

August 27, 2021

**Testimony of Dennis Simmons and Michael Kreps
On Behalf of the Committee on Investment of Employee Benefit Assets (CIEBA)
Before the
2021 Advisory Council on Employee Welfare and Pension Benefit Plans
Meeting on
“Understanding Brokerage Windows in Self-directed Retirement Plans”**

Key Points:

- CIEBA is a trade association that represents many of the nation’s most experienced investment fiduciaries.
 - CIEBA’s membership includes more than 110 of the country's largest pension fund and 401(k) plan investment fiduciaries, and our Members manage more than \$2 trillion of defined benefit and defined contribution plan assets on behalf of more than 17 million plan participants and beneficiaries.
 - CIEBA represents the interests of CIOs who have decades of experience in serving as investment fiduciaries for many of the country’s largest and most sophisticated pensions and 401(k) plans.
 - CIEBA and our Members are committed to promoting policies that are protective of plan participants and that work to help promote a more effective retirement savings system.

- Many flavors of “Brokerage Windows:”
 - Brokerage windows rarely provide participants with full access to any conceivable investment.
 - Frequently, windows are limited to a broad array of mutual funds.
 - CIEBA Members do not – and cannot – approve or actively monitor the investments available through the brokerage window.
 - CIEBA Members do, however, carefully select and monitor the service provider making the window available and the fees applicable to utilizing the brokerage window option.

- Data from the proprietary 2019 “CIEBA Annual Membership Profile” survey confirm that brokerage windows are common in CIEBA Members’ plans.
 - 54% of CIEBA Member respondents offered some form of a brokerage window in 2019.
 - Only a small percentage of CIEBA Member plan assets, approximately 2.8% in 2019, was invested through the brokerage window.
 - There has been very little change in these numbers from year to year, and preliminary data from the 2020 CIEBA Annual Membership Profile confirm no major shift anticipated in either plan adoption or participant utilization.

- Primary reason for offering window is to encourage participation.
 - CIEBA Members ensure employees and retirees have access to the best possible retirement savings program.
 - CIEBA Members leverage their fiduciary expertise and experience and their plans’ significant asset levels to offer participants access to low-cost, high-performing investment options and cost-effective administration.
 - However, 401(k) plans cannot be “all things to all people.”

- ERISA investment fiduciaries are not in a position to monitor what participants invest in through the brokerage window.
 - To do so would require an enormous investment of time and resources, all for a very small piece of the plan.
- CIEBA certainly supports the Department of Labor preventing abuse if, for example, a brokerage window is being used to skirt ERISA's fiduciary duties.
 - However, we are not aware of any trend in such abuse, and if it is occurring, the Department can and should address it on a case-by-case basis through enforcement.
- Questions from the ERISA Advisory Council Members?