

Greetings & a warm welcome to this week's edition of 401k Real Talk. This is Fred Barstein contributing editor at WealthManagement.com's RPA omnichannel and CEO at TRAU, TPSU & 401kTV - I review all of the past week's stories and select the most important and interesting ones providing open honest and candid discussion you will not get anyway else. So let's get real!

Eschewing the traditional route of buying another record keeper like OneAmerica, [Empower instead is buying OptionTrax](#) stock option administration with \$62 bn following other firms like Fidelity, Morgan Stanley, Schwab, JP Morgan and UBS as well as Principal which recently bought Ascensus' stock option business.

The ESOP market is estimated at \$3.7 tr with healthy growth with the real prize the serving the participants' wealth needs especially when the company is sold. Most ESOP providers give away administrative services to access participants perhaps a harbinger for DC plans.

Empower seems to be moving away from using 3rd parties which they have been doing for ESOPs with the

new enterprise to be called Empower Stock Plan Services and another way for Empower to leverage resources from Personal Capital to serve individual investors.

While lawsuits continue to litter the DC landscape, the ones that could have the biggest impact on smaller plans are the [forfeiture cases](#). Though pending IRS rules allow plan sponsors to use forfeitures to offset costs like employer matches, if they are considered plan assets, they must be used for the exclusive benefit of the participants.

Though lawsuits have not come down market as many predicted, smaller plans and their advisors are heeding the lessons learned by keeping fees reasonable, avoiding conflicts and leveraging scale to get lower share classes. Changing language in plan documents will not override ERISA.

High profile plans like Intuit, Wells Fargo, HP and Qualcomm have been targeted with the industry waiting on clear precedent from the courts with some pending lawsuits being amended to include these claims.

Though the jury is still out about whether MEPs and PEPs will include a large percentage of employers, there is certainly momentum building with the recent announce by Commonwealth using Vestwell to create their own PEP.

A law firm reviews the [pros and cons of group plans](#) discussing:

Costs

Liability

Standardization and

How to exit

Though intended for small employers, larger ones are adopting PEPs quicker looking to limit liability betting on safety in numbers. Savings have not materialized as expected as PEPs are just building scale with 316 services adding to costs. And questions remain about how much customization can be offered to each employer and, if not happy, how to exit.

It's something RPAs should be ready to discuss with clients and certainly a way to go beyond the Triple Fs.

HSAs may be the best deal in town with triple tax benefits yet the industry is still nascent growing nicely. HSAs are limited to companies with High Deductible Healthcare plans and viewed by many as a spending not savings account.

Morningstar released their [8th Annual HSA Study](#) reviewing 11 providers with only 5 getting an above average or higher rating. Assets reached \$123 bn in 2023 and investment menus continue to improve with 89% receiving a good Morningstar rating.

With room for improvement, HSAs are bound to grow and get better and certainly a key part of the convergence of wealth, retirement and benefits at work.

With another record keeper biting the dust, the question plaguing most advisors is who's next as they seek to avoid the disruption when one of their partners like OneAmerica exits. Not only do their clients come under attack, it hurts the advisor's credibility.

Read my recent [WealthManagement.com column](#) about objective ways to determine which record keepers will survive the tough competition and conditions as well as

watching when and where great wholesalers move who are the giraffes of the industry.

So those were the most important stories from the past week. I listed a few others I thought were worth reading covering:

- [Defendants win forfeiture lawsuit](#)
- [Cybersecurity is not just for DC plans](#)
- [B. Riley may be on the market](#)
- [Senator Warren defends DOL fiduciary rule attacking insurance providers and their agents](#)

Please let me know if I missed anything or if you would like to comment. Otherwise I look forward to speaking to you next week on 401k Real Talk.