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Empower president has faith in DOL

By Nick Thornton

No, the sky is not falling, says Edmund Murphy.

Last September, Murphy, president of Empower Retirement, was named to shepherd the nation's second largest service provider into the next generation of retirement planning after Great-West bought Putnam Investments, where he headed the defined contribution business.

He says he's optimistic that the Department of Labor isn't prepared to throw the baby out with the bathwater as it refines its proposed fiduciary rule. For service providers like Empower, it is rather vital that they don't.

More than has ever been the case in his career servicing defined contribution plans, sponsors of all sizes are investing in their workers' retirement futures, says Murphy.

The Department of Labor's proposed fiduciary rule, which is designed to remove conflicts of interests from advisors to IRAs and...

And no, it is not just lip service they are paying, or defense tactics to remain in good standing with the plaintiffs' bar, he assures.

Long gone are the days of inertia that marked sponsors' attitudes toward plan design in prior decades. And long gone are the static technologies that backed workplace savings plans, he notes.

"Sponsors are engaged in outcomes more than they ever have been," he recently told BenefitsPro, fresh off an appearance before the Department of Labor at this month's public hearing on its proposed fiduciary rule.

"How prepared are our employees for retirement? That's the question more sponsors are asking," explained Murphy. "We think that's the standard by which we should be evaluating fiduciaries."

The re-branding of Great-West after merging with Putnam, and later last year, J.P. Morgan Retirement Plan Services, has motivated record growth for Greenwood, Colorado-based Empower, which expects to add one million new participants by the end of this year.

Key to that growth, said Murphy, and essential for improving the nation's collective retirement outcome, is technology.

Rapid innovations in data aggregation and platform design are redefining the 401(k) marketplace, as service providers deliver cutting edge support products keying on user interface to enhance savings rates.

Tailored communications targeted to specific savers, and their specific savings habits and needs, are geared to motivate adequate saving and make it easier for participants to understand their current level of retirement preparedness, and what they need to be do in the present to get to where they want to be in the future.

The best of today's platforms marry behavior finance with modern portfolio theory with actuarial wonkiness with some good old fashion reality talk — all wound into an accessible technology experience designed to make Steve Jobs proud.

Going forward, perhaps service providers need to be thought of as technology and communication companies that just happen to be in the retirement business. Of course, the DOL will have to allow that.

The "education carve out" in its proposed fiduciary rule, which Murphy expects will be finalized as early as the beginning of next year, has the potential to significantly restrict how providers like Empower can communicate to participants and their specific savings needs.

Last June, as the DOL was inundated with stakeholders' concerns over the education carve out in the rule's comment period, ERISA attorneys at Drinker, Biddle and Reath issued a fairly bleak client alert suggesting the rule would effectively muzzle providers.

Any recommendation communicated to participants would trigger fiduciary status on providers, explained the attorneys. Or in other words, any language that could reasonably be viewed as a suggestion that a participant move in or out of an investment would constitute fiduciary advice.

Fred Reish and Brad Campbell, the Drinker attorneys that authored the alert, interpreted the DOLs rule to mean that most communications would be regarded as suggestions.

Presuming that analysis is accurate, Empower and other providers would be at the epicenter of the proposed rule's fallout.

At the heart of Empower's drive to be the nation's largest service provider — they are several million participants behind Fidelity — is what Murphy believes is the industry's cutting edge participant platform.

This fall, Empower rolls out the next generation of that platform. All of the nearly eight million participants in Empower's universe will be folded into the new system, regardless of the size of plan they come from. And all will have access to more data, specifically tailored to individual participants' savings needs.

Peer-to-peer comparisons of deferral patterns are designed to accelerate savings rates. Retirement income projections will precede the DOL's own efforts to mandate such a measurement.

And an enhanced health care cost estimator boasts actuarial capabilities. Participants will have access to projected retirement health care costs based on specific medical conditions.

Murphy says those tools are necessary to get sponsors and savers closer to the goal they share with the DOL: enhanced retirement readiness.

But a DOL rule that prohibits such tailored communications, or exposes providers to heightened liability for delivering them, could discourage new innovations like Empower's next-generation platform.

Murphy has faith the DOL won't do that with its final rule. Enhanced participant information is fundamentally good for participants' interests, he thinks — the very interests the DOL is attempting to put first with its rule.

"In simple terms, what we are trying to do is not only the right thing for participants, but we think it is honorable," said Murphy, who explained that Empower is "agnostic" on the actual investments that participants choose, echoing a sentiment he delivered in his testimony at the DOL's open hearings.

"If someone has cardiovascular disease at age 45, they should have access to projections on what that will cost them in retirement," said Murphy. "I want information like that preserved under the education carve out."

If Murphy's instincts are right, and a final rule allows that level of tailored communications, the result could be a product race between the best-invested providers, not unlike the one benefiting consumers in the retail technology product market.

Proponents of competition would argue that stands to enhance participants' engagement levels, and potentially impart the financial fluency many argue is so desperately needed in the 401(k) world.

Murphy said Empower is committed to setting the industry standard.

"This business won't lend itself to 50 providers in the future," said Murphy, who suspects heightened sponsor and participant engagement will drive competitive demands that force the provider space to continue to consolidate.

"This is all we do. We are in this for the long-haul."

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