Fiduciary Rule Re-proposal Could Put Rollovers at Risk

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About NAPA

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National Association of Plan Advisors

- 10,000 members; 80% are retirement plan advisors
- 150 firm partners, including all major DCIOs, broker-dealers and recordkeepers
- More than **40 million participants** are covered by the defined contribution plans with which NAPA members work
- More than **$4 trillion** in defined contribution plan assets under management with members and firm partners

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Definition of Fiduciary
Impact on Rollovers

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Leakage

- Per Aon Hewitt, 43% of participants terminating employment in 2012 took cash distributions*
- Early distributions from a 401(k) account as a result of a job change amounted to $74 billion in 2006. **

* Aon Hewitt, 2013 Universe Benchmarks Highlights

** United State Government Accountability Office. *401(k) PLANS. Policy Changes Could Reduce the Long-term Effects of Leakage on Workers' Retirement Savings*. GAO-09-715, August 2009.

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IRA Rollovers Fight Leakage

- Many terminated employees simply don't want to leave money with a previous employer, but *many others have no choice but to take the money out of their previous employer's plan as a lump sum or rollover.*
- Transfers to a new plan are not common: "One plan sponsor told us that only 10 to 15 percent of participants who separate from the plan move their savings to a new employer's plan because of barriers in the process…"*
- Rollover to an IRA is the practical alternative to a cash out.

* United States Government Accountability Office. *401(K) PLANS. Labor and IRS Could Improve the Rollover Process for Participants.* GAO-13-30, March 2013

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Pre-Retirement

- With a balance of under $5,000, more than half of terminated employees must either cash out or rollover.
- Per the 2010 PSCA Annual Survey of Profit Sharing and 401(k) Plans:
  - Only 8% of plans allow balances of less than $1,000 to remain in the plan
  - 43% of plans allow balances of over $1,000 but less than $5,000 to remain in the plan

Post-Retirement

- Vanguard study: DC plan participants terminating at age 60 and over in 2004 had about 50 percent of their plan savings still in employer plans 1 year after separating, but only about 20 percent in the plans 5 years after separating. *

*Stephen P. Utkus and Jean A. Young, Distribution Decisions Among Retirement-age Defined Contribution Plan Participants, The Vanguard Group, Inc. (December 2010)

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Post-Retirement

- After retirement, many are forced to take a full distribution because of limited plan options.
- Per the 2010 PSCA survey:
  - Less than 17% of DC plans offered annuities
  - Only 60% offered installments
- *IRA rollovers can be the only alternative to cashing out altogether*

Fiduciary Definition and Rollovers

- If the new rules subject rollover conversations between a plan advisor and a plan participant to a fiduciary standard, the prohibited transaction rules would preclude plan advisors from working with plan participants on the rollover because of a different fee structure with the IRA as compared to the plan.
- Different fee structures are completely reasonable given that a common reason for the rollover is to take advantage of completely different investment products, like annuities, that require more complicated servicing.

Where is the conflict?

- The plan advisor has the *least* conflict with regard to discussing a rollover because he or she will benefit whether the participant leaves assets in the plan or rolls over to an IRA with the plan advisor.
- This prohibition would exist even if the 401(k) plan advisor's IRA is the most competitive product on the market.

On their own

- If rollover conversations between plan advisors and participants are subject to a fiduciary standard, plan participants who are asked to make a decision about their benefits upon terminating employment would be forced to find another provider on their own.
- The result is likely to be increased leakage due to a decline in rollovers.

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A Better Solution

- 401(k) plan participants should not be precluded from working with their 401(k) plan's advisor.
- Instead, the plan's advisor should be required to disclose any differences in fees if participants roll their 401(k) plan accounts into an IRA offered by the advisor.
- Similar disclosures required of unrelated IRA providers would lead to the best outcomes.

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