Revamp Retirement Podcast - Episode 68: Bruce Harrington (Pentegra)

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**Bruce Harrington:** one of the myths out there is that 316 is only for small companies. I can tell you that. As the marketplace continues to evolve, bigger and bigger companies are looking for the 316 to reduce the liability

**Intro:** covering the ever evolving retirement plan landscape to help identify the biggest opportunities for plan sponsors, CAPTRUST presents Revamping Retirement.

**Matt Patrick:** Hello, and welcome to another episode of Revamping Retirement. I am Matt Patrick, and I'm joined this month by Don McPherson. Don, it's great to be potting with you again. How are you doing today?

**Dawn McPherson:** I am doing great, Matt. It's good to be here with you. I'm pumped for football to return.

**Matt Patrick:** I do feel like every time you and I have podcasted together, there's been Kansas City sports news. So last time you were winning a Super Bowl. Now we're recording this on the kickoff of the NFL season. Chiefs going tonight.

**Dawn McPherson:** Yeah, I thought that's what this podcast was actually going to be about

**Matt Patrick:** Yeah, it's just Dawn waving her chief's victory flag for a half hour. no, as much fun as that would be, and I'm sure you would enjoy that. today we're going to be diving into the exciting world of plan administration, specifically 316 plan administration, which is an area that has been growing rapidly in interest for retirement plan sponsors. And to cover that topic with us, we have Bruce Harrington joining, who is a vice president of strategic development at Pentagra. Bruce, welcome to the show

**Bruce Harrington:** very much for having me. Look forward to talking about 316.

**Matt Patrick:** and no Kansas city chiefs talk. Um,we're excited to have you on, before we jump into our specific discussion around 316 administration, could you give just a quick overview of Pentagra and your background in the space?

**Bruce Harrington:** Sure. Pentagra is an interesting company, um, founded in 1943 to be a fiduciary. So we're actually one of America's oldest independent fiduciaries. we do that both on the investment management and on the 316 side. And we work with, over 60, 000 retirement plans around the country and help over a million participants.

So we literally were built to be a fiduciary and, we hopefully live up to that every day. myself, I've been in the retirement business for over 30 years. I've worked at both, investment management firms who were record keepers. I've worked at distributors

**Dawn McPherson:** And,now I'm working for a TPA fiduciary. That's an impressive backdrop, Bruce, So thanks for joining us today. Can you start us off by just talking about what is a 316?

**Bruce Harrington:** Yeah. So just like 401k is a section of the code 316 is a section of the IRS code and it defines essentially an operational fiduciary. a 316 takes on, Most of the responsibilities that typically a plan sponsor would have to do, you could think of a 316 as like the chief operating officer for your retirement plan.

And, what we're trying to do is reduce work for the employer, reduce liability. and provide additional value. the marketplace over the last five or ten years has come out with different levels of 316. there definitely are different services that go into the definition of 316 or the products that are out there.

That's great. I think you touched on this, but I want to highlight the benefits of 316 outsourcing for a plan sponsor. You hit on reducing their workload and limiting liability, but can you talk about that a little bit more? Sure. And,it's been interesting, during COVID, the value of 316 was really highlighted for a lot of companies because, they were downstaffed, there was short staff, they had trouble hiring. But, what we do is we try to, Number one, take the fiduciary responsibility away from the employer.

And depending on the size of the company, that could be the CEO or the president. So we're literally taking fiduciary responsibility away from the sponsor and putting it on us. So as an example, in your plan document, if you look at it today, you'll see the name of somebody or a committee. But when we jump in and act as a 316 fiduciary, we take the CEO's name out of the document and we put in Pentagra's name.

some other things that are really meaningful to plan sponsors, the IRS form 5500, which is the tax form that a retirement plan has to file every year. most of the record keepers will actually produce the form for you, but, it's very challenging for companies, especially smaller ones, to actually sign and file it.

So we'll take on that fiduciary responsibility and we'll do that for them. for plans that have a plan audit, those plans over a hundred, we will step in and take over The work between the plan sponsor and the auditor. So we'll actually reduce, depending on the plan size, maybe 10 hours of work that the plan sponsor would have to do.

We'll now take on that responsibility. other things we do is we'll be responsible for dealing with quadros, qualified domestic relations orders. those are the court orders when people get divorced and, there's work to dividing the accounts, understanding the order and all that. We'll take over that responsibility and we'll also approve distributions.

um, again, we're just trying to take tangible things off their plate and do the work for them. And given our background, we have the knowledge and expertise to do it well versus a plan sponsor who 50 things they need to do in a day. Hopefully that helps.

**Matt Patrick:** that's perfect background. And as you were talking through it, I think that a lot of the. The value that you were describing in there and what you can offload from a plan sponsor perspective sounds very similar to the story that we talk about when we're talking about a 338 investment manager and that, discretionary oversight that you get there and some of the offload from the plan sponsor over to the investment manager. Do you think that those are, is that a fair corollary with 338 serving on the investment side only? And then 316 would be the equivalent, but for plan administration

**Bruce Harrington:** Yeah, it's a great example. And,plans that are really looking to reduce liability and reduce work often will have both the 338 and the 316. one of the myths out there is that 316 is only for small companies. I can tell you that. As the marketplace continues to evolve, bigger and bigger companies are looking for the 316 to reduce the liability.

and we actually have plans with a billion dollars in assets that find a 316 valuable, as well as plans with five employees. So 316 knows no bounds. It's really about reducing the work and reducing the liability for the plan sponsor.

**Matt Patrick:** Just adding to that 338. Corollary is we've seen the same trend of originally it was thought of as small, small plan phenomenon, but we've seen that drift up market.

**Dawn McPherson:** I think they're It tends to be some of those assumptions made, and then I think there's also confusion around 316 at times, so thinking about the work that a third party administrator, or as we love to use, abbreviations or acronyms in this business, TPA, so third party administrator TPA.

How is the TPA's role different than a 316 fiduciary? Yeah. Yeah.

**Bruce Harrington:** Yeah, so there are certain things that a TPA does as a matter of course, but they tend to be administrative. So a TPA never crosses that line to be a fiduciary. so things like signing and filing the 5500, that's a fiduciary act that typically a TPA would not do. Taking the role of the plan sponsor in the plan document, a typical TPA will not do that.

I think, part of the confusion in the marketplace has been that there's a proliferation of 316 offerings out there, and they're all very different. And I love your corollary of the 338 to the 316 because just like 10 or 15 years ago, 338 was, a new thing and plan sponsors didn't understand it.

And really it's become the industry standard. we really feel like 316 is in that same trajectory. still in its infancy, but growing rapidly. And a lot of what we do is educate plan sponsors and advisors on the value of a 316 and try to help them understand why our products and services may be different, what we're doing differently than, maybe some companies out there that have a 316 light.

It's the industry term there.

**Matt Patrick:** Okay. So we, you've mentioned a few times the marketplace has created different levels of 316, what you're hitting on there in terms of like, where your service stacks up, I guess, taking a broad view. So industry specific, could you give some examples of what you mean by 316 having. Different levels of service within there and to try and hammer home the like just because you have a 316, it might not mean the same thing in all contexts.

**Bruce Harrington:** Sure. And, one of the things that, we try to do is partner with record keepers and with product distributors. And, sometimes those record keepers want different levels of 316 based on the marketplace. So as an example, we have one record keeper that we work with that, They wanted a product that only did the sign and file 5500 because they wanted to offer it to companies with less than 50 employees.

the price point was critical to adoption, right? although we would say that every plan should have the full 316, every plan 316, doesn't want or can't afford it. So we developed a product, that's in that under 50 space. We developed a product that kind of adds more services like the audit support at a slightly higher price point.

And then we developed a product that was that full fiduciary coverage at a slightly higher price point. So in that situation, the plan sponsor has the choice of what their pain points are, what their problems are and how much they want to pay. And they have a menu of three different choices to choose from, each one progressively adding more services and reducing more liability.

**Matt Patrick:** Okay. That makes sense. And I think we'll probably want to pick up on the like selection process coming, but I guess in terms of just, if I was a plan sponsor, I'm trying to evaluate whether or not I need to hire. What do you see are the most consistent factors for those that decide they do want to, they do need to hire a threesome?

Like what are the commonalities there that would make someone to make that decision and go ahead and hire somebody.

**Bruce Harrington:** believe it or not, there's, a good percentage of plans out there who, either their service provider forgot or they forgot to file their 5, 500. So just like if you forget to do your,your taxes every year as an individual, 500 and that's one of the most common mistakes that, that we help people fix.

And the IRS and the DOL have really been cracking down on that. So a great story I love to tell is we had a small company, their prior firm forgot to file the 5500 for a couple years. They hired Pentagra as a 316. Even in our most basic product, we immediately noticed that they hadn't filed the 5500. We offered to fix it for them and do a filing with the government to protect them going forward.they paid a couple thousand dollars for that. The next month they got a bill from the IRS for 93, 000. they were able to rip up that bill because we'd already identified and correct the problem.

So if you think about a small company,90, 000 could put a small company out of business. So,having a small, fiduciary. product saved them a significant amount of time and money.

**Dawn McPherson:** yeah, that's a great point. It's not just, offloading work, per se, or administrative function, but also in many instances, saving you some, potential fees or legal issues. did you have another comment to add on that thought before we move on to another question I have?

**Bruce Harrington:** I'll just give another quick example. we had a fortune 500 company who, had a HR situation, right? They had someone out on disability, somebody, having a baby. So they were short staffed. they didn't know what to do because they had a plan audit. And, that's a requirement and, there's a lot of work that goes into those.

So they actually hired us just to be, to interface with the plan auditor, almost like we were rented as an employee for that plan. we helped them through the plan audit and,they went on to hire us as a 316 on an ongoing basis because they saw the value. So that's just another example of how we help plan sponsors.

**Dawn McPherson:** Yeah, that's a great example. I think plan sponsors agonize over those times of year because of the tapping into their resources and the hours that it takes spending time with the auditor and the back and forth. So that sounds like a good value add.so talking about or thinking about the different levels of 316 services and justthat alone I think would be a tough decision for sponsors.

Can we talk a little bit about how they would go about selecting a 316, generally speaking, and then also evaluate which level of service they might need or want?

**Bruce Harrington:** Yeah. certainly price, especially in the smaller end of the market, price is an important, purchasing criteria. really understanding the services. if you look at what a plan sponsor needs to do to run a retirement plan on an annual basis, there's 20 to 30 major tasks that need to happen.

And we've talked about a couple of them today. When we take over as the 316, that list goes down to, less than five.We actually have a nice comparison piece that shows here's what you have to do and here's what we're going to take over and here's what you have to do afterwards.

the understanding that the fiduciary coverage is an important part. Some plan sponsors don't value having their name taken out of the plan document. so they don't want to pay for that higher level of service. some plan sponsors have, a rich amount of staff. So taking over the audit.

isn't an important thing. And then some plan sponsors really want to be in control of participant distributions and quadros. So again, they don't see the value in that. we, we try to just offer a different selection so that they can choose between them. And we're always happy to walk through our services.

One of the most important things that we recommend plan sponsors do is read the service agreement. Really understand what you're buying, what your service provider is doing. and then understand the liability. we hope never to use this, but, we have written into our contract that if you have a DOL audit, we will come support you and we'll sit next to you at the table, and help represent you.

Now we're not acting as an attorney in that capacity, but we're acting as your fiduciary. So that's part of the service that we would offer in that full package. That gives a lot of plan sponsors a lot of solace. And we would never say that, this is insurance coverage. But, given our longevity and our history, we certainly have lots of insurance coverage and, we have a specific fiduciary insurance policy that covers us and the plans that we service.

**Matt Patrick:** A lot of good stuff in there. I feel like I have three, three follow up questions based on, what you just ran through, but you were hitting on the insurance business. piece at the end, which you wouldn't call this insurance, but I'd say a big question we get time back to the three 38 stuff again, and these working together, a big question that comes up is if I hire someone as a three 38 investment manager, does that have any benefit to my fiduciary liability?

Insurance. Do you see any carry over there in the same way for three 16? does that question come up? And I guess, do you have any sense for like, is that impactful? in that regard.

**Bruce Harrington:** Yeah, I couldn't quantify it, but I know, especially as you get in the mid and large market, we have heard feedback from plant sponsors that they were able to either reduce their coverage or at least avoid an increase, because insurance is only going up these days. Um,and every once in a while, we get questions like, how much is your coverage and, how does it work and things like that.

**Matt Patrick:** And we're happy to disclose that. And I'd imagine, at least in my experience talking with some of the fiduciary insurance providers too, like when they're going through that process, they really like to get into the weeds of what's covered and what goes into something. I'd imagine there's a lot of emphasis on going back to your, like, what services are included and which ones aren't.

**Bruce Harrington:** I'm sure that has a big impact. Like if you're, if you're offloading a lot, maybe that has a huge impact. If you're just offloading a couple of functions, maybe not as impactful there. I Yeah, that's maybe obvious but that's why we've developed education pieces to show the different products and the services that are offloaded. So you can visually see, you know, if I choose the most basic product I'm offloading, these 5 things, if I choose the full product, I'm offloading,25 things.

it's not the service agreement, but it is. we have education pieces that lay it out and try to educate sponsors on what the differences are.

**Matt Patrick:** had a couple other follow ups just onthe search process. If I'm a plant sponsor, we want to go out and hire a 316, I'm sold on the benefits of, and I want to go out and do a search. How do you see that come to fruition? do you get formal requests Or how did those requests come into you to quote new business?

**Bruce Harrington:** Yeah, again, it's based on market size. So typically in the mid to smaller market,the ask is give us a proposal of your fees and services, but definitely as you go up market, we often get RFIs and RFPs, that we'll respond to that go in, in depth. as I said, we try to partner with different record keepers.

**Matt Patrick:** So we can get right, questions from or RFIs from the record keepers to make sure that we're the best solution, for them to have on their platform. Perfect. And then I guess my second follow up, digging in a little more on how flexible it is, all the services that it could cover, which ones do you need? Which ones do you not need? I guess from, from your all's in and what in the market broadly, is it really, Completely flexible where it could be as many as a hundred services and I, as a plan sponsor, get a list of all of them.

and I check one by one, which ones I wanted, which ones I don't. Or do you see more where it's packaged in a certain way of there's three tiers of service and one's the basic package and only covers 10 things, and then the medium tier gives you another 25 and then the full on cert, service gives you all of them.

I guess, what do you typically see?

**Bruce Harrington:** it's a great question. The short answer is, we do both. So we do have a defined products that have defined list of services. And that's helpful. cause. Just educating people on what 316 is takes time, right? So to the extent you can package them together, it allows us to do a lot more mass customization, if you will, and to use technology to help augment our service professionals. But one of the things we built is a consulting service, and that consulting service, they essentially fix So, fix problems. So if you say, Hey, I need 5, 500 done from five years ago, or I forgot to do my compliance testing last year, we will do that a la carte. And what we do is we identify the problem. we give the client a choice.

of the service. And essentially we charge by hour to fix the problem. And we'll also do, the voluntary corrections. So if a plan made a mistake in the past, the government requires that you do a filing, with them to get back in compliance. we'll actually do that work for the plan sponsor and help them submit it.

**Bruce Harrington:** back to how do you engage with the services? if you go with something that's a little more in the package structure, maybe there's some efficiencies to be gained there, but ultimately if you have a very specific case, you can go through and pick the services you want, but maybe there's a more custom pricing exercises could be charged a la carte as you go through, as opposed to a more streamlined structure. Fair to say, Yeah, definitely. the analogy I use is if you're going to buy a Honda, right? If you're going to buy a Honda CR V, you get the base model, you can add leather, you can add, navigation, but there's only four or five packages that they offer because they're trying to streamline the buying experience. We use that same mentality, we try to make it simple.

**Matt Patrick:** Pivoting away a little bit. So I certainly, when you're talking through all this, I think about it in the single plan context. but I guess, curious for you, does the 316 role function any differently in the single plan structure versus something like a pooled employer plan or a mep or anything that could be leveraging 316 services in a more group format?

Yeah,meps have been around for a long time, and we certainly do that. and then PEP's relatively new,but we're also doing that. at the heart of the mep and the PEP, The 316 service is very similar, there's different strokes for different folks. I'll give you an example.

and in a single plan, if you have over a hundred employees, you have to do an annual audit. If you're in a PEP, depending on the size of your plan, we have plans that are under a hundred. So they're not paying for an audit within the PEP and we have plans over a hundred. But the benefit is the audit gets aggregated.

So a plan sponsor could save, 000 as an example by being in a PEP versus being in a single plan, but you're giving up some things, right? You're giving up control. You're giving up individuality. So You know, there's not really a right answer. It's really about What does the plan sponsor want?

What level of flexibility do they want? And what level of control? But at the heart, we do essentially the same things as a 316. We're removing liability, we're taking work off the plan sponsor, and we're,just trying to help solve problems.

**Dawn McPherson:** Still adding good value, whether it's a single plan or in that pooled plan environment.

**Bruce Harrington:** Correct.

**Matt Patrick:** But, just to emphasize though, if you're in the pooled environment there's none of that flexibility in terms of services, that's all standard across everybody that's in there or is there flexibility at the individual plan level? I'm

**Bruce Harrington:** there's some choice in the adoption agreement, right? do you want a five year vesting? Do you want a one year vesting? Do you want no vesting? there's limited choices, but everyone's on that same adoption agreement, so they have the same menu. the same goes for pricing.

**Dawn McPherson:** You can't have one plan in a PEP that has wildly different pricing than another, so there has to be some homogeneous, aspects to it. Sounds similar to the other, what's the word I'm looking for? The other choices or selection criteria that employers face when they're opting to join a pooled employer plan. All right, Bruce. This is Matt. Did you have another question?

**Matt Patrick:** good. I'm

**Dawn McPherson:** All right, Bruce. This has been really great. It's, good to dig in a little more. I think 316 is an area that does often add a lot of confusion into all of the points earlier. I think the more familiar people get with it, much like 338 has become a more, standard offering or more,More highly adopted offering.

I think we are going to continue to see that uptick with 316. So thank you for adding all that color and content for us. If you've listened to any of our other podcasts, you probably know that we like to end focused on, you know, we're all focused on the retirement space here. And so we like to ask each of our guests, what does retirement look like for you? I know, heavy question.

**Bruce Harrington:** I'm in my late fifties,it's close enough that it's something that I think about. I can't imagine completely stopping work. Whether I do consulting or, get on a board of trustees, I'd like to continue to be active. I always tell people about my father who's 89.

**Dawn McPherson:** He worked for the government, until he was 55. And his retirement job is down in, on Cape Cod in the Hyannis Harbor. He's the caretaker at the JFK Park. So he greets people, he cleans the wishing well, and he's outside all day. to go visit him, Bruce.

**Bruce Harrington:** Yeah. Yeah.yeah, I, I still feel like I'm pretty active and if you ever looked at my schedule, you'd probably go, oh my God, how did he do all that in one day? but I do look forward to slowing down at some point and,doing less, maybe in the next 10 years. hopefully that's a good answer,

**Dawn McPherson:** Hey, it's your answer. It's your retirement. So any, anything's a good answer.

**Matt Patrick:** Awesome. thank you, Bruce, as Dawn said, really appreciate you joining us, providing all the insight. this is a topic that's coming up more and more with plan sponsors. So having all this color of what is a 316 that, you know, essentially at a base definition, but I think getting into some of the details around just because you have.

316 services doesn't mean that they're all the same. It's not a blanket term that can fully describe the services offered. I think that will be really important context for those that are exploring this conversation, deciding whether that's a good fit for them. And then getting into the, what level of service is right for us and will help us there.

So thank you so much for joining us and for all the details.

**Bruce Harrington:** Yeah. Thanks very much for having me

**Matt Patrick:** All right, Don, we're back. we just let, Bruce drop off there, but I wanted to get your thoughts quickly on everything we covered there. What'd you

**Dawn McPherson:** Oh my gosh, I think it was great. I, over the years have just,you hear of providers pitching 316. you work with different clients who either ask about the benefit or you recognize that they could benefit from some additional,administrative fiduciary oversight and I just think it was good to highlight this as an additional offering.

I loved the parallel you drew to 338 services that we offer. and just digging in on, into the weeds on how, what this looks like, what's the benefit for the sponsor, and then how would they go about, I'm not sure we got too granular on that, but how they would go about if they were interested in exploring 316 services, how do you do that?

So what'd you think?

**Matt Patrick:** Yeah, I really enjoyed it. I think particularly on the, what does, what does it entail to have a 316 and what is included within those services, I guess to hit on the 330 point, I think. It'll be interesting to watch as we've, track some of the industry development, 338.

It's been a little more in the conversation for a little bit longer. And I think as we look at some of the industry surveys, for those that listen to the episode that we just had with PIMCO last month, that's been a trend that's been there. It's been a growing trend is 338. And so it'll be interesting to see if 316 tracks in the same way where you're like, okay, I've addressed the investment management side.

Let's talk about the plan administration size. Since those are two Equal weights from my end as a plan sponsor in terms of offering a competitive plan. And it felt like, at least personally, I hadn't heard a ton of interest in that area, but then it does feel like when peps rolled out, even though it's not a perfect fit for everybody, that just brought the three 16 services more to the forefront.

It's like, that's included in there specifically to say, this is a, an area to offload responsibilities as a plan sponsor. I think it just got more people thinking about. Is that the right fit for me? and then I really enjoyed the conversation around just because you have a 316, it doesn't mean they're all the same.

There's a lot of different services that could be included. They're not always included. And so I think it just adds a level of, complexity that a plan sponsor has to think through if they want to engage someone in that way.

**Dawn McPherson:** I agree. I think there were a couple of things that jumped out to me. Like it just because you have a 316 or a 338, you're not eliminating all of your fiduciary risk. and we've hit on that through other conversations we've had on the podcast and webinars and such. and then the story that resonated with me is plan sponsors have pain points for different reasons at different times. It's not always just because of the structure, the nature of their plan. so the person who they needed some help just for a short period of time because of an audit, I think that could be a very compelling offering for sponsors.

And then the other thing that I really enjoyed the consulting services that they've started, where a plan that knows they have an issue, an error, they need some help with the correction, whether it's understanding and knowing how, to go about correcting it, or just the time and administrative burden it is to actually get through that process.but I thought that was an interesting offering.

**Matt Patrick:** Yeah, absolutely. And I think just adds to the like, just because you hear one thing about 3. 16 doesn't mean you have to turn everything over. It could be to help with a specific issue. It could be help with a temporary item. I thought that was all fascinating. Cause certainly when I think of it, I just think of it's The full handoff of everything.

That's just where my mind goes. So getting into the no, you pick and choose and tailor it to your situation. I think that's fascinating and actually broadens the appeal of this type of service. Cause you can fit it to what your plan

Yeah, agreed. So I think big takeaway would be if it's not a service that.

Plan sponsors have considered thus far, but they, they're hearing this, they hear some of those challenges, they're resonating with them. Or if you're just a group that's looking to offload those responsibilities, it seems looking around, seeing what's out there from a three 16 perspective would be worthwhile exercise, even if you don't end up going that route, just to say you, you evaluated it and you made the best decision based off of

Yeah, agreed. I think just reaching out to your current, like your advisor team and getting some initial direction on where to start with that would be a good call to action. Perfect. Well, Don, I really enjoyed it. It was great. We're going to, we're going to wrap, uh, wrap this episode. Thank you all for tuning in to revamping retirement. If you enjoyed this episode, please subscribe to our feed on wherever you get your podcasts. And we, we hope that you have a great day. Thank you.

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