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Beyond the Headlines

Between the SECURE Act, a new administration in Washington, higher levels of personalization for participants, consolidations, litigation, and more—CAPTRUST Defined Contribution Practice Leader Jennifer Doss breaks down what is on the road ahead for retirement plan sponsors and their participants in 2021.

Last year when we published our predictions for 2020, we were looking ahead at the prospect of retirement reform, a presidential impeachment, and the looming presidential election. 2020 looked to be a wild and wooly year in the making. Little could we imagine that in mid-March, our world would change, almost overnight.

The U.S. economy would experience a historic shutdown and contraction, resulting in the swiftest market meltdown—and rebound—in history. Entire industries shifted to remote work, and millions of workers found themselves furloughed, underemployed, or unemployed—all thanks to the novel coronavirus. Over the course of the year, 18 million Americans became infected and more than 300,000 perished from COVID-19 and its complications.

2020 certainly has been a humdinger of a year, one that we'd all like to put in the rearview mirror.

Thankfully, we can begin to see a light at the end of the tunnel. Multiple vaccines that appear to be highly effective are being staged for release, suggesting that we may achieve some form of new normal over the next 12 months. There is little doubt that the fight against the virus will dominate the headlines in 2021.

But of course, beyond the headlines, plan sponsors need to stay focused on running their business. As they start to pick up the pieces from 2020's historic disruption, what should they expect? What trends have been reinforced, and which ones have waned? What new developments should we expect out of the new administration in Washington? Let's take a look.

SECURE Act and Its (Muted) Impact

The Setting Every Community Up for Retirement Enhancement (SECURE) Act was quietly signed into law in late December 2019. Many expected this bipartisan legislation to bring about the biggest change to the American retirement system since the Pension Protection Act of 2006. Expanded access to multiple employer plans (MEPs) and a plan sponsor safe harbor for annuity provider selection were two high-profile features of the SECURE Act with game-changing potential.

So far, the reception has been lukewarm. It's easy to imagine that plan sponsors have been more caught up in trying to address the acute needs of their companies and their employees and implementing provisions from the Coronavirus Aid, Relief, and Economic Security (CARES) Act than pursuing longer-term objectives. Further, several of the most hyped aspects of SECURE—notably, new rules for open MEPs—have not yet gone into effect. But as plan sponsors come up for air in 2021, we expect these provisions will begin to get some traction.

We do expect to see an increasing uptake for a range of retirement-income-oriented products and services in defined contribution plans, including guaranteed and non-guaranteed investment products, advice for participants at or nearing retirement, recordkeeper-based systematic or periodic withdrawal programs, and managed accounts. Meanwhile, a number of industry players are pushing MEPs—and we expect an uptick in interest as the rules go into effect, but we don't expect immediate adoption. The hype will exceed the reality, at least in 2021.

SECURE Act, the Sequel

Meanwhile, retirement legislation marches on. The House of Representatives has been working on the bipartisan Securing a Strong Retirement Act of 2020, also known as SECURE 2.0, to build upon the 2019 SECURE Act. This new bill includes a focus on auto-enrollment, the addition of collective investment trusts as available investment options for 403(b) plans, a clearinghouse for lost retirement accounts, another increase in the required minimum distribution age (to 75), and a tax credit for lower-income savers. Given the current state of gridlock in Washington, the bill's future is uncertain, but its bipartisan flavor may allow it—or at least pieces of it—to become law.

No Big Changes out of Washington

While it's easy to imagine that the new administration in Washington might bring with it a few changes, this time might be different. The Biden administration will certainly be very focused on wrestling the COVID-19 pandemic to the ground and passing additional fiscal stimulus in the first months of 2021, so we are unlikely to see meaningful progress on major policy proposals, including Social Security reform, tax equalization for retirement plan contributions, and rollback of the Trump tax cuts.

The new administration's policy efforts will also be hampered by the balance of power in Washington. Control of the Senate hinges on two contentious runoff elections in Georgia. While the results will lean the Senate toward the Republicans or Democrats, the majority either side enjoys will be very thin. This setup—with a Democratic president, a majority Democratic House of Representatives, and a thin majority either way in the Senate—makes it highly unlikely that we will see any sweeping policy changes in 2021.

But a Few Small Repairs

While we don't anticipate big changes out of Washington, we may see a few significant, but more tactical changes affecting retirement plans. Those include:

- *Fiduciary rule.* The final fiduciary rule from the Department of Labor (DOL) titled "Improving Investment Advice for Workers & Retirees" is set to become law in February but likely falls short of the Biden administration's hopes to raise the bar on fiduciary standards through consumer protections, disclosure, and the definition of fiduciary. If this proves to be true, the new administration may strike it down before it becomes effective and start over (again), resulting in a rule set similar to the original proposal under President Obama.
- *Environmental, social, and governance (ESG) investing.* Over the past several years, we have seen a series of somewhat conflicting and confusing DOL opinions related to the use of ESG investment strategies in qualified plans. The most recent guidance—while softer than the original proposal from the DOL earlier this year—fell short of ESG proponents' hopes and remains difficult to navigate. Regardless of whether the Democrats win control of the Senate, we may see the DOL revisit this rule and further soften the language around the appropriateness of using ESG factors when selecting and monitoring investments for qualified plans in the year ahead.

Technology: A Double-Edged Sword

Technology development by recordkeepers and other service providers will create new benefits and higher levels of personalization for participants. As this trend unfolds, we will see much more robust participant portals with algorithms driving content and context, resulting in more meaningful user experiences. The content and suggestions served up for a young single participant will be significantly different than what's offered to an older married worker approaching normal retirement age. This customization can be driven by a combination of recordkeeper data, participant behavior, and the behavior of participants of a similar ilk. The result will be much better and more effective web user experiences that—at the margin, anyway—will nudge employees closer to financial wellness goals.

Another example of how technology is creating more personalized experience: managed accounts. Todays' managed accounts promise to deliver more customized portfolios by leveraging various data points, such as what is available in the recordkeeping or payroll system. This could include age, gender, savings rate, income, marital status, and account balance. We have seen a rising tide of interest in managed accounts from recordkeepers, plan sponsors, and participants, and we expect that trend to continue in 2021 and beyond.

In fact, we are likely to see some interesting developments, including increased use of managed accounts as the qualified default investment alternative (QDIA), managed accounts positioned more for retirees, and integration of guaranteed income products.

Yet for all the promise and efficiencies generated by technology, cybersecurity continually becomes a bigger and bigger issue. We have all seen the headlines about high-profile data breaches and phishing scams, but we also saw new cyber-scams emerge this year that prey upon service providers' empathy for participants facing tough economic times. This is a constantly evolving arena that, no doubt, will continue to develop—along with new tools and processes designed to defeat fraudsters.

Keeping on Consolidating

On a related note, our view is that the recordkeeper consolidation trend is, in part, a result of recordkeepers' need to keep technology current—including cybersecurity measures—and maintain high service levels, all while facing fee compression and thin margins. Many recordkeepers that have been unable to strike this balance have chosen to exit the business by selling their retirement recordkeeping business to a competitor. Others have chosen to partner with technology firms with the goal of outsourcing costly operations.

The most recent examples include MassMutual's sale of its recordkeeping business to EMPOWER and Vanguard's decision to outsource its back office to Infosys. The recordkeeper consolidation and outsourcing trend picked up steam in 2020, and we expect more in 2021.

Plan Litigation Pickup

If you thought that retirement plan class action litigation was on the wane after a busy 2019, think again. The number of class action suits against retirement plan sponsors jumped fourfold in 2020. The primary areas of focus include using active funds rather than cheaper passive funds in a plan lineup, not using the least expensive share class of a particular investment strategy, investment performance, and plan fees. Despite a few high-profile settlements, most of these suits have failed to get traction. Nonetheless, we expect this trend to continue, making the case for sound and well-documented fiduciary process as the best defense.

A Return to Normalcy?

According to a Fidelity Investments survey, 80 percent of plan sponsors who suspended their matching contributions during the COVID-19 crisis intend to reinstate them. Here at year end, that already seems be happening and may be a good indicator of a return to normalcy reflected in the expectations of corporate budgets.

While returning to normal (and the workplace), we must all work through issues ranging from what a post-pandemic workplace looks like to what scars have been left on the economy and our colleagues, but at least we'll be moving forward. And at some point, by mid-2021, hopefully, we will turn our sights back toward business as usual, helping to drive financial wellness with our employees, improving fiduciary processes, and looking for opportunities to enhance plan benefits.

Please let us know if we can be of service and good luck in the new year.

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