am I leaving. Rather, I am doing what many other advisory firm principals have been doing the past several years: moving into a position that more closely aligns with my skill sets and passions.

We've all read about the number of mergers and acquisitions that have taken place within the wealth management industry this past

CONTINUED ON PAGE 16

SOCIAL MEDIA

Will Elon Musk's X take over financial services? Don't hold your breath

The rebranding of Twitter into X was about more than just the name, according to Elon Musk, the company's billionaire owner. Over the coming months, the company will evolve beyond microblogging to include "comprehensive communications and the ability to conduct your entire financial world," Musk announced.

RYAN W. NEAL

ONTECHNOLOGY

Musk promises that X will be the most efficient database for money. Oh, and it will have the least amount of fraud, and everything will be in real time, too.

"Over time, it would become, I don't know, maybe half of the global financial system," Musk said in a video. "Or some big number. I'm not sure what the number is, but pretty big. It would be by far the biggest financial institution."

Right, sure. Believe that when tweets can fly.

Or is it Xes? No one is quite sure what to call posts on the website anymore because this entire rebranding exercise has been botched from the beginning. The company made the switch without even first securing the "@X" username or the www.x.com website address (though it now owns both). X's own "about" page still refers to it as "Twitter." Indonesia even banned the app as a part of its anti-pornography laws.

"Throwing away one of the most recognizable brands on the internet and trying to spin it into a financial service app seems like a waste of forty-four billion dollars," Jonathan Ford Jr., president of JFJ Advisory Services, said in email. "Musk has stated the company is cash flow negative, advertisers are leaving, and X continues to place restrictions on these brands, further alienating them. I don't see how enabling people to bank on the app helps reverse the shift in the X/Twitter image that drove these advertisers away."

Yet this is the company that will successfully build a competitor to WeChat, the Chinese texting app that is currently used by more than a billion people to transfer funds, pay for goods and services, and borrow money?

Many other Silicon Valley companies have already tried and failed to enter financial services. Facebook abandoned plans for Libra, a cross-border payments product, after regulatory scrutiny. Google nixed a financial planning product that reportedly had 11 banks lined up as partners, according to Bloomberg. In 2018, Amazon was reportedly in talks with JPMorgan Chase to launch a "checking-account-like product," while Microsoft partnered with BlackRock on retirement planning. Neither project has borne fruit.

MANY OTHER SILICON VALLEY COMPANIES HAVE ALREADY TRIED AND FAILED TO ENTER FINANCIAL SERVICES.

The closest any big tech company has gotten is Apple, which launched its Apple Card credit card and a related app in 2019 with Goldman Sachs, but the investment bank is already looking to get out of the business.

Yet X — which has reportedly lost 50% of its advertising revenue since Musk purchased it for $44 billion in October — is the one that will get it right? The company that saw ad portal traffic fall 20.6% in June, according to Similarweb, and overall traffic decline steadily since January, as CBS News reported?

Even if Musk and his "everything app" were to release a product successfully, how much market share would it be able to attract from existing players? Traditional financial institutions have invested aggressively to build a single digital platform to handle all a client's financial needs, but none has fully gotten there yet. And even as fintech startups like SoFi, Wealthfront and Betterment continue expanding the ways they can serve their customers, they haven't toppled the existing industry after more than a decade of being on the market.

"It's unclear to me that Americans want a single app where [they] can do social media, call a car, book airline tickets, pay bills, etc.," Charles Thomas III, financial advisor and founder of Intrepid Eagle Finance, said in an email. "Time will tell whether Americans want a centralized solution or want to continue with individual apps for individual services."

To be fair, Musk may have some advantages that others lack. To start, he does have experience in the fintech space, having founded PayPal — formerly known as, you guessed it, X.com — before selling it for a fortune to eBay. Perhaps this background and his personal wealth could help Musk deliver a "super-app" faster than an existing financial institution or fintech.

"Unquestionably, I would say Elon can build savings account and related services before Bank of America can build a social or messaging app," Thomas said. "Whether that's what the market wants, time will tell."

Musk also has a more loyal following than most football teams. One could see a path forward in which X leverages that popularity and X's interest in cryptocurrency to make a play in the digital asset space.

"I think X could have a future in fintech if it enables users to send peer-to-peer cryptocurrency payments," Ford said. "Beyond focusing on that niche, I'm skeptical, to say the least, on X entering the financial service space."

However, it's worth noting that even PayPal had to scale back ambitions to expand into stock trading and high-yield savings. And given the amount of high-cost debt Musk has saddled X with, it's difficult to be anything other than skeptical.

Perhaps it will all work out and this column will look foolish in a few years, but, with apologies to Musk's legions of fans, who remain convinced the billionaire can do no wrong, there's little to suggest this is anything more than bluster to revive investor interest in a struggling social media company.

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TECHNOLOGY

Embrace mobile tech or risk being left behind

What financial advisors can do with technology today would have seemed like a pipe dream at the advent of my career. Technology brings us, and our clients, increased efficiency and connectivity on a daily basis. In our industry, if you're not leading the curve, you're falling behind, and mobile wealth management capabilities are at the forefront of the race to serve the next wave of clients.

OUTSIDEIN
KEVIN FUSCO

While baby boomers still hold the largest share of wealth in the U.S., Gen X and millennials are quickly gaining ground. Gen X's share of assets has increased from 16% to 28% in the last decade, according to Federal Reserve data.

While some clients who are part of the Greatest Generation or the earliest of baby boomers might need a nudge to leverage technology, such as digital signatures and texting their advisor through compliant channels, younger generations are digital natives and view those capabilities as an expectation rather than a value-add. Advanced technology and mobile capabilities are likely to be top selling points for next-gen clients as trillions of dollars transfer hands over the next 20 years.

Beyond the convenience of mobile technology, its usage is becoming more deeply ingrained in the advisor-client relationship. Take being in a social situation with a client and having the ability to pull up their most current portfolio information on demand and instantly email a report from a secure application, and how that interaction strengthens the client-advisor relationship. Many advisors are important and integral parts of our clients' lives and that doesn't necessarily just fall between the hours of 9 to 5, or when you're in front of a desktop computer screen.

Given the increased compliance and supervision requirements that have swept through the industry, the fact that I can use mobile technology to document conversations in the CRM system provides me with an added sense of security.

Next-gen clients aren't the only ones mobile capabilities will help to serve. At Raymond James, we've found that high-net-worth clients with $5 million or more in assets are the most frequent users of our client mobile portal, with around 86% of those clients using it.

Significant wealth takes work and the more successful a client is, the more they tend to seek out tools that will help simplify the management of their money. It's our job to make it easier for clients to use these tools to help them preserve their net worth.

Applications that allow clients to upload information securely, like estate planning documents or additional accounts, can allow advisors to add significant value. Once the information is uploaded, it can prompt the initiation of account transfers or the adding of new beneficiaries. This is the type of white-glove service it takes to capture and retain wealthy households as clients.

We're also facing a startling demographic shift in our industry as the average age of advisors trends older. Cerulli estimates that within the next 10 years, 37% of financial advisors, collectively controlling 40% of total industry assets, will retire. It's imperative even for those advisors transitioning out of the industry to continue to embrace technology. Even when doing so feels uncomfortable, it will ensure that the transition of one generation of advisors to the next bridges all aspects of the client relationship, including the technologies that will be second nature to the next wave of clients.

Kevin Fusco is vice president at Fusco Financial Associates and a financial advisor with Raymond James Financial Services.

SOCIAL SECURITY

CONTINUED FROM PAGE 14

defined contribution at Schroders. "Fear about the stability of Social Security has people walking away from money that could improve their quality of life in retirement."

The 2023 Social Security Trustees report warns that if Congress doesn't address the program's long-term financing problems in the next decade, the Old Age and Survivors trust fund could be exhausted by 2033, forcing an across-the-board cut in benefits of about 20%.

Once the trust funds are depleted, there would be enough revenue from ongoing payroll taxes to pay about 80% of promised benefits. There is unlikely to be any congressional action on Social Security reform before the 2024 presidential election.

WORK WITH AN ADVISOR

"I'm hopeful Congress will develop a plan to shore up the long-term viability of Social Security, but for now there remains some uncertainty about what the program will look like years down the road," Eric Henderson, president of Nationwide Annuity, said in a statement.

"The best thing those nearing retirement can do is to work with an advisor to choose the right time to claim benefits," Henderson said. "It's also worth having a conversation with an advisor about how you may be able to leverage the money you have saved, including your 401 (k) plan, to create a predictable stream of income."

The choice of when to retire is a powerful tool for optimizing the decumulation phase. Retiring later means one's assets have more time to grow and a shorter retirement to sustain, potentially allowing an individual to spend more in their remaining years.

Similarly, part-time work can reduce reliance on savings by subsidizing current spending. And for many retirees, their home is a valuable asset that could be used to create retirement income. Half of homeowners ages 62 and older hold most of their net worth in home equity.

(Questions about new Social Security rules? Find the answers in Mary Beth Franklin's 2023 ebook at MaximizingSocialSecurityBenefits.com)

Mary Beth Franklin, a certified financial planner,is a contributing columnist for InvestmentNews. *mbfranklin@investmentnews.com*

ALLWORTH

CONTINUED FROM PAGE 14

decade. The fact is, we are one of the acquirers, having completed 29 of these partnerships in the last six years.

Most of the principals of these firms began their career with a large national firm, branched off and became independent, and then later joined us to relinquish their management responsibilities for the benefit of their quality of life and to better service their clients.

In just those last six years, our business has grown from 60 associates to more than 400. Along with that, my daily responsibilities have evolved. Rather than having time to devote to clients, and to our advisers who serve our clients, much of my time is spent in leadership meetings covering topics ranging from cybersecurity to evaluating tech platforms and staffing.

As I looked toward the future, I began to consider some things: First, what skills and passions are necessary to lead a fast-growing organization as it evolves from a few hundred associates to a few thousand? Second, what role can I play to ensure that our clients continue to receive the best available care and support? And third, what motivates me and gives me energy?

I care deeply about the company I co-founded. And the more I began to seriously consider the above questions, the more I came to realize that it was time to step aside to allow someone else to lead Allworth's day-to-day operations. With the right person at the helm, I could spend more time on those areas I am passionate about — advocating for our clients and advisers — and less time on areas in which I'm neither trained nor highly skilled.

I will continue in my role until we find the absolute best candidate to lead us to the next level. And once that is achieved, I will transition to vice chair of the organization, ensuring that we never deviate from our fiduciary values and convictions.

While my decision to change roles was certainly difficult, I am proud that I have the requisite self-awareness to do what is best for the future of the firm, for the people that I love and respect, and for myself.

Scott Hanson is co-founder of Allworth Financial, formerly Hanson McClain Advisors, a fee-based RIA with approximately $16 billion in AUM.

ADVISORS ON THE MOVE

Advisor movement declines 16.6% over first half

DEVIN McGINLEY

NUMBERSGAME

Fewer experienced advisors are set to change firms this year than at any time since the Great Recession, according to the latest data from the *InvestmentNews* Advisors on the Move database.

The total of 6,757 advisors tracked between advisory and brokerage firms over the first two quarters is 16.6% lower than the number in the comparable period last year and the lowest level of first-half activity observed in the data, which go back to 2009. According to government data, the size of the advisory profession has nearly doubled since then.

The data on advisor moves exclude moves resulting from mergers and acquisitions, as well as those between related firms.

The data in part reflect a longstanding pattern of advisors leaving wirehouses like Merrill Lynch, which lost 132 advisors net during the second quarter, for greater flexibility at firms like LPL Financial, which led the industry with a net gain of 268 advisors over the three months ending in June.

It is important to note that these numbers don't reflect total head count at firms, and many firms have shifted their focus away from expensive recruitment efforts in recent years in favor of developing talent in-house.

Although RIAs and independent broker-dealers continued to add to their ranks on net, since relatively few advisors tend to leave these channels, recruitment activity was down across the board.

Broker-dealers recruited 4.4% fewer experienced advisors than over the first half of 2022. RIAs recruited 12.2% fewer experienced advisors, but that follows a post-pandemic surge of advisors entering the channel over the past two years.

It's unclear whether the drop in recruitment signals a long-term shift in industry practice or a temporary lull amid heightened economic uncertainty. But slower activity is likely over the remainder of the year. As a result of summer vacations and the holiday season, the first half of the year tends to see slightly higher numbers than the latter half.

BIG MOVES

Other firms that saw a large number of departures during the second quarter included Edward Jones, with 98 net departures during the second quarter; Wells Fargo Clearing Services, which had a net loss of 78 advisors; and Northwestern Mutual Investment Services, with 54 net departures.

Firms that saw big gains in the second quarter, in addition to LPL, included Commonwealth Financial Network, with a net increase of 34 advisors; Concurrent Investment Advisors, with a net gain of 33; and Fidelity Brokerage Services, with a net gain of 31.

Over the first half of the year, Securian Financial Services saw a net loss of 90 advisors after the announcement in January that it would be acquired by Cetera Financial Group.

In May, Jacksonville, Florida-based Aegis Consulting, including principals Michael Cirino and Alexander Harrison and 11 advisors, joined Commonwealth Financial Network from Lincoln Financial Group. And in June, a group of 14 advisors, led by Scott Bishop, left Houston-based Avidian Wealth Solutions to form a new RIA, Presidio Wealth Partners, in partnership with Hightower Advisors.

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NEWS ON MOVES

FOR ALL ADVISOR MOVES AND RECRUITING ACTIVITY, SCAN QR CODE.

Q2 TOP NET GAINS

	ADVISERS GAINED	YTD
LPL FINANCIAL	268	552
COMMONWEALTH FINANCIAL NETWORK	34	67
CONCURRENT INVESTMENT ADVISORS	33	37
FIDELITY BROKERAGE SERVICES	31	126
PURSHE KAPLAN STERLING INVESTMENTS	27	36
RBC CAPITAL MARKETS	21	26
ROCKEFELLER FINANCIAL	18	35
ROYAL ALLIANCE ASSOCIATES INC.	17	4
PORTSIDE WEALTH GROUP	17	18
TIAA-CREF INDIVIDUAL & INSTITUTIONAL SERVICES	15	19
CRESSET ASSET MANAGEMENT	15	15

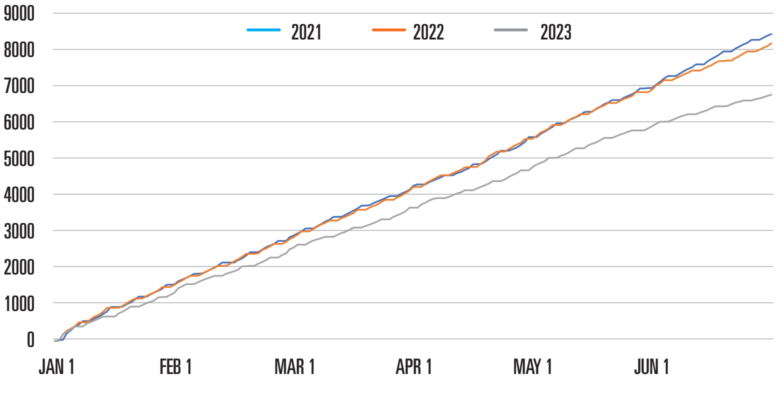
Q2 TOP NET LOSSES

	ADVISERS LOST	YTD
MERRILL LYNCH PIERCE FENNER & SMITH INC.	132	139
EDWARD JONES	98	172
WELLS FARGO CLEARING SERVICES	78	124
NORTHWESTERN MUTUAL INVESTMENT SERVICES	54	75
EQUITABLE ADVISORS	53	82
J.P. MORGAN SECURITIES	51	14
SECURITIES AMERICA INC.	46	65
NYLIFE SECURITIES	41	58
CAMBRIDGE INVESTMENT RESEARCH INC.	37	23
SECURIAN FINANCIAL SERVICES INC.	36	90

Q2 CHANNEL NET CHANGES

	ADVISERS MOVES	YTD
RIA	279	598
INDEPENDENT BROKER-DEALER	217	315
DISCOUNTER	23	53
INSTITUTIONAL	1	-3
BANK	-13	-100
REGIONAL BROKER-DEALER	-87	-104
WIREHOUSE	-142	-301
INSURANCE BROKER-DEALER	-278	-458

ADVISOR MOVES YTD



DISCLAIMER AND METHODOLOGY: The *InvestmentNews* Advisors on the Move database is designed to capture all recruiting activity of retail financial advisors/teams of advisors as they move from one firm to another. The activity recorded within the database comes from a number of sources, including *InvestmentNews* and other media reports, press releases, direct submissions that have been reviewed by *InvestmentNews*, and regulatory filings. To qualify as a move, no more than 60 days can have elapsed between the date an advisor/team leaves one firm and the date they join another. Any advisor registration changes that came as a result of merger and acquisition activity are not recorded as moves in the database.


InvestmentNews
WOMEN to WATCH
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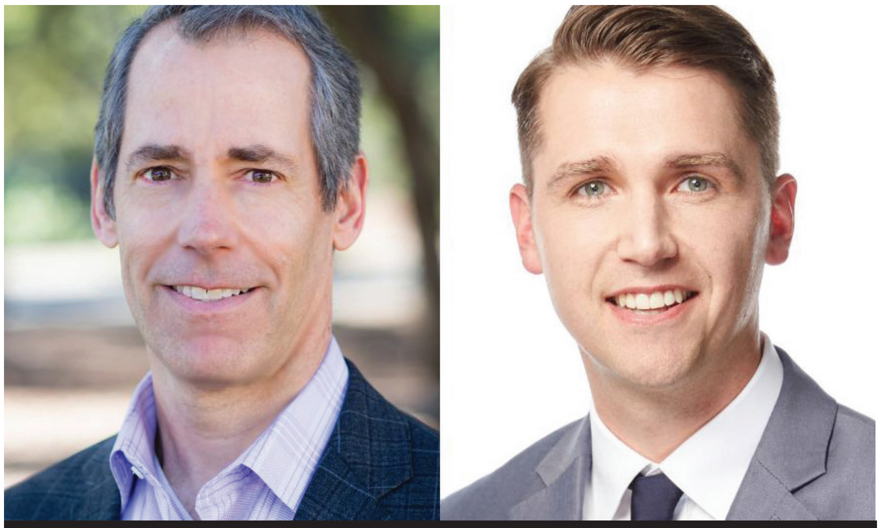
IN the News

TAXES

Advisors urge Congress to weigh debt reduction against SALT deduction



Left to right: Jon Ekoniak, Bourdeaux Wealth Advisors; Sam Huszczo, SGH Wealth Management

BY MARK SCHOEFF JR.

GERRY GOLDBERG'S CLIENTS have varying reactions to congressional efforts to remove the limit on deductions for state and local taxes that has been in place for several years.

Goldberg, CEO and co-founder of GYL Financial Synergies in West Hartford, Connecticut, works with investors in states with high income and property taxes, such as New York, New Jersey, and his home base, as well as clients in states without an income tax, such as Florida.

His clients in the Northeast states "would like to see some sort of relief to the extent it's possible," he said. Those in Florida have a different attitude: "They say, 'We're just fine with the limitations in place.'"

The dichotomy of views is a window into the political challenges facing legislation that would remove the $10,000 SALT cap, which was implemented as part of the 2017 Tax Cut and Jobs Act to make up for the tax revenue lost by the bill's long roster of tax reductions.

Ever since the bill was enacted, lawmakers from states with high taxes have been pushing to eliminate the cap. Rep. Josh Gottheimer, D-N.J., and a bipartisan group of co-sponsors introduced a bill earlier this year that would restore the full SALT deduction.

Proponents of lifting the cap say it would provide a much-needed tax cut for residents of high-tax states. Opponents — and a recent study by the National Taxpayers Union Foundation — say the SALT deduction mostly benefits the wealthy and that the cap should remain in place.

Although Democrats from blue states have been leading the charge to lift the cap, a number of Republicans also support the move. *The Wall Street Journal* recently reported some GOP resistance to a House tax-reform bill unless it includes a provision to eliminate the SALT cap.

Advisors say they hope Congress considers the burgeoning federal deficit as they wrestle with policy related to SALT deductions.

> **"IF WE GET RELIEF ON THIS ITEM, IT WILL PROBABLY COST US SOME-PLACE ELSE."**
>
> GERRY GOLDBERG, CEO, GYL FINANCIAL SYNERGIES

Goldberg said lawmakers should "heed the cautionary tale" revealed by the recent downgrade of U.S. debt by Fitch Ratings, which was based in part on the country's growing debt burden.

"As much as I might want to see some relief for my clients and myself, there should be a balance between revenue and expenses in the federal budget," Goldberg said. "In other words, if we get , brelief on this item, it will probably cost us someplace else."

A similar admonition to keep an eye on the federal budget comes from Sam Huszczo, founder of SGH Wealth Management in Southfield, Michigan.

"This is a moment when we need to talk about raising taxes in the next few years rather than creating more tax breaks," Huszczo said. "We need to come up with more revenue if the country is going to handle the debt service it has gotten into."

Jon Ekoniak, managing partner at Bordeaux Wealth Advisors in Menlo Park, California, said most of his clients "came out roughly even" given the 2017 bill's lowering of personal taxes combined with the SALT limitation. But he said clients miss their SALT deduction and want it back.

Gottheimer blamed "red state senators from moocher states" for blocking bills the House passed in previous Congresses to revive the SALT break.

"There is strong bipartisan support for restoring the SALT deduction, which will put direct pressure on Republican leadership to listen to the millions of struggling middle-class families and take action to restore SALT and cut taxes," Gottheimer, co-chair of the congressional SALT Caucus, said in a statement. He asserted that the SALT deduction "will get more dollars back in the pockets of millions of hard-working Jersey residents and families across the country."

Huszczo said the issues boils down to red states versus blue states.

"This is just a state-to-state battle," he said. "If New York and California win, the rest of us don't. This is more a savvy political move than something that will help out a broad base of Americans."

More than 40 states have provided a workaround on the SALT deduction, according to an analysis by the American Institute of Certified Public Accountants. In those states, owners of small businesses known as pass-through entities can deduct state and local taxes through their business taxes.

"It does seem like there is broad interest in making some sort of changes to the SALT deduction limitation because states are doing it on their own," Ekoniak said. "Some of your hardest-core Republican states have adopted it as well as some of the Democratic-focused states."

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RETIREMENT PLANS

Lawsuit over ESG in 401(k) not cleared for takeoff, American Airlines says

BY EMILE HALLEZ

THE FIRST LAWSUIT over the use of ESG in a 401(k) has a few gaping holes — most notably that the lead plaintiff in the proposed class action wasn't invested in any of the funds in question, defendant American Airlines said.

In a motion to dismiss filed Aug. 4, the airline also noted that the investment options at the center of the complaint are not on the $27 billion plan's menu — they are only available through a self-directed brokerage account. The company was sued in June for allegedly breaching its fiduciary duties under the Employee Retirement Income Security Act in connection with numerous ESG-themed funds available to participants.

The lead plaintiff for the proposed class, pilot Bryan Spence, "seeks to insert himself into the ongoing, politicized debate over the wisdom of ESG-themed investing. But this is a case without a controversy," the airline stated in its motion to dismiss. "Plaintiff does not allege that he has allocated any portion of his plan account to the challenged funds he lists in the complaint, or to any non-ESG investment options that happen to be sponsored by Challenged Managers with objectionable proxy-voting policies. Nor could he, as he has never invested either in any of the 25 funds he identifies in the complaint as ESG funds or in any investment options sponsored by the challenged managers."

That defense gives the plaintiff little to work with, and there are significant odds that the court will scrap the case, lawyers said.

The airline's response points out "obvious deficiencies with the complaint," such as the lack of investments by the plaintiff and the fact that the funds were in the only-available-through-a-brokerage window, Bonnie Treichel, chief solutions officer at Endeavor Retirement, said in an email.

"Keeping in mind that the duty with respect to the brokerage window is to prudently select and monitor the service provider for the window and not the underlying investments of the window, this seems like a tough one for the plaintiff," Treichel said.

The legal team defending American Airlines includes O'Melveny & Myers partners Brian Boyle and Shannon Barrett, who are "probably two of the top

NICHE ADVISOR

Chasing retirement plan prospects with a minority business owner connection

BY JEFF BENJAMIN

MARTIN SMITH is nothing if not patient in his approach to building out a financial planning niche that focuses on capturing retirement plan business from companies that hold a Minority Business Enterprise certification.

Smith, president of Wealthcare Financial Group in Peachtree City, Georgia, applies an old-school strategy that involves a lot of cold calling; he stumbled on the MBE niche while combing through retirement plan prospects.

Ten years ago, when he was based in Maryland, Smith was undertaking the arduous task of contacting small business owners to offer a review of their employee retirement plans.

His advisory firm was already MBE-certified, but he didn't make the connection to how he could leverage that to build new business relationships until he found a prospect that was also MBE-certified.

"I saw the world of MBE firms and realized I could focus my marketing message on that group, and that has broken the ice," he said.

MBE certification is done at the state level and requires business owners to meet certain criteria related to income and net worth, in addition to qualifying as a minority. Most states have thousands of businesses holding the certification, which is where the fun begins for Smith.

"One thing I learned in my training at AG Edwards back in 1999 is the best prospect lists you can acquire are the ones you build yourself, not the ones you purchase," he said. "I found the most success when I spent the time curating my own list of prospective clients."

Smith said he has a list of more than 10,000 prospective businesses in his database, which he tracks with various technology platforms that help him reach out to each company at least once a month.

The connections can be an email, an invitation to a webinar or even a direct phone call. On a recent summer morning, he confessed to having already made 18 calls to prospects before 11 a.m.

"I used to make 300 dials a day when I was calling individuals, but it takes longer to call businesses because they have a lot of gatekeepers," he said.

His advisory firm is still small, and because the firms he's working with will be smaller to qualify for MBE certification, he only has $30 million under advisement. But Smith has advisors based in Texas, New York and Maryland to help him dig deeper into the niche.

Because there's nothing unique about offering to advise or review a company-sponsored retirement plan, Smith said he's overt about leveraging the MBE certification.

"That's my opening line," he said. "I'll call and mention that we are both MBE certificate holders."

Like most retirement plan advisors, Smith is well versed in the potential to advise on the personal accounts of business owners and employees, and that is stepped up a notch with the MBE connection.

"When you're working with an MBE firm, you're more than likely to get the business owners as well," he said. "With all my 401(k) plans, I have the personal accounts of the business owners, and some of the children's accounts. I'll build relationships with the owner, and some will want to talk about the retirement plan business. I'll take whatever door opens."

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NICHE ADVISOR

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NICHE
Retirement plan advisor for companies with Minority Business Enterprise certification

PRO TIPS
"One thing advisors can do, especially the younger ones, is be patient and find an industry and lobbying group. And look for different things to plug into to be the unofficial advisor of record. Get your name known. Then you have to dig deep and plow the field"

"Cross-reference with LinkedIn and other social media platforms where they might live, work and play. That takes some time, but over time you will become an authority."

ERISA defense attorneys in the country," said Greg Ash, partner at Spencer Fane.

"Their arguments are spot-on," Ash said. "This seems to me to be more of a political statement than a real attempt at improving the performance of an ERISA plan. Participants have the ability to choose whatever funds they want — it's not like they're being forced into ESG funds. There's just not much merit in this lawsuit."

BROKERAGE WINDOW

A successful legal challenge to a plan sponsor's fiduciary obligations in overseeing a brokerage window would have profound consequences for 401(k) plans. If plan sponsors became liable for overseeing the wide range of investments in self-directed brokerage accounts — options already used sparingly by 401(k) participants — many would likely eliminate such options.

However, such a challenge is a long shot at best, and the court could dismiss the case without giving the plaintiffs leave to amend the complaint, likely to find plan participants who had actually invested in the funds cited in the lawsuit.

> **"THIS SEEMS ... TO BE MORE OF A POLITICAL STATEMENT THAN A REAL ATTEMPT AT IMPROVING THE PERFORMANCE OF AN ERISA PLAN."**
>
> GREG ASH, PARTNER, SPENCER FANE

"While we still need to see how [the] plaintiff responds in the next 21 days (or longer with an extension), I expect the court to dismiss the complaint," Treichel said. "This looks like a case where amendment may be futile, and so I expect the court may very well deny leave to amend and dismiss the suit with prejudice."

In the June complaint, the plaintiff's attorneys listed numerous mutual funds that they said were ESG-themed, although they did not cite any performance figures for the specific investments. Instead, the lawsuit stated generally that funds that use ESG criteria underperform.

American Airlines pointed to that as a deficiency in the complaint as well.

The plaintiff "does not allege that the options sponsored by these managers have delivered lower returns than other options — or that the options' performance would have disqualified them on any other financial ground," the firm's attorneys wrote in the motion to dismiss. "Indeed, he doesn't even bother to discuss the financial performance of a single investment option sponsored by a challenged manager."

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KOWACH

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also left Wells Fargo last year.

Wells Fargo & Co., the giant bank, has been overhauling its wealth management business for the past few years, consistently plucking talent from JPMorgan Chase & Co.

DETAILS IN PRESENTATION

A presentation about the firm obtained by *InvestmentNews* provided more details about the new firm, &Partners, including its goal to hire 100 "top performing Advisor Partner teams."

The firm is also dangling carrots in front of financial advisors, who currently now have more options than ever to work and get paid. &Partners' "compensation is significantly enhanced from the industry norm," the presentation said.

According to the presentation, &Partners will have three founding managing partners: Kowach, Alexander, and Kristi Mitchem, the former CEO and head of Wells Fargo Asset Management until 2019.

There are 13 other founding partners, according to the presentation, almost all of whom have extensive work and management experience at Wells Fargo.

Reached via LinkedIn, Alexander declined to comment about the details in the presentation or the date &Partners would officially launch.

NAME AS A HOOK

While the new firm's moniker, &Partners, has raised some eyebrows among wealth management executives for its unusual use of the ampersand symbol, the firm clearly thinks the name is a hook.

"At &Partners, we're not named after a person," according to the presentation. "Instead, our name provides a nod to the people who matter most: You & Your Team."

"It's a partnership," the presentation says. "Advisors and employees own the firm."

The financial advice industry is replete with RIA aggregators and roll-ups like the new &Partners, with aggregators steadily gaining traction by buying so-called breakaway brokers, or financial advisors who leave Wall Street banks to work as part of a smaller firm or an independent RIA. And there are plenty of examples of executives leaving a major firm, sitting on the sidelines to wait out their noncompete agreements, then reentering the financial advice industry.

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FINRA REFORMS

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expungement reform for years. The rulemaking process for the latest reforms began in September 2020 and included a withdrawal of the proposal in July 2021, after securities attorneys and state regulators questioned whether they were tough enough to stop what they assert is an overly permissive expungement process. Finra re-proposed the rule in July 2022.

One of the leading proponents of expungement reform — the Public Investors Advocate Bar Association — said Finra is going in the right direction.

"This rule is a good start," said PIABA President Hugh Berkson. "Let's see it work well."

A former PIABA president endorsed the Finra reforms.

"It's a good day for Finra and an even better day for investors," said Andrew Stoltmann, a Chicago securities attorney. "This expungement issue has vexed Finra for over a decade."

The revised expungement process requires a three-person arbitration panel to hear an expungement request, as well as a 3-0 vote to approve one.

"The unanimous agreement of the panel to grant expungement will go a long way to eliminating non-meritorious expungement requests," Stoltmann said. "You can fool some of the people some of the time, but you can't fool all the arbitrators all the time."

The time limit set on straight-in arbitration requests, as well as allowing state regulators to participate in the expungement process, will make it harder for brokers to clear their records, Stoltmann said.

Even though the reforms give state regulators a bigger role in expungement, they resisted the proposal as late as April, when the SEC approved it. The North American Securities Administrators Association, the umbrella organization for state regulators, declined to comment on Finra's adoption of the new expungement rules.

Securities lawyers caution that this latest mile marker may not represent the end of the expungement-reform journey.

"I applaud Finra for doing the right thing and taking the first step to change expungement procedures, but there's still a long way to go," said Adam Gana, managing partner at Gana Weinstein.

For instance, he said, Finra should change the rule that requires investors to participate in the expungement procedure, which includes going to court.

"Until that happens, the system is flawed," Gana said.

Whether the Finra reforms will work depends in part on how well arbitrators follow them.

"I'm hoping the special [arbitrator] roster and the special training they will receive help the arbitrators understand the crucial role they play," said Berkson, a partner at McCarthy Lebit Crystal & Liffman. "After these rules go into effect, if expungement remains a rubber-stamp process, more reform will be necessary."

Berkson also wants Finra and other regulators to be more hands-on when it comes to protecting the Central Registration Depository system from inappropriate expungements.

"This is a regulatory role," he said.

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BIG SHORT

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strategist who made a major market call and lived to tell about it.

"Just like Meredith Whitney, Burry got just one thing right, once. That does not mean he has any special skills giving him correct insight every time," Ahmed said, adding that Burry's latest short play is merely "carnival barking to try to remain relevant."

Along those lines, Dean Tsantes, financial planner at VLP Financial Advisors, believes Burry is still "milking the fame" he received from his housing prediction and his words should be "taken with a grain of salt."

"He is wildly successful, but I think he should stop trying to predict market crashes and use his influence to teach more sound ways to invest and not try to frighten investors with continued doom-and-gloom predictions that are usually wrong," Tsantes said.

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ROYAL ALLIANCE

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first," said April Rudin, CEO of an eponymous marketing firm. "It's like a new pair of shoes. The more you wear them, the more comfortable you feel in them."

"The process we've implemented is going very well and we're pleased with the progress," Jen Roche, executive vice president of marketing and communications at Osaic, wrote in an email.

On the BrokerCheck website managed by the Financial Industry Regulatory Authority Inc., Osaic Wealth has replaced the Royal Alliance Associates name. Advisor Group's seven other broker-dealers — FSC Securities Corp., SagePoint Financial Inc., Securities America Inc., Triad Advisors, Woodbury Financial Services Inc., American Portfolios Financial Services Inc. and Infinex Investments Inc. — appear not yet to have made the formal switch to Osaic.

The rebranding of Advisor Group to Osaic comes at a time when the retail securities industry, particularly independent broker-dealers, is trying to look and act more like its competition,

"REBRANDING CAN BE TOUGH AT FIRST. IT'S LIKE A PAIR OF NEW SHOES."

APRIL RUDIN, CEO, THE RUDIN GROUP

registered investment advisors. Broker-dealers charge commissions as well as fees and report conflicts linked to commissions. RIAs charge mostly fees and claim they have minimal conflicts preventing them from acting in their clients' best interests.

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FORMER WELLS FARGO

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the firm listed in a filing with the Securities and Exchange Commission formerly worked at Abbot Downing, according to those executives' LinkedIn profiles.

A number of former Wells Fargo wealth management senior executives are working on second or third acts in the financial advice industry. *InvestmentNews* reported that a group of senior executives from Wells Fargo Advisors, led by former head David Kowach, have a $40 million war chest and plan to embrace a registered investment advisor aggregator and roll-up strategy.

$3.5B
TOTAL CLIENT ASSETS AT GINTER'S NEW FIRM

Industry observers noted that private banks and family offices like Callan and the defunct Abbot Downing only work with the richest and most profitable clients, who carry accounts with tens of millions of dollars of assets with them through the door. Mainstream wealth managers, like the financial advisors at Wells Fargo Advisors, target far less elite clients, or those with a minimum of $500,000 to $1 million in assets.

"There's seemingly been a lot of movement from the old Abbot Downing side of Wells Fargo," said one industry executive, who asked not to be identified. "But across the board, we're seeing more private bankers leave a variety of firms, which in the past was difficult. There's always been the issue of the portability of client assets, and the long waits of garden leave have meant private bank advisors have to sit on the sidelines."

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EX-VANGUARD CEO

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advisors, Beim said.

There's still a need for more robust financial planning tool sets, McNabb added. And now that the advisor industry has shifted away from commissions and the overall cost of investing has declined — two trends that Vanguard played a significant role in advancing — advisors are looking for new ways to maintain good returns for themselves by becoming more efficient and offering more services.

"It feels to me like there's still a lot of opportunity for technology in particular to help on that front," McNabb said.

While they aren't ready to officially announce Venrock's next investment in advisor fintech, Beim teased that the company works in "a really interesting part of the wealth management market that is a huge part of the investment world that just hasn't seen a lot of innovation."

Since retiring from Vanguard, McNabb has spent his time teaching at Wharton Business School and working in the nonprofit world. He also sits on the boards of IBM, United Healthcare and Axiom in addition to Altruist and Vanilla.

Those companies already had significant momentum by the time he got involved, he said. By joining Venrock, McNabb is looking to get more involved in the earliest stages of a company's development.

"Ideas that are maybe in the pre-investment stage," he said. "Going back to the early days of a company, it's a lot of fun."

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MASSACHUSETTS

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millionaires tax in stride and are positive about where the state is allocating the revenue, Tibbetts said.

"The people I work with feel pretty sanguine about the situation," she said.

Stanganelli has the same attitude. He serves as an at-large member of the Amesbury city council and voted in favor of a resolution supporting the tax.

"As an elected municipal official, I supported the passage of this tax because of the need for more revenues to fund infrastructure and education at the local level," Stanganelli said.

But advisors said higher taxes in Massachusetts may cause some high-net-worth residents to consider moving to lower-tax states like New Hampshire and Florida.

"Massachusetts in recent years has become tax-hungry," McKenna said, which limits the state's ability "to keep business owners and entrepreneurs here."

Jastrem said there are drawbacks and benefits related to the new tax.

"It's a challenge for the clients we're trying to serve, and it could be an impediment to wealth creation and business development in the state," Heritage Financial's Jastrem said. "But you also want resources for the state to be put to good use."

Even with the tax in place, the tax bill in Massachusetts is lower than in other states, Chen said.

"No one wants to pay [the millionaires tax]," he said. "But that's not to say it's enormous. We don't have taxes like California or New York state."

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