

AUTOMATIC ROLLOVER NEWS

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Millennium's Terry Dunne Testifies to the ERISA Advisory Council

On August 23rd, Terry Dunne, Managing Director Rollover Solutions Group, was asked to provide testimony to the ERISA Advisory Council in Washington, DC. The Council gathered information by interviewing industry leaders to enhance and make recommendations to DOL regulations. Terry's testimony focused on the issues and difficulties with the current distribution system which causes delays and frustrations for plan sponsors and their participants as well as to provided solutions.



"What we need to do is build a system", said Dunne, "Perhaps something like connecting travelers to multiple airlines to book flights, but for the retirement plan industry. We should create a database of information for the retirement industry to move funds from plan to plan, rollover to IRA, or IRA to plan. The technology already exists today."

5 Steps Plan Sponsors Can Take Now to Prepare for Final DOL Fiduciary Ruling

Step 1: Know your service providers

Step 2: Vet your vendors

Step 3: Drill down and ask what specific changes your service providers plan to make

Step 4: Review responsibilities of current employees

Step 5: Address education and communications

In the absence of full clarity, read more about a suggested action plan to help plan sponsors begin the process of complying with the DOL's new fiduciary rule. [Click Here](#)>

Speaking of the DOL Fiduciary Rule...

We were fortunate to have Michael Hadley of Davis & Harman LLP speak at our 6th Annual Client Appreciation Event in August in Saratoga Springs, New York. He provided us with the latest updates and recent changes to the DOL Fiduciary Rule, as well as answers to pressing questions.



Opportunity for Private Retirement Plan Providers to Service Small Business Employees

States around the country are putting together government sponsored programs to help small business employees access workplace retirement plan options. For example, [Illinois Secure Choice Savings Program](#) was signed into law in January of 2015 and is expected to provide access to employment-based retirement savings for 2 to 2.5 million private sector workers once fully implemented. The State of Illinois also created a 7 member board that will select investment firm, establish investment options, create enrollment and educational packets and disclosure forms and ensure risk management and oversight.

State initiative, shine a light on a lack of retirement plan coverage for many and presents an opportunity for the retirement industry to offer lost cost IRAs. There are potential advantages to programs that are not state based in terms of program features, flexibility, autonomy, investment options, eligibility requirements, employer contribution options and perhaps operationally efficiency.

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Five Steps Plan Sponsors Can Take Now to Prepare for Final DOL Fiduciary Ruling (full article)

Written By: Terry Dunne | July 25, 2016

While the Department of Labor's recent fiduciary ruling was aimed primarily at retirement investment advisors, including consultants, broker/dealers, insurance agents and IRA providers, it contains plenty of directives that are keeping plan sponsors up at night. While their roles have not changed, the new rules do impact them; they just aren't completely sure how.

All the players on a plan sponsor's team—employees and the various service providers that are critical to plan operations—are equally concerned about their individual fiduciary responsibility under the newly expanded regulations. At this point, most don't know where they stand. Can they still advise someone to move from a plan to an IRA? Can they help participants choose specific investments? Do they need to take new approaches to fee disclosure?

In the absence of full clarity, here is a suggested action plan to help plan sponsors begin the process of complying with the DOL's new fiduciary rule.

Step 1: Know your service providers

Just as financial advisors need to abide by the "know your customer" rule, plan sponsors need to make sure they thoroughly understand who their service providers are and what their service providers' fiduciary requirements may be under the new ruling.

There are a number of intermediaries and service providers that support typical retirement plans, including:

- Record keeper
- Consultant
- Retirement plan advisor
- TPA
- Attorney
- Custodian



United States Department of Labor Headquarters, Washington D.C.

Step 2: Vet your vendors.

Plan sponsors should vet their vendors to make sure they are actively working toward complying with the new rules. They should be concerned with every service provider in their universe. For example, does their plan advisor(s) have prohibited transaction exemptions (PTEs) in place and are they valid? The plan sponsor is already a “fiduciary” under ERISA, but all service providers should be asked to explain what they are doing to address the new regulation if their fiduciary requirements have changed or increased.

In a recent RFI (request for information), my firm was asked to respond to a set of criteria we’ve never seen before. It brings this fuzzy situation into a bit more focus:

Step 3: Drill down and ask what specific changes your service providers plan to make.

Under the new ruling, any advice provided about the movement of money in or out of the plan may be considered a recommendation. Consider this. Record keepers are a plan participant’s direct contact for questions about their account. Among other things, they may contact a record keeper with questions about investment choices when they join, or for suggestions on how to deal with assets when rolling them out of the plan when they switch jobs and move assets to their new employer’s plan. These questions and answers might fit into the DOL’s new definition of fiduciary.

A savvy plan sponsor will want to ask what process or procedures the record keeper in the above example has put in place to ensure fiduciary status does not occur, or if it occurs, what PTE the record keeper is relying upon to eliminate a violation of the fiduciary rule.

Step 4: Review responsibilities of current employees.

Employees who support the plan may find themselves making recommendations to the plan sponsor. Other employees may find themselves providing investment information to participants. These situations have been directly addressed by the new ruling. Plan sponsors need to evaluate the specific roles and responsibilities of their employees to make sure they are not stepping over the fiduciary line.

Step 5: Address education and communications.

In addition to the previous considerations, plan sponsors will need to distinguish between general education and investment advice as defined by the new fiduciary rule.

No matter who delivers educational materials or how often, communications that do not promote specific investments or distribution alternatives or focus on a particular participant’s individual situation will not be considered a fiduciary investment advice recommendation.

However, advisors or other service providers who consult with participants on rollovers to IRAs and roll-ins to a 401(k) plan need to make sure their recommendations are in the participant’s best interest with respect to fees and expenses. For example, they are going to want to avoid suggesting that an individual move money from a low-fee plan to a higher-fee IRA unless the recommendation is in compliance with the BICE.

Plan sponsors on the hot seat

The typical plan sponsor relies on its employees and a variety of service providers. The biggest concern of plan sponsors in this post-fiduciary rule world should be whether or not the actions of their employees and service providers expose the plan sponsor to additional compliance risks. Careful training, evaluation and monitoring can increase the odds of compliance with the new fiduciary rule.

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