

# THE DOL FIDUCIARY EXEMPTION: THE IAA'S GUIDE FOR INVESTMENT ADVISERS

**This Guide and Appendix are not intended to provide comprehensive treatment of each issue an SEC-registered investment adviser may need to address under the DOL Fiduciary Exemption, the Employee Retirement Income Security Act of 1974 (ERISA), the Internal Revenue Code of 1986 (Code), 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 Guide to reflect additional information, the IAA undertakes no responsibility to provide such an update.**

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### Introduction

- If your advisory firm (referred to below as “you”) is a discretionary investment adviser, you are already a fiduciary under **ERISA** and the Internal Revenue Code (**Code**) to your ERISA plan and IRA clients, as well as a fiduciary under the Investment Advisers Act.
  - Even though IRAs are not covered by ERISA, they are covered by the Code provisions that impose penalties on “prohibited transactions.”
- When you receive additional assets to manage as a result of a rollover transaction that you recommended, ERISA and the Code may prohibit you from receiving fees resulting from that rollover, including advisory fees, unless an exemption applies. Advisers previously could rely on a DOL Advisory Opinion (**Deseret**) that advice to roll assets out of a retirement plan to an IRA generally did not constitute investment advice, unless the adviser was already a fiduciary to the plan. The DOL withdrew Deseret when it adopted [Prohibited Transaction Exemption 2020-02, Improving Investment Advice for Workers & Retirees \(the Fiduciary](#)

**Exemption**). The DOL published two sets of Frequently Asked Questions (**FAQs**) related to the exemption. The FAQs for investment advice fiduciaries are available at: <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/faqs/new-fiduciary-advice-exemption>. The FAQs for investors are available at <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/faqs/choosing-the-right-person-to-give-you-investment-advice>.

- With Deseret withdrawn, the advice to roll over assets is considered fiduciary investment advice if: (1) the five-part test defining fiduciary investment advice is satisfied; or (2) a person who manages participant accounts for a plan recommends the rollover transaction (even if the rest of the five-part test is not met). Fiduciary investment advice is nondiscretionary advice, and because action must be taken by the client to initiate a rollover, the DOL considers advice to roll over assets to be nondiscretionary, even when you plan to manage a client's IRA assets on a discretionary basis after the rollover. Therefore, you need to determine whether you are providing fiduciary investment advice when you recommend a rollover and, if so, whether you need to rely on the Fiduciary Exemption.
- Note that the Fiduciary Exemption may be necessary for only a relatively short period of time (the period that begins with your recommendation to roll over assets and ends with entering into the investment management agreement). The exemption does not generally provide relief for prohibited transactions associated with your ongoing discretionary advice under your investment management agreements with these clients.
- Also note that "rollovers" include not only rollovers from plans to IRAs, but also from an IRA to another IRA, an IRA to a plan, a plan to another plan, and from one type of account to another (brokerage to advisory, and vice versa).

### **The Five Part Test: What is it, and Have I Satisfied it?**

Advice to a client or potential client to roll over assets will be fiduciary investment advice if the following five-part test is satisfied:

1. For a fee, you render advice as to the value of securities or other property, or make recommendations as to the advisability of investing in, purchasing, or selling securities or other property;
2. On a regular basis;
3. Pursuant to a mutual agreement, arrangement, or understanding with the client, that;
4. The advice will serve as a primary basis for the investment decision to roll over the client's assets, and;
5. The advice will be individualized based on the particular needs of the client.

The DOL has interpreted these requirements broadly. For example, as long as you will receive a fee when the client hires you (or receive an additional fee in the case of a new mandate for an existing client), then you will be providing investment advice for a fee. Also, the regular basis requirement is satisfied if you plan to provide ongoing discretionary advice regarding the client's IRA assets.

Thus, if you plan to provide ongoing advice for a fee regarding the assets that the client is rolling over, and you are recommending that the client roll over assets, you will likely satisfy the five-part test. In addition, if you manage participant accounts for an ERISA plan on a discretionary basis, you may be an investment advice fiduciary by recommending a rollover to a plan participant while serving in that role, even if you do not meet the other elements of the five-part test.

### **What Is Not Considered Fiduciary Investment Advice?**

In the following situations you would not be providing fiduciary investment advice, and you would not need to rely on or comply with the Fiduciary Exemption:

- **The client has already made the decision to roll over assets:** If a potential or existing client decides to do a rollover without a recommendation from you (for instance, the client has already decided to roll over assets before speaking to you about it), then you are not likely to be viewed as providing investment advice.
- **You provide only educational information:** Under [Interpretive Bulletin 96-1](#), providing certain types of educational information is not providing investment advice. Educational information includes:
  - **Plan information**, including, among other things, information about the benefits of plan participation, the impact of preretirement withdrawals on retirement income, and the investment alternatives under the plan (but not including references to the appropriateness of any individual investment option for the client or potential client).
  - **General financial and investment information**, including, among other things, general concepts such as risk and return, diversification, dollar cost averaging, compounded return, and tax deferred investment; historic differences in rates of return among different asset classes, effects of inflation, estimating future retirement income needs, determining investment time horizons, and assessing risk tolerance, without referring to the appropriateness of any particular investment for the client or potential client.
  - **Asset allocation models** of hypothetical individuals with different time horizons and risk profiles, based on generally accepted investment theories that take into account historic

returns of different asset classes over defined periods of time and satisfy certain other criteria.

- **Interactive investment materials**, such as questionnaires, worksheets, software, or other materials that provide a client or potential client the means to estimate future retirement income needs and assess the impact of different asset allocations on retirement income, and satisfy certain other criteria.
- If you decide to provide **only** educational information (and not a recommendation), you may want to develop a “script” to avoid crossing the line into a recommendation.
- **Hire Me Discussions:** If you are engaged in general marketing activity or introductory conversations to promote advisory services without recommending a rollover or that a participant purchase particular funds or securities, this would likely fall outside the definition of fiduciary investment advice.
  - Note that these communications could become “recommendations” if they include information that the potential client could view as individualized to the potential client.
- Where the client has already made the rollover decision, or you only provide educational information or engage in hire me discussions, you may wish to consider building in a process to document (by client acknowledgment or otherwise) that you did not make a recommendation regarding the rollover. Use of a script in these situations could also help with documentation in this regard.

### **What If I Provide Fiduciary Investment Advice?**

If you provide fiduciary investment advice with respect to the rollover, then you will need to rely on the Fiduciary Exemption, unless you plan to rely on another ERISA exemption.

You **cannot rely** on the Fiduciary Exemption if:

- You are the employer of employees covered by the plan, or you were selected by your affiliate who is a named fiduciary or plan administrator of the plan;
- You provide advice solely through an interactive website without any personal interaction between the client and any of your investment professionals; or
- You exercise fiduciary discretion (rather than provide fiduciary investment advice) over the rollover transaction. This situation is not very common, and would apply where a client provided you authority to manage the client’s account in the retirement plan, for example, through a power of attorney or online access. Advisers with this authority should consider whether it raises issues under the Advisers Act Custody Rule (Rule 206(4)-2).

In these situations, you would need to rely on another ERISA exemption in order to make a fiduciary rollover recommendation.

### **What Are the Requirements to Rely on the Fiduciary Exemption?**

In order to rely on the Fiduciary Exemption with respect to a fiduciary rollover recommendation, you and your investment professionals (employees, independent contractors, agents and/or representatives) must comply with the following requirements:

- **Impartial Conduct Standards**, which include:
  - Providing advice that is, at the time it is provided, in the **best interest** of the client.
    - Advice is in a client's best interest if it meets a standard of care that is essentially the same as the ERISA standard of care. Specifically, the advice "reflects the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, based on the investment objectives, risk tolerance, financial circumstances, and needs of the [client], and does not place the financial or other interests of the [adviser, its investment professionals, affiliates, and related parties] ahead of the interests of the [client], or subordinate the [client's] interests to their own."
    - The DOL says that this best interest standard is "broadly aligned" with the [SEC's fiduciary duty interpretation for investment advisers](#).
  - Receiving **no more than reasonable compensation**, directly or indirectly;
  - Seeking to obtain **best execution**, as required by the federal securities laws; and
  - **Not making materially misleading statements**.
- **Disclosures**: You must provide the following written disclosures to the client or potential client prior to engaging in a transaction under the Fiduciary Exemption:
  - A **written acknowledgement that you and your investment professionals are fiduciaries under Title I of ERISA and the Code, as applicable**, with respect to any fiduciary investment advice provided by you or your investment professional to the client or potential client.

- The DOL provides the following model language in the preamble and FAQs to assist in complying with the Fiduciary Exemption. The DOL says that this language is an example of language that satisfies the written acknowledgement requirement, but this specific language is not in the text of the Fiduciary Exemption:

*When we provide investment advice to you regarding your retirement plan account or individual retirement account, we are fiduciaries within the meaning of Title I of the Employee Retirement Income Security Act and/or the Internal Revenue Code, as applicable, which are laws governing retirement accounts. The way we make money creates some conflicts with your interests, so we operate under a special rule that requires us to act in your best interest and not put our interest ahead of yours.*

As an alternative, you may wish to include your status as a fiduciary under the Advisers Act and use the following acknowledgment. The last two sentences of the text below are from Form CRS:

*We are fiduciaries under the Investment Advisers Act of 1940 and when we provide investment advice to you regarding your retirement plan account or individual retirement account, we are also fiduciaries within the meaning of Title I of the Employee Retirement Income Security Act and/or the Internal Revenue Code, as applicable, which are laws governing retirement accounts. We have to act in your best interest and not put our interest ahead of yours. At the same time, the way we make money creates some conflicts with your interests.*

- The DOL provides the following additional model language that could be used to more fully explain the Fiduciary Exemption, but the exemption does not require it:

*Under this special rule's provisions, we must:*

- *Meet a professional standard of care when making investment recommendations (give prudent advice);*
- *Never put our financial interests ahead of your when making recommendations (give loyal advice);*
- *Avoid misleading statements about conflicts of interest, fees, and investments;*
- *Follow policies and procedures designed to ensure that we give advice that is in your best interest;*
- *Charge no more than is reasonable for our services; and*

- *Give you basic information about conflicts of interest.*
- A **written description of the services to be provided and your and your investment professional's material conflicts of interest** that is accurate and not misleading in all material respects.
  - The DOL has said that advisers may rely, in whole or in part, on other regulatory disclosures, such as Form CRS and Form ADV, to satisfy this requirement.
- Prior to engaging in a rollover, **documentation of specific reasons why the rollover recommendation is in the client's or potential client's best interest.** The documentation should include:
  - The client's alternatives to a rollover, including leaving the money in the current plan, if permitted, and selecting different investment options;
  - The fees and expenses associated with each option, including whether the employer pays some or all of the plan's administrative expenses; and
  - The different levels of service and investments available under each option.
  - Although technically only applicable to broker-dealers, [FINRA Regulatory Notice 13-45](#) may be helpful in setting out considerations in making a rollover recommendation, including:
    - Investment options may be broader in an IRA, but the plan may have options with lower costs because of institutional pricing;
    - Fees and expenses under the IRA versus the plan;
    - Services available from the plan versus the IRA provider;
    - Penalty-free withdrawals from the plan that would not be available from an IRA;
    - Protection from creditors and legal judgments may be more extensive under the plan;
    - Required minimum distributions at age 72 from an IRA but not always required from a plan; and
    - Special tax treatment of employer stock when received from a plan is not available for an IRA distribution.
  - If your recommendation is that the client or potential client roll over from one IRA to another, one plan to another, or move from a commission-based to a fee-based account, you should document why the recommendation is in the best interests of the client or potential client, including the services that will be provided for the fee.



- **See the Appendix for a rollover recommendation checklist.** You should consider asking the client to acknowledge in writing that the client has received the rollover recommendation documentation. You must also retain a copy of the rollover recommendation documentation for your records.
- If your recommendation is that the client not roll over assets but the client decides to go ahead with a rollover, document your recommendation, ask the client to acknowledge in writing that you have so advised the client and the client has decided to roll over regardless, and keep a record of the client's acknowledgment.
- **Policies and Procedures:**
  - You must establish, maintain, and enforce **written policies and procedures prudently designed to ensure that you and your investment professionals comply with the Impartial Conduct Standards** (discussed above) in connection with fiduciary advice and transactions covered by the exemption.
    - Your current policies and procedures may already address the Impartial Conduct Standards.
  - Your policies and procedures **mitigate conflicts of interest** to the extent that a reasonable person reviewing the policies and procedures and incentive practices as a whole would conclude that they do not create an incentive for your or your investment professional to place your interests ahead of the interests of the client.
    - For advisers that will only rely on the Fiduciary Exemption for rollovers and will charge a level fee for ongoing advice after the rollover, the DOL says in the preamble to the exemption that the adviser's policies and procedures should focus on rollovers, and the requirement to document each rollover recommendation, including why a recommendation is in the client's best interest. The DOL also cautions against "reverse churning" and recommending that a client hold an asset "solely to generate more fees."
  - You must **document the specific reasons that any recommendation to roll over assets is in the client's best interest.** See the Disclosures section above for specific issues to consider in documenting rollover recommendations. You may consider providing and documenting **training** of investment professionals on this requirement.

- **Retrospective Review:**
  - You must **conduct a retrospective review, at least annually**, that is reasonably designed to assist you in “detecting and preventing violations of, and achieving compliance with, the Impartial Conduct Standards and the policies and procedures governing compliance with the exemption.”
  - You must **prepare a written report** describing the methodology and results of the retrospective review and provide it to a Senior Executive Officer.
    - A **Senior Executive Officer includes** your chief compliance officer, chief executive officer, president, chief financial officer, or one of your three most senior officers.
  - A **Senior Executive Officer must annually certify** that:
    - The officer has reviewed the report;
    - You have in place policies and procedures “prudently designed to achieve compliance with the conditions of the exemption;” and
    - You have in place a prudent process to:
      - Modify your policies and procedures “as business, regulatory, and legislative changes and events dictate;” and
      - Test the effectiveness of your policies and procedures “on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with the conditions” of the exemption.
  - The review, report, and certification **must be completed no later than six months** following the end of the period covered by the review.
  - You must **retain the report, certification, and supporting data for six years** and make them available to the DOL within 10 business days of a request.
- **Recordkeeping:** You must **maintain records demonstrating compliance with the exemption for six years**.
  - Examples of records include documentation of rollover recommendations, written policies and procedures, the retrospective review, training materials, scripts used, etc.
  - You must make records available to the DOL or Treasury upon request.
- **Self-Correction:** The Fiduciary Exemption includes a self-correction provision in situations where a violation of the exemption’s conditions did not result in investment losses to the

client or the adviser made the client whole for any resulting losses. The self-correction provision includes specific timing and notification requirements.

- **Eligibility:** The Fiduciary Exemption is not available if a firm or investment professional becomes ineligible due to a conviction of certain crimes, or if the DOL sends a written ineligibility notice.

# RETIREMENT ACCOUNT ROLLOVER RECOMMENDATION CHECKLIST

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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 and advice about rollovers.

In February 2021, the Department of Labor (DOL) [Prohibited Transaction Exemption 2020-02, Improving Investment Advice for Workers and Retirees \(Fiduciary Exemption\)](#), became effective. In order to rely on the Fiduciary Exemption, ERISA investment advice fiduciaries must comply with several requirements in connection with rollover recommendations and recommendations to move assets from one type of account to another. These requirements include providing written documentation to the client or potential client prior to the rollover transaction that includes specific reasons why the rollover recommendation is in the client's best interest. Advisers relying on the Fiduciary Exemption also must follow all other requirements, including policies and procedures, retrospective review, and recordkeeping.

The DOL published two sets of Frequently Asked Questions (FAQs) related to the exemption. The FAQs for investment advice fiduciaries are available at:

<https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/faqs/new-fiduciary-advice-exemption>. The FAQs for investors are available at <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/faqs/choosing-the-right-person-to-give-you-investment-advice>.

See *The DOL Fiduciary Exemption: The IAA's Guide for Discretionary Investment Advisers* for additional information about the Fiduciary Exemption.

For purposes of the Fiduciary Exemption, **rollovers include** transactions:

- From a retirement plan (such as a 401(k) plan) into an individual retirement account, or IRA;
- From a retirement plan to another retirement plan;
- From an IRA to another IRA;
- From an IRA to a plan;
- From a brokerage to advisory account, and vice versa.

If your advisory firm or investment professionals (collectively referred to below as "you")

recommend that a client or potential client roll over assets, you must document the specific reason(s) why you consider this recommendation to be in the best interest of the client or potential client. Investment professionals include employees, independent contractors, agents and/or representatives. If you are relying on the Fiduciary Exemption, you will be required to provide written documentation to the client or potential client acknowledging that you are an ERISA fiduciary and memorializing why the rollover recommendation is in the client's or potential client's best interest at the time the advice is provided. Also, the SEC's Division of Examinations may examine advisers' recommendations of rollovers and alternatives considered, and whether advisers have a reasonable basis for their retirement recommendations. See the Division's annual examination priorities and the [June 2015 Risk Alert](#) regarding its Retirement-Targeted Industry Reviews and Examinations (ReTIRE) Initiative.

In its discussion of the Fiduciary Exemption, the DOL states that investment advice fiduciaries **should consider and document the following factors** when making retirement plan to IRA rollover recommendations:

- The client's alternatives to a rollover, including leaving the money in the current plan, if permitted, and selecting different investment options;
- The fees and expenses associated with each option, including whether the employer pays for some or all of the plan's administrative expenses; and
- The different levels of services and investments available under each option.

These points are included in the checklist below.

The checklist also includes points discussed in [FINRA Regulatory Notice 13-45](#). Although technically only applicable to broker-dealers, it may be helpful in setting out considerations in making a rollover recommendation, including:

- Investment options may be broader in an IRA, but the plan may have options with lower costs because of institutional pricing;
- Fees and expenses under the IRA versus the plan;
- Services available from the plan versus the IRA provider;
- Penalty-free withdrawals from the plan that would not be available from an IRA;
- Protection from creditors and legal judgments may be more extensive under the plan;
- Required minimum distributions at age 72 from an IRA but not always required from a plan; and
- Special tax treatment of employer stock when received from a plan is not available for an IRA distribution.

If your recommendation is that the client or potential client roll over from one IRA to another, one plan to another, or move from a commission-based to a fee-based account, you

3 IAA Retirement Account Rollover Recommendation Checklist © 2021 Investment Adviser Association. All Rights Reserved.

should document why the recommendation is in the best interests of the client or potential client, including the services that will be provided for the fee.

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

- **Recent Plan Statements from the Client.** Clients in an individual account plan, such as a 401(k) plan, 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 titled *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 the 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, and it may be available on the plan's website.
- **Plan-Provided Notice of Distribution Options.** This document 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.
- **Alternative Data Sources.** If you are unable to obtain the information even after full and fair disclosure to the client of its significance, then you 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. If alternative data sources are used to collect certain information on fees and expenses, the DOL says in the preamble to the Fiduciary Exemption that you should document and explain the assumptions used and any limitations.

**Checklist:** The checklist on the following pages details factors that you and your investment professionals 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.

You must provide the following written disclosures to the client or potential client prior to engaging in a transaction under the Fiduciary Exemption:

- **A written acknowledgement that you and your investment professionals are fiduciaries under Title I of ERISA and the Code, as applicable,** with respect to any fiduciary investment advice provided by you or your investment professional to the client or potential client. Sample fiduciary acknowledgments are included in the checklist;
- **A written description of the services to be provided and your and your investment professional's material conflicts of interest** that is accurate and not misleading in all material respects: The DOL has said that advisers may rely, in whole or in part, on other regulatory disclosures, such as Form CRS and Form ADV, to satisfy this requirement; and
- **Specific reasons why the rollover recommendation is in the client's or potential client's best interest:** The checklist provides an area for that disclosure. You must also retain this documentation for your records.

As noted at the end of the checklist, you may want to include an acknowledgement that the client or potential client has received the rollover documentation.

If your client is a retail investor, as defined in Form CRS, and you make a rollover recommendation, you must deliver (or re-deliver for an existing client) the most recent version of your Form CRS.



# **ROLLOVER RECOMMENDATION CHECKLIST**

## **Fiduciary Acknowledgement:**

The Fiduciary Exemption requires that you acknowledge your and your investment professionals' status as fiduciaries. The DOL provides the following model language in the preamble to the Fiduciary Exemption and in related FAQs to assist in complying with the exemption. The DOL says that this language is an example of language that satisfies the written acknowledgement requirement, but this specific language is not specifically required as part of the Fiduciary Exemption:

When we provide investment advice to you regarding your retirement plan account or individual retirement account, we are fiduciaries within the meaning of Title I of the Employee Retirement Income Security Act and/or the Internal Revenue Code, as applicable, which are laws governing retirement accounts. The way we make money creates some conflicts with your interests, so we operate under a special rule that requires us to act in your best interest and not put our interest ahead of yours.

As an alternative, you may wish to include your status as a fiduciary under the Advisers Act and use the following acknowledgment. The last two sentences of the text below are from Form CRS:

We are fiduciaries under the Investment Advisers Act of 1940 and when we provide investment advice to you regarding your retirement plan account or individual retirement account, we are also fiduciaries within the meaning of Title I of the Employee Retirement Income Security Act and/or the Internal Revenue Code, as applicable, which are laws governing retirement accounts. We have to act in your best interest and not put our interest ahead of yours. At the same time, the way we make money creates some conflicts with your interests.

The DOL provides the following additional model language that could be used to more fully explain the Fiduciary Exemption, but the exemption does not require it:

Under this special rule's provisions, we must:

- Meet a professional standard of care when making investment recommendations (give prudent advice);

- Never put our financial interests ahead of your when making recommendations (give loyal advice);
- Avoid misleading statements about conflicts of interest, fees, and investments;
- Follow policies and procedures designed to ensure that we give advice that is in your best interest;
- Charge no more than is reasonable for our services; and
- Give you basic information about conflicts of interest.

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**What are the client's or potential client's alternatives to a rollover, including leaving the money in the current plan (if permitted under the plan), and selecting other investment options within the plan?**

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

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

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**What are the different levels of 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 or potential 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 available for the IRA)?**

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

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**Would the client or potential client benefit from other features available in plans but not IRAs, or vice versa, for example?**

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

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- Plan loans?

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- Protection from creditors and legal judgments?

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- Difference in age required to take Required Minimum Distributions (RMDs)?

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- Beneficial tax treatment of employer stock?

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

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[Consider including acknowledgment that the client or potential client has received this documentation:

\_\_\_\_\_ has received and reviewed the above rollover information.  
[Insert Name]

Signature \_\_\_\_\_

Date: \_\_\_\_\_]