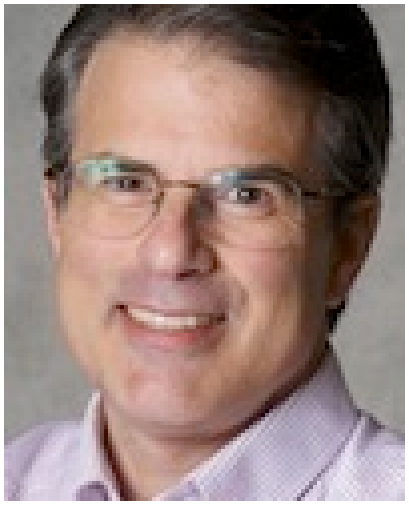
IRI Presents its Lobbying Goals for 2018

By Kerry Pechter *Thu, Feb 22, 2018*

The Insured Retirement Institute, which advocates for the interests of manufacturers and distributors of annuities on Capitol Hill, held a somewhat muted press conference this week.



During the Obama administration, the lobbyists at Insured Retirement Institute faced a wind tunnel's worth of political headwinds. Obama's Labor Department appointees, especially Phyllis Borzi at the Employee Benefits Security Administration (EBSA), were skeptical if not hostile to the variable and indexed annuities that IRI's members manufacture and distribute.

Today, with a pro-business President in the Oval Office, a Republican-dominated Congress and Preston Rutledge, a longtime retirement industry ally, running EBSA, the IRI would appear to have the wind at its back for the first time since it was born in October 2008 as a successor to the old National Association for Variable Annuities.

But the mood at yesterday's IRI press conference, which was held to announce IRI's lobbying agenda for 2018, was not especially upbeat or confident. Perhaps that's because IRI has already had a year to witness how difficult it can be to pass any new retirement legislation or change any regulation in our nation's divided and dysfunctional capital city, even with a pro-business administration in power.

The year was not a disaster, of course—the benefit of tax-deferral for contributions to retirement plans survived the tax overhaul. But now we've entered a tumultuous mid-term election year when legislators are likely to be distracted.

It's not as if IRI is calling for anything new and unfamiliar. Its 2018 Retirement Security Blueprint agenda includes several items that asset managers and life insurance companies have desired for several years. Nor is "retirement security" a very controversial issue; the details can be politically contentious, but in normal times it attracts bipartisan support. Unfortunately, the times aren't normal.

New wish list

What's on the IRI agenda? You can find it in the IRI's own words below. It asks (as it has before) for the creation of a regulatory "safe harbor" that would exempt plan sponsors from liability in case their conscientiously selected provider of an in-plan annuity (a life insurer) should fail. The lack of such a safe harbor has kept life insurers out of the 401(k) market.

The IRI also hopes to see legislative or regulatory changes that would allow for the creation of so-called Open MEPs, or multi-employer plans. Under current law, unrelated small companies can't band together to buy a 401(k) plan, nor are MEP members currently protected from collective responsibility for the

misdeeds of one of the companies in the plan. The lack of these changes prevents large asset managers and retirement plan providers from serving the small-company market economically.

In addition, the IRI wants a rollback of the sections of the DOL's 2017 fiduciary rule that make it more difficult for advisors or agents to sell variable and indexed annuities—the most commonly-sold annuities—than to sell fixed deferred annuities or income annuities. Partly as a result of the rule, sales of all annuities were down in 2017 versus 2016, according to the LIMRA Secure Retirement Institute. A revised "best interest standard" would help solve this problem.

Here's the official IRI list:

***Maintain and Enhance the Current Tax Treatment for Retirement Savings*:**

Congress recognized the vital role tax deferred retirement savings plays in spurring America's economic growth and prosperity in the "Tax Cuts and Jobs Act enacted in 2017. Congress should:

1) Maintain and promote the use of tax deferral for retirement savings.
2) Protect and preserve the distinct types of retirement plans.
3) Create tax incentives to encourage greater usage of guaranteed lifetime income products.

Expand Opportunities for Retirement Savings:

Congress should enact legislation which:

1) Generally requires all but the smallest employers to automatically enroll their employees in a 401(k) plan maintained by the employer and eliminate the barriers which discourage employers from offering these plans.
2) Removes the regulatory and legal obstacles to facilitate small businesses use of multiple employer plans (Open MEPs).
3) Increases auto-enrollment and auto-escalation default rates.
4) Improves and enhances access to the start-up retirement credit for small business employer-sponsored retirement plans.

1. ***Increase Access to Lifetime Income Products:***

Congress or the Department of Labor should clarify employer fiduciary responsibility in the annuity selection safe-harbor. Congress should enact legislation which:

1) Enables annuity portability.
2) Reduces the age requirement for in-service rollovers to purchase lifetime income products.
3) Updates required minimum distribution (RMD) rules to reflect longer life-spans
4) Authorizes the Department of Treasury to enhance and reform the rules governing the use of QLACs.
5) Directs the Department of Labor or another appropriate federal department to revise Qualified Default Investment Alternatives (QDIAs) rules to allow broader use of lifetime income products as default

investment options.

1. ***Help Savers Make Decisions about their Finances:***

IRI is calling for federal and state legislators and regulators to work constructively and collaboratively to develop a clear, consistent and workable best interest standard to avoid the creation of potentially duplicative, conflicting, or incompatible rules. Congress should enact legislation which:

1) Requires lifetime income estimates on workers' benefit statements.
2) Permits electronic disclosure for retirement plans. The Securities and Exchange Commission should adopt a variable annuity summary prospectus and annual update. The President should implement the national insurance licensing clearinghouse.

Provide More Resources to Protect Older Americans from Financial Exploitation:Congress should enact legislation to:

1) Enable financial advisors to report suspected financial abuse protect their clients from financial abuse.
2) Increase the amounts appropriated to support currently underfunded federal programs supporting state Adult Protective Service agencies.

Legislation ready to go

Covington said that 11 pieces of legislation have already been proposed that would give the IRI most of what it wants. Many of the items on the IRI wish list are already included, for instance, in the Retirement Enhancement and Savings Act of 2016. RESA was approved by the Senate Finance Committee but never introduced in the Senate. It was produced by Sen. Orrin Hatch's office (and reportedly written by his then-aide Preston Rutledge). But Hatch is retiring at the end of the current congressional session, and the future of the bill is unclear.

According to reports from the American Retirement Association, Rep. Richie Neal (MA), the ranking Democrat on the House Ways & Means Committee, introduced two separate retirement bills in December 2017. These were the Retirement Plan Simplification and Enhancement Act of 2017 (RPSEA) and the Automatic Retirement Plan Act of 2017 (ARPA).

The ARPA and RPSEA seek to implement automatic 401(k)s and simplify administration and improve retirement savings opportunities across the spectrum of plans, including both DB and DC plans. Moreover, the RPSEA pulls together many of the bipartisan pieces of legislation that have been stalled on Capitol Hill for the last several years, including several provisions from Sen. Hatch's RESA bill.

In addition, Reps. Ron Kind (D-WI) and Dave Reichert (R-WA), senior members of the House Ways & Means Committee, reintroduced their Small Businesses Add Value for Employees (SAVE) Act (H.R. 4637) on Dec. 13.

H.R. 4637 would make changes to existing SIMPLE IRA and SIMPLE 401(k) retirement plans, allow for

open multiple-employer plans (MEPs) and ease other requirements to make it easier for small businesses to offer plans to their employees. The SAVE Act also includes similar provisions in Rep. Neal's RPSEA and Sen. Hatch's RESA legislation.

IRI's job in 2018 will be to generate support for at least some of these bills on Capitol Hill. Getting legislators' attention at a time when many of them are preparing for the mid-term elections is a lot to ask. IRI itself is undergoing a transition; it is looking for a new CEO to replace the retiring Cathy Weatherford.

To my mind, it's also difficult to imagine Congress addressing retirement savings in a piecemeal fashion; ideally, a retirement policy overhaul should be coordinated with much-needed revisions to Social Security. Recognition of all these facts may explain the absence of buoyancy at the IRI press conference this week.

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