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!

There has been a deluge of ERISA lawsuits alleging misuse of forfeiture assets to offset a plan sponsor's match contribution rather than benefit participants. Schlichter Bogard filed the most recent case on February 7th in the Eastern District of Missouri against Charter Communications with over $7bn in plan assets and over 100,000 participants.

The Charter complaint alleges that from 2017-2024, the plan documents stated that forfeiture assets should be used first to pay down administrative expenses, which were paid by participants through revenue sharing, and when exhausted could be used to offset the match. They did not follow their plan documents which were recently amended.

Along with failure to follow plan documents, Schlichter alleges a breach of fiduciary duty of loyalty and prudence along with violation of anti-inurement law and various prohibited transactions.

Read my recent WealthManagement.com column about how if these cases could change the way most defined contribution plans are run and what plan advisors and consultants should do now.

The last Biden administration job market growth lagged expectations with just 143,000 new positions added while the 2023-24 reports were revised downward by 655,000 - over 4.6m jobs were added over that period.

So while still robust, employers are being cautious making it increasingly difficult for people to find work. All of which may mean that the Fed will neither cut nor raise interest rates.

Healthcare, government, and retail were the big gainers while business services lost 11,000 jobs.

Experts are watching carefully how limited immigration and government layoffs will affect that job market.

So the war for talent fueled by the great resignation has morphed turned into a battle and may now just be a skirmish, retaining and recruiting good talent is and will be essential with benefits like retirement plans that do cost employers out of pocket will continue to be important weapons.

Empower reported a banner year increasing assets by 29% even with outflows of $13.8 bn mainly due to rollovers.The renamed Personal Capital division now includes over 1000 advisors and $86bn in assets which helped Empower to gain $3bn in net new assets in q4 alone and led to earnings of almost $1bn which was a 30% increase over 2023.

So while no one can blame Empower or other record keepers like Fidelity and Schwab for trying to capture rollovers and provide financial advice to their DC participants, it puts them squarely in competition with some of the advisors who brought them the plan and hope to provide the same services to the same people.

Speaking of IRAs, iJoin just announced a new partnership with Broadridge and Penchecks to help advisors capture more rollovers. The new service called IRA Clarity works with record keepers using the iJoin platform to identify rollover candidates and send invitations to enable them to seamlessly open an account using an advisor's selected managed advise while leveraging Broadridge's suitability solution.

Almost $1tr exits DC plans annually into IRAs with advisors getting a very small percentage. And while most do not want smaller accounts, a seamless, integrated tech stack can help make them profitable. And, of course, the record keeper must cooperate as they control the data and know when an event might occur.

While Cerulli reports that DC providers are not bullish on integrating AI, according to an Orion survey with almost 600 financial advisors, a vast majority are not only using AI, many are leaning in.

68% of advisors are currently using AI powered tools. Of those, 43% plan to increase their investment and 54% overall plan to increase investments in technology overall favoring integrated solutions. 84% indicated they will use these tools to focus on more personalized financial advice.

So while over 80 million people with over $11tr sit in DC plans set to explode due to state mandates with only 3 % with an outside advisor, hindered by clunky record keeper tech, the DC market and RPAs lag behind the wealth industry. Firms that can deliver advice at scale, just as those than can profitably serve smaller and start-up plans, will thrive and it may not be the usual DC suspects.

And last but not least, last week's LinkedIn poll asked what %/DC plan new contributions will go into private equity either directly or through TDFs/Managed Accounts by the end by the Trump term? 38% of you indicated less than 1%, 40% think 1-5%, 18% voted for 6-10% with 5% thinking it will be over 10%

Finally, I am pleased to report that the inaugural TPA Roundtable to be held in Chicago March 27-28 has robust registration with only a few seats and just one sponsorship remaining. If interested, please register. It's time that this group got their due recognition especially as new plan formation explodes.

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

- Income America announces partnership with Principal
- Wealth advisors reluctant to recommend ESG funds
- How advisors need to navigate the evolving and competitive DC landscape
- Trump orders agencies to cut 10 regs for every new one proposed

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.