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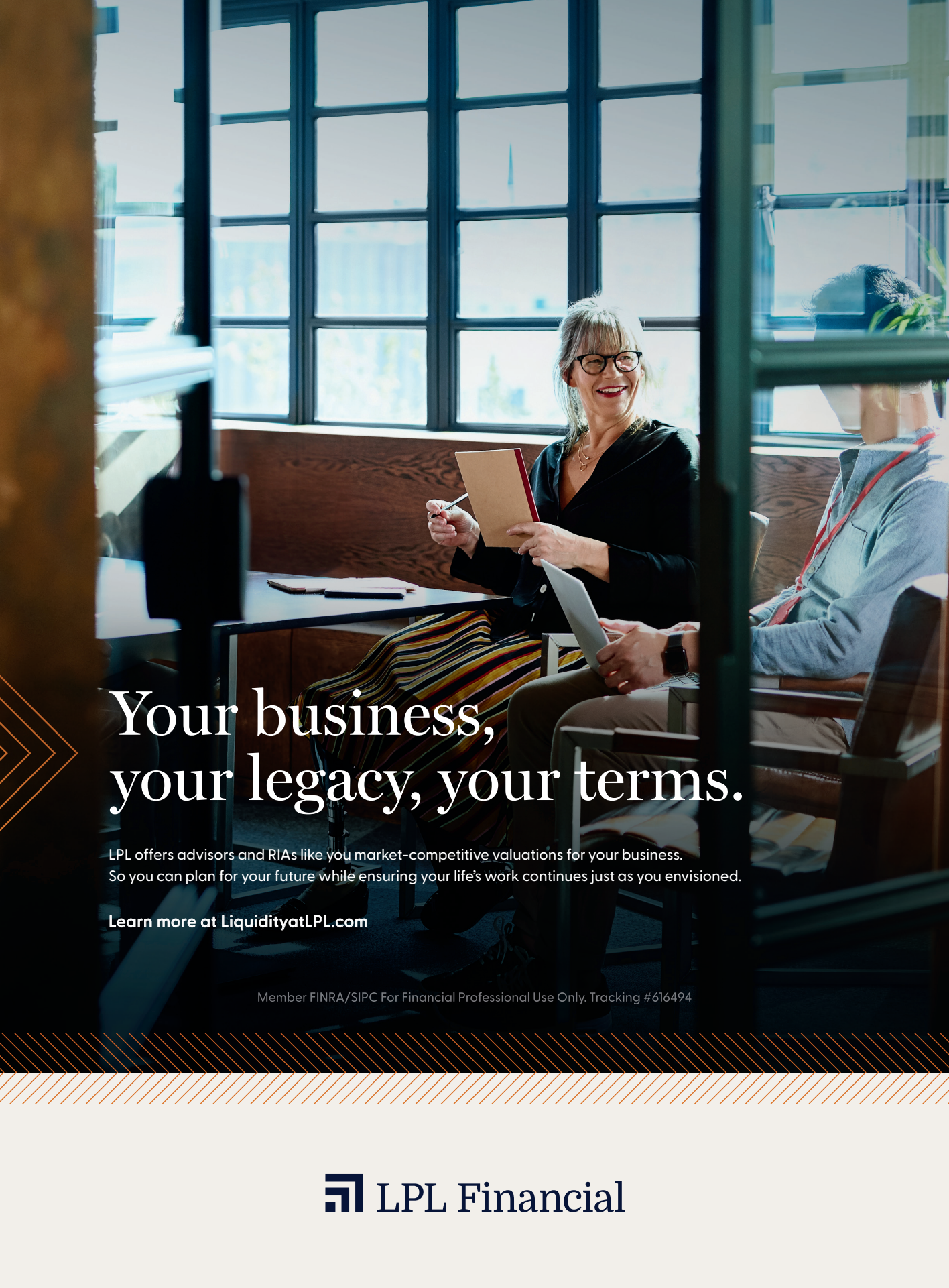
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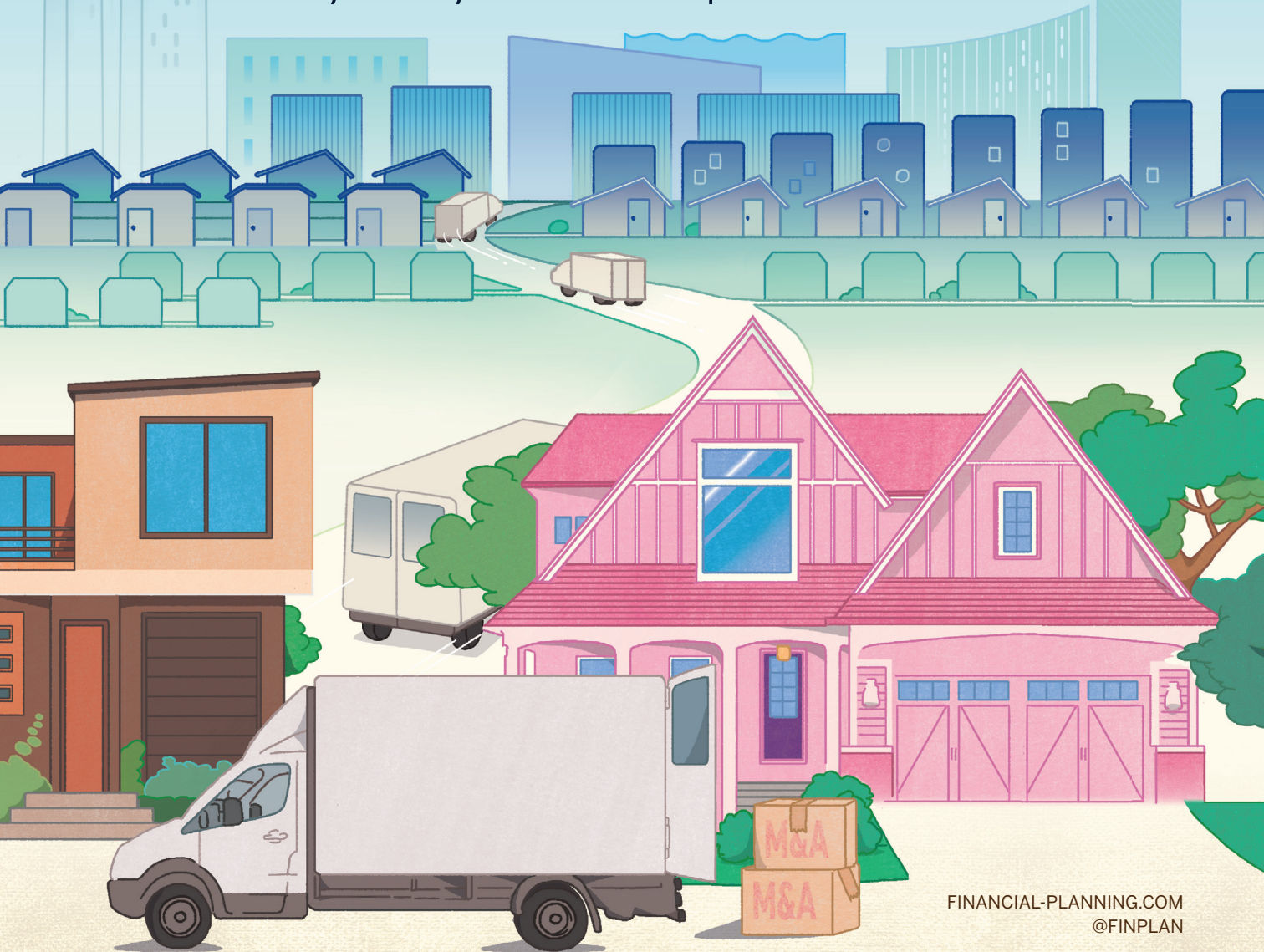
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CAN RIA GROWTH AND TRUE FIDUCIARY DUTY REALLY COEXIST?

Business goals cannot always put clients' best interests first. Here's why even the executives leading fast-expanding advisory firms say the critics have a point.



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Benchmark

DATA-BASED INSIGHT FROM FINANCIAL PLANNING AND ARIZENT RESEARCH

Financial Advisor Confidence Outlook

Financial advisors' confidence at its highest in six months

Despite the increase in overall confidence, election anxiety was a potent force for financial advisors and clients.

By Rob Burgess

Confidence in the U.S. economy among financial advisors has improved to its highest point in half a year.

That's the overall sentiment reflected in data from October's Financial Advisor Confidence Outlook (FACO), a survey of financial advisors and planners by Financial Planning (an Arizent brand).

Every month, FACO surveys hundreds of advisors and measures their confidence on a scale of minus-100 to 100.

In August, that score dipped to its lowest point all year, minus-9. By September, it had improved only slightly to minus-7. But in October, it shot up to 2, a nine-point jump.

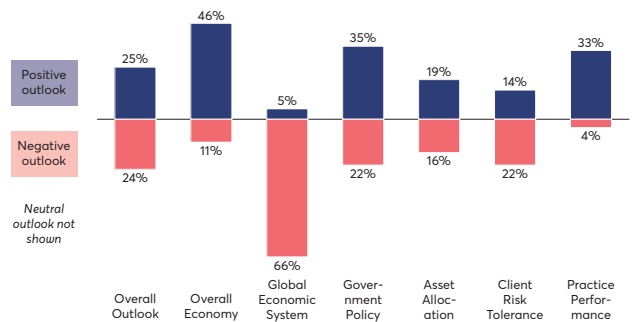
That increase was fueled by a sharp uptick in confidence in the overall economy. In August, that had fallen to its lowest point in a year at minus-1. By September, that metric had improved to an 8. October saw a significant bounce to a 35. However, faith in the global economic system remained low. August's all-time low of minus-71 saw only a slight improvement in September to minus-58.

"Uncertainties in global economic policies, compounded by the war situation, may increase the difficulty of corporate financial planning," wrote one advisor. That outlook worsened a bit in October when it fell to minus-61.

Confidence in government policy remained somewhat steady, as it has only varied by five points over the past four months. In July, it entered positive territory at 9, improved to 12 in August, fell slightly to 11 in September and went up slightly again in October at 13.

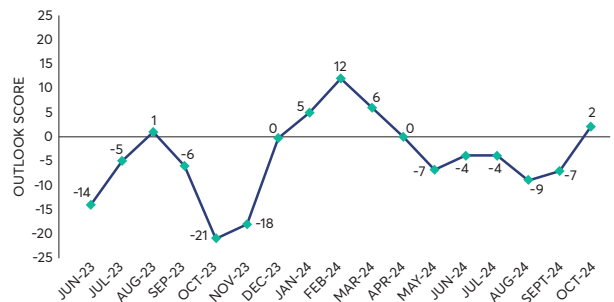
Confidence in asset allocation saw a healthy improvement from the previous month. In September, that figure sat at

OCTOBER OUTLOOK COMPONENTS



Source: Arizent Financial Advisor Confidence Outlook Survey October 2024
Base: 227 Financial Advisors

FINANCIAL ADVISOR CONFIDENCE OUTLOOK



Source: Arizent Financial Advisor Confidence Outlook Survey June 2023 - August 2024

minus-13, but entered positive territory in October at 3.

"Unforeseen events like weather and global instability [are] impacting supply chains and thus markets," wrote one advisor.

The Financial Advisor Confidence Outlook is created by the editors of Financial Planning and is based on a monthly survey of about 300 advisors. Visit financial-planning.com/financial-advisor-confidence-outlook for more results.

Benchmark

"Otherwise, I am continuing to position clients in dividend-paying stocks and bonds to take advantage of the upcoming anticipated rate cuts."

Confidence in client risk tolerance also remained underwater but was also higher than the previous month. In September it was at minus-17, and by October it had risen to minus-8.

Confidence in practice performance also remained steady, as it went from 26 in September to 28 in October.

Advisors reported rolling with the punches in a changing industry while at the same time having to make decisions about how to best serve clients going forward.

"Customer needs are constantly changing, and expectations for customized services are getting higher and higher, requiring us to constantly adjust our service content," wrote one advisor.

Despite the increase in overall confidence, election anxiety remained a potent force for financial advisors.

"[It's] very hard to answer these questions because it truly depends on whether or not we continue to be a democracy or

we have a dictator at the helm," wrote one advisor.

But advisors also said they have been taking the lead in answering client questions and addressing their worries.

"I'd say people are anxious about the election, but I provide a lot of content and reassurance and am in constant training and webinars to get good info to give them," wrote one advisor.

Though it won't come to fruition for some time, advisors said they are closely watching the election outcomes to make sense of the sunset of certain provisions in the 2017 Tax Cuts and Jobs Act at the end of 2025.

"Expected changes to corporate taxation will squeeze profits and increase consumer prices," wrote one advisor. "There will be an increase in legislation to take money from producers and redistribute that to those who produce less. International trade and the cost of domestic social programs will further strain the system, for which the government solution will be to increase taxes even further." **FP**

Rob Burgess is a reporter for *Financial Planning*.

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Practice Management



How financial advisors can tap into endowment clients

Universities with their own investment arms may be out of reach but are only a fraction of the rapidly growing channel.

By Tobias Salinger

Financial advisors who are used to working only with retail clients may not know about potential opportunities in the industry's institutional channel with endowments, experts said.

Many advisors already assist clients with philanthropy and use planning tools such as donor-advised funds. The term "endowments" evokes the giant holdings of Ivy League universities and legendary portfolio managers such as the late Yale University

Chief Investment Officer David Swensen, whose sophisticated methodologies remain influential in the investment world today. Those massive university endowments represent by far the biggest share of assets in the channel, but only a small portion of the potential clients.

Professional designations such as the chartered advisor in philanthropy or the certified investment management analyst, those in an advisor's existing network of

clients with connections to local nonprofits, and an understanding of endowment customers' differing needs could help planners tap into the channel, three experts told Financial Planning.

The "very broad" range of endowments extends from the large academic institutions or hospital systems to charitable organizations of various sizes and to family offices and foundations, according to Andrew Tudor, an investment advisor with Philadelphia-based registered investment advisory firm Zenith Wealth Partners. For example, Zenith struck agreements to work with two local foundations last year. There are "a lot" of possible customers for advisors among "underserved nonprofits and family foundations," Tudor said.

"There are probably some in your network and your book and your community that you haven't looked into," he said. "I would start by asking my best clients if they serve on boards and charities."

Those kinds of inquiries could open the door to the fastest-growing segment of the institutional wealth management marketplace.

Endowment assets will expand at an annual rate of 7.9% in the next five years, compared to 4.7% at public pensions and 2.2% among

corporate defined benefit plans, according to the third-quarter institutional client report by research and consulting firm Cerulli Associates. To be sure, the biggest endowments in the form of the 115 that have more than \$1 billion in assets are driving those figures by controlling 78% of the channel's holdings.

However, there are 2,027 endowments with \$250 million or fewer assets that collectively have \$69.6 billion — including 1,351 with \$50 million or less that have a combined \$20.3 billion. The biggest endowments comprise only 4.5% of the institutions in the channel.

There is "a lot of crossover" with advisors' direct retail client base and their business among endowments, where RIAs are competing with out-sourced chief investment officers from asset management firms for business in some segments of the channel, according to Christopher Swansey, an associate director with Cerulli's institutional practice. The business could flow to the advisors in either direction — in terms of working with the endowment originally and adding an investment committee member as a direct retail client or, say, having served that client already then moving over to their institution as well, he said.

"We definitely see advisors competing for endowment assets on the smaller end of the market," Swansey said in an interview. "We do see some of the relationship network effect taking place, especially in that area of the market."

Advisors could take on "à la carte" duties for endowments like performing an asset manager search or creating investment guidelines or by overseeing a nonprofit's operating and intermediate-term reserves, donor-restricted holdings and investment portfolios,

according to Tim Skelly, founding partner of The Palo Alto Group at Morgan Stanley in Palo Alto and Newport Beach, California, which is part of Graystone Consulting, an institutional arm of Morgan Stanley.

"People generally have an affinity toward their church, toward their college and some other type of charity that may have struck them at some point in their life," Skelly said in an interview. "There's a lot you can do, and it could be as simple as writing an investment policy."

Skelly has the CIMA designation, which is issued by the Investments & Wealth Institute, and Tudor has the CAP mark — a certification from The American College of Financial Services. Training and qualifying for either one offers one method advisors could use to educate themselves about possible services and clients in the channel.

The biggest contrast compared to working with individual clients comes from the work of "consensus building" at a family foundation or nonprofit, Tudor said. The discussions "are really accessible conversations for advisors who are used to setting a target or managing an investment portfolio," but planners must get acquainted with the dynamics of boards and committees that are tasked with finding an institution's investment solutions, he said.

"Making investment recommendations for one person is a little easier than making recommendations for a family," Tudor said. "It can be difficult to get everyone on the same page and make a decision and execute."

On the other hand, since endowments' investments are usually tax-exempt, advisors "don't have to take on that level of complexity that you would" for a retail wealth management client, said Swansey.

"These endowments are looking for institutional-quality service when it comes to their asset management partners," Swansey said. "They're looking to dive deeper into what's affecting performance, what their risks are and what their fees are as well. They're typically going to negotiate and command a lower fee than an individual."

The advisor's role with endowments can evolve into one encompassing "investments plus strategy plus helping them with growth," so they will want to remember that breaking into the channel takes multiple years rather than some sort of "a six-month commitment," Skelly said.

They may even take on the job of fundraising, in which advisors need to be willing to engage in meetings with big donors and keep in mind that, "you have the investment and you have the process side of things, but also having the ability to help them raise money," he said.

"Having a solid investment policy is critical if you're asking major donors to endow this organization," Skelly added.

For some advisors, breaking into a new channel could also mean overcoming anxiety about working with institutional clients rather than individuals, according to Tudor. That's where the professional designations and other education can prove beneficial, such as the fact that many clients and the organizations they hold dear could use that assistance, he said.

"There can be ways that you exclude yourself, saying, 'Oh, I can't do that. That's not my purview,'" Tudor said. "The heavy lifting of managing the accounts, the heavy lifting of knowing how to ask good questions and knowing how to execute an investment portfolio are the same. They cross over pretty well." **FP**

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



How to help LGBTQ retirees with planning challenges

Barriers to marriage, mental health, and government and employee benefits often loom large for a base of clients that is more likely than straight peers to live alone.

By Tobias Salinger

Financial planners aiming to serve more LGBTQ+ clients should understand their particular challenges relating to retirement benefits, estate planning and mental health, an expert said.

Industry professionals and their LGBTQ clients can confront those issues using resources like a September webinar by Laura LaTourette, the founder of Dahlonga, Georgia-based Family Wealth Management

Group, for the Foundation for Financial Planning, a pro bono planning organization. Questions about family status and government and employee benefits loom large for clients who have only gained the right to marriage and the collection of spousal Social Security benefits in recent years, she noted.

"What I'm seeing is there are quite a few of you that really do want to learn more. So thank you so much for joining us. I do

appreciate it," LaTourette said. "The LGBTQ+ community is growing rapidly, and there's a significant portion of us approaching retirement age."

At least 3 million Americans over 50 identify as LGBTQ today, and the number will expand to about 7 million aged 65 or older by the end of the decade, according to SAGE, an advocacy and service provider group for older LGBTQ adults that runs the National Resource Center on LGBTQ+ Aging. Older LGBTQ people are twice as likely than straight elders to live alone and four times less likely to have children.

They're among "the oldest folks in our community" as members of the silent generation navigating the fact that it was "illegal to love the one that you love," LaTourette said. That caused trauma and other mental health problems, as well as "a lot of secrecy and privacy" that continues to the present day, she noted.

"They don't have children.

They were also estranged from families, so they often lived apart from their families. And so they've created what we would call formal families, just to make sure that they had some support," LaTourette said.

"They age, the peers all age and then we get into some

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The work perk that opens doors for financial advisors

Offering access to financial planning allows employees to reap the benefits of the professional service.

By Rob Burgess

Companies are known for offering unique perks to attract new employees in addition to those they already have.

But one fringe benefit that has been popping up more often is providing financial planning and educational services for employees.

One such company, Deseret Mutual Benefit Administrators (DMBA) is a nonprofit organization that administers health care to subsidiary companies of the Church of

Jesus Christ of Latter-Day Saints.

Gerika Espinosa, a financial planner with DMBA, said their employer pays her financial planning team to offer free financial services to the over 50,000 employees of any of their companies.

"It's an incredible benefit, and I wish more companies would do this," she said. "It helps people get real solid financial advice early on and late in life. It's an incredible service that truly benefits the

lives of others. It's one of the most charitable things a company can do for its employees."

Brad Herdt, a financial planner at DMBA, said he is a second-generation financial planner.

"Like my father — and many others in this industry — I feel this profession can make such an impact on the average household," he said.

"Unlike most traditional financial planning business models, however, working in a fringe employee benefit model makes quality financial planning accessible to the masses. It frees clients from worries about conflicts of interest and allows planners to focus on planning."

Human resource departments "love having us in their corner — it takes a weight off their shoulders."

— Brad Herdt

Herdt said the human resource department partners they work with "love having us in their corner — it takes a weight off their shoulders.

"Employees come to me and say, 'I'm getting pitched this investment or insurance idea. I wanted to check with you first, though,

Practice Management

because I know you don't have a sales pitch to make," he said.

William Holliday, principal and wealth manager at Elite Wealth Management in San Diego, said financial education as a perk is becoming more common. Being the investment advisor on a company 401(k) for a family law firm led him to answer questions during their onboarding.

"Employee questions led into their own personal financial planning and eventually the employer and I arranged to provide answers to employee questions as a perk," he said. "This is very much needed."

Providing access to financial education could also come in the form of covering the cost of a budgeting or cash-flow management app, said

Eddy Jurgielewicz, partner and financial planner at Upbeat Wealth in New Orleans.

Holliday said it is important to him to disclose that he is not the employees' financial advisor "and that you don't take responsibility for how they use the education that you are providing."

"The operative word is education," he said. "Calling what I do financial planning could lead to trouble, for me as an advisor and for the employer."

Additionally, Holliday said, to protect the employer from liability — "they are lawyers, after all" — the employees are given a bonus in a certain amount that "coincidentally, is exactly what I charge for the time we spend together."

"Employees are under no obliga-

tion to spend the bonus on their financial education, nor are they under any obligation to spend their bonus with me," he said.

"This freedom to do as they will alleviates the employer from any blowback from the education employees receive."

Holliday said one of the clients asked if he would consult with them beyond the education they get through the relationship at the firm.

"They've also referred me to a friend of theirs who is looking to get advice before retirement," he said. "It's possible that more planners will not only look at working with firms as a potential source of income but also as a good way to build relationships, prospecting to potential future clients." **FP**

Rob Burgess is a reporter for *Financial Planning*.

Continued from page 8

real disparity. Who's going to take care of me? Where do I have assisted living to go into? Are they friendly? Do I have to go back in the closet? So there are a lot of issues with our elders in this area when it comes to senior centers, assisted living and long-term care facilities. Isolation is a real problem for us, and isolation causes more mental health issues and financial stress. So some things change and some things don't."

In that vein, nearly a decade after the legalization of same-sex marriage, advisors and other wealth management professionals "need to be really sensitive" about the fact that some LGBTQ elders "are still trapped in fear and secrecy" while highlighting the importance of their formal relationship status to their financial well-being, according to LaTourette.

"Many of them don't understand that there could be Social Security benefits, that there's definitely a benefit to wealth transfer strategies," she said. "There's benefit preferences and how you leave beneficiary money to your significant other if you're not married. And of course, there are government and corporate benefits. So you really need to talk about this with your clients. You really need to talk about it with the people that you know in our community and make sure that they understand some of those choices and some of those reasons why it might be beneficial to get married. They can do it quietly. If they don't want a big public event, that's OK. But also if you understand what some of the issues are and you understand why it would be important, then you would better support them."

In terms of claiming decisions for Social Security, the website of the Social Security Administration now gives beneficiaries the ability to use unspecified gender categories and displays information for same-sex couples and transgender Americans.

"So this is really important, I think, to understand why this would be important for one of your clients, if they see themselves in this way," LaTourette said. "They have some things that we can see are going to be helpful to you to give to your clients. ... If you were not able to get married and you were wanting to claim some benefits because you were not able to get married before 2015 and you lived in a state that did not have same-sex marriage benefits, then you could also be able to claim those now." **FP**

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



Unlocking tax savings in incoming client portfolios

Advisors can delight their newest customers by deploying new strategies and using technology, experts said.

By Tobias Salinger

An incoming client could turn into a lifetime customer if their new financial advisor or tax professional finds savings on their payments to Uncle Sam during the transition.

Continuing industry consolidation through recruiting moves and M&A deals test advisory practices' scale and onboarding abilities. That influx of client portfolios to a different wealth management firm or technology platform presents opportunities for tax savings through strategies such as loss harvesting, winding

down big stock concentrations and rebalancing of their asset allocations, advisors and other industry experts told Financial Planning.

"If the financial advisor is also a tax professional, it's a single touch point for managing the customer relationship and guiding the client through suggested changes while explaining the rationale," Rupa Pereira, the founder of Apex, North Carolina-based FWJ Planning, said. "In other cases, it's a facilitative process so the client is informed of

the current state and federal tax implications of no action and gets recommended changes in order of urgency."

After ensuring the portfolio aligns to client goals, advisors could begin checking the tax efficiency of their overall financial picture by looking at their latest Schedule D to see if there are any capital losses they're carrying over from the prior year and examining investment holdings for unrealized gains or declines, said Jack Oujo, founder of Wall, New Jersey- and Fort Lauderdale, Florida-based Oujo Wealth Strategies.

Large, highly appreciated stock concentrations equate to "tax bombs" that need defusing through charitable giving with donor-advised funds or charitable remainder trusts, he noted in an interview. In the case of older, wealthier clients, they could also hold that stock until their deaths so heirs avoid paying taxes on the appreciation through the step-up in basis, Oujo said. With time, some of that yield may fall in a down market for stocks as well.

"Sometimes we let a portfolio go without being rebalanced if it will hurt a client from a tax point of view," he said.

The combination of industry consolidation and healthy stock values over roughly an entire decade after the Great Recession create

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CAN RIA GROWTH AND TRUE FIDUCIARY DUTY REALLY COEXIST?

Business goals cannot always put clients' best interests first. Here's why even the executives leading fast-expanding advisory firms say the critics have a point.

By Tobias Salinger



The transaction merging Buckingham Strategic Wealth into The Colony Group under the private equity-fortified umbrella of Focus Financial Partners understandably drew headlines last May.



Focus had gone private in a deal with Clayton, Dubilier & Rice about nine months earlier, valuing the New York-based registered investment advisory firm aggregator at north of \$7 billion. After that (and the departures of longtime Focus CEO Rudy Adolf and the other co-founders, Rajini Kodialam and Leonard Chang, in 2023), the rollup of Buckingham into Colony reflected a new approach: merging the 90 Focus-owned RIAs into a series of a few giant "hubs" rather than a dispersed network of independent partners in the conglomerate.

Focus described the deal combining the \$70 billion in client assets under

management or administration with St. Louis-based Buckingham and its turnkey asset management business, Buckingham Strategic Partners, into Boston-based Colony as "transformational." In a later interview with FA Magazine, the new CEO of Focus, former Colony CEO Michael Nathanson, said the firm strived to be "the leading fiduciary advice platform in the country."

For RIAs, though, the deal represented only the latest in a continuing series of M&A deals of dizzying size and volume that raise questions about whether the consolidation into mega-firms rivaling the scale of the brokerages runs counter to putting clients' best interest first. In other words, RIAs are trying to figure out where the industry's gospel of accelerating growth runs headlong into the supposedly sacred responsibilities of financial planners.

The mega-RIAs argue their dominance

RIA growth and fiduciary duty

ultimately serves the clients through lower costs and efficient operations. Others point out the sheer pace of change folding small businesses into giant brands that generate billion-dollar valuations and the potential conflicts of interest and clunky procedures resembling those of, well, big financial firms. In fact, client attorneys say many RIAs use legal maneuvers against customer complaints that tilt arbitration in the firms' favor to a greater extent than in the cases leveled against Wall Street brokerages.

All of which is prompting conversations across the profession. They're taking place among the smaller RIAs who see potential opportunities alongside the crushing reality of competing with the giants, in the galaxy-brain panels of major industry conferences with some leading voices in the profession expressing ambivalence, and around the membership of organizations seeking to enforce tougher fiduciary guidelines than those of the Securities and Exchange Commission.



JONI ALT

Joni Alt, senior wealth advisor with Arlington, Virginia-based Evermay Wealth Management and the current chair of NAPFA's board

In the case of the Buckingham-Colony deal, the National Association of Personal Financial Advisors, one of the most stringent and respected upholders of the fiduciary duty in the

profession, voided the membership of more than 100 of Buckingham's planners. Upon completion of the deal, the Buckingham planners will be employed by a firm that sells insurance and therefore are no longer eligible to be NAPFA members.

Even though the planners themselves weren't selling insurance, the mass ouster was one of the, "I'm sure, unintended consequences," of the deal, said Joni Alt, a senior wealth advisor with Arlington, Virginia-based Evermay Wealth Management and the current chair of NAPFA's board. As the leading professional network and advocacy group for nearly 4,600 fee-only planners committed to eliminating as many conflicts as possible from sales commissions of any kind, NAPFA is "always going to have potentially some of these kinds of things," Alt said.

"We're looking at it, because this could happen again for other members within our group," she said. "As an association, we want to make sure that we continue to have the high standards that we have."

The raw numbers of consolidation

In light of the constant stream of M&A deals that usually stem from advisor retirements or the competitive needs of scale, the available numbers tracking fragmentation and consolidation in wealth management don't sound particularly surprising.

RIAs with \$5 billion or less in assets under management represent more than 88% of the firms in the channel, but less than 8% of the AUM, according to the annual COMPLY and Investment Adviser Association industry snapshot. Those with more than \$5 billion in AUM comprise fewer than 12% of RIAs, but they manage more than 92% of the assets in the channel. Put another way, the 207 largest firms manage two-thirds of RIA assets.

That concentration holds true at comparable levels even when removing RIAs that have brokerage business or other commissionable products or services. In a much smaller group of 2,920 fee-only RIAs collected by COMPLY from

RIA growth and fiduciary duty

the SEC's database using the criteria of Financial Planning's annual RIA Leaders study, the picture looks only slightly less extreme. The top 207 firms on the list manage 49% of the group's \$2.13 trillion in client assets, the 100 largest have 36% of its holdings and the top 20 manage 16% of the overall pool. (See page 20 for a list of the top 50.)

RIAs are increasingly following the pattern of market concentration that's already in place at the brokerages. The 25 largest brokerages have 93% of the assets in the channel, and the 10 biggest manage 58% of the pool, research and consulting firm Cerulli Associates reported last month.

And wealth management firms of all types are drawing investment from private equity firms or PE-backed acquirers at a high clip. Deals are on pace to increase slightly this year to 330 and maintain their consistently higher volume than before the pandemic, with an estimated 130 of those involving firms with at least \$1 billion in client assets — the highest total in three years, according to investment bank and consulting firm Echelon Partners.

RIAs are proving a valuable and attractive investment, but some signs of business concern have popped up alongside that substantial growth. In a "pulse" survey at the beginning of the year among a group of 70 RIAs that are consulting clients of The Ensemble Practice or participants of the firm's leadership institute, the group of advisory firms reported losing 3.6% of their client relationships in 2023. They still had a net gain of 7.2% when weighed against the incoming clients, but the consultancy detected a three-year trend of climbing customer departures.

"The loss of assets due to clients lost has always been very low in the independent advisory industry, but it seems to be gradually (and dangerously) increasing," the report said.

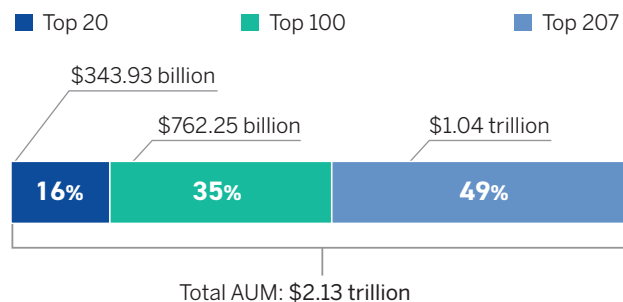
The lawyers would like a word

Outside these industry metrics, the lawyers for several former RIA clients have been raising alarms for years about the arbitration rules in

the firms' advisory agreements. The SEC has documented the issue as well.

Restrictive arbitration clauses represent one of "three major areas where we see problems from growth in the investment advisory space needing to be fixed to maintain fiduciary obligations and the regulatory agencies needing to catch up to this exponential growth," according to Adam Gana, a managing partner of law firm Gana Weinstein and the incoming president of the Public Investors Advocate Bar Association. The other areas, in the plaintiff attorney group's view, are that there should be greater oversight of asset transfers carried out by financial institutions to detect fraud and a minimum level of "errors and omissions" insurance at 2% of a firm's AUM.

Asset concentration at the top of the 2024 RIA Leaders ranking



Source: COMPLY analysis of 2,920 RIAs from their September 2024 SEC Form ADV filings using FP's criteria for fee-only firms; AUM figures are rounded totals

In arbitration, the RIAs often include a variety of provisions that amount to higher costs, less public disclosure of cases and a lower likelihood of success for clients, Gana said.

Some use fee-shifting language forcing clients to pay the firms' expenses if they lose while prohibiting the firm from defraying the customers' costs in a defeat. Others limit the types of claims clients may make against firms.

In general, the cases can prove hard to track because there is spotty or nonexistent mention of them in SEC filings. Inconvenient venues — from a geographical point of view and in terms of forums such as the American Arbitration

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Association — carry higher filing expenses than FINRA's arbitration processes as well.

"It prices investors out of access to justice, and to us it is a major violation of a firm's fiduciary obligations," Gana said. "Like in FINRA, clients should know what you're being sued for and how you're handling those things. Investment advisors have a greater responsibility of disclosure. It's unfair to the consumer."

At least two SEC reports released last year to



ADAM GANA

Adam Gana, a managing partner at law firm Gana Weinstein and the incoming president of the Public Investors Advocate Bar Association

Congress and through the regulator's Office of Investor Advocate last December warned of the shortcomings for clients in RIA arbitration as compared to the FINRA venues for brokerages. Unless the RIA "has made effort to gauge whether the client understands these provisions and the client has provided informed consent," many of them represent conduct "placing its interests ahead of the client's interests in violation of the fiduciary duty," the Investor Advocate office concluded in its report.

The report called for the SEC to consider temporarily suspending the use of mandatory arbitration clauses in RIA advisory agreements with clients until the commission can further study the costs and benefits of the RIA

arbitration process. Thus far, the SEC hasn't taken any actions on arbitration amid its push on any number of rulemaking fronts that are now largely mired in court cases and awaiting the next administration after the election earlier this month.

RIAs are critical or, at least, ambivalent

While fast-growing RIAs may dismiss that issue as a matter for the SEC, they may be more likely to listen to the criticism from within their own ranks reflecting mixed feelings across the profession about the influx of private equity capital over the past decade. On the one hand, the flow brings resources that enable greater scale. On the other, it poses some risks, not least of which is the impact on the industry's base of clients.

The private equity capital is seeking a return on the investments into RIAs confronting succession challenges from impending retirements or the competitive threat from massive firms, said Kevin Thompson, CEO of Fort Worth, Texas-based 9I Capital Group.

"Now I have to go back and garner growth for my firm just so we don't get taken apart," he said. "The clients who always get hurt the worst are the ones who are seen to provide the least amount of revenue. ... When it's all about maximizing shareholder wealth, the people who are hurt are the bottom 5% to 10% of clients."

Those customers and others may seek out smaller RIAs that have more control over their operations and more personalized service, according to Thompson and Jason Ray, the co-founder and president of Philadelphia-based Zenith Wealth Partners.

Smaller RIAs display a "differentiated value proposition" based on their ability to connect with younger clients whose highest-earning years and peak wealth is in front of them, Ray said. In contrast, the giants are trying to serve their clients and their shareholders at the same time.

"These consolidators and RIA aggregators are going to continue to take up market share," he said. "Independence is a key factor in being able to deliver your ideal client experience. That

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kind of dual fiduciary duty really changes your business a lot."

The larger RIAs acknowledge that growth for its own sake isn't always beneficial to their customers, even as they cite some compelling advantages to clients from their scale.

Alpharetta, Georgia-based Merit Financial Advisors has completed at least 28 acquisitions since selling a minority stake in December 2020 to financial services holding company Wealth Partners Capital Group and a group of strategic capital providers led by private investment firm HGGC. As the hybrid RIA leaves LPL Financial's brokerage and custodial arms by the end of 2024, it has roughly doubled its client assets under management or advisement to about \$13 billion in a span of two and a half years, according to Merit President Kay Lynn Mayhue.

The firm's clients have reaped savings ranging from 35 to 60 basis points off their recurring fees as a result of its bigger size, Mayhue noted. Capital investments, hiring and M&A deals reduce outsourcing, deliver cheaper and better technology and bulk up services in areas like tax, trusts, estates, customer communication, portfolio management and, yes, insurance.

"There's no way that a smaller firm could attract that type of talent, even if they could pay for it," she said. "You can just have that best-in-class talent and that best-in-class advisor experience."

Representatives for Focus, Colony and Buckingham didn't respond to requests for comment about the NAPFA exits. However, the new CEO Nathanson's interview with FA Mag earlier this year, after the announcement of the transaction, touched on the complex relationship between the fiduciary duty and quickly enlarging firms like Focus and other RIA aggregators.

There will be "a tension between independence and interdependence" in the next 10 years, but, "I believe you can have both," Nathanson told the publication.

During a panel at last month's CAIS Alternative Investment Summit, Nathanson said that the fiduciary duty extends to fielding offers

from prospective investors alongside more traditional direct investment advice to clients.

"If you're not willing to take private equity or another form of capital, are you comfortable that you can fulfill your fiduciary obligations to your clients without it?" Nathanson said. "And these days, I think you have to ask yourself that question honestly."

Some of the toughest guardians of the fiduciary duty in the profession are answering that question much differently. Where the giants see areas like insurance, brokerage relationships and alternative investments as part of comprehensive fiduciary services, the critics point to possible conflicts of interest that fail to put clients' interests above those of the firms.

NAPFA members are trying to find the right boundaries for planners seeking to reduce conflicts across thousands of advisory practices. Last year, the organization had "a real big hoo-ha" over recurring commission trails that led to updated membership guidelines enabling planners in the group to accept up to \$2,500 per year if they relinquish them over time and abide by other limitations, Alt noted. No new members have come in under those rules, though.

The group's board is currently considering whether private equity ownership of a firm could affect a planner's membership status, but hasn't yet reached a decision. Where they see questions about insurance as "very easy and straightforward," those about private equity ownership are more difficult, she said.

"We really want to be as transparent as we can possibly be, because our first goal is really to serve clients," she said. "There's always a conflict of interest out there, and the more that you can reduce or try to alleviate them as much as possible, I think it makes it easier for consumers."

Fundamental questions for RIAs

Big RIAs that draw those distinctions in different ways than NAPFA are nonetheless trying to make sense of how to balance the business goal of their growth against the fiduciary duty.

In an episode of "The Compound and

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Friends" podcast recorded at the Future Proof conference in September, Ritholtz Wealth Management Managing Partner Michael Batnick asked Creative Planning CEO Peter Mallouk whether "the financialization of our industry via private equity money" is "a good thing for the industry," including the sellers, the buyers and the clients.

Mallouk, whose Overland Park, Kansas-based RIA aggregator secured a minority investment from global alternative asset management firm TPG a couple of weeks later that reportedly valued Creative Planning at more than \$15 billion, answered in the affirmative, with caveats "depending on where you're sitting and who you're working with."

The RIAs need to assess whether the private equity investors are trying to purchase growth or buy-out equity and gain a sense of their timeline for getting a return on their capital, but it "can be good for everybody if it's executed perfectly," Mallouk said.

"Private equity comes in, and they will force institutionalization on that firm, which is good for the client," Mallouk said. "The client needs to have cybersecurity in place, and independent financials and all of this stuff. That's definitely good for a client. You're far less likely to have a disaster. So I think from that perspective, it's good. But the private equity firm does not give a shit about the client. They have a fiduciary duty to their investors. So their duty is to come in and make sure they extract as much earnings out of your company as possible in a finite period of time."

Ritholtz CEO Josh Brown brought up a conversation he had with planning entrepreneur Michael Kitces the previous day in which he and Kitces were discussing RIAs that received minority investments from private equity firms only to realize that they are "putting effectively new oversight" on themselves and getting replaced by the third year "if the growth isn't there." He asked Mallouk what he would say to RIAs considering that type of M&A deal about the risk.

"Everyone wants to talk about the price they

got," Mallouk said. "There's a thing in this business that everyone knows: 'You tell me the price, I'll tell you the terms,' right? And you see this even in the large-cap space. I truly believe that some people don't understand the deals that they're entering into, even people that run very, very large RIAs."

After its second outside infusion of capital in the past four years, Creative embodies the massive expansion of RIAs: The firm has \$375 billion in assets under management and advisement and 2,400 employees, including 400 partners and another 400 wealth managers. Over the past five years, the size of the firm has roughly tripled, Mallouk said in an email interview.

"Our team is more experienced, we cover more services, have far more negotiating power to utilize on behalf of clients and are physically closer to our clients," he said.

Asked about the possibilities for technology disruption in the course of switching platforms after an M&A deal or clients starting to work with a different advisor upon the retirement of their longtime planner under a different parent, Mallouk admitted there could be problems.

"I think the main negative is if a new team is not integrated well, or not willing to integrate, it creates major cultural issues. This is why we are so selective with the deals we do, and why we will only bring on firms that match our overall approach and want to integrate," Mallouk said. "The key is to keep your eye on the clients. If you focus on the bottom line, short-term deals and so on, your attention is in the wrong place, and the clients will suffer. The team will suffer, too, as they get off track dealing with problem acquisitions or growth that compromises the offering."

The murky outlook from here

In a multifaceted discussion about RIA growth and the fiduciary duty, tougher regulation and better coordination among the SEC, state agencies and FINRA could play a role as well, according to Gana of PIABA. Brokers who are barred by FINRA can sometimes stay in the

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industry through an RIA, he pointed out.

"We're seeing more and more fraud in the investment advisory space, because, for whatever reason, there seems to be less-efficient regulation," Gana said. "There are more and more investment advisors that are not subject to regulation the way that they were when they were brokers."

Others see heightened regulation as another factor driving business advantages to the largest firms. The Department of Labor's new retirement advice rule, which is currently in a stay amid a pending industry court challenge, or other efforts to extend the fiduciary duty could take away "a competitive advantage" for smaller RIAs that would then be operating under the same standard as the brokerages and hybrid firms, said Thompson of 9I Capital.

Regardless, he's worried that the race toward consolidation could be taking the profession away from serving clients, he said.

"At the end of the day they're just creating the same thing that we ran away from. From a business perspective, it is about making revenue, but you can't allow revenue to be the full dictator of what's in the best interest of your clients in the fiduciary capacity," Thompson said. "We have to really start thinking about what's truly happening in our industry."

The ongoing shakeout between large and small firms could also challenge the non-giants to find their footing, according to Ray, whose firm Zenith has set a goal of creating \$1 billion in wealth among its clients.

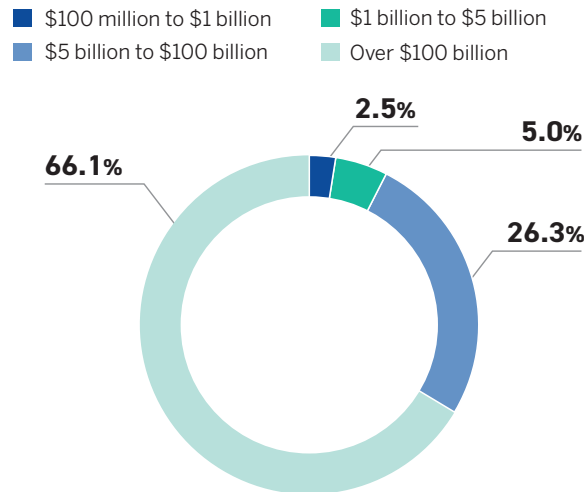
"This increased money in the space has made it harder to recruit advisors and also put a premium on the advisor position," Ray said. "That forces us to be better as a firm. Frankly, the competition is probably a healthy thing."

NAPFA is trying to provide a link between "solo practitioners on one side of the bridge and very, very large firms on the other side of the bridge," Alt said.

"About half of our membership is solo practitioners, and then the other half is large firms and medium-size firms," she said. "You're a fiduciary, regardless of whether you're in a small

firm or a large firm, and I think that's what NAPFA stands for, too."

The 207 largest RIAs have most of the channel's AUM



Source: 2024 Investment Adviser Association and COMPLY "Investment Adviser Industry Snapshot." The total number of SEC-registered RIAs in the channel is 15,396. Total assets held in the channel: \$128.4 trillion.

The RIAs trying to figure out exactly where they stand on the many fiduciary quandaries raised by the channel's unprecedented size and consolidation will need to arrive somewhere if they hope to land on the right side of any deal.

And that begins with careful diligence to understand how a smaller RIA founder's role would work under a larger parent or after receiving a direct capital infusion from an investor, according to Mayhue of Merit. The ownership structure of the incoming investor and a sense of whether they plan to "acquire businesses and scale down the human component to get more out of less people" should loom large in the decisions around any deal, she said.

"You have to look at the firm's main motive to understand what the clients' experience is going to be. There are some firms out there that appear from the outside to be really focused on the financials," Mayhue said. "That could definitely hurt the client experience in that scenario." **FP**

RIA LEADERS 2024: TOP 50 FEE-ONLY RIA FIRMS

Data partner COMPLY produced the below rankings of fee-only registered investment advisors that provide financial planning services from SEC Form ADV filings in September using criteria designed by Financial Planning. For the list of top 150 fee-only RIAs, visit financial-planning.com.

RANK	FIRM NAME	LOCATION	AUM	CLIENT ACCOUNTS	ADVISORS	EMPLOYEES
1	Moneta Group Investment Advisors	St. Louis	\$37,481,639,918	40,790	214	501
2	Chevy Chase Trust Company	Bethesda, MD	\$36,006,471,975	4,811	39	108
3	Evoke Advisors	Los Angeles	\$26,690,657,983	10,336	34	69
4	Savant Wealth Management	Rockford, IL	\$26,294,837,852	15,145	244	543
5	Clearstead; Hartland & Co.; Clearstead Advisory Solutions	Cleveland	\$22,368,771,314	11,645	28	190
6	EP Wealth Advisors	Torrance, CA	\$22,321,000,000	13,185	195	392
7	Cap Strat	Oakbrook Terrace, IL	\$19,147,821,636	2,100	5	22
8	Letko, Brosseau & Associates	Montreal	\$15,357,669,816	2,153	0	70
9	Homrich Berg	Atlanta	\$15,199,304,130	17,942	68	180
10	Aspiriant	Los Angeles	\$14,831,440,000	11,103	68	204
11	WE Family Offices	Coral Gables, FL	\$13,909,416,024	108	32	59
12	Modera Wealth Management	Westwood, NJ	\$12,532,443,204	18,992	106	200
13	Loring, Wolcott & Coolidge Fiduciary Advisors	Boston	\$11,611,790,589	3,392	10	104
14	IRA Group	Atlanta	\$11,497,961,224	597	13	16
15	The Mather Group	Chicago	\$10,508,543,012	15,974	91	163
16	Circle Wealth Management	Summit, NJ	\$10,174,361,288	958	8	20
17	Bridges Investment Management	Omaha, NE	\$9,882,583,283	2,646	28	76
18	CV Advisors	Aventura, FL	\$9,678,316,282	2,067	0	56
19	Fiduciary Counseling	St. Paul, MN	\$9,488,550,771	1,691	19	88
20	Valeo Financial Advisors	Carmel, IN	\$8,944,535,606	18,918	88	155
21	Ferguson Wellman Capital Management	Portland, OR	\$8,394,137,837	4,068	25	60
22	Powell Financial Management	Exton, PA	\$8,343,637,084	325	3	4
23	Mill Creek Capital Advisors	Conshohocken, PA	\$8,201,352,376	2,081	27	43
24	Pinnacle Associates	New York	\$8,135,641,729	6,144	25	64
25	Conrad Siegel Investment Advisors	Harrisburg, PA	\$7,774,909,225	957	21	22

Rank	Firm Name	Location	AUM	Client Accounts	Advisors	Employees
26	Choate Investment Advisors	Boston	\$7,496,939,369	3,608	10	24
27	Seven Post Investment Office	San Francisco	\$7,490,083,963	215	14	21
28	Altair Advisers	Chicago	\$7,386,489,664	886	0	70
29	LNW	San Francisco	\$7,277,109,024	3,828	25	87
30	Bradley Foster & Sargent	Hartford, CT	\$7,253,462,025	4,439	9	49
31	Orgel Wealth Management	Altoona, WI	\$7,104,580,359	10,031	31	78
32	Parallel Advisors	San Francisco	\$7,076,381,972	19,694	63	111
33	Aureus Asset Management	Boston	\$6,956,163,094	842	3	13
34	H.M. Payson	Portland, ME	\$6,955,171,652	4,017	15	33
35	Greenspring Advisors	Towson, MD	\$6,896,367,899	4,625	27	39
36	Marcuard Family Office	Zurich	\$6,845,015,371	377	0	36
37	Soltis Investment Advisors	St. George, UT	\$6,821,969,061	3,884	45	72
38	Sepio Capital	Salt Lake City	\$6,672,033,386	1,963	15	24
39	Heck Capital Advisors	Rhineland, WI	\$6,656,170,303	3,566	16	20
40	Guided Choice Asset Management	Reno, NV	\$6,645,705,545	99,569	0	28
41	Plancorp	St. Louis	\$6,479,677,393	6,627	40	81
42	R.M. Davis	Portland, ME	\$6,315,757,763	5,680	19	57
43	Pure Financial Advisors	San Diego	\$6,292,814,320	17,762	56	139
44	FLPutnam	Lynnfield, MA	\$6,168,006,683	5,203	44	105
45	Dakota Wealth	Palm Beach Gardens, FL	\$6,122,964,202	9,080	54	84
46	Clear Investment Research	Alpharetta, GA	\$5,844,759,390	260	3	5
47	Zhang Financial	Portage, MI	\$5,728,071,112	6,243	16	40
48	Frontier Asset Management	Sheridan, WY	\$5,707,809,597	3,671	14	54
49	WMS Partners	Towson, MD	\$5,664,188,520	4,434	40	79
50	The Bollard Group	Boston	\$5,662,840,667	476	1	29

Tax and Retirement



The home stretch for Roth IRA conversions

With the first Secure Act a “game changer” for IRAs and Roth IRAs, here’s the compelling case for paying taxes sooner.

By Tobias Salinger

The days of the individual retirement account “stretch” are long gone. But the appeal of Roth conversions is enduring — especially under the current tax rates.

Expiring provisions of the Tax Cuts and Jobs Act at the end of 2025 that mean lower taxes on the conversion, the fact that Roth IRAs carry no required minimum distributions and, of course, the duty-free withdrawals for the owner or their heirs add up to a compelling case, according to Sarah Brenner, the

director of retirement education with consulting firm Ed Slott & Company. The first Secure Act was a “game changer for IRAs and Roth IRAs” due to the new obligation for beneficiaries to empty the accounts within a decade of inheritance, and Secure 2.0 “made some changes around the edges.”

The situation for traditional IRA owners is “kind of like ripping off a Band-Aid,” Brenner said. Just “get the pain over with.” Clients often think that “you’ve got to do it

all” even though “it’s not all-or-nothing” because they could simply do a partial conversion as well.

“The Secure Act changed the game, and it has definitely led to ... an even stronger case for Roth conversions. You work with the rules you have, and you have a 10-year rule.”

After four years of pushing back the implementation of that rule, the IRS indicated that it will go into effect at the beginning of 2025, already set to be a consequential year for tax policy because of the possible sunset of the lower tax brackets and many other parts of the TCJA that will be high on the agenda for the next occupant of the White House and lawmakers in control of Congress.

Tax experts have been extolling the continued virtues of Roth conversions since passage of the first Secure Act in 2019.

“Though considerations around Roth IRA conversions have changed as a result of the Secure Act, Roth IRAs still offer advantages to account owners and beneficiaries,” CPA and planner Joseph Doerrer wrote the following year in the *Journal of Accountancy*. “Roth IRAs are tax advantaged, and owners of Roth IRAs aren’t required to take RMDs. This can prove

Continued on page 24



How advisors want a Social Security shortfall handled

Everyone agrees the anticipated insolvency is a problem, but the answers on how to fix it are anything but unified.

By Rob Burgess

Many advisors are concerned about the long-term viability of Social Security, but their ideas on how to safeguard the program for future generations are divided.

Financial Planning polled 213 wealth professionals on what actions the next White House and Congress should take to ensure the solvency of Social Security. By far the most popular proposal (34%) was to raise taxes on higher-earning workers. The next most-popular idea (25%) was to reduce benefits by increas-

ing the full retirement age. Other ideas included overhauling via privatization (17%) and raising taxes on all workers paying into the system (10%). This topic was also the focus of the panel discussion, "Reforming Social Security Sooner Rather Than Later: What Will the Next Congress and President Face? What Are the Options?" at the annual meeting of the American Academy of Actuaries, held in October in Washington, D.C.

Social Security is a basic monthly income

for insured workers after their retirement, after becoming disabled and for their survivors after death, said Stephen Goss, chief actuary of the Social Security Administration. Monthly benefits have been paid starting in 1940, without exception. However, these scheduled benefits are not promises, as they can be changed by Congress at any time, said Goss. The same is true for tax contributions. Virtually all workers are now covered under Social Security.

"I think we do not have to worry about Social Security benefits still being there and available in the future," he said. "But the promises for the absolute nature, size and timing of benefits are flexible."

The Old-Age and Survivors Insurance (OASI) Trust Fund and the Disability Insurance (DI) Trust Fund are projected to be depleted by 2035, which is 13 months later than projected last year. The reserve depletion date has varied from 2029 to 2042 in reports over the past 30 years.

Goss said this is not due to increased longevity or drop in birth rates, but to increasing cost relative to payroll and GDP. The ratio of taxable earnings to all covered earnings has declined since 1983 due to increasing concentration of earnings at the top of the distribution.

Between 1983 and 2000, the average annual earnings for the top 6% rose 62% more

Tax and Retirement

than the consumer price index (CPI), but only 17% more for the other 94% of earners. The ratio dropped to 82.5% by 2000 and has remained there except for cyclic effects. This drop was not anticipated in 1983.

The 2007–09 recession and slow recovery further reduced expected trust fund accumulation through 2019, said Goss. Therefore, benefits or revenue must be adjusted. By 2035, lawmakers will need to lower scheduled benefits by one-quarter, or raise revenue by one-third, or some combination.

Wages are currently taxed up to \$168,000, covering 82% of all wage income, said Joel Eskovitz, director of Social Security and savings for the AARP Public Policy Institute. In 1983, the payroll tax applied to 90% of all wage income.

Almost every reform plan or package

is structured to fund the program on a 75-year timeline, but most benefit changes — and the realization of the associated savings — may not kick in for decades, said Eskovitz. For example, the program is still phasing in changes to the retirement age passed over 40 years ago.

Cost of living adjustment (COLA) changes may be one exception, he said, but in this era of high inflation, reducing it would be very unpopular.

"Unless a significant amount of revenue is injected into the system in the next decade, stopgap funding will be needed in 2035," said Eskovitz.

Solutions could include borrowing or rerouting from general revenue or existing federal programs or sending money from taxation of benefits to the Social Security trust fund instead of the Medicare trust fund. This latter fix would

result in lower spending, higher taxes and more federal debt.

Congress could create a new dedicated tax specifically for Social Security. In addition, new taxes on carbon, capital gains and estates have all been considered. Social Security funding could be subject to the annual appropriations process, meaning uncertain benefit levels and the possibility of impacts from government shutdowns. With only so many revenue sources available, benefits may need to be reduced, said Ron Gebhardtshauer, emeritus professor of actuarial science at Penn State.

"There is not enough support in Congress for tax increases only," he said. "Congress prefers large bipartisan votes for Social Security-related issues. These reforms are easier to enact if they are offset by benefit reductions." **FP**

Rob Burgess is a reporter for *Financial Planning*.

Continued from page 22

helpful in retirement, as it allows a larger amount of assets to remain in the account. Not having to take RMDs can also help account owners avoid creating unwanted taxable income, giving them more flexibility in retirement. Beneficiaries will enjoy a simpler tax situation, versus beneficiaries of traditional IRAs, due to the tax-free nature of their distributions from the account."

The politics that led to more tax revenue flowing into federal coffers are now affecting personal financial decisions among advisors and their clients in the wake of the two Secure Acts, Sheryl Rowling, a CPA, planner and technology firm founder, wrote last year for Morningstar. "Now is the time to do Roth conversion planning. ... By delaying retirement distributions, your clients can

have additional years to convert IRA funds to Roth at lower tax rates. These changes all seem to encourage, even require, a greater emphasis on Roth rather than pretax retirement contributions. Although this means more money to the IRS as contributions (or conversions) are made, the opportunity to permanently exclude future growth (and previously taxed principal) from taxation, coupled with the elimination of RMDs, should be a big win for taxpayers in the long run."

The Roth conversion offers a "huge advantage" over traditional accounts in that clients "never need to take RMDs from their Roth IRAs when they're alive," Brenner noted. For those inheriting Roth accounts, their "very compressed timeline" to empty the IRAs within a decade is arriving alongside distributions that won't have an effect

on their taxable income. "I could just let that Roth IRA sit there and grow for 10 years and then everything would be accessible to me tax- and penalty-free. This is the type of proactive planning that people can be doing. Right now, we have historically low tax rates. We don't know how long that's going to last," Brenner said. "It's a good time for people to be thinking about converting their taxable traditional IRAs."

For advisors and their clients, the decision comes down to a simple calculation that the "money is going to be taxed at some point," she noted.

"You are going to have to pay a tax bill when you convert. No one likes paying taxes unless they absolutely have to," Brenner said. "Somebody at some point is going to have to pay taxes, so it's good to do it on your schedule." **FP**

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



Younger workers skeptical on Social Security's future

Just 6% of millennials predict they will rely on the program's funds for income after they finish their careers.

By Rob Burgess

Older generations still view Social Security as a viable source of retirement income. But younger workers aren't confident it will be there for them when they finish their careers.

According to research firm Cerulli Associates' latest U.S. Retirement Edition study, more than half (56%) of retired 401(k) participants say Social Security is their primary source of income, while only 7% of current retirees rely on personal retirement accounts as their primary source of income.

Meanwhile, 58% of millennial active 401(k) participants expect personal retirement accounts to be their primary post-career income source, while only 6% say Social Security. By contrast, 39% of Generation X active 401(k) participants say their primary source of retirement income will be personal retirement accounts, and 30% say it will be Social Security.

The data for the survey was collected in the first quarter of 2024 from around 1,500 401(k)

investors, including 998 active, working, current 401(k) account owners and 511 retired current or former 401(k) account owners.

Advisors say they've seen similar generational disparities in their own practices.

Jon McCardle, president of Summit Financial Group of Indiana in Lafayette, Indiana, said over the past decade his firm has observed a notable shift in how clients approach retirement planning.

"While most aren't quoting detailed reports or calculating the likelihood of relying solely on Social Security, they are increasingly aware of the need to build a retirement strategy that minimizes dependence on it," he said.

"Many now aim to accumulate enough savings to retire comfortably without leaning heavily on Social Security to maintain their lifestyle."

Stephan Shipe, founder and CEO of Scholar Financial Advising in Concord, North Carolina, said the uncertainty around Social Security is higher the further someone is away from receiving it, so to hedge against that uncertainty, investors should plan to rely less on Social Security.

"As time gets closer, the probability of receiving Social Security is higher and the amount more certain because the odds of Social Security being cut is lower the closer an investor is to

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receiving it," he said. "I always have clients plan to be able to fund fixed and base expenses with retirement accounts just in case Social Security is cut."

Lawrence D. Sprung, founder of Mitlin Financial in Hauppauge, New York, said he has seen the belief that Social Security will be available declining with the younger generations.

"They have also been inundated that their retirement is their responsibility, and the number of them that will have pensions in retirement is declining as well," he said. "I believe that this is a good sign that the message is getting out and they are taking their retirement more seriously."

Chris Boyd-Witherspoon, financial services professional at American Heritage Financial in Atlanta, said her baby boomer clients see Social Security as their main source of retirement income. "It's what they've always counted on, and they often feel a bit anxious about how it'll hold up," she said.

Tracy L. Sherwood, founder of Sherwood Financial Management in Clarence, New York, said baby boomers were introduced to guaranteed income and many expected to receive pensions, health care and Social Security benefits to fund their retirement years.

"Throughout their careers, companies did away with pensions, companies did away with retiree health care coverage and there was greater talk about the viability of the Social Security fund and discussion of reduced Social Security benefits," she said.

Jim Davis, partner and senior wealth advisor at Aspen Wealth Management in Fort Worth, Texas, said many of his retired clients, particularly baby boomers, do rely heavily on Social Security.

"For some, it's been the cornerstone of their retirement income strategy,

supplemented by pensions or personal retirement accounts," he said. "However ... current retirees relying primarily on personal retirement savings are in the minority."

When it comes to Gen Xers like her, though, Boyd-Witherspoon said they have a more mixed view. "We are concerned about relying on Social Security, especially after the economic shifts we've experienced," she said. "We tend to see personal retirement accounts as a significant part of their future income, which is a great mindset."

With millennial clients, like her five adult children, Boyd-Witherspoon said the expectations shift even more.

"They are optimistic and anticipating that personal retirement accounts will be their primary income source," she said. "I love this enthusiasm and encourage them to automate their savings and invest wisely. Most feel if they get Social Security, it will be a bonus."

Gen Xers have seen "Cadillac" health insurance plans terminated over the course of their careers, Sherwood said, with many employees transitioning to more expensive high-deductible health care plans. Some also saw reductions in employer 401(k) plan matches.

"They have gradually spent more and taken greater fiscal responsibility for their future," she said. Millennials may have greater awareness that these benefits are subject to change and that they need to do more personal saving. For these clients there has been "regular, continuous talk about Social Security funds depleted, companies downsizing and greater job turnover."

Davis said when working with younger clients, especially millennials and Gen Xers, the conversation takes on a different tone. Many are skeptical about Social Security being a reliable source of income when they retire.

"While I don't dismiss Social Security outright — after all, it will still likely play a role — I emphasize the importance of personal retirement savings," he said. "I encourage clients to view their 401(k)s, IRAs and other retirement accounts as primary sources of income in retirement. This not only helps them prepare for any uncertainties surrounding Social Security but also gives them more control over their financial future."

When she talks to clients about their retirement income, Boyd-Witherspoon said she makes it a point to have open conversations.

"I ask them about their expectations and any fears they might have," she said. "It's all about making them feel comfortable and informed. By discussing various strategies and using real-life examples, I help set realistic expectations. In the end, whether they're baby boomers, Gen Xers or millennials, my goal is to guide them toward a well-rounded approach to retirement planning that works for their unique situation."

Jason Gilbert, founder and managing partner of RGA Investment Advisors in Great Neck, New York, said he stresses the importance of income replacement, rather than relying on arbitrary withdrawal rates.

"We create portfolios that emphasize high-quality dividend stocks and, of late, laddered perpetual bonds, particularly within money center banks, which allow for equity-like returns paired with attractive yields," he said. "Our approach seeks to replace adequate income while also generating a reasonable compounded rate of return, ensuring the portfolio continues to grow and sustain income needs over the long term. This dual focus on income and growth offers clients greater peace of mind, particularly in an evolving economic environment." **FP**



Spendthrift clauses: Funny name, serious implications

The clauses can help protect assets, but clients may need a nudge to speak with an estate attorney to use them correctly.

By Tobias Salinger

Financial advisors and tax pros seeking to help clients protect trust assets in the event of divorce, lawsuits or an extravagant heir should know the basics of a spendthrift clause.

An ever-growing alphabet soup of trust entities enables planners to assist clients in moving assets out of their taxable estates. However, without the right so-called “spendthrift” protections and an understanding that the rules for the clauses vary a great deal by state, clients could face threats to the distribu-

tion of their estates. Problems might be avoided by planners suggesting clients speak with an attorney who is knowledgeable on the many rules governing trusts and beneficiaries, three lawyers told Financial Planning.

The idea for spendthrift clauses (or separate standalone entities known as spendthrift trusts) stems from the principle behind putting a professional trustee between the asset owner and beneficiaries who “foolishly spend their inheritance on unproductive things,” according

to Griffin Bridgers of Hutchins & Associates law firm.

Shielding assets from divorce or lawsuits prior to distributions can run into state-level variance around exceptions that void the clauses for the purposes of child support, alimony or other reasons.

“Financial advisors are often pushed into more of a review and summary function for trusts, and perhaps the lowest-hanging fruit is simply confirming that a spendthrift clause exists and explaining its benefits to clients,” Bridgers said.

The clause “protects the trust assets from divorce,” but that plays out differently depending on whether the location of the entity was established under “a more protective state law,” according to Steven Oshins, an attorney with law firm Oshins & Associates, which maintains rankings of the states tracking, for example, their treatment of the so-called exception creditors that may access assets protected by spendthrift clauses and their rules for “fraudulent” or “voidable” transfers. Besides divorces, the spendthrift clauses or trusts loom as important safeguards in litigation against clients such as physicians who may face frequent lawsuits, Oshins said.

“Financial advisors should make sure to work with estate planning attorneys who include asset protection in

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their planning," Oshins said. "One of the key items that is missed all the time is that different states have different levels of spendthrift protection. It is surprising that nearly all estate planning attorneys limit their trust situs to their home

jurisdiction, rather than thinking outside the box and using the better laws found in other jurisdictions."

As they guide clients, advisors who don't have law licenses will need to "be careful how deep and how far they go"

into the actual content of the spendthrift clauses, according to Martin Shenkman, the founder of Shenkman Law. Trust and estate attorneys must manage the drafting and language of the clause or there could be implications to advisors themselves and their errors and omissions (E&O) insurance policies, he said.

"Financial advisors should be proactively involved in most phases of estate planning, and they should be the catalysts for estate planning," Shenkman said. "If you as a financial advisor cross the line into the unauthorized practice of law, you may not have coverage under your E&O policy."

The issues connected to spendthrift clauses carry a major impact to multi-generational clients passing down their wealth. They won't have time for a redo if they make a mistake.

"The spendthrift clause is only effective so long as property is in the trust," Bridgers said.

Even as they stop short of what may be considered legal services or advice, the advisors can still disabuse their clients of "this strange misconception that, 'Oh, I set it up. I don't have to look at it because it's done,'" Shenkman said. For example, they ought to keep in mind that "almost every older trust" includes language transferring assets to an heir at a specified age, but that scenario isn't taking into account what could happen if, say, the beneficiary gets divorced or sued a year later, he said. The advisors can make a big difference by spotting the potential problem and sending them to an estate attorney.

"That is in an incredibly common situation," Shenkman said. "That's a huge asset protection play. That to me is the kind of place where wealth advisors have a very valuable role." **FP**

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Investment Strategies



Single-stock ETFs can be a double-edged sword

Dozens of these new vehicles are now available on the market. Experts warn they carry inherent risks for investors.

By Rob Burgess

Interest in single-stock exchange-traded funds — a relatively new concept — has picked up over the past two years or so. However, experts warn that these vehicles carry inherent risks for investors.

After first appearing in Europe in 2018, the first single-stock ETFs were introduced in the U.S. in July 2022. AXS Investments became the first American company to pass a regulatory milestone to provide leveraged single-stock ETFs. Unlike typical ETFs, single-stock ETFs

concentrate on just one security. Among the first companies featured by AXS were Tesla, Nvidia and PayPal.

There are now dozens of single-stock ETFs available. Even when they were first approved by regulators, SEC Chair Gary Gensler and Commissioner Caroline Crenshaw voiced their concerns.

Single-stock ETFs are designed for traders who wish to speculate on the outcome of a single company's short-term price movements,

said David Nash, financial planner and founder of Tend Wealth in Sherman Oaks, California. They are typically leveraged investments, meaning the goal is to magnify price changes of the particular stock that they track.

"They are a particularly risky investment, as fees, taxes and borrowing costs all add additional drags on performance," he said. "Individual stocks are already riskier than many individual investors realize, with the potential to wipe out years of gains with a single bad press release or company scandal. A single-stock ETF would only magnify that risk for investors hoping to get lucky rather than benefit from the long-term growth of a diversified portfolio."

Jason Gilbert, founder and managing partner of RGA Investment Advisors in Great Neck, New York, said single-stock ETFs are highly speculative vehicles that often attract investors chasing short-term momentum rather than adhering to a long-term, fundamentals-driven strategy.

"These ETFs can amplify risks through leverage or by concentrating exposure to a single company, which contradicts the principles of diversification and low-turn-over investing," he said. "Additionally, the frequent trading and rebalancing required to maintain leverage

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or manage the ETF's exposure can lead to unintended tax consequences, including capital gains distributions. For most investors, buying the stock directly with a long-term outlook is a more tax-efficient and prudent approach. While these ETFs might appeal to those seeking quick returns or market timing, they generally don't align with disciplined investment strategies."

On the flip side, a single-stock ETF makes it easier for investors to achieve an inverse position or leverage, said Eric Papa, senior associate advisor at RS Crum in Newport Beach, California.

"The investor could take the same position without the ETF, but they would have to purchase the underlying derivatives," he said. "These ETFs aren't inherently good or bad. It lets less savvy investors take more nuanced positions."

The name single-stock ETFs can be a bit misleading, and they are usually not part of an average investor's holdings, said Melissa A. Caro, founder of the platform My Retirement Network, a digital media company.

"Investors need to be hyperaware that they are not just buying a stock or an ETF the way they are used to," she said. "These ETFs often offer leverage or inverse exposure. Because the leverage effect resets daily, they are not ideal for long-term investments and can be quite risky."

Single-stock ETFs also can provide exposure to foreign stocks, which are not as easily available otherwise. Arielle Tucker is the founder of Connected Financial Planning in Zurich, Switzerland, which serves American expats living and working in Europe. She said while

single-stock ETFs provide an opportunity to amplify returns or hedge positions, they come with increased risk and complexity.

"These instruments can be a double-edged sword," she said. "They may be useful for experienced traders with a deep understanding of the underlying mechanics, but they are generally unsuitable for the average investor."

For the average investor, Tucker said she considers single-stock ETFs to be a risky proposition.

"The leveraged nature means that losses can be magnified just as much as gains," she said. "Additionally, these ETFs often have higher fees and can suffer from decay over time due to daily rebalancing. Therefore, unless an investor has a specific short-term strategy and fully comprehends the risks, it's usually better to steer clear." **FP**

Rob Burgess is a reporter for *Financial Planning*.

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"more of a scale problem than ever before" for advisors and their clients, according to Anton Honikman, CEO of MyVest, a TIAA subsidiary. That means transitions to a new firm often pose tax implications. When an advisor "has multiple clients that are in transition at any point," they can work with tax overlay software to offset capital gains with losses to ensure there is a "consistency of care across the book of business" without trying to handle the entire workload, Honikman said.

As part of this evaluation of new clients' portfolios from a tax perspective, advisors should keep in mind that long-term capital gains in stocks and dividends often bring lower rates than bond income, Pereira noted. However, in taxable brokerage accounts, municipal bonds as well as stock indexes "are

tax-friendly choices," she said. The timing of rebalancing and distributions and the location of the assets loom large in importance as advisors confront tax pitfalls of incoming clients' accounts.

"The most common area is the asset selection between taxable/deferred and tax-exempt accounts where the investment selection may not always be tax-optimal for respective asset location," Pereira said. "Another common area is not accounting for overall portfolio allocation across all the individual client accounts that could lead to asset imbalance relative to risk tolerance."

Planners may consider setting up a technology-assisted "gains budget" for the new client to decide how quickly to liquidate concentrated stock, Honikman suggested. Since the tax savings represent "a really helpful share-of-wallet enhancer," the management of the

timing of the sell-off each quarter or year can create the optimal short- and long-term capital gains, he said. Advisors can use the transition time to coach clients on the value they can unlock through tax savings on stock losses, so that, "When the red arrows are on CNBC, they don't have to call us and panic and scream," Oujo said. For whatever reason, the comprehensive calculation of losses and gains against cash flow from individual retirement account distributions in the pre- and post-retirement phase tends to register with women more easily than men, Oujo noted.

"If a man goes from \$2 million to \$1.8 million, they don't like it. If you can explain to them that their interest and dividends are still there, it's like a magic trick," he said. "Cash flow is a big deal to a retiree, and doing it in a tax-efficient way is very important." **FP**

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



How AI is changing financial advisors' jobs

Advisors' roles are rapidly evolving to keep up with new client demands — and to oversee new technologies.

By Rachel Witkowski

Artificial intelligence doesn't appear to be eliminating advisor jobs, but it's certainly changing what human advisors do at their job on a daily basis.

Most of the AI tools advisors currently use perform virtual assistant roles for back-office functions like providing automated meeting notes, document intake and portfolio summaries. Manually managing portfolios or contracts across accounts has become more seamless and automated, saving time for

advisors who are now finding themselves in different tasks as their role quickly evolves.

John Mackowiak, chief revenue officer of wealthtech platform Advyzon, recalled roughly 20 years ago when an operations manager would spend hours of their day loading data into their firm's reporting systems.

"And then the current generation of portfolio management systems came along ... and the operations manager sitting there

was like, 'Shoot, what am I going to do?' Well, the operations manager now gets to help with marketing or they can manage more clients, generate more revenue," he said. "Because that person is a linchpin of the business. A job doesn't go away. The job is very different."

So, what will the future human advisor role look like?

For starters, clients are demanding more because they are exposed to more financial options and needs through technology. A recent survey of 1,000 high net worth individuals conducted by Boosted.ai found that 82% claim to be AI proficient, and 79% strongly or somewhat agreed that they'd like their financial advisor to take advantage of AI tools.

This means advisors will need to focus even harder on building those client relationships while also showing they're technologically adaptable.

Clients "want holistic advice for the same cost, if not less, that's faster as well as being smarter. So demands are pretty high," said Sachin Shah, chief operating officer of 55ip, an automated tax technology platform owned by J.P. Morgan Asset Management. "And that's where we're going to need to have this co-piloted relationship

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How advisory firms can win the battle for tech talent

In a highly competitive landscape for tech developers, RIAs often fall short when it comes to recruiting.

By Rachel Witkowski

The financial planning sector is experiencing a growing need to integrate advanced technology solutions like AI to remain competitive and efficient. But choosing the right technology for a firm and integrating it properly starts with hiring the right tech leader.

This can be challenging for advisory firms that have to compete with hundreds of tech firms looking for innovators.

"They're not just competing against other firms that are performing similar business

functions, they're competing against Apple and Google and every other tech firm in every other industry," said Scott Lamont, the managing director at the industry consulting firm F2 Strategy. "It's competitive. Finding good technology talent is a challenge for these firms."

Firms are becoming increasingly aware of this challenge as they look for leaders to help them decide on the types of AI technologies to integrate and how to get

widespread adoption.

Gartner's 2024 CIO Talent Planning Survey found that 79% of responding organizations plan to increase their IT staff levels this year despite layoffs in the tech sector. And a recent KPMG survey of 120 U.S.-based asset management professionals found about 65% of respondents were either in a conceptual phase or development stage of integrating AI.

Yet another 53% said they were concerned about lack of awareness and training, risk of security vulnerabilities (40%) and risk of hallucination (35%). Part of the issue is most traditional advisors are not tech developers, and vice versa.

"Because it's so new, I think it is a challenge right now to find those folks" with both a tech and advisory background, said Greg Williams, KPMG U.S. Sector leader for asset management. "So I think if you find the technology talent, and then maybe you have to marry that with the advisor expertise."

Advisory firms, especially smaller ones, can outsource a majority of their tech needs to a vendor, but there is a stage at which firms need an internal tech leader to help direct the company's tech stack and integration, whether that be a chief technology or information officer or another leadership role.

"More firms are thinking

about having that thought leadership at the executive level in the form of a CTO, or a head of innovation or strategy, or head of digital," Lamont said.

Tech innovators are more attracted to a leadership role with a direct line to the CEO where they can "be a voice in the overall business strategy" rather than simply being told to build a tool, he said. "Allow the technology to be a driver of the engagement model and the business strategy, and how you can differentiate with technology as a starting point as opposed to being a follower to just solve the problems."

Participating in tech conferences and awards and hosting webinars can also help firms establish themselves as thought leaders. A 2023 report by Gartner found that companies that actively engage in industry events and

thought leadership activities are more likely to attract top tech talent.

Devon Drew, founder and CEO of AssetLink, an AI-powered advisor platform, said he often gets calls from RIAs asking about how to hire their first CTO. He said that a firm might not be ready to attract an experienced CTO in the industry, but they could focus on hiring a tech developer who can build customizable tools for that firm.

"A traditional CTO is pretty expensive. So maybe start with somebody that has the persona of being a head of engineering and try to groom them into what the firm is doing," he said. "Because the last thing you want to do is ... be paying a traditional CTO \$350,000 a year, plus equity, if they're not a builder."

Part of that builder role should involve about 40% to 60% of actual building

technology, Drew noted, and the remaining time spent building and leading an engineering team.

"They've got to be your eyes and ears," he said. "And they have to be, at least during the project, your right-hand man or woman."

Beyond hiring a tech expert, Rianka Dorsainvil, founder and senior wealth advisor at YGC Wealth, said firms ramp up their tech capabilities to attract younger advisors who prefer to work at more advanced firms that can streamline growth.

"These leaders, they have to loosen the reins and understand that it is imperative for them to embrace technology," said Dorsainvil. "Not only from a client perspective, but also an advisor retention perspective and for their succession plan." **FP**

Rachel Witkowski is a technology reporter for *Financial Planning*.

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between the human and the tech."

A new survey of 270 wealth managers conducted by Financial Planning found that 43% said AI-based technologies will play either an "extremely important" or "very important" role in their firm's efforts to capture new clients and/or retain children inheriting wealth from existing clients.

"If you're not using AI now and getting educated now, you are going to be left behind because everybody else is moving a lot faster than you are," said John O'Connell, founder and CEO of The Oasis Group, a tech consultant for advisory firms.

However, that does not mean advisors will be out of a job — the same way the rise of robo advisors during the past decade did not eliminate human advisors.

"We saw this a little bit with the robo advisor space, that kind of failed attempt, and I think the result of that was people still like that human interaction," said Mike Ursitti, senior vice president of business development at Advyzon Investment Management. "It's just the way that advisors interact with their clients."

According to the Boosted.ai survey, another 50% of respondents said they prefer an advisor who uses both traditional methods and AI tools to manage their money.

"Generative AI may enable wealth advisors to spend more time on strategic planning and personalized client service, ultimately increasing productivity and client satisfaction," said Craig Robson, founding principal and managing director at Atlanta-based Regent Peak Wealth Advisors.

"Yet what is truly missing from the response is the human element which AI will not replace."

Part of the new human advisor role will be monitoring the output of the AI tools being used to ensure the response is accurate and complete. Most AI tools to date are running off large language models that are widely known to hallucinate, or give perfectly curated but inaccurate responses. So it's up to advisors to be the monitor, or final editor, of these tools.

"AI has hallucinations, and the problem is not solved yet. First, you need to verify everything and that takes time," said Christophe Gauthron, CEO of Kwanti, a digital portfolio analytics provider based in San Francisco. "I don't think that many jobs will be lost until this is reliable AI. But we're very far from that." **FP**

Rachel Witkowski is a technology reporter for *Financial Planning*.



Cybersecurity questions advisors must ask vendors

Top executives say advisors need to stop depending on SOC 2 reports to measure a vendor's data security.

By Rachel Witkowski

When an RIA is seeking a tech vendor or vetting an existing one, the most common request is to see its SOC 2 report — a widely used compliance report that shows how it manages customer data. But when tech CEOs and consultants were asked how advisors can determine which provider offers the best data protection when everyone has the same report, the responses rang loud and clear:

"The SOC 2 reports are a pile of crap. They mean nothing," said John O'Connell, founder

and CEO of The Oasis Group, a tech consultant for advisory firms. "If you look at every cybersecurity breach that we've had, every one of them had a SOC 2."

He pointed to a breach involving LiveNation that compromised info from 560 million customers in May. That same month, cloud platform Snowflake reported a breach that impacted users like telecommunications giant AT&T. The companies were SOC 2 compliant.

"Advisors specifically hang way too much

on a SOC 2 report," O'Connell said. "They're not asking the right questions."

The questions advisors should ask current and potential vendors or third-party partners center on the cybersecurity standards set by the National Institute of Standards and Technology (NIST) — something tech providers said they are rarely asked about by advisors.

"It's like less than 5%. We get them occasionally," said John Mackowiak, chief revenue officer of wealthtech platform Advyzon. Mackowiak said Advyzon created a security policy that it will also send to potential clients. But O'Connell, who attended a Sept. 6 CEO roundtable with Mackowiak, said it is rare for his firm to get a privacy policy from a tech firm when asked.

"You're probably better than most," O'Connell told Mackowiak at the roundtable discussion. "I can't even tell you how many technology firms that I go to and ask, 'Can we get a copy of your privacy policy?' And they say, 'I have a SOC 2.' No, that's not what I am asking."

The roundtable also included executives at Advyzon Investment Management, digital analytics provider Kwanti and software engineering firm Softlab 360. The experts said advisors should ask vendors whose database houses the data, where the data moves, how

"If an advisor is working with a vendor, ask, 'Will my data be used to train your model?' And get that question answered, because that's critical," said Christophe Gauthron, CEO of Kwanti. Advisors should ask providers for an AI policy and determine if the data will be used to train the provider's model or a third-party model. "Get this in writing," he added.

"I'm hypothetically saying that the person who joined their AI notetaker is going to responsibly take the notes. I don't know where it's going, right? And then I find out that they send it to their people in their company who did not make the meeting," he said. "So this

Rachel Witkowski is a technology reporter for Financial Planning.

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T7. Publication of Statement of Ownership
☒ Publication of Statement of Ownership for a Requester Publication is required and will be printed in the Nov/Dec 2024 issue of this publication

T8. Signature and Title of Editor, Publisher, Business Manager, or Owner  Date 9/30/2024

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IRS Form 3280-SE, July 2014 (Page 1 of 4)

Regulation and Compliance



Is full compliance with SEC rules even possible?

Two SEC commissioners say the treatment of a brokerage shows industry watchdogs expect nothing short of perfection.

By Dan Shaw

Amid the latest round of fines for “off channel” communications, two SEC commissioners are questioning if firms really have any chance of regulatory compliance.

The Securities and Exchange Commission hit 12 firms with \$88 million in total penalties on Sept. 24 for not doing enough to monitor and record communications their employees send on WhatsApp and similar services. The fine amounts were as high as \$35 million — charged to Stifel Nicolaus and Invesco

Distributors, along with Invesco Advisers. On the low end, a penalty-free censure was imposed on Qatalyst Partners, a San Francisco-based broker-dealer credited with cooperating with the SEC’s investigation.

And it was the Qatalyst case that prompted SEC Commissioners Mark Uyeda and Hester Peirce to sound off about what they see as the futility of trying to comply with industry regulations even for well-intentioned firms. Uyeda and Peirce, Republicans with a history

of accusing the SEC of overreach, issued a statement accusing regulators of expecting firms to show “perfection” rather than “reasonableness” in their compliance efforts.

The statement notes that Qatalyst began as early as 2018 to tell its employees to avoid using personal email and messaging services to communicate with each other or clients about business matters. Shortly afterward, the firm started training personnel on ways to avoid sending forbidden off-channel communications. In 2017, it employed a system to record employees’ business-related text messages. Three years later, it gave them firm-issued phones and other devices.

Even with those precautions and others, Qatalyst eventually discovered some employees had breached its ban on off-channel communications. It reported the violations to the SEC and worked with regulators to correct the deficiencies.

Despite that, Qatalyst is being censured. Uyeda and Peirce said the case shows the SEC will be satisfied with nothing short of perfection.

“If we assess reasonableness based on whether policies and procedures always are being followed, firms will never escape our enforcement net,” Uyeda and Peirce wrote. “People are not perfect and so compliance

Regulation and Compliance

will not be perfect — even at a firm that tries as hard as Qatalyst. Firing up our enforcement machinery every couple years to haul the industry in for headline-making penalties will not make people perfect, so firms will continue to discover violations of firm policies.”

Separately, Gurbir Grewal, director of the SEC’s division of enforcement, singled out Qatalyst for praise for cooperating with regulators. “Here, despite record-keeping failures that involved communications by senior leadership and persisted after our first recordkeeping matters were announced in 2021, Qatalyst took substantial steps to comply, self-reported and remediated and, therefore, received a no-penalty resolution,” he said in a statement.

The SEC also noted that two other firms, New York-based Canaccord Genuity and Atlanta-based Regions Securities, self-reported their violations and are paying reduced fines as a result. Canaccord has to pay \$1.25 million and Regions \$750,000.

At least one compliance expert wonders if Qatalyst’s case shows it doesn’t pay to self-report violations. Amy Lynch, founder and president of the regulatory consultant FrontLine Compliance, said the fact that Qatalyst was censured despite having tried so hard to mend its ways shows there’s little value in bringing violations to regulators’ attention.

“This message, to me, makes clear to the industry that if you find an internal violation, do not self-report it to the SEC,” Lynch said. “You can fix it internally and conduct your own internal investigation. But do not self report it because self reporting is just a disservice to your firm.”

Lynch said she thinks the absence of a fine for Qatalyst is pretty immaterial.

“As a disciplinary matter, this still ends up in their regulatory record and in their disclosures to clients,” she said.

Carlo di Florio, global advisory leader at compliance firm ACA Group, said he wouldn’t go so far as to recommend firms avoid self-reporting violations. “It’s more about their risk-based appetite. Each firm will take a potentially different calculus and analysis and have talks with their outside counsel based on the individual circumstances. And some may decide to come forward and self-report, and some may decide not to and take that risk and then pay the higher penalty if they are ultimately caught.”

Di Florio did say the SEC’s case against Qatalyst was unusual in that it took the firm to task for not “monitoring to ensure that its recordkeeping and communications policies and procedures were always being followed.” Di Florio said the use of the word “always” in that context suggests regulators are expecting something akin to perfection.

“The requirement is to have a reasonable compliance program to ensure reasonable compliance with financial securities laws,” he said. “And reasonable is different from always.”

Qatalyst’s outcome led Uyeda and Peirce to ask if the SEC’s approach to regulating communications on new tech is outdated. They noted that many of the messages regulators are now concerned about would probably have been relayed through simple face-to-face conversations in the past, and thus not recorded.

“Should we revisit the recordkeeping rules so that they do not capture the modern-day equivalent of oral chatter?” the commissioners wrote.

Peirce and Uyeda aren’t the only ones to question the SEC’s tactics. In June, the American Securities Association sued the SEC in federal court as part of an attempt to learn exactly how regulators were setting fines in these cases. The ASA, a trade and lobbying group, said it had submitted several freedom of

information requests seeking information on the SEC’s penalty-setting policies, only to be met with refusals.

The SEC has barreled ahead with fines for firms accused of violating its requirements for tracking and recording business-related communications. In August, it imposed nearly \$393 million in off-channel-related penalties on 26 firms including Ameriprise and Edward Jones.

Over the past three years, the SEC has slammed firms large and small with more than \$3 billion in fines in total. JPMorgan was the first to get hit, agreeing in late 2021 to pay a whopping \$200 million to the SEC and Commodity Futures Trading Commission to resolve allegations related to prohibited off-channel communications. Next came \$1.8 billion in fines approved in settlements with some of Wall Street’s best-known names, including Goldman Sachs, Morgan Stanley, Bank of America and UBS. Subsequent sweeps hit Wells Fargo and BNP Paribas in August last year and Northwestern Mutual this past February.

Most of the firms in the SEC’s latest sweep did not respond to requests for comment or declined to comment. CIBC World Markets and CIBC Private Wealth Advisors, which agreed to pay the Commodity Futures Trading Commission a \$30 million penalty on top of \$12 million to the SEC, said, “We respect the decisions of the SEC and CFTC on these matters. Throughout this process, CIBC offered its full cooperation to both regulators and took immediate steps to implement remedies internally.”

A spokesperson for Invesco said the firm “takes compliance matters incredibly seriously and we are pleased to have resolved this matter. We have already taken significant steps to further strengthen the firm’s compliance processes related to record keeping electronic communications.” **FP**



What's the AUM holy grail for your new RIA?

Boutique, midsize, regional or national — each RIA asset level requires distinct strategies and significant sacrifices.

By Casey Jorgensen

Many financial advisors begin their careers believing that maximizing assets under management is indispensable to success. Their perspective often shifts when they launch RIAs of their own.

These novice CEOs face complex challenges like managing operations, developing talent and staying compliant. After juggling these responsibilities for a few years, they begin to see size isn't always a metric for success. With this realization often comes the question: What is the ideal RIA size?

Targeting your RIA's desired AUM isn't just a business choice. It's a highly personal decision that should align with your vision for the firm, your life goals and, in some cases, the ability to meet the expectations of partners and investors. By weighing the pros and cons of different AUM levels and pinpointing key

questions, I'll explore how each level can support an advisor's strategic vision.

Boutique: \$500M-\$1B in AUM

Boutique RIAs are specialized firms focusing on delivering highly personalized financial advice.

Pros: The ability to cultivate close and enduring relationships with clients can be a powerful differentiator. The owner can maintain a close watch over the business, ensuring quality and enabling the firm to carve out a distinct niche.

Cons: Scalability. As the firm grows, managing more clients without sacrificing service quality becomes more difficult, often capping the upside revenue potential. High per-client costs limit growth. And most responsibilities sit with the owner, increasing key man risk and the danger of burnout.

Financial instability can result from losing just a few clients.

Key question: By choosing to stay small, is the CEO ready for the intense personal demands and financial instability of managing a boutique RIA, while also avoiding stagnation?

Midsize: \$1B-\$10B in AUM

Midsize RIAs strike a balance between the personalized service of boutique firms and the resource capabilities of larger operations. These firms often operate with a collaborative partnership model.

Pros: The ability to pool diverse skills and resources through advisor partnerships. This collaboration can expand offerings and enhance the overall value proposition. Midsize firms are better positioned to invest in tech and professional development, creating a more attractive workplace and improving service. Shared responsibilities among partners can make business operations smoother and more efficient, which can help avoid burnout.

Cons: A more intricate operating structure is essential. Expanded scale will reveal which partners excel as leaders, managers or business developers, potentially triggering difficult conversations. Role clarity becomes critical. Decision-making can become slow and cumbersome as more partners weigh in. Profit-sharing may also

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The data-based truth about AI in wealth management

AI can extract insights from meeting transcripts, emails and files and other sources across a firm's entire book of business.

By Amy Young

The inaugural ADVISE AI conference, held in Las Vegas in October, was dedicated exclusively to artificial intelligence in U.S. wealth management, reflecting the growing industrywide interest in the topic.

At the conference, I heard from advisors who are laser-focused on how AI can help them better serve their clients and run their businesses more efficiently. While such focus on quick wins is understandable, it has also led to a crippling fragmented tech stack across wealth management. At this important juncture in technology decision-making, it's important to reflect on the larger evolving tech ecosystem.

While this can seem overwhelming for decision-makers and users, anchoring on a single ground truth can offer clarity in this sea of complexity: It's all about the data.

This is true across all layers of the tech stack, but I'll focus here on AI meeting admin tools, which cover things like meeting transcription, summarization, task identification and integration with CRM.

Interest in this category is high — and for good reason: All advisors want to spend less time preparing for client meetings and more time engaging with clients. While reduced time spent on admin is its own reward, AI meeting tools offer an even bigger benefit: Time spent with clients grows AUM.

Large language models offer a step-change in tech's ability to extract actionable insights from meeting transcripts. AI tools can summarize conversations, highlight themes and trends over time and pinpoint tasks and follow-ups. These insights can be saved in CRM systems with greater accuracy than

manual advisor note-taking and with zero incremental effort. This builds a valuable knowledge repository that can be mined using simple natural language queries. Giving advisors instant access to prioritized summaries of questions, interests and concerns that clients have expressed over time is the foundation of scaling personalized advice.

Expanded contexts

There are other important contexts keys to assessing client needs and optimizing next best actions. Consider the content in the following data sources:

Emails: Most meetings begin with an email. Who initiated it and why is important context. Analyzing this data can help advisors become more proactive and systematic about how they engage with clients.

Calendar: Focusing only on transcribed meetings misses valuable context about how time is invested, including internal prep, social events, travel, staff development and more.

Files: Whether it's proposals that are saved in Word/PowerPoint, commentaries on market/product developments or newsletters and marketing communications, client engagements often involve some type of enterprise content. The right AI tools can gather and save pre and post-meeting admin artifacts.

AI and alts

Adjacent data sources are essential when advisors want to pursue opportunities across their entire book of business. Take the example of an advisor who wishes offer clients access to alternative investments. While alts can offer valuable diversification benefits, they also introduce complexity.

AI tools that are connected to data sources across the enterprise can identify which clients have expressed interest in alts and which attributes they're looking for; identify which available products meet clients' primary criteria; rank the relevant products; understand what additional compliance requirements must be fulfilled before putting these complex products in a client's portfolio; and draft a narrative to help advisors position the top products in a way that

will resonate with clients. (Critically, the results generated by the tool must contain links to source materials across the firm so advisors can validate and refine the analysis.)

Data rules

Decision-makers will make better AI tool choices if they keep data front-and-center. AI is only as good as the data it leverages. Tools with access to more of your data will generally perform better.

It's not necessary to increase the sprawl of applications on advisor desktops to reap the benefits of AI. Existing vendors are leveraging tooling in the cloud to add capabilities to their platforms. Because these platforms have critical data, the AI solutions they create will likely yield better results with a lower total cost of ownership.

The data of wealth management firms is scattered across portfolio management, CRM, financial planning, billing and other systems. While tools like Microsoft's 365 Copilot unify data across desktop tools, firms will want to use AI over their entire data estate. Before investing in AI tools, firms need a roadmap for unifying their data. Most importantly, make sure the roadmap is grounded in use cases that help advisors grow and scale their practices.

The potential of gen AI tools to reduce meeting admin is clear, but the playbook for how it will transform the industry has yet to be written. Having a clear vision of the processes that drive value and what data and insights can accelerate and augment those processes will provide a north star to prioritizing investments in a rapidly evolving tech landscape. **FP**

Amy Young is managing director of capital markets at Microsoft.

Continued from page 38

create friction. As the firm grows, so will regulatory and operational complexities, demanding more advanced systems and stronger management structures.

Key question: Can the CEO manage a complex organizational structure while maintaining harmony among partners?

Regional: \$10B-\$25B in AUM

Regional RIAs cater to clients in multiple states and are typically well-established, with a strong brand presence.

Pros: Greatly expanded market reach, allowing the firm to attract and retain top-tier talent. A multiregion client base helps protect from localized downturns, creating more stable revenue. Growth increases valuation potential.

Cons: Managing operations across multiple locations can be challenging. Preserving a consistent culture across

offices can be tricky, potentially diluting core values, and compliance becomes more complex, demanding a robust back-office infrastructure. Ensuring consistent client experience and operational standards becomes increasingly difficult.

Key question: Is the CEO ready to invest in the managerial and administrative overhead required for multiregional operations?

National: \$25B in AUM and up

National RIAs have significant presence across most of the country and command considerable market attention.

Pros: Unmatched market reach and influence, with economies of scale that allow for heavy investment in tech and infrastructure, driving down operational costs and expanding profit margins. The

national scope attracts clients from across the country, enhancing financial robustness and brand prestige.

Cons: Substantial capital is required. The complexity of compliance and bureaucratic management can divert focus from client-centric services, potentially alienating clients and advisors. Administrative and regulatory burdens are significant, necessitating a large, skilled back-office team.

Key question: Can the CEO maintain a client-centric philosophy while scaling to a national level?

As you consider your future in wealth management, take the time to reflect on your aspirations, consult with peers and critically evaluate how each potential scale aligns with your professional and personal ambitions. The right size RIA for you should meet market needs and fulfill your vision for the life you want. **FP**

Casey Jorgensen is head of the Dynasty Institute for Adaptive Leadership at Dynasty Financial Partners.

CE Quiz

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From: 'Diet' COLA: Advisors talk to clients about the lowest increase in years

1. The 2.5% Social Security cost-of-living adjustment (COLA) for 2025 continues a downward trend from the 8.7% hike accorded Social Security recipients in this year.

1. 2021
2. 2022
3. 2023
4. 2024

2. In 2025, how much more money will the average Social Security recipient receive in their monthly benefit?

1. \$48
2. \$59
3. \$68
4. \$71

From: Medicare basics for accountants: Key considerations for advising clients

3. Most Medicare recipients don't pay a monthly premium for Part A (hospital insurance) if they or their spouse have paid Medicare taxes for at least this many years.

1. 6
2. 8
3. 10
4. 12

From: From dictation to data leaks: FINRA, SEC scrutinize AI risks

4. What topics were added to the FINRA Rule 2210 guidance on advertising this May?

1. Suitability and fiduciary standards
2. AI and chatbot communications
3. Disclosures and expenses
4. Filing requirements and exclusions

From: Buy-sell agreements and their tax considerations

5. Which type of a buy-sell agreement contains components of the other types of agreements?

1. Cross-purchase
2. Stock redemption
3. Wait and see
4. None of the above

6. All of the following elements apply in a cross-purchase agreement except:

1. The family of the surviving partner receives a step up in basis to the current value of the business upon that partner's death.
2. The business is the owner, premium payer and beneficiary of each partner's policy.
3. Each partner is the owner, beneficiary and premium payor of the other partners' life insurance policy.
4. An agreement is made directly between the partners of a business or practice.

From: Tax planning for the unknown

7. If the Tax Cuts and Jobs Act of 2017 sunsets at the end of 2025, the number of taxpayers subject to alternative minimum tax is expected to grow by this amount:

1. 25%
2. 50%
3. 75%
4. 100%

8. If home equity loan interest deductions revert to pre-TCJA levels, beginning in 2026 interest could then be deducted from the first \$1 million in home mortgage debt and this amount in a home equity loan.

1. \$100,000
2. \$150,000
3. \$175,000
4. \$200,000

From: The 10 worst-performing ESG funds of the decade

9. Which of these ESG open-end funds or ETF had the worst 10-year annualized return as of Oct. 4, 2024?

1. RBC BlueBay Access Cptl Community Invml (ACCSX)
2. Templeton Sustainable Em Mkts Bd Advisor (FEMZX)
3. Green California Tax-Free Income Inv (CFNTX)
4. Invesco Wilderhill Clean Energy ETF (PBW)

From: The top 20 technology funds of the decade

10. Which of these technology funds had the most favorable expense ratio as of Sept. 13, 2024?

1. Columbia Seligman Global Tech A (SHGTX)
2. Putnam Global Technology Y (PGTYX)
3. Fidelity Select Technology (FSPTX)
4. Blackrock Technology Opportunities Instl (BGSIX)

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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 October 31, 2025.

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