Please note: This is a transcription so there may be slight grammatical errors.

Hello, and welcome to Revamping Retirement. A podcast brought to you by Captrust, where we explore the opportunities and challenges facing today's retirement plan sponsors and fiduciaries. Our hosts, Jennifer Doss and Scott Matheson lead the employer sponsored retirement plan practice at Captrust, one of the largest registered investment advisors in the US, and the thought leader in the retirement plan advisory and consulting space. We hope you enjoy Revamping Retirement.

Scott Matheson:

Welcome to episode 41 of Revamping Retirement. I'm Scott Matheson, and as always, I'm joined by my co-host, Jennifer Doss. How are we doing today, Jennifer?

Jennifer Doss:

I'm great, Scott. Summer is really, I would say, in full swing at my house as it is in North Carolina. My son is out of school right now, as of a few weeks ago, and he is already enjoying his summer break very much. Although I thought him being out of school was going to give me a little bit of a break, but after spending about four hours sweating by the pool last night at a swim meet, I'm wondering if that is actually how my summer's going to go.

Scott Matheson:

Yes, I do have my own fond memories of midweek summer swim meets when the heat index is over a hundred degrees. I also remember standing among the other parents and everyone wondering together aloud why the meet starters and directors just can't seem to keep control of the meets. I mean, how does it take something that should be two hours, when it actually takes four? Actually, I was thinking maybe that's a pretty good metaphor for what's going on in the economy and the markets right now. We got investors, we got business leaders, we have the American consumers who, we just learned yesterday when the May CPI number was released, are currently paying almost 9% more for goods and services versus this time last year. All those folks are just like parents standing on the pool deck wondering why the Federal Reserve Bank can't get control of the economy.

Jennifer Doss:

Yeah, I like that metaphor. Again, it hits a little too close to home, but I do like it. It's also worth mentioning to our listeners that we are recording today's episode. It's June 15th, mere hours before the Federal Reserve is going to set to announce its next interest rate decision. So that inflation number that you just threw out is going to be critical.

Scott Matheson:

Yeah, that's a good point. I wonder maybe we should use this as an opportunity to make sure our predictions for that decision are on record.

Jennifer Doss:

Yeah, no.

Scott Matheson:

Yeah, I guess. I agree with that. So I do think though this is a good opportunity as we close in on the halfway point of 2022 to chat about where we are so far this year, and maybe compare that to what we thought was going to happen. And to the extent we can, leave our listeners with a little bit of our latest thinking on what we see for the back half of 2022. That sound like a plan?

Jennifer Doss:

Works for me.

Scott Matheson:

Awesome. Well, I should probably have let you in on my plan before we got onto the recording here, because when I said we should share what we think, I really mean you. So I'm going to take the easy job here and I'm going to ask you all the hard questions.

Jennifer Doss:

That is not shocking to me.

Scott Matheson:

Yeah. I knew you wouldn't be surprised. But in fairness to you, I'm going to give you a minute to gather your thoughts. Exactly a minute in fact, because I'm going to call an audible and kick it over to my main man, Mike Webb, who's going to give our listeners an update on the types of investments that are permitted in defined contribution plans. Take it away, Mike.

Mike Webb:

Thanks Jennifer and Scott, Mike Webb here with another Minute with Mike. This month's minute focuses on the various types of investments permitted in defined contribution retirement plans. In 401a and 401k plans, nearly all types of investments are permitted. However, there are limits on the amount of life insurance that may be purchased, but otherwise for 401a and 401k investments are fairly unlimited.

Contrast this to most 403b plans where investments are limited to fixed and variable annuities and custodial accounts, more commonly known as mutual funds. The only exception to this rule, or for 403b(9) church retirement income accounts. There you have unrestricted investments. You should also note, that grandfathered life insurance contracts issued prior to September 24th, 2007, which is about 15 years ago now, may also be held as part of a 403b plan.

And finally in 457b plans, nearly all types of investments are permitted. However, there are practical issues with the administration of life insurance contracts, and social clubs may need to pay taxes on annuity contracts. Of course, just because a particular type of investment is available, doesn't mean a plan sponsor has to or should offer it. Record keepers or TPAs can also limit the investment types available on their platforms. And for governmental plans, state law can restrict investments as well.

For Revamping Retirement, I'm Mike Webb, and this has been your Minute with Mike. Now back to Jennifer and Scott.

Scott Matheson:

All right thanks Mike, as always, I failed to mention that today's Minute with Mike was brought to you by overheated tired and disgruntled summer swim league parents all across the country. I am sure they were stoked to learn about the types of investments permitted in defined contribution plans.

Jennifer Doss:

I don't know who isn't.

Scott Matheson:

Yeah, exactly. All right, Jennifer, last December, we released our annual predictions for the retirement industry. One of those key areas of focus, as per usual, was on our nation's capital. On the regulatory front, as I recall, the biggest item was the DOL finalizing the ESG rule. So why don't we start there? And I do seem to recall that most experts, us included, were expecting the DOL to get to that ESG rule in the first half of the year. So maybe give us an update on where we are with all that.

Jennifer Doss:

We did. We did expect that ourselves. However, I would say that the DOL has reset our expectations just a bit. We had said originally, I think between April, May, June was kind of the average prediction for us, but it is looking like it's going to be delayed a bit at this point. We've heard through the grapevine that ideally the Department of Labor really wanted to have their assistant secretary of labor for the EBSA, the Employee Benefit Security Administration, in place, which is Lisa Gomez. There was just a vote the other day and unfortunately she was not passed through. So there'll be another vote coming up. But they really wanted to have that person in place before finalizing this particular rule.

They also released a related request for information in February though, asking about what actions the Department of Labor should take related to protecting retirement plans for risks associated with changes in climate specifically. So I think they want answers to that. They want to have time to review that as well. So that's probably also adding to the additional time. If you remember, from the proposed ESG role that was released last fall, it was very heavy on the E, or the environmental part of ESG, is that was really the main focus of the Biden administration's executive order. Well, when they asked the department to look at regulations that would be associated with protecting investors from climate related risk specifically.

So again, on a related note, I think we'll talk about this in a minute, but the SEC's also doing some stuff on climate related. So I don't think there's necessarily coordination there, but maybe. Maybe that's also adding to the timeframe.

Scott Matheson:

Yeah, well, I'm curious because it's been the fits and starts have continued and once again, we see politics getting in the way of what seemed to be pretty straightforward regulatory guidance, but I'm curious what you're seeing or hearing from our plan sponsor clients during this extended wait period, as it relates to maybe even their interest in ESG. Has anything changed there?

Jennifer Doss:

I don't think anything's changed really since last time we talked about it probably. We're still very much in a waiting period for sure. And I think our plan sponsors are as well. Even really ones that were eager to understand the ESG risk associated with their investments and really get some of these things in their plan, and as part of their monitoring process. They understand, and we understand that it's critical that we get final clarity from the Department of Labor on this before proceeding or really taking any action on that front. We have been, I would say, mostly fulfilling requests for education from plan sponsors on ESG. So they're really ready to understand the industry better and they're ready to take action for when that role does come out, but not a lot of action at this point.

Scott Matheson:

Yeah. Still early. So speaking of action, and you mentioned the SEC earlier, I'm wondering if you've changed your opinion or maybe just give us guidance on or thoughts on if you feel like the industry overall is actually ready for whatever comes out of the DOL at this point.

Jennifer Doss:

Yeah, I think, again, there's a lot of things moving together at the same time. And again, it's all kind of driven by the executive order from the Biden administration, but I think we're getting some good co-movement from the SEC, the Security Exchange Commission, related to two fronts that's going to be helpful in easing some of those big issues that were related to ESG and retirement plan evaluation and monitoring. And the first one was that there was really no universal nomenclature disclosure related to ESG, and really also a lack of readily available data. You just didn't know if what you were looking at was accurate or complete, or universal, and that's really still the case.

A lot of what's being thrown out there right now as ESG ratings is really not so heavily quantitative. It's really a lot of qualitative interpretation of maybe what's available based on human assessment. And that can be sometimes spotty and even uneven among companies, which is why you get potentially different ratings between two different ESG rating companies.

So the SEC is trying to mandate more climate-related disclosure for public companies, which would certainly help at least level the playing field in that E area related to ESG. They're also trying to put more teeth around, and this is really interesting to me in particular, around requirements for funds that claim to be ESG. And that they would really have to fit into one of three types of ESG funds, integration funds, ESG focused funds, and impact funds. And I'm not going to get into the details of what those each mean. And again, it's not a final rule either. But it would certainly help investors and advisors with search and comparison of ESG funds. And I think it would also require certain disclosures for ESG funds and prospectuses and annual reports. So that would certainly go a long way into making a more even playing field, I think, in that regard.

Scott Matheson:

Yeah. So it seems like still work to do there. We got to get the guidance to kind of give us clear, safe harbor approach to putting them in plans. Still got to do a lot more education on plan sponsor front to understand how they want to go implement more thoughts on, hopefully more clarity at the Department of Labor on the S and the G being more included in this, and obviously the SEC and other regulators, and even company compliance with reporting is going to be important for successful execution. So, all right, anything else new or emerging on the regulatory front or the agenda worth mentioning?

Jennifer Doss:

I know you'll be sad, but no, not really.

Scott Matheson:

Oh man.

Jennifer Doss:

We had hoped for, I think, some focus from the Department of Labor on the fiduciary rule, which maybe was them kind of taking a look at that current five part test definition that we have of what it means to be a fiduciary. But I think they're definitely going to want to wait on the appointment of their assistant secretary at the DOL before they really dive into that. So not really sure of the timeframe on that one.

Scott Matheson:

Okay. Politics again. All right. So let's travel across the old Washington Mall and discuss Capitol Hill now and get into the legislative arena.

Jennifer Doss:

I am so excited.

Scott Matheson:

I knew you would be. So SECURE 2.0. Remind our listeners real quick, remind me too. What are some of the big items that were in there, and maybe just bring us up to speed on what's happening with SECURE 2.0.

Jennifer Doss:

Yeah. SECURE 2.0 was passed by the House back in March. And it contained a lot. I mean, like 45 plus provisions. But a lot of really good ones on retirement from things that would help with student loan debt to emergency savings, to expanding the use of automatic enrollment, the Senate, of course, to your point about politics, they want their own version of SECURE 2.0. They want to put their own stamp on it. And so, they're working on that internally within the Senate. And then the two are going to have to meet to kind of hammer out a final version that they can both agree upon. And the good news is that a lot of retirement legislation is for the most part bipartisan. And so, there is a high likelihood that we will get a final SECURE 2.0 bill by the end of the year.

Scott Matheson:

Nice. Well, I just read yesterday, in fact, that the Senate Health Education, Labor and Pensions Committee, also known as the HELP Committee, and of course there's an acronym. They approved a companion act to SECURE 2.0, I believe if I'm getting this right, the act was called the Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg Act, or as it's being called the Rise and Shine Act.

Just a sidebar real quick, because I know you and I have both spent considerable time over the years on the Hill talking with lawmakers and their staff. So I feel like we have a decent understanding, at least above average understanding of how laws are made. But I'm going to be honest, I don't really know that I truly understand how laws are named. More specifically, I'm wondering, do you think that the Senate HELP Committee, for example, in this case finished agreeing on all these provisions that would go into their proposed act and then they started a freeform jazz style brainstorming session to come up with the name? I mean, I guess I just wonder how much of these really smart people's time it took to make sure the name could be turned into this catchy acronym.

Jennifer Doss:

Yeah. I haven't been invited to those sessions, but I'd very much go, I'll just put that out there, by the way if I was invited, I would participate no doubt, but I think they understand the value of marketing, right? I mean, it's catchy, and as we're talking through these things, sometimes they can be a little dry, right? If you're not in the industry. And so, I think giving things a catchy name is probably what you do, but this one might be a little egregious.

Scott Matheson:

Yeah. When I think rise and shine, I just think about getting a bacon, egg, and cheese biscuit and a coffee, but-

Jennifer Doss:

Or a mimosa.

Scott Matheson:

Yeah, there you go. I do have this visual in my head of senators, Burr and Murray, just standing in front of a HELP Committee meeting and writing their ideas on this huge whiteboard, and then reminding everybody that there are no bad ideas here. Just throw out your best names for the act, but maybe I'm wrong.

Jennifer Doss:

Yeah. I'm sure that's exactly how it goes down, but-

Scott Matheson:

Yeah, you're right.

Jennifer Doss:

There might be bad ideas, I'm not sure.

Scott Matheson:

Yeah. All right. Well, in all seriousness, have you had time to review this, and I'm curious what this companion act means to SECURE 2.0, and if you think any of the key provisions will affect the law making process at this point.

Jennifer Doss:

I think the good news is that there's a lot of agreement between the House and Senate on most of the key issues that people are going to care about. They both have their own, you know, the Senate and the House both have their own PEP provisions that are important to them. One interesting provision that's in the Rise and Shine Act that was not in the House bill is around allowing for plan design expenses to be paid from plan assets. So if you are a small plan and you're thinking about what is the impact of adding automatic enrollment or automatic escalation, and you want to do a study and you want to pay for that study. Now you would potentially be able to pay for that out of plan assets.

So there are some that are unlikely to be agreed upon between the two though that were in maybe SECURE 2.0 that were not in Rise and Shine, and are probably not likely to come out of the final versions from Senate. That's raising the RMD age to, or the required minimum distribution age to 75. If you remember in SECURE 1.0, we just raised it from 70 and a half, which was always a great age, to 72. And now they're thinking about raising it, they want to raise it to 75. They also want to potentially revamp the saver's credit. And the reason that these are maybe going to be not as agreed upon as these are revenue losses for the government. And so, they require pay fors and you got to figure out how to make up that money within a 10 year window. And again, more politics. But again, most likely we're talking about if we do that, you're going to see a lot of Roth mandates and things like that. But those are two that are probably not going to make it, but there is a lot of agreement.

Scott Matheson:

Yeah. And just for clarity, so you said PEPs, and just to remind everybody, that's pooled employer plans. They were commonly multi-employer plans in the past. This is a relatively new naming convention of that. That's what Jennifer talks about there. And then, just as a reminder, I'm sure a lot of our listeners already know this, the inability to pay for plan design related things out of plan assets in the past has been a thing because those are considered what are called settler functions and not fiduciary functions. And so, just to clarify that piece. So anything else on the legislative front to discuss?

Jennifer Doss:

I think that's enough for now.

Scott Matheson:

Yeah. I agree. One of the other items we expected and was really continued plan sponsor focus on cybersecurity. Curious if we've seen any movement there or just has it taken hold?

Jennifer Doss:

Anecdotally I would say that I've seen more plan sponsors adding a cybersecurity review to more of their annual fiduciary process. Like that cadence. So I think that's really good and beneficial for everyone. I also see more providers, like the actual record keepers or TPAs, third party administrators, taking cybersecurity more seriously and being a little bit more forthcoming about it within the industry. I think it's, on the downside, that's probably amplified the divide we've seen from maybe smaller record keepers and TPAs however, with some of the really, the larger ones that have a lot of resources to be able to invest in cybersecurity measures. So, I think, there's always pluses and minuses. So I think those are the two we've seen. We haven't heard anything else from the Department of Labor since they released the guidance this year. Not sure that we're going to, but we'll see.

Scott Matheson:

Yeah. It sounds like their agenda's getting fuller with the shorter timeframe with no EBSIS security, secretary, excuse me. So, all right, well at least it sounds like good movement on the important issue of cybersecurity. What else would you say, if anything, is worth updating our listeners on?

Jennifer Doss:

Well, I think we've beat the labor markets to death this year.

Scott Matheson:

They beat me to death.

Jennifer Doss:

Yeah, I was going to say internally, externally, it's just, it's hurting everybody. But it has resulted in record demand for our participant advice and wellness services is what we've seen. For employees, we have a lot more plan sponsors just again, post the height of COVID anyway. Turning around and saying, I think we can do better. Right? We can get people more prepared for even just emergencies or retirement, and we can offer better resources. I think also we've seen in our non-qualified deferred compensation business, we've seen a record demand for startups as well. And I think the other thing I would mention, again, these are always, there's bright spots, right? While the market has been very bad for DC participants and investors, really, stocks, bonds, have both lost value this year. It's been very unique. DB pension plan sponsors have experienced drastic funding improvements in the face of higher interest rates that we've seen. Ended of the year, I think just shy of a hundred percent funded, which is the closest it had been since 2008, since like the financial crisis. So yeah, we're now at 107 for the average corporate pension plan. So again, that's some good news on that front.

Scott Matheson:

So good news, bad markets, good interest rate environment for pension plans.

Jennifer Doss:

Bad for everybody else.

Scott Matheson:

Bad for everybody else. We'll take that. All right. Finding the silver lining. Okay, the other items that seem to be getting air time that we really didn't discuss are probably related to cryptocurrencies and retirement plan. And maybe even somewhat related here, the potential for updates on plan sponsor responsibilities as it relates to those plan sponsors offering self director brokerage accounts and plans. So, correct me if I'm wrong, but it does feel like it's a little early to call the ball there.

Jennifer Doss:

Yeah, I agree. I think we should maybe know more on both fronts as the year progresses. I don't think it's going to be any kind of formal thing from the DOL, but probably maybe some more informal guidance, or statements, or at least things that can help guide plan sponsors and advisors. But yeah, we just can't give any real clarity there yet. I think the one thing that we've seen plan sponsors doing is just if they have self-directed brokerage accounts today, going in and making sure that there's no direct cryptocurrency available to investors. But really there's none of the major providers offer that today anyway. So I don't think that was kind of a moot point. I think the outstanding question is, well, what about ETFs? And what about mutual funds that are underneath the self director brokerage that maybe track the price of cryptocurrency through futures markets? Like what about those? They're regulated securities, but they're related investments. And so, there's just a lot of lack of clarity to your point. So I think we'll just have to wait and see on that.

Scott Matheson:

All right. Well, you heard it here first, lack of clarity. We're not giving you an answer. Can't give you an answer. All right, so that seems like a pretty good rundown to me. Good midyear check in. I will let you off the hook and finish with one final question. What do you think the fed does this afternoon?

Jennifer Doss:

Yeah. I'm not going to answer that.

Scott Matheson:

Fair enough.

Jennifer Doss:

It's not a winning proposition for me.

Scott Matheson:

Did not take the bait. I respect that. All right. Before I let you go, before I let our listeners go, I wanted to highlight that we did just have a very recent thought leadership piece. You can actually get some of Jennifer's and mine insights into where we think qualified default investment alternatives, or QDIAs as they're more commonly called, are headed in the future. We like to call that QDI 2.0. I should probably mention that the name came from a multiple hour brainstorming session with a whiteboard, just like the Rise and Shine Act. Jennifer was there. I was there that. I mean, it was a good process. You can see the creative juices flowing there in QDI 2.0.

All right. You can find that on captrust.com. We'll actually link it in the show notes too. And with that, you've done it folks. You've made it to the end of another episode of Revamping Retirement. Next month, we'll be interviewing a guest who is arguably one of the most influential thought leaders in the retirement industry over the past few decades, Dr. Shlomo Benartzi. You don't want to miss that conversation.

In the meantime, if you have feedback for us or suggestions on future episode topics or guests, please send those our way. And of course, if you like what we're doing here, don't forget to like and subscribe on your favorite podcast app or platform. For Jennifer Doss, Mike Webb, our sound engineer, Ben Farmer, and our producer, Karen McCauley, I'm Scott Matheson, wishing you all a happy summer swim meet and delayed airline travel season. We'll talk to you next month.

Vo artist:

The discussions and opinions expressed in this podcast are that of the speaker and are subject to change without notice. This podcast is intended to be informational only. Nothing in this podcast constitutes a solicitation, investment advice, or recommendation to invest in any securities. Captrust financial advisors is an investment advisor registered under the Investment Advisor's Act of 1940. Captrust does not render legal advice. Thank you for listening to Revamping Retirement.

Disclosure: *CapFinancial Partners, LLC (doing business as "CAPTRUST" or "CAPTRUST Financial Advisors") is an Investment Adviser registered under the Investment Advisers Act of 1940. However, CAPTRUST video presentations are designed to be educational and do not include individual investment advice. Opinions expressed in this video are subject to change without notice. Statistics and data have come from sources believed to be reliable but are not guaranteed to be accurate or complete. This is not a solicitation to invest in any legal, medical, tax or accounting advice. If you require such advice, you should contact the appropriate legal, accounting, or tax advisor. All publication rights reserved. None of the material in this publication may be reproduced in any form without the express written permission of CAPTRUST: 919.870.6822 © 2023 CAPTRUST Financial Advisors*