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2019 represents a year of change in our nation's capital. The 2018 November midterms saw the Democratic Party take control of the House and with it chairmanship of two of the committees having jurisdiction over retirement policy. Rep. Bobby Scott (D-VA) is the new chair of the House Education and Labor Committee and Rep. Richard Neal (D-MA) now leads the House Ways and Means Committee.

Chairman Neal in particular is someone we will be watching closely this year. While the past chairman of Ways and Means, Rep. Kevin Brady (R-TX), focused most of his efforts on tax reform, Mr. Neal has stated on several occasions that pension reform is his number one priority. This is hardly surprising; Neal has long been an advocate of retirement security. To that end, he introduced legislation in 2017, the Automatic Retirement Plan Act (ARPA) which would require but the smallest and newest private sector employers to sponsor work place savings arrangements that include automatic enrollment, automatic contribution increases and automatic reenrollment. We fully expect this legislation to be reintroduced later this year.

Neal’s proposal is a bold move to address the coverage gap that is most pronounced among small employers. ARPA also recognizes the value of our current private sector focused retirement system. Over the last few years we have seen several states attempt to address that coverage gap by implementing mandatory automatic IRAs. ARPA would help to slow this trend. While Mr. Neal has not secured any Republican co-sponsors as of this writing, this is a serious effort and warrants our attention.

There are other efforts underway in pension reform that we are watching closely and offering our support to policy makers. In my letter last year, I discussed the Retirement Enhancement Security Act (RESA) and its provisions expanding the use of multiple employer plans. Late in 2018, many in the industry believed that RESA might be attached to year end spending legislation and signed into law. As we all know, that unfortunately, did not happen. On April 2, the Setting Every Community Up for Retirement Enhancement (Secure) Act was reported out of Ways and Means. SECURE is essentially a House version of RESA with some changes and was cosponsored by Chairman Neal and Ranking Member Brady. The Senate reintroduced their version of RESA. Should the bills pass their respective chambers, the differences will be reconciled a joint conference.

Speaking of the Senate, two longtime pension champions are working on new reforms. Senators Rob Portman (R-OH) and Ben Cardin (D-MD) introduced the Retirement Savings and Security Act (RSSA) at the end of last year. They are currently making some refinements to the Bill and intend to reintroduce later this year. RSSA is a broad based reform proposal that addresses coverage, savings adequacy, preservation of retirement income and administrative simplification. Provisions include new automatic enrollment safe harbors, allowing employers to make matching contributions on student loan repayments and the consolidation of participant notices to name a few. We look forward to working with the senators as they develop and move their legislation forward.

Of course any discussion of Washington must also face the realities of the partisan divide. Gridlock and an overall contentious atmosphere represent significant hurdles for any legislative efforts. The good news is that pension reform is one of the few areas where lawmakers on both sides of the aisle can find common ground. I continue to have some optimism that congress will view retirement policy as an opportunity to show that a bipartisan consensus can still be reached.

Collectively we can work together to improve our retirement system for all Americans and SPARK is a key part of that effort. Our SPARK committees and boards are doing wonderful things to improve retirement security. Let me highlight some of these accomplishments:

- SPARK’s Data Security Oversight Board recently completed a project centered on defining important cyber security terms. This will enable vendors and clients to enter into discussions using a common understanding as they negotiate expectations around cyber security. This same team was recognized in a letter from Sen. Murray and Rep. Scott to the GAO for their work on developing cyber security standards.

- The Senior Operations Council (SOC) is ready to release an updated version of SPARK’s RFP Template that will now include sections dedicated to 403(b), 457 and Non-Qual plans. The SOC also released an updated version of SPARK’s 403(b) data file sharing best practices.

Finally, I am happy to announce the creation of the SPARK Privacy Committee. This group brings together voices from across the industry to help navigate the emerging and important issues around data privacy.

The hard work of our SPARK team and SPARK members is an essential part of supporting these reform efforts and achieving the goal of providing American workers with a more secure retirement. I am grateful for everyone’s efforts and proud to be working alongside you on this critically important mission.

Rich Linton
President
The SPARK Institute, Inc.
Executive Vice President for Group Distribution and Operations

LETTER FROM THE PRESIDENT

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LETTER FROM THE EXECUTIVE DIRECTOR

I am pleased to provide the 2019 Marketplace Update to members of SPARK. The report provides statistical data on the overall U.S. retirement market, including breakdowns by the employer-based DC and DB plan segments, as well as for individual retirement accounts. We also have compiled other informative data in the report from a variety of sources, including Cerulli Associates and Vanguard, covering such topics as plan distributions, retirement plan access, 401(k) participant attitudes, target date funds and DC plan recordkeepers’ strategies to address various topics. Data on recordkeepers’ attitudes and behaviors is drawn from our 2018 DC Recordkeeper Perspective Survey, the third consecutive survey conducted with Cerulli Associates.

As we have seen over the past several years, growth in individual retirement accounts and employer-sponsored defined contribution plans exceeded that of employer-sponsored defined benefit plans. Moving forward, distributions from 401(k) plans are expected to outpace contributions as retiring Baby Boomers begin to draw down their accounts or, more likely, roll over their balances to individual retirement accounts, thereby increasing the dominance of that market segment.

Continuing our tradition of interviewing outside experts on retirement issues, this year’s Q & A is with Senator Patty Murray (D-WA), the Ranking Member of the Senate Health, Education, Labor and Pensions Committee. Senator Murray discusses her retirement policy goals, including ways we can update and modernize our retirement system – from addressing cybersecurity issues, to improving access and portability, to making sure the system works better for women. To address the retirement challenges affecting women, Senator Murray introduced the Women’s Pension Protection Act which would expend protections that stop one spouse from making changes that might undermine a couple’s retirement resources without the other’s knowledge and consent, and would expand access to employer-sponsored retirement plans for long-term, part-time workers – most of whom are women.

We also have two insightful articles on policy and regulatory issues affecting the retirement industry. In his Retirement Policy Perspective, Chris Gaston, Senior Policy Director of Davis & Harman, discusses the outlook for retirement policy based, in part, on the change in leadership of the House Ways and Means Committee. With long time retirement security supporter Representative Richard Neal (D-MA), now heading the powerful committee, Chris is optimistic about the passage of retirement legislation. Chris also highlighted SPARK’s legislative agenda which is focused on expanding coverage and modernizing the rules and regulations that govern retirement plans to make it easier and less expensive for employers to offer plans. He noted that SPARK’s agenda is largely reflected in two significant bills – the RETIRE Act and RESA.

Separately, in their Washington Regulatory Outlook, Michael Hadley and Adam McMahon of Davis & Harman and Counsel to The SPARK Institute, note that deregulation remains a priority for the federal regulatory agenda. Fortunately for SPARK, the President already laid out his vision for deregulating the retirement industry in his executive order last year entitled, “Strengthening Retirement Security in America.” The SPARK Institute is very supportive of the overall message in the order, in particular, a direction to expand access to multiple employer plans (MEPs), and a direction to make retirement plan notices and disclosures more user friendly and cost-effective. The second direction supports our goal to expand the use of e-delivery.

We believe you will find this year’s Marketplace Update to be an informative and useful tool in your business planning.
Retirement Market Overview

Total U.S. retirement market assets exhibited strong growth in 2017, increasing 13% to reach $25 trillion. This robust asset growth was supported by favorable equity environments domestically and internationally; both the S&P 500 Index and MSCI ACWI ex U.S. Index realized annual returns greater than 20% in 2017. Between 2016 and 2017, each major segment of the U.S. retirement market increased in assets, but only the individual retirement account (IRA) market and employer-sponsored defined contribution (DC) market grew in terms of marketshare (increasing from 36.3% to 36.5% and from 32.0% to 32.4%, respectively). Marketshare of employer-sponsored defined benefit (DB) plans declined from 31.7% to 31.0%.

401(k) market assets (which represent 89% of total corporate DC assets) increased 16% in 2017 to reach $5.4 trillion. The 401(k) market has exhibited strong historical growth, expanding at a five-year compound annual growth rate (CAGR) of 9.6%. During this period, contributions and distributions reached similar asset totals, leaving market performance as the primary driver of overall asset growth. Furthermore, 401(k) plan contributions outpaced distributions in 2014 and organic growth (growth resultant of net flows, excluding the impact of market performance) was negative or roughly flat each year between 2014 and 2017. As the Baby Boomer generation (inclusive of those born between 1946 and 1964) enters retirement, these investors are either beginning to draw down a 401(k) account or are rolling the entire account balance to the retail IRA market — the latter case being far more common. This demographic factor supports total distribution growth as the Baby Boomer cohort of 401(k) investors is more likely to have higher-balance accounts that represent many years of saving. While Baby Boomers are being replaced by Millennials, these younger investors are typically deferring a smaller percentage of a smaller salary to the 401(k) plan. This creates a dynamic by which large balance 401(k) accounts are exiting the 401(k) market for the retail IRA market and are being replaced by smaller-balance accounts.

Not-for-profit (NFP)/governmental DC market assets, which include 403(b) plans, 457 plans, 401(a) plans, and the Federal Thrift Savings Plan (TSP), exceeded $2 trillion in 2017 and comprise roughly 8% of total U.S. retirement market assets. 403(b) plans are the largest sub-segment of the NFP/governmental DC market and are being replaced by smaller-balance accounts. The disparity in asset growth between the two segments of the 403(b) market reflects differences in asset allocation and plan design. Participants in non-ERISA-covered 403(b) plans, such as those associated with K-12 school systems, generally allocate more heavily to annuity

### The U.S. Retirement Plan Market, 2016-2017 ($ billions)

<table>
<thead>
<tr>
<th>Market Segment</th>
<th>2016 ($ billions)</th>
<th>2017 ($ billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual Retirement Accounts</td>
<td>$8,080</td>
<td>$9,200</td>
</tr>
<tr>
<td>Employer-Based DB Plans</td>
<td>$9,200</td>
<td>$10,400</td>
</tr>
<tr>
<td>Employer-Based DC Plans</td>
<td>$7,051</td>
<td>$7,807</td>
</tr>
<tr>
<td>Total U.S. Retirement Plan Market</td>
<td>$22,249</td>
<td>$25,175</td>
</tr>
</tbody>
</table>

### Defined Benefit Assets, 2016-2017 ($ billions)

<table>
<thead>
<tr>
<th>Benefit Type</th>
<th>2016 ($ billions)</th>
<th>2017 ($ billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>State and Local DB Plans</td>
<td>$3,262</td>
<td>$3,659</td>
</tr>
<tr>
<td>Corporate DB Plans</td>
<td>$888</td>
<td>$888</td>
</tr>
<tr>
<td>Federal DB Plans</td>
<td>$2,375</td>
<td>$2,634</td>
</tr>
<tr>
<td>Taft-Hartley DB (multiemployer) Plans</td>
<td>$888</td>
<td>$826</td>
</tr>
<tr>
<td>Total Defined Benefit Assets</td>
<td>$7,050</td>
<td>$7,807</td>
</tr>
</tbody>
</table>

### Corporate Defined Contribution Assets, 2016-2017 ($ billions)

- 401(k): $6,125
- Other: $5,448
- Total: $11,573

**Sources:**

**Analyst Note:**
- Employer-Based DB includes: corporate DB, which includes single-employer and Taft-Hartley (multiemployer) plans, and public DB, which includes Federal DB, state, and local government DB plans.
- Employer-Based DC includes: corporate DC, which includes 401(k) plans, money purchase plans, profit sharing, and employee stock ownership plans, and not-for-profit/governmental DC, which includes the Federal Thrift Savings Plan, 403(b), 457, and 401(a) plans. Taft-Hartley (multiemployer) DC plans are included in corporate DC and NFP/governmental DC asset totals. Assets were restated.
products and are, therefore, less likely to benefit from equity market gains.

In 2017, total IRA assets increased 13.9% and reached $9.2 trillion. Between 2012 and 2017, IRA assets exhibited a five-year CAGR of 9.7%. Rollover flows associated with retired and/or separated DC plan participants are a significant driver of growth in the IRA market. Continued growth in IRA rollover contributions is supported by an aging U.S. population. Specifically, members of the Baby Boomer generation are either in retirement already or approaching retirement age. As previously mentioned, many Baby Boomers are choosing to roll over savings accumulated in employer-sponsored retirement plans. Rollover decisions are often influenced by advisor relationships and participants’ desire to consolidate savings in retirement.

Plan Distributions

Vanguard data shows a slight uptick in the percentage of participants assets remaining in-plan after termination (i.e., when a participant separates from employment or retires). Meanwhile, the percentage of assets rolled over (either to the IRA market or another employer-sponsored retirement plan) remained consistent at 35%. Investors continue to view IRAs as an attractive retirement savings vehicle due to factors such as breadth of investment options (e.g., ETFs), flexibility in distribution options, and access to personalized financial advice.

In 2018, multiple firms launched initiatives to improve their positioning to capture assets in transition from the employer-sponsored retirement plan market to the retail IRA market. Notably, Goldman Sachs’ financial planning subsidiary, Ayco, announced plans to expand to middle-market and mass-market investors (Ayco’s planning services were previously exclusive to corporate executives). Another example includes MetLife’s strategic partnership with Ernst & Young (E&Y) to offer a workplace financial wellness solution, PlanSmart Financial Wellness. This new offering leverages MetLife’s experience as a retirement plan provider and combines it with financial education and counseling offered by E&Y financial planners (MetLife does not have advisors). The initiatives of Goldman Sachs and MetLife both combine elements of digital and human advice and have the potential to use the workplace savings arena (i.e., DC market) as an avenue to build relationships with investors, and, eventually, acquire retail clients.
Plan Access/DB to DC Shift

Data from the Bureau of Labor Statistics shows a modest increase in private sector retirement plan access between 2017 and 2018 (66% vs. 68%). However, retirement plan access for the smallest businesses (1 to 49 workers) is notably lower (49%). This “coverage gap” has garnered increased attention in both the retirement industry and on Capitol Hill in recent years. Several states, including Oregon, Illinois, and California, have taken measures to expand retirement access for small businesses and launched state-run initiatives. Oregon was one of the first-movers in this category, launching the OregonSaves program in July 2017. OregonSaves is a payroll-deducted Roth IRA in which eligible employees are automatically enrolled at a 5% contribution rate and auto-escalated by 1% per year.

Another important development in the small business arena is potential regulation related to open multiple employer plans (MEPs). In August 2018, President Trump signed an executive order directing the IRS and Department of Labor to consider regulations or guidance that would expand the availability of open MEPs and make it easier for small businesses to offer a retirement plan to their employees. MEPs already exist in “closed” form (i.e., employers must share a strong connection or “common nexus” to pool assets within a MEP). Part of the proposed regulation is to eliminate (or relax) this common nexus requirement and, in turn, allow unrelated employers to join a MEP.

Target-Date Funds

Asset managers continue to hold optimistic expectations for target-date fund asset growth. These expectations are reinforced by impressive historical growth; between 2016 and 2017, total target-date assets (including mutual funds and collective investment trusts) increased roughly 30%. The advent
RETIREMENT MARKET OVERVIEW

Target-Date Managers: Most Important Attributes Driving Target-Date Asset Growth, 2018

<table>
<thead>
<tr>
<th>Attribute</th>
<th>NA</th>
<th>Not Important</th>
<th>Somewhat Important</th>
<th>Very Important</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competitive pricing</td>
<td>0%</td>
<td>0%</td>
<td>4%</td>
<td>96%</td>
</tr>
<tr>
<td>Risk management expertise</td>
<td>0%</td>
<td>0%</td>
<td>7%</td>
<td>93%</td>
</tr>
<tr>
<td>Recognized brand</td>
<td>0%</td>
<td>7%</td>
<td>26%</td>
<td>67%</td>
</tr>
<tr>
<td>“Through” glidepath</td>
<td>15%</td>
<td>4%</td>
<td>33%</td>
<td>48%</td>
</tr>
<tr>
<td>Availability of target-date in multiple vehicles (e.g., CTs, mutual funds)</td>
<td>15%</td>
<td>15%</td>
<td>22%</td>
<td>48%</td>
</tr>
<tr>
<td>Multi-manager/open architecture</td>
<td>22%</td>
<td>30%</td>
<td>15%</td>
<td>33%</td>
</tr>
<tr>
<td>Tactical capabilities</td>
<td>7%</td>
<td>37%</td>
<td>30%</td>
<td>26%</td>
</tr>
<tr>
<td>Custom capabilities</td>
<td>15%</td>
<td>30%</td>
<td>30%</td>
<td>26%</td>
</tr>
<tr>
<td>Distribution through affiliated recordkeeper</td>
<td>26%</td>
<td>19%</td>
<td>30%</td>
<td>26%</td>
</tr>
<tr>
<td>All underlying strategies are actively managed</td>
<td>22%</td>
<td>33%</td>
<td>30%</td>
<td>15%</td>
</tr>
<tr>
<td>Use of nontraditional asset classes (e.g., direct real estate, hedge funds, private equity)</td>
<td>22%</td>
<td>41%</td>
<td>22%</td>
<td>15%</td>
</tr>
<tr>
<td>“To” glidepath</td>
<td>37%</td>
<td>30%</td>
<td>19%</td>
<td>15%</td>
</tr>
<tr>
<td>All underlying strategies are passively managed</td>
<td>41%</td>
<td>30%</td>
<td>22%</td>
<td>7%</td>
</tr>
</tbody>
</table>

Source: Cerulli Associates

of automatic enrollment in the 401(k) market and use of target-date funds as the qualified default investment alternative (QDIA) for most 401(k) plans will continue to support strong growth in the target-date market. However, dominance of the largest target-date providers presents a significant challenge for competing asset managers. The “Big Three” target-date providers – Vanguard, Fidelity, and T. Rowe Price – collectively control nearly two-thirds of total target-date assets. When expanding to the top-five firms (including BlackRock and J.P. Morgan), the combined market share exceeds 75%.

Asset managers identify competitive pricing (96%) and risk management expertise (93%) as the key differentiators to driving target-date asset growth. The importance of these factors reflects the industry-wide shift toward low-cost, passively managed target-date funds. Between 2012 and 2017, passive target-date mutual funds gained 12% market share from active target-date mutual funds. The disparity in net flows between passive and active target-date mutual funds is also striking. In 2017, passive target-date mutual funds accounted for 95% of total target-date mutual fund net flows.

Few target-date providers have the scale to compete on cost, and evaluation of this criteria is largely unambiguous—lower-cost products are favored over higher-cost competitors. Glidepath evaluation, however, is more subjective, and provides an area in which asset managers can differentiate themselves. The appropriateness of a target-date fund glidepath depends on employee demographics (e.g., age, income, contribution rate) and plan sponsor preferences. For example, some plan sponsors favor capital preservation, while others are more willing to take on market risk to grow assets.

403(b) Market

At $990 billion in assets as of year-end 2017, the 403(b) market is the largest individual segment of the NFP/governmental DC market. The 403(b) market can be further divided into distinct sectors, including K-12 schools, private and public higher education, healthcare, and other (churches, charitable organizations, etc.). Of DC recordkeepers that participate in the 403(b) market, 21% expect assets under administration (AUA) growth of 5% or greater in the healthcare sector over the

DC Recordkeeper Perspective: Expectations for AUA Growth by 403(b) Plan Segment, 2018

DC Recordkeeper Perspective: Most Important Differentiators to Win 403(b) Plans, 2018

Experience in the 403(b) market 70% 22% 0% 9%
Participant cost 65% 26% 0% 9%
Plan sponsor cost 65% 26% 0% 9%
Relationship with intermediary/consultant 61% 30% 0% 9%
Participant communication/education 61% 30% 0% 9%
Brand/reputation 61% 22% 9% 9%
Participant website/tools 52% 39% 0% 9%
Investment platform 43% 30% 13% 13%
Provide participant with access to a financial advisor 39% 30% 22% 9%
Direct relationship with plan sponsor/treasurer/CFO 35% 48% 9% 9%
Direct relationship with board of directors 26% 43% 22% 9%

Source: Cerulli Associates

Analyst Note: This survey question was posed to survey respondents who indicated that they currently recordkeep ERISA and/or non-ERISA-covered 403(b) plans.
next 12 months (survey responses were submitted in 2Q 2018). Healthcare represents the second-largest sector of the 403(b) market with $307 billion (or 31% marketshare) as of year-end 2017. As one provider notes, “A large NFP hospital or university walks and talks like a 401(k) plan.” DC plans offered by NFP healthcare organizations tend to be subject to ERISA and are more likely to work with a single vendor – in particular, new business activity in the healthcare sector tends to be single-vendor.

Close to half (42%) of recordkeepers expect positive AUA growth in the K-12 school sector of the 403(b) market. However, an equal percentage indicate they do not participate in the K-12 sector. The K-12 market remains the most retail-oriented of the 403(b) sectors, with most business conducted “across the cafeteria table” between an advisor or provider representative and individual school employees. Additionally, influencers in the K-12 sector of the 403(b) market hold views related to participant choice that are seemingly at odds with best practices implemented elsewhere in the DC market. While the 401(k) market (and some pockets of the 403(b) market) has supported investment menu simplification and plan design automation (e.g., automatic enrollment) as methods to improve participant outcomes, the K-12 sector still offers participants choice between a wide range of investment options and even between providers.

**401(k) Participants**

Several differences exist when segmenting participants’ perspectives on retirement savings and investing by factors such as investable assets and age. For example, participants in the lower investable asset ranges are most likely to identify their 401(k) plan as investable assets and age. For example, participants in the lower investable asset ranges are more likely to rely on a financial advisor. Wealthy participants typically access this advice independently from their 401(k) provider.

Participants in the less than $100,000 (mass market) and greater than $2 million (affluent) investable asset ranges are more likely to rely on a financial advisor. Affluent investors will generally have more complex financial planning needs (e.g., wealth preservation, estate planning) and require more personalized advice. Wealthy participants typically access this advice independently from their 401(k) provider.

Participants in the less than $100,000 (mass market) and $100,000 to $500,000 (middle market) investable asset ranges do not require the same degree of personalized advice as their wealthier peers, but they cannot be “left in the dark” when it comes to retirement planning. As the retirement industry (and financial services industry broadly) puzzles over how to effectively deliver retirement advice to mass-market and middle-market investors, solutions that blend elements of standardization and customization have emerged. One such example is “hybrid” QDIA products that transition participants from one default option (typically a target-date fund) to another (e.g., managed account, managed payout fund) once they reach a certain threshold determined by the plan sponsor (e.g., a participant transitions to a managed account if they are over age 50 and have a 401(k) balance greater than $100,000).
It is also interesting to compare the 401(k) investment decision-making processes of men and women. Men are more likely than women to feel confident in making their own investment decisions. Meanwhile, women are more likely to admit they do not feel qualified to make 401(k) investment decisions and are also more likely to prefer a single investment that they do not have to think about versus their men counterparts. Overconfidence by men investors may contribute to these disparities, but this data also underscores broader issues related to gender and investing. A lack of confidence among women investors can lead to underinvesting or overly conservative investment selection, both of which can inhibit their ability to build up adequate retirement savings.

**DC Recordkeepers**

The SPARK Institute partnered with Cerulli Associates for the third consecutive year in 2018 to survey DC recordkeepers’ strategies to address various topics, including retirement readiness, staffing trends, financial wellness programs, and cybersecurity. Overall, 26 recordkeepers representing $5.9 trillion in DC plan assets, 443,000 plans, and greater than 80 million participants participated in this survey. Some of the findings are described below.

Greater than one-third of recordkeepers (35%) anticipate adding resources to support participant communications. (Note that the survey was conducted in 2Q 2018.) One area of innovation in the 401(k) industry is the hybrid target-date/managed account concept—while this approach likely improves participant outcomes (theoretically, the more data points incorporated into asset allocation, the better), it also requires more resources from the provider, in particular, communication-oriented staffing and supporting materials. IT/technology is another area where recordkeepers have already added or anticipate adding new resources. Specifically, cybersecurity is increasingly important, with one recordkeeper describing it as their “number one, number two, and number three priority.”

Multiple DC recordkeepers note that inquiries regarding cybersecurity capabilities appear in almost every RFP they receive. In light of several well-publicized cyberattacks in recent years (e.g., Target, Equifax, Yahoo), plan sponsors and their advisors/consultants are increasingly wary of participant data breaches. Consequently, it behooves recordkeepers to have clearly stated cybersecurity policies and procedures. Recordkeepers that are unable to inspire confidence in their cybersecurity capabilities and/or have a track record of past data breaches will run the risk of losing business. The topic of cybersecurity will continue to be an area of focus among DC industry stakeholders as participants rely more heavily on technology (e.g., websites, mobile applications) for account information and transactions.

Nearly all recordkeepers offer recordkeeping/administration services for 401(k) and 401(a) plans (structured as profit sharing or money purchase). However, participation in more niche market segments, such as health savings accounts (HSAs) and 529 college savings plans, is noticeably lower. These segments may not represent significant asset pools (relative to the 401(k) market), but they do present opportunities for recordkeepers to serve as holistic providers for plan participants, as opposed to just retirement providers. This positioning aligns with the increased interest among plan sponsors in financial wellness programs. While the term financial wellness can be ambiguous, at its most fundamental level it emphasizes holistic advice and goes beyond a participant’s workplace retirement savings account. For example, financial wellness programs often include debt management tools and education on topics that most worry plan participants, such as planning for the rising costs of healthcare or planning to fund a child’s education. As wellsprings for participant data, DC recordkeepers are well equipped as financial wellness program providers, but a host of other firms ranging from retirement specialist advisors to fintech companies have sought to carve out a niche in this space either through a proprietary offering or as a

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**DC Recordkeeper Perspective: Sales Efforts, 2017 vs. 2018**

<table>
<thead>
<tr>
<th>Channel</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broker/dealer-based advisor</td>
<td>44%</td>
<td>40%</td>
</tr>
<tr>
<td>Boutique DC consultants</td>
<td>40%</td>
<td>40%</td>
</tr>
<tr>
<td>Independent RIA</td>
<td>32%</td>
<td>32%</td>
</tr>
<tr>
<td>National investment consultants</td>
<td>32%</td>
<td>36%</td>
</tr>
<tr>
<td>Direct to plan sponsors</td>
<td>24%</td>
<td>24%</td>
</tr>
<tr>
<td>Third-party administrators</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>Other</td>
<td>8%</td>
<td>8%</td>
</tr>
</tbody>
</table>

Sources: Cerulli Associates, in partnership with The SPARK Institute

Analyst Note: Respondents were asked to select the top-two channels where they will focus sales efforts. Other includes “Direct to captive advisors” and “We will continue to focus our sales efforts through intermediaries (RIAs, B/Ds, boutique consulting firms, national investment consulting firms, etc.).” Examples of boutique DC consultants include CAPTRUST and SageView. Examples of national investment consultants include Callan and Mercer.
third-party component within a partner firm’s offering. It is important for financial wellness programs to be grounded in metrics that impact a company’s bottom line. However, many employers have goals such as “improve workplace morale” and “retain top employees” that are functions of employee attitudes and behaviors. Providers play a critical role in quantifying these subjective measures and translating findings into actionable items for plan sponsor clients. In this respect, recordkeepers’ digital platforms are important in tracking participant behavior (e.g., click rates, interactions per website visit).

### DC Recordkeeper Perspective: Key Decision Maker by Plan Asset Segment, 2018

<table>
<thead>
<tr>
<th>Decision Maker</th>
<th>401(k) Plan Asset Segment</th>
<th>&lt;$5 million</th>
<th>$5 million to $25 million</th>
<th>&gt;$25 million to $250 million</th>
<th>&gt;$250 million to $500 million</th>
<th>&gt;$500 million to $1 billion</th>
<th>&gt;$1 billion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broker/dealer-based advisor</td>
<td>52%</td>
<td>29%</td>
<td>10%</td>
<td>11%</td>
<td>5%</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>Plan sponsor</td>
<td>38%</td>
<td>33%</td>
<td>24%</td>
<td>37%</td>
<td>37%</td>
<td>32%</td>
<td></td>
</tr>
<tr>
<td>Independent RIA</td>
<td>10%</td>
<td>19%</td>
<td>24%</td>
<td>5%</td>
<td>0%</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>Boutique DC consultant (e.g., CAPTRUST or SageView)</td>
<td>0%</td>
<td>19%</td>
<td>38%</td>
<td>21%</td>
<td>0%</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>National investment consultant (e.g., Callan or Mercer)</td>
<td>0%</td>
<td>0%</td>
<td>5%</td>
<td>26%</td>
<td>58%</td>
<td>63%</td>
<td></td>
</tr>
</tbody>
</table>

Sources: Cerulli Associates, in partnership with The SPARK Institute

Analyst Note: "Fiduciary service provider (e.g., Morningstar, Wilshire, Mesirow)” and “TPA” were survey options, but were not selected.

### DC Recordkeeper Perspective: Top Differentiators to Win Plans by 401(k) Plan Asset Segment, 2018

<table>
<thead>
<tr>
<th>Differentiator</th>
<th>401(k) Plan Asset Segment</th>
<th>&lt;$5 million</th>
<th>$5 million to $25 million</th>
<th>&gt;$25 million to $250 million</th>
<th>&gt;$250 million to $500 million</th>
<th>&gt;$500 million to $1 billion</th>
<th>&gt;$1 billion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relationship with intermediary</td>
<td>55%</td>
<td>45%</td>
<td>42%</td>
<td>28%</td>
<td>18%</td>
<td>18%</td>
<td></td>
</tr>
<tr>
<td>Plan sponsor cost</td>
<td>50%</td>
<td>35%</td>
<td>26%</td>
<td>28%</td>
<td>0%</td>
<td>24%</td>
<td></td>
</tr>
<tr>
<td>Service</td>
<td>45%</td>
<td>40%</td>
<td>42%</td>
<td>56%</td>
<td>53%</td>
<td>59%</td>
<td></td>
</tr>
<tr>
<td>Participant cost</td>
<td>30%</td>
<td>25%</td>
<td>32%</td>
<td>22%</td>
<td>29%</td>
<td>24%</td>
<td></td>
</tr>
<tr>
<td>Participant communication/education</td>
<td>25%</td>
<td>30%</td>
<td>32%</td>
<td>33%</td>
<td>35%</td>
<td>29%</td>
<td></td>
</tr>
<tr>
<td>Investments available</td>
<td>25%</td>
<td>25%</td>
<td>11%</td>
<td>6%</td>
<td>6%</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>Participant website/tools</td>
<td>20%</td>
<td>35%</td>
<td>47%</td>
<td>44%</td>
<td>53%</td>
<td>41%</td>
<td></td>
</tr>
<tr>
<td>Relationship with plan sponsor</td>
<td>15%</td>
<td>30%</td>
<td>0%</td>
<td>6%</td>
<td>6%</td>
<td>12%</td>
<td></td>
</tr>
<tr>
<td>Experience in segment (by assets or plan type)</td>
<td>10%</td>
<td>10%</td>
<td>11%</td>
<td>17%</td>
<td>29%</td>
<td>18%</td>
<td></td>
</tr>
<tr>
<td>Brand/reputation</td>
<td>10%</td>
<td>10%</td>
<td>26%</td>
<td>22%</td>
<td>18%</td>
<td>41%</td>
<td></td>
</tr>
<tr>
<td>Financial wellness</td>
<td>10%</td>
<td>10%</td>
<td>26%</td>
<td>22%</td>
<td>18%</td>
<td>18%</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>5%</td>
<td>5%</td>
<td>0%</td>
<td>0%</td>
<td>6%</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>Provide participants with access to a financial advisor</td>
<td>0%</td>
<td>0%</td>
<td>5%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td></td>
</tr>
</tbody>
</table>

Sources: Cerulli Associates, in partnership with The SPARK Institute

Analyst Note: Data is sorted by the <$5 million plan asset segment. Respondents were asked to select up to three differentiators for each 401(k) plan asset segment. “Retirement income product available” and “Plan sponsor conferences” were survey options, but were not selected. Financial wellness includes financial budgeting, emergency savings accounts, cash flow management, and debt optimization.

### DC Recordkeeper Cybersecurity Personnel, 2018

- 75% IT/Technology personnel are responsible for cybersecurity
- 71% Leverage cybersecurity personnel from the broader organization
- 42% Have cybersecurity staff within recordkeeping business unit
- 33% Adding resources to support cybersecurity efforts in the next 12 months
- 17% Use a third-party provider for cybersecurity

Sources: Cerulli Associates, in partnership with The SPARK Institute

Analyst Note: Respondents were asked to select all applicable options. “No, we do not have cybersecurity staff” was an option, but was not selected.

### DC Recordkeepers: Financial Wellness Programs Offered, 2018

- 52% Yes, a proprietary program
- 16% Yes, a third-party program
- 16% Other
- 8% No
- 8% No, but it is under consideration

Sources: Cerulli Associates, in partnership with The SPARK Institute

Analyst Note: Other includes “We offer both a proprietary program and third-party program” and “We offer a range of our own personalized guidance and financial planning solutions to help improve participant financial wellness as well as third-party resources through our partnership.”
DC Recordkeeper Staffing for DC Business by Position in the Next 12 Months, 2018

<table>
<thead>
<tr>
<th>Position</th>
<th>No Change</th>
<th>Decrease Resources</th>
<th>Add Resources</th>
<th>NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>External sales</td>
<td>0%</td>
<td>40%</td>
<td>10%</td>
<td>50%</td>
</tr>
<tr>
<td>Internal sales</td>
<td>5%</td>
<td>40%</td>
<td>10%</td>
<td>45%</td>
</tr>
<tr>
<td>Call center staff</td>
<td>0%</td>
<td>40%</td>
<td>15%</td>
<td>45%</td>
</tr>
<tr>
<td>Participant education/enrollment</td>
<td>5%</td>
<td>45%</td>
<td>10%</td>
<td>40%</td>
</tr>
<tr>
<td>Participant communications</td>
<td>0%</td>
<td>65%</td>
<td>0%</td>
<td>35%</td>
</tr>
<tr>
<td>Relationship management</td>
<td>0%</td>
<td>65%</td>
<td>5%</td>
<td>30%</td>
</tr>
<tr>
<td>IT/Technology</td>
<td>0%</td>
<td>70%</td>
<td>0%</td>
<td>30%</td>
</tr>
<tr>
<td>Product development/management</td>
<td>5%</td>
<td>70%</td>
<td>0%</td>
<td>25%</td>
</tr>
<tr>
<td>Investment analysts</td>
<td>10%</td>
<td>65%</td>
<td>5%</td>
<td>20%</td>
</tr>
<tr>
<td>Compliance</td>
<td>0%</td>
<td>80%</td>
<td>0%</td>
<td>20%</td>
</tr>
<tr>
<td>Market research/competitive analysis</td>
<td>5%</td>
<td>75%</td>
<td>0%</td>
<td>20%</td>
</tr>
<tr>
<td>ERISA counsel (internal or external)</td>
<td>0%</td>
<td>85%</td>
<td>0%</td>
<td>15%</td>
</tr>
</tbody>
</table>

Sources: Cerulli Associates, in partnership with The SPARK Institute
Analyst Note: Data reflects responses submitted to 2Q 2018.

DC Recordkeepers: Measurement of Financial Wellness Program Effectiveness, 2018

| Participation in education sessions (either in-person or online) | 0% | 25% | 50% | 75% |
| Website activity (e.g., navigation or time spent on website, videos watched) | 67% |
| Contribution rates | 57% |
| Participant interviews and/or surveys | 38% |
| Financial wellness score/assessment | 38% |
| Retirement income replacement ratios | 38% |
| Other | 10% |
| We do not currently measure effectiveness | 10% |
| We do not have any specific ways to measure effectiveness | 5% |
| Measure cost savings to employer (plan sponsor) | 5% |

Sources: Cerulli Associates, in partnership with The SPARK Institute
Analyst Note: This question was only asked to recordkeepers that indicated they have a financial wellness program offering. Respondents were asked to select all applicable options. “Tracking physical health of participants” was an option, but was not selected. Other includes “Measured by third parties who provide the service and emergency savings accumulation.”

DC Recordkeeping and Administration Services Offered by Plan Type, 2018

<table>
<thead>
<tr>
<th>Plan Type</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>401(k)</td>
<td>100%</td>
</tr>
<tr>
<td>Profit sharing 401(a)</td>
<td>100%</td>
</tr>
<tr>
<td>Money purchase 401(a)</td>
<td>96%</td>
</tr>
<tr>
<td>403(b) ERISA plan</td>
<td>88%</td>
</tr>
<tr>
<td>Nonqualified deferred compensation</td>
<td>88%</td>
</tr>
<tr>
<td>457(b) governmental plan</td>
<td>84%</td>
</tr>
<tr>
<td>457(b): Nonqualified plan for non-governmental sponsor, “Top Hat”</td>
<td>72%</td>
</tr>
<tr>
<td>403(b) non-ERISA plan</td>
<td>68%</td>
</tr>
<tr>
<td>Defined benefit (DB) plan administration</td>
<td>68%</td>
</tr>
<tr>
<td>Individual retirement account (IRA) administration</td>
<td>68%</td>
</tr>
<tr>
<td>457(f): Ineligible nonqualified plan for executives</td>
<td>56%</td>
</tr>
<tr>
<td>Cash balance plan administration</td>
<td>56%</td>
</tr>
<tr>
<td>Health savings account (HSA) administration</td>
<td>24%</td>
</tr>
<tr>
<td>Other</td>
<td>16%</td>
</tr>
<tr>
<td>529 plan administration</td>
<td>16%</td>
</tr>
<tr>
<td>Achieving a Better Life Experience (ABLE) administration</td>
<td>4%</td>
</tr>
</tbody>
</table>

Sources: Cerulli Associates, in partnership with The SPARK Institute
Analyst Note: Respondents were asked to select all plan types for which the firm provides recordkeeping and administration services. Other includes ESOP, ESPP, Taft-Hartley, Puerto Rico, thrift, equity compensation, and pension risk transfer.
INTERVIEW WITH SENATOR PATTY MURRAY

Senator Patty Murray first elected to the Senate in 1992 has focused her time in the Senate fighting for children and families in Washington state and across the country. Senator Murry is currently the Ranking Member of the Senate Health, Education, Labor, and Pensions Committee. In a recent interview, she discusses her retirement policy goals, cyber security, and the Women’s Pension Protection Act.

Q Given your role as Ranking Member of the Senate HELP Committee and your years of work on retirement issues, what are your main retirement policy goals for the year?

A I want to make sure everyone can have a dignified, comfortable retirement, and accomplishing that means protecting the retirement plans, private savings, and Social Security benefits that workers and retirees have earned and planned their financial futures around.

It also means updating our retirement system to address the needs of the modern workforce so that no one falls through cracks. Today we have more women in the workforce, more part-time workers, and fewer employers offering traditional pension plans, all while people are living longer, switching jobs more often, and shouldering more student loan debt. New technology is also presenting new challenges relating to privacy and cybersecurity.

Unfortunately, our retirement system doesn’t reflect all of this. Almost half of families in this country don’t have a retirement account, many employees don’t have access to a plan from their employer or don’t participate in them, and two in five people can’t cover a $400 emergency. To address these challenges I want to look at how we can expand access to retirement plans and provide more support in a way that makes sure retirement resources are dependable and flexible so that people can be confident that the resources they are planning their futures around will be there for them.

I think it’s also important we work to address the multiemployer pension crisis in a bipartisan way that makes sure our seniors get the retirement resources they were promised, and puts the Pension Benefit Guaranty Corporation on solid financial footing without undermining the rest of the system. We have to stop workers and retirees across the country from seeing the financial security they have planned their retirement around thrown into jeopardy through absolutely no fault of their own.

Q What do you think are the greatest retirement challenges facing Americans today and how should Congress act to address them?
I think there are a set of different challenges facing each generation planning for retirement. For people who are already retired, or retiring soon, some of the most important questions are how do we help make sure the resources they’ve saved last the rest of their lives – specially as people live longer and the care they need gets more expensive? We need to find ways to protect the resources they have and work to reduce financial burdens on seniors, like high drug prices.

For those still a few years out from retirement – how do we make sure they are saving adequately, and making good long-term decisions about their financial futures? How can we help make sure they are enrolled in a retirement plan, and stay enrolled? How do we make sure they have the financial literacy they need when facing decisions that will impact them for years to come? Congress should be looking for ways to improve financial literacy, and promote practices like auto-enrollment which nudge people toward choices that will help them build their long-term financial security.

For the next generation of workers who are at the start of their careers – how do we make sure they have better access to retirement plans? And how do we empower them to plan for their retirement while also paying down burdensome student debt, or trying to affordable quality child care for a growing family?

And across generations – how do we address the retirement gap, and the unacceptable reality that whether you are financially secure in old age is far too dependent on your gender or race? How do we help those in retirement already disadvantaged by the system, and how do we fix it to end these disparities for future generations?

Can you tell us about the Women’s Pension Protection Act you have introduced? What do you see as some of the most important challenges impacting women’s retirement security?

For too long our system has overlooked issues that impact women who are workers, mothers, divorcees, widowers, and more. As a result, we know that women are far more likely than men to face poverty in retirement. That has to change, and the Women’s Pension Protection Act (WPPA) is one of many steps I’m pushing for to address this issue.

My bill would help expand protections that stop one spouse from making decisions that might undermine a couple’s retirement resources without the other’s knowledge and consent, expand access to employer-sponsored retirement plans for long-term, part-time workers – most of whom are women, and support efforts to increase financial literacy among women. WPPA also supports low-income women and survivors of domestic abuse who may face hurdles getting the retirement benefits they are entitled to from their partner following a divorce—an issue I’ve also asked the Government Accountability Office to look into.

Of course, the other big step we need to take to address the retirement gap, is to address the pay gap. Women in our country still are paid only 80 cents, on average, for every dollar paid to men – and we know that pay gap is even wider for women of color. When women are paid less than men throughout their careers – they have less than men to support themselves with in retirement. Moreover, women tend to live longer so they must make their smaller retirement savings last for a longer period of time. Given the current wage gap, an average woman working a full-time job will lose over $400,000 over the course of her career – and have to keep working for nearly an additional decade to make up the difference. The problem is even worse for women of color whose career losses can reach staggering totals – even over a million dollars. So I’m going to keep fighting for equal pay – and I’m going to make clear this isn’t just important for women’s economic security today, but as they prepare for their financial futures as well.
SPARK has endorsed the Retirement Enhancement and Savings Act (RESA) legislation because it would advance many of our legislative priorities and RESA contains a number of proposals that are in the jurisdiction of the HELP Committee. Do you think the retirement modernizations and improvements it contains will be able to be signed into law this year? What additional changes do you think are possible to be signed into law?

I’m glad my colleagues are working in a bipartisan way to address some of the challenges in our retirement system and I support their efforts on this important legislation. The Retirement Enhancement and Savings Act takes a lot of promising steps that would help address the coverage issues that leave too many people without a retirement plan. I’m particularly excited about the bipartisan support for ideas like open multiple employer plans (MEPs) which will make it easier for many small employers to offer their workers retirement plans. I’m hopeful the bipartisan work on this bill will continue moving forward this year.

You recently asked the Government Accountability Office (GAO) to look at issues related to cybersecurity for retirement plans. We appreciate your attention to these critical issues and your noting the work SPARK has already done to elevate them. While we wait for the GAO report, are there recommendations you want to share with SPARK members and/ or suggestions for action you think the retirement community should be aware of?

Retirees and workers should know that their finances and their personal information are secure. Protecting people’s financial futures means taking new steps to protect their privacy and their financial information and keeping their nest eggs safe from fraud and cyber-attacks. I think we need to make sure the retirement community is taking cybersecurity and data stewardship seriously – and I commend SPARK for its efforts in helping to lead these conversations.

We don’t have all the answers on this yet – and we can’t find them without making sure we fully understand the challenges of ensuring cybersecurity and protecting people’s privacy. My GAO request is one way I’m working to jumpstart that conversation. I’m also interested in what groups across the retirement community have to say about this, and hope they will share their perspective on cybersecurity, privacy, and data as well. It’s clear that a one-size-fits-all solution isn’t the right answer. I’m not looking for prescriptive solutions, I want to explore a principles-based approach so our laws can evolve with the ever-changing cybersecurity landscape.

Thank you again for your time, let me finish by asking what should be the top priorities for Congress in terms of retirement savings next year and what should the retirement savings community focus on as we head into the 2020 election?

I’m going to be looking at ways we can update and modernize our retirement system – from improving cybersecurity, to improving access, to improving portability, to improving the way the system works for women and other communities that are currently being left behind.

The Trump Administration has also been working to weaken and remove important protections for families’ finances. The Labor Department scrapped its common-sense fiduciary standard that ensured advisers were accountable for giving advice with the best interests of their clients at heart, and the Treasury recently reversed positions to allow companies to entice retirees to trade their lifetime pensions for one-time lump-sum buyouts that often leave them with less money and more financial risk.

I’m going to continue calling attention to these efforts to undermine people’s retirement security and pushing for changes that move us back in the right direction instead. Republicans should work with us to restore a strong fiduciary standard and protect workers, retirees, and all families seeking help to plan for their financial futures.
Over the past few years, you have probably seen countless articles—including some by this author—predicting that Congress was on the cusp of enacting a package of retirement reforms, only to see those predictions proven wrong (or at least premature). Yet at the start of 2019, we are nevertheless hopeful that this will be the year that Congress passes a retirement package and undauntedly, we are adopting Journey’s mantra of “Don’t Stop Believin’.”

This Marketplace Update will review the recent shakeups in Washington that will help shape retirement policy over the next two years. We will also review SPARK’s legislative agenda and the legislation that could make those agenda items a reality. Finally, this Marketplace Update will conclude by looking around the corner to the retirement issues that are building momentum and should be on our industry’s radar.

Under New Management: Key Congressional and Committee Shakeups

The 116th Congress officially kicked off earlier this year with Representative Nancy Pelosi (D-CA) reclaiming the Speaker’s gavel after the 2018 elections swept Democrats back into control of the House of Representatives. This era of divided government started just as the 115th Congress ended, with a protracted partial government shutdown. In this environment, we keep believing that bipartisan retirement reforms are just the type of proposals that can break through the gridlock and find their way into law.

The start of each new Congress brings changes in the composition and direction of the institution. 2019 brings the most significant changes in some time, with the elevation of a long-time retirement security champion to lead a key retirement savings committee. As a result of the Democratic takeover of the House, Representative Richard Neal (D-MA) is now the Chairman of the powerful House Committee on Ways and Means. Leading into the 2018 midterm elections last fall, then-Ranking Member Neal made clear that retirement savings would be his top priority if he became Chairman. And true to his word, the second Ways and Means Committee hearing held under Chairman Neal’s leadership explored the various challenges Americans face as they seek a secure retirement.

Due to a combination of election defeats and retirements, the membership of the House Ways and Means Committee experienced significant turnover, with 11 new Democrats and three new Republicans joining the prestigious tax writing committee. In that regard, Chairman Neal’s retirement savings hearing provided valuable education for the new Ways and Means Committee members on the various ways Americans are preparing for retirement and what Congress should do to help. One legislative proposal that was discussed favorably during the hearing was the Retirement Enhancement and Savings Act (RESA) (H.R. 1007), which was also reintroduced in the House on the same day as the hearing. Following the hearing, SPARK submitted a letter to the Committee sharing our support for RESA because it would advance key components of our legislative agenda.

Chairman Neal is also expected to pursue additional bipartisan retirement solutions, such as those found in his Retirement Plan Simplification and Enhancement Act (H.R. 4524) and to continue to build support for his Automatic Retirement Plan Act (H.R. 4523), which would require all but the smallest employers to offer a retirement plan to their employees.

Democrats have also exercised their recent power by renaming the House Committee on Education and the Workforce back to its original name Education and Labor, a ritual that has corresponded with the last three switches in party control of the House. Retirement issues are not a top priority for New Chairman Bobby Scott (D-VA), but he favors lifetime income solutions and supported state-run retirement plans. Chairman Scott is also expected to focus his efforts...
on the significant funding problems facing the multiemployer (i.e. union) pension system.

Switching over to the Senate side, due to the retirement of Senator Orin Hatch (R-UT), the Senate Finance Committee is also under new management with former Chairman Chuck Grassley (R-IA) once again leading the Committee. Grassley previously chaired the Finance Committee from 2003 to 2006 and was also Ranking Member for six years. It was during his previous leadership of the Committee that the last major package of retirement reforms and modernizations, the Pension Protection Act of 2006, was enacted into law. Chairman Grassley is committed to getting RESA signed into law, and as a first step, he is expected to reintroduce RESA in the Senate.

SPARK’s Federal Legislative Agenda

SPARK remains focused on advancing our legislative agenda to expand coverage and modernize the rules and regulations that govern retirement plans to make it easier and less expensive for employers to offer retirement plans so all Americans can enjoy a successful retirement.

1. Modernizing Retirement Plan Communications. The Receiving Electronic Statements to Improve Retiree Earnings Act (RETIRE Act) (S. 3795 / H.R. 4610) would modernize the delivery of retirement plan communications by allowing employers to default employees into e-delivery and establish important consumer protections.

2. Enhancing Auto Features. RESA would eliminate the 10 percent auto-escalation cap on safe-harbor plans and establish a new $500 tax credit for employers who adopt auto features.

3. Permitting Open Multiple Employer Plans (MEPs). RESA would allow open MEPs to increase access to employer-sponsored plans and increase the start-up credit for small business up to $5,000 to encourage them to offer a retirement plan.

4. Advancing Lifetime Income Solutions. RESA would establish a workable safe harbor for employers looking to offer in-plan annuity products and make lifetime income products portable if they are no longer offered in an employee's retirement plan.

SPARK supports RESA as a package because it advances key parts of our legislative agenda (permitting open MEPs, enhancing auto features, and advancing lifetime income solutions). We have, however, continued to voice our concerns with the stretch IRA proposal, as drafted, and remain neutral on a provision in RESA that would mandate lifetime income disclosures, because of differences within the SPARK membership on whether such a disclosure should be mandated and, if so, how it should be done.

RESA: On the Way to Law?

Congress came very close to passing RESA as part of an end-of-year spending deal that ultimately failed to materialize when the dispute over border wall funding resulted in the partial government shutdown. A version of RESA, called the Family Saving Act, even passed the House of Representatives in late 2018. Nevertheless, RESA continues to receive broad bipartisan support. As this article goes to print, we understand that Chairman Neal plans to formally consider RESA in an upcoming Ways and Means Committee markup.

For RESA to get across the finish line, it will likely need a broader legislative vehicle to move it. Last year, we thought that would be the end-of-year spending deal, and this year, it could be a deal on tax extenders, a spending bill, an agreement on budget caps, a bill to increase the debt ceiling, or any combination thereof. Expectations, both on and off the Hill, are high that this will finally be the year that RESA becomes law.

E-Delivery: SPARK Leading the Way

RESA includes many long overdue updates to the retirement system, but it does not address a key component of our legislative agenda: modernizing the delivery methods for retirement plan communications. In the 115th Congress, SPARK was instrumental in securing reintroduction of the bipartisan RETIRE Act, which would allow plan sponsors to use e-delivery as the default delivery method for all ERISA-required documents. The House bill had 42 bipartisan cosponsors and a Senate companion bill reintroduced in December by Senators Sherrod Brown (D-OH) and Mike Enzi (R-WY) boasted four bipartisan cosponsors. We have been actively working to secure the quick reintroduction of the legislation in the 116th Congress so we can begin educating new members of Congress, including almost half of the House Education and Labor Committee, about this commonsense update.
We have long approached our e-delivery efforts as a dual track, effort with an equal focus on Congress and the Department of Labor (DOL). As the regulatory update from my colleagues Mike Hadley and Adam McMahon details, e-delivery was prominently featured in President Trump’s executive order on retirement security and we understand that DOL is responding by restarting its long-delayed effort to modernize participant communications.

Despite this progress, e-delivery continues to face headwinds from the persistent opposition of consumer groups who have long opposed this modernization. Our efforts, and those of our e-delivery coalition partners, are essential in educating Congress and DOL about the benefits that e-delivery can provide to retirement savers.

Looking Around the Corner: What to Expect in Retirement Savings

While we remain focused on RESA and the RETIRE Act, SPARK also continues to keep our eyes on what lies ahead and what is around the corner. As we look beyond 2019, we wanted to highlight a few other retirement savings proposals that could quickly come into play as they have already received attention from key members of Congress:

- Additional Comprehensive Legislations: Key Hill staff, with visions of RESA becoming law, are already discussing an additional package of bipartisan and common sense improvements to the retirement system. The initial outlines of this package might be found in the overlapping proposals contained in Chairman Neal’s Retirement Plan Simplification and Enhancement Act, and the Retirement Security and Savings Act of 2018 (S. 3781) that was introduced by Senators Rob Portman (R-OH) and Ben Cardin (D-MD). These overlapping provisions include, among others, an RMD exemption for small balances, the consolidation of retirement plan notices, and the ability to claim the Saver’s Credit on Form 1040-EZ. Portman and Cardin have long been active on retirement issues and successfully enacted a broad package of retirement reforms in 2001.

- Federal Coverage Requirement: In last year's Marketplace Update, Chairman Neal detailed his Automatic Retirement Plan Act, which would require all but the smallest employers to offer a retirement plan to their employees. As Chairman, Neal has a powerful platform to advance his Automatic 401(k) legislation as an alternative way to address the existing coverage gaps. However, lacking bipartisan support and facing a Republican Senate and White House, Chairman Neal’s Automatic Retirement Plan Act is not likely to advance prior to the 2020 elections.

- Long-Term Part-Time Workers: Chairman Neal, Senators Portman and Cardin, and Senate HELP Committee Ranking Member Patty Murray (D-WA) all have introduced legislation that would provide an easier path to retirement savings for long-term part-time workers by revising ERISA’s participation and vesting standards to require an employee to become eligible to contribute to a 401(k) plan after the completion of 500 hours of service in each of three (two in Sen. Murray’s bill) consecutive years. (These employees would not need to receive an employer contribution and would be exempt from nondiscrimination testing.) While this concept has historically been championed by Democrats in Congress, it is the type of proposal that could advance in this political environment because it provides what many on the Hill view as a common-sense solution to expanding coverage. However, the potentially small accounts that would result from increased participation by long-term part-time employees may increase complexity and require updates for recordkeepers’ systems.

- Student Loans: In December, Senate Finance Committee Ranking Member Ron Wyden (D-OR) introduced the Retirement Parity for Student Loans Act (S. 3771) to allow employers to treat employees’ student loan payments as an elective deferral to their 401(k) plans for purposes of the employer match. Senators Portman and Cardin included a similar student loan provision in their bill. The nexus between student loans and employer-sponsored retirement plans seems like a possible area for broad bipartisan agreement and Chairman Neal shares Ranking Member Wyden’s interest in this issue.

Conclusion

We won’t stop believing that 2019 shows promise to be the year when a retirement package is finally signed into law. We fully expect some bumps in the road ahead, but with some key changes in Congress this seems to be the time for RESA to finish its journey and SPARK to witness the enactment of many of its legislative agenda items. We will continue to be active in advancing RESA and the e-delivery proposal found in the RETIRE Act. At the same time, however, we are keeping our eyes open for the developing proposals that we can expect to see when we eventually turn the corner on RESA. With the 2020 presidential election already underway we are expecting to see tax and savings proposals that could affect the retirement savings community. At each step, SPARK will continue our essential work in shaping America’s retirement security.
Deregulation has been the driving force behind the Trump Administration’s regulatory agenda since taking office in 2017. In operation, this governing philosophy has worked to roll back rules and regulations covering a wide range of topics affecting healthcare, the environment, tax administration, and even the retirement industry. Most symbolically from a retirement perspective, within days of taking office, President Trump ordered the Department of Labor (“DOL”) to revise or rescind its 2016 Fiduciary Rule if that rule would reduce access to retirement offerings or increase prices. That order, as we now know, eventually became moot when the Fifth Circuit Court of Appeals vacated the Fiduciary Rule last year.

With Democrats regaining control of the House earlier this year, the White House is likely to focus on the policy levers that it controls, and in 2019, this means a renewed focus on deregulation. Fortunately for those of us who are trying to forecast what this means for retirement policy, the President has already laid out his vision for deregulating the retirement industry in an executive order from last year entitled, “Strengthening Retirement Security in America” (the “Retirement EO”). Very broadly, that order instructed the federal agencies responsible for overseeing our nation’s retirement system to “revise or eliminate rules and regulations that impose unnecessary costs and burdens on businesses, especially small businesses, and that hinder formation of workplace retirement plans.”

The SPARK Institute is very supportive of this overall message and was particularly pleased with two of the policy proposals covered by the order: (1) first, a direction to expand access to multiple employer retirement plans (“MEPs”); and (2) second, a direction to make retirement plan notices and disclosures more user-friendly and cost-effective, including a call to explore the expanded use of electronic delivery. (The third part of the order, which instructed the Treasury Department to update the required minimum distribution tables, also dovetails with SPARK’s focus on facilitating effective retirement income strategies.) We expect DOL and the Treasury Department to make significant progress on these projects in 2019.

**MEP Expansion.** DOL quickly responded to the Retirement EO’s first directive by proposing regulations that will make it easier for small businesses to participate in an association retirement plan (“ARP”) – a type of MEP that is, as the name unsurprisingly suggests, sponsored by an association of employers. Under DOL’s current interpretation of ERISA, employer associations can only sponsor a MEP if the participating employers share the same industry or trade. Under the proposed regulations, employer associations could also sponsor a MEP if their members share the same state or metropolitan area. This change will newly permit local business leagues and chambers of commerce to sponsor a single retirement plan for their members, even if those members are in different industries. This DOL proposal is an incremental, yet significant, step in the right direction for expanding access to MEPS.

In a letter submitted to DOL at the end of 2018, SPARK strongly supported DOL’s proposed ARP rules and encouraged the Department to take additional actions to make it easier for small businesses to join a MEP. SPARK specifically
encouraged DOL to eliminate proposed conditions that would prevent financial institutions from sponsoring an ARP and other conditions that would limit the members of any ARP to a given industry, state, or metropolitan area. Additionally, SPARK supported provisions in DOL's proposal that would allow self-employed individuals to join an ARP. SPARK was particularly supportive of those provisions because they are intended to make it easier for sole proprietors and those in the growing gig economy to join an ARP.

As DOL works to finalize its proposed ARP rules, it is also possible that the Treasury Department and Internal Revenue Service ("IRS") will issue their own proposal in 2019 to promote MEP expansion. This is because President Trump's Retirement EO directed the Treasury Department to consider changes to the one-bad-apple rule. That rule, which is a barrier to broader MEP expansion, says that an entire MEP can lose its tax-exempt status if one participating employer violates the Internal Revenue Code’s qualification requirements. The Retirement EO required the Treasury Department to consider changes to the one-bad-apple rule before March of this year. However, as of this writing, Treasury and IRS have not announced any imminent proposals, although it has been added to the IRS's priority guidance plan.

While SPARK strongly supports DOL's and Treasury's efforts to expand MEPs through deregulation, we also remain vigilant in our push for legislation that would permit truly "open MEPs" to be established by unrelated employers. Truly open MEPs, like those envisioned by the Retirement Enhancement and Savings Act ("RESA"), would go beyond DOL's ARP proposal by permitting employers to join nation-wide MEPs regardless of industry and permitting financial institutions to serve as a MEP sponsor.

Streamlined Notices and Disclosures. The Retirement EO’s second deregulatory order instructed DOL to consider actions that would make retirement plan disclosures “more understandable and useful for participants and beneficiaries, while also reducing the costs and burdens they impose on employers and other plan fiduciaries responsible for their production and distribution.” As part of that review, the President instructed DOL to “explore the potential for broader use of electronic delivery as a way to improve the effectiveness of disclosures and to reduce their associated costs and burdens.”

As of this writing, DOL has not issued any proposal or other guidance intended to execute this portion of the Retirement EO. Nevertheless, SPARK is very pleased to see electronic delivery receiving attention from the White House and we remain hopeful that DOL will promptly take action to allow more participants to receive notices and disclosures electronically. SPARK has long believed that employers should be allowed to make electronic delivery the default delivery method for retirement plan communications. And to that end, we have strongly supported legislation to expand the use of electronic delivery and have routinely encouraged regulators to loosen the rules that currently create obstacles for greater utilization of electronic delivery. SPARK’s first meeting with DOL’s Assistant Secretary for Employee Benefits Security Preston Rutledge focused in large part on this issue and we are currently working with other trades and individual SPARK member companies on additional outreach and engagement with DOL. Specifically, we are requesting DOL to, without delay, propose regulations to expand the use of electronic delivery in fulfillment of the Retirement EO’s directive.

Fiduciary Rule Fallout

In contrast to the overall deregulatory ethos discussed above, we conversely expect to see an across-the-board push in coming months for enhanced regulation of financial professionals who provide investment advice to retail customers, including 401(k) participants and IRA owners, even if that push will not come from DOL.

At the federal level, the Securities and Exchange Commission ("SEC") continues to work on its Regulation Best Interest project, which was released in proposed form last year. Along with many of its peers in the financial services industry, the SPARK Institute strongly supported that proposal in a comment letter submitted last summer. Our letter also offered some suggestions for modest improvements. As of this writing, it is still uncertain if, and when, the SEC will finalize that suite of proposals, but we know that the SEC is working towards a 2019 release. The SEC’s proposal has seen some criticism from Democrats and investor groups for not being strong enough, including in a March 14, 2019 hearing of the House Committee on Financial Services’ Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets. We do not expect this criticism to result in the final rule being delayed into the next Presidential administration.

You have surely heard that a fiduciary rule project also remains on DOL’s regulatory agenda. According to that item, DOL is “considering regulatory options in light of the Fifth Circuit opinion” that
vacated DOL's 2016 Fiduciary Rule. We do not expect this project to broadly pursue a revised investment advice standard similar to DOL's now defunct rule. Instead, we expect DOL to issue guidance that “cleans up” any lingering issues that were created by the abrupt elimination of the Fiduciary Rule through judicial review.

Outside of Washington, we are also seeing a growing desire from state legislatures and regulators to enhance the standards of care applicable to financial professionals who provide investment advice or recommend investment products. These efforts have largely been driven by a desire to fill any perceived gaps that were created by the elimination of DOL's Fiduciary Rule. Despite their common origin, however, there is significant variation in how and when these standards would apply and what they would require. For example, Nevada recently extended a fiduciary duty of care and disclosure obligations to broker-dealers and investment advisers that provide investment advice to their clients. Nevada's law does not clearly exempt interactions involving retirement plans and recently proposed regulations may only make this matter worse. Maryland, New York, Connecticut, and New Jersey are other states we have been monitoring closely.

From a retirement standpoint, this state activity threatens to create a patchwork of investment advice standards that could have chilling effects on the products and services that SPARK's members routinely provide to their clients. In March, SPARK submitted a comment letter expressing this concern to the Nevada Securities Division as it works to develop regulations to implement its new rules. In that letter, SPARK strongly urged Nevada to carve out all employer-sponsored retirement plans from the scope of its regulation and to protect the beneficial conversations that SPARK's member's routinely have with their customers to educate them and encourage them to save for retirement.

**Recordkeepers Await Final Hardship Distribution Rules**

In 2019, Treasury and IRS will also be working to finalize regulations that, pursuant to recent legislative changes, revise the circumstances under which 401(k) and 403(b) participants can receive hardship distributions. Most notably, the proposed regulations amend the existing hardship regulations to reflect provisions in the Bipartisan Budget Act of 2018 that:

- (a) expanded the types of assets that can be distributed upon hardship; and (b) made it easier for participants to receive a hardship distribution by eliminating any requirement to suspend contributions following a hardship and any requirement to take plan loans before receiving a hardship distribution.

Treasury and IRS proposed revised hardship regulations at the end of 2018, and shortly thereafter, SPARK submitted comments commending Treasury and IRS for giving plan administrators flexibility in choosing how to implement the recent hardship changes. Additionally, thanks to the thoughtful input from SPARK's Government Relations Committee, our comments also identified a series of technical issues that will require additional guidance from Treasury and IRS. For example, SPARK's letter sought clarification on the plan amendment deadlines for any changes that relate to the proposed hardship regulations and on the implementation of a new self-certification requirement that will be central to the new hardship distribution rules.

We are also very pleased to report that the Treasury Department and IRS have already started to resolve some of the uncertainties discussed in SPARK's comment letter. For example, SPARK's letter sought clarification on whether the proposed hardship regulations can be relied upon before they are finalized. This clarification is particularly important given the fact that some of the proposed changes cover distribution taken as early as January 1, 2018. In responding to this uncertainty, IRS officials have publicly stated that the proposed regulations were intended allow plan administrators to rely on them before they are finalized.

**Regulatory Outlook for 2019**

Even in a generally deregulatory environment, significant regulatory developments are expected in 2019. DOL is likely to finalize rules that will expand access to MEPs. Federal regulators will reexamine all facets of retirement plan notices and disclosures. The SEC and states will be revisiting a wide variety of investment advice standards. And the IRS will be working to finalize hardship distribution rules that will ultimately require SPARK's members to redesign their distribution systems and processes. As each of these issues unfold, SPARK will continue to play a critical role in representing its members' interests to key policymakers and keep its members informed on the latest developments.