



TRISTAR PENSION CONSULTING

August 23, 2021

U.S. Department of Labor
Employee Benefits Security Administration
Advisory Council on Employee Welfare and
Pension Benefit Plans
Washington, D.C. 20210

RE: Brokerage Windows in Self-Directed Retirement Plans

Dear Sir or Madam:

Thank you for inviting me to share with you my experiences in dealing with self-directed brokerage accounts (SDBAs) as used in qualified retirement plans. I appreciate the time that all of you are taking to better understand the use of SDBAs in retirement plans. It is important to me that all participants who can invest in SDBAs in their plans are adequately educated and protected under ERISA.

I am the owner of TriStar Pension Consulting. I have been in the retirement plan industry for over 30 years. I founded TriStar Pension Consulting more than 20 years ago. I have been a credentialed member of the American Society of Pension Professionals & Actuaries (ASPPA) for 25 years. Currently I serve on the leadership council of ASPPA as well as the American Retirement Association (ARA) Council for Women. I am also a member of the ASPPA Plan Consultant Magazine committee, the ARA Legislative Relations Committee, and the ASPPA Government Affairs Committee. I am a contributing author for ASPPA's Plan Consultant Magazine as well as the Journal of Pension Benefits. Formerly, I was a member at large on the board of the ARA. I co-chaired the ASPPA Women's Business Leadership Forum (WBLF), the ARA Women in Retirement Conference (WiRC) as well as the ASPPA TPA Growth Summit. In addition to ASPPA, I am an Enrolled Retirement Plan Agent (ERPA) and a credentialed member of the National Institute of Pension Administrators (NIPA).

I began working with qualified retirement plans in the late 1980s when plans were using pooled investment accounts, and the investments were trustee directed with the assistance of an investment advisor. In the 1990s we saw the dawn of participant directed investment accounts and the creation of large record keeping platforms that specialize in reporting and record keeping for participant directed retirement plans. TriStar Pension Consulting is a compliance consulting and third party administration firm located in Oklahoma City. We administer both defined contribution and defined benefit plans. We do not sell investments, nor do we provide any investment related services or consulting. Currently we provide services to over three hundred plans. Twenty-two of those plans have over one hundred participants. Four of those plans have over one thousand participants. Sixteen of our clients that have plan participants other than just the owners and their spouses offer self-directed brokerage accounts as an investment option in the plan. Only six of those sixteen clients offer an option other than a self-directed brokerage account for the participants to use. As you can see from the numbers above, most of the plans we service

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are small plans that utilize a retirement plan record keeping platform such as John Hancock, American Funds, Empower, Principal, TransAmerica and more.

In the testimonies given before you in June, it appeared that most of the people who testified worked with or participated in plans sponsored by large employers that offered both a retirement plan record keeping platform and self-directed brokerage accounts as investment options in the plan. When offered with an option to use either a record keeping platform with a qualified default investment and a limited fund lineup or an SDBA, it has been our experience that SDBAs can and do work well. This was the same experience expressed by those who testified before you in June. However, it has also been our experience that some small companies choose to sponsor a plan that only offers SDBAs as the investment platform. Many times, each member or partner in the practice will use their own investment advisor and the SDBA offered by that advisor. The rank and file participants are left to figure out how and where to set up their own SDBA. Their balances are often small and may in fact only have small employer contributions deposited into them if the participant does not make salary deferral contributions of their own. Small account balances may also make the fees charged by SDBAs detrimental to the participant. The fiduciaries do not monitor the SDBA service providers being utilized. They are not offering a record keeping platform with a qualified default investment, a limited fund lineup that is monitored by the fiduciaries or access to investment advice and education to those participants who do not wish to use an SDBA.

Based on our experience, the use of SDBAs in retirement plans, when done properly and offered in conjunction with another more conservative option such as using a limited fund lineup, is a good option to have. The existing notice and monitoring requirements governing plans that use SDBAs is adequate, and additional notices and monitoring requirements are not needed. The issues with SDBAs are not the lack of information being distributed to plan participants. In fact, plan participants are already overwhelmed and confused by the amount of information they are receiving. In addition, a fiduciary should not be required to monitor all the individual investments participants choose to invest in when using an SDBA. If something is considered to improve the current situation when SDBAs are offered or utilized as investment options in qualified plans, then to protect the rank and file participants, I would consider one or all of the following options.

1. Require the use of a QDIA that is chosen by and monitored by the fiduciaries of the plan.
2. Require that for those who do not want to use an open brokerage account of their choosing that the fiduciaries choose and monitor either a record keeping platform or a single brokerage account provider as well as a limited fund lineup.
3. Require that the fiduciaries of the plan choose, monitor, and make available to those participants who want to use them, a financial advisor who will educate them and offer investment assistance.

In my opinion, none of these three options would be onerous for the plan sponsor. However any or all of the three options would better protect the rank and file participants.

After reading through the testimonies offered to you in June as well as U.S. Department of Labor Field Assistance Bulletin No. 2012-02R, and the responses to the DOL's 2014 Request for Information, I agree in large part that adding additional notice and/or investment monitoring requirements for plans utilizing SDBAs is not needed at this time. I believe that the flexibility offered to plan participants by SDBAs as well as the broad array of investment options is a benefit that should be available to be offered in a qualified plan. I also believe that there are ways to improve the participant experience and outcomes for those participants who don't want or have the knowledge to use an SDBA.

Thank you again for your time.

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President
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