



Rollovers

Answers to the Questions
Clients will be Asking





WHAT'S INSIDE

This whitepaper highlights the:

- Seven lines of questioning the DOL recommended for retirement investors considering a rollover
- A detailed explanation of the benefits, hurdles and requirements of 3 Tiers of investment professionals acting in different capacities with respect to rollover business
- Responses to the seven lines of questioning based on the investment professional's Tier



Introduction

In its April 13 Release, “*Choosing the Right Person to Give You Investment Advice: Information for Investors in Retirement Plans and Individual Retirement Accounts*”, the DoL recommended that retirement investors considering a rollover probe seven lines of questioning for advice providers. This guide is intended to assist investment professionals in answering these questions in the most effective way. Investment professionals may act in any one of three capacities with respect to rollover business. The answers to the DoL questions will depend on which capacity applies.

3 Tiers of Investment Professionals

► Tier 1: Non-Fiduciary

- No rollover recommendation permitted
- Requires non-fiduciary rollover training

► Tier 2: Pure Robo

- Refer clients to Pure Robo for rollover decision
- Requires access to Robo with 408(g) certifications to handle rollovers

► Tier 3: Rollover Fiduciary

- Comply with PTE 2020-02
- Requires IAR registration and fiduciary rollover training

The following three sections list Benefits, Hurdles Requirements and Responses of each Tier.

Investment Professionals must identify which Tier applies to their business in rollovers.

Tier 1: Non-Fiduciary



Benefits

- Receive compensation from IRA business
- Need not comply with PTE 2020-02 regulation
- Can educate client about benefits of IRAs (See 1996-01 IB -Defining Education)
- Can recommend investments under BI



Hurdles

- Limited to remaining in an existing arrangement
- Reliance on client, Robo or fiduciary for making rollover decision/recommendation



Requirements

Tier 1 can be achieved by avoiding one or more elements of the five part test:

1. Render advice to the plan or participants as to the value of securities or other property, or make recommendations as to the advisability of investing in, purchasing, or selling securities or other property
How to Avoid: Offer no advice or recommendation that affects assets in a retirement plan
2. On a regular basis (including the expectation of future compensation)
How to Avoid: This is impossible to avoid since the goal is future compensation
3. Pursuant to a mutual agreement, arrangement, or understanding with plan fiduciary, or IRA owner
How to avoid: Agreement can be written, verbal or implied and will almost always exist
4. The advice will serve as a primary basis for investment decisions with respect to plan or IRA assets
How to avoid: This is a judgement that is controlled by the investor and cannot reasonably be avoided
5. The advice will be individualized based on the particular needs of the plan or IRA
How to avoid: This can be avoided by generic education

Important

Note! Relief is most likely to be found in test 1 or 5



Tier 1: DOL Recommended Questions for Retirement Investors

- Items below highlighted in grey are to be removed or altered to accurately fit the situation.

Questions	Tier 1 Response
1. Are you a fiduciary under the federal laws specifically applicable to retirement accounts (Title I of ERISA and the Internal Revenue Code) when you give me investment advice for my retirement account?	My role is not to advise you to rollover or not rollover and I am not your fiduciary in this respect. If you would like assistance in making that decision, I can refer you to a specialist in that area.
2. Can I have a written statement that you are a fiduciary under the federal laws specifically applicable to retirement accounts (Title I of ERISA and the Internal Revenue Code) when you make investment recommendations to me for my retirement accounts?	I make no recommendation as to whether to rollover and am not a fiduciary in that respect. I would be happy to put that in writing for you.
2.1 If not, why not?	Assistance in making rollover decisions is available from experts in that area. If you would like assistance in making that decision, I can refer you to a specialist in that area.
3. What fees and expenses will I be charged?	Your fees and expenses are an important consideration for investments. The rollover decision is no exception and fees and expenses are based on whether you decide to rollover or not and which rollover choice you make.
3.1 Will you give me a list of those fees and expenses, and explain what each pays for?	I am afraid I cannot provide a list of fees and expenses until you make the rollover decision, which involves deciding on what is in your own best interest.
3.2 Do I pay all them directly to you or are any taken out of my investments?	Fees and expenses that are paid to me come through my firm and are generally taken out of your investments. There are however exceptions to this. [Explain any that apply]

Questions	Tier 1 Response
<p>4. What conflicts of interest do you have in making investment recommendations to me?</p>	<p>As with all professional services, conflicts of interests are created whenever the professional is paid. In my case, I am paid to provide you with information and education on how to use that information. The information and education I provide you is funded by the investment and insurance products you use. The specific conflicts are described when recommendations are made.</p>
<p>4.1 Do you or your firm pay anyone else because I opened an account with you or because I make investments that you recommend?</p>	<p>Others that are paid to support your account could include:</p> <ul style="list-style-type: none"> • [Record keepers] • [Custodians and trustees] • [Third Party Administrators] • [Tax consultants] • [Sub-contractors]
<p>4.2 Will you give me a written statement describing these payments and the amounts of these payments?</p>	<p>Yes, you will receive an annual statement of fees and expenses.</p>
<p>5. Are there any limitations on the investments you will recommend?</p>	<p>The investments available for recommendation are limited to those that have been thoroughly vetted by my firm. While there are literally millions of possible investments, it is impractical to examine them all.</p>

Questions	Tier 1 Response
<p>5.1 If so, what are they? For example, do you limit your recommendations only to your firm’s investment products (“proprietary products”) or do you recommend investments from other firms?</p>	<p>There are millions of investment and insurance possibilities that are not included in what we offer. [There is no limitation based on my firm’s investment products.]</p>
<p>6. Under what circumstances will you monitor the investments in my retirement account, and make recommendations for changes in my investments as circumstances warrant?</p>	<p>[It is my usual practice to monitor client’s portfolios and their personal situation.]</p> <p>[I monitor client’s portfolio when this service is selected.]</p>
<p>7. Why are you recommending that I roll money out of my current 401(k) account, pension, or IRA?</p>	<p>I do not make such recommendations, opting instead to refer clients to a rollover specialist or Robo Advisor.</p>
<p>7.1 Will rolling money out better serve my interests and retirement goals?</p>	<p>This determination is not made by me but instead by retirement investors who may be guided by a rollover specialist or Robo Advisor.</p>

Tier 2: Pure Robo



Benefits

- Ease of compliance
- Speed of automation
- Updated with changing tax, investment, insurance and banking regulations
- Scope... include all applicable considerations
- Reliability... eliminates human error in highly complex decision making
- Consistency... ensuring that similar circumstances produce similar results
- Scalability... virtually unlimited capacity, subject only to equipment and connections
- Efficiency... minimal amount of personal time required to answer questions or give explanations



Hurdles

- Requires obtaining Robo capability and 408(g) certifications
- Must rely on Tier 1 for referrals



Requirements

Computer Model must be:

- Initially certified and certification maintained
- Independently audited annually
- Capable of making prudent rollover recommendations

IRA rollover platform must include alternatives that are:

- Reasonably expected to be in the best interest on a large proportion of potential clients
- Reasonably priced
- Selected based on objective criteria



Tier 2: DOL Recommended Questions for Retirement Investors

- Items below highlighted in grey are to be removed or altered to accurately fit the situation.

Questions	Tier 2 Response
1. Are you a fiduciary under the federal laws specifically applicable to retirement accounts (Title I of ERISA and the Internal Revenue Code) when you give me investment advice for my retirement account?	Yes.
2. Can I have a written statement that you are a fiduciary under the federal laws specifically applicable to retirement accounts (Title I of ERISA and the Internal Revenue Code) when you make investment recommendations to me for my retirement accounts?	Yes.
2.1 If not, why not?	N/A.
3. What fees and expenses will I be charged?	Your fees and expenses are an important consideration for investments. The written recommendation you receive includes all fees and expenses.
3.1 Will you give me a list of those fees and expenses, and explain what each pays for?	Yes.
3.2 Do I pay all them directly to you or are any taken out of my investments?	Fees and expenses that are paid to me come through my firm and are generally taken out of your investments. There are however exceptions to this. [Explain any that apply]
4. What conflicts of interest do you have in making investment recommendations to me?	As with all professional services, conflicts of interests are created whenever the professional is paid. In this case, a computer model objectively determines the recommendation and by law, this computer model is independently certified to be free of conflicts of interest.

Questions	Tier 2 Response
<p>4.1 Do you or your firm get paid from any other sources in connection with my business with you?</p>	<p>There are three sources of compensation for my firm. They are:</p> <ul style="list-style-type: none"> • Providers of investment and insurance products that you use • Charges made by my firm for services to you • Sub-contractors, primarily sub-advisors, used in connection with your accounts
<p>4.2 Do you or your firm pay anyone else because I opened an account with you or because I make investments that you recommend?</p>	<p>Others that are paid to support your account could include:</p> <ul style="list-style-type: none"> • [Record keepers] • [Custodians and trustees] • [Third Party Administrators] • [Tax consultants] • [Sub-contractors]
<p>4.3 Will you give me a written statement describing these payments and the amounts of these payments?</p>	<p>Yes, you will receive an annual statement of fees and expenses.</p>
<p>5. Are there any limitations on the investments you will recommend?</p>	<p>The investments available for recommendation are limited to those that have been thoroughly vetted by my firm. While there are literally millions of possible investments, it is impractical to examine them all.</p>

Questions	Tier 2 Response
<p>5.1 If so, what are they? For example, do you limit your recommendations only to your firm’s investment products (“proprietary products”) or do you recommend investments from other firms?</p>	<p>There are millions of investment and insurance possibilities that are not included in what we offer. [There is no limitation based on my firm’s investment products.]</p>
<p>6. Under what circumstances will you monitor the investments in my retirement account, and make recommendations for changes in my investments as circumstances warrant?</p>	<p>[The computer model continuously monitors your portfolios and requests updates to your personal situation.] [I monitor client’s portfolio when this service is selected.]</p>
<p>7. Why are you recommending that I roll money out of my current 401(k) account, pension, or IRA?</p>	<p>The recommendation you receive includes a full explanation of what factors were considered and how these affected the recommendation to rollover or not to rollover.</p>
<p>7.1 Will rolling money out better serve my interests and retirement goals?</p>	<p>This determination is made by the certified computer model that has the single purpose of recommending what is in your best interest.</p>

Tier 3: Rollover Fiduciary



Benefits

- Ability to control the relationship
- Perceived as the expert
- Adapt to new and changing circumstances
- Ability to deliver a superior standard of care as a fiduciary
- Justify higher compensation



Hurdles

- Time consuming activity
- Unprofitable for small accounts



Requirements

The Tier 3 investment professional is expected to make recommendations based

Facts & Circumstances

- Ability to remain in plan
- Potential/actual obligations

Forecast of Needs

- Short term (~ 5 years)
- Long term (5 years +)

Resources

- All assets that are convertible into retirement income

Available Tools

- Investment & insurance products
- IRA/Roth or other vehicles

Tier 3 also requires compliance with PTE

2020-02, including the *Retrospective Review Checklist and Report* containing a comprehensive list of items that are needed for investment professionals. Details for the following categories are required:

▶ Best Interest Factors

▶ Compensation Factors

- Reasonableness Factors
- Financial Institution Revenue
- Investment Professional Income

▶ Cost Factors

- Direct Labor
- Transaction Cost
- Overhead



Tier 3: DOL Recommended Questions for Retirement Investors

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Questions	Tier 3 Response
1. Are you a fiduciary under the federal laws specifically applicable to retirement accounts (Title I of ERISA and the Internal Revenue Code) when you give me investment advice for my retirement account?	Yes.
2. Can I have a written statement that you are a fiduciary under the federal laws specifically applicable to retirement accounts (Title I of ERISA and the Internal Revenue Code) when you make investment recommendations to me for my retirement accounts?	Yes.
2.1 If not, why not?	N/A.
3. What fees and expenses will I be charged?	Your fees and expenses are an important consideration for investments. The written recommendation you receive includes all fees and expenses.
3.1 Will you give me a list of those fees and expenses, and explain what each pays for?	Yes.
3.2 Do I pay all them directly to you or are any taken out of my investments?	Fees and expenses that are paid to me come through my firm and are generally taken out of your investments. There are however exceptions to this. [Explain any that apply]

Questions	Tier 3 Response
4. What conflicts of interest do you have in making investment recommendations to me?	As with all professional services, conflicts of interests are created whenever the professional is paid. My firm has adopted practices that mitigate any harm that such conflicts can cause. You are provided with a description of all such applicable conflicts and the steps taken to avoid harm to you.
4.1 Do you or your firm get paid from any other sources in connection with my business with you?	<p>There are three sources of compensation for me and my firm. They are:</p> <ul style="list-style-type: none"> • Providers of investment and insurance products that you use • Charges made by my firm for services to you • Sub-contractors, primarily sub-advisors, used in connection with your accounts
4.2 Do you or your firm pay anyone else because I opened an account with you or because I make investments that you recommend?	<p>Others that are paid to support your account could include:</p> <ul style="list-style-type: none"> • [Record keepers] • [Custodians and trustees] • [Third Party Administrators] • [Tax consultants] • [Sub-contractors]
4.3 Will you give me a written statement describing these payments and the amounts of these payments?	Yes, you will receive an annual statement of fees and expenses.
5. Are there any limitations on the investments you will recommend?	The investments available for recommendation are limited to those that have been thoroughly vetted by my firm. While there are literally millions of possible investments, it is impractical to examine them all.

Questions	Tier 3 Response
<p>5.1 If so, what are they? For example, do you limit your recommendations only to your firm’s investment products (“proprietary products”) or do you recommend investments from other firms?</p>	<p>There are millions of investment and insurance possibilities that are not included in what we offer. [There is no limitation based on my firm’s investment products.]</p>
<p>6. Under what circumstances will you monitor the investments in my retirement account, and make recommendations for changes in my investments as circumstances warrant?</p>	<p>[It is my usual practice to monitor client’s portfolios and their personal situation.]</p> <p>[I monitor client’s portfolio when this service is selected.]</p>
<p>7. Why are you recommending that I roll money out of my current 401(k) account, pension, or IRA?</p>	<p>The recommendation you receive includes a full explanation of what factors were considered and how these affected the recommendation to rollover or not to rollover.</p>
<p>7.1 Will rolling money out better serve my interests and retirement goals?</p>	<p>My determination is made with the single purpose of recommending what is in your best interest.</p>