



## RETIREMENT ACCOUNT ROLLOVER RECOMMENDATIONS

### INTRODUCTION

Aghaz acknowledges in writing our and our investment professionals' fiduciary status under Title I of ERISA and the Internal Revenue Code, as applicable, when providing investment advice to a retirement investor. Furthermore, the firm complies with PTE 2020-02, which became effective on February 16, 2021. PTE 2020-02 allows Financial Institutions and Investment Professionals who provide fiduciary investment advice to Retirement Investors to receive otherwise prohibited compensation and engage in riskless principal transactions and other principal transactions. Under the recently adopted exemption, Aghaz and its investment professionals who provide fiduciary investment advice to our retirement investors could receive otherwise prohibited compensation if we comply with certain requirements.

To this end, Aghaz:

- Requires written disclosures to all retirement investors about the reasons that a rollover recommendation was in our client's best interest.
- Describes in writing the services to be provided and our material conflicts of interest, where applicable.
- Documents any reasons that a rollover recommendation is in the best interest of a retirement investor and provide that documentation to you, the retirement investor.
- Adopts policies and procedures prudently designed to ensure compliance with the Impartial Conduct Standards and that mitigate conflicts of interest and conducts an annual retrospective review of compliance.

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 it's recommended that a client or potential client should roll over assets, 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. In order to make a recommendation, information will be needed about the client's retirement plan, which may be available from the following sources:

- **Recent Plan Statements from the Client.** If the client directs their 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.
- **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 Record keeper.** The client may need to ask the plan administrator or record keeper 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.

## RETIREMENT ACCOUNT ROLLOVER RECOMMENDATION CHECKLIST

The following checklist details factors that should be considered 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 ("client").

Client Name: \_\_\_\_\_

☐ Why does the client desire to rollover their retirement plan into an IRA?

\_\_\_\_\_

☐ 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 cash outs of balances under a certain amount)?

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☐ 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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☐ What are the fees and expenses that the client would pay under the plan versus the IRA?

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☐ What are the investment options and differences between the current retirement plan and the expected investment objective of the IRA?

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☐ Would the client benefit from other features available in the plan but not the IRA, 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 Aghaz's recommendation and why is it in the best interest of the client? Include any additional disclosure material related to the reasons that a rollover recommendation was in our client's best interest.

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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?

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☐ Have you documented all reasons that a rollover recommendation is in the best interest of a retirement investor and provided that documentation to the retirement investor?

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☐ Have you complied with all "impartial conduct standards" regarding the advice, as follows?

- At the time the investment advice is provided, was it in the "best interest" of the retirement investor, which means it reflects the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a like capacity and familiar with such matters would use, based on the investment objectives, risk tolerance, financial circumstances, and needs of the investor; and does not place the financial or other interests of the investment advice fiduciary ahead of the interests of the investor.

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- ☐ Have you reviewed that the compensation received, directly or indirectly, does not exceed reasonable compensation under ERISA Section 408(b)(2) ([29 U.S.C. § 1108\(b\)\(2\)](#)) and Code Section 4975(d)(2) ([26 U.S.C. § 4975\(d\)\(2\)](#))?
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- ☐ Have you prior to the transaction, financial institutions provide written disclosures to the investor that:
- acknowledge fiduciary status;
  - describe the services to be provided;
  - describe any material conflicts of interest; and
  - for any rollover recommendation, give the specific reasons for that rollover recommendation.
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- ☐ 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?
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Client Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Aghaz Officer: \_\_\_\_\_ Date: \_\_\_\_\_