Advisory Council on Employee Welfare and Pension Benefit Plans

Report to the Honorable Thomas E. Perez,
United States Secretary of Labor

Participant Plan Transfers and Account Consolidation for the Advancement of Lifetime Plan Participation

November 2016

NOTICE

This report was produced by the Advisory Council on Employee Welfare and Pension Benefit Plans, usually referred to as the ERISA Advisory Council (the Council). The Council was established under Section 512 of ERISA to advise the Secretary of Labor on matters related to Welfare and Pension Benefit Plans. This report examines Participant Plan Transfers and Account Consolidation for the Advancement of Lifetime Plan Participation.

The contents of this report do not represent the position of the Department of Labor (the Department).

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ABSTRACT

The 2016 ERISA Advisory Council followed up on issues identified and recommended for further study by the 2014 and 2015 Council's work on facilitating lifetime plan participation related to plan-to-plan transfers and account consolidations. Based on these past recommendations, the Department of Labor asked the 2016 Council to study further the challenges involved with plan-to-plan transfers and account consolidations, and to make recommendations to facilitate these processes for the advancement of lifetime plan participation. This report, along with the accompanying drafts of a plan sponsor education communication and a participant roadmap communication, is based on testimony received during two days of hearings and through written submissions.

ACKNOWLEDGEMENTS

The Council recognizes the following individuals and organizations who contributed greatly to the Council's deliberations and final report. Notwithstanding their contributions, any errors in the report rest with the Council alone.

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I. EXECUTIVE SUMMARY

The 2016 Council elected to study a topic identified in the Council's 2014 and 2015 reports on Lifetime Plan Participation in eligible employer plans[1] ("eligible plans"). Both prior Councils heard testimony on and identified challenges with participants trying to move assets from prior employer plans into their new employer plan as one of several impediments to lifetime plan participation.

As excerpted from the 2014 report, the Council "heard testimony regarding the benefits of sample forms and the use of technology standards to 'simplify the electronic transfer and consolidation of accounts, reduce costs associated with such transfers, and improve the privacy and security of participant data.'"

The 2015 Council recommended that its work on tips, FAQ's and other communications be coordinated with recommendations from the 2014 report, including the goals of (or need for) automatic account consolidation, uniform sample forms, technology standards and loan continuation post separation.

The Department asked the 2016 Council to consider studying further the challenges involved with plan-to-plan transfers and account consolidation, and to make recommendations to facilitate these processes for the advancement of lifetime plan participation.

The Council heard testimony from a variety of witnesses on the issues hindering such transfers and consolidations as well as recommendations for improvement. Extensive testimony on the topic was provided by plan sponsors, communication experts, leaders in plan administration, behavioral finance experts, attorneys with ERISA expertise, Treasury representatives, and others.

Based on the testimony, the Council is making recommendations to the Department in the areas of:

1) Data and technology standards and infrastructure.
2) Sample plan sponsor and participant communications.
3) Clarification regarding certain aspects of the Conflict of Interest Rule.
4) IRS rules, notices and education.
5) State and federal sponsored coverage gap initiatives.

II. RECOMMENDATIONS

The Council recommends the Department:

1. Issue a Request for Information to explore how the Department can encourage and support the adoption of secure electronic data standards for the development of a process, system, platform and/or clearinghouse to facilitate acceptance and expedite processing of eligible rollovers into retirement plans covered by ERISA. This includes:

   a. Standard data elements

   b. Electronic forms and processing

   c. Electronic transfer of funds

2. Publish retirement plan sponsor education to encourage sponsors to support participant-initiated plan-to-plan transfers, and publish sample participant communications that educate participants on the potential benefits of and process for consolidating accounts in retirement plans covered by ERISA. The Council has drafted materials on these topics for the Department's consideration, which are included as Appendices to this report.

3. Address questions regarding the Final Conflict of Interest Rule, its exceptions and any applicable Prohibited Transaction Exemptions as they relate to communications to participants by employees of plan sponsors and service providers regarding plan-to-plan transfers and consolidation of accounts in retirement plans covered by ERISA.

4. Encourage and/or collaborate with the U.S. Department of the Treasury ("Treasury") to:

   a. Summarize existing guidance with respect to the requirements to grant relief from disqualification for eligible retirement plans accepting rollovers, and accordingly, provide plain language education to plan sponsors and administrators; and

   b. Revisit the §402(f) notice for harmonization with the Department's objective of promoting lifetime plan participation as recommended by the 2015 Council and provide user-friendly accompanying guidance to encourage plan-to-plan transfers and consolidation of accounts in retirement plans covered by ERISA.

5. Engage in dialogue with states and political subdivisions considering and/or pursuing payroll-deduction savings programs, as well as with Treasury as it develops and oversees its *my*RA[2] program, in order to identify impediments to portability between these programs and retirement plans covered by ERISA and to facilitate consolidation of participant accounts.

III. BACKGROUND

The U.S. retirement system has evolved through the introduction of various retirement savings vehicles designed to improve retirement security for America's workforce. This includes a range of options for personal and employer-sponsored savings and investment programs, as well as Social Security as the foundation of the system. Some of these structures were specifically created by legislation or regulation, while other vehicles were introduced by marketplace participants. Prior law originally treated various types of retirement savings vehicles very differently depending upon the legal entity sponsoring the plan and many differences still persist. As would be expected, this diversity of origins has resulted in a vast array of different structures with inconsistent features, varied fiduciary protections, differing administrative regimes and divergent compliance requirements.

A Rollover Chart created by the IRS (See Appendix A) illustrates to some degree the complexity in our retirement system. However, reality is even more complex than the chart would suggest, because it combines a variety of plan types within the Qualified Plan category. In addition, the chart does not capture the extensive variety of plan designs involving different types of employer and employee contributions (i.e., elective, non-elective, matching, safe harbor, etc.) which can occur on both a before- and after-tax basis. Nevertheless, the Rollover Chart conveys a sense of the vast array of retirement planning vehicles comprising the U. S. retirement system.

Governmental public policy initiatives to harmonize rules governing portability among these various plan structures have been pursued for the better part of the last two decades. This harmonization has sought to allow for greater portability of all types of retirement programs by providing for easier rollover of distributions between various types of plans. For example, Congress, through the Taxpayer Relief Act of 1997 ("TRA '97"), formally directed the IRS to issue guidance clarifying that it is not necessary for a distributing plan to have a favorable IRS determination letter in order for a receiving plan to reasonably conclude that a contribution is an eligible rollover contribution. Related Treasury regulations were initially proposed in 1996 and eventually adopted in 2000 under §401(a)(31) of the Internal Revenue Code ("IRC"). Going further, Congress subsequently passed legislation known as the Economic Growth and Tax Relief Reconciliation Act ("EGTRRA") of 2001, which permitted rollovers between qualified plans, (including, for example, 401(k) plans, profit sharing, money purchase and defined benefit plans), 403(b) plans and eligible governmental 457(b) plans starting in 2002. Still, there were unanswered questions regarding transfers involving after-tax monies from certain plan structures and these issues were not resolved until the passage of the Pension Protection Act of 2006, becoming effective in 2007.

Prior Councils reported on both the benefits and challenges to plan participants of consolidating retirement savings within employer-sponsored plans. Consolidating accounts can reduce the risk of "leakage," make it easier for participants to keep track of their savings, and often, reduce the fees that participants pay, all of which contribute to greater retirement security. Yet despite these advantages, significant obstacles to consolidation exist today. The problem is amplified by the increase in worker mobility which, has resulted in a typical worker participating in several employer-sponsored plans over his or her career.

Both the 2014 Council study of "Issues and Considerations Surrounding Facilitating Lifetime Plan Participation" and the 2015 report on "Model Notices and Sponsor Education for Lifetime Plan Participation" identified challenges in initiating and completing the rollover of eligible plan assets from a prior employer into a new employer-sponsored plan and/or trying to consolidate eligible plan assets from multiple prior employer plans within a single qualified retirement plan.

In 2014, the Council reported that the employer-sponsored system has become extremely effective in facilitating payroll deductions into retirement plans, and many employer-sponsored plans in the U.S. accept eligible rollovers from other eligible plans. However, the system remains highly ineffective when it comes to actually moving assets between plans.

While many features of employer-sponsored plans have evolved over the last 40 years, the system's evolution has resulted in a patchwork system of different providers and technologies that works well for the individual who is actively employed and contributing to his or her current employer's plan, but becomes more cumbersome at the time of job change. The core administrative structural framework was developed in the early years of the system, when DC plans were considered "supplemental" to retirement, purely opt-in vehicles, and the need for portability was limited. Consequently, recordkeeping systems do not "talk" well to each other, plan administrators do not have clear and consistent informational requirements and participants face the challenge of navigating between the information needs and processes of different administrators. As a result, the system often presents barriers to consolidating accounts in order to achieve effective lifetime plan participation.

For example, the 2014 Council heard testimony concerning the then-recent IRS Revenue Ruling (Rev. Rul.) 2014-9, which was published, according to witness testimony, for the express purpose of relaxing the requirements for avoiding disqualification for eligible retirement plans accepting rollovers. Under Rev. Rul. 2014-9, a receiving plan administrator may conduct due diligence on rollover requests by accessing the distributing plan's Form 5500 on the Department's EFAST website and determining that the distributing plan is, in fact, intended to be tax-qualified. However, both the 2014 and 2015 Councils heard testimony from several witnesses who shared either first-hand experience, or reports from others who had tried to initiate a plan transfer, only to become frustrated with the process, and eventually abandoned their efforts in favor of an easier Individual Retirement Arrangement ("IRA") (commonly referred to as an Individual Retirement Account) rollover or a cash-out, leading these past Councils to conclude that the overall foundational framework is outdated and in need of modernization.

In 2015, in its investigation of plan cash-outs, the Council heard testimony that half of participants cashing out of the qualified plan environment would not have done so if it were as easy to roll assets into the plan of their current employer as it was to roll over to an IRA or to cash out. In addition to the difficulties of completing plan-to-plan transfers, witnesses identified other obstacles to such transfers including both misperceptions of size of account balance required for such transfers and uncertainties about the process to initiate and complete transfers in general.

Beyond these challenges, an emerging trend in the development of government-sponsored plans at the state and Federal levels should also be considered. Several state governments, concerned over low retirement savings rates, already have sought to expand access to retirement programs for their residents and other individuals employed in their jurisdictions by creating their own programs and requiring employer participation. For instance, some have passed “auto-IRA” laws that require [most] employers not offering workplace plans to automatically enroll employees in payroll deduction IRAs administered by the state. Other states are considering alternatives in which they administer or facilitate plans covered by ERISA, such as marketplaces, prototype plans, and multiple employer plans. Additionally, Treasury recently launched its *my*RA ("My Retirement Account") program, a retirement savings account designed for people who don’t have access to an employer-sponsored retirement savings plan or lack other options to start saving for retirement.

The Council heard concerns that *my*RA and state-backed efforts may be developing in isolation and, while laudable in their intent and objectives, might present the unintended risk of establishing incompatible frameworks, administrative standards and technologies. Such incompatibilities could create new obstacles to portability and account consolidation.

With an eye to identifying solutions to these challenges, the 2016 Council, in consultation with the Department, undertook a study of Participant Plan Transfers and Account Consolidation for the Advancement of Lifetime Plan Participation.

Our work focused on:

A. The issues hindering plan-to-plan transfers and account consolidation by individual participants as they change jobs. We sought and received testimony that identified inefficiencies and barriers in the employer-sponsored DC system, and recommendations to overcome such barriers. Our questions included:

1. What are the current practices for rollovers into qualified plans and account consolidation?
2. What regulations influence transfers?
3. How do loans impact transfers?
4. What other factors complicate these actions, including:
    a. Plan type.
    b. Money type.
    c. Investment types, including annuities.
    d. Self-directed brokerage accounts.
    e. Fees and expenses.
5. What is the experience of participants in transferring assets and attempting account consolidation?
6. What communications from sponsors and/or plan administrators are available to help guide these activities?

7. What is the role of technology, including current technology, in supporting the transfer and consolidation process, standards in effect or differences that exist across the system today?

B. Standardization and automation of process. The Council asked witnesses for recommendations related to:

1. The standardization of the transfer process and data elements required by both distributing and receiving plans and the means through which these might be developed in order to simplify transfer and consolidation; and

2. Technology standards, platforms, clearinghouse solutions and best practices for electronic transfer and consolidation of accounts to simplify and facilitate the participant transfer and account consolidation process, including the additional benefits of reducing costs associated with such transfers and improving the privacy and security of participant data.

C. New and emerging state-administered retirement savings programs and *my*RA. The Council felt that these programs should be considered in order to identify and understand potential obstacles to consolidation that may emerge. The Council sought and received testimony on aspects of these programs that might have bearing on efforts by workers to consolidate savings among these state programs and the qualified plan system.

IV. SUMMARY OF TESTIMONY AND COUNCIL DISCUSSIONS

The Council heard extensive testimony and received written comments from plan sponsors, communication experts, leaders in plan administration, behavioral finance experts, attorneys with ERISA expertise, Treasury representatives and others. Each witness played an important role in educating and advising the Council on the issues, challenges and opportunities related to participant-initiated plan-to-plan transfers and account consolidation.

A. Many factors hinder plan-to-plan transfers and account consolidation

As the Council members investigated this issue, spoke with potential witnesses, shared their own experiences, and heard from witnesses testifying on this topic, one of the major themes that emerged was the confusion and frustration many plan participants experience when attempting to transfer retirement plan assets from a former employer's plan to a new employer's plan. Participants must navigate a multi-step, multi-party process with forms that are not standardized, vary from plan-to-plan, often are either not available or not transmittable electronically, and coupled with confusing industry jargon, in 60 days or less. What is more, the ability to complete a plan-to-plan transfer is often hindered by a mismatch between the features of the former plan and the new plan, especially when outstanding loans are involved. These factors can make plan-to-plan transfers seem like an obstacle course, as compared to the process of either rolling over to an IRA or cashing out, which, according to Warren Cormier of Boston Research Technologies, is as simple as doing nothing if your balance is under $1,000, or as easy as clicking a button confirming you are leaving and want to cash out of your employer plan.

1. Procedural complexity

The complicated procedural requirements that participants face in effecting plan-to-plan transfers were documented graphically by Mr. Cormier in an illustration he titled, “What Friction Looks Like: the Process of Moving Plan to Plan.” Mr. Cormier identified five discrete steps that the plan participant must take in order to complete a plan-to-plan transfer. For each of the steps there are as many as six separate tasks to complete, each involving collecting numerous pieces of information and documentation. (See Appendix B.)

Alison Borland of Aon Hewitt described a fair amount of participant confusion about transferring assets and the feeling that the process is very time consuming. She noted that participants have difficulty understanding the order in which to request the transfer of assets, locating the “rollover” option on their new employer plan’s website, and devoting the time necessary to complete the forms and file the paperwork. She described the process as follows:

- The participant has to visit the former plan's website and request a distribution.
- The participant either receives a paper check or have it sent directly to the new plan.
- The participant must go to the new plan and request that the assets be “rolled in,” provide the amount of the rollover and make the investment elections.
- That information is captured on a form that the participant signs, which is turned in to the new plan with the check, which may be somewhere in the mail or going straight to the plan.
- The participant may also need to obtain other documentation from the former plan before the new plan will accept the roll-in.

Several witnesses noted that some plans continue to use paper forms and paper checks. Ms. Borland noted, “When the check is mailed separately, there's documentation and paperwork coming in over here. There's a check being mailed over there. This is happening thousands of times. Sometimes they're not connected…it creates problems.”

Ms. Borland’s colleague, Krista Cooper, noted that waiting periods between steps in the process erode the 60-day window the IRS has prescribed for completing an indirect transfer. An indirect transfer occurs when the distribution check is made payable to the participant, who then has control of the funds and needs to deposit those funds into a new qualified account to avoid tax implications. However, because the distributing plan is generally required to withhold taxes in the amount of 20%, the participant must use personal funds to complete an indirect rollover or be subject to tax on 20% of the distribution. In a direct transfer, the participant never has use of the funds because they move directly from one plan to the other, and therefore is not subject to the 20% tax withholding. The Council noted the required 20% minimum withholding on indirect transfers as a potentially significant contributor to leakage, an issue that could benefit from further study.

Ms. Borland observed that even when participants faithfully try to follow the requirements of a plan-to-plan transfer, many things can go wrong. Her firm observes failure rates in transaction processing as high as 30%, resulting from participants' inability to handle the work to complete the process.

Ms. Borland and her associates facilitated a conference call with the Aon Hewitt Defined Contribution Client Council (the "Aon Hewitt DCCC"), in which one member of the Council participated, in advance of the Council's August hearing and submitted copies of a brief survey conducted with plan sponsors on the call and accompanying presentation materials. While the Aon Hewitt DCCC is made up of a diverse group of employers representing a wide range of industries, the majority of the group offers qualified plans to employees, with one attendee offering a 403(b) plan, a 457 plan, and/or a deemed IRA.

The survey confirmed that all of the plan sponsors accepted eligible direct rollovers from active employees, with a smaller subset accepting indirect rollovers or rollovers from former employees who remained in their plans after separation. The results also revealed that some of the plan sponsors still required either a copy of a favorable determination letter or a letter from the plan administrator stating the distributing plan had a favorable determination letter. Several attendees commented that additional education regarding the acceptance of eligible rollovers would be helpful to the administration of their respective plans.

Allison Klausner, testifying on behalf of the American Benefits Council ("ABC"), described how a notable number of distribution checks are found upon a person's death, sitting in a drawer, presumably because the distribution process was completed but the transfer process was not. Ms. Klausner further testified to the difficulty of completing this process from her own experience. She reported that had she not been in the industry, with her experience and network of colleagues involved in some aspect of the process whom she could ask for assistance, she would have missed the deadline to transfer assets to her new employer's plan.

Sheryl Craun of TIAA provided similar testimony, discussing the potential for leakage from the system as participants, intending to effect a transfer, ultimately do not complete the process. She also provided information on the "good order process" at TIAA, and what transpires if the documentation received is "not in good order," and the time it takes to resolve issues.

Glenn Hutto of Aon Hewitt shared observations of how checks come in without paperwork and paperwork without checks. Often, participants are not even aware that the funds have not made it into the new plan. Mr. Hutto also provided testimony on the lack of consistency in terminology from one plan to the next, which can and often does confuse participants.

Some plan sponsors have further compounded difficulties of consolidating plan assets by embedding more onerous requirements into the transfer process. Sherri Henry of Healthcare Corporation of America ("HCA") in her written testimony observed the following common challenges in making plan-to-plan transfers:

- Distributing institutions may require a personalized letter of acceptance from the receiving institution (vs. a generic letter of acceptance).

- Finding a plan administrator who will sign off on distribution paperwork can be challenging. In certain cases, the "outgoing" plan administrator requires the acceptance letter of the "roll-in" administrator to include a medallion signature guarantee or a corporate resolution proving that person is authorized to sign on behalf of the accepting firm.

- The distributing institution will send distribution paperwork to a participant only by regular mail, instead of via email, fax or providing a web-based download.

- Complicated distribution paperwork, including the required §402(f) notice, is intimidating to participants, who often simply give up.

Mike Westhoven of DST Retirement Solutions noted that waiting periods to roll into a new employer's plan and broad divergence in required plan paperwork and forms are impediments that make IRA rollovers the more attractive choice by far, especially considering the level of service and attention IRA providers offer to participants when they roll their savings into an IRA.

Jeff Harris, of Fidelity Investments, summed up the challenge of procedural complexities by saying that the system demands that the participant be the project manager over a complicated, two party process with terminology the participant does not understand.

2. Mismatch of Plan Types and Features

Because many aspects of plan design are at the discretion of the employer, diversity in plan provisions can hamper account consolidation.

Several witnesses noted the problem of incompatible "money types." This refers to whether funds stem from pre-tax, Roth, or after-tax contributions. Because plans are not required to offer all types of contributions, a receiving plan may be set up to accept only some money types, but not others. For instance, individuals with a Designated Roth Account in a former employer's plan (e.g. a 401(k), 403(b), or 457(b) plan) cannot roll over those assets into a new employer's plan unless Roth contributions are permitted under the new plan.

Ms. Cooper cited a 2015 survey of plans from Aon Hewitt that found 42% of employer plans have not adopted Designated Roth Accounts in their plans and would not accept roll-ins of Roth monies. Only 48% of plans allowed for traditional post-1986 after-tax (401(a)) contributions to their plans. Nondeductible (i.e., after-tax) contributions to IRAs are not included as permissible rollovers to qualified plans. And while pre-tax contributions can be rolled over to any qualified employer plan, as long as the plan accepts them, not all plans allow incoming employees to roll-in plan assets, as noted by Chris Hulse of NRS/Global Trust Company. Ms. Borland noted that partial transfers for pre-tax monies (for plans that do not accept other types) is a trend that is escalating and may facilitate the retention of assets within employer-sponsored retirement plans, though not the consolidation of assets in a single employer's plan. Encouraging plan sponsors to allow for different money types and to accept rollovers in general would facilitate consolidation in a single qualified plan and mitigate the possibility of leakage from the system.

Participant loans were another challenge noted by several witnesses. While most plans offer loans, outstanding loans discourage plan-to-plan transfers because they prevent individuals from retaining their entire balance in a single place until the loan is repaid. Because repaying the loan is often difficult (either administratively or financially), loan defaults are often the unfortunate outcome of a job change, even when a plan-to-plan transfer takes place. Data provided in written testimony to the Council by Aon Hewitt shows that in 2015, 25% of participants have one loan outstanding and 44% of those with a loan have two loans outstanding; the average loan amount outstanding is 20% of the total plan balance. Plan sponsors differ in how they address loans for terminating participants. Plan sponsors offer workers one or more of the following options to repay their loan(s) at the time of termination/retirement: repay in full (typically within 30-90 days); leave the account in the plan and continue repayments until the loan is paid in full; take a distribution from the plan (total or partial) and default on the loan; or roll over the entire balance less the loan amount, and continue making repayments on the outstanding loans.

Plan sponsors could facilitate plan transfers involving loans by allowing participants to continue loan repayments after they have terminated employment. This would allow the participant to transfer the remaining eligible plan assets to the new employer's plan, complete the loan repayment, and not default on the loan balance. According to Ms. Borland, about half of plan sponsors have processes allowing employees to repay loans after termination. (Defaulting on the loan balance has the added tax penalties imposed for taking an early plan distribution). Alternatively, plans could agree to accept transfers with loans, and allow a 90-day grace period prior to loan payment commencement, with flexibility to amortize the loan over a different set of parameters consistent with the new plan's provisions. Ms. Borland noted in her testimony that specific guidance would be needed to allow the 90-day window and the loan transfer.

In follow up to his testimony, Chris Hulse shared his knowledge of third party loan administration services and suggested such services as potential solutions to the challenges in managing outstanding loans. Such services remove the burden of loan administration from the plan sponsor and allow participants to continue paying loans under the original terms.

3. Small Account Force Outs

Witnesses provided testimony regarding the magnitude and impact of forced cash outs of small accounts (less than $1,000) and forced rollovers into safe harbor IRAs (for accounts greater than $1,000 but less than $5,000) as provided for in the Pension Protection Act of 2006. Though preferable to completely cashing out retirement savings, safe harbor IRAs do entail opportunity costs, as noted by Tom Johnson of Retirement Clearinghouse ("RCH") and Craig Copeland of the Employee Benefits Research Institute ("EBRI"). Messrs. Johnson and Copeland describe these as "landfill accounts," because they are highly inert and funds are invested in low-yielding, safe assets that preserve principal. RCH would prefer to see safe-harbor IRAs become a "recycling business," with funds making their way back into qualified plans. Their model estimates that a 50% reduction in forced cash outs would lead to an additional $1.3 trillion in retirement savings in qualified plans after 10 years. Approximately 60-65% of plan sponsors have adopted safe harbor IRA provisions. Given the required investment strategy of the safe harbor accounts, low investment returns will be the result. Annual fees further erode the value of the safe harbor IRAs. According to a 2014 report from the Government Accountability Office (GAO), *Greater Protections Needed for Forced Transfers and Inactive Accounts*,[3] the projected balance of a $1,000 forced transfer IRA would decrease to $0 after between 9 and 29 years under 13 combinations of typical account fees and investment returns projected by a sample of 10 safe harbor IRA providers. After 30 years, in only six of the cases the balance was above $0, and in only two of the cases the balance was above the original $1,000 investment. Since the selection and monitoring of a safe harbor IRA is a fiduciary function, plan sponsors also should ensure that they are engaged in a prudent selection and monitoring process in setting up these relationships with vendors.[4]

4. Participant decision making and defaults

Of course, before a participant even attempts to maneuver around the various hurdles involved with a plan-to-plan transfer, he or she must first conclude that consolidating old accounts is the best choice. But even making this threshold determination is daunting, as it requires the participant to evaluate things like differences in fees, different investment options, plan features and a number of additional factors. Dana Muir, Professor at the Ross School of Business at University of Michigan, noted the confusing decision-making environment participants face. William Bonk of Techtronic Industries North America observed that, even though transparency has increased with plan participants now receiving annual statements showing the fees charged by their DC plan provider, transferring assets to a new plan is "slightly less complicated than buying a home." Mr. Bonk stressed that there is a need for participants to understand the issues with plan consolidation and the alternatives that are available to them. Retirement readiness is complicated and participants need resources that inform them.

The field of behavioral finance has contributed understanding the power of "defaults" in retirement plans. "Defaults" are plan rules that govern in the absence of an active choice by a plan participant. However, Prof. Muir explained that "default settings" are not uniformly effective. Defaults have worked well in driving participants' acceptance of automatic enrollment in, and automatic escalation of DC accounts. But they have not worked as well when it comes to the default of leaving DC plan assets in a prior employer's plan when an individual severs employment. Rather, participants may proactively decide to cash out, or roll over into an IRA, taking their accounts out of the qualified plan system. Prof. Muir noted the work of Prof. Lauren Willis, who established conditions that limit the effectiveness of defaults: 1) self-interested entities oppose the default; 2) those entities have access to the participant; 3) the decision-making environment is confusing to the participant; and 4) the participant's preferences are uncertain. As noted by several witnesses, as well as testimony before earlier Councils and GAO studies, some IRA providers that act as administrators with access to participants aggressively seek participants' rollovers, whereas the qualified plan generally does not make any effort to retain participants' assets. Prof. Muir also observed that a participant's familiarity with the service provider sometimes shifts both the "anchoring" effect and the "endorsement" effect from the former employer's plan to the IRA offering of an outsourced administrator's corporate affiliate. An independent survey of IRA account holder preferences found by the Council in the course of its work supports this assertion, with most account holders citing "brand trust" and familiarity as primary reasons for their selection of an IRA provider.[5] As a result, the IRA provider is then able to quickly and easily transfer the participant's funds onto its platform, with minimal effort on behalf of the participant. Jeff Harris of Fidelity noted that this "pull" capability is an advantage to the IRA provider that is not available in the plan-to-plan transfer process. Moreover, if the participant has not yet received communications or forms from the new employer regarding the opportunity to roll assets into its qualified plan, the participant is further "anchored" in the decision to roll over to the service provider's IRA.

Witnesses also described a need to educate plan sponsors about the types of plans that can be rolled in, how to verify the tax qualification status of the "rolling out" plan, plan design features that can facilitate plan-to-plan transfers, the impact of forced cash outs and the impact of loans and money types. More than one witness referenced industry jargon and differences in terminology from one plan to another as a challenge that could be solved by developing a glossary for participants to accompany any rollover process documents.

B. Technology May Offer Solutions

The Council heard from several technology and recordkeeping firms, including those operating in both the DC and the IRA industries. The Council sought testimony from firms in this space, recognizing the need for solutions to help streamline the transfer process and for removing paper from the process (paper forms and paper checks).

As part of the testimony with Tom Johnson of RCH on auto-portability, Craig Copeland of EBRI testified about the magnitude of the small balance problem by sharing statistics from the EBRI database suggesting there are currently 14 million job changes in the U.S. annually, with 5 million of those carrying DC balances below $5,000. RCH proposes connectivity between the major recordkeepers to "match up" orphaned, dormant "landfill" accounts in safe harbor IRAs with the accounts of participants active in a qualified plan. Once a match is verified, the IRA can be automatically transferred into the participant's 401(k) plan account, providing the Council with one example of a technology solution that could improve plan-to-plan transfer success significantly. Today, this solution is limited to the under $5,000 balance segment of the market primarily because of the legal framework in place for safe harbor IRAs under EGTRRA, but the underlying technology could be just as effective for larger balances.

Separately, Mr. Johnson also testified that RCH provides a roll-in processing service for many companies, assisting participants with the roll-in of IRA and old 401(k) balances into their current employer plan. The service was described as a "concierge" service, and that the process overall takes slightly less than one hour.

Terry Dunne and Bob Kunimura of Millennium Trust, an IRA custodian operating in the safe harbor IRA automated rollover market, testified to the technology available today to automate the transfer process facilitating the movement of funds from qualified plan to IRA or plan-to-plan. Mr. Dunne described the concept of a network of recordkeepers connected to a standardized process for transfers, a process that would be supported by e-signature technology.

The process would likely need to be administered through a private company but the Department could encourage the industry to adopt such a service similar, to the role the Financial Industry Regulatory Authority (FINRA) played in the development of the Automated Customer Account Transfer System, or “ACATS.”

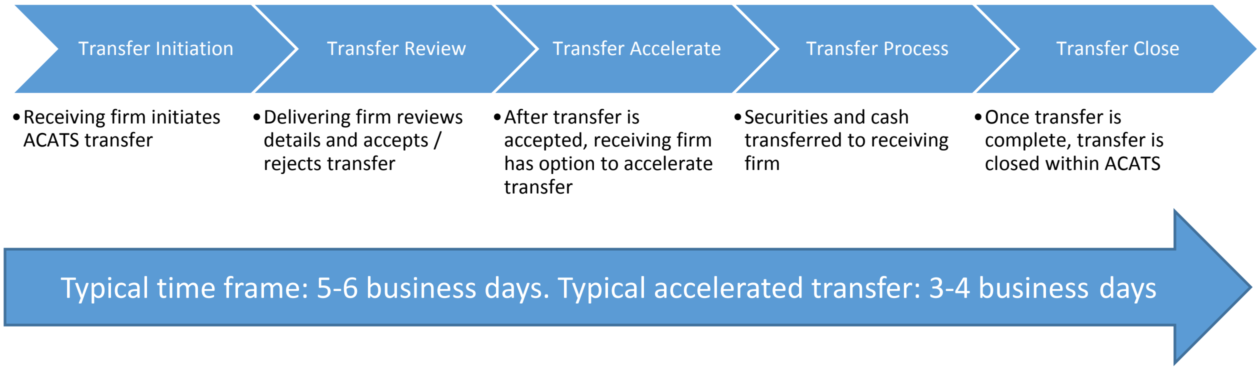
Mr. Hulse of NRS/Global Trust Company spoke to the concept of “middleware” as a solution that would reside in the middle of all the recordkeeping systems to facilitate, through technology, the process of plan-to-plan transfers. Mr. Hulse suggested, based on past experience, that a consortium approach could be an effective means through which to establish standard protocols and a technology-driven answer to facilitating transfers. Mr. Hulse was also extremely helpful by providing the Council with a list of data elements (shown as Appendix C) that would be required to effect the distribution of a participant account from one plan to another.

Mr. Westhoven of DST focused on middleware solutions that facilitate the rollover of participant assets from a qualified plan to an IRA. The process for transferring to an IRA has become highly automated, with middleware solutions that can complete the process in 48 hours with no paper forms and no paper check. This is compared to the plan-to-plan transfer process that several witnesses described as “kludgy,” and can take more than 60 days to complete. Mr. Westhoven singled out the use of paper checks as “introducing a novice into what could be an expert process” suggesting that the electronic transmission of funds mitigates the concern about monies being out of the market, lost checks, errors, and a number of other factors that plague the system today. ACH, or Automated Clearinghouse, is a standard within the brokerage industry which has been operational for over 20 years enabling the electronic transmission of funds.

ACATS, is another process similar to ACH, and a product of Depository Trust & Clearing Corporation (“DTCC”). Tom Sakaris and Michele Hillery provided testimony to the Council on the history and background of the development of ACATS, and the possible adaptation or development of something similar for the retirement plan industry to facilitate plan-to-plan transfers and account consolidations. ACATS automates and standardizes the procedures allowing for the transfer of customer assets between one bank or broker-dealer to another. It also speeds up the process, and supports a number of different investment products. It was developed in the mid-1980s when the industry determined that what was then a 30+ day process needed to be automated, and FINRA then mandated its development and adoption. What is compelling about the ACATS process is that it is a receiving-party initiated (“pull”) process, eliminating back-and-forth steps and obviating the need for a customer to project manage the transaction. (This is similar to the “pull” process IRA providers use to roll assets from qualified plans to IRAs.) DTCC acts as an independent third party, or “middleware provider” that maintains the ACATS system. Firms subscribe to the system and are considered “members.” Tom Sakaris described it as an industry-owned cooperative offering a commoditized process.

This illustration of the ACATS system process flow was provided by Ed Sweeney of State Street Bank and Trust:

ACATS Flow and Timeframe



C. Plan Sponsor Successes in Encouraging Consolidation

In the absence of an immediate and seamless technological solution for facilitating plan-to-plan transfers, the Council heard testimony that plan sponsors can play a critical role in educating plan participants about the value of completing these transactions and supporting employees' efforts to consolidate retirement accounts. Despite the disjointed and cumbersome procedural requirements for completing a roll-in transaction and the confusing decision environment participants face, some plan sponsors have achieved success through pilot projects in facilitating plan roll-ins.

Ms. Henry of HCA described her firm's efforts to facilitate plan-to-plan transfers by addressing the confusion that employees face with the transfer process. She described the "roll-in service" offered to active HCA employees to assist them in their efforts to consolidate account balances from prior employer plans and IRAs. HCA's program called "RetireLink" was launched in February 2011 and centered on a proactive, outbound communication to every newly eligible participant, and personal service for each participant wishing to consolidate retirement assets. A specialist assists participants with the transfer process, making calls with the participant to the former employer's plan provider or IRA provider. In addition, the specialist monitors the process and keeps the participant on track until all the required paperwork is returned and the roll-in is funded. After five years of engagement, the number of roll-ins per year increased by 332%, and the amount of the rolled-in assets per year increased by 403%.

Similarly, Joshua Newmister of Facebook started a campaign while at a previous employer to encourage employees and terminated employees (maintaining an account in the 401(k) plan) to move accounts from prior employers and IRA balances into the employer's plan. To facilitate participants in this endeavor, the plan sponsor's administrator assisted the employees with a "white glove" concierge model of service, including in-person, on-line chat and phone representatives to walk through the process with the participant. Proactive engagement on behalf of the plan sponsor increases both the number of participants who roll-in assets and the dollar amounts of the roll-ins. While there is a cost to such service, participants expressed appreciation for the assistance, and benefit from the consolidation of their retirement accounts in one plan.

To scale such pilot efforts, 1) administrative barriers need to be reduced; 2) participants need to understand their option to consolidate while perceiving succinct steps to initiate and complete a roll-in transaction; and 3) plan sponsors need to be favorably disposed to support and facilitate roll-ins. Furthermore, plan sponsors must understand that accepting roll-ins 1) will not adversely affect the qualified status of their plans; 2) warrants making some relatively minor modifications to their plans; and 3) is beneficial to plan participants.

D. Expert Guidance on Communications

Experts in communications provided the Council with valuable input based on behavioral studies regarding ways that plan sponsors can engage plan participants through proactive communications. Warren Cormier, Chief Executive Officer and cofounder of Boston Research Technologies, distinguished between simply focusing on "ease of enrollment" and truly "engaging a person with retirement saving." The National Association of Retirement Plan Participants (NARPP) conducted a study whose results noted that increasing engagement is within the control of recordkeepers and plan sponsors. Study results indicated that trust in the employer and in the recordkeeper is "foundational in elevating deferral rates and engagement." Furthermore, the study found that "communication style with the participant is the most important factor for building trust."

Beyond the research findings of the NARPP study, Mr. Cormier indicated that the organization had developed a pilot communication program and found it successful in motivating increased plan participation and auto-escalation. Mr. Cormier shared with the Council examples of these effective communications materials, some of which are attached to this report as Appendix D, to illustrate the importance of clear language that directs the reader to a specific action.

Having found a pressing need for education of both plan participants and plan sponsors regarding the process and benefits of plan-to-plan transfers to avoid plan leakage and foster lifetime plan participation within employer-sponsored plans, the Council endeavored to draft education materials aimed at both plan participants and sponsors. The Council sought to incorporate the findings referenced by NARPP and evidenced in the successful pilot study to enhance engagement and heighten effectiveness. The Council also examined a "Roll-In Toolkit" that was supplied by Megan Yost and developed by State Street Global Advisors ("SSGA") specifically to assist plan sponsors in planning, creating and launching a roll-in campaign similar to the pilot projects previously referenced by Sherri Henry of HCA in her written submission and Joshua Newmister of Facebook. This tool kit is included as Appendix E. The Council sought input from other communication consultants and behavioral experts in an effort to foster increased "engagement" and greater clarity with these education materials. Specifically, the Council communicated with Steve Wendel, a behavioral communications expert and principal scientist with Morningstar, and Jennifer Benz, founder and chief executive officer of Benz Communications, both of whom testified and provided assistance to the 2015 Council. The guidance provided by these two experts was consistent with the findings of the NARPP study, complemented the approach utilized in the "Roll-In Toolkit," and assisted in structuring information that the Council thought could be supplied to both plan participants and sponsors.

E. Legal and Regulatory Issues

Witnesses identified two potential legal issues that impact plan-to-plan transfers and account consolidation. The first issue concerns the rules issued by the IRS that govern potential risks that plans face in accepting rollovers. The second issue relates to the Department's recently published Conflict of Interest Rule. Some witnesses testified that there is uncertainty regarding the fiduciary status of employees of plan sponsors and service providers who promote the benefits of consolidating retirement savings in an employer-sponsored plan.

1. Validating Rollover Contributions

One potential hurdle to plan-to-plan transfers is concern on the part of plans that accepting rollover contribution may affect the plan's tax qualification. Regulations do not mandate any particular documentation or procedures that a plan administrator must use in order to reach a reasonable conclusion that a rollover contribution is valid. However, the process used to make this determination is extremely important, because a plan that accepts a rollover contribution that is subsequently identified as invalid must provide adequate evidence that the initial conclusion regarding the validity of the rollover contribution was reasonable. Consequently, many plans often reject rollover contributions that do not satisfy strict and complicated requirements, or make the process for validation overly burdensome

Messrs. Mark Iwry and William Evans of Treasury reviewed relevant sections of the IRC that apply to the distribution and acceptance of eligible rollovers. An eligible retirement plan that accepts an invalid rollover contribution, whether as a direct rollover or otherwise, will be treated for purposes of §401(a) or 403(a) as accepting a valid rollover contribution if the plan administrator of the receiving plan satisfies two conditions: 1) when accepting the rollover contribution, the plan administrator of the receiving plan must reasonably conclude that the rollover contribution is a valid rollover contribution, and specifically, the assets transferring into an eligible retirement plan must constitute an eligible rollover distribution from a qualified trust; and 2) if the plan administrator of the receiving plan later determines that the rollover contribution was an invalid rollover contribution, the plan must distribute the amount of the invalid rollover contribution, plus earnings attributable thereto, to the employee within a reasonable period of time.

Several witnesses testified that plan administrators differ widely in their view of the information and documentation that is necessary to "reasonably conclude" that assets transferring into an eligible retirement plan constitute an eligible rollover distribution from a qualified trust. Historically, many plan administrators required a copy of the distributing plan's IRS-issued determination letter. This practice continues today despite numerous legislative and regulatory actions intended to clarify that it is not necessary for a distributing plan to provide a favorable IRS determination letter in order for a plan administrator to reach a reasonable conclusion that a contribution is valid.[6]

Messrs. Iwry and Evans stated that Treasury is aware this remains an issue for many plan administrators and issued Rev. Rul. 2014-9 in an effort to make the process easier for plan administrators. Rev. Rul. 2014-9 offers plan administrators two additional safe harbors to determine the validity of incoming rollover contributions. One of the safe harbors, noted Mr. Iwry, allows a plan administrator to access the Form 5500 of the distributing plan via the Department's EFAST2 database. If the plan administrator determines that the distributing plan did not enter code 3C on line 8a of the Form 5500 (or line 9a of the Form 5500-SF), the plan administrator can reasonably conclude the distributing plan is "intended to be a qualified plan."

However, the Council heard testimony from several witnesses that Rev. Rul. 2014-9 may not be as helpful as intended and that with the phase-out of determination letters, sponsors and service providers are confused as to what steps are necessary. Kent Mason of Davis & Harman testified that Rev. Rul. 2014-9 was a step in the right direction, but it is not being used widely by plan administrators. Ms. Klausner, representing the American Benefits Council, testified that many plan administrators continue to require a determination letter from the distributing plan, but that the IRS, which issues the determination letter, is discontinuing that process, leaving sponsors confused as how best to certify assets.

Amy Pocino Kelly, an attorney with Morgan Lewis, indicated that plan administrators are confused by the discontinuation of the determination letter program, prior revenue rulings on rollovers, and Rev. Rul. 2014-9 and that issuance of some consolidating guidance and the public promotion of such a resource would be very helpful to sponsors and industry.

In practice, the Council has observed that the incidence of plans subject to disqualification is actually quite rare and that a number of remedies are available to plans that mistakenly accept invalid rollover contributions. According to Messrs. Iwry and Evans, if a plan goes through the process of verifying the qualification of a plan, yet an invalid rollover occurs, the receiving plan is not disqualified, though the funds must be removed from the receiving plan promptly. Mr. Evans further noted that plan administrators are entitled to utilize the Employee Plans Compliance Resolution System ("EPCRS") to self-report and correct such errors as well as remedy errors identified upon audit.

EPCRS offers three paths to resolve errors. Under the Self Correction Program ("SCP"), plan administrators are required to observe well-documented and firmly established principles for error correction, effectively conclude that their correction is reasonable and appropriate for the error, and, if necessary, make changes to administrative procedures to ensure that the errors do not recur. Plan administrators that find errors that satisfy SCP requirements are not even required to report errors to the IRS. Plans that do not qualify for SCP, but are covered under the Voluntary Correction Program ("VCP") are required to pay a compliance fee and propose a correction to IRS, which issues a compliance statement accepting correction. Even if a problem is identified through a regulatory audit, a plan can avoid disqualification by fixing the error under a settlement, and sanctions will not be excessive, but appropriate in light of the failures.

The Council believes that educating plan sponsors and their administrators about these options would facilitate plan-to-plan transfers.

Separately, Ms. Kelly also suggested that revamping the §402(f) notice should be considered. Echoing other witnesses, she observed that the notice is confusing to participants and suggested the Department could issue companion guidance to the current notice. Because this issue was addressed and recommendations made in the Council's 2015 report on Model Notices and Plan Sponsor Education on Lifetime Participation, we have not included further discussion on the topic, but have reiterated the recommendation from that report.

2. *Plan Sponsor and Vendor Advice*

A more recent challenge in encouraging participants to consolidate plan assets in a single qualified plan was identified by several witnesses. In April of this year, the Department released its final regulation defining fiduciaries of employee benefit plans under ERISA related to the provision of investment advice, with the definition extending to Individual Retirement Accounts (IRAs). Within the new rule, providing advice to participants (as well as IRA owners) around rollovers, transfers, and distributions may be deemed a fiduciary act. Despite the exceptions to the definition specifically for employees of a plan sponsor, as well as exceptions for general communications to participants, there remains concern in the marketplace that may impact efforts of plan sponsors to promote plan-to-plan transfers. It should be noted that the concerns heard during testimony were voiced primarily by industry service providers and ERISA counsel, and not by plan sponsors. However, since so much of plan administration, including communications and distribution processing, is outsourced to service providers, it is prudent to consider such concerns.

The Council heard testimony that plan sponsors and/or their administrators may be wary of promoting plan roll-ins so as not to run afoul of the Conflict of Interest Rule. Ms. Yost of SSGA shared with the Council a comprehensive "Roll-In Toolkit," a guide to help plan sponsors plan, create and launch a roll-in campaign for their employees, but expressed concern that, based on the advice SSGA was getting from ERISA counsel, the Rule could limit her ability to work with sponsors because the firm manages plan assets from which they receive compensation. This Roll-In Toolkit is included as Appendix E. Marla Kreindler of Morgan Lewis noted that the employee exception does not expressly address agents, contractors or other providers and suggested that clarification, examples, or FAQs for plan sponsors from the Department would be useful.

In her testimony to the Council in June, Ms. Klausner voiced concern that the final rule was limited, ambiguous and/or unclear around the exception to employees of plan sponsors helping to educate and facilitate plan transfers being deemed activity that could be construed as fiduciary advice, and that in the opinion of ABC, clarity is needed from the Department. Mr. Mason further testified that clarification is needed that plan sponsor employees and call center employees encouraging participants around distribution decisions, and specifically not to cash out, or to roll their assets over to a new employer plan, is not fiduciary advice, as defined by the new rule.

Ms. Kreindler testified that despite the employee exception, the "newness" of the rule creates uncertainty for plan sponsors, as well as for their service providers, even if operating under the explicit direction of the plan sponsor. She also raised the question of what changes might need to be made to service provider contracts, as well as to participant communications and education programs to insure participant interactions fall within the rule and do not trigger a fiduciary act.

Mr. David Levine of the Groom Law Group offered the view that the Department could help cut through the confusion by providing clear examples as part of a Q&A, "whether it is an employee of the plan sponsor or their out-source[d] vendor … Not just it's okay if you follow the rule, but giving … real examples. Because people will just use those examples as the book, and they'll follow it." Mr. Levine also felt that the examples should reflect the Department's intentions as to enforcement, so that readers will be able to understand "It is intended it will be enforced this way."

F. State Administered Retirement Initiatives and Treasury's *my*RA Program

The Council heard testimony on emerging initiatives at the state and federal levels to promote retirement security and considered how such programs might impact plan-to-plan transfers and account consolidation. Angela Antonelli, Executive Director for the Center for Retirement Initiatives at Georgetown University's McCourt School of Public Policy, in her testimony noted that a majority of states (over 30) have considered and/or taken action of some form since 2012. Furthermore, the sharp acceleration in activity within this area that occurred in 2015 and 2016 was due largely to the recent actions of the Department, including the November 2015 publication of a Notice of Proposed Rule Making with respect to a safe harbor exemption from ERISA for states that wished to require mandatory automatic enrollment in IRA-based retirement savings programs, more commonly known as "auto-IRAs"; and the simultaneous publication of Interpretive Bulletin (IB) 2015-02, which sets forth the Department's views of ERISA §§ 3(2), 3(5), and 514 as they apply to state-run master and prototype plans, state-run open multiple employer plans (MEPs), and state-run marketplaces. She added that several large cities and municipalities such as New York, Seattle, and Philadelphia recently expressed interest in considering their own plans and were looking forward to the Department also addressing the interests of these other political subdivisions. Coincidentally, the Department announced its final rule on Savings Arrangements Established by States for Non-Government Employees on August 25, 2016 and simultaneously published an additional notice of proposed rulemaking seeking to amend the final rule to cover certain state and political subdivision programs that otherwise comply with the conditions in the final rule.

Ms. Antonelli explained that eight states are currently moving forward and have launched or will shortly launch programs falling within three categories: mandatory auto enrollment IRAs; voluntary marketplaces; and prototype 401(k) programs. She also noted that, although IB 2015-02 provides for state-sponsored open MEPs, this type of arrangement has not been actively pursued as of now. However, she expects that hybrid approaches that blend characteristics of each category might emerge in the future. She shared the characteristics of these programs through three documents provided to the Council: a summary presentation used for reference during her testimony as well as two more detailed reference documents provided as part of her written submission to the Council.

Ms. Antonelli drew a number of parallels between the Council's current work on plan-to-plan transfers and past Councils' work on other challenging plan design issues relating to things like portability, account consolidation and lifetime income. She explained that the states are currently considering these issues as well and stated, "Your work on these issues will be helpful, very helpful to the states." She also noted that most of the efforts to date have focused on administrative, operational, savings and investment issues, with less consideration given to what happens at or in retirement and cited this as "an area where the Council, again, could be a great help to the states and others."

Ms. Antonelli acknowledged that some of the decisions in state legislation reflected the need to compromise to get politicians to endorse or provide their agreement. However, she was keen to note that the trend over time has been for organizers of these initiatives to persuade elected officials that it's better to craft a law that leaves many of the design elements to the discretion of the designated governing body or boards ultimately responsible for oversight of the programs. She further acknowledged that many of these decisions are indeed complex, and, in making these decisions legislatively, lawmakers may not fully understand all the issues at the time, thus making it more important to provide for flexibility in design consideration so that there is less of a need for additional legislation to make necessary adjustments or corrections in the future.

Ms. Antonelli closed her prepared comments with a brief outlook for the near future and noted that several states will be moving forward using a phased approach, testing as they go along, while others will continue to consider their options. She believes we will continue to see innovative, new approaches emerge and more collaboration between the public and private sectors to focus on the importance of retirement savings, not just those who are uncovered but for all workers. She expects that even people with access to employer-sponsored plans will see additional opportunities to save more and their employers will get much better at helping them to plan for successful retirement.

Council members noted the use of Roth IRAs in many states' programs. This raised the question of whether reliance on Roth IRAs might work at hindering the goals of portability, account consolidation, and lifetime plan participation, because a Roth IRA may be rolled over only into another Roth IRA and may not be rolled into a qualified plan. Ms. Antonelli expressed the view that states have focused more on "tax benefits and calculations with respect to low and moderate income, the issues of the ability to withdraw and flexibility of a Roth versus a traditional [IRA]" than on portability.

Treasury recently launched its *my*RA retirement savings program (a Roth IRA) in an effort to expand coverage and provide a low cost and low risk retirement savings program for people who lack access to employer-sponsored retirement benefits. Mr. Iwry testified regarding Treasury's interest in gathering ideas on how the *my*RA program might be utilized as a low cost alternative for automatic rollovers of balances between $1,000 and $5,000. Mr. Iwry noted that doing so would require the Department to deem *my*RA to be a principal-protected investment through some form of guidance such as an advisory opinion in order to be in compliance with existing regulations governing automatic rollovers. In Mr. Iwry's opinion, "there's no doubt" the investments held within a *my*RA account are principal protected, because, "It's a savings bond," and "…has the full faith and credit of the United States government." However, Mr. Evans noted that the *my*RA program is offered only as a Roth IRA and Mr. Iwry agreed that the program would need to offer a traditional IRA version if it were to serve as a viable option for plan sponsors pursuing automatic rollovers.

V. RATIONALE FOR RECOMMENDATIONS

1. The Council recommends the Department issue a Request for Information (RFI) to explore how it can encourage and support the adoption of secure electronic data standards for the development of a process, system, platform and/or clearinghouse to facilitate acceptance and expedite processing of eligible rollovers into retirement plans covered by ERISA. This includes:

- **a. Standard data elements**
- **b. Electronic forms and processing**
- **c. Electronic transfer of funds**

Standard data elements – A major contributing factor to the challenges of executing a successful plan-to-plan transfer is gathering the necessary data to satisfy the requirements of different plans. With two parties requiring data sets, the participant is caught in the middle between two entities with inconsistent data needs using differing and confusing terminology. In the absence of and as a precursor to an automated, technology-based solution, the process could be streamlined if there was agreement regarding standard data elements. Creating a common language or a glossary of terms would help expedite the process. At the same time, in the interest of data security, this should be done with a goal of collecting only data which is absolutely necessary for this purpose.

According to testimony, basic common information required for both distributions and rollovers (beyond personal identification) includes the type of money being disbursed (i.e., pre-tax, after-tax or Roth), the name of the receiving employer plan and the year the participant began Roth contributions, if any. Note: the process can become complicated if the receiving plan does not accept rollovers of after-tax or Roth contributions or there are lifetime income products involved. It is also a problem when the distribution is done by a hard copy check and the check stub does not contain all the relevant information.

Chris Hulse provided the council with a "Plan to Plan Rollover Transfer Layout" indicating the data elements required by both distributing and receiving plans, including the distinctions for the receiving plan based on the new employee's rollover eligibility. This layout is attached as Appendix C.

Through his written testimony and subsequent follow up submission, Mr. Sweeney noted that retirement plan distributions (including those from IRAs) trigger a requirement on the part of a distributing trust to file IRS Form 1099-R. Current IRS rules require only annual filings of the form. However, the information necessary to complete the form is generated at the time a distribution occurs. This information could be included in an electronic data transmission at the time of distribution and solve a number of the issues that the Council and other witnesses identified as obstacles to the timely processing and acceptance of permissible rollovers. For example, all of the information necessary to determine source types (i.e. pre-tax, Roth, traditional after tax) is included on Form 1099-R as well as codes that indicate the nature of the distributing retirement plan. It is likely that this data could be transmitted electronically and incorporated into a system like ACATS. A copy of Form 1099-R is attached in Appendix F.

Because both the distributing party and receiving party are most commonly plan recordkeepers, the Council believes such data standards are best developed and agreed upon by the industry through a collaborative effort, and could include the involvement of a third party intermediary. The council believes an RFI or similar request from the Department could catalyze such development.

Electronic forms and processing - While the Council heard testimony that electronic forms are commonly available, anecdotal evidence suggests otherwise. Several industry professionals commented that only paper forms were available and that they would be delivered and returned via U.S. Mail, which challenged participants attempting to effect a successful indirect transfer within the required 60-day timeframe. Separately, indirect transfers of the actual funds are done via paper check, which also contributes to the unsuccessful completion of the transfer process. Written testimony from Joshua Newmister of Facebook asserted that “electronic transfers are radically simpler than rollovers because they avoid lost or stolen checks and are completed within a few days without any intervention from the individual. When it comes to retirement accounts, specifically 401(k) plans, electronically transferring accounts should be the norm and will lead to improved lifetime plan participation.” Chris Hulse, during his testimony, asked, “Gosh, you can refinance your house on your phone, why can’t you move your 401(k) account?” The Council strongly encourages the Department to include in any RFI questions on how to make forms and corresponding funds transfers electronic.

The Council anticipated developing model “forms” with standard data elements as one step toward facilitating plan-to-plan transfers. However, it became clear that offering sample standardized forms could perpetuate paper processes so the Council elected to focus its recommendation on the standardization of data elements and modernization of the process.

Electronic transfer of funds – The Council heard testimony from Retirement Clearinghouse on the technology supporting its auto-portability solution, from Millennium Trust on the technology supporting its automated Safe-Harbor IRA business and its experience rolling monies into qualified plans, from Northeast Retirement Services on ACH transfers and conceptual frameworks for middleware systems, from DST on the platforms and systems supporting 48 hour transfers from plans to IRAs, and lastly from DTCC and State Street Bank on the ACATS system. Several recordkeepers commented favorably on the viability and their willingness to support a third party clearinghouse solution to facilitate the plan-to-plan transfer process. Finally, testimony collected from researchers and academics, as well as independent survey data published by financial services research firms, strongly suggest that simplicity and ease of use as well as the level of support provided during a rollover process will greatly facilitate participant action and commitment to complete a plan to plan transfer. The Council believes the issuance of an RFI to solicit ideas, solutions and proposals for third party solutions/platforms could be an effective means for initiating the transformation of the current patchwork system into a standardized network.

2. The Council recommends the Department publish retirement plan sponsor education to encourage sponsors to support participant-initiated plan-to-plan transfers, and publish sample participant communications that educate participants on the potential benefits of and process for consolidating accounts in retirement plans covered by ERISA. The Council has drafted materials on these topics for the Department's consideration, which are included as Appendices to this report.

The Council heard extensive testimony from a diverse group of witnesses including plan sponsors, recordkeepers, consultants and other individuals involved with DC plans. These witnesses indicated that the process for making plan-to-plan transfers is both unduly cumbersome and poorly understood by plan participants. Despite the relative infrequency with which plan-to-plan transfers presently occur, their beneficial impact for plan participants was universally acknowledged. Plan-to-plan transfers, including transfers into plans from IRAs, can enhance long-term retirement security by making it easier for participants to keep track of their savings, potentially lowering fees, affording better investment and distribution options, providing flexibility for accessing retirement funds, and retaining significant tax benefits. For these reasons, the Council believes a concise, well-designed and effective communication piece explaining the advantages of plan-to-plan transfers and succinctly describing the means to conduct such a transaction would be helpful to plan participants. Such a document would also prove useful for plan sponsors, particularly those sponsoring smaller plans, who may lack the resources to develop such a communication piece on their own. Accordingly, the Council has drafted such a communication, vetted it with a number of retirement industry and communications experts and provided it as Appendix G to this Report. Although plan sponsors and recordkeepers may choose to customize or refine such a notice, it is believed that the Appendix can serve as a useful initial effort to bring clarity and understanding to the realm of plan-to-plan transfers, thus contributing to plan participants' financial security in retirement.

The Council heard testimony from many witnesses that plan sponsors would benefit from education on specific actions that they could take to increase the plan-to-plan rollover success rate for their participants. Witness testimony highlighted plan design features that plan sponsors should consider adding, if not already available, such as allowing all types of roll-ins: pre-tax, after-tax and Roth accounts. Encouraging plan sponsors to provide simple and effective education to plan participants at termination, at hiring, and periodically thereafter would lead toward consolidating assets in a single plan. Because service providers are key actors in the roll-over and roll-in process, testimony indicates that plan sponsors should be made aware of and control the interactions of the provider when participants are terminating. An educational notice to plan sponsors may also include reference to “concierge” services that “hand hold” participants through the plan-to-plan transfer process. Plan sponsors can be advised to work with their service providers to simplify the prior plan qualification verification process and utilize recent options allowed by the IRS. Because plan loans to participants are often a source of friction in transferring plan accounts, plan sponsors could be advised of solutions that would mitigate the loan challenge. Plan sponsors should be made aware of the negative impact of forcing out plan participants with $5,000 or less into safe harbor IRAs. The Council also recommends that the Department provide plan sponsors with clearer guidance with respect to advice, either directly or through a vendor, to plan participants on the benefits of consolidating their plan assets in one retirement plan account. An example of an educational piece directed toward plan sponsors, and reviewed and revised based on witnesses’ comments, is also included as Appendix H.

3. The Council recommends the Department address questions regarding the Final Conflict of Interest Rule, its exceptions and any applicable Prohibited Transaction Exemptions as they relate to communications to participants by employees of plan sponsors and service providers regarding plan-to-plan transfers and consolidation of accounts in retirement plans covered by ERISA.

The Council heard testimony from several witnesses, including ERISA attorneys, recordkeepers, and other providers from the industry supporting plan sponsors that the Conflict of Interest Rule is creating uncertainty around the promotion and facilitation of plan-to-plan transfers. While the rule provides several exceptions designed to allow sponsors to communicate with participants, including an employee exception, a general communications exception, and an investment education exception, there are several qualifications, and as the Council heard from witnesses, uncertainty exists as to the application of such exceptions to service providers.

The Council notes that a significant amount of participant interaction is outsourced to service providers who, in order to effectively execute the wishes of their sponsor customers, need to be confident that their communications and interactions with participants are not deemed an unintended fiduciary act. Otherwise, services may be limited.

Therefore, the Council recommends that the Department address questions regarding the rule as to whether and how it could apply so as to allow sponsors and their service providers to confidently promote plan-to-plan transfers and account consolidations. The Council notes that one or more FAQs might provide useful information, including specific examples of the actions of sponsor and service providers that are intended to be covered by or excepted from the rule.

4. The Council recommends the Department encourage and/or collaborate with Treasury to:

a. **Summarize existing guidance with respect to the requirements to grant relief from disqualification for eligible retirement plans accepting rollovers, and accordingly, provide plain language education to plan sponsors and administrators; and**

b. **Revisit the §402(f) notice for harmonization with the Labor Department objective of promoting lifetime plan participation as recommended by the 2015 Council and provide user-friendly accompanying guidance to encourage plan-to-plan transfers and account consolidations into retirement plans covered by ERISA.**

Witnesses testified that confusion with respect to the standard of care required of plans that accept rollovers has persisted for a long time and continues. In addition to the testimony cited and summarized above, this Council has found several examples of Congressional and regulatory action going back at least two decades representing efforts to resolve this confusion and further expand portability between retirement accounts. In many cases, legislation and regulations have tried to open the doors for more portability between accounts in retirement plans established under different sections of the IRC (401(k), 403(b), 457 (b)) as well as IRAs so long as the fundamental nature of the tax incentives remain unchanged.

While the laws and regulations governing the acceptance of eligible rollovers do not mandate that a plan must use any particular documentation or procedures in order to reach a reasonable conclusion that a rollover contribution is valid, the IRS has published a number of rulings and examples to illustrate acceptable forms of documentation and procedures that it deems sufficient. For example, Congress, through the Taxpayer Relief Act of 1997 ("TRA '97") formally directed the IRS to issue guidance clarifying that it is not necessary for a distributing plan to provide a favorable IRS determination letter. Related Treasury regulations were initially proposed in 1996 and eventually adopted in 2000 with the publication of the final regulations under §401(a)(31) of the IRC. Congress subsequently expanded the universe of eligible rollovers with the passage of the EGTRRA. This legislation, in combination with its related IRS regulations, allowed taxpayers to "contribute more to retirement plans, get larger tax benefits for doing so and have more options for handling plan distributions…"[7] Policy supporting portability was particularly evident by the inclusion of both rollover and contributory pre-tax IRA assets among the list of retirement account rollovers eligible for acceptance by qualified plans, as well as allowing for the transfer of certain additional money types between 401(k), 403(b) and 457(b) plans. More recently, the IRS issued revenue rulings in an effort to provide clarity. For example, Rev. Rul. 2014-9 specifically states:

> The Code has been amended a number of times since §1.401(a)(31)–1, Q&A–14, and §1.402(c)–2, Q&A–4, were first published. For example, the Code has been amended to provide that… a rollover of an eligible rollover distribution from a §403(a) plan, a

> §403(b) plan, or an eligible governmental §457(b) plan to an eligible retirement plan is permitted. Additionally, the requirement that a rollover of a distribution from an IRA to a qualified plan may only be made if the IRA is a "conduit IRA" (an IRA to which the only contributions consist of rollover contributions from one or more qualified plans) has been eliminated. However, the regulations under §§401(a)(31) and 402(c) have not been updated to reflect these changes.

Rev. Rul. 2014-9 goes on to include examples that illustrate how a receiving plan may utilize the EFAST2 database through the Labor Department's website (www.efast.dol.gov) to analyze a Form 5500 filing from a distributing plan. Should the receiving plan administrator determine the distributing plan did not enter code 3C on line 8a of the Form 5500 (or line 9a on Form 5500-SF), the receiving plan may reasonably conclude the distributing plan "is intended to be a qualified plan."

Rev. Rul. 2016-47 was recently issued in an effort to ease the burden on plan participants seeking to gain an extension of the 60-day limitation for completion of an indirect rollover. While the Council was considering recommending the Department collaborate with Treasury to extend this deadline, the new rule has obviated the need for such a recommendation. In lieu of this, we recommend Treasury and the Department consider publishing participant education to promote awareness of this newly created flexibility.

In spite of these efforts, many plan administrators remain uncertain about the required standard of care. Therefore, the Council recommends the Department encourage Treasury and actively support its efforts to summarize the existing guidance and accordingly provide plain English education in concert with the other recommendations in this report, including the establishment of secure electronic data standards and a system designed to facilitate the acceptance and expedient processing of eligible rollovers. In doing so, it may be advisable to establish a unique form of identification code and/or registry that would serve to easily and efficiently verify that a distributing plan is intended to be a qualified plan.

Revisit §402(f) notice

The 2015 Advisory Council, in its report on Model Notices and Sponsor Education for Lifetime Plan Participation, included a recommendation concerning the current §402(f) notice (commonly referred to as the "rollover notice"). This is the form that sponsors are currently required to furnish participants who leave active employment with certain information regarding eligible rollover distributions under §402(f) of the IRC. The 2015 Council stated:

> Plan sponsors are currently required to furnish participants who leave active employment with certain information regarding eligible rollover distributions under §402(f) of the IRC. The Council received testimony from some witnesses that this "IRA Rollover Notice" is often confusing and may contradict the objective of lifetime plan participation while encouraging some participants to transfer their assets out of the employer-sponsored plan. The Council recommends that the Department raise this issue with the Treasury and explore a joint-agency effort to address this topic in an effort to clarify the requirements and to support plan sponsors who wish to promote lifetime participation.

The Council heard similar testimony in 2016. Messrs. Evans and Iwry acknowledged receiving similar feedback and also acknowledged receiving recommendations to improve and simplify the notice, or to issue guidance around the notice.

The Council also heard testimony suggesting a "cigarette-label" type warning (i.e., short and attention-grabbing) on, or to accompany the notice, to draw attention to the actions that undermine lifetime plan participation and retirement security. As such, this Council reiterates the findings of the 2015 Council, and further recommends the actions noted above.

5. The Council recommends the Department engage in dialogue with states and political subdivisions considering and/or pursuing payroll-deduction savings programs, as well as with Treasury as it develops and oversees its *my*RA program, in order to identify impediments to portability between these programs and retirement plans covered by ERISA and to facilitate consolidation of participant accounts.

A number of state-sponsored retirement initiatives for private-sector workers are currently under consideration across the U.S. While many of these efforts are only at the stage of conducting preliminary feasibility studies, several states have recently passed legislation and/or signed into law retirement programs that will be developed and launched in the next few years. Additionally, Treasury recently launched its *my*RA program. It appears that these initiatives may not have explicitly considered potential impediments to portability between proposed design features in these programs and qualified plans. One potential obstacle is the use of Roth IRA accounts as the sole or default account structure for automatically enrolled participants. As noted in the IRS Rollover Chart (Appendix A), Roth IRAs are not designated as eligible retirement plans for the purpose of an eligible rollover. In light of the express objectives of most state-backed initiatives and Treasury's *my*RA program to expand retirement savings opportunities, the Council believes these potential impediments to consolidation of retirement savings should be considered. The issue of Roth IRAs limiting the application of *my*RA is currently under consideration at Treasury, and it is actively seeking suggestions for ways to enhance the program. The Council sees this as an opportunity for the Department to coordinate with Treasury to develop shared views on how to best reconcile this issue with the objectives of lifetime participation and account consolidation. Similarly, when asked how receptive the sponsors of state programs might be to opportunities for information sharing and best practices benchmarking with the Department, Ms. Antonelli responded that the states would very likely welcome the additional support and encouragement. She was also strongly of the opinion that, while legislation was passed and signed into law, there is still ample opportunity to address technical corrections and enhance design features that may facilitate portability between the state-sponsored and *my*RA programs and qualified plans.

VI. CONCLUDING OBSERVATIONS

The Council's efforts were focused on a topic encouraged by the Department and a continuation of the work on promoting lifetime plan participation of both the 2014 and 2015 Councils. As with last year's efforts, this year's work was directed toward a specific topic previously identified as destabilizing retirement security.

Through its study of the plan-to-plan transfer and account consolidation topic, the Council found the obstacles to the facilitation of this process to be significantly more complicated than it anticipated. During the June hearings, Mike Barry, whose testimony was from a policy perspective, referred to the overall retirement system as "kludgy," which he defined as "a set of inelegant and ad hoc solutions to the kinds of challenges retirement policy has thrown up over the years." And in looking closely at the issues surrounding the facilitation of plan-to-plan transfers and account consolidation, the Council finds Mr. Barry's characterization to be accurate.

As discussed in the body of this report, the Council was advised of many issues that complicate the transfer process and focused its recommendations on those issues it deemed to have the greatest impact on plan-to-plan transfers. As such, there were several issues the Council chose not to focus on in its final recommendations. Those issues include the handling of loans, the inconsistency of supported money types from plan to plan, differing plan types, the availability or lack of partial distributions, and the presence of illiquid investments or other restricted investment types. While the Council suggested some actions that sponsors could take with respect to some of these issues, it is Council's suggestion that some of these issues, such as outstanding loans, could benefit from additional work, perhaps by a future Council.

It should be noted that given the breadth of the challenges with plan-to-plan transfers, several of our recommendations are not within the direct control of the Department, and require encouragement of initiatives from or collaboration with Treasury and the retirement industry. However, we believe both are receptive audiences based on the sentiments expressed during the Council's hearings.

VII. ENDNOTES

[1] For purposes of this report, the phrase "eligible employer plan" is being used as defined in IRS Bulletin 2009-68: "a plan qualified under § 401(a), including a money purchase pension plan, a profit-sharing or stock bonus plan (whether or not the plan includes a qualified cash or deferred arrangement under § 401(k)), and a defined benefit plan; a § 403(a) plan; a § 403(b) plan; or a governmental § 457(b) plan."

[2] *my*RA® is a registered trademark of the United States Department of the Treasury.

[3] Government Accountability Office, "Greater Protections Needed for Forced Transfers and Inactive Accounts." GAO-15-73. November 2014. Online at http://www.gao.gov/assets/670/667151.pdf retrieved 09/27/2016.

[4] Rev. Rul. 2000-36, 2000-2 C.B. 140 in the context of a default direct rollover ….where …the distributed assets will cease to be plan assets. However, the Department also noted that the selection of an IRA trustee, custodian or issuer and IRA investment for purposes of a default direct rollover would constitute a fiduciary act subject to the general fiduciary standards and prohibited transaction provisions of ERISA.

[5] See excerpt from Market Strategies International™, Cogent Reports™, DC Participant Planscape™, September 2016. online at http://www.marketstrategies.com/blog/2016/09/rollover-ira-choice-pivots-on-brand-trust/ retrieved on 10/14/2016.

[6] See § 1509 of the Taxpayer Relief Act of 1997 and IRC §1.401(a)(31)–1 Q&A–14 published in 2000.

[7] IRS Fact Sheet "2002 Tax Law Changes: IRAs / Retirement Plans," January 2002.

VIII. APPENDICES

A. IRS Rollover Chart

B. "What Friction Looks Like"

C. Plan to Plan Rollover Transfer Layout

D. Case Study: NAGDCA Campaign

E. Roll-in Toolkit

F. IRS Form 1099-R

G. Sample Plan Participant Communication

H. Sample Plan Sponsor Education

APPENDIX A

IRS Rollover Chart

ROLLOVER CHART 1/23/2015

		Roll To							
		Roth IRA	**Traditional IRA**	**SIMPLE IRA**	**SEP-IRA**	**Governmental 457(b)**	**Qualified Plan[1]** (pre-tax)	**403(b)** (pre-tax)	**Designated Roth Account** (401(k), 403(b) or 457(b))
Roll From	**Roth IRA**	YES[2]	NO	NO	NO	NO	NO	NO	NO
	Traditional IRA	YES[3]	YES[2]	NO	YES[2]	YES[4]	YES	YES	NO
	SIMPLE IRA	YES,[3] after two years	YES,[2] after two years	YES[2]	YES,[2] after two years	YES,[4] after two years	YES, after two years	YES, after two years	NO
	SEP-IRA	YES[3]	YES[2]	NO	YES[2]	YES[4]	YES	YES	NO
	Governmental 457(b)	YES[3]	YES	NO	YES	YES	YES	YES	YES[3,5]
	Qualified Plan[1] (pre-tax)	YES[3]	YES	NO	YES	YES[4]	YES	YES	YES[3,5]
	403(b) (pre-tax)	YES[3]	YES	NO	YES	YES[4]	YES	YES	YES[3,5]
	Designated Roth Account (401(k), 403(b) or 457(b))	YES	NO	NO	NO	NO	NO	NO	YES[6]

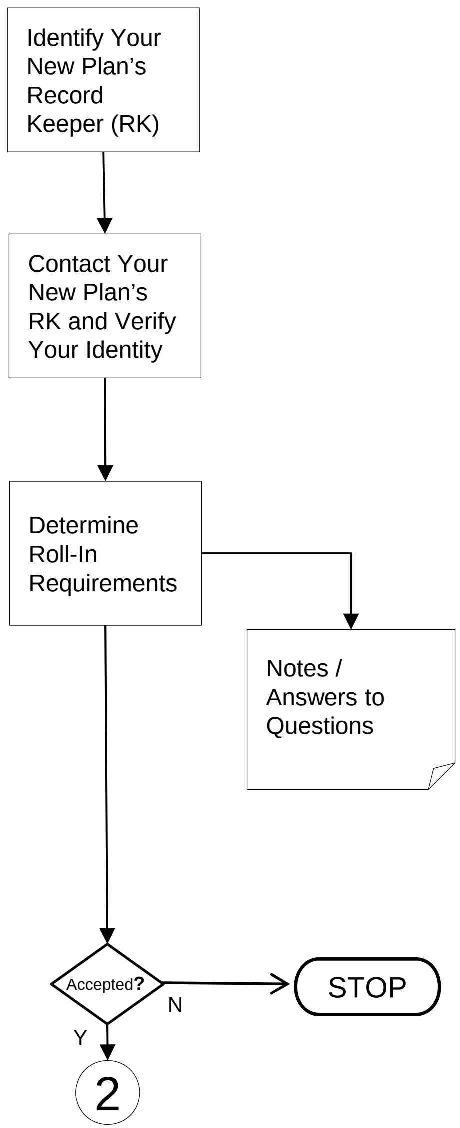
1 Qualified plans include, for example, profit-sharing, 401(k), money purchase and defined benefit plans
2 Only one rollover in any 12-month period
3 Must include in income
4 Must have separate accounts
5 Must be an in-plan rollover
6 Any amounts distributed must be rolled over via direct (trustee-to-trustee) transfer to be excludable from income
For more information regarding retirement plans and rollovers, visit Tax Information for Retirement Plans.

APPENDIX B

"What Friction Looks Like"

What Friction Looks Like
The Process of Moving Plan to Plan

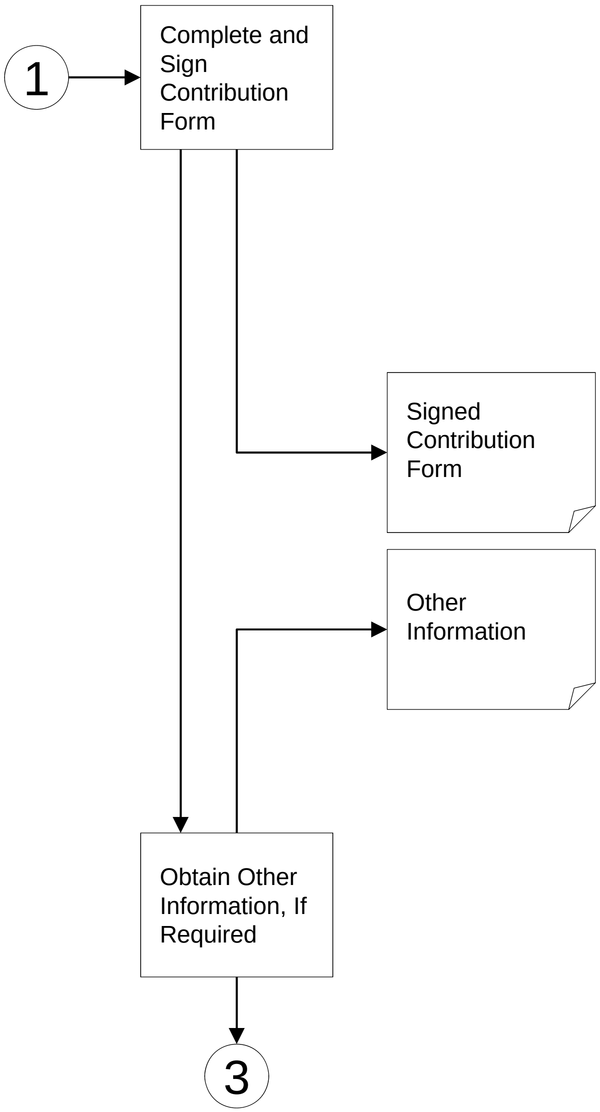
Step 1: Determine Eligibility to Roll-Into New Plan



Step #1 Tasks

1. Identify your new employer's plan record-keeper (from statements, etc.)
2. Gather your personal information (name, SSN, employer, account number, PIN, etc.)
3. Contact your new employer's plan record-keeper
4. Determine the requirements & eligibility for rolling your old plan account into the new plan
   - Ask the following questions:
   - i. Will you accept my old plan account?
   - ii. Do I need a contribution form?
   - iii. How can that form be delivered to me? - e-mail, fax, mail
   - iv. Are any signatures other than my own needed on the form? If so, whose?
   - v. When sending the form back – do you need my "original" signature, or can I fax/e-mail the form back?
   - vi. How should the check be made payable? (this needs to be very specific or it may be rejected by your new plan)
   - vii. What other documents do you require to accept my roll-in?
     - a. Distribution statement from my rollover check, i.e. 401(k)/ IRA statement
     - b. Letter of Determination from old plan
     - c. Letter from prior plan administrator "qualifying" the plan
     - d. Other?
5. If your account is not eligible for roll-in, STOP
6. If your former account is eligible for rolling into your new plan, proceed to Step #2

Step 2: Complete Forms to Roll-Into New Plan



<u>Step #2 Tasks</u>

1. Complete and sign the new plan's Contribution Form
   - <u>4 basic pieces of information needed for the Form</u>

   i. Personal Information

   ii. Prior plan information, i.e. name of plan, EIN, type of plan

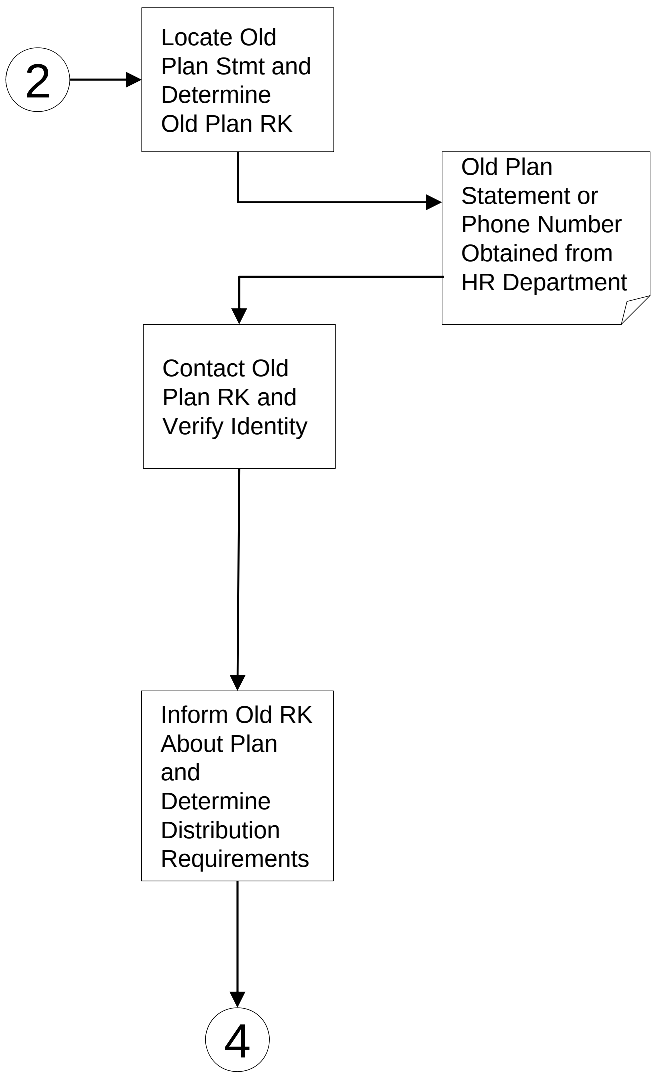
   iii. Investment selections

   iv. All required signatures

      a. Prior plan administrator

      b. Other?
2. Gather other required documents from Step 1.3.vii
3. Proceed to Step #3

Step #3: Determine Requirements to Roll Out of Old Employer Plan



Step #3 Tasks

1. Identify your old employer's plan record-keeper
2. Gather your personal information (name, SSN, employer, account number, PIN, etc.)
3. Contact your old employer's plan record-keeper
4. Determine the requirements for rolling your account out of the old plan
   - Ask the following questions:

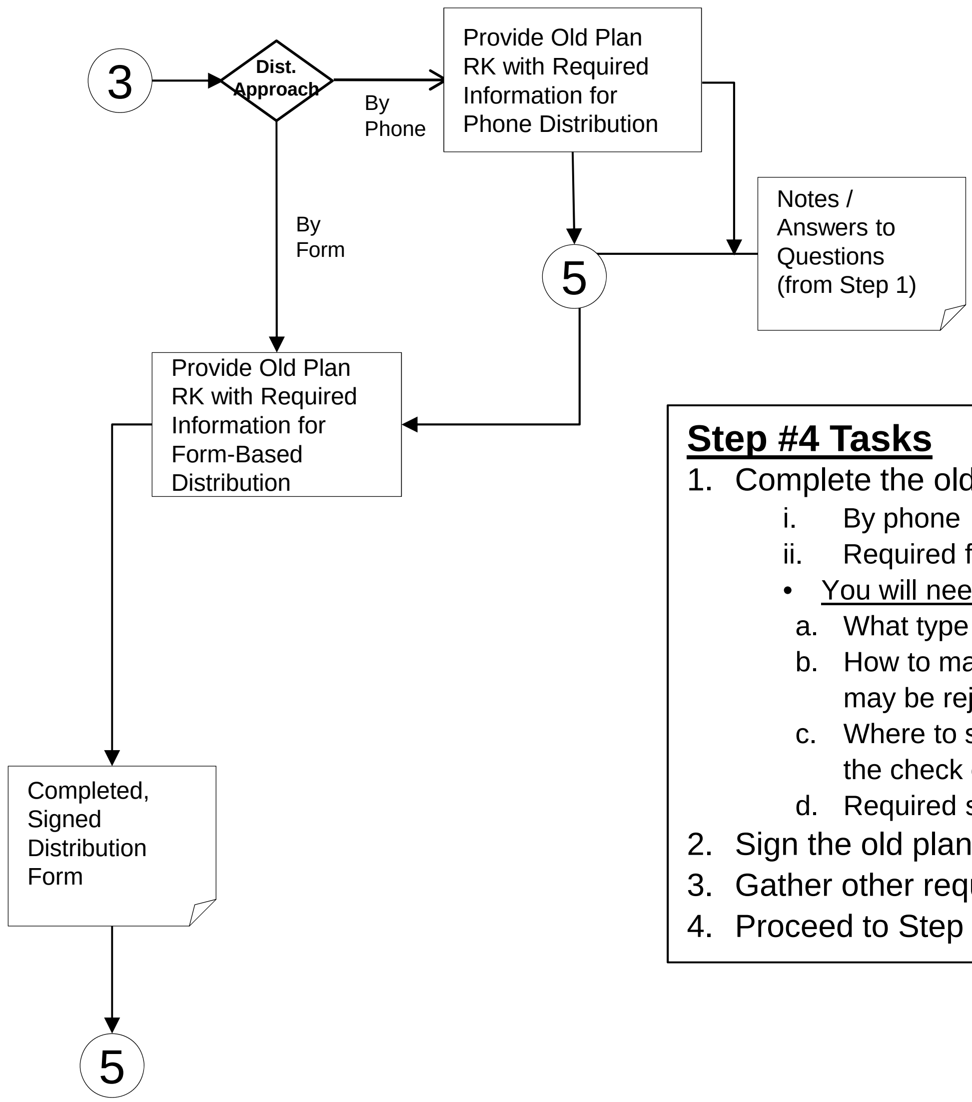
     i. How can the plan be distributed?

        a. Phone
        b. Forms
        c. Electronically – internet

     ii. Are there any other documents that are required to complete the rollover? e.g., a Letter of Acceptance or Signature Guarantee

     iii. If by form – ask if one or more "original" signature is needed
5. Proceed to Step #4

Step #4: Complete Forms to Roll Out of Old Plan



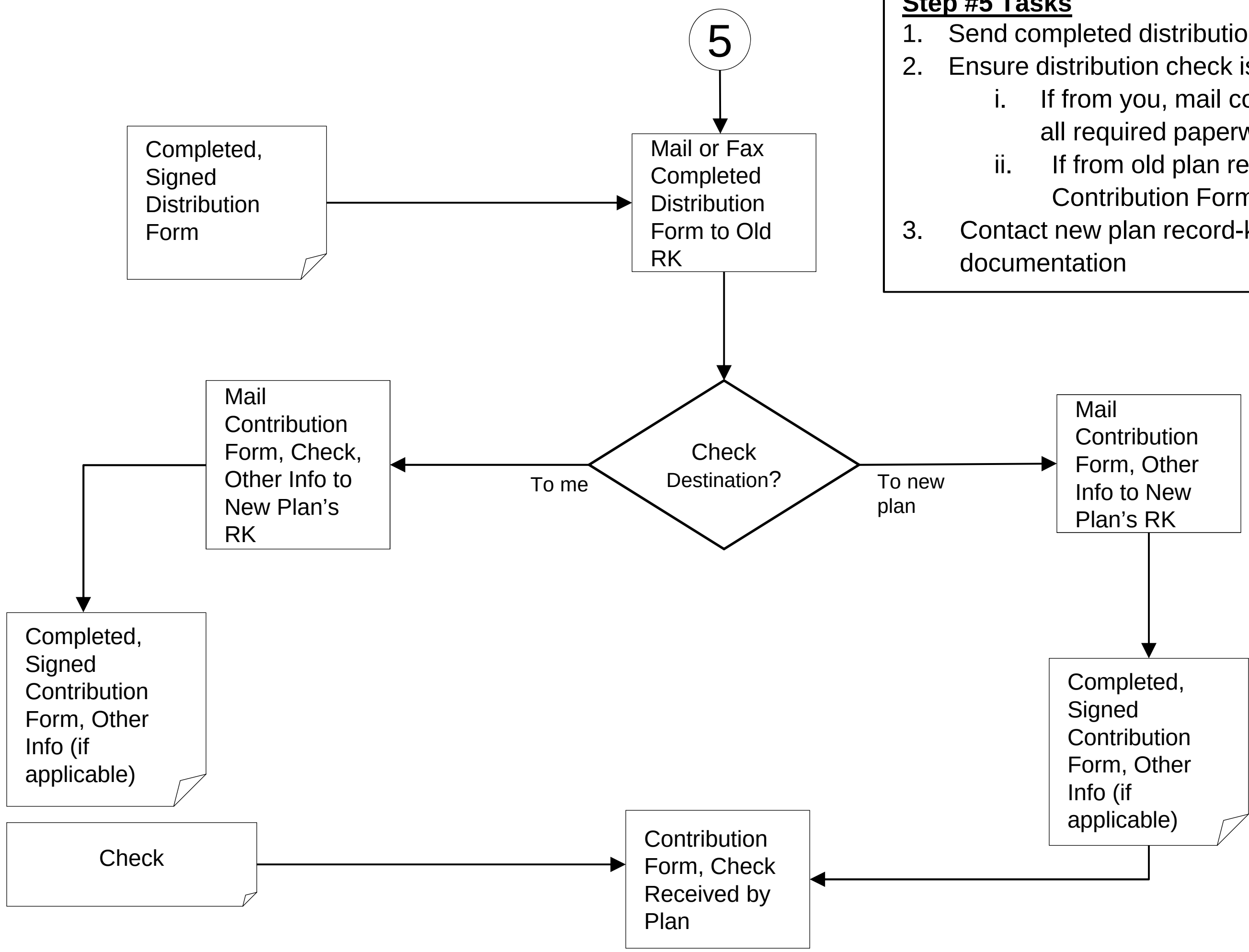
Step #4 Tasks

1. Complete the old plan's record-keeper with distribution information
   - i. By phone
   - ii. Required form
   - You will need the following information:
     - a. What type of new plan you have – 401(k), 403(b) etc.
     - b. How to make the check payable? (this needs to be very specific or it may be rejected by your new plan)
     - c. Where to send the check (if applicable – some institutions will send the check only to you at your address of record)
     - d. Required signatures (you and/or spouse, plan administrator)
2. Sign the old plan's distribution form
3. Gather other required documents from Step #3.3.ii
4. Proceed to Step #5

Step #5: Send All Forms, Required Documentation & Check to New Plan

Step #5 Tasks

1. Send completed distribution form to old plan record-keeper
2. Ensure distribution check is sent to your new plan's record-keeper
    i. If from you, mail completed Contribution Form, check and all required paperwork
    ii. If from old plan record-keeper, mail completed Contribution Form and all required paperwork
3. Contact new plan record-keeper to verify receipt of all required documentation



APPENDIX C

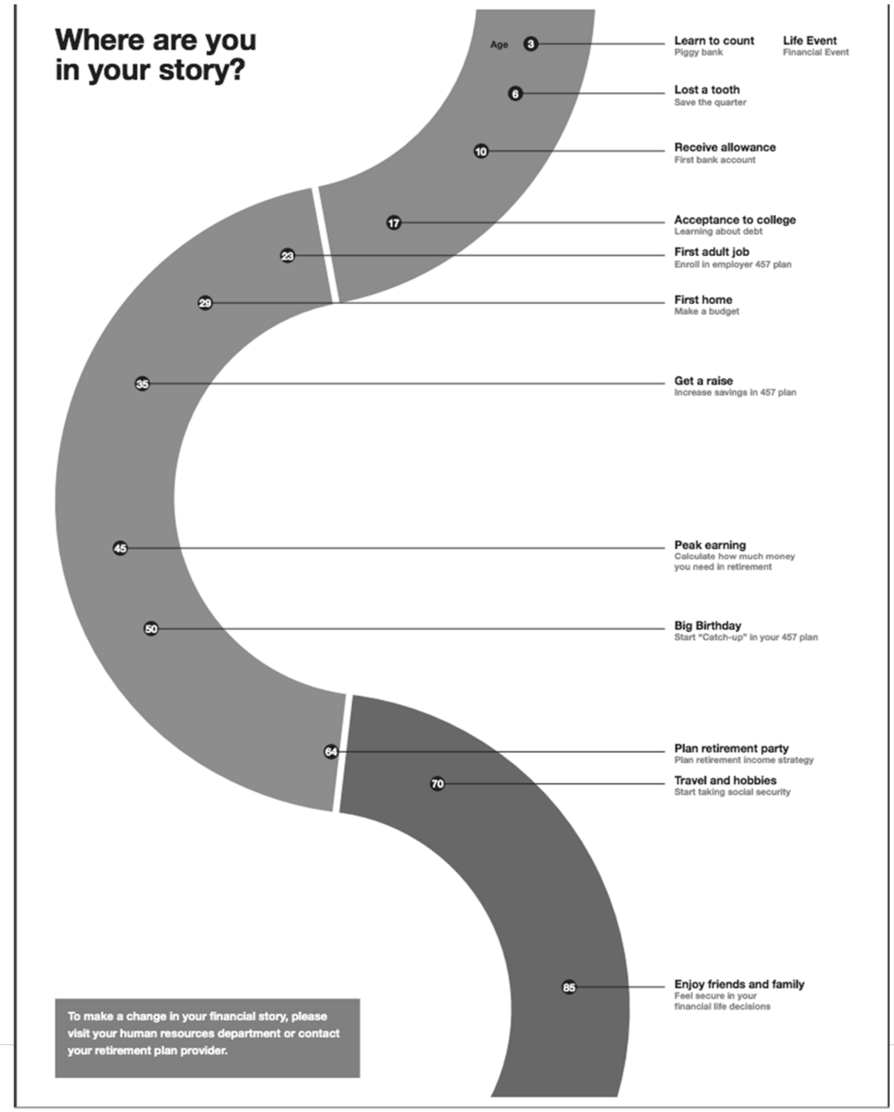
Plan to Plan Rollover Transfer Layout

Plan to Plan Rollover Transfer Layout				
		Condition I	Condition II	Condition III
<u>Data Element</u>	<u>Outbound Plan</u>	<u>Inbound Plan</u>	<u>Inbound Plan</u>	<u>Inbound Plan</u>
Indicative				
Account Holder First Name	Y	Y	Y	Y
Account Holder Last Name	y	y	y	y
Account Holder Last 4 Digits SSN	Y	Y	Y	Y
Account Holder Address Line 1	N	Y	Y	N
Account Holder Address Line 2	N	Y	Y	N
Account Holder City/Town	N	Y	Y	N
Account Holder State	N	Y	Y	N
Account Holder Zip Code	N	Y	Y	N
Transaction Type				
Transfer Out Type (Check/Wire-ACH)	Y	N	N	N
Deposit Type (Check/Wire-ACH)	N	Y	Y	Y
Rollover Pre-Tax (YES or NO)	Y	Y	Y	Y
Rollover Pre-1987 After-Tax (YES or NO)	Y	Y	Y	Y
Rollover Post-1986 After-Tax (YES or NO)	Y	Y	Y	Y
Rollover Roth (YES or NO)	Y	Y	Y	Y
Former Plan				
Full Plan Name	N	Y	Y	Y
Plan Type (DB Pension,401a,401k,403b,457)	N	Y	Y	Y
Plan Number	N	Y	Y	Y
Plan Tax ID	N	Y	Y	Y
Financial				
IF TRANSFER OUT TYPE="CHECK" PROVIDE THE FOLLOWING				
Pay To	Y	N	N	N
For Benefit Of Name (include Roth designation here)	Y	N	N	N
For Benefit Of Account #	Y	N	N	N
Recipient Address Line 1	Y	N	N	N
Recipient Address Line 2	Y	N	N	N
Recipient City/Town	Y	N	N	N
Recipient State	Y	N	N	N
Recipient Zip Code	Y	N	N	N
IF TRANSFER OUT TYPE="WIRE-ACH" PROVIDE THE FOLLOWING				
Recipient Bank Name	Y	N	N	N
Recipient Bank ABA#	Y	N	N	N
Recipient Bank Account#	Y	N	N	N
For Further Credit Beneficiary Name(include Roth designation here)	Y	N	N	N
For Further Credit Beneficiary Account #	Y	N	N	N
Condition I =	Account Holder Rollover Eligible, Not Yet Eligible for Active Enrollment			
Condition II =	Account Holder Rollover Eligible, Eligible for Active Enrollment & No Account Balance			
Condition III =	Account Holder Rollover Eligible, Eligible for Active Enrollment & Account Balance			
Source: Northeast Retirement Systems				

APPENDIX D

Case Study: NAGDCA Campaign

Case Study: NAGDCA Campaign

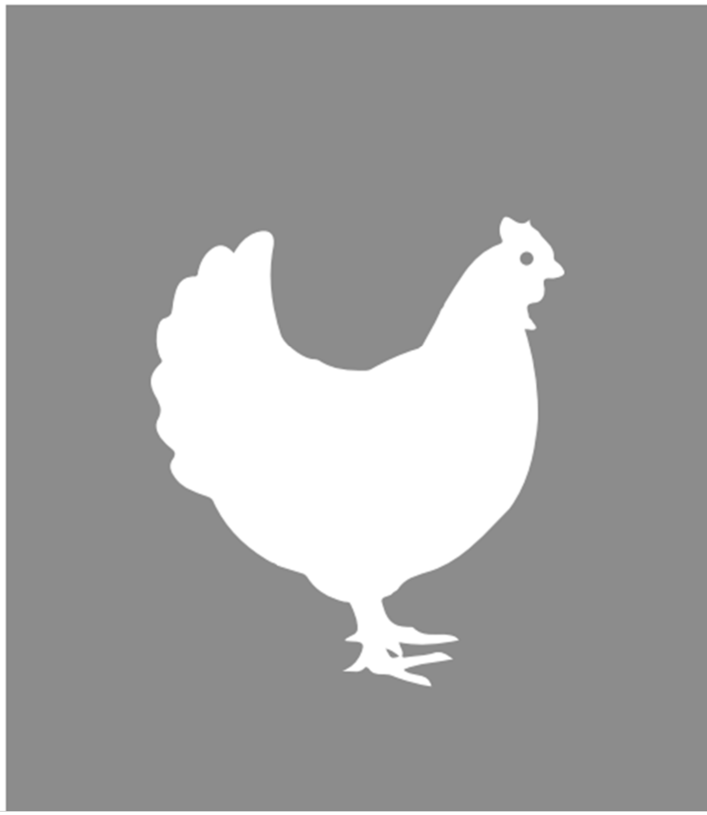


Case Study: NAGDCA Campaign

Retirement Journey Field Note #1

Start As Soon As Possible

YOUR WHOLE STORY



One of the smartest things you can do on the way to retirement is to start saving as soon as you are able to.

It only takes about 10 minutes to join your company's retirement savings plan. For more information on how to join, contact human resources. If you are not able to save more today, make a budget or a plan to start when you can.

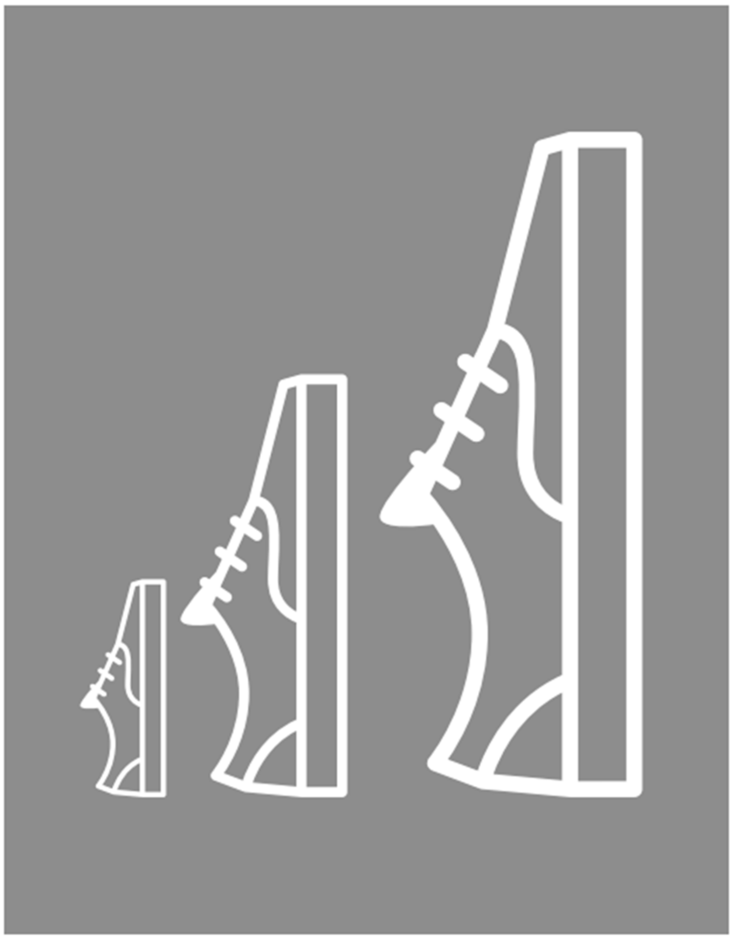
This illustration is a hypothetical compounding example that assumes a $50,000 salary and biweekly salary deferrals (for 30 years) at a 6% annual effective rate of return. It illustrates the principle of time and compounding. This chart is for illustrative purposes only and is not intended to represent the performance of any specific investment. Actual returns will vary and principal value will fluctuate. Taxes are due when money is withdrawn.

Case Study: NAGDCA Campaign

Retirement Journey Field Note #8

One Small Step Today…

YOUR WHOLE STORY



…goes a long way for your financial future. Make sure the amount you're saving keeps up with you during your working years.

Experts recommend contributing at least 10% of your current income to your future retirement. To increase your contribution contact your plan provider. If you are not able to save more today, make a budget or a plan to start when you can.

NATIONAL RETIREMENT SECURITY WEEK
Sponsored by NAGDCA

APPENDIX E
Roll-in Toolkit

THE ROLL-IN TOOLKIT

A guide to help you plan, create and launch a roll-in campaign for your employees.

STATE STREET GLOBAL ADVISORS®

10 STEPS TO CREATING A SUCCESSFUL ROLL-IN CAMPAIGN

The number of individuals who have held multiple jobs and have contributed to multiple 401(k) plans has risen dramatically. Keeping track of numerous workplace retirement accounts can be challenging—and the situation can also create confusion for participants.

There are many potential benefits that both plan sponsors and participants can realize from rolling in old 401(k) accounts, including reduced plan leakage, cash outs, and stranded accounts. More importantly, participants are open to assistance from their employers. In fact, recent research by Boston Research Technologies found that the vast majority of plan participants would roll in their savings if their plan sponsor offered the opportunity and covered the costs of the effort.[1]

Reasons for Creating a Roll-in Campaign

- Participants may be able to better manage their retirement assets, including their overall market exposure and asset allocation, by consolidating their savings in one place.
- Participants can potentially save on fees by not paying for multiple investments in multiple accounts.
- You can learn more about plan participants' asset allocation, which could assist you in making more informed plan design decisions (including evaluating actions like conducting a re-enrollment or offering custom target date funds).
- You gain an opportunity to reaffirm the value of both your retirement plan and your overall benefits offering.

If you're interested in launching a roll-in campaign in your organization, here is a framework to help you get started.

1 Employee Benefit News. What to Look for in a Roll-in Service Provider. (http://ebn.benefitnews.com/blog/ebviews/what-to-look- for-in-a-roll-in-service-provider-2747250-1.html)

10 STEPS AT A GLANCE

01. DEVELOP YOUR BUSINESS CASE

02. OUTLINE YOUR CAMPAIGN

03. SELECT YOUR TACTICS

04. CREATE A PLAN & SCHEDULE

05. SHARE YOUR PLAN

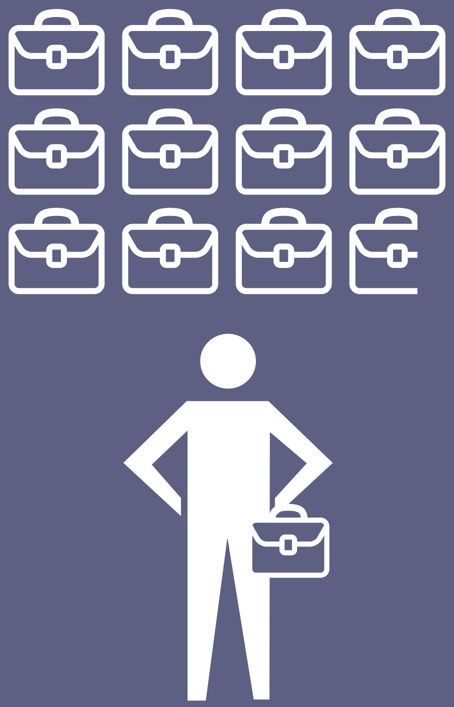
06. CREATE YOUR MATERIALS

07. LAUNCH YOUR CAMPAIGN

08. SEND REMINDERS & FOLLOW-UP

09. CONCLUDE & ANALYZE

10. COLLECT FEEDBACK & SHARE RESULTS



The average American born in the latter stages of the baby boom held 11.7 jobs between the ages of 18 and 48[2]

2 Bureau of Labor Statistics, March 2015. Number of Jobs Held, Labor Market Activity, and Earnings Growth Among the Youngest Baby Boomers. (http://www.bls.gov/news.release/pdf/nlsoy.pdf)

.01 DEVELOP YOUR BUSINESS CASE

Define your objectives and set specific goals to help you manage expectations. This will help you communicate to stakeholders how your plan fits into your organization's broader benefits agenda. Setting specific goals will also help you evaluate the success of your campaign. Take the time to think through how you can measure success and what that might look like to you and your organization.

Your Metrics Might Include:

» *Number of new employees who roll in accounts during on-boarding.*

» *Percentage of new assets rolled in during on-boarding.*

» *Number of existing employees who roll in old accounts during a set time period.*

.02 OUTLINE YOUR CAMPAIGN

Do you want to run a full, stand-alone engagement campaign, or will a more simple campaign built around a reminder and a call-to-action message suffice? There's no right or wrong answer—the best choice for your organization depends on the goals you have in mind and the resources you can commit to the campaign. As you plan your communications strategy and receive feedback from stakeholders, you'll be better able to judge what type of campaign makes sense.

.03 SELECT YOUR TACTICS

The communication tactics and touch points you use within your engagement campaign depend on the structure of your company—including where and how your employees work. Review previous campaigns to help determine which communications channels and media are the most effective with your employees. You may be able to integrate the campaign into existing efforts, depending on the scope of the campaign and the channels you choose.

.04 CREATE A PLAN AND SCHEDULE

Outlining key deadlines will help you set the timeline for the early stages of the campaign. You can then work from those dates to identify reasonable start and end times for your campaign, perhaps anchoring them to important dates in your broader benefits communication strategy or HR calendar.

When to Launch Your Campaign

Timing is a very important element of your retirement and savings engagement strategy. Here are some examples of milestones to consider when determining the best time to launch your roll-in campaign:

» *Employee on-boarding*

» *Annual financial wellness check-ins or retirement/benefits fairs*

» *Savings reminders or savings bootcamp programs*

» *Re-enrollment campaigns*

» *Annual benefits enrollment*

.05 SHARE YOUR PLAN

Involving internal and external partners can help you get buy-in, generate support and excitement, and spread the word for your campaign. Depending on where you sit in your organization, you may want to reach out to the following groups:

- Retirement plan's record keeper
- Internal/external legal advisors
- Senior management
- Investment committee
- HR/Benefits team
- Internal communications team

Your key stakeholders (e.g., your investment committee) will want to understand the benefits and view the campaign through a fiduciary lens before your company encourages participants to move their savings. Remember to keep stakeholders in the loop to let them know how their involvement contributes to your success.

.06 CREATE YOUR MATERIALS

Be sure to keep your language simple and use creative hooks whenever possible. Refer to the sample campaign on page 11 for tips and ideas on developing your materials. Keep in mind that a clear call to action (what to do and how to do it) will be key to getting participants to act. The Boston Research Technologies study found that three in four participants weren't sure about where to start.[3] In many cases, participants may have tried to roll in assets on their own, only to be overwhelmed by the paperwork. Consider all possible ways to help make the process easier and more streamlined. When you are ready, remember to circle back to your investment committee to share your campaign theme or tagline, and your sample messaging.

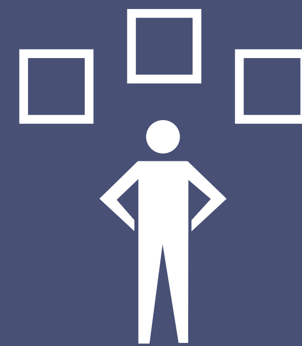
3 Portability and the Mobile Workforce 2015. Boston Research Technologies. (http://info.rch1.com/mobileworkforce)

.07 LAUNCH YOUR CAMPAIGN

It takes multiple communications to grab someone's attention. Recent research suggests that people need to be exposed to a message about 5 times before they take action.[4] Meanwhile, social media marketing potentially pushes the number of repeats even higher. What this research points to is that frequency is important. Small, bite-sized messages, delivered through multiple types of media, can help ensure that your message is heard and will inspire employees to act.

.08 SEND REMINDERS & FOLLOW-UP

In our hyper-busy, information-overloaded world, it's easy to miss an email or communication when juggling competing priorities, deadlines and demands. Be sure to schedule your reminders and follow-up communications so that your audiences are aware of key dates and deadlines.



The Theory of Effective Frequency, which was first proposed by marketing guru Herbert Krugman in the 60s, holds that viewers need to be exposed to the same ad three times before they are ready to buy a product.

4 Grant Hicks. 2006. "Guerilla Marketing for Financial Advisors"

.09 CONCLUDE & ANALYZE

Data will allow you to judge whether your campaign was successful or not. After the campaign has concluded, look back on the goals you set and evaluate the success of your campaign. Review your data to determine if you achieved your goals, and decide if you need to rethink your approach to the next campaign.

.10 COLLECT FEEDBACK & SHARE RESULTS

Consider consolidating your overall analysis, the campaign results and any feedback you receive from stakeholder groups in a report. Outline your findings and determine how you might want to adjust your approach for future retirement or financial wellness communications strategies. Then, share your report with all stakeholders and highlight your specific recommendations for future participant engagement efforts.

WORKING WITH YOUR RECORD KEEPER

Whenever possible, collaborate with your record keeper to streamline the required forms and find ways to keep the process simple.

- ☑ Reach out to your record keeper early in the planning process to help ensure a smooth and coordinated campaign for you and your participants.
- ☑ Always ask what information your record keeper needs to roll new savings into your plan efficiently.
- ☑ Prepare your record keeper for a spike in new transfers so it can have appropriate resources in place during the campaign's active period.

Questions to Ask Your Record Keeper:

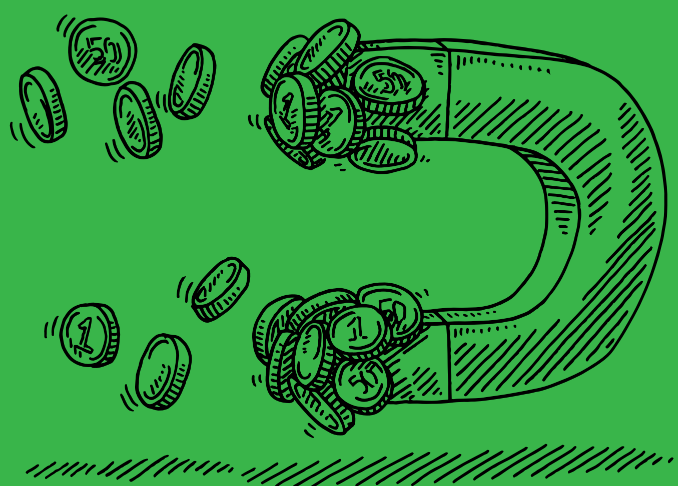
- Does your record keeper use online or paper forms for roll-ins?
- Does your record keeper have any existing communication materials you could leverage for the campaign?
- What roll-in resources, if any, exist on the record keeper's benefits website?
- What support can participants get from the call center? Are there scripts in place, and do these scripts complement the messages in the campaign?
- Is it possible to highlight the campaign directly on the benefits landing page?

SAMPLE CAMPAIGN

DON'T LEAVE YOUR MONEY BEHIND

How Many 401(k) Accounts Do You Have?

Consolidating your accounts may help you keep better track of your savings and investments—while potentially helping you cut back on the cost of maintaining multiple accounts.



CONSOLIDATE YOUR 401(k) ACCOUNTS TODAY

Talk to your benefits representative about how you can consolidate your savings by rolling them in to [Company Name's] 401(k) plan.

webaddress.com/401 | 1-800-555-5555

poster

***Tip:* Choose a Campaign Theme**

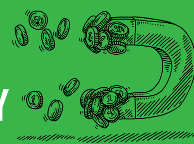
A campaign theme helps unify your content.

***Tip:* Select a Bold Image**

Choose eye-catching graphics and apply a consistent look and feel across your materials so your campaign is easily recognizable.

SAMPLE CAMPAIGN

DON'T LEAVE YOUR MONEY BEHIND
CONSOLIDATE YOUR 401(k) ACCOUNTS TODAY



The average American will hold over 11 jobs in his or her lifetime.[1] That's a whole lot of 401(k) accounts to keep track of.

What can you do to make sure you're not leaving an old 401(k) account behind? Consider rolling in your old accounts to your new 401(k) plan.

Consolidating your accounts may help you keep better track of your savings and investments, while potentially helping you cut back on the cost of maintaining multiple accounts.

Talk to a benefits representative today to get started!

1-800-555-5555

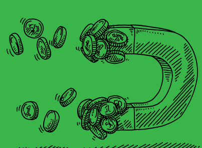
webaddress.com/401

1 Bureau of Labor Statistics, March 2015. Number of Jobs Held, Labor Market Activity, and Earnings Growth Among the Youngest Baby Boomers. (http://www.bls.gov/news.release/pdf/nlsoy.pdf)

2 Employee Benefit News. What to Look for in a Roll-in Service Provider. (http://ebn.benefitnews.com/blog/ebviews/what-to-look- for-in-a-roll-in-service-provider-2747250-1.html)

3 Portability and the Mobile Workforce 2015. Boston Research Technologies. (http://info.rch1.com/mobileworkforce)

email



DON'T LEAVE YOUR MONEY BEHIND
CONSOLIDATE YOUR 401(k) ACCOUNTS TODAY

Find out how you can get started! »

website banner

***Tip:* Create Multiple Communications**

It takes multiple communications to grab someone's attention. Utilize different channels to deliver your message.

***Tip:* Use a Clear Call to Action**

Make it easy for people to take action.

We hope that this toolkit helps you execute a successful roll-in campaign.

*To find more opportunities to help your plan participants, visit **ssga.com/definedcontribution**.*

State Street Global Advisors, One Lincoln Street, Boston, MA 02111-2900

Thank you to Kari Steen for her contributions and partnership during the development of this toolkit.

APPENDIX F

IRS Form 1099-R

9898 VOID CORRECTED

PAYER'S name, street address, city or town, state or province, country, and ZIP or foreign postal code

1 Gross distribution $

2a Taxable amount $

OMB No. 1545-0119

2016

Form 1099-R

Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

2b Taxable amount not determined ☐ Total distribution ☐

Copy A For Internal Revenue Service Center

File with Form 1096.

PAYER'S federal identification number

RECIPIENT'S identification number

3 Capital gain (included in box 2a) $

4 Federal income tax withheld $

RECIPIENT'S name

5 Employee contributions /Designated Roth contributions or insurance premiums $

6 Net unrealized appreciation in employer's securities $

For Privacy Act and Paperwork Reduction Act Notice, see the 2016 General Instructions for Certain Information Returns.

Street address (including apt. no.)

7 Distribution code(s)

IRA/ SEP/ SIMPLE ☐

8 Other $ %

City or town, state or province, country, and ZIP or foreign postal code

9a Your percentage of total distribution %

9b Total employee contributions $

10 Amount allocable to IRR within 5 years $

11 1st year of desig. Roth contrib.

FATCA filing requirement ☐

12 State tax withheld $ $

13 State/Payer's state no.

14 State distribution $ $

Account number (see instructions)

15 Local tax withheld $ $

16 Name of locality

17 Local distribution $ $

Form 1099-R Cat. No. 14436Q www.irs.gov/form1099r Department of the Treasury - Internal Revenue Service

Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

APPENDIX G

ERISA Advisory Council: Retirement Savings Roadmap

PROTECT YOUR HARD-EARNED RETIREMENT SAVINGS! UNDERSTAND YOUR OPTIONS AND AVOID UNNECESSARY FEES AND OTHER EXPENSES!

What should you do with your retirement savings when you leave your job?

It's great that you're saving in a retirement plan! The average person will have 10 jobs by the time they are 40,[1] and managing your savings through all those job changes can be tough. Here are some tips to maximize your retirement savings throughout your career.

Keep your money in a retirement plan.

In some cases, it is better to leave it with your former employer. In other cases, you might want to consolidate accounts. **Just don't cash it out if you can avoid it!**

Why not cash out?

Cashing out opens the door for taxes and penalties to eat away at your hard earned savings. So every time you cash out, you start saving from scratch all over again.

Just know: You have options

Depending on how much money you have in your account, there are several routes to take.

If Your Balance is $1,000 or Less

You may have no option but to take a check. If this is your situation, check with your plan administrator (the company your employer has chosen to manage your retirement plan) to see when you'll receive the check. Ideally, you'll deposit that into another retirement account—either a retirement plan at your new job or an Individual Retirement Account (IRA). Your plan administrator will offer you the option of making a ***direct rollover***, where the money is paid ***directly*** to the retirement plan or IRA you designate. When you choose a ***direct rollover*** (and provide instructions about where to send your money), the check or money transfer is payable to the new account and no taxes are withheld. Otherwise, the check is issued payable to you and 20% tax is withheld. You can still rollover these funds to a retirement plan or IRA on your own as long as you do it within 60 days. You'll also need to make up the 20% withholding to make a complete rollover of the entire amount that was distributed to you.

[1] Bureau of Labor Statistics

If Your Balance is Less than $5,000

When you leave your employer, you'll need to decide:

- **Do you leave your savings in your former employer's plan?** In some cases, you can keep your money in your former employer's plan. This may be a smart idea if the fees in your former employer's plan are lower than your current employer's plan. Check first to make sure that your employer will not transfer your retirement savings to an employer-selected IRA.

  See more about this under "If Your Balance is $5,000 or More, Option 1: Leave Your Savings in Your Former Employer's Plan."

- **Do you transfer your savings into your new employer's plan?** If your new employer offers a retirement plan, ask if they allow rollovers (money from a prior employer's plan) to be rolled into their plan. This choice keeps your prior employer from automatically rolling your balance into an IRA it chooses. Employer-selected IRAs often have limited investment choices and higher fees than employer plans or personally selected IRAs. Giving timely instructions to your former employer to make a ***direct rollover*** to your new employer's plan means the check will not be made payable to you and will not be subject to the 20% withholding tax on the distribution.

  See more about this under "If Your Balance is $5,000 or More, Option 2: Transfer Your Savings to Your New Employer's Plan."

- **Do you "roll-over" the money into an IRA?** In some cases, this will happen automatically. But, you need to know:
  - — You can avoid having your former employer sending your funds to an IRA it selects by giving timely instructions to make a ***direct rollover*** to a retirement plan or IRA you select.
  - — If your employer automatically transferred your money to an IRA it selected, your investment options may be limited. And the IRA may charge higher fees than an IRA you select or an employer-sponsored plan. The combination of lower investment returns and higher fees can significantly decrease the money available to you at retirement.
  - — You'll need to make new investment choices.

See more about this under "If Your Balance is $5,000 or More, Option 3: Transfer Your Balance to an Individual Retirement Account (IRA)."

[Callout] Why do fees matter? Small differences in fees can add up to *big differences* in your account balance. Over a career, that can translate into thousands of dollars. Let's take a look at the impact of a 1% difference in fees: Say you have a 401(k) account balance of $25,000 and leave it invested for 35 years. If the average return on your investments is 7% and fees and expenses reduce your average returns by only 0.5%, your balance will grow to $227,000—without contributing any more money to your account! But if fees and expenses are 1.5%—a 1% difference—your account will grow to only $163,000. That 1% difference in fees and expenses reduced your account balance by 28%.[2].

[Callout] How do I compare fees between plans? Retirement plans must provide participants with an annual fee disclosure document—called the "Annual 404a-5 Fee Disclosure Notice." Use this to compare fees and expenses between a former employer's and new employer's plan to see which offers the best investment options with the lowest fees and expenses.

If Your Balance is $5,000 or More

You have several options for your retirement savings. Consider your choices carefully.

Option 1: Leave Your Savings in Your Former Employer's Plan

Although you can no longer contribute to your account through payroll deductions, you can leave your money in your former employer's plan, and sometimes rollover additional retirement accounts, even after you leave active employment. This can be a good thing because your money will stay within an employer-sponsored plan[3]. Employer-sponsored plans are accountable for meeting high standards, including communication so you're always in the know. Employer-sponsored plans can also offer many other advantages, including:

- Lower investment fees—that can be significantly below retail rates.
- Exclusive investment options and resources—such as stable value funds and value-added services, such as independent investment advice and professionally managed accounts.
- Strong plan governance—fiduciary oversight of the investment of the designated investment alternatives.
- Tax advantages.
- Access—ability to take tax-free loans and access to money through hardship withdrawals.
- Greater protection from creditors.
- Partial withdrawals.

Just remember that the money in the account is always yours, and you can always transfer it to your new employer's plan at any time.

Option 2: Transfer Your Savings to Your New Employer's Plan

Moving money from a former employer's plan to a new employer's plan is also known as a plan-to-plan rollover. It generally involves four important steps that must be followed carefully to ensure that the rollover does not result in an unintended taxable distribution, which happens when money leaves a former employer's plan and isn't deposited into the new employer's plan within 60 days.

[2] https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/publications/401kFeesEmployee.pdf and can be accessed through https://www.dol.gov/ebsa/publications/.

[3] Most employer-sponsored plans are governed by the Employee Retirement Income Security Act (ERISA) of 1974 which requires certain standards for the plan that are beneficial to plan participants.

1. Check with your former employer to confirm funds may be transferred out of their plan, and how to initiate the transfer. Ensure that your current employer will accept your transferred funds into its plan.
2. If your current employer accept rollovers, ask what you need to do to make it happen, and follow the steps and/or file any necessary paperwork with your former employer to initiate a direct rollover to your new plan.
3. Supply the necessary paperwork and documentation to your new employer to prove that the funds are coming from a retirement plan that is "intended to be qualified" and are eligible to be rolled over into your new employer's retirement plan.
4. Ideally, your former employer's plan will transfer the funds into your new employer's account electronically. If you receive the check from your former plan made payable to you, **it must be deposited into your new plan within 60 days**[4] and any money that was withheld for taxes must be replaced with an additional payment. Otherwise, it will be considered a taxable cash out and may be subject to taxes and penalties.

Before initiating a rollover, review the features of both plans. Specifically, look at the investment options available and the fees charged by each. Both of these are key factors affecting how much money you will have in retirement. Also consider other features, such as the types of distribution options at retirement and whether the plans provide access to loans. Also consider how important it is to you to have all your savings in one place.

Certain situations can make a rollover decision more complex:

- If you have an outstanding loan from your former employer's plan, it may be possible to keep that loan in place. However, you may be required to pay it off when you terminate employment. You should discuss this situation with your former employer's plan administrator before your last day.
- If your plan allows you to buy employer securities (company stock) within your plan, selling and/or transferring the securities or proceeds may mean higher taxes when you withdraw your money in retirement. It is highly recommended that you speak with a tax advisor.
- If you have what is known as a "self-directed brokerage account" as part of your former employer's plan, you may need to sell certain holdings before you can roll them over into a new employer's plan. Check with your new employer's plan administrator.

If any of these circumstances apply to you, seek advice from a qualified financial advisor before taking action so you fully understand the implications of your decision.

Option 3: Transfer Your Savings to an Individual Retirement Account (IRA)

Transferring to an IRA provides a wide range of investment choices and allows tax-free growth. However, IRAs can charge fees that are significantly higher than what you'd pay in an employer-sponsored retirement plan. Higher fees can eat away at your balance and affect the amount of money available to you at retirement.

[4] The Internal Revenue Service, in its Revenue Procedure 2016-47, created a procedure for participants to be granted an automatic waiver of the 60-day limitation under a variety of circumstances. The new procedure includes a sample self-certification letter that a taxpayer can use to notify the administrator or trustee of the retirement plan or IRA receiving the rollover that they qualify for the waiver.

Also, you will need to wait until you are 55 to take money out (without penalties). Unlike IRAs that require an individual to be 59-1/2 to receive a distribution without penalties, you can receive penalty-free distributions from an employer-sponsored plan beginning at age 55.

Option 4: Take the Money as Cash and Pay Penalties

Not a good idea most of the time. While it may seem like a good way to solve a short-term cash problem, it can cost you a lot in the long-term. If you're under age 55, your cash out may be reduced by an automatic 10% early withdrawal penalty. And regardless of your age, most plan administrators are required to withhold an additional 20% for taxes. (And you may owe even more tax on top of that.) For example, if your retirement plan balance is $20,000, a cash out may leave just $14,000 in cash after the penalty and withholding.

APPENDIX H

Sample Plan Sponsor Education

Helping Workers Save for Retirement is Good for Business

How Plan Sponsors Help Employees and Former Employees Succeed

Many Americans struggle with their finances and make costly mistakes with their retirement plans—particularly when changing jobs. Fortunately, plan sponsors can make changes that will significantly reduce these mistakes and improve outcomes for everyone.

Based on current trends, Americans may have ten or more employers over the course of their careers. And with each job change, workers are faced with the question of what to do with their hard-earned retirement savings.

To successfully reach and navigate retirement, workers need more guidance in order to act in their own best interests. For many, this is keeping and/or consolidating their retirement assets within the employer-sponsored retirement system. Unfortunately, barriers, such as the time required to make multiple phone calls or complete lengthy forms, make it easier for some to simply cash out their retirement savings. While this is an easy choice, it's an expensive one.

We believe plan sponsors are uniquely positioned to take small, but critical actions that can have a profound impact on current employees, former employees, and new hires.

Allow rollovers into your plan

If your plan does not currently accept rollover contributions, consider amending it to permit them. Take it a step further by making it easy for participants to "map" to your plan, by accepting after-tax contributions and designated Roth accounts from other employer-sponsored plans and/or from IRAs[i]. Your administrator can help you design and administer this option.

Simplify the rollover process

Work with your administrator to simplify rollovers and minimize paperwork. Plan determination letters from previous plans **are not required**, and are being phased out by the IRS. Revenue Ruling 2014-9 provides updated guidance to validate the permissibility of a rollover source:

- The employee certifies the source of the funds.
- The payment source on the incoming rollover check or wire transfer is verified as the participant's IRA or former plan.
- Use the DOL EFAST2 database to verify that the source plan is intended to be a qualified plan.

Communicate with current and new plan participants

- When you welcome a new employee to the company, provide information about your retirement plan and invite them to join it. Promote the benefits of keeping their money in an employer-sponsored plan, and highlight that yours accepts rollovers—allowing your new hire to keep all their retirement money in one account.
- Provide reminders about rollovers in periodic pension benefit statements, and highlight the benefits of consolidating retirement accounts.

- Engage a service provider to help your employees individually navigate the rollover process to ensure successful transfers into your plan.

Help participants leaving the plan

Clearly communicate options

Retirement plan participants are typically advised that they have four options for their account balance when they terminate employment:

1. Leave it in the prior employer's plan;
2. Move it to the new employer's plan;
3. Transfer it to an IRA; or
4. "Cash out."

Because each of these four options may lead to very different long-term outcomes, it's critical to communicate the implications of each.

For many employees, keeping their retirement savings in an employer-sponsored plan can lead to the best outcome. Cashing out often leads to penalties and taxes, significantly affecting future financial security.

The cost of doing nothing can be very high for participants with balances between $1,001 and $5,000. Unless they provide other instructions, their balances may be swept into a Safe Harbor IRA, with very limited growth and high fees that eat away at balances.

Participants should also understand the cost of accumulating multiple small accounts over the course of their working career. Paying high administrative fees across multiple accounts can significantly erode balances. And participants with different investments funds in numerous plans may not be able to see the "big picture" of what their overall asset allocation really is, and how it might be improved to better reflect their own risk profile and investment return goals.

For many workers, consolidating their retirement savings in an employer-sponsored plan can offer:

- Simplicity—one account for consistent investment decisions, control, and tracking.
- Lower investment fees—that can be significantly below retail rates.
- Unique investment options and resources—such as Stable Value Funds to reduce risk, and value-added services, such as independent investment advice and professionally managed accounts.
- Strong plan governance—fiduciary oversight of the investment of the designated investment alternatives.
- Tax advantages.
- Access—ability to take tax-free loans and access to money through hardship withdrawals.
- Greater protection from creditors.
- Partial withdrawals.

Effectively manage sweep outs

If your plan requires a sweep out of participants' accounts into a Safe Harbor IRA, ensure that your plan's written agreement with your administrator requires that the rolled-over assets:

- Are invested in a financial product offered by a state or federally regulated financial institution;
- Are designed to preserve principal and provide a reasonable rate of return; and
- Incur fees and expenses comparable to individual retirement plans established for reasons other than the receipt of a rollover distribution.

Selecting and monitoring a Safe Harbor IRA provider is a fiduciary function for the plan sponsor. Ensure participants have access to a summary plan description (or a summary of material modifications), including an explanation of how the assets will be invested, how fees and expenses will be paid, and information explaining how to contact the plan.

Allow for loan repayment

If your plan allows loans, consider amending it to allow former employees to continue repaying loans after termination. Also think about adding features that make it easier to transfer remaining assets to a new employer's plan.

Permit partial rollovers

If your plan allows multiple types of contributions (e.g., pre-tax, after-tax, Roth), consider allowing partial rollovers. This would let participants maintain contributions in your plan that are not supported by their new employer's plan.

Partner with your administrator to streamline the process

- Validate permissible rollovers from other employer-sponsored plans by utilizing the EFAST2 database to confirm that a "sending plan" is intended to be a qualified plan.
- Review the process for facilitating "roll outs" to terminated workers' new employer plans to determine if they can be more efficient and easier for the employee.
- Amend your contract to prohibit your administrator from directing participants toward an affiliate's IRA platform without your approval.

Preparing workers for retirement is good for business

More assets and larger account balances in your plan can pay off with lower investment management fees and reduced administrative costs. Even if your plan doesn't pay these expenses directly, lower fees mean higher investment returns for participants.

Workers without the distraction of financial stress are more engaged and productive. Improvements in financial security can reduce absenteeism and increase job satisfaction. Facilitating rollovers in and out of a retirement plan is one significant step that plan sponsors can take to improve the long-term success of their business by allowing all workers to save consistently throughout their careers—reducing financial stress and improving retirement outcomes.

FAQs

Q1. Am I obligated to certify that a rollover accepted by my plan is a "permissible rollover" from a qualified plan?

A1. To retain the qualified status of your plan, you must reasonably conclude that the assets rolled in are permissible under IRC 401(a)(31), Q&A-14(b)(2). The IRS simplified the process in Revenue Ruling 2014-9.

Q2. Do I need a favorable determination letter from the employee's previous plan(s) to prove a rollover is permissible?

A2. No. In fact, the IRS is phasing out its determination letter program. Here's how to reasonably conclude that a rollover is permissible:

- Your administrator can utilize EFAST2 to learn if the sending plan is intended to be a qualified plan.
- If the Form 5500 of the distributing plan indicates that that plan is intended to be a qualified plan. (If code 3C is not included under Question 8a on Form 5500 or under Question 9a on Form 5500SF, the sponsor can reasonably assume that the plan is intended to be qualified.)
- If the payment source on the incoming rollover check or wire transfer is verified as the participant's IRA or former plan.
- If the employee certifies that the funds are from a qualified plan.

Q3. What happens if my plan accepts an impermissible rollover?

A3. If you learn that a rollover was impermissible, the plan must return the money to the participant. Your plan will not be penalized if you reasonably concluded that the roll in was permissible and took the necessary steps to return it. The Employee Plans Compliance Resolution System (EPCRS) offers a number of remedies.

Q4. If a participant misses the 60-day period for an indirect rollover, can my plan accept the funds?

A4. In Revenue Procedure 2016-47, the IRS explains different circumstances that qualify participants for an automatic waiver of the 60-day limitation. The procedure includes a sample self-certification letter that a participant can use to notify the plan administrator, trustee, or IRA receiving the rollover that they qualify for the waiver.

Q5. Can my organization prevent participants from cashing out?

A5. Once an employee leaves your organization, you can't stop them from cashing out of your plan. However, you can describe the implications of each of the four distribution options to make sure participants are fully aware of the short- and long-term implications of cashing out. You can revise the order in which the options are presented to participants as a way for them to focus first on those options that are likely to lead to better long-term outcomes, specifically profiling first the alternatives that keep monies in employer-sponsored plans.

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[i] Some forms of IRA contributions may not be permissible rollovers.