

March 29, 2024

Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Room N-5655  
Department of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

Re: Automatic Portability Transaction Regulations, RIN 1210-AC21

Dear Sir or Madam:

Inspira Financial Trust, LLC (“Inspira”) is pleased to submit these comments in response to the Department of Labor’s (the “Department”) proposed regulation under Section 120 of the SECURE 2.0 Act of 2022 (“SECURE 2.0”), which provides a prohibited transaction exemption for automatic portability transactions. Inspira supports the goal of section 120 and other provisions of SECURE 2.0, such as the new Retirement Savings Lost and Found Registry, that are aimed at connecting more American savers with their retirement benefits – a mission that Inspira focuses on every day. In the continuing drive to make sure that Americans do not lose track of their retirement savings, we want to be part of the solution. To this end, Inspira has initiated discussions with the Portability Services Network (“PSN”) to support their efforts. Inspira believes that automatic portability, as an optional add-on service to existing automatic rollover individual retirement account (“IRA”) solutions, can improve retirement outcomes.

Inspira<sup>1</sup> is a comprehensive health, wealth, retirement, and benefits solutions provider. We are recognized as the nation’s largest independent provider of automatic rollover IRA solutions. That is, Inspira establishes more automatic rollover IRAs than any other IRA custodian, other than 401(k) recordkeeping firms that use their own in-house IRA solution for automatic rollover IRAs. Since 2005, we have invested tens of millions of dollars in our automatic rollover IRA service to create a differentiated, best in class solution that advances the effectiveness of the overall retirement system by addressing the critical automatic rollover needs of 401(k) plan providers, employer plan sponsors, and individual plan participants.

### **Automatic Rollover Accounts Provide Value to Plan Sponsors**

In 2001, Congress amended the law to require that if a participant’s small balance account is cashed out, and if the participant does not elect to receive the distribution directly in cash or in a rollover, the plan must open up an IRA in the name of the participant and pay the

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<sup>1</sup> Inspira Financial is the new name under which two well-established leaders in the retirement and wealth, and health and benefits space – Millennium Trust Company and PayFlex – operate.

distribution in the form of a direct, or automatic, rollover.<sup>2</sup> Automatic rollover IRAs have proven to be a critical and successful part of America's private retirement system, valued by thousands of plan sponsors as an integral part of the prudent management of their plan and its resources. By instituting a cash-out feature, coupled with the required automatic rollover IRA solution, the plan sponsor reduces plan expenses and administrative burden.

Before the creation of automatic rollover IRAs, plan sponsors would simply send a check to an unresponsive former employee, which would subject the former employee to tax and possibly early withdrawal penalties, and if not dealt with quickly, forever prevent them from rolling it over to a tax-advantaged savings vehicle. Congress' 2001 solution to require automatic rollovers to IRAs has kept savings in the tax-deferred retirement system and maintained for former employees the tax advantages they enjoyed in their plans. In short, *automatic rollover IRAs prevent leakage*.

### **Automatic Rollover IRAs are Critical to Automatic Portability**

Congress clearly defined an automatic portability transaction ("APT") as the movement of an automatic rollover IRA into a new employer plan. In other words, only small balances that are cashed out from a plan and transferred to an automatic rollover IRA are eligible to be ported to a new 401(k). As automatic portability is developing, automatic rollover IRAs will continue to be the most important part of the solution for unresponsive and missing participants. The law does not allow a plan sponsor to cash-out a participant with a benefit in excess of \$1,000 *unless* the plan sponsor places the account in an automatic rollover IRA. And for a variety of reasons, many participants whose balances are cashed out will not generate a match at a new employer, because, for example, the individual has left the workforce or goes to work for an employer that does not have a plan or that has not adopted automatic portability.

Plan sponsors will continue to desire to cash-out small balances of former employees to reduce plan costs for current employees and to reduce administrative burden. It remains critical that automatic rollover IRAs are with an automatic rollover provider that will search for, find, and engage the individual, and provide easy-to-execute options that an individual determines to be in their best interests, including porting the savings to a new employer's plan at the individual's direction. Automatic rollover IRA providers should be selected for the services they provide on an ongoing basis to reunite separated participants with their retirement savings.

The Department's proposal recognizes the importance of creating competition. Under the proposal, an automatic portability provider ("APP") may not restrict or limit the ability of a plan, IRA provider, or recordkeeper to engage other APPs to execute APTs. While we support the open participation concept, we would point out that competition among automatic portability *networks* may not best serve the goal. Multiple auto portability networks will decrease the likelihood of successful auto portability matches, unless the networks interconnect.

***It is critical, however, that a plan sponsor or recordkeeper can choose whichever automatic rollover IRA provider they believe is best.*** We would ask the Department to consider this as it finalizes the regulation. More important than competition among portability *networks* is competition among automatic rollover IRA providers, so that there is market pressure and incentives to deliver world-class automatic rollover IRA solutions, either in terms of

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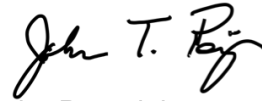
<sup>2</sup> Code § 401(a)(31)(B). Generally, a participant may not be cashed out upon termination of employment unless his or her balance is \$7,000 or less (a limit increased by SECURE 2.0 from \$5,000). A plan sponsor is not required to open up an IRA if the balance in the account is \$1,000 or less, but a plan sponsor may do so.

searching for and engaging with individuals or delivering quality IRA investment options and services, unless and until an auto portability match occurs.

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We appreciate the Department's consideration of our comments. As a leader in wealth, retirement, health savings and benefits solutions, and especially as the largest independent automatic rollover IRA provider, we stand ready to help you implement the innovations in SECURE 2.0, including automatic portability and the Retirement Savings Lost and Found Registry. If you have any questions, please contact the undersigned at [john.perugini@inspirafinancial.com](mailto:john.perugini@inspirafinancial.com) or (630) 472-5989.

Respectfully submitted,

A handwritten signature in black ink that reads "John T. Perugini". The signature is written in a cursive style with a large, stylized initial "P".

John Perugini  
General Counsel