CROSS
FINANCIAL SERVICES
Financial Planning • Wealth Management

Meeting FINRA and the SEC's Current Standards of Care for Suitable IRA Rollovers

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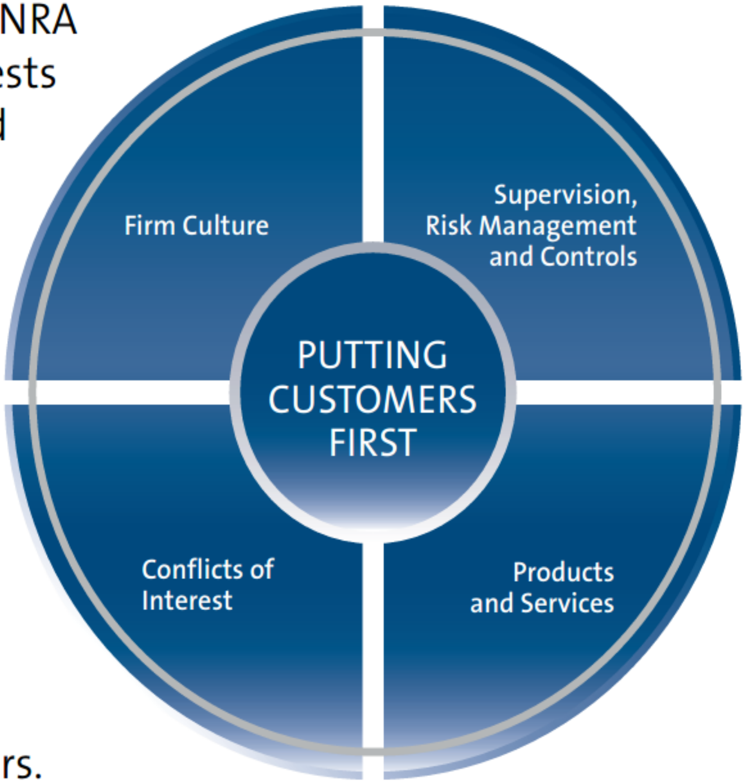
Putting customer interests first: A central failing FINRA has observed is firms not putting customers' interests first. The harm caused by this may be compounded when it involves vulnerable investors (*e.g.*, senior investors) or a major liquidity or wealth event in an investor's life (*e.g.*, an inheritance or Individual Retirement Account rollover). Poor advice and investments in these situations can have especially devastating and lasting consequences for the investor. Irrespective of whether a firm must meet a suitability or fiduciary standard, FINRA believes that firms best serve their customers—and reduce their regulatory risk—by putting customers' interests first. This requires the firm to align its interests with those of its customers.



-Excerpt from Examination Priorities letter from FINRA. January 6,2015.

EXAMINATION PRIORITIES FOR 2015

- **Sales Practices.**

We will assess whether registrants are using improper or misleading practices when recommending the movement of retirement assets from employer-sponsored defined contribution plans into other investments and accounts, especially when they pose greater risks and/or charge higher fees.

-Excerpt from Securities and Exchange Commission 2015 Letter

Plan Asset Options

- Stay with current plan
- Transfer to New Plan
- Rollover to an IRA
- Cash out

SCHEDULE C – IRA ROLLOVER DISCLOSURE* INVESTMENT MANAGEMENT AGREEMENT

The largest source of IRA contributions comes from individuals who move their money from their employer-sponsored retirement plans such as 401(k) and 403(b) plans when they leave a job.
If you are considering rolling over money from an employer plan into an IRA consider these factors in deciding whether an IRA rollover is right for you.

A. **Evaluate your transfer options.** By law, you must have at least 30 days to decide what to do with your 401(k) when you switch jobs. You generally have four choices:

1.You can usually keep some or all your savings in your former employer's plan (check with your benefits office to see what the company's policy is). You don't give up the right to move your account to your new 401(k) or an IRA at any time. While your money remains in your former employer's 401(k) plan, you won't be able to make additional contributions to the account, and you may not be able to take a loan from the plan. In addition, some employers might charge higher fees if you're not an active employee.

Note: Further, you might not qualify to stay in your old 401(k) account: Your employer has the option of cashing out your account if the balance is less than $1,000 (minus 20 percent withholding) and, in some cases, automatically rolling your assets out of the plan and into an IRA if your plan balance is between $1,000 and $5,000.

2. You can transfer assets to your new employer's plan, if allowed (again, check with the benefits or human resources office). But you should evaluate your new employer's plan before deciding to roll your assets over. Make sure the new plan has plenty of investment choices and includes the investment options you prefer. Also check to make sure that accompanying fees aren't too high. If you're unhappy with the options provided by your new employer's 401(k), you can always consider your other options, including a rollover into an IRA.

Note: Even if your new employer accepts rollovers, you may have to wait until the next enrollment period, or sometimes until you've been on the job a full year, to move your assets.

3. You can roll over your plan assets into an IRA.

4. Or you can cash out your balance. With this option, your employer will withhold 20 percent of your account balance to prepay the tax you'll owe. Plus, if you are under age 59 1/2, the IRS will consider your payout an early distribution, meaning you could owe a 10 percent early withdrawal penalty on top of combined federal, state and local taxes. That could total more than 50 percent of your account value.

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With the first three alternatives, you won't lose the contributions you've made, your employer's contributions if you're vested, or earnings you've accumulated in your old 401(k). And, your money will maintain its tax-deferred status until you withdraw it. Remember, though, that if you move your money into a new employer's plan, you'll have to wait until you switch jobs before you can move it again.

*This IRA Disclosure is based upon the FINRA Investor Alert - The IRA Rollover: 10 Tips to Making a Sound Decision

Minimize taxes by rolling Roth to Roth and traditional to traditional. If you decide to roll over your retirement plan assets to an IRA, you can choose either a traditional IRA or Roth IRA. No taxes are due if you roll over assets from a traditional plan to a traditional IRA, or if you roll over your contributions and earnings from a Roth plan to a Roth IRA. But if you decide to move from a traditional plan to a Roth IRA, you will have to pay taxes on the rollover amount you convert. It's a good idea to consult with your plan administrator, as well as financial and tax professionals about the tax implications of each option.

> **Tip: Special Treatment of Employer Matches in Roth Plans**
> The IRS requires that any employer match of contributions made to a Roth plan be placed in a pre-tax account and treated like matching assets in a traditional plan. To avoid taxes when rolling over a Roth plan that includes matching contributions from your employer, you will need to request the transfer of *your* contributions and earnings to a Roth IRA and *your employer's matching* contributions and earnings to a traditional IRA.

Think twice before you do an indirect rollover. With a direct rollover, you instruct your former employer to send your 401(k) assets directly to your new employer's plan or to an IRA—and you never have to handle the money yourself. With an indirect rollover, you start by requesting a lump-sum distribution from your plan administrator and then take responsibility for completing the transfer. Indirect rollovers have significant tax consequences. You will not get the full amount because the plan is required to withhold 20 percent to ensure that taxes will be paid if the rollover is not completed. You must deposit the funds in an IRA within 60 days to avoid taxes on pretax contributions and earnings—and to avoid the potential of an additional 10 percent tax penalty if you are younger than $59^1/_2$. If you want to defer taxes on the full amount you cashed out, you will have to add funds from another source equal to the 20 percent withheld by the plan administrator (you get the 20 percent back if you properly complete the rollover).

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Be wary of "Free" or "No Fee" claims. Competition among financial firms for IRA business is strong, and advertising about rollovers and IRA-related services is common. In some cases, the advertising can be misleading. FINRA has observed overly broad language in advertisements and other sales material that implies there are no fees charged to investors who have accounts with the firms. Even if there are no costs associated with a rollover itself, there will almost certainly be costs related to account administration, investment management or both. Don't roll over your retirement funds solely based on the word "free."

Realize that conflicts of interest exist. Financial professionals who recommend an IRA rollover might earn commissions or other fees as a result. In contrast, leaving assets in your old employer's plan or rolling the assets to a plan sponsored by your new employer likely results in little or no compensation for a financial professional. In short, even if the recommendation is sound, any financial professional who recommends you move money from an employer-sponsored retirement plan into an IRA could benefit financially from that move.

Compare investment options and other services. An IRA often enables you to select from a broader range of investment options than available in an employer plan, but might not offer the same options your employer plan does. Whether the IRA options are attractive will depend, in part, on how satisfied you are with the options offered by your current or new employer's plan. Some employer plans also provide access to investment advice, planning tools, telephone help lines, educational materials and workshops. Similarly, IRA providers offer different levels of service, which may include full brokerage service, investment advice and distribution planning.

> **Note:** 401(k) plans are permitted to – but not required to – offer loans to participants. The loans must charge a reasonable rate of interest and be adequately secured. Loan amounts are limited to the lesser of 50 percent of your account balance or $50,000 and must be repaid within 5 years (unless the loan is used to purchase a principal residence). An IRA account should not be used as security for a loan because that part is treated as a distribution and is included in your gross income. You may have to pay the 10% penalty on early distributions.

Understand fees and expenses. Both employer-sponsored plans and IRAs involve investment-related expenses and plan or account fees. Investment-related expenses can include sales loads, commissions, the expenses of any mutual funds in which assets are invested and investment advisory fees. Plan fees can include administrative costs (recordkeeping and compliance fees, for instance) and fees for services, such as access to a customer service representative. In some cases, employers pay for some or all of the plan's administrative expenses. IRA account fees can include administrative, account set-up and custodial fees, among others.

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Before making a rollover decision, know how much you are currently paying for your plan. Compare that to the fees and expenses of a new plan or IRA. For more information about 401(k) fees, see the Department of Labor's publication, A Look at 401(k) Plan Fees (http://www.dol.gov/ebsa/publications/401k_employee.html). For IRA fees, ask your financial professional to provide you with information about fees and expenses, and read your account agreement and any investment prospectuses.

Engage in a thoughtful discussion with your financial or tax professional. Don't be shy about raising issues such as tax implications, differences in services, and fees and expenses between retirement savings alternatives. If your financial professional recommends that you sell securities in your plan or purchase securities in a newly opened IRA, ask what makes the recommendation suitable for you. As with any investment, if you don't understand it, don't buy it.

Age matters. If you leave your job between age 55 and $59^1/_2$, you may be able to take penalty-free withdrawals from an employer-sponsored plan. In contrast, penalty-free withdrawals generally are not allowed from an IRA until age $59^1/_2$. Once you reach age $70^1/_2$, the rules for both traditional employer plans and traditional IRAs require the periodic withdrawal of certain minimum amounts, known as the required minimum distribution (RMD). The RMD rules also apply to Roth 401(k) accounts. However, the RMD rules do not apply to Roth IRAs while the owner is alive. If you are still working at age $70^1/_2$, however, you generally are not required to make required minimum distributions from your current employer's plan. This may be advantageous for those who plan to work into their 70s.

Assess the tax implications of appreciated company stock. Some retirement plans feature company securities (such as stocks, bonds or debentures)—and, as with earnings on other investments, any increase in their value will typically be subject to ordinary income tax when you withdraw the securities from the plan. But if you're considering a distribution of company stock or securities when you leave the company, be aware that special IRS rules might allow you to defer paying taxes on the appreciation (which the IRS calls "net unrealized appreciation"). Consult your plan administrator and financial and tax professionals about tax scenarios related to company securities which have appreciated.

Protection from Creditors and Legal Judgments. Generally, retirement plan assets have greater protection from creditors under federal law than IRAs. However, in some states, IRAs receive similar protection.

SCHEDULE D – IRA ROLLOVER ACKNOWLEDGMENT
INVESTMENT MANAGEMENT AGREEMENT

Date: _______________

I am a participant in the employer sponsored retirement plan for____.
Cross Financial Services Corp. (Adviser) provides retirement plan consulting services to this employer sponsored retirement plan.

By signing below, I acknowledge that:
1) I have read the disclosure titled Schedule C – IRA Rollover Disclosure;
2) I have four options for the transfer of my employer sponsored retirement plan account;
3) I have had an opportunity to ask my Adviser questions about the four options available to me including a discussion of the fees and expenses for both the employer sponsored retirement plan in which I am a participant and the fees and expenses associated with opening an IRA Rollover with the Adviser;
4) I understand the pros and cons of each of my options and have determined that opening an IRA Rollover with the Adviser is suitable for me; and
5) The Adviser did not directly or indirectly solicit me to open an IRA Rollover with Cross Financial Services Corp.

Since the Adviser provides retirement plan consulting services to the employer sponsored retirement plan in which I am a participant the following fee schedule will apply:

Assets Under Management:	Annual Fee:
First $1,000,000	
Next $1,000,000	
Next $3,000,000	
Amounts Thereafter	

As stated in ***Section 4. Investment Management Fees.*** The investment management fees discussed above do <u>not</u> encompass third party fees which may include but not be limited to: brokerage commissions; clearing, settlement, transaction or exchange fees; wire transfer fees; electronic fund fees; ACAT fees; termination fees; margin interest; third party sub-adviser and/or third party portfolio manager fees; mutual fund/ETF management, administrative, 12b-1 fees or sales charges; or account fees, other fees and taxes on brokerage accounts and securities transactions, or custodial charges. These expenses are charged separately.

_____________________________ _____________________________ ________________
Client Name Client Signature Date

Questions?

Resources

https://www.finra.org/Investors/ProtectYourself/InvestorAlerts/RetirementAccounts/P436001

http://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2015.pdf

http://www.finra.org/web/groups/industry/@ip/@reg/@guide/documents/industry/p602239.pdf

http://www.dol.gov/ebsa/publications/401k_employee.html