

# RETIREMENT ACCOUNT ROLLOVER RECOMMENDATION CHECKLIST

**This Checklist is not intended to provide comprehensive treatment of each issue an SEC-registered investment adviser may need to address under the Employee Retirement Income Security Act of 1974 (ERISA) or the Investment Advisers Act of 1940 (Advisers Act), and it is not a substitute for legal advice. Each advisory firm must tailor its procedures to the firm's own operations, business, and clients. Although the IAA may update this Checklist to reflect additional information, the IAA undertakes no responsibility to provide such an update.**  
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## INTRODUCTION

As the SEC explained in its June 2019 Interpretation of the Advisers Act fiduciary duty, an adviser's fiduciary duty under the Advisers Act applies to all investment advice that an adviser provides to its clients, including advice about account type. Advice about account type includes advice about whether to roll over assets from one account (such as an account held in a 401(k) plan) into a new or existing account, such as an individual retirement account, or IRA, that the adviser or an affiliate of the adviser manages. These transactions are considered "rollovers."

If you recommend that a client or potential client roll over assets, you may want to document the specific reason(s) why this recommendation is considered to be in the best interest of the client or potential client. The SEC's Office of Compliance Inspections and Examinations (OCIE) may examine whether advisers have a reasonable basis for their retirement recommendations. See OCIE's June 2015 Risk Alert regarding its Retirement-Targeted Industry Reviews and Examinations (ReTIRE) Initiative and OCIE's annual examination priorities.

In order to make a recommendation, you will need information about the client's retirement plan, which may be available from the following sources:

- **Recent Plan Statements from the Client.** If the client directs his/her own investments under the plan, then the client will receive information on all of the investments available under the plan, including performance and fees, at least quarterly. The disclosures that are required to be provided to plan participants are summarized in a Department of Labor publication entitled *Maximize Your Retirement Savings – Tips on Using the Fee and Investment Information From Your Retirement Plan*, available at, <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/maximize-your-retirement-savings.pdf>. This information may also be available via a website maintained by an in-house plan administrator or the plan's third-party recordkeeper.
- **Summary Plan Description (SPD) from the Client.** This document may provide additional information on the plan and its investments.

- **Required Notice of Distribution Options.** This document is required under section 402(f) of the Internal Revenue Code and must be provided by the plan administrator to each recipient of an eligible rollover distribution. The 402(f) notice discusses the income tax implications of various distribution options and typically is “generic,” but may provide some insight into the specifics of the plan.
- **Participant Request to Plan Administrator or Recordkeeper.** The client may need to ask the plan administrator or recordkeeper about the plan features and investments. Some plans will respond to inquiries from third parties, such as advisers, with client consent.
- If the adviser is unable to obtain the information even after full and fair disclosure to the participant of its significance, then the adviser may rely on alternative data sources. Such sources may include publicly available information via the plan’s Form 5500 filings or reliable benchmarks for plans of the same type and size.

## CHECKLIST

The following checklist details factors that your firm and employees should consider in making a rollover recommendation. Please note that these factors are not exclusive, and other factors may be relevant in formulating a recommendation for a particular client or potential client.

- What are the client’s alternatives to a rollover, including leaving the money in the current plan (if permitted under the plan, which may require cashouts of balances under a certain amount)?**

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- What are the fees and expenses that the client would pay under the plan versus the IRA, for example,**

- Does the employer pay for some administrative fees under the plan that the client would pay in an IRA?

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- What are the fees and expenses under the plan versus the IRA? Examples include fees for investment advice, including management or allocation, and transaction fees.

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- If alternative data sources were used to collect certain information, how have you determined that the benchmark or other data were reasonable, and are there any limitations related to the data?

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**What are the services available under each option?**

- Does the plan provide access to investment advice, planning tools, telephone or online assistance, educational materials and workshops or other services that would not be available if the client left the plan?

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- Does the IRA provide investment advice and distribution planning or other services?

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**What are the investments available under each option (using options that are reasonably foreseeable for the IRA)?**

*(Attach chart comparing investment options, including related fees)*

**Would the client benefit from other features available in plans but not IRAs, or vice versa, e.g.,**

- Penalty-free withdrawals between 55 and 59-1/2?

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- Plan loans?

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- Protection from legal judgments?

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- Beneficial tax treatment of employer stock?

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- Availability and quality of advice within plan?

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- The client's other accounts and impact on the assets at issue?

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**Based on the above, what is your recommendation and why is it in the best interest of the client?**

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**Have you documented, disclosed, and explained any financial or other incentives you have to recommend a particular account, investment, or share class?**

**If your client is a retail investor, as defined in Form CRS, and you make a rollover recommendation, have you delivered (or re-delivered for an existing client) the most recent version of your Form CRS to the client?**