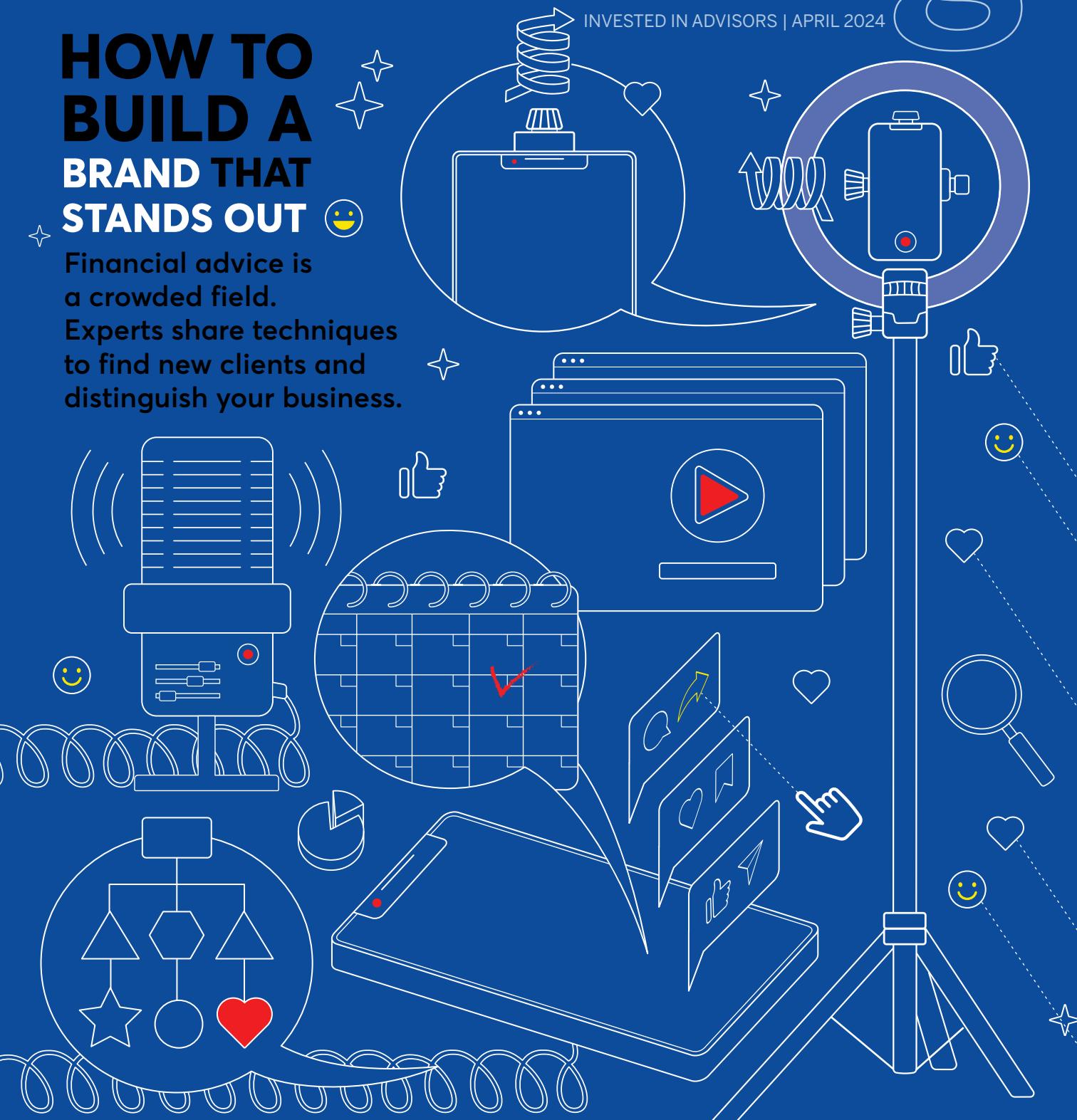


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BY DAN SHAW

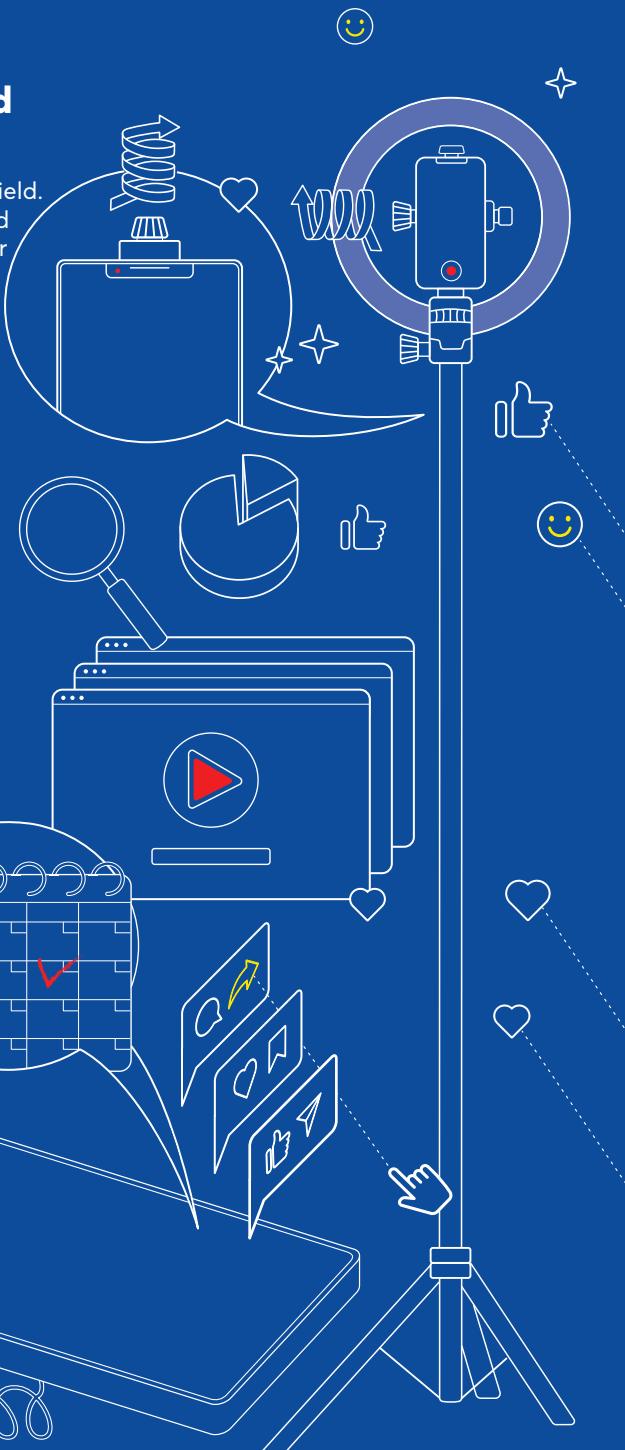
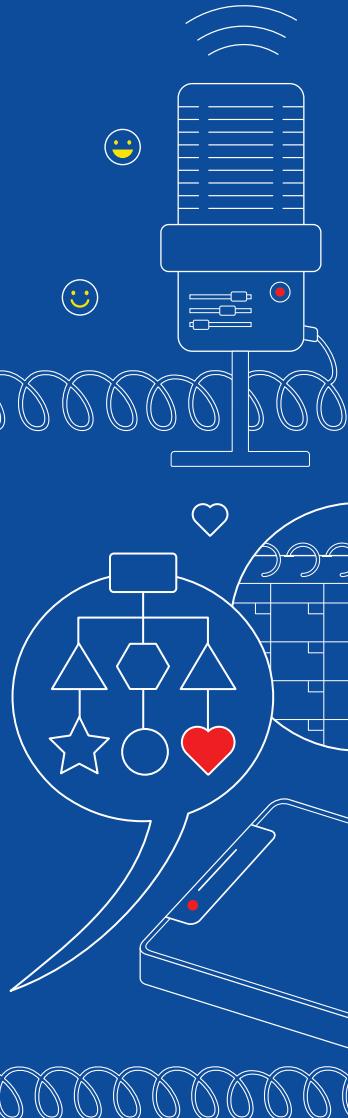


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## Retirement Advisor Confidence Outlook

# Retirement confidence keeps rising as Fed ponders rate cuts

Retirement advisors' confidence in the economy has grown for four straight months — and hit a new record in February.

By Nathan Place

So far, 2024 has been very different from last year for retirement advisors. Every month, they grow a little more bullish.

Retirement confidence rose once again in February, according to Arizent's Retirement Advisor Confidence Outlook (RACO) survey. The study measures advisors' economic confidence on a scale of minus-100 to 100, and in February, that score rose to 11.63 — its highest point since the survey began last June.

"The market is outperforming and may have already priced in a slowdown," one wealth manager told the survey. "I expect the market to be positive for 2024."

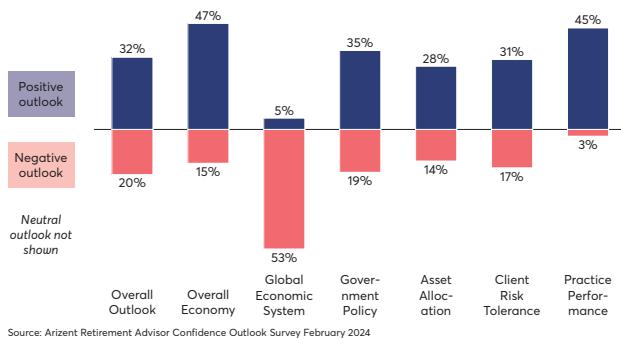
While a score of about 12 out of 100 may not sound very high, that's up from minus-21.35 in October 2023. Since then, confidence has risen for four consecutive months.

Advisors cited many reasons for growing optimism, but one was particularly common: the Federal Reserve. In December, the Fed announced that it was most likely finished raising interest rates and would probably lower them three times in 2024.

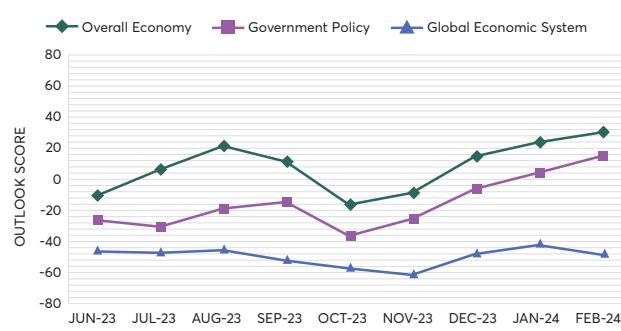
"We believe that our policy rate is likely at its peak for this tightening cycle, and that if the economy evolves broadly as expected, it will likely be appropriate to begin dialing back policy restraint at some point this year," Fed Chair Jerome Powell said.

For retirement advisors, who typically focus on the long term, this was more than enough to bolster confidence. Forty-seven percent of RACO's respondents said the Fed meeting left them more optimistic about the economy, compared to just 15% who said they felt less optimistic and 38% who said it had no impact.

## FEBRUARY OUTLOOK COMPONENTS



## ECONOMIC OUTLOOK



"Lower rates will help everything without causing a significant increase in inflation," one planner said.

Almost across the board, measures of retirement confidence

The Retirement Advisor Confidence Outlook, published in partnership with ADP®, is created by the editors of Financial Planning and is based on a monthly survey of about 300 advisors. Visit [financial-planning.com](http://financial-planning.com) for more results.

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increased. Client risk tolerance rose from a score of 8.2 in January to 14.3 in February. Advisors' outlook on the overall economy jumped from 25.2 to 31.9.

In terms of their own practices, advisors' views were especially positive. The score measuring asset allocation increased from 4.4 to 14.2, and practice performance leapt from 27.4 to 41.5.

Even confidence in the American government, which usually sits well below zero, was way up. In February, the government policy score jumped from 5.9 to 15.6 — most likely thanks to positive reviews of the Fed.

"Since the Fed has stopped raising interest rates and indicated that there would be a decrease in rates during 2024, many of our clients have been more optimistic about their investments," one advisor said.

Only one measurement went down: confidence in the world economy. In February, faith in the global economic system slid from minus-40.4 to minus-47.7. But a closer look

at advisors' comments showed this had less to do with the economy and more to do with the violent state of the world.

"Foreign troubles, specifically in the Middle East, are weighing on people's minds," one wealth manager said.

Another common concern was the U.S. presidential election, which many said was making their clients anxious.

"Political turmoil is a concern," one advisor said. "I try to educate that markets work well under both parties, but clients often feel the world is ending if their side isn't in charge."

But while many planners grumbled about the federal government, they showed more confidence in the Federal Reserve — and that, for the most part, meant more confidence in the economy.

"The Fed has a delicate task of reducing interest rates while ensuring that inflation does not climb higher," one advisor said. "But once they can bring down the interest rates while maintaining the inflation target, the economy should gain momentum again and the advisory practice will also do well." **FP**

**Nathan Place** is a retirement reporter with *Financial Planning*.

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## Financial advisors get flexible with fees

Advisors are eyeing alternate compensation models to address one of prospective clients' main concerns.

By Tobias Salinger

As more financial advisors adopt different fees from the industry's traditional rate of 1% of assets, they're inventing new ways of confronting one of prospective clients' main concerns.

Almost all registered investment advisory firms collect a fee based on the number of assets under management, but just under half charge fixed or hourly rates, according to the latest annual snapshot of companies' Securities and Exchange Commission filings

by the Investment Adviser Association and National Regulatory Services, a COMPLY company. The price of advice represents one of the most important practice management questions for planners amid a debate that often divides the industry even as it may confuse the clients paying the fees.

But industry statistics, anonymous messages among advisors on Reddit and focus groups with affluent investors indicate that there is much more nuance involved

than a simple either/or choice of AUM vs. retainer fees. The continuing rise of the independent RIA movement gives advisors more room to take their own path on fees than some may think, though challenges remain around finding the right amount to charge and explaining that expense to the clients.

"For financial advisors, it's OK to feel confident to be a little more explicit," Laura Varas, the CEO of savings, wealth and retirement data research firm Hearts and Wallets, said in an interview. "You're paying for it. It's worth buying."

### Cost concerns

Advisors and consumers are open to flat fees and clear disclosures about the cost, according to available data. Among potential affluent investor customers, cost transparency and general expenses took the top two spots in a February survey by consulting firm Cerulli Associates as the most difficult components of hiring an advisor. At least 46% cited the former as a concern, while 28% reported the latter worry. However, for those who are already working with an advisor, only 11% said their expenses are not transparent enough, and just 12% called them too high.

Clear fees are "critical for growing one's book of

business and building long-term, loyal relationships," Cerulli research analyst John McKenna said in a statement. "Advisors must ensure their fee schedule is easy to understand and the services provided are outlined specifically so clients know exactly what they are paying for and how they will pay — while also understanding how clients wish to engage with their finances and with the advisory team."

Non-AUM fees are growing, but they show more ubiquity than some sort of upstart trend. Over the past decade, the share of SEC-registered RIAs charging a flat or fixed fee climbed 3.4% to 44.9%; the portion charging hourly rates ticked up by 1.7% to 29.5%, the latest RIA snapshot found. About half, 49.6%, collect fixed or hourly fees, and more than 85% of RIAs that offer financial planning services receive those forms of payment.

Meanwhile, 95.2% of RIAs charge asset-based fees in some form, but a mere 20.8% are solely using AUM fees. Most RIAs get paid by clients through a combination of the types of fees, the report stated.

"Advisor compensation structures align advisor interests with their clients' interests," it said. "Through asset-based fees and performance fees, advisors link their compensation to the success of their clients' investments. By charging fixed and hourly fees for some services, advisors can provide services other than portfolio management, such as financial planning, in a cost-effective manner."

Rhetoric around the industry frequently belies that pragmatic language. The messages in an early February subreddit conversation in the "r/investing" community of Reddit called "Roast me: I'm a financial advisor who charges AUM" devolved into planners taking potshots at each other over the correct ethical definition of

"fee-only" and accusations of spreading misinformation about the profession. The original message by a 15-year veteran advisor and one of the most upvoted responses revealed more subtlety and respect across the professional community, though.

The advisor noted that "much of the feedback I see on Reddit is so negative toward advisors that charge AUM" but said that "very little of what I do is related to investment management." In addition to investing, the practice provides cash-flow planning, legal and estate services, tax consultation and balance-sheet management, the advisor said.

"I feel like I do a lot for my AUM fee, which starts at 0.65% and declines to 0.4% at \$10M," the advisor wrote. "However, it doesn't seem like the world thinks very highly of what I do for a living. So Reddit, roast me. Tell me why you don't need me."

Seemingly none of the responses took the advisor up on that request.

"It sounds like you offer a lot of value for your clients," a commenter said in a reply with over 100 upvotes. "And given your account minimum, you're not preying on someone who can't really afford it. Most of the hate in this sub for AUM fees seems to be targeted towards advisors charging entry-level investors — someone with \$50k to invest getting charged 1% to essentially just invest in index funds. You're obviously doing a lot more for the people who actually need it."

## Refreshingly clear fees

For planners who are using non-AUM fees, their model offers fewer conflicts of interest, more customization and an ability to work with clients who are outside the standard base of rich people. Many planners criticize AUM charges because they give advisors an incentive to bring more assets in-house

from accounts that may otherwise be in a client's best interest.

Some could be building up a solid nest egg in their employer's 401(k) plan, according to Phoenix-based Singh Private Wealth Management founder Raman Singh, who said he was motivated to ask, "Were you really a fiduciary, or were you just trying to get paid?" when he saw advisors move money out of a client's pension plan to an account under their own control. When he launched his RIA last year, he decided to use alternatives to AUM fees.

"The whole idea was to be transparent about fees and letting people understand that, as financial planners, we go beyond just managing investments," Singh said in an interview. "I wanted to bring the transparency component. I just don't think it's fair to the clients that, when their investments are growing, my fees are growing."

Planner Leighann Miko, the founder of Los Angeles-based Equalis Financial and co-founder of newly launched independent advisor network Avise Financial, made a similar choice in 2020 when she was refreshing her RIA's brand, she noted in an email. The non-AUM fees "convey the value of planning instead of emphasizing the investments," she said.

"We utilize a minimum annual base retainer fee that covers all financial planning as well as the management of the first \$500,000 of a portfolio," Miko said. "Any portfolio balance greater than \$500,000 is billed at 0.6%. Of course, if a client doesn't have any assets yet, they pay only the base retainer fee for the financial planning. One of the benefits there is that the client gets access to quality advice without having to have a \$1,000,000+ portfolio. As a firm, this helps us reach a broader, more diverse population."

In a notable contrast to much of an  
**Continued on page 11**



## Helping clients avoid the top 5 financial regrets

From not saving enough to racking up credit card debt, here's what Americans wish they hadn't done with their money.

By Nathan Place

In many ways, 2023 was a surprisingly good year for the U.S. economy. Inflation cooled, stocks rallied and the Fed promised to start cutting interest rates. And yet, at the start of 2024, many Americans looked back on their finances with regret.

A new study by Forbes Advisor and the research group OnePoll has quantified this remorse. Researchers surveyed 2,000 U.S. adults at the end of 2023, and found that 81.6% of them regretted something about

their financial decisions that year. And they didn't take these mistakes lightly — 68% said their mistakes caused them significant stress. It's an emotion many financial advisors have seen firsthand, especially from new clients.

"When we meet with clients for the first time ... they feel regret on so many levels," said Marianela Collado, CEO of Tobias Financial Advisors in Miami. "Not saving enough, not contributing to their 401(k), not knowing about the power of Roth conversions, not using debt

wisely — you name it. The list goes on and on."

Respondents told Forbes Advisor about a wide range of regrets. At the top of the list, lamented by nearly one-fifth of Americans, was not saving more for retirement. Others rue paths not taken — for example, not getting a high-yield savings account — and straight-up mistakes — e.g., buying more property than they could afford.

Of course, there's nothing an investor — or their advisor — can do to change the past. So part of a wealth manager's job is to help a regretful client shift gears from lamenting the past to preparing for the future.

"I tell them hindsight is 20/20, but since we can't go back in time, we just have to make do with what we have now and look forward," said Collado.

Here are Americans' top five financial regrets of 2023 — and what advisors can do about them.

### Not saving for retirement

More than any other financial mistake, Americans are kicking themselves for not doing more to build their nest eggs. A plurality of Forbes' respondents — 19.8% — regretted saving "little to no money" for retirement in 2023.

"This is typically the biggest regret I see," said Brandon Gregg, a certified financial

planner at BBK Wealth Management in Lafayette, Indiana. "In many cases, folks are starting to ask retirement questions as they reach their 40s and 50s when they should have started planning earlier."

Predictably, older respondents felt this remorse more than younger ones.

Forty-three percent of baby boomers chose this as their top regret. Another factor, some wealth managers believe, was FOMO. The stock market had a particularly good year in 2023, and some Americans wish they'd done more to harness those gains in their 401(k)s. But as advisors can point out to clients, they still haven't missed out on whatever the market may bring in 2024.

"The good news for those people is that even though the best time to start investing was yesterday, the second best time is today," said Ben Lex, a financial advisor at Fiduciary Financial Advisors in Hudsonville, Michigan.

## Missing out on high interest rates

Since summer 2023, interest rates have been at their highest level in two decades. That's been good for some financial devices, such as certificates of deposit and high-yield savings accounts. And while bond values have plummeted, their yields have skyrocketed.

But not everyone tapped these opportunities. According to Forbes Advisor, 15.8% of Americans regret not signing up for interest-bearing accounts. With prices rising rapidly through much of 2023, many of those regretful investors watched their savings lose value.

"The failure to take advantage of accounts with higher yields ties in directly with inflation," said Andrew Van Alstyne, a financial advisor at Fiduciary Financial Advisors in Waxhaw, North Carolina. "Those who have left buckets of money in a traditional, low-interest-rate savings account have literally seen

their purchasing power get decimated over the past year to 18 months."

But as with the stock market, it's still not too late for investors to make these investments — and for their advisors to help them get started.

## Too much credit card debt

Third on the list of laments was racking up too much credit card debt; 14.8% of Forbes' respondents said this was their top financial mistake in 2023. This is not only a regret, but a growing national problem. By the end of 2023, Americans held a total of \$1.13 trillion in credit card debt, according to Federal Reserve data.

And like many other problems, it's been made worse by inflation.

"I've seen a big influx of folks asking for help with budgeting and debt reduction plans," Gregg said. "I believe this has especially ballooned for many as prices on most anything has significantly gone up."

Depending on the size of the debt, this can be a very difficult hole to dig oneself out of. But advisors can help.

"A financial advisor can objectively work through specific spending behaviors, devise a plan that fits the clients' lifestyle and come up with a plan for implementation," Gregg said. "This provides folks with accountability and relief from pressure that they must do it on their own."

## Not saving for emergencies

Retirement wasn't the only thing Americans failed to save for. Many felt they didn't set enough aside for emergencies, with 13.1% saying this was their biggest regret in 2023. And as some wealth managers pointed out, this regret is often intertwined with all the others.

"A lack of an emergency fund is usually what leads to overextension on credit cards to begin with," said Edward

Silversmith, a portfolio manager at Wealth Enhancement Group in Pittsford, New York.

And because these problems are "interconnected," Silversmith said, the solution should address the whole picture. The first thing a financial advisor should do, he said, is set the right order of priorities for the client. "I advise an emergency account right-sized for your household expenses as a prerequisite to some of the other common goals."

## Buying too much property

The fifth most common regret is less about what investors failed to do and more about what they did wrong: buying too much property. According to Forbes' study, 5.9% of Americans said they had bought more real estate and other large purchases than they could afford, and this was their top regret of 2023.

"This is a very dangerous one on my list," said Crystal McKeon, chief compliance officer at TSA Wealth Management in Houston, Texas. "I have seen firsthand that no matter how much money you make, you can find opportunities to spend it if you are not a good steward with your money."

Many of McKeon's clients have left fortunes to their kids, she said, that should have lasted decades. But the children quickly spent them down to nothing. The best way wealth managers can help avoid this, many say, is to provide something often unpopular: discipline.

"While it is human nature to focus on present needs and wants, financial advisors have a crucial role in helping their clients plan for the long term," said Daniel O'Brien, a CFP at Capital Advisors in Shaker Heights, Ohio. "By providing discipline, structure and education, advisors can guide their clients toward achieving financial goals and securing their future." **FP**



## Why the M&A drop-off may already be over

RIA deal volume slipped from its record pace, but dealmakers say fundamentals are driving 2024 activity.

By Tobias Salinger

Even though wealth management M&A slowed in 2023, dealmakers expect the volume of transactions to remain strong due to the underlying factors that continue leading to acquisitions.

The number fell slightly due to larger economic drivers such as the regional banking crisis and high interest rates that raised the cost of borrowing, according to two industry trackers issued in January by Echelon Partners and DeVoe & Co. Still, the industry is going through only the "second inning of a long-term consolidation," said Rick Buoncore, the managing partner of MAI Capital Management, a Cleveland-based RIA.

The elevated age of the tens of thousands of advisors expected to need succession plans over the next decade means "retirement's

going to be an issue" leading to deals, and a continuing flow of wirehouse advisors will realize that "the independent space gives them the best platform to truly serve their client," Buoncore said in an interview. "If you look at the landscape, there are actually more RIAs today than there were when the consolidation started."

### Current figures

Overall industry M&A volume slipped 6% year over year to 321 transactions in 2023 — which represents the second-highest amount ever, following the 340 in the prior year, Echelon noted in its deal report.

"This activity was in the face of high borrowing costs as the federal funds rate surged to more than 20x March 2022 levels,

peaking at 5.50% in July of 2023," the report said. "The collapse of Silicon Valley Bank and the regional banking crisis that followed contributed to an even more stringent financing environment, fostering a risk-off attitude across markets. Wealth management M&A persisted and remained a bright spot in the general M&A market, underscoring the strong fundamentals of the industry and steadfast commitment of buyers to consolidate the highly fragmented industry."

In terms of assets under management, the five largest deals announced last year infused private equity capital and other investments into Captrust, Cetera Financial Group, Focus Financial Partners, CI Private Wealth (now called Corient) and Lincoln Financial Group's wealth management business. With 16 transactions unveiled in 2023, Wealth Enhancement Group outpaced other firms, followed by Mercer Advisors (11), Captrust (nine), Savant Wealth Management (nine) and Creative Planning (eight).

Among RIA deals specifically, the 5% dip from 2022 to 251 transactions came after nine straight years of record M&A, DeVoe's report noted.

"The broader context of rising inflation, global economic challenges and the outbreak of multiple wars dampened M&A activity," the

# Industry News - Practice Management

report said. "But the main culprits were high interest rates, which weighed on buyers, increased their cost of capital and negatively affected their debt ratios."

## The outlook and a case in point

Despite the drop-off for the year, the number of transactions in the fourth quarter surpassed that of the same period in 2022, according to both reports. Climbing quarterly figures suggest volume might regain record-breaking levels in 2024.

The reasons that "activity is heating up" to begin the year include the fact that "the bond market still isn't back to where it was" before its slump in recent years, an upcoming election that could nudge sellers into deals while "they know what the capital gains rate is now" and expected cuts to interest rates by the Fed this year, Buoncore said.

His firm offers an example for the bullish outlook. Buoncore purchased MAI in 2007 from the family of founder Mark McCormack, who had started the RIA as Investment Advisors International in 1973 and built it into a firm with \$900 million in client assets.

Under Buoncore, the firm grew to more than \$4 billion in client assets by 2017, when financial services holding company Wealth Partners Capital Group purchased a minority stake. Private equity-backed Galway Insurance Holdings, a financial services distribution company, acquired a majority of MAI four years later. MAI had reached about \$12 billion in client assets by then, and it has completed 35 acquisitions under the two current backers, Buoncore noted. The firm had \$18.8 billion in client assets by the end of last year, with about 120 financial

advisors and more than 400 total employees working out of more than 20 offices.

Financial advisors considering a sale should first ask themselves whether clients will be "in a better position than they would have" otherwise, followed by the same question about their employees and their families, according to Buoncore, who recommended not going through with it "if you can't answer positively to all three of those." In 2024, the firm is looking for more new geographic locations, investment specialties and service capabilities to add in deals, he noted.

"Our niche is we like to find firms that are at their inflection point of growth," Buoncore said. "They tend to be below \$1 billion in size. At that point they haven't really made that big-dollar investment to get to the next level yet." **FP**

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**Tobias Salinger** is the chief correspondent of *Financial Planning*. Follow him on Twitter at @TobySalFP.

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## Continued from page 7

industry that leaves many specific costs buried in complicated, lengthy disclosure statements, her RIA's website and that of Singh's firm each share the exact prices of their services. Singh's firm has different rates for three tiers of retainer fees, a cost per hour and a price for creating a comprehensive financial plan.

"An average person says, 'Oh, I can't have a financial advisor because they're too expensive,'" he said. "Our fees should be aligned to helping out the average American."

## Challenging caveats

Prospective clients with above-average incomes express interest in flat fees as well. In Hearts and Wallets focus groups of people with \$1 million or more in investable assets, participants told the hosts that "flat-fee planning and advice

would be preferable" and that "I said a flat fee because I'd like to know what I'm paying" and that "percentage of investment sort of punishes you for having a lot of money." Picking the right price point for the fee often proves more tough for advisors than convincing clients that a flat rate itself makes sense, Varas said.

"When you set a flat fee for anything, you've got to get it right," she said. "The bigger risk for flat fees is setting them too low."

Advisors using alternative fees may also need to deflect some other misconceptions among clients, according to Miko.

Many people still see portfolio management as "the main function of a financial advisor," rather than grasping how "planning is the primary focus, which then dictates the investment

strategy," she said. The retainer fee can help drive home that concept.

In that vein, a 1% rate sometimes sounds as if it's less than \$10,000 for a portfolio of \$1 million, she said. So the raw figures could register as "a much bigger pill to swallow, even though they may be paying less than the average AUM fee on the same portfolio," Miko added.

"The advice I would give other advisors considering using a different fee than the 1% of AUM fee is to be confident in the value they are providing for their fee, whatever it may be," she said. "Be sure the fee they are charging is tied to the service being provided. Another thought is to be aware that they may need to do a bit more explaining of the fee, since the AUM model has dominated the industry for decades. It's like a bad habit that we just can't break." **FP**

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## DOL retirement proposal faces pre-election hurdles

Possible threats to the pending rule could play out in Congress and courts before the presidential election this November.

By Tobias Salinger

As critics and supporters await the Labor Department's retirement advice regulation sometime later this year, the pending proposal is adding to the importance of the presidential election.

President Joe Biden's administration is trying to bulk up the fiduciary duties requiring individual retirement account rollovers, certain insurance product sales and other services to 401(k) savers to be in their best interest. Since issuing the proposal in the late fall and receiving more than 19,000 public comments, Labor's Employee Benefits Security Administration will likely release the final version in the second or third quarter. Advocates argue the rule would bolster consumer protections against harmful sales practices, while opponents view the regulation as overly

burdensome in a way that could reduce access to professional advice from financial advisors and insurance professionals.

The timing of the final rule revolves around the upcoming elections this November, according to Benjamin Edwards, a professor of law at the William S. Boyd School of Law at the University of Nevada, Las Vegas who's an expert in securities regulation and backs the proposal. The release will start a 60-day clock under the Congressional Review Act for U.S. lawmakers to raise any challenges. In addition, the trade and industry groups expected to challenge the rule in court must wait until there's a final rule to seek to vacate it through a lawsuit. The next occupant of the White House will decide whether to press any appeals against any potential court

decisions striking down the rule, Edwards pointed out in an interview.

"The sense I have is that there are billions of reasons for the industry to bring some kind of a litigation challenge," he said. "How that litigation will play out may ultimately depend on who wins the next presidential election."

**"There are billions of reasons for the industry to bring ... a litigation challenge."**  
— Benjamin Edwards, law professor

Meanwhile, any "significant shifts" in the current makeup of Congress stemming from the same election "could change the calculus" of the reviews, Edwards added. Lawmakers have passed joint resolutions overturning administrative rules 20 times since 2001, including three in the last Congress and 16 in 2017 and 2018, according to the Congressional Research Service.

"There is a window for Congress to disapprove of regulations in some circumstances. One of the factors that might affect whether the rule makes it is exactly when it comes out and when that review period is and who is in

Congress at the time," Edwards said. "If you get it done before the election and that period expires before a new Congress comes in, then it'll be up to the courts."

## A significant rule

Those two checks on the executive branch will add another step in the process for possible major changes to the guidelines for IRA rollovers under the rule.

As wealth management firms "continue to pursue opportunities in the Employee Retirement Income Security Act of 1974 (ERISA)-covered retirement plan space, they will need to navigate and overcome new and pending regulation imposing more stringent fiduciary requirements when recommending IRA rollovers," research and consulting firm Cerulli Associates found in a January report. In 2022, an advisor worked with the retirement saver in at least 63% of the transactions rolling over \$845 billion from 401(k) and other defined-contribution plans into IRAs — or more than \$532 billion in assets, according to Cerulli.

"While regulation promoting a fiduciary standard often benefits end-investors, there likely will be pushback on these key provisions from the insurance industry and broker-dealer-based advisors who sell commission-laden annuity products," Shawn O'Brien, the director of Cerulli's retirement practice, said in a statement. "Opponents of the proposal note that the Securities and Exchange Commission already is enforcing Regulation Best Interest (Reg BI) outside of ERISA-covered retirement plans."

Many advocacy groups representing large wealth management firms, insurance companies and asset

managers are making the case that the rule could remove the ability of those savers to receive professional advice as part of that process.

The rule could cost as much as \$2.5 billion per year in new compliance expenses, according to a survey of wealth management firms conducted by Oxford Economics on behalf of the Financial Services Institute, an advocacy group representing independent brokerages and advisors. The institute is calling for the agency to withdraw the proposal entirely.

**"If approved, the rule would impose unnecessary and expensive requirements on our members."**

**— Dale Brown, CEO of the Financial Services Institute**

"The study confirms our concerns about the DOL's proposed Retirement Security Rule and its negative impact on the accessibility of financial advice for Main Street Americans as they prepare for retirement," CEO Dale Brown said in a statement. "If approved, the rule would impose unnecessary and expensive requirements on our members, further restricting Main Street American investors' access to professional financial advice, products and services."

However, the supporters of the proposal are coalescing behind it with just as much vehemence in questioning the credibility of the industry's claims about the potential impact. The rule's opponents may have even larger ambitions than simply tanking

the rule, Knut Rostad, the president of the Institute for the Fiduciary Standard, wrote in a column earlier this year for VettaFi's Advisor Perspectives blog.

"Fiduciary opponents have embraced a more ambitious objective — to eliminate fiduciary advice," Rostad wrote. "They are not seeking this legislatively, but in interpreting rulemaking. They want to make 'fiduciary' meaningless through language that is unclear and ambiguous or redefines words and concepts to serve special interests. The testimony of fiduciary opponents on the proposed DOL Retirement Security Rule are clear evidence."

## An issue of trusting in advice?

The proposal represents "a great step" toward creating "a bit more of a level playing field" between the current fiduciary practitioners and insurance agents and other professionals providing retirement advice to plan participants, according to Edwards. Many annuity sales expected to be affected by the rule "are products that you would ordinarily consider to be securities anyway" that "end up in this different regulatory area" covered by the Labor Department rather than the SEC, he said.

Few consumers grasp the fees, conflicts of interests and differences between a registered investment advisory firm and an insurance producer when making their decisions about buying a product such as a fixed index annuity, he added.

"Investors are coming to them and asking them for help because they don't know what to do," Edwards said. "So this is ultimately an area where I think our bias should be to protect trust." **FP**

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**Tobias Salinger** is the chief correspondent of Financial Planning. Follow him on Twitter at @TobySalFP.



# New Wells recruiting head aims to offer advisors choice

Brendan Krebs sees his firm as standing out with its three-pronged structure for financial advisors.

By Dan Shaw

With most large wealth managers already offering generous sign-on deals to advisory teams who come over from rivals, firms are having to find other ways to win the recruitment game.

Brendan Krebs (pictured above), appointed head of advisor recruiting at Wells Fargo in January, thinks the key to success is to ensure newcomers have latitude to run their businesses as they see fit. Wells, Krebs said, does this through its distinct three-channel structure. That consists partly of a traditional wirehouse, where experienced advisory teams work predominantly with clients from the simply well-to-do to the ultrawealthy. Then there's the firm's bank-based channel, which allows customers in one of the firm's more than 4,500 bank branches to strike up relationships with advisors. And there's its

independent channel, Wells Fargo Advisors Financial Network, or FiNet. This line of business — unique among Wells' direct wirehouse competitors — allows financial planners to sign on as independent contractors while still enjoying support from Wells Fargo and access to its investing products.

Krebs said he's fully aware that most wealth managers have a preference for going independent, whether or not they have actually made such a move. A report released in December 2022 by the research firm Cerulli found that 71% of advisors would prefer working in an independent channel, even though only 44% had broken away from employment at a large firm.

Krebs called Wells Fargo's FiNet "the only independent broker-dealer that can offer the full spectrum of solutions from both a

brokerage and lending capability of a major wealth management firm."

Another industry trend not lost on Krebs is the quickening pace of retirements. A separate Cerulli report, released in January, estimates a third of all advisors will retire in the coming decade. That's alarming in an industry in which three out of four new recruits wash out. Krebs said he's optimistic Wells' bank channel can help backfill the ranks by giving newcomers a way into the industry without pressure to build large books of business from scratch.

"We have advisors that are joining our firm, who are perhaps newer in their careers," Krebs said. "And they're entering into our bank channel, where there's great growth opportunities for partnering with other team members across the bank channels and opportunities for referrals, etc."

Krebs, who started his career at Merrill Lynch in 1998, comes into his new role after serving for five years as Wells' managing director and market leader for its New England and Upstate New York region. His promotion is part of a larger management overhaul. He'll now report to Barry Simmons, head of national sales.

Krebs sat down with Financial Planning to discuss his plans and what Wells can do to further stand out from its competitors. (This interview has been edited for clarity and brevity.)

**Financial Planning:** Are these recent organizational changes a sign of an increased commitment to recruiting?

**Brendan Krebs:** I would say it signifies a heightened emphasis and focus on the growth opportunity that recruiting represents, a real focus on extending our work to ensure that not only are we attracting the most successful and most talented advisors and teams across the industry, but ultimately broadening that mandate so that we have an opportunity to help support those advisors.

Really, it's everything across the advisor life cycle. So when you think about advisors joining us, it's with goals around teaming and succession; practice management; looking to potentially bring in the next generation of advisors through our new advisor development program; looking for strategic growth opportunities, perhaps through external book acquisition. All of that now falls under my scope and my team's scope.

**FP:** How often does Wells' independent channel come up in your recruiting conversations?

**BK:** Advisors who are looking at our independent channel, what they've come to recognize is that perhaps we are the only solution out there whereby they can continue to deliver all of the solutions that their clients need and have come to expect from a major wealth management firm, but also enjoy all the benefits and flexibility that comes with an independent offering.

While independence is an incredible growth opportunity for us, we're also really excited about our bank-based channel. That really speaks to identifying ways to ensure that we're attracting advisors across the life cycle, right? It's not just highly talented, experienced and successful advisors, but also those advisors that have built a successful career in a bank-based brokerage model

and are aspiring to enter into the wealth management spectrum.

By the way, we're expanding our bank branches with dedicated advisors to ensure that we're positioning them to deliver the Wells Fargo Premier affluent client experience [for clients with \$250,000 or more to invest]. This path is an excellent way for them to really continue to build their practice of access to bank referrals and then, at some point, perhaps consider a path to independence if that fits their career aspirations.

**FP:** Who is the "bread and butter" wealth management client for Wells?

**BK:** We're really well positioned to offer advice and solutions to clients across their life cycle. You know, one of the areas that has been really rapidly growing that I mentioned is our Wells Fargo Premier model, which is a way for us to provide solutions to affluent clients.

Today, perhaps their relationship with Wells is exclusive to consumer banking. But having an opportunity to provide wealth management solutions through an introduction of a financial advisor is really important to our growth as a business, but also expanding from there, looking at our traditional wealth management business, serving the needs of the high net worth and the ultrahigh net worth clients across their life cycles as well.

**FP:** What sort of recruiting deals is Wells offering these days? We've seen reports they can run as high as 500% of an advisor's trailing 12 months of revenue. Are those accurate?

**BK:** We don't broadly disclose individual recruiting deals. And every transition package is unique to the advisor. Ultimately, what we try to present to a financial advisor or team that's considering joining us is the totality of what we can deliver to them and their practice.

I would just say that we have one of the best, if not the best, overall compensation offerings on the Street. And that would include, of course, a highly competitive transition package. But it also includes overall compensation plans or retirement programs.

**FP:** Pay policies also have a lot to do with advisor retention. What are you doing on the compensation front to keep your most productive teams around?

**BK:** More than anything, financial advisors tell us they want to know that every single day they have the support and resources that they need to take care of their clients. That's paramount.

The other piece of it is, yes, advisors want to know that they're affiliated with a firm that offers a best-in-class compensation offering across the spectrum of cash compensation, rewards recognition, and that's focused on all the right areas that the advisors are focused on, which is supporting clients and helping them be successful.

One of the beautiful things about our business is that our advisors, and ultimately the firms that they affiliate with like Wells Fargo, is that our success is entirely predicated on the success of our clients. So when you put that focus on supporting clients' success, and have that same level of success translate to our advisors, and ultimately our firm, it's a great proposition.

**FP:** Wells Fargo has stopped reporting its advisor headcount. The last time the number was aired, in 2023, it stood around 12,000. Can you shed some light on how many advisors are working in the firm's three channels today?

**BK:** So, we no longer share advisor headcount. But what I can tell you is that we finished 2023 with our highest level of net advisor hiring in years. And that's an important trend that we obviously want to continue to focus on and grow. **FP**

**Dan Shaw** is a reporter for *Financial Planning*.

# Regulation and Compliance



## Industry groups: Anti-money laundering rules could impose stunning burden

The proposal comes as regulators say they've seen a fourfold increase in suspicious activity tied to RIAs.

By Dan Shaw

A proposal to subject advisors to anti-money laundering laws could have firms filling out 60 suspicious activity reports on average every year.

That's what the U.S. Treasury Department's Financial Crimes Enforcement Network estimates would be one likely effect of the new rule for the more than 15,000

advisory firms now registered at the federal level. In general, the 216-page proposal would subject advisory firms regulated by the Securities and Exchange Commission to the same anti-money laundering provisions that now apply to banks and broker-dealers.

Practically, the change would mean that registered investment advisories with \$110

million or more under management would come under a new bevy of recordkeeping requirements and would also be required to submit reports to FinCEN anytime they detect suspicious activity among their clients. FinCEN said its goal is to close holes in the U.S. regulatory system that have enabled bad actors to launder money through financial advisors while many other avenues for such illicit transactions have been closed.

"Investment advisors are important gatekeepers to the American economy, overseeing the investment of tens of trillions of dollars," FinCEN Director Andrea Gacki said in a statement. "The current patchwork of ... requirements creates regulatory gaps that criminals and foreign adversaries exploit to launder money, hide illicit wealth and compromise American innovation."

In estimating that the rule could force firms to send in 60 suspicious activity reports a year on average, FinCEN looked at current submissions by hybrid firms. Since these practices have a broker-dealer division along with an advisory arm, they already fall under anti-money laundering rules.

It's estimates like this that have groups like the Investment Adviser Association on edge. The group,

# Regulation and Compliance

which represents more than 600 independent advisory firms, warns the proposal is just the latest in a number of new rules that threaten to be overly burdensome for small outfits.

"The most worrying thing is the overwhelming effect this will have on small advisors that have very small staffs," said Gail Bernstein, the general counsel of the IAA, in an interview. "To say they must have a dedicated anti-money laundering officer and do all the required reporting and recordkeeping — it's hard to see how they tailored this proposal to the abilities and resources of smaller firms."

The FinCEN proposal would apply primarily to the more than 15,000 independent advisory firms registered at the federal level with the SEC. Also included would be exempt reporting advisors, which work with private funds and venture capital funds and have less than \$150 million under management. Because the SEC already oversees both these firms and RIAs, it would have the authority to examine them for money laundering violations. Left out from the new requirements would be the roughly 17,000 advisors registered only at the state-level in the U.S.

The Treasury has put forward similar proposals in the past only to see them fail to get adopted. This latest push comes amid concerns over the possibility that laundered money is helping to finance Russia's war with Ukraine and to undermine U.S. cybersecurity.

Besides the burden for small firms, Bernstein and others at the IAA are concerned the proposal could prove duplicative of existing regulations. She noted that advisory firms are already under restrictions aimed at preventing fraud.

FinCEN said it proposed the new rule after the U.S. Treasury examined

suspicious activity reports filed between 2013 and 2021 and found that registered investment advisors and exempt reporting advisors were mentioned in about 15% of them. The Treasury also found that the number of reports associated with RIAs and exempt advisors increased by fourfold in the same period even though the total number of reports filed was up by only about 140%.

The analysis found instances in which an investment advisor had provided an entry point to the U.S. market for illicit funds stemming from "foreign corruption, fraud and tax evasion," per the proposed rule. It also said some advisors manage money for Russian oligarchs who have helped finance Russia's war against Ukraine, and others oversee funds that China and other countries use to undermine cybersecurity.

The Treasury said separate scrutiny of documents filed under the federal Bank Secrecy Act between the beginning of 2019 and June 2023 found more than 20 advisors with links to "Russian oligarch investors or Russian-linked illicit activities."

"This review also identified 60 additional investment advisers located in the United States who managed private funds in which identified Russian oligarchs have invested, although there was no indication the adviser was engaged in any illicit activity," according to the proposed rule.

## Shared concerns

Mark Quinn, the director of regulatory affairs at the independent broker-dealer Cetera Financial Group, said he shares some of the concerns about regulatory redundancy. Since Cetera is a hybrid firm, many of its representatives already fall under federal anti-money laundering rules.

Quinn said it would be unnecessarily

duplicative to subject those same people to yet another layer of regulation just to accomplish the same goal.

"But there are a lot of standalone investment advisors," he said. "And in that case, maybe it is appropriate to apply something like this."

Quinn said he was somewhat surprised to see that FinCEN's proposed rule wouldn't place advisors under customer identification requirements that are common elsewhere in the industry. These requirements are a series of steps brokers and banks must take to ensure their clients aren't lying about their identities.

FinCEN's proposal says customer identification rules will be developed later with the help of the SEC. It's also putting off similar requirements for the collection of beneficial owner information from legal clients.

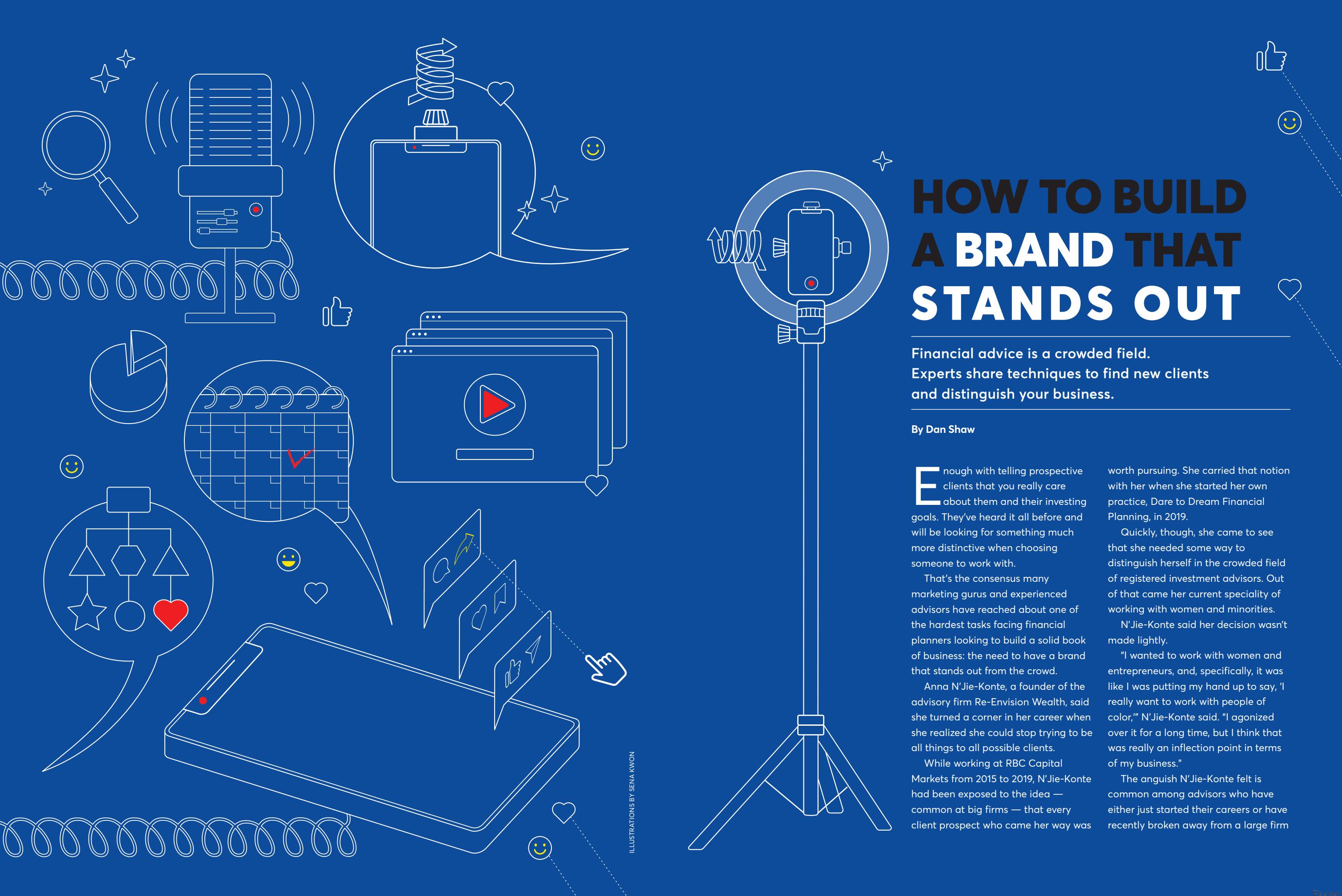
## Uniformity welcome to some

Jesse Brown, the senior compliance manager at Petra Funds Group — which helps administer private equity and debt funds — said the proposal could provide some needed uniformity in the industry. He said there's not many people who know that advisors, unlike brokers and bankers, don't come under anti-money laundering rules.

"This leads to a lack of comprehensive procedures and ample confusion throughout the investment advisor space," Brown said. "Although the proposed rule would increase the expanding regulatory burden on investment advisors, I do believe many will welcome the regulatory clarity and consistency among their peers."

Firms and other interested parties have until April 15 to comment on FinCEN's proposed rule. If it's adopted, firms will have 12 months to come into compliance. **FP**

**Dan Shaw** is a reporter for Financial Planning.



# HOW TO BUILD A BRAND THAT STANDS OUT

Financial advice is a crowded field. Experts share techniques to find new clients and distinguish your business.

By Dan Shaw

Enough with telling prospective clients that you really care about them and their investing goals. They've heard it all before and will be looking for something much more distinctive when choosing someone to work with.

That's the consensus many marketing gurus and experienced advisors have reached about one of the hardest tasks facing financial planners looking to build a solid book of business: the need to have a brand that stands out from the crowd.

Anna N'Jie-Konte, a founder of the advisory firm Re-Envision Wealth, said she turned a corner in her career when she realized she could stop trying to be all things to all possible clients.

While working at RBC Capital Markets from 2015 to 2019, N'Jie-Konte had been exposed to the idea — common at big firms — that every client prospect who came her way was

worth pursuing. She carried that notion with her when she started her own practice, Dare to Dream Financial Planning, in 2019.

Quickly, though, she came to see that she needed some way to distinguish herself in the crowded field of registered investment advisors. Out of that came her current specialty of working with women and minorities.

N'Jie-Konte said her decision wasn't made lightly.

"I wanted to work with women and entrepreneurs, and, specifically, it was like I was putting my hand up to say, 'I really want to work with people of color,'" N'Jie-Konte said. "I agonized over it for a long time, but I think that was really an inflection point in terms of my business."

The anguish N'Jie-Konte felt is common among advisors who have either just started their careers or have recently broken away from a large firm

ILLUSTRATIONS BY SENA KWON

# How to build a brand that stands out



COURTESY OF RE-ENVISION WEALTH

Anna N'Jie-Konte, president and director of financial planning at Re-Envision Wealth

to go independent. With their biggest priority being to build a book of business, many believe they can't afford to turn away any client prospects.

But planners with long-established brands say that's a recipe for simply blending in with the mass of firms making essentially the same pitches. The last thing an advisor wants is to be just another voice in the chorus of wealth managers reciting standard industry fare, said Lori Van Dusen, the CEO and founder of LVW Advisors in Rochester, New York.

"We are all into integrated financial planning and all the things that I used to say 25 years ago that no one was doing then but now everyone is talking about," Van Dusen said. "It's all about integrated financial investments and being objective and partnering with a client and helping them achieve their goals. That's all a bunch of blather."

## Nail down your pitch — don't be bland

For N'Jie-Konte, much of her hesitation over adopting a distinct brand came from a desire to be as agreeable to everyone as possible.

But a bland presentation, she learned, had very little power to draw in new clients.

"I'm a firm believer that if you are not turning anybody off, you're not turning anybody on," N'Jie-Konte said. "I realize that sounds a little weird in the financial advisory industry and from the business-building standpoint. But I think it means it's going to be very hard for you to attract people if you are being very vanilla, bland, innocuous and so forth."

Aviva Pinto, a managing director at Wealthspire, a registered investment advisor with nearly \$30 billion under management, said that one of the first steps advisors should take is to decide what their interests are and then figure out how those can be applied to wealth management.

Pinto specializes in helping clients through transitions. Her clients range from recent widows suddenly saddled with managing household spending to clients who have come into money through inheritance or selling a business.

"My elevator pitch is that if you know people who are not the breadwinner in the family, or were not managing the money, and now find themselves in a position where they're doing it for the first time, I'm the person that they need to talk to," she said.

N'Jie-Konte said she thinks going independent has given her far greater freedom to build her brand as she sees fit. Advisors at large firms, she said, are too often afraid of making mistakes.

"They're trained to think that it's not something that they can do, right?" she said. "Compliance beats the creativity out of so many advisors. Or they're just conditioned to think that they're not allowed to do anything."

## Sharpen your marketing messages and visual identity

Survey results released in February 2023 by the fintech firm Broadridge Financial Solutions found that about 40% of the respondents in its

# How to build a brand that stands out

poll of roughly 400 advisors had landed clients using social media and just under one-third had plans to increase their spending on online marketing over the coming year. Despite those results, only 28% said they had a marketing plan in place.

April Rudin, the founder and CEO of The Rudin Group marketing firm for wealth management companies, said she's regularly dismayed to learn how little time and effort advisors put into making their brands better known. The same wealth managers who scoff at investors trying to build a financial plan without professional help nonetheless think they don't need outside expertise with marketing, she said.

Firms continue to make some of the most elementary marketing mistakes online and in social media, according to Rudin. One example she cited: a heavy reliance on stock photos — generic images often having nothing to do with advisors or their practices. Wealth managers similarly go astray in blogs and other postings when they rely on canned content and other prewritten material meant for a general audience.

Most people are by now used to being bombarded by spam and possibly even scams, and potential clients will be quick to turn a deaf ear to messages that sound off key.

"You want to be as authentic as possible, because it's a relationship business," Rudin said. "And it's a relationship of trust, right? So you don't want to have a photo from 10 years ago. You don't want to have something that doesn't really reflect who you are and what you are, and you want everything to really line up."

Planners can help establish connections with potential clients by doing things like posting photos showing time spent with family and outside the office volunteering at a soup kitchen, she said. But too many forget that their priority should be emphasizing the services they offer.

"A lot of times it's, 'I went to school here, I

have this much AUM, the name of my firm is Rolling Rock because I rolled rocks with grandfather back in New Hampshire,'" Rudin said. "But the main message should be client-centric. It should be all about their problems and things you can do for them."

To build a brand that stands out, independent advisors need to work even harder than their counterparts at large firms. Unlike employees of wirehouses and similar long-established wealth managers, independent planners usually haven't got a household name that's sufficient on its own to draw in clients.

## The Merrill way

But that's not to say large firms don't recognize the benefits of letting financial planners' personalities show through. Merrill Lynch introduced a service known as Merrill Video Pro last year to give advisors an easy way to shoot clips of themselves and distribute them on the firm's own site as well as through social media.



MERRILL LYNCH

Inez Louzonis, head of platforms and capabilities at Merrill Lynch

# How to build a brand that stands out

Inez Louzonis, the head of platforms and capabilities at Merrill, said one Merrill advisor recently saw a strong response to a LinkedIn post with a simple reference to his roots in Texas. Another posted a video for Women's History Month showing her holding her baby. It went "viral," Louzonis said.

"While the canned stuff is good, because it gives people a chance to get out there, it's personal stuff that really takes it to a whole new level," she said.

Gail Gross, Merrill director and communications executive, said the firm gives advisors several options for creating video scripts, including writing them from scratch.

Scripts then go through an approval process, Gross said. "And we've been very pleasantly surprised actually at that very quick turnaround."

For advisors who don't feel comfortable writing a script of their own, there's what Gross called the "Mad Libs" option. Merrill provides a template that allows advisors to fill in the blanks with personal details. The last option, and the least encouraged, is to use a fully prewritten document.

No matter what advisors choose, the goal is to help them make a presentable video as painlessly as possible. Merrill Video Pro allows planners to record themselves using a laptop computer paired with a cellphone camera.

Following a final approval to make sure they stayed on script, advisors are free to share the video publicly. Gross said the system allows for direct uploads to LinkedIn, the social media site designed for professional networking.

Louzonis said she and her colleagues tallied up 187,000 LinkedIn postings by Merrill representatives last year — a 7% increase from 2022, she said. But Merrill wants to do even more.

She said only 63% of Merrill advisors have a LinkedIn profile and 83% of its advisory teams have a website. The expectation, Louzonis said, is that the latter figure will be

boosted to 95% by the end of this year.

"We know that when we have clients that are engaged digitally, and we have FAs that are engaged digitally, the business is double," she said. "So we're just trying to get that message out there and show advisors how this really helps their business and give them lots of opportunities to learn."

## Social media is a must

For some advisors, frequently posting to social media is essential to their brand-building plan. And in fact, more than 80% of respondents to a 2023 survey by Arizent (Financial Planning's parent company) said that they see social media as key to winning millennial and Generation Z clients.

Rudin recommended posting to social media as frequently as possible.

Not every message need contain personal details, she said, but those that do are often the most effective. Rudin said advisors should strive to take something from their lives or from current events and connect it with financial planning.

That will help ground in reality the sometimes abstract notions advisors often work with.

"I'm not saying post pictures of your family if you're uncomfortable with that," Rudin said. "On the other hand, you can — especially if you're going to tie it to your business and talk about providing for the next generation or something like that."

Thomas Kopelman, a founder of AllStreet Wealth in Carmel, Indiana, said he posts five to 10 times a day on social media. In February, he already had posts scheduled all the way through August. It's less work than it seems, he said, because he reuses content in different contexts.

So he'll take a blog posted to his website and break it up into chunks that can be strung together as a thread on X (formerly Twitter). He does a weekly podcast and will promote it in social media posts. The same

# How to build a brand that stands out

goes for the videos he makes for YouTube.

Kopelman said he sees nothing wrong with recycling blogs and other posts. In fact, it helps establish an advisor's speciality or area of expertise.

Also, there's a good chance that an advisor's new followers haven't seen their old content. Kopelman noted that the number of people following him on X has grown quickly, going from 7,500 at the start of 2023 to more than 22,000 today.

But it takes time and effort to build your brand and audience. Kopelman recommended beginning with a modest goal of writing one blog a week and then using that as fodder for perhaps three posts on social media.

As advisors create a greater store of content they can use and reuse in different contexts, they'll find posting to be much easier and faster than it was initially. They can devote the time saved to other tasks such as recording podcasts or making videos. And that content can be used to feed into still further posts.

## Track results and adjust as necessary

Advisors can build content and try to reach new clients across many platforms, but Kopelman recommended focusing on a single social media outlet. He does do some posting on LinkedIn, but spends most of his time on X.

Doing that, he said, allows advisors to not only master a particular format but also makes it easier for them to track how their posts are doing. Kopelman said one of his recent threads on X initially attracted 30,000 views. At the end of the thread, 3,000 people were still reading.

"That means I'd have to get 1% of that 3,000 a year to grow by 30 clients," Kopelman said.

Jason Friedman, the founder of AdvisorFinder, said financial planners need to keep close track of how well their social posts fare — and then be "brutally honest" with themselves about what they may need to change.

"If you're spending six hours a day on social media and, after six months, it's really not doing much for you, could it be time to look at, 'Where else should I be spending my time?'" he said.

"Should I be spending it off screen and trying to get to know people in person?"



JASON FRIEDMAN

Jason Friedman, founder of AdvisorFinder

## Be sure to build your brand offline, too

Both Friedman and Rudin recommended advisors start off with a brand-building plan that accounts for not only online efforts but also offline endeavors such as meeting clients for coffee. That plan should include a marketing budget that allocates money to paid advertisements, mainly on sites like LinkedIn and Google.

Pinto estimated that before the COVID-19 pandemic most new clients were brought in either through referrals or in-person introductions. The lockdowns starting in March 2020 shifted a lot of brand-building and lead-generation work online.

But advisors would be unwise, she said, to discount the power of meeting face to face. One of the biggest barriers new advisors face is often a simple reluctance to make their presence known.

"Which is why I tell people that events are where to start, whether that's on the soccer field or on the baseball field or flying on a plane or whatever it is," Pinto said. "I talk to people on planes all the time. If you're delayed, you're in the same situation as the person sitting next to you. So I strike up a conversation." **FP**



## Taxman tango: A key tax question on gambling wins

Financial advisors and tax pros with clients who bet online or at casinos must guide them through the choice of classifying as amateur or professional.

By Tobias Salinger

The continuing expansion of gambling means that financial advisors and tax professionals are more likely to work with clients who must report their betting income each year to the IRS.

For bettors and advisors who should become familiar with IRS Form W-2G for "certain gambling winnings," the central tax issue revolves around whether wagers represent a legitimate business or a fun amateur hobby, according to certified public accountant Miklos Ringbauer of Los Angeles-based MiklosCPA.

Questions for financial professionals near Las Vegas or other gambling centers are "part of our everyday life," he noted. However, the recent record growth of the industry

is making "hard discussions with clients" about their status more relevant nationwide and providing more opportunities for bettors to go pro, according to Ringbauer.

"For practitioners, it is very important that we educate ourselves or to know when we are unable to support the client properly," he said. "The taxpayer has to decide if they are starting a new business or they are just enjoying some good quality time, and they have to be able to defend their positions no matter which one they do."

### The numbers

Since people have gambled as long as they have engaged in any other type of vice, advisors may have fielded previous ques-

tions about betting, as it relates to ESG screens that prevent so-called sin investments or other vehicles that focus specifically on buying into them.

The rising number of states with legalized sports betting or new casinos is driving more need for tax services involving the burgeoning income. As an industry, U.S. commercial gambling revenue jumped 14% from the prior year to a record \$60.4 billion in 2022, according to the American Gaming Association. That included a 73% bump in sports betting revenue that was up to \$7.2 billion and a 35% spike in online gambling to more than \$5 billion. And 84 million Americans — 34% of the adult population — visited a casino in 2022.

**For bettors and advisors who should become familiar with IRS Form W-2G, the central tax issue is whether wagers represent a legitimate business or a fun amateur hobby.**

Some of those gamblers will be finding out during tax season that they have passed a kind of milestone if they get a Form W-2G denoting that they "scored big" enough for a gaming house

to report them to the government and send them a record of their income, according to a guide by Intuit TurboTax.

While table games such as blackjack, roulette and craps aren't subject to the requirement, gamblers who rake in at least \$600 — or 300 times — their wager on a horse race, \$1,200 in bingo or slot winnings, \$1,500 at keno or \$5,000 in poker will receive the form.

"This doesn't mean you don't have to claim the income and pay taxes on it if your winnings aren't enough to warrant the tax form," the Intuit blog said. "It just means that the institution won't send a Form W-2G."

## For the professionals

Gamblers and their advisors will use criteria other than the form to decide whether to count their betting as a business, though.

The frequency of their in-person or online gambling, the quality of records such as bank statements or logs of the activity and the gross amount of winnings will play a role in the determination.

If the client is a professional, they can deduct any wages, educational materials or other costs as expenses for running their small company, but they "have to abide by the same rules that other business owners have to" in paying "not only income taxes but self-employment taxes" and being prepared for any audits, according to Ringbauer.

Most professional gamblers classify their income as Schedule C unincorporated self-employed business activity, he noted.

"It is purely about the intent. It is very important that they are following the rules and guidelines in order to maintain that status," Ringbauer said. "If you are a gambler, you have to make

sure that you follow those items just like any other business would have to abide by those laws. They must follow IRS guidelines in order to qualify for taxation purposes."

## Gamblers who rake in at least \$600 or 300 times their wager on a horse race, \$1,200 in bingo or slot winnings, \$1,500 at keno or \$5,000 in poker will receive Form W-2G so they can report this income at tax time.

Just as in many areas of tax policy, the 2017 Tax Cuts and Jobs Act tweaked the rules around gambling in mixed ways that could expire at the end of 2025.

Gamblers may itemize a deduction up to the value of their winnings on Schedule A. For all itemizing gamblers, the law temporarily removed the limitation that exemptions for losses be no higher than 2% of their adjusted gross income. On the other hand, another minor provision was "momentous for taxpayers who claim to be engaged in the trade or business of gambling," according to a 2018 article in the Journal of Accountancy.

In a reversal of a previous tax court ruling, professional gamblers can no longer carry a net operating loss in their business above the amount of their winnings, authors Wei-Chih Chiang, Yingxu Kuang and Xiaobo Dong noted.

"Congress may extend it further. In the meantime, professional gamblers' winning streak apparently has come to an end," they wrote in the article, which was titled, "Tax Reform Law Deals Pro Gamblers a Losing Hand."

The higher standard deduction

stemming from that law is prompting fewer taxpayers to itemize, so amateur gamblers will likely pose fewer complexities in their annual returns.

If they choose to claim a deduction for losses up to the level of the additional income from bettings, they still "must keep an accurate diary or similar record of ... gambling winnings and losses and be able to provide receipts, tickets, statements or other records that show the amount of both ... winnings and losses," according to the IRS.

In filing with the agency each year, gamblers add the amount from Form W-2G to any other winnings on top of their overall income, Ringbauer noted. Due to the self-employment taxes paid by business owners, amateur gamblers in some cases may give Uncle Sam a lower amount than if they had classified themselves as professionals.

## A casual gambler'

"If you are just a casual gambler and you happen to win \$10,000 in Vegas, that would be subject to ordinary income taxes," Ringbauer said, describing the choice of being amateur or professional as one with trades and benefits on either side.

Regardless, advisors and tax professionals should remember that there is "a lot of misinformation out there," so they "have to help our clients understand the consequences of being too zealous in their activity," he noted. For instance, they may need to offer clients a gentle reminder of the rules for additional income besides the wages at their day job.

"You as a taxpayer are required to report your worldwide income," Ringbauer said. "Failure to do that will have significant penalties. So remember you are signing your tax return under penalty of perjury." **FP**



## What advisors should know about 'superfunding' a 529

The gift outlays can affect clients' long-term trail toward RMDs, Roth IRAs, the FAFSA and other areas.

By Tobias Salinger

An exception to the rules for gift taxes for contributions to 529 savings plans toward college tuition and other educational costs provides an opening for a "superfunding" strategy.

More than 16.25 million accounts hold upward of \$450 billion in 529 plan assets in the U.S., according to the National Association of State Treasurers' College Savings Plans Network. The accounts give financial advisors and their clients who are parents (or other relatives to the beneficiaries) a means of building up a tax-exempt investment portfolio with penalty-free withdrawals for qualified educational expenses. Certain states give the contributors tax credits or income deductions for the outlays to the accounts.

Annual adjustments tied to inflation

boosted the exclusion from gift taxes to \$18,000 per beneficiary for individuals and \$36,000 for couples filing jointly in 2024.

For the special guidelines in the tax code for 529 plans, the amount that single or married contributors could transfer duty-free into those accounts rose to \$90,000 and \$180,000. The account owners can use that "superfunding" strategy without incurring gift taxes that start at 18% on the first \$10,000 above the limit up to 40% on \$1 million or more. However, those contributions will count against the annual exclusions from gift taxes to one recipient for five years.

Those kinds of complications — as well as the different tax advantages in various states, the impact to the Free Application for Federal Student Aid and the key questions for rolling over any unused assets in a 529

plan to a Roth individual retirement account — illustrate why it's important for savers to work with an advisor or tax professional, experts told Financial Planning.

"529 plans can be used as a tool for estate planning while empowering future generations and helping to eliminate student loan debt. Contributions to a 529 account for a beneficiary are considered gifts, yet the account owner retains full control over the account," Carolyn Fittipaldi, the marketing director of the Education Trust Board of New Mexico, which oversees the state's direct-sold 529 plan, said in an email. "This is another wonderful way to jump-start a child's or grandchild's education savings account while utilizing gifting exclusions. With this change, families can invest more for the next generation."

She also noted that grandparents or other account owners who are at least 73 years old and must take required minimum distributions may consider using a 529 plan to move those assets out of their estate for tax purposes, without losing control of them. In that vein, grandparents' contributions to 529 plans no longer affect the beneficiaries' eligibility for financial aid, although parental outlays still carry a "minimal" negative impact,

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## The retirement race gap remains stubborn

White Americans still have twice as much retirement wealth as people of color, research shows. Here's what experts recommend to shrink the gap.

By Nathan Place

A little more than a year after Congress passed landmark retirement legislation, American nest eggs are still deeply divided by race.

That's the conclusion of a study from the Brookings Institution, a public policy think tank in Washington, D.C. The study examined the current state of the U.S. retirement system in the wake of two laws designed to reform it: the Secure Act of 2019 and the Secure 2.0 Act of 2022.

But while Brookings noted improvement in some areas, on one issue it found little progress: the persistent racial gap in retirement savings.

"Even though the legislation includes a number of reforms, it does not reflect a broad or comprehensive vision of needed

changes to the private retirement system," the study said. "As a result, there is still much more work to do."

Historically, white Americans have had far more retirement wealth than their compatriots of other races. In 2016, Brookings pointed out, the median Black household had amassed only 46% of the long-term savings of the median white household, and the median Hispanic household had just 49%.

More recently, a 2023 report by the Government Accountability Office found that this pattern had held steady: White Americans aged 51 to 64 typically had twice as much retirement savings as Americans of all other races.

"We have a racial income and wealth gap," David John, deputy director of

Brookings' Retirement Security Project, said at a panel discussing the study. "It is there, it has been present, it is not really improving all that much."

This is partly because Americans of color have less access to 401(k)s. Brookings found that 58% of white employees work for employers that sponsor retirement plans, compared to 47% of Black employees and 36% of Latino employees.

### Social Security gap

Even apart from private retirement savings, there's a race gap in Social Security. Over the course of their lives, Black adults born from 2001 to 2010 will collect 19% less in Social Security benefits than white adults, and Hispanic adults will get 14% less, according to a recent study by the Center for Retirement Research at Boston College.

That's because Social Security benefits are proportional to people's incomes during their prime earning years — which brings us to the root of the problem: Americans of color are generally paid less than white Americans.

In 2019, the median income for white Americans was almost twice as much as it was for Black households, according to the GAO report.

Meanwhile, the unemployment rate for Black Americans was almost twice

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# Tax and Retirement

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according to Fittipaldi.

Other potential drawbacks to 529 plans include "a limited range of investment choices which may not suit all investors' preferences or risk tolerances," said Bryan Eberle, president of tax solutions for Minneapolis-based registered investment advisory firm Nepsis.

In addition, nonqualified withdrawals count toward income taxes and will mean a 10% federal penalty. Any potential modifications to the beneficiary of the account can trigger more rules and limitations, while their lack of control over the account may prove very complicated if the owners' intentions shift over time, Eberle noted.

Advisors should learn the "details of plans in the states where their clients reside," Eberle said in an email.

Grasping the gift-tax exclusions and the five-year frontloading rules "can be crucial for maximizing the benefits of 529 plans" to estates or accounts for other relatives, he said.

"529 plans offer several tax advantages for educational savings," Eberle said. "Contributions to a 529 plan are not deductible on federal taxes, but they may be deductible on state taxes in some states."

"The key benefit is that earnings in a 529 plan grow federal tax-free and will not be taxed when the money is taken out to pay for qualified education expenses."

Recent laws tacked on a few other ideas for advisors and clients to mull, said Corey Hulstein, director of tax for Lenexa, Kansas-based Modern Wealth Management. The 2017 Tax Cuts and Jobs Act expanded the categories

covered as qualified withdrawals from 529 plans to K-12 educational expenses, he noted. The 2022 Secure 2.0 Act enabled beneficiaries to transfer up to \$35,000 in leftover assets following their education to a Roth IRA.

Besides the possible effects on the FAFSA, advisors and clients ought to think through how the five-year exclusion from the gift tax and a possible Roth IRA will play out over the long term, Hulstein said in an email. If they take full advantage of the exception, they won't have to file a gift-tax return for the first year.

"Taxpayers may consider 'over-funding' a 529 plan in order to receive tax-free growth until the beneficiary completes their schooling," he said. "If the remaining balance of unused funds is less than \$35,000, the beneficiary can begin to fund a Roth IRA." **FP**

**Tobias Salinger** is the chief correspondent of Financial Planning. Follow him on Twitter at @TobySalFP.

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that of white Americans.

And contributions to retirement plans, from both employers and employees, are proportional to that income — or lack thereof.

"Our existing retirement savings program relies on deductions and deferrals, so it provides the upside-down subsidy: giving people more who have more, giving people less who have less," Regina Jefferson, a professor at the Columbus School of Law, and a pension law expert, said at the Brookings panel.

In the long run, the result is an almost insurmountable racial wealth gap. The research group McKinsey & Company has estimated that, at the current rate of progress, it would take Black and white Americans over 300

years to reach economic parity with each other.

## Fundamental reforms needed

The Secure and Secure 2.0 laws did some things to level the playing field, including making 401(k)s more widely accessible, encouraging reforms like automatic enrollment, facilitating multiemployer plans and other measures.

But in Brookings' view, more fundamental reforms are needed. One solution it proposes is auto-IRAs: state-sponsored individual retirement accounts that would be made available to Americans who don't have access to an employer-sponsored plan.

Another is "employer-facilitated" retirement plans, which would follow workers from job to job instead of

ending as soon as they change employers.

Such reforms, in the study's estimate, would get to the root of the retirement race gap. Until that core problem is addressed, Brookings predicted, American retirements will remain highly unequal.

"I think the major challenge to the current private retirement system is that it only serves about half of us," Joshua Gotbaum, a guest scholar at Brookings' Economic Studies program, said at the panel.

"People who are poorer, people who change jobs frequently, people who are less well educated, people who are discriminated against — and this includes women as well as people of color — face an insecure retirement," he added. **FP**

**Nathan Place** is a retirement reporter with Financial Planning.

# The Positive Business Impact of Genuine Inclusion

Meaningful progress on DEI initiatives has a real effect on the workforce. We examine the dynamics that drive this conclusion and what it means for companies.



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## Bitcoin ETFs bring new questions, worries

Even planners who are willing to entertain investments in digital assets caution that clients should put in no more than they can afford to lose.

By Dan Shaw

Brett Bernstein has a simple question for clients who come to him with curiosity about bitcoin and other digital assets.

"If you were to go with me to Las Vegas for the weekend, how much would you be willing to put on one number and one color at the roulette wheel?" said the CEO and co-founder of XML Financial Group in Bethesda, Maryland.

With the Securities and Exchange

Commission's historic approval on Jan. 10 of 11 exchange-traded funds tracking the value of the cryptocurrency bitcoin, Bernstein and other advisors are likely to hear only more questions about the possible benefits and downsides of digital assets.

ETFs tracking broad market indexes like the S&P 500 offer investors exposure to a vast array of stocks. But the new bitcoin ETFs are a different animal. Rather than tracking

all the stocks in a particular index, they offer ownership in only one particular asset: bitcoin. And bitcoin has proved to be fairly volatile.

In the past three or so years, bitcoin's price has risen above \$65,000 and fallen below \$12,000. Its value increased by 160% in 2023 amid widespread expectations that the SEC would approve bitcoin ETFs.

Such fluctuation is reason enough for many advisors to be skeptical. Bernstein said he does not rule out cryptocurrencies, especially for clients who have enough money to shoulder losses.

But he does caution them to not invest anything they can't afford to lose. The new ETFs may have made it easier to invest in bitcoin, Bernstein said, "but we as a firm have not changed."

The 11 new bitcoin ETFs have proved popular to investors, drawing in about \$4 billion within a week of their approval. Lori Van Dusen, the CEO and founder of LVW Advisors in Rochester, New York, said her clients have taken note of the new opportunity.

She said even some of the large and midsized institutional investors her firm works with have begun to ask about digital assets, whereas in the past they had "zero interest in even talking about this." Van Dusen said some of her clients — who

tend to be high net worth and ultrahigh net worth — like to buy gold as a hedge against the possibility that the U.S. dollar will plummet in value amid ballooning federal deficits.

Some now think bitcoin and similar assets can serve a similar purpose. Others, Van Dusen said, look at cryptocurrencies as an opportunity to become a venture investor supporting one of the next great leaps in tech.

An advisor's chief responsibility in all of this, she said, is to help clients gauge how much they can afford to put into crypto with the understanding that "you could lose everything."

Van Dusen said she thinks no investor should have more than 5% of a portfolio in digital assets, a figure that should be adjusted down depending on individual circumstances. Van Dusen said she herself has invested in bitcoin — partly as a hedge against the U.S. dollar — and has "done pretty well."

## Official sanction

Although the funds have received the government's official sanction, many regulators still view them with skepticism. SEC Commissioner Gary Gensler backed approval for the ETFs only after his initial attempt at blocking them was swatted down by a lawsuit. In giving the funds the green light, he cautioned that bitcoin is a "speculative, volatile asset that's also used for illicit activity including ransomware, money laundering, sanction evasion and terrorist financing."

Regulators have also been urging advisors to take care in their discussions of bitcoin and other digital assets with clients.

The Financial Industry Regulatory Authority, the brokerage industry's self-regulator, released a report suggesting that firms are violating its

communications rules in a good deal of what they tell investors about crypto.

After reviewing 500 communications firms had with their clients on digital assets and similar topics, FINRA discovered possible violations in 70% of them.

Among other red flags, some brokerages were found to imply that crypto assets can act like cash or cash equivalents.

Almost all advisors agree that caution is due with digital assets. But some take a slightly more favorable view than others.

## Jumping on the opportunity

Ric Edelman, founder of the Digital Assets Council of Financial Professionals, or DACFP, said that 40% U.S. adults already own bitcoin and thus are likely to have taken some notice of the SEC's approval of bitcoin ETFs. Financial planners, he said, should jump on the opportunity to explain to investors what these new funds mean.

He said DACFP, which offers planners an online certificate in blockchain and digital assets, has seen a sharp increase in the number of advisors who are reaching out for help understanding bitcoin ETFs. In response, it released an advisor toolkit offering answers to some of the more commonly asked questions.

In keeping with his belief that more investors could benefit from putting money in digital assets, Edelman cheered the arrival of bitcoin ETFs. Giving the usual caveat about every investor's circumstances being different, Edelman said, "Bitcoin is still a very risky investment, so a 1% to 5% allocation would not interfere with a client's ability to retire in financial comfort if it were to become worthless. Meanwhile, a 1% to 5% allocation can

materially improve the overall return of the portfolio if bitcoin performs as well as many predict."

## You can always walk away

Others remain skeptical. Ryan Kenny, a director and portfolio manager at Crestwood Advisors in Boston, said it's incumbent upon him to listen to his clients' investing ideas and try to accommodate them within reason. That's true even if they're considering a risky asset like bitcoin.

Kenny agreed that anyone committing part of a portfolio to digital assets should take care to keep the allocation small. Even then, his preference is to guide clients to long-term investments in well-understood assets like quality stocks and bonds.

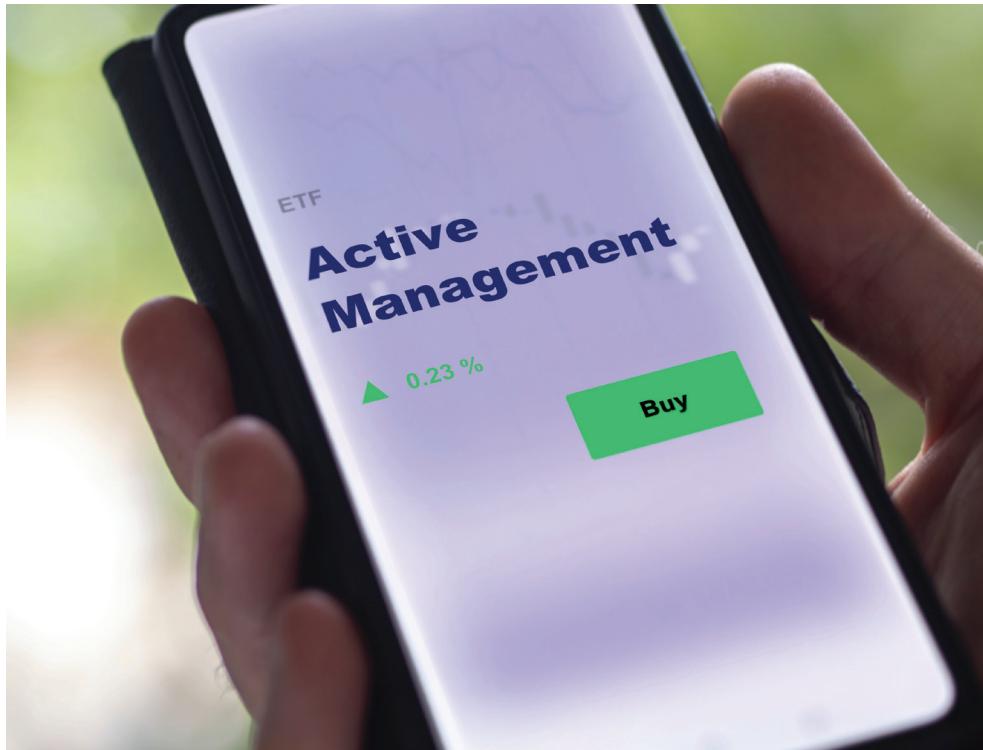
The trouble with cryptocurrencies, he said, is not only in their volatility.

"It doesn't produce earnings or dividends, making it difficult to assign any intrinsic value to it," he said. "Those things combined don't line up with our investment philosophy."

Bernstein of XML Financial Group said advisors of course can't be forced into doing something they firmly believe would go against their clients' best interest. If an investor insists on putting an unreasonably large sum of money into cryptocurrencies or other unusually risky assets, sometimes the best response is to walk away.

"If someone comes to me and says, 'I want you to put 65% of my portfolio into bitcoin,' I'm going to say, 'I think you are committing financial malpractice and potentially financial suicidal,'" Bernstein said. "And if they insist, I'm going to say they need to take their business elsewhere, because I have a responsibility not to allow clients to do something that would potentially cause them serious harm." **FP**

**Dan Shaw** is a reporter for Financial Planning.



## Can active ETFs outperform into more portfolios?

Passive funds reached a long-anticipated milestone that likely won't be reversed anytime soon. But these managers argue expertise has enduring appeal.

By Tobias Salinger

Active asset managers are betting that financial advisors and investors will move some of the trillions of dollars in cash vehicles into ETFs that cost more but may outperform their peers.

Money-market funds fueled by rising interest rates and yields topped \$6 trillion in assets for the first time at the end of January, just as passive mutual funds and ETFs hit a long-anticipated milestone by

eclipsing holdings in active strategies.

Never products could still win over advisors and investors who are likely to cut the cash allocations in their portfolio if the Fed slashes interest rates later this year, according to active managers.

"The reason we're investing in women CEOs is because we think they will outperform," said Patricia Lizarraga, the managing partner of Hypatia Women CEO ETF

issuer Hypatia Capital, said in an interview.

The fund managed by Lizarraga's firm represents a thematic impact investment, which is part of the universe of active products.

The WCEO fund usually holds around 130 stocks in firms with female CEOs. It fits into the small-market capitalization allocation of a portfolio because its issuer identified every publicly traded firm led by women, then isolated for its thesis by correcting for size and industry concentrations, she noted.

For 2023 after the fund's inception last January, the ETF yielded 11.32% in terms of its market value. It charges an expense ratio of 0.85% — an amount that's much higher than small-cap index funds but comparable to other impact vehicles.

Actively managed bond ETFs from Capital Group, the owner of American Funds, and other more conventional fixed-income strategies are vying for investors as the Fed's anticipated cuts to interest rates drive renewed investor appeal.

Capital Group has launched half a dozen actively managed bond ETFs since February 2022, and the firm's active ETFs reached more than \$21 billion in client assets across

**Continued on page 40**



## AI, tech may help combat WhatsApp violations

With so many compliance systems on the market, regulators are likely to look askance at firms that don't embrace them.

By Dan Shaw

With the latest round of fines hitting firms for misuses of WhatsApp and similar services for so-called off-channel communications, many large firms are hoping these sorts of violations are in their past.

But regulatory experts caution that it's not enough to have policies in place insisting advisors use official channels when discussing business with each other or clients. Too few firms go the extra step of making sure employees are abiding by the rules.

Technology can often help here, said Carlo di Florio, the global advisory leader at the compliance consultant ACA Group. With so many messaging-tracking systems now on the market, firms that haven't adopted something of this sort could have a hard time explaining themselves to regulators.

Technology offered by ACA and other specialists can help firms monitor and log messages advisors send to each other and clients using services like WhatsApp or social

media. Artificial intelligence can also be used to detect patterns in communications between firm representatives. Often, di Florio said, people who break the rules are likely to do so only with colleagues they are in frequent contact with.

"These are people who usually know each other, right?" he said. "And because there are millions of communications, we want to home in on those where relational analytics suggest: This is where the risk could be more manifest. So we use natural-language processing as part of that surveillance tool, because it's able to really digest a lot of data and identify and assess patterns."

### Latest warning shot

The SEC recently hit 16 firms with \$81 million in civil penalties for messages sent through unapproved means. The companies caught up in the sweep included some of the biggest names in the industry.

The largest fine fell on Northwestern Mutual Investment Services, together with Northwestern Mutual Investment Management and Mason Street Advisors, which were ordered to pay \$16.5 million. U.S. Bancorp was hit with an \$8 million fine. Meanwhile, Huntington Securities, an institutional broker-dealer out of Chicago, got off with

a relatively small \$1.25 million penalty after going out of its way to cooperate with regulators.

Most of the firms have not been responding to requests for comment. U.S. Bancorp released a statement saying, "We cooperated fully with the SEC's investigation, have been working proactively to enhance our technology and oversight further, to meet the expectations of our regulators and needs of our clients, and are pleased to have this matter behind us."

Previous regulatory rounds have imposed fines for similar violations on some of the top firms in the industry, including Morgan Stanley, Goldman Sachs, Bank of America, UBS and Citi. Di Florio said the total fines handed out easily exceed \$2 billion. Violations were found at all levels, from the C-suite down to customer-facing advisors.

Di Florio said many of these firms have taken steps to prevent violations from recurring, such as insisting that employees only discuss business on company-issued devices and forgo the use of cell phones on trading floors. Now the emphasis will be on making sure they follow through on the commitments they've made.

"The expectation is going to increasingly be that firms are using technology as part of the solution here," he said. "And that may be where firms aren't doing enough. They feel that they looked at their policies and procedures, they've done some communication training, they've issued devices, but are they really using the technologies and capabilities that are available to capture, archive and surveil?"

## Retention test

The SEC views record retention as central to its mission of protecting market integrity. Communications that

are conducted off-channel, using encrypted means, can be extremely difficult to scour for evidence of wrongdoing. The Financial Industry Regulatory Authority, the brokerage industry's self-regulator, has expressed similar concerns about messages sent through unofficial conduits.

"Today's actions against these 16 firms result from our continuing efforts to ensure that all regulated entities comply with the recordkeeping requirements, which are essential to our ability to monitor and enforce compliance with the federal securities laws," SEC Enforcement Director Gurbir Grewal said in a statement.

Brad Levy, CEO of the compliance software firm Symphony, said it's impractical to expect financial planners to abandon messaging on WhatsApp and similar systems. Clients, particularly younger ones, use those services, and advisors will always be under pressure to meet them where they are.

"Sometimes you have personal relationships with someone you really know, right?" Levy said. "You're in the town, your wives or husbands are friends, and you're doing golfing times. And it's a fine line between business."

## Keeping it encrypted

Symphony offers a tracking system that ties into WhatsApp and many other messaging services. Levy said the data remains encrypted, helping to ensure the privacy of client information.

If regulators want to see what someone has sent through these means, they have to go to the advisor's employer. The firm will have a key allowing the messages to be decrypted.

Levy agreed that the SEC is unlikely again to bring big sweeping charges against the firms that have already been hit with substantial fines. Most of

those places have taken the recent enforcement actions seriously enough to avoid a top-to-bottom indictment of their policies and procedures.

But that doesn't mean they'll be able to stop individual advisors from going rogue from time to time. Levy said there's also the possibility that once the SEC starts reviewing information from the formerly encrypted data it has unearthed, it will start finding evidence of dubious activity.

"And that usually takes years, because they'll find something else, and next thing you know, there will be some Wall Street insider trading or something else going on that's even more nefarious. And I think there'll be some of those that eventually come out."

## Regular check-ins

Both Levy and di Florio agreed that firms will do well to remind employees regularly of their duties and responsibilities with communications. Di Florio recommended employers ask advisors to certify once a quarter to certify that they've not engaged in off-channel communications.

"The more frequently you do the certifications [that] require the employee to say they haven't done anything inconsistent with the policy, the greater the likelihood is that people are going to think twice about it," di Florio said.

Regulators will also want firms to show instances in which employees were found to have violated the policies and then explain the consequences. It's important to show that advisors are being treated the same regardless of their seniority or how much money they produce.

"And then is it one strike and you're out? Or two strikes and you're out?" di Florio said. "What are the ultimate consequences that come to bear?" **FP**

**Dan Shaw** is a reporter for Financial Planning.



## What 'finfluencers' can teach the industry

The CFA Institute analyzed 110 videos and other social media posts. Here are the lessons financial advisors can learn.

By Tobias Salinger

Personal finance influencers on social media — known as "finfluencers" — are guiding young investors often ignored by the wealth management industry with some helpful advice, according to a report by the CFA Institute.

They could also be violating advertising and securities laws.

That's one of several takeaways highlighted in a January report by the institute's Research & Policy Center. The report considers the

contradictory impact, marketing implications to financial advisors, regulatory questions for the industry and behavioral investing trends at play amid the rise of finfluencers in recent years. The finfluencers posting on TikTok, Instagram, YouTube or other social media often draw more traffic than certified investment professionals' channels. And they won't be fading out of view anytime soon.

"Finfluencers will continue to disrupt the financial advice industry," one of the report's

authors, CFA Institute Senior Head of Research Rhodri Preece, said in an email.

"One of the primary barriers that Gen Z investors cited to utilizing a personal financial advisor was cost. Advisors can differentiate themselves by thinking about the long-term prospects of their client base, and while those Gen Z investors may not be viable clients today, it is unclear whether they will be in the future."

The researchers conducted focus groups with younger European investors and analyzed a sample of 110 videos and posts across TikTok, Instagram and YouTube. Their findings and recommendations to the industry, social media channels and regulators carry more resonance in light of enforcement cases such as the Securities and Exchange Commission's settlement with a fund company that partnered with Barstool Sports founder Dave Portnoy on an ETF launch. Another case, in 2022, involved Kim Kardashian's work touting a cryptocurrency asset.

"This case is a reminder that, when celebrities or influencers endorse investment opportunities, including crypto asset securities, it doesn't mean that those investment products are right for all investors," SEC Chair Gary Gensler said at the time. "Ms. Kardashian's

case also serves as a reminder to celebrities and others that the law requires them to disclose to the public when and how much they are paid to promote investing in securities."

Advisors who face harsh regulatory penalties if they don't disclose their conflicts of interest often point out the dearth of disclosures on social media, which is often effective at beaming out false information to millions of people at a time. Just 20% of the finfluencer content with what the researchers deemed to be an investment recommendation displayed any disclosure, Preece noted. And 47% of the posts or videos that had any form of promotion included disclosures about compensation or other conflicts. In other words, the amateur investment personalities may be engaging in conduct that would place actual professionals in legal hot water.

"The current landscape of finfluencer content lacks structured guidelines around disclosure," Preece said. "More needs to be done across the industry to ensure there is a proper understanding of what constitutes financial recommendations and the disclosures that must be present in order to protect investors on social media."

Preece said that disclosure responsibilities fall to firms in the industry that work with Gen Z clients. Still, he and the other researchers found positive signs in the finfluencer movement

"It was encouraging to see through the social media content that we evaluated that finfluencers did demonstrate an interest in educating their followers," he said.

"The popularity of this content demonstrates a desire from young investors to understand and engage in the financial markets, which could represent an important opportunity for our industry as a whole."

## Filling a gap?

"Our research suggests that finfluencers may be filling the gap in access to financial information by helping synthesize what is perceived to be complex financial information into accessible social media content. Overall, finfluencers appear to be challenging notions that financial education needs to be formal to be informative and that sound investment advice is issued exclusively by professionals," the report stated.

## Speaking the language

"Our research shows that finfluencers are able to position themselves in ways that are more likely to appeal to Gen Z investors by being present on digital platforms, by providing information for free, by creating content that is perceived to be engaging and informative and that can be accessed during leisure time, by being more relatable to a younger audience and by being able to tap into the financial anxieties and desires of Gen Z investors," read the report.

## Big popularity

"The most followed finfluencers [in the sample] were Erika Kullberg on Instagram, with 4.3 million followers, and Graham Stephen and Ali Abdaal on YouTube, with 4.2 million and 3.9 million subscribers, respectively, at the time this research was conducted. ... The median number of followers/subscribers in finfluencer accounts for the sample was 128,000. ... At least 10 pieces of content in the sample received over 1 million views," according to the report.

## What are finfluencers doing online?

"Our analysis of finfluencer content posted on YouTube, TikTok and Instagram in the markets we studied shows

that the most discussed asset classes were individual shares, index funds and exchange-traded funds. We found that 45% of this content offered guidance, 36% contained investment promotions and 32% contained investment recommendations."

## The role of emotion

"The most common theme we identified was anxiety around finances, which included not knowing where to start investing. Finfluencers often rhetorically asked questions related to whether investing was a source of confusion for their audiences and then presented their content as a solution to some of this confusion," the report said.

## Some suitable guidance

"Examples of good practice included finfluencers who provided information (guidance) about when it was suitable for individuals to invest, such as once they had 'created an emergency savings fund' or 'paid off existing high-interest debt,'" the report noted. "Finfluencers also provided guidance around investment strategies, most notably by conveying that investing should be viewed as a long-term way to build wealth and, therefore, investors should start investing as soon as possible provided that certain conditions were met."

## Lifestyle

"Investing was framed as a means to participate in the consumption of high-end consumer goods, such as sports cars, or as a way to maximize leisure time if one became a successful enough investor. ... It was evident that finfluencers often attempted to position their content as not only solutions to financial worries but also gateways to certain lifestyles that may appeal to aspirational values," the report said. **FP**

**Tobias Salinger** is the chief correspondent of Financial Planning. Follow him on Twitter at @TobySalFP.



# I sold my RIA — here's what you can learn from my merger

Pivoting from "this company will always be mine" to "I need a partner who can help me maintain continuity" is a necessary shift for advisors starting to look beyond the five-year plan.

By Kimberly Foss

With apologies to the memory of David Bowie, the song "Changes" is what often comes to mind as I reflect on the merger of my independent advisory firm with a large RIA early last year.

In retrospect, I feel more and more certain that it was the right thing for me, my team and, most of all, my clients. But of course, there were many transitions along the way.

When I started my independent advisory firm, Empyrian Wealth Management, in 2002, I was driven by the desire to do what was best for my clients — period. Like others who were staking out a space in the fee-only landscape at that time, I felt compelled to

leave the commission-driven, wirehouse environment because of the conviction that as long as I had to "close sales" in order to generate my income, I would never be truly free to advise clients without regard to what was in it for me. I knew in my heart that fee-based advising put me on the same side of the table as my clients; if I did well for them, things would work out for me.

In the ensuing years, I was fortunate to build a solid, loyal clientele. I was blessed to find mentors and a community of like-minded colleagues. I've been able to give back to younger advisors. I've written a best-selling book, and I speak at industry conferences. It

has truly been a busy, wonderful, supremely meaningful ride.

But there comes a time in the career of every founder when one must look beyond the day-to-day affairs of the business, and even beyond the typical "five-year plan" horizon. Especially as a woman professional and a single parent, I realized several years ago that I needed a continuity plan for the approaching day when I would want and need to begin spending time on other pursuits.

In our industry, it is typically advisable to begin the succession process five years prior to the intended transition date. And so, I started looking around. This was the first important transition that started all the others.

Several matters were paramount for me. First, I was adamant that any prospective partner I considered would be committed to providing clients with the same level of personalized care that I had trained them to expect. I also resolved to do everything possible to ensure that the team I had built would be treated well and not ground up in the gears of some corporate machine.

And of course, I wanted to obtain a competitive price for my business. Which brings me to my second major transition: Moving from thinking of my business as "my baby" to thinking of it

as an asset that had value. Any agreement I made had to reflect an accurate assessment of that value.

In all these considerations, my mantra was the same one I learned years ago from my dad and one which has guided my approach to my business since its founding: "Never lead with money; lead with passion."

I would encourage anyone considering a merger to spend serious time surveying the industry landscape. I had the advantage of working with an advisor who was familiar with our industry and who had helped other firms negotiate successful deals.

I can't emphasize this enough: Your CPA and your attorney are there to keep you out of taxation and liability ditches, but an "advisor's advisor" who is experienced in the valuation and sale or merger of firms like yours is essential to making an agreement that is best for you and all other interested parties.

## **Marrying up'**

I decided early that if I was going to "get married," I was going to marry up; to form my alliance with a partner that could offer my clients services, conveniences and other benefits that they weren't presently receiving.

I also knew Empyron needed to be a value-add for the relationship in order for it to be a win-win. And this, building on the transitions already underway, involved yet another: I needed to learn how to see my firm through a potential merger partner's eyes.

This can be the toughest transition of all. We all build our businesses in ways that are bound to our personalities, our strengths and the ways we like to do business. There's just no way that another entity is going to see all that through exactly the same lens. So transitioning to a place where you can

sufficiently distance yourself from the firm you've built to understand the other party's viewpoint is necessary.

Not long after we started looking, about six firms emerged as serious candidates. Over time, some fell away as philosophical differences or incompatible business views emerged.

I narrowed it down to three finalists before concluding my agreement. As it turned out, I was attracted to the firm that would ultimately become my merger partner — Mercer Global Advisors — by their internal culture, which I found to be compatible with ours.

## **In our industry, it's advisable to begin the succession process five years prior to the intended date.**

It should probably go without saying that the process of evaluating and consummating a merger will take you on a learning transition like you've never before experienced. Here are a few questions I wrestled with:

- Where do I want to end up when this transaction is concluded? Do I want a major equity position with the new firm, or would I rather have less equity and instead maximize my after-tax proceeds?
- And speaking of taxes, what are the implications of the agreement? How can I minimize my tax consequences? If I'm a Subchapter-S corporation, should I consider re-forming as a C corporation and forming a charitable remainder unitrust to receive the shares? This would all but eliminate capital gains and also create a lifetime income stream for the grantor and their beneficiaries. Will the merger partner allow this?

- What is the structure for the client retention bonus? A year? Two? Three?
- If the market makes a big move before the deal is finalized, how would that affect the purchase price?
- If the potential partner is asking me to take a majority of the purchase price in the form of stock, why? Are they trying to conserve cash to do five more deals this year? If so, what does that say about their ability to focus on my firm and the needs of its clients?
- When I visit a prospective partner's offices, what kind of feeling do I get? On one site visit I experienced something akin to PTSD because it felt so much like the wirehouse I left years ago. (Needless to say, I didn't choose that firm.)
- Is the potential partner experienced in communicating with the clients of merging firms? A huge plus for Mercer Advisors is that we clearly weren't their "beta test" — they had a transparent strategy for transition communications that was deeply beneficial to my clients, resulting in a 100% transfer of my clients to our new arrangement.

So, after moving through all these changes and transitions, was it worth it? Absolutely. I now have the ability to offer my clients services I never could have before, and my office team feels valued, confident and, best of all, part of a formidable team that can offer high-caliber services to our clients.

By accepting the need for the transitions and moving through them thoughtfully and with the right professional assistance, I believe we came out on the other end of the process stronger, more capable and better prepared for the future. Ultimately, that is what matters most to our clients — and to us. **FP**



# Black Americans need to see Black financial advisors across the table

Too many clients are having important conversations with financial planners who don't share a similar background. That needs to change.

By Janna Hurd

A call to a financial advisor is often one of the first that Americans make when they face the unthinkable, such as the passing of a loved one or sudden job loss.

Advisors are also there for some of life's milestones, such as buying a home, having a baby or entering retirement. Because this client-financial advisor relationship is so much more than a series of professional transactions, the right fit has to be there as well — and for many in the Black community, that fit can be hard to see across the table.

Studies have shown that people are more likely to trust those they perceive as similar to them. By that standard, the financial

industry falls short when it comes to Black financial advisors.

Just 1.9% of financial advisors in the industry today are Black, according to the Certified Financial Planner Board of Standards. That means Black Americans are having some of their most important conversations with professionals who don't share a similar background. It's up to all of us to change that.

Here's why, and what can be done.

## Financial literacy

Working with a financial advisor can help clients better understand important topics

like budgeting, investing and saving, ultimately setting them up for long-term success.

Increasing diverse representation in the industry has the potential to dramatically improve financial literacy in the Black community, because learning from someone who looks and thinks like you can help a message resonate.

## Generational wealth

We know clients want to be able to pass down money and assets to their children. However, for many Black Americans, this simply isn't an option.

According to a 2022 study by the Urban Institute, those in Black communities are more likely to begin their adulthood with lower credit scores and higher amounts of debt. This automatically sets people back and makes

**Studies have shown that people are more likely to trust those they perceive as similar to them.**

it harder for them to achieve wealth over time.

Greater inclusivity in the financial industry means gaining more knowledge of the unique challenges facing Black Americans. Black financial advisors can help eliminate barriers, like debt, so clients can achieve

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greater prosperity and share it with future generations.

## Increased retirement readiness

People who have strong retirement plans in place are four times more likely to achieve their financial goals than those who did little or no planning for retirement, according to a Thrivent survey.

However, only 41% of Black families have retirement account savings, according to 2016 data from the Economic Policy Institute.

Financial advisors not only play a critical role in guiding clients on cash flow and budgeting practices, but they can also help Black Americans create personalized retirement strategies that minimize the risk of facing financial hardships during a period of life that's meant to be enjoyed.

How do we achieve this goal?

In recruiting financial advisors to my firm, Thrivent, I've found that targeted outreach programs and mentorship initiatives are very effective in bringing more Black Americans into the profession. My firm also provides funding to help diverse talent attend

## Only 41% of Black families have retirement account savings, according to 2016 data from the Economic Policy Institute.

industry conferences in order to foster their development.

If all firms start and continue to actively recruit and develop diverse talent, I believe we can live in a world

in which people from every community will be able to have access to financial advisors who have similar cultural backgrounds to the clients that they serve.

## Spotlight shining brighter — all year round

The spotlight on Black financial advisors may shine brighter in February during Black History Month, but it's our collective responsibility to make sure that light doesn't dim for the other 11 months of the year.

Having more Black financial advisors join the industry can be the catalyst to closing the wealth gap in America and helping even more people achieve greater clarity when it comes to their finances.

That's a goal all financial advisors can aspire to, together. **FP**

**Janna Hurd** is the market developer at Thrivent.

## Continued from page 32

equities and fixed income.

"We think that this structure can be incredibly beneficial and you no longer have to sacrifice active management," Capital Group Global Head of Product Strategy and Development Holly Framsted said.

The group includes products with expense ratios between 0.25% and 0.39% aimed at short-duration, core holdings, municipal bonds and income-generating allocations.

Just 12% of fixed-income ETF assets are in active strategies, while 78% of holdings in bond mutual funds have flowed to active vehicles, according to Morningstar data from the end of 2023 cited by Framsted.

"Active fixed-income ETFs are, we believe, going to be the asset alloca-

tion story of the year," Framsted said, noting the investor cash that's currently in money markets.

Active bond managers are facing a steep uphill climb, though.

Between the start of 2022 and the end of November 2023, active fixed-income mutual funds and ETFs sustained outflows of \$547 billion, while their passive counterparts drew an inflow of \$410 billion, Bloomberg News reported.

Still, many active managers view their technology and expertise as giving them the edge over the passive products.

"The case for passive in my mind is not a very strong one in fixed income," Neuberger Berman Group CEO George Walker told Bloomberg.

To get in front of more advisors and

investors, smaller funds must overcome the chicken-or-egg problem of the sizable assets under management required to gain access to a lot of intermediary platforms used by large wealth management firms.

WCEO has between \$3 million and \$4 million in assets, and it's available through large discount brokerages and other self-directed platforms, Lizarraga noted. She aims for more investors to find the fund and invest based on the fund's thesis and criteria that's been under development since 2018.

"It's harder for women to become CEOs, so the ones that do are by definition extraordinary," Lizarraga said. "If the CEOs that get to the top jump over those additional barriers, they should be better." **FP**

**Tobias Salinger** is the chief correspondent of Financial Planning. Follow him on Twitter at @TobySalFP.

# CE Quiz

VISIT [FINANCIAL-PLANNING.COM/CE-QUIZ](https://financial-planning.com/ce-quiz) TO TAKE FINANCIAL PLANNING'S CONTINUING EDUCATION QUIZ.

## From: 'Superfunding' 529 plans carries tax questions — what advisors should know

**1.** If a client wants to "superfund" a grandchild's 529 plan, they may transfer up to this amount duty-free into that account in 2024 if they are a single tax filer.

1. \$50,000
2. \$80,000
3. \$90,000
4. \$110,000

**2.** These contributions will count against the annual exclusions from gift taxes to one recipient for how many years?

1. Three
2. Five
3. Seven
4. None of the above

## From: The taxman tango: The key tax question about gambling income

**3.** Which of these gamblers would NOT receive a form W-2G to report their winnings, according to the IRS?

1. A client who won at least \$600, or 300 times their wager, on a horse race
2. A client who won \$1,200 in a bingo game
3. A client who won \$5,000 in a poker game
4. A client who won \$800 playing blackjack

## From: Secure 2.0 created emergency accounts. Will 401(k) plans use them?

**4.** At what income would a client be considered too highly compensated to be eligible for a pension-linked emergency savings account?

1. \$95,000
2. \$130,000
3. \$155,000
4. \$200,000

**5.** A client can withdraw as much as this amount from their main 401(k) account for personal emergency spending without incurring a 10% tax.

1. \$1,000
2. \$1,800
3. \$2,200
4. \$2,800

**6.** A client can withdraw up to this amount from their main 401(k) account if they are victims of domestic abuse.

1. \$3,000
2. \$6,000
3. \$10,000
4. \$12,000

## From: Unlock opportunities for tax incentives in opportunity zones

**7.** If a client invests in an opportunity zone program, they will not incur any capital gains when selling an asset owned by their fund as long as they hold it for how many years?

1. Five
2. Seven
3. 10
4. 12

## From: IRS adds crypto question to more tax forms

**8.** Which of these tax-paying entities will NOT be subject to an IRS question on whether they received or sold cryptocurrencies in 2023?

1. Trusts
2. C corporations
3. S corporations
4. None of the above

## From: The top 20 bond ETFs of 2023

**9.** Which of these bond ETFs had the WORST performance in 2023?

1. Invesco Emerging Markets Sov Debt ETF (PCY)
2. InfraCap REIT Preferred ETF (PFFR)
3. Invesco BulletShares 2029 HY Corp BD ETF (BSJT)
4. WisdomTree Alternative Income Fund (HYIN)

## From: 15 states with personal income tax rate changes in 2024

**10.** For 2024, which of these states has the most favorable top marginal personal income tax rate?

1. Arkansas
2. Indiana
3. Montana
4. Georgia

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In addition, the Investments & Wealth Institute, formerly the Investment Management Consultants Association, has accepted this quiz for CIMA, CIMC and CPWA CE credit. Advisors must answer eight out of 10 questions correctly to pass. The deadline is February 28, 2025.

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