Savings Pros Meet in City of Big Spenders

By Kerry Pechter *Tue, Mar 21, 2017*

At the NAPA 401k Summit in Las Vegas this week, nearly 2,000 plan sponsor advisors et al worried about policy threats to their industry. At nearby slots and gaming tables, middle-class Americans fecklessly squandered their nest eggs.

Gathered around the blackjack dealers and roulette croupiers at Las Vegas casinos this week, the sort of folks you'd normally see shopping at Walmart were throwing their money down with an intensity that they really should have directed toward their 401(k) plans—assuming they have them.

Just about everyone here in Sin City seemed hellbent on spending, not saving—unless you count the 1,800 or so plan advisors and vendors holed up in the conference center at Caesar's Palace. Attendees at the National Association of Plan Advisors 2017 Summit were less focused on shooting craps in Vegas than on the political crapshoot back in Washington, D.C., and the effect it might have on their livelihoods.

The fiduciary rule won't disappear

Brian Graff, the CEO and chairman of the American Retirement Association (NAPA's parent group), lobbies for this group. A former Groom Law Group attorney, his job is to plead NAPA's case to Congress. On Monday, at the start of the conference, he confessed that political uncertainty about the fiduciary rule and tax reform keeps him in a state of "anxiety 24 hours a day."

If you thought that plan advisors would be giddy with expectations that the Obama Department of Labor's fiduciary rule will die after its anticipated nine-month suspension, think again.

"That's an unlikely scenario," Graff said in a press conference. The Trump DOL is more likely to try to surgically excise the most vexing part of the rule. That would be the so-called Best Interest Contract. It makes firms whose advisors earn third-party commissions on the sale of mutual funds, indexed annuities and variable annuities vulnerable to federal class action lawsuits—as opposed to arbitration proceedings—from groups of disgruntled IRA investors who believe that firms didn't act in their "best interests."

A full-blown repeal of the Obama rule isn't expected. It's not a huge priority for Republicans. Advisors are already moving away from the commission model and relocating small-balance clients to automated services. A few life insurers, meanwhile, have started marketing no-commission indexed annuities, though with limited success.

The rule would be difficult to undo. Even though it isn't yet enforced, it has actually been hard-wired into the pension regulations since last June. "The [Trump] DOL can't just issue a piece of paper making the fiduciary rule go away," Graff (pictured below right) said. "It is the law. And it's effective, but not applicable."

Budget hawks eye tax deferral

Tax reform is a much bigger priority for Republicans, and that's what most worries Graff, who is important enough a lobbyist to have been seated between Carl Icahn and a supermodel at a Trump inauguration dinner. ("Icahn had no idea 401(k) plans were such a big deal," Graff joked. "And the model said, 'Yeah, and I can't even have one because I'm a contract worker.'")

Based on bitter experience, Graff is concerned that Congressional deficit hawks will raid the $100 billion-plus annual retirement tax expenditure to help pay for tax reduction for the wealthy and new defense spending. "At this point, if they do tax reform, there's no pathway where we get through this process unscathed," Graff said.

During the 1986 tax reform, Congress cut the maximum 401(k) contribution to $7,000 from $30,000, he reminded listeners. Just three years ago, the House Ways and Means Committee chair, Dave Camp, suggested freezing DC plan contribution limits for 10 years and cutting the maximum deductible contribution limit in half. (The other half could be made as a contribution to a Roth account, eligible for tax-free withdrawals.)

Congress is more inclined toward a reduction in capital gains taxes, 81% of whose benefits would go to those earning $200,000 a year or more, Graff said. "Capital gains versus tax reform is the choice they are facing," he noted, and his job "is to make this choice as difficult as possible." He intends to remind Congress that a) 401(k) savings contribute to growth, and b) capital gains tax relief for the top 5% "won't sell well politically."

In truth, the benefits of tax deferral also accrue mainly to top earners. Only about half of American workers have access to a retirement plan at work at any given time, and only a fraction of participants accumulate large balances. Leakage of assets during job turnover is a big problem for middle-class Americans, many of whom lack any savings other than plan assets. Ironically, those who benefit the most from tax deferral often resent the system in retirement, when their deferred income taxes come due. In short, the $100 billion tax expenditure for retirement savings is a vulnerable, high-value target for tax reformers—more so than, say, the home mortgage interest deduction.

HSAs: A threat to 401(k)s?

Healthcare Savings Accountswere another topic of conversation in Las Vegas this week. These tax-advantaged accounts, popular with employers who hope to adopt high-deductible health insurance plans, were characterized as a threat to 401(k) plans. "People will save in the HSA first, then save in their 401(k) up to the match, and then go back to the HSA," Graff said.

The key issue appeared to be that contributions to health savings accounts would not be invested in the plan investment options. Graff favored an integrated health and savings account, with all the assets going into the plan investments—with no harm to the all-important levels of assets under management, on which revenue is usually based.

State-sponsored mandatory auto-IRA programs

These pending programs, which aim to expand access to retirement plans to working Americans who don't have it, have gotten the most traction in blue states. California, for instance, is close to launching its SecureChoice plan, which will require any employer without a plan to allow their employees to be auto-enrolled into target-date funds in IRAs.

Republicans have moved to deprive the plans of their exemption from regulation under federal pension law; that would re-introduce a legal complication that could discourage some states from starting their own plans. An underlying question is whether the state IRA plans might disrupt the way 401(k)s traditionally get distributed and how individual savings moves up the financial food chain. Many advisors, either as a specialty or a sideline, sell 401(k) plans to small and mid-sized businesses and, by doing so, help move large chunks of money to asset managers.

But Graff likes the mandates. They could motivate some employers to get off the fence and finally agree to sponsor a 401(k) plan, which would offer them and their workers more benefits than the auto-IRA. The National Association of Insurance and Financial Advisors (NAIFA), however, regards the state mandates as encroachment on its turf. NAIFA is lobbying hard against the state initiatives.

Only one retirement income session

Although the conference included only one break-out session on retirement income in defined contribution plans, over 100 people came to hear Kelli Hueler of the Hueler Companies and Barbara Delaney of StoneStreet Advisor Group talk about their efforts to convince plan sponsors to at least start telling participants that the point of saving in a 401(k) is to generate monthly income in retirement.

Hueler operates Income Solutions, an online rollover platform where newly retired 401(k) participants can solicit competitive bids on individual income annuities from several life insurers simultaneously. All Vanguard participants and shareholders can use her platform. Boeing is the most recent big plan sponsor to encourage its retirees to use Income Solutions.

A shout-out for DC income solutions came from an unlikely wirehouse source at the conference: Morgan Stanley’s Ed O’Connor. “I know there’s no uptake on this right now, but these products are out there. I think someone is going to crack that code,” he said. “And advisors need to keep up to speed on them. Clients won’t think to ask you about retirement income. But you can demonstrate your value by positioning yourself as the person who poses those kinds of questions to them.”