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Industry Experts Debate ERISA Litigation Reform in Recent Hearing

A December 2, 2025 hearing, titled “Pension Predators: Stopping Class Action Abuse Against Workers’ Retirement,” was convened by Subcommittee Chair Rick Allen (R-GA) before the House Education and Workforce Committee and the Subcommittee on Health, Employment, Labor, and Pensions. Expert witnesses claimed that, since a recent Supreme Court decision that may make it easier for plaintiffs’ firms to bring lawsuits alleging ERISA-prohibited transactions and survive motions to dismiss, the constant threat of lawsuits is reshaping fiduciary decision-making long before cases ever reach a courtroom.

Among those testifying was Lynn Dudley, Senior Vice President of Global Retirement and Compensation Policy at the American Benefits Council, who highlighted how litigation fears can constrain sponsors’ ability to adopt innovative plan features that might benefit participants, such as decisions to offer lifetime income options. Witnesses also argued that plaintiff lawyers, not workers, are often the primary beneficiaries of these suits. They noted that many cases are brought repeatedly across the country by a small set of firms with nearly identical, “cookie-cutter” complaints.



Other witnesses, including William Alvarado Rivera of the AARP Foundation, however, argued that rigorous ERISA enforcement and resulting lawsuits have historically improved plan practices and outcomes for participants by helping to ensure that fiduciaries meet their obligations. Rivera also contended that “[r]equiring that plan participants plead information that lies solely within the control of fiduciaries at the outset of a case improperly shifts the burden in ERISA cases.” He added that this requirement would effectively shut out potentially meritorious claims and enable fiduciaries to evade responsibility for ERISA violations.



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The Unique Retirement Planning Considerations of “Single Savers”

It’s been widely reported that the marriage rate among Americans has declined sharply in recent decades. According to the Census Bureau, 60.8% of households were headed by married couples in 1980. By 2024, that figure had fallen to 47.1%.

Divorced, widowed, or never partnered singles can face retirement planning challenges that differ from their married or partnered peers. Findings from Nationwide’s latest Advisor Authority study highlight some of these potential challenges.

Nationwide’s survey suggests single investors are acutely aware of the added pressures they face. More than a third say they contend with greater financial strain than married or partnered peers. Moreover, nearly one in five said they wonder if they’ll ever be able to retire. That concern is reflected in the state of their retirement savings: only 23% reported that they have at least \$250,000 saved for retirement, and only 18% said they have \$500,000 or more.



According to Nationwide, the challenges single savers face tend to surface across several key areas.

- Emergency funds: It can be more challenging to build an emergency fund on a single income. Not having backup savings in place can make it more difficult to manage the unexpected and adhere to retirement savings strategies.
- Long-term care: Singles are less likely to have a clear caregiving solution in place, so long-term care solutions should be considered early in the planning process.
- Taxes: Singles could face higher tax rates compared to married couples, which can affect their savings abilities and goals.
- Social isolation: The research highlights the importance of a strong support network in a single person's retirement planning strategy and suggests loneliness can take a toll on emotional well-being – both before and during retirement – which in turn can impact financial decisions.

Without a partner to share the responsibilities of retirement planning and financial decision-making, single workers may benefit more from in-depth, one-on-one guidance and planning conversations with a financial advisor.



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Household Spending Data Reveals Participant Borrowing Patterns

New data suggests individuals' decisions to take 401(k) loans are driven less by discretionary spending needs and more by day-to-day cash-flow constraints. A December 2025 study conducted by the Employee Benefit Research Institute (EBRI) and J.P. Morgan Asset Management sheds light on what drives participants to take out 401(k) loans and how those funds are used. The research links 401(k) records with Chase household spending data to see who takes defined contribution plan loans and where that money effectively goes.

Housing, Healthcare, and Revolving Credit

Approximately one in 10 private-sector 401(k) participants with a loan option took a new loan in plan years 2021-2022, the study found. Loan activity tended to rise and peak for participants in their 40s before tapering off in later years. The research also shows that new 401(k) loan use strongly increases as credit card utilization rises: just 6.9% of households with no card balance borrowed from their plan, compared to 19.8% of those using 80% or more of their available credit. This pattern indicates a link between borrowing behavior and tighter household cash flow. Additionally, high credit-card-use households contribute a smaller share of income to their plans and have lower plan account balances, further reinforcing the long-term drag elevated debt levels can place on retirement preparedness.

When participants take a new plan loan, the only spending category that reliably shows an increase of more than 10% compared with non-borrowers is healthcare. A second lens, changes in the share of total spending, reveals that housing and unspecified cash spending are more likely to claim a bigger slice of the budget for loan-takers. The data also shows that, for a subset of households, new mortgages and plan loans often start around the same time.

Notably, the decision to borrow from the plan appears largely independent of household income.

Releasing Financial Pressure Valves for Participants

The overall pattern suggests 401(k) borrowing tends to align with major medical and household expenses, as well as markers of financial stress, rather than with discretionary spending on travel, entertainment, or other purchases that might signal luxury consumption. This points to the role plan sponsors can play in helping influence loan behavior. Access to emergency savings and budgeting tools and mortgage education programs may help reduce reliance on plan loans while better aligning plan features with household cash flow needs and the financial demands of key life stages.



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