

## Saving America's Future From the Way We Save Now

Author : Saule T. Omarova

Date : January 26, 2018

William A. Birdthistle, [Empire of the Fund: The Way We Save Now](#) (2016).

Last spring, I decided to teach a research seminar on the investment fund industry and regulation. Scoping out available literature, I picked up William Birdthistle's recent book, *Empire of the Fund* – and, literally within minutes of reading, knew that I had found the perfect anchoring text for the seminar. More than that, I was hooked. Over and over again, the book made me nod my head and raise my eyebrows, in a single moment of recognition and enlightenment. It made me shake my head in anger and wrinkle my forehead in puzzlement. It made me laugh out loud as I turned pages sparkling with humor and brilliance, and it made my heart heavy as I stopped to think about what made it all so funny. I finished the book in one sitting, and it was an experience.

That's because Professor Birdthistle's book is not just about the nuts and bolts of mutual funds: it is ultimately about all of us, ordinary Americans trying to save some of our hard-earned money for such scary and inevitable things like old age. Birdthistle is using the familiar structure of a mutual fund as an institutional prism through which to assess the consequences of America's grand experiment with putting the financial responsibility for retirement squarely on individuals, rather than society as a whole. Since the 1980s, most Americans – or, at least, the lucky ones who can afford to – have been saving for retirement by contributing a portion of their earnings to 401(k) plans, which then channel the bulk of these savings to mutual funds. We, individual savers, ostensibly have the power to choose where to invest our money. In reality, however, these choices are largely meaningless: ultimately, we are all captive investors in the sprawling, incestuous, multi-trillion-dollar mutual fund empire. But, the book asks, do we really understand how, and for whose benefit, this empire operates?

To answer this fundamental question, Birdthistle meticulously explores and exposes deep structural flaws in the existing mutual fund system. His analysis is couched in deliberately, and suggestively, clinical terms. The book starts by laying out the basic anatomy of a mutual fund: its purpose, structure, and economics. It then proceeds to diagnose some of the main "diseases and disorders" plaguing that system: excessive and non-transparent fees, unreliable valuations, conflicts of interests, and outright manipulative behavior on the part of fund managers seeking to maximize their own profits at the expense of fund investors. The picture that emerges is both nuanced and easily comprehensible. Above all, however, it is deeply troubling. And, as the book explains, the continuous invention of new types of funds – including the now ubiquitous money market mutual funds and increasingly popular exchange-traded funds – does not necessarily help to fix the underlying problems in how the fund industry operates.

Birdthistle closes the book by offering a brilliantly simple and potentially effective cure for America's visibly ailing retirement saving system. He proposes allowing all individuals to invest their savings through the federally-run Thrift Savings Plan ("TSP"), currently available only to federal government employees. As a former federal employee with a (very) small TSP retirement account, I was immediately intrigued by this proposal: isn't it odd to channel everyone's retirement savings into this boringly simple, low-risk, and incredibly low-cost investment vehicle? What about the great capitalist ideal of one's "freedom" to invest in super-fancy, super-diversified, super-risk-sensitive products sold by expensive investment professionals in the private sector? Birdthistle's answer is disarmingly simple and undeniably correct: individual savers can never enjoy real freedom in a system that is built to favor self-interested fund managers. To regain freedom, individual investors have to alter the structural balance of power: they have to increase their collective bargaining power by pooling their economic strength – and to do so via a publicly-controlled investment vehicle.

Perhaps unsurprisingly, I like this solution for two main reasons. First, it is explicitly structural, rather than narrowly transactional or disclosure-oriented (a low-hanging fruit in many situations). Second, it embraces and emphasizes the critical role of public instrumentalities in making modern finance not only more fair and democratic but also more efficient. As Birdthistle notes in response to predictable criticisms, "The private sector should certainly be able to do something similar to TSP, but it hasn't." There is a reason why it hasn't: private fund managers' primary incentive is to maximize their own profits, even where it is directly at odds with the overarching public interest in providing a reliable retirement savings system. And it is the same reason why we, the investing public, must step in and take control of our savings.

Whether or not this can or will be done in the near future is anybody's guess. But maybe there is hope, especially if people on Capitol Hill hurry up and read Professor Birdthistle's wonderfully insightful and extremely accessibly written book. I certainly hope they do.

Cite as: Saule T. Omarova, *Saving America's Future From the Way We Save Now*, JOTWELL (January 26, 2018) (reviewing William A. Birdthistle, *Empire of the Fund: The Way We Save Now* (2016)), <https://corp.jotwell.com/saving-americas-future-way-save-now/>.