



IRA ROLLOVERS AND LIFETIME INCOME

A White Paper for Pacific Life by Integrated Retirement

This material is educational and intended for an audience with financial services knowledge

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TRANSITIONING FROM SAVING TO LIFETIME INCOME

You have spent much of your career as a retirement plan advisor educating clients about the importance of saving for retirement—starting early, increasing savings rates over time, and diversifying investments. For many of your clients, however, the savings journey is almost at an end. An estimated 75 million baby boomers will reach age 65 between 2011 and 2030.¹ After devoting years to saving, switching gears to focus on spending their retirement savings can be a challenging transition for your clients.

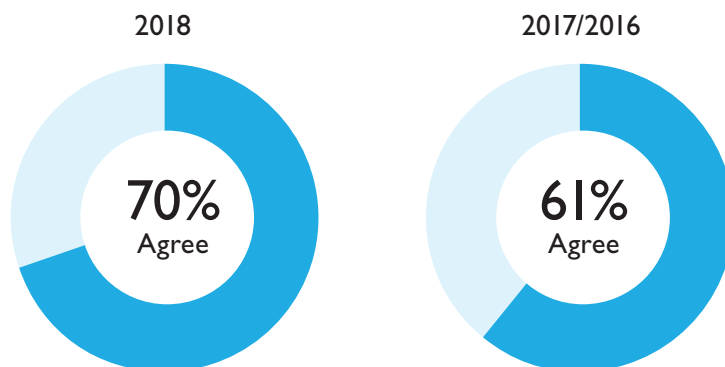
Many of your retiree clients will choose to take the retirement savings from their former employers' plans and roll those assets to IRAs.² Others may have multiple IRAs they will choose to consolidate through IRA rollovers. As IRA owners, they will be responsible for choosing investments and setting up a distribution schedule they hope will make their savings last throughout their retirement years. Few retirees have the expertise to manage these responsibilities, including evaluating the retirement income products and services available in the financial marketplace. They need the support of a financial professional.

This is a great time to review your suite of retirement services to make sure you are prepared to guide your clients through the transition from accumulating savings to designing a retirement income strategy that will support them through their retirement years.

CONSUMER SURVEY RESULTS FROM GREENWALD AND ASSOCIATES/CANNEX

“Financial advisors have a responsibility to present financial products that provide guaranteed lifetime income in retirement as an option to their clients.”

Source: Greenwald & Associates/Cannex 2018, Guaranteed Lifetime Income Study.



¹Pew Research Center, Baby Boomers Retire, December 29, 2010, U.S. Census Bureau, Release Number CB15-113, June 25, 2015.

²Investment Company Institute, *Research Perspective* Vol. 25, No.10, “The Role of IRAs in U.S. Households’ Saving for Retirement,” 2019, December 2019, www.ici.org.

LIFETIME INCOME CHALLENGES

Multiple intersecting trends are creating lifetime income-planning challenges for Americans saving for retirement.

Growth in Defined Contribution (401(k)) Plans

In years past, much of the workforce was covered by defined benefit pension plans. Upon retirement, each participant (employee) covered by the plan received a stream of income for life based on their earnings and years of service with the employer. All investing decisions were handled by the plan sponsor (employer), and the employee simply accepted the check each month. Today, most participants are covered by defined contribution plans that put the participants, rather than the employer, in the driver's seat.

In defined contribution plans, participants are responsible for deciding how much to save and how to invest their savings, as well as when and how much to take out during their retirement years.

Longer Life Expectancies

Longevity risk is a big concern for defined contribution plan participants. Today, the average life expectancy of a 65-year-old male is age 84; for a female, it's age 87.¹ But many individuals can expect to live even longer. One out of four of today's 65-year-olds can expect to live past age 90, and 1 out of 10 can expect to live past age 95.¹ Individuals need to figure out how to make their savings last 30 years or more.

Rising Medical Costs

The extra savings retirees will need to pay for medical expenses will vary per person, but two things are universal: medical expenses will be substantial and they will continue to rise. Total projected lifetime medical expenditures for a healthy 65-year-old couple retiring in 2019 are expected to be \$606,337 (\$419,262 for Medicare and supplemental insurance premiums and \$187,075 for out-of-pocket expenses.)² Solving for this savings variable further complicates lifetime income planning.

Insufficient Options within Retirement Plans

Most defined contribution plans today do not yet offer distribution support and investment options within the plan that are needed to design a stream of lifetime income. Participants often need to roll assets to an IRA to gain access to more options to convert their accumulated savings into an income stream in retirement.

¹Social Security Administration, Calculators: Life Expectancy, <https://www.ssa.gov/planners/lifeexpectancy.html>.

²HealthView Services, 2019 Retirement HealthCare Costs Brief, <http://www.hvsfinancial.com>.

INTERPLAY OF IRA ROLLOVERS AND LIFETIME INCOME

IRAs funded through a rollover will be a major source of retirement income for many of your clients. IRAs today hold \$9.5 trillion, largely funded by rollovers from employer-sponsored retirement plans.¹ About 60% of the households that reported having a traditional IRA indicated their IRA contained rollovers from an employer-sponsored retirement plan.² Traditional IRAs are used primarily as a source of retirement income: 88% of IRA distributions from traditional IRAs were taken by retirees.²

There are a number of factors that point to an acceleration in IRA rollover activity in the coming years.

- **Age Demographics**—As our aging population leaves the workforce, the volume of IRA rollovers will continue to grow. One study found that 86% of recent retirees who chose to move money out of their employers' plans at retirement rolled their entire balance into an IRA.²
- **Mobile Workforce**—Job changers also drive IRA rollover activity. Today's workforce changes jobs, on average, every 4.2 years,³ creating a constant stream of rollover opportunities. A desire not to leave assets behind with a former employer is cited by 69% of individuals who completed a rollover as their top reason for moving assets.²
- **Asset Consolidation**—The simplicity of consolidating assets is also listed as a driver for IRA rollovers.²

Many retirees will face challenges in creating a lifetime income stream from their qualified retirement plan account balances, including:

- **Investments and Lifetime Income**—Options are limited to investments selected by the plan fiduciary (typically, the employer sponsoring the plan) and few plans offer lifetime income products today.
- **Distributions**—A plan may not allow installment or annuity payments, which are essential for building a stream of retirement income. Without the ability to take systematic payments, it could be difficult to duplicate the ongoing cash flow needed by retirees.
- **Beneficiary and Estate Planning**—Some plans restrict the distribution options available to beneficiaries. In addition, for individuals who want to diversify the tax character of their portfolios or want to provide some tax-free assets to heirs, if the employer plan has not added a Roth contribution feature, this cannot be accomplished in the plan.
- **Qualified Longevity Annuity Contracts (QLACs)**—A QLAC is a longevity annuity that meets certain requirements outlined in Treasury regulations.⁴ Although the QLAC option became available in 2014, few employer-sponsored plans have included QLACs in their investment menus. A longevity annuity is designed to protect an individual from outliving their assets by providing a guaranteed income stream beginning at an advanced age, such as age 80 or 85.

- **\$9.5** trillion are held in IRAs today, largely funded by rollovers.
- **88%** of IRA distributions are taken by retirees.
- **86%** of recent retirees rolled their entire account balance into an IRA.
- **4.2 years**, on average, is how often today's workforce changes jobs.

¹Investment Company Institute, *Retirement Assets Total \$28.7 Trillion in First Quarter 2020*, June 2020, www.ici.org.

²Investment Company Institute, *Research Perspective* Vol. 25, No.10, "The Role of IRAs in U.S. Households' Saving for Retirement," 2019, December 2019, www.ici.org.

³U.S. Bureau of Labor Statistics, *Employee Tenure Summary*, September 2018, <https://www.bls.gov/news.release/tenure.nr0.htm>.

⁴Internal Revenue Service, TD 9673, *Longevity Annuity Contracts*, http://www.irs.gov/irb/2014-30_IRB/ar07.html.

QLAC Requirements

Eligible Plans	Defined contribution plans, including 401(k) plans, 403(b) plans, and governmental 457(b) plans, and traditional IRAs
Maximum Amount	Up to 25% of the account balance, or \$135,000, whichever is less, may be used to purchase the longevity annuity
Maximum Age	Guaranteed lifetime payments must start no later than age 85
Prohibited Features	No variable annuities, equity-indexed or similar contracts, or cash surrender value (may include a return-of-premium feature)

If a longevity annuity satisfies the QLAC requirements, participants may exclude the amount of their retirement account balance used to purchase a QLAC from the required minimum distribution (RMD) calculations. As a result, retirees will not be required to take a distribution with respect to assets that are not available until a later date (for example, age 85).

OPPORTUNITIES FOR FINANCIAL PROFESSIONALS

It is hard to predict when and to what extent employers will take steps to redesign their retirement plan features and their investment alternatives to better accommodate lifetime-income streams. However, the government has recognized the importance of lifetime income products in establishing a secure retirement and has taken action to promote their use by passing the SECURE Act, which took effect on January 1, 2020. It is a sweeping piece of retirement legislation that impacts employer-sponsored retirement plans, SIMPLE IRAs, SEP plans, and traditional and Roth IRAs. To encourage the use of retirement income products, the Act:

- Requires that participant benefit statements include a lifetime income disclosure/projection once during every 12-month period that estimates the monthly amount a participant could receive as a single or joint life annuitant based on their current account balance. The DOL will provide assumptions and a model disclosure that can be used for the statements. To encourage use, fiduciaries are not liable for estimates derived from the assumptions, guidance or model disclosure.
- Provides that when an income product is selected for a plan, the plan fiduciary is shielded from liability for losses due to the insurer's inability to satisfy its obligations. Importantly, there is no requirement that the plan fiduciary select the lowest cost option, but the fiduciary must determine if the selected contract and fees are appropriate.
- Allows plans to make a direct rollover/transfer of a lifetime income product to another plan or an IRA when a product is no longer permitted in the plan, without surrender charges or fees.

¹The Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019, Pub.L. 116-94 (December 20, 2019) (part of the Further Consolidated Appropriations Act, 2020 United States Federal Budget).

While it will take some time for the passage of the SECURE Act to make an impact on lifetime income adoption in plans, it will provide financial professionals additional options to help their clients design a retirement strategy.

Low In-Plan Lifetime Income Options

- If clients/prospects value guaranteed income, help them identify IRA products that have lifetime-income options.
- Help evaluate which lifetime income option best fits each client's needs (that is, income now—immediate annuity; income later—deferred annuity or QLAC.)

Plan Offers In-plan Lifetime Income Options

- Help clients analyze the in-plan option versus IRA options.
- Compare other services the financial professional may be able to offer versus support provided through the employer plan (for example, Social Security benefits, healthcare, and tax-related planning).

REGULATORY FRAMEWORK FOR FINANCIAL PROFESSIONALS AND IRA ROLLOVERS

Because an IRA rollover is an option likely to be considered by the majority of retiring workers who have retirement savings through their employers, financial professionals should understand the current regulatory environment relative to IRA rollovers.

Securities and Exchange Commission (SEC)

The Dodd-Frank Financial Reform and Consumer Protection Act of 2010 directed the SEC to consider whether the fiduciary standard applicable to investment advisors under the Investment Advisers Act of 1940 should apply to brokers who were subject to a suitability standard. On June 30, 2020, the Security and Exchange Commission's Regulation Best Interest (RegBI) became effective as scheduled after surviving a last-minute legal challenge.¹ There are three parts to the regulatory package: RegBI; the Form CRS relationship summary; and interpretations under the Investment Advisers Act of 1940. RegBI requires broker-dealers to act in the best interest of retail customers (including accredited investors that are retail customers), which means that broker-dealers cannot place financial or other interests ahead of customers' interests. Specifically, brokers must:

- Disclose material facts of their relationship and recommendations
- Demonstrate reasonable diligence, care and skill when making recommendations, including understanding risks, rewards and costs (lowest cost products and services not required)
- Maintain policies to identify conflicts of interest, and disclose or eliminate such conflicts
- Maintain policies and procedures to ensure compliance with RegBI

¹FINRA Regulatory Notice 13-45, www.finra.org/file/regulatory-notice-13-45, www.finra.org/file/regulatory-notice-13-45.

The regulation governs advice such as investment recommendations, investment strategy recommendations and account openings, including rollover, transfer and hold recommendations. (It does not apply to education.) A key requirement of the regulation is the new Form CRS relationship summary document, which is a disclosure document that must include a firm's services, accounts, investments, fees/costs, conflicts of interest, and standards of conduct. The CRS relationship summary requirement applies to investment advisors, as well as brokers.

Financial Industry Regulatory Authority (FINRA)

In addition to making IRA rollovers an enforcement focus, FINRA concerns that brokers may be recommending rollovers without discussing other distribution options led it to issue guidance reminding brokerage firms and financial professionals of their responsibilities and potential conflicts that may arise when recommending or marketing IRA rollover services. FINRA Notice 13-45 provides a list of factors that should be addressed when evaluating IRA rollover transactions including:

- Investment options
- Fees and expenses
- Services (investment advice, help lines, etc.)
- Withdrawal options
- Creditor protection
- Required minimum distributions (RMDs)
- Employer stock¹

The guidance provided in FINRA Notice 13-45 has become a “best practice” for both brokers and investment advisors when discussing rollover transactions with customers. In addition, commensurate with the implementation of Reg BI, FINRA provided its Reg BI and Form CRS checklist to help members assess their obligations under Reg BI and Form CRS. The checklist outlines the major requirements of Reg BI and Form CRS and notes key differences between FINRA rules and SEC's Reg BI and Form CRS.

¹FINRA, Reg BI and Form CRS Firm Checklist, <https://www.finra.org/sites/default/files/2019-10/reg-bi-checklist.pdf>

Department of Labor (DOL)

In June 2017, Department of Labor rules designed to expand the definition of “investment advice” that would trigger the high standards of conduct dictated by the Employee Retirement Income Security Act of 1974 (ERISA) became applicable.¹ The investment advice rules imposed a fiduciary standard on a broader range of investment support services, including IRA rollover and distribution recommendations and IRA investment recommendations. In 2018, a lawsuit against the DOL by the U.S. Chamber of Commerce and other entities resulted in a ruling that invalidated the DOL investment advice rule.²

Following the Fifth Circuit decision, the DOL issued Field Assistance Bulletin (FAB) 2018-02 to announce a non-enforcement policy for advisors working in good faith to comply with the Best Interest Contract (BIC) or other exemptions that were part of the investment advice rules.³ This non-enforcement policy, which includes the Treasury Department and IRS, is in effect until new guidance is finalized. The DOL non-enforcement policy permits advisors to continue following the impartial conduct standards for relief from the prohibited transaction rules when providing investment advice or making rollover recommendations. These rules require advisors to act in good faith to comply with the Impartial Conduct standards:

- Provide advice in the best interest of the investor
- Receive no more than reasonable compensation
- Make no misleading statements

In June 2020, the DOL proposed new guidance addressing its fiduciary investment advice rules. If finalized as currently written, the proposal would reaffirm and clarify the five-part test for triggering fiduciary status under ERISA 3(21) with regard to retirement investment advice, including advice related to rollover recommendations. It would also provide a prohibited transaction exemption (PTE) advisors could use to receive variable compensation for fiduciary investment advice, including IRA rollover recommendations, if certain requirements are met. According to the DOL, the proposal aligns with RegBI by relying on the Impartial Conduct standards, disclosure, and conflict mitigation.

The SEC, FINRA and the DOL appear to be aligning on a consistent approach to a broker-dealer and investment advisor advice standard.

As these rules evolve, financial professionals should consult with their legal or compliance departments to confirm they are operating in compliance with their firms’ policies and procedures.

¹*Chamber of Commerce of the USA, et al., v U.S. Department of Labor*, No. 17-10238, (5th Cir. Mar. 15, 2018).

²Department of Labor, Field Assistance Bulletin No. 2018-02, *Temporary Enforcement Policy on Prohibited Transactions Rules Applicable to Investment Advice Fiduciaries*, May 7, 2018, <https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2018-02>

³Department of Labor, *Improving Investment Advice for Workers & Retirees*, June 29, 2020, <https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and-regulations/proposed-regulations/improving-investment-advice-for-workers-and-retirees>

IRA ROLLOVER BEST PRACTICES

Given the increased regulatory scrutiny regarding IRA rollovers, this is an excellent time for you to review your current rollover service model so you can adopt procedures that will keep you on track from a compliance perspective and provide your clients the support they need. For example, in addition to the potential for lifetime income product rollovers authorized by the SECURE Act, the Act also provided an exception to the 10% early distribution tax for distributions taken to pay for qualifying birth or adoption expenses. In addition, the CARES Act, which was enacted in response to the COVID-19 pandemic, gives temporary emergency access to retirement savings, including penalty-free distributions and enhanced loan opportunities.¹ With the implementation of Reg BI, SEC Chairman Clayton specifically warned that COVID-related withdrawal, rollover and investment recommendations “should be based, among other things, on an understanding of the potential risks, rewards and costs associated with the recommendation ... [and that] advice with respect to COVID-related investments, is in the best interest of the client.”² Given that strong language, it is likely the SEC will take a similar position in regard to advisor recommendations to clients to roll a lifetime income product from a qualified plan to an IRA or to take a qualified birth or adoption distribution under the SECURE Act.

On the following pages is a suggested checklist designed to help guide you through this process.

Please note: Consult with your internal legal or compliance departments before implementing any changes in your current business model.

IRA ROLLOVER CHECKLIST FOR FINANCIAL PROFESSIONALS

Evaluate and Define Your Business Model

- Check with your internal legal and compliance departments regarding the permissible scope of ERISA fiduciary services and nonfiduciary services.
- Review documentation to confirm it accurately describes the scope of your services (for example, service agreements, account set-up documentation, fee disclosures, and CRS Summary).
- If providing nonfiduciary services, explore potential third-party fiduciary solutions for clients desiring investment advice (for example, automated advice tools, ERISA 3(38) investment manager and 3(21) investment advisor); confirm legal and compliance procedures for introducing the third-party solution in a manner that does not constitute a fiduciary recommendation.
- If providing ERISA fiduciary services, confirm whether your fee structure for investment recommendations and your rollover recommendations require compliance with a prohibited transaction exemption (for example, the BIC Impartial Conduct standard available during the nonenforcement period).

¹The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub.L. 116–136 (March 27, 2020).

²Chairman James Clayton, *Confirmation of June 30 Compliance Date for Regulation Best Interest and Form CRS, Need for Increased Care when Recommending 401(k)/IRA Rollovers and Withdrawals, Complex or Risky Products, COVID-Related Investments and SPACs*, SEC Public Statement (June 15, 2020).

**Follow a Consistent
IRA Rollover Process**


- Gather client information. For efficiency and consistency, use a questionnaire or tool such as the Pacific Life *IRA Rollover Checklist*.
- Identify and compare account types, service providers and fees as indicated in FINRA Notice 13-45, the *Reg BI and Form CRS Firm Checklist*, or your firm's procedural guide, as applicable, to evaluate the client's needs and best interests to determine recommendations.
- Identify any potential conflicts arising from your recommendation. Ensure proper disclosures have been made under the SEC RegBI rules and/or your firm's policies and procedures.
- Educate clients about all distribution options, not just rollovers, and explore educational resources available from retirement plan and IRA service providers to build your training library, including the Evaluating Options summary included in the Pacific Life *IRA Rollover Checklist* to help present information that will serve as the foundation of your rollover recommendation.
- Present the recommendation to your client.
- Maintain complete and accurate documentation supporting your recommendation. Be sure to document your compliance with the applicable exemption if you are an ERISA fiduciary making a rollover recommendation. Consult with your internal legal and compliance departments regarding how and where to store this information. Identify any special documentation that may be required when clients do not follow your recommendation (for example, if you recommend leaving assets in the employer plan, but your client chooses an IRA rollover).

RESOURCES

Pacific Life offers an *IRA Rollover Checklist* and Retirement Strategies Group (RSG) team support.

This resource walks you through IRA rollovers, including:

- Gathering Information
- Evaluating Options
- Documenting What's Next



IRA ROLLOVER CHECKLIST

In many instances, rolling over your retirement plan assets to an IRA can help you better achieve your retirement goals. Before making this decision, it's important to review key aspects of your financial situation and carefully evaluate the pros and cons that a rollover might offer.

This checklist is designed to help you and your financial professional work together to perform such an evaluation. Walk through it, and ask questions along the way. After all, being informed, considering all the facts, and working with a financial professional can be a tremendous help in making sound decisions about your financial future.

Gathering Information

Client Information	Client	Spouse
Name		
Date of Birth		
Address		
Telephone		
Email		
Marital Status (Goal III)		
Number of Children (Goal III)		
Employment		
Employer Name		
Are you retired? (Y/N)		
If not, expected retirement year?		
Tax		
Current Tax Rate (Goal IV)		
Expected Retirement Tax Rate (Goal IV)		

*The goal correlates with the section under "Questions about Your Goals" later in this checklist.

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