
'Auto-Portability' Gets Closer to Reality

By Kerry Pechter Thu, Nov 15, 2018

After five years of pitching their idea for automatically moving assets from one 401(k) plan to the next when a worker changes jobs, Retirement Clearinghouse this week received the Department of Labor ruling that the project required.

"Auto-portability," a technology that would expedite a participant's assets from one 401(k) plan to another when he or she changes jobs, moved closer to reality this week.

The Department of Labor proposed a "prohibited transaction exemption," or PTE, that would allow Charlotte, NC-based Retirement Clearinghouse (RCH) to offer such a service.

The CEO of RCH (formerly RolloverSystems) is Spencer Williams, a former MassMutual executive. The executive vice president who worked with him to obtain the ruling is Tom Johnson, Head of Policy & Development, also a life insurance industry veteran. Robert L. Johnson (no relation), founder of Black Entertainment Television, owns RCH.

RCH had sought the PTE for several years; the exemption would allow RCH to default participants into its program and charge a fee for its plan-to-plan transfer service, as long as RCH meets a list of DOL conduct requirements.

The public policy argument for auto-portability is that it can prevent "leakage" from 401(k) plans when people change jobs. Too often, workers withdraw small balances when they change jobs rather than roll their money into their next plan—a process that employers don't necessarily make easy. The problem affects low-income people the most, since they change jobs more often, are more likely to have small account balances, and are more likely to need the cash for emergencies.

The DOL will accept public comments on the proposal for the next 45 days. Once the PTE is granted, RCH, which has piloted the program and proven the concept, will work on building a network of recordkeepers and plan sponsors to use the service.

"The advisory opinion is especially important to the plan sponsor. It makes clear the plan sponsor is not a fiduciary. Plan sponsors are averse to things that are not clear in the law today. By naming us as a fiduciary and granting us relief, the PTE also allows us to get paid for the roll in service," Williams told *RIJ* this week.

"There are a significant number of conditions that we have to meet. Early on, we'll have to

prove that our fees are reasonable. There is also an extensive system of notices that we have to provide to participants to ensure that it's a voluntary system. DOL is only granting the exemption for five years. The comment period for the Proposed Exemption closes on Dec 24th and we would expect the final Exemption to be issued 2-3 months later."

Williams and RCH vice president Tom Johnson, with guidance from Groom Law Group, spent much of the past five years speaking to various groups about auto-portability and building bipartisan support it.

"We went to nearly all the groups that have a dog in this fight, on the left as well as the right," Johnson said. "At one point we were asked, 'Whose ox do you gore with this?' And I said, 'Other than Bob's Big Screen TV Outlet, everybody wins.'" (The reference was to the perceived conflict that some 401(k) participants have between saving and buying a large smart television.)

"To deliver auto-portability we have to create a giant network where RCH sits at the hub and the recordkeepers are the spokes," Johnson said, noting that as few as 10 large recordkeepers account for 80% of the 401(k) business in the U.S. "We have to go to the recordkeepers and ask them to implement our technology. It's not complicated, but it still represents a technology spend.

"Along the way, you also have to create transmission standards. We act as an aggregator so that the recordkeepers don't have to talk to each other, just to us. We'll have transmission standards for that," he added. RCH acts as the transmitter of assets and data from one plan to the next, not as an asset custodian. Independent custodians will warehouse the small accounts after they leave one 401(k) and before they arrive at the next.