

The Market for Retirement Financial Advice

EDITED BY

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Chapter 1

The Market for Retirement Financial Advice: An Introduction

Olivia S. Mitchell and Kent Smetters

The market for retirement financial advice has never been more important and yet more in flux. The long-term shift away from traditional defined benefit (DB) pensions toward defined contribution (DC) personal accounts requires all of us to become more financially sophisticated today than ever before. But the landscape for financial advice is changing, with new rules and regulations transforming the financial marketplace as well as the financial advice profession. In the United States, more than 46 million Baby Boomers are fast approaching retirement; and many are unprepared to handle a range of concerns including when to stop working, when to claim Social Security and DB pensions, how much to withdraw from retirement saving and DC accounts, how to manage retiree medical expenditures, and whether (and when) to annuitize some of their assets. Younger people confront a menu of additional decisions including managing multiple goals that compete for resources, such as whether to pay down loans while targeting saving for homes and retirement, determining the appropriate level of precautionary saving, purchasing insurance, evaluating bequest needs, and, of course, how to invest assets consistent with their risk preferences.

The complexity of choices is enormous and in most cases daunting, and many people are unable to make informed decisions without the help of professional financial advisers. Financial decisions are very personal, and, when queried, most people say they would like to speak one-on-one with trusted professionals about their own situations (Charles Schwab, 2010; Doyle et al., 2010) rather than seek advice from online tools or general seminars. But who are these professionals and what standards must they abide by? How do they make money and what are their incentives? How can one protect clients from bad advice, and what is good advice? Does advice alone effect changes in personal habits?

Answers to these questions, along with new technology that will decrease the delivery costs of advice, will play a transformative role in helping more households receive the quality financial advice that they need. But the

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job is a big one. In the United States alone, between 15 and 32 million households are willing to pay to receive financial advice—but most do not, often regarding advisers as unaffordable, conflicted, or offering an unclear value proposition (Doyle et al., 2007; Janowski, 2012). For instance, Mangla (2010: n.p.) recently wrote:

Unfortunately, finding objective, affordable, individual advice from a live person can be a challenge. Many ‘financial advisers’ are simply brokers who get paid to push products. And while fee-only planners, who don’t earn any commission, may have fewer conflicts, they typically prefer to work on contract with people who are already quite wealthy. Then too, the cost can go well into the thousands per year.

And as Lieber (2011: n.p.), of the *New York Times*, recently put it:

Advice from a human being is sorely lacking when we sign up for workplace retirement plans, and there is a severe shortage of moderately priced financial advisers who will help non millionaires and put customers’ interests ahead of their own.

For their part, regulators are not sitting idle. Instead, around the world there is intense debate about how to structure the marketplace for retirement financial advice, along with a regulatory renaissance generating many new rules to address these problems. The United Kingdom and Australia have recently passed laws that essentially ban the commission-based selling of investment advice due to conflicts of interest. Germany appears to be making strides in that direction as well. In the United States, the movement toward less-conflicted advice has several fronts. But reform is moving more slowly in America than in Europe, partly due to regulatory fragmentation, industry resistance, and lack of consumer understanding.

Tax-deferred retirement plans in the United States are regulated by the Department of Labor (DOL) under the Employee Retirement Income Security Act (ERISA) of 1974. This legislation, along with subsequent rulings, has conventionally deemed workplace financial advice to be a ‘prohibited transaction,’ meaning that pension plan sponsors take on fiduciary liability if they provide investment guidance.¹ But the 2006 Pension Protection Act and clarifications in 2007 did open the way for investment advice at the workplace under rules that sought to reduce conflicts of interest between plan participants (employees) and investment advisers (those giving advice). The DOL continues to examine a range of related issues, including whether general ‘education’ (a topic which usually escapes its review) constitutes ‘advice’ that it should regulate.

Outside of ERISA-covered retirement accounts, investment advice in the United States is regulated by a multitude of different entities. Large Registered Investment Adviser (RIA) firms—generally, firms with \$100 million or more in assets under management—are supervised by the Securities and Exchange Commission (SEC). Smaller RIA firms are regulated by individual

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states, typically under the guidance of the Uniform Securities Act (along with modifications that differ between states).² All human advisers (known as Investment Adviser Representatives, or IARs) operating under a RIA entity must serve as legal fiduciaries that are bound to put client interests first. As a result, RIA firms are generally paid by fees coming directly from clients, either in the form of planning fees and/or as a percentage of assets under management. By contrast, broker-dealer representatives who tend to work at larger national firms do not have to put client interests first. Rather they must only make sure that the investment advice is ‘suitable’ for the client. Broker-dealers are typically compensated with commissions they receive from the investment companies, a fact that is often not clear to the clients. Brokers-dealers are regulated by a ‘self-regulatory organization’ known as the Financial Industry Regulatory Authority (FINRA).

If these distinctions were not already confusing enough, many financial advisers are so-called dual-registered: they operate as both RIAs and broker-dealers. Dual registration produces a problem that the US Government Accountability Office (GAO, 2011) refers to as ‘hat switching,’ where advisers alternate seamlessly between their roles as fiduciary-level advice givers and conflicted salesperson, typically without the client understanding the distinctions.³

More recently, the US Dodd-Frank Law which was passed in response to the 2008 financial crisis mandated that the SEC explore and propose a consistent uniform fiduciary standard. In apparent retaliation, recent legislation introduced by some members of Congress attempted to shift much of the SEC’s investment advice oversight to FINRA for practical purposes. This counterproposal, though, has confronted stiff resistance from advisers concerned that the FINRA will fail to enforce a true fiduciary standard and increase compliance costs. In response, FINRA has sought to reposition itself as more accommodating to higher advice standards, by redefining the ‘suitability’ standard to a level of care that incorporates elements of the fiduciary standard. Whether this new standard will be chipped away if FINRA obtains a fuller set of regulatory responsibilities vis-à-vis the SEC is an open question.

While regulators, policymakers, business interests, and consumer groups carry on the long and intense battle over this important legal landscape, many people need practical help in the meantime. Boomers, in particular, cannot wait, and their children and grandchildren also require advice in an ever-changing financial arena. Plan sponsors designing benefit plans, along with the consultants guiding them, must also move ahead to do what they can from a practical viewpoint. This volume seeks to contribute to a greater understanding of how the market for financial advice works, what the pitfalls are, and what consumers, plan sponsors, advisers, and regulators can do to better manage the risks.

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What do financial advisers do?

In what follows, we begin with a discussion of the practices of financial advisers, how they actually operate, and the advice they provide. The chapters offer perspectives from an interesting blend of academics and practitioners, who have considerable ‘street’ experience giving advice to real clients. To set the stage, Turner and Muir (2013) explore the financial adviser space and address the question of what is meant by the term ‘financial adviser.’ Surprisingly, the answer is not straightforward, as many different sorts of individuals call themselves financial advisers. A practical viewpoint is provided by Hogan and Miller (2013), who are independent advisers taking a holistic perspective when assessing client needs and explaining risks. Their work examines several common pitfalls in explaining risks to clients, as well as how to do a better job. They show how different approaches to discussing risk can lead to very different client perceptions and choices.

The chapter by Greenwald et al. (2013) examines how advice helps shape when people claim their Social Security benefits in the United States. Most workers are discouragingly poorly informed about how Social Security works, and most claim benefits currently at age 62, far earlier than many experts believe is optimal. Building on a survey and in-depth interviews, the authors examine information about how advisers and plan sponsors counsel clients and participants on Social Security. Their results point to ways to increase the effectiveness of education and advice on Social Security and claiming.

Pension asset allocation is examined by Munnell et al. (2013), focusing on how this can help influence retirement security. In the US context, they conclude that most workers save relatively little, so they suggest that advisers should emphasize boosting saving rates instead of concentrating on asset allocation. Jones and Scott (2013) describe the factors encouraging employees to enroll in the workplace-based asset management program that their firm, Financial Engines, provides to plan sponsors. The company derives most of its revenue from managing DC account assets on behalf of workers.

In addition to saving and investment, stakeholders also need help in deciding how to manage their money so as not to run out in retirement. Accordingly, Hueler and Rappaport (2013) note that financial advice can strongly shape employees’ decisions to annuitize part of their pension assets. Hueler’s innovative lifetime annuity platform is offered by some plan sponsors as a means to help retirees generate income protection over their entire lifetimes. While life annuities currently represent only a small fraction of total annuity sales, this chapter explores how financial advice can play a key role in adoption.

Measuring the performance and impact of financial advice

Next, the volume turns to an in-depth evaluation of the impact of financial advisers asking: do they matter; do they do a good job; and do they have an impact on client choices and behavior? Zick and Mayer's careful analysis (2013) points out that many prior studies fail to identify the clear impact of financial advisers in effecting change because they have not used a scientific randomized approach in the analysis. Moreover, the few studies that do are limited in their delivery of financial advice. The authors offer a useful roadmap guiding serious evaluation efforts if one is to clearly identify the impact of advisers on outcomes.

In an interesting experimental study, Hung and Yoong (2013) use the RAND American Life Panel to explore whether enhanced behavior can be attributed to actual investment advice. They come to two interesting findings. First, unsolicited general advice has a limited effect on investment behavior. Second, people who actively solicit advice do improve their performance, but they are not a randomly selected group. As a result, their results suggest that general advice might not be a 'silver bullet.' That is, plan sponsors and policymakers may need to consider additional mechanisms (including how to make advice more personalized), and to allow participants receive more help with actual implementation of advice.

The related chapter by Hackethal and Inderst (2013) notes that financial advice can benefit consumers by bridging gaps in knowledge and facilitating transactions, but in practice, it is often used to exploit consumers' lack of financial literacy and inexperience. In an effort to correct this problem, regulators have sought to enact policies that mandate more disclosure regarding products and conflicts of interest. But the authors argue that these measures often fall short of creating tools and policies to enhance transparency. For instance, the financial products could be much simpler and more uniform, making them easier to compare. Additionally, policies could ensure that the quality of advice improves, perhaps by having advisers meet higher standards of qualification, or giving them appropriate incentives to gather information and provide unbiased advice.

In his chapter on adviser services, Finke (2013) proposes that advisers can substitute for costly investments in specific finance-related human capital that may not be efficient for households or society to engage in as a whole. Nevertheless, even when financial advisers improve financial outcomes, and when the adviser's and households' interests are aligned, professional advice can still harm consumers if conflicts of interest create high agency costs. Fee compensation may reduce agency costs associated with commission compensation, such as the incentive to increase portfolio turnover and recommend low-performing investments. Fees may also

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reduce the focus on short-term advising services by creating an incentive to establish a long-run advising relationship. One way to reduce possible agency costs under commission compensation might be to eliminate commissions and apply a uniform fiduciary standard among financial advisers.

Using several different surveys, Holden (2013) explores when, why, and how mutual fund investors use financial advisers. Among other issues, she looks at whether certain ‘trigger’ events prompt fund investors to seek professional financial advice, and she analyzes whether some investors are more likely to work with advisers than others. The level of assets appears to be a key marker, with households that have an advisory relationship reporting a median of \$170,000 of household assets, compared to a median \$85,000 of among households that do not have an advisory relationship.

Market and regulatory considerations

The third section of this volume takes up regulatory and market considerations. Laby (2013) deals with the way that brokers and advisers may perform similar functions yet are regulated differently under US laws dating back to the Great Depression. The labels used by financial services providers tend to confound investors; federal securities laws contain separate regulatory schemes for brokers and for advisers; and the duties and obligations differ under each. Regulators are currently pondering how to harmonize these regulations, but the process is fraught with difficulties. Furthermore, although brokers and advisers historically provided distinct services, today their roles are often similar or nearly identical. Yet since regulation has not kept pace with changes in the industry, brokers and advisers remain subject to separate regulatory regimes. The US Securities and Exchange Commission (SEC) is considering whether to harmonize the regulation of broker-dealers and investment advisers and place a fiduciary duty on brokers that give advice to retail customers, subjecting them to a higher duty of care.

The US Government Accountability Office (GAO) is also exploring a regulatory gap, as explained by Bromberg and Cackley (2013). Currently, no single law governs providers of financial planning services. Many investors find the standards of care confusing, and they do not appear to appreciate the differences between investment advisers and broker-dealers or the standards of care that apply to them. Consumers generally do not understand the distinction between a suitability and fiduciary standard of care, nor when financial professionals are (or are not) required to put their client’s interest ahead of their own. The authors outline several different approaches to create a more unified approach.

The Market for Retirement Financial Advice: An Introduction 7**A look ahead**

In the wake of the financial crisis, numerous analysts and policymakers have expressed deep concern about the extent and consequences of consumer financial ignorance. For instance, the US President's Advisory Council on Financial Literacy (PACFL, 2008: n.p.) has expressed concern that 'far too many Americans do not have the basic financial skills necessary to develop and maintain a budget, to understand credit, to understand investment vehicles, or to take advantage of our banking system. It is essential to provide basic financial education that allows people to better navigate an economic crisis such as this one.' In a similar vein, Federal Reserve Board Chairman Bernanke (2011: 2) argued: 'In our dynamic and complex financial marketplace, financial education must be a life-long pursuit that enables consumers of all ages and economic positions to stay attuned to changes in their financial needs and circumstances and to take advantage of products and services that best meet their goals. Well-informed consumers, who can serve as their own advocates, are one of the best lines of defense against the proliferation of financial products and services that are unsuitable, unnecessarily costly, or abusive.' And the US DOL has estimated that pension participants could save billions of dollars a year in financial mistakes, if they were better versed with regard to financial advice (Turner and Muir, 2013).

While we focus here on ways to make markets work better for saving, investing, and decumulating retirement assets, there is one topic we do not address in detail as it deserves a separate and lengthy treatment on its own: how to plan for and manage retiree medical care expenditures. In the future, these costs will inevitably rise due to extending longevity and healthcare cost inflation. Additionally, in the United States, many employers have terminated their retiree medical insurance programs over the last decade, and the few still providing plans have imposed higher contribution rates, rising copayments, and higher deductibles.⁴ The Affordable Health Care Act will interact with the projected solvency problems confronting the Medicare program, implying that future retirees will surely be need to pay more for medical costs than in the past.⁵ Yet few employees are well-versed about their employer's retiree medical insurance offerings or what benefits are available through Medicare,⁶ implying a large and growing role for financial advice in this arena as well.

Looking to the future, regulatory efforts are underway in many nations to address informational issues and to rationalize the application of fiduciary standards, in the hopes of increasing the quality and quantity of investment advice to support retirement security. But in the long run, better-educated and informed stakeholders will need to bear a larger role in managing their retirement accumulation, investment, and

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decumulation processes. Accordingly, there seems little choice but to bring to market more appropriate products, explain them better, and price them fairly, so participants in the retirement advice marketplace do a better job managing retirement risk. To this topic we turn next.

Endnotes

1. Some exceptions existed, most notably the DOL December 14, 2001, Advisory Opinion to SunAmerica Retirement Markets which allowed certain asset allocation services to participants in ERISA-covered plans. See <<http://www.dol.gov/ebsa/regs/AOs/ao2001-09a.html>>.
2. Most states require legal registration of the RIA, mandate that each adviser pass a Series 65 or similar exam (although some states exempt individuals holding the CFP® designation), and submit a U4 background application. The state of Florida and a few others require advisers to also submit fingerprints.
3. This might be akin to medical doctor having a financial interest in the companies producing medications that he prescribes to his patients.
4. As Fronstin (2010) notes, the Financial Accounting Statement No. 106 (FAS 106) of 1990 requiring private sector employers to account for the liabilities associated with post-retirement healthcare insurance prompted many firms to cut back and even terminate these plans.
5. The Employee Benefit Research Institute (2009) estimated that the present discounted value of an average couples' out-of-pocket expenditures (exclusive of employer subsidy) would total \$268,000. At the 90th percentile, the estimated cost was \$414,000 and inclusive of Medigap/Part D premiums, \$807,000.
6. See, e.g., Schur et al. (2004) and Kaiser Public Opinion (2011).

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