

'Auto-portability' gets green light from DOL

By Editorial Staff Thu, Aug 1, 2019

Retirement Clearinghouse, creator of a technology by which small abandoned 401(k) accounts would automatically follow their owners to their next plan, has received the permissions it needed to begin marketing its service to large recordkeepers like Fidelity, Vanguard and others.

After five years of lobbying, explaining and persuading, Retirement Clearinghouse (RCH) have won a dispensation from the federal government to accept fees for provision of a web-based service by which old 401(k) accounts will automatically follow workers when they change jobs and join a new plan.

On July 31, the Department of Labor (DOL) [released](#) a final Prohibited Transaction Exemption (PTE) for the service, which RCH calls "auto portability." Last November, the DOL issued an Advisory Opinion on the matter, identifying RCH as a fiduciary when it provides the service.

The proprietary technology, which aims to reduce "leakage" of savings from small-balance 401(k) accounts when workers change jobs—and thereby to increase the adequacy of Americans' savings when they reach retirement age—has yet to be adopted by major 401(k) recordkeepers, although RCH has spent five years educating them about the service.

"There's still a big bunch of heavy lifting ahead of us," RCH CEO Spencer Williams told *RIJ* this week. "When the first recordkeeper goes public that they're adopting auto-portability for their clients, we'll have reached the peak."

RCH required the blessing of the DOL in order to market its product to recordkeepers because the service involves DOL-regulated retirement plans, because it relies on defaulting plan participants into the program without positive consent, and because RCH will charge a fee for the service while in the role of a fiduciary.

"'Negative consent' is what we needed, for the simple reason that we have an unresponsive population," Williams said, referred to plan participants who often forget about small 401(k) accounts when they change jobs." Currently, plan sponsors are allowed to send small, abandoned 401(k) accounts to custodial IRAs run by trust companies, which earn a fee for warehousing the assets while trying to reunite the accounts with their owners.

"The exemption permits RCH to receive certain fees in connection with the transfer under

the RCH Program, of an individual's Default IRA or Eligible Mandatory Distribution Account assets to the individual's New Plan Account, without the individual's affirmative consent, provided the conditions described below are satisfied."

The majority owner of Retirement Clearinghouse is Robert L. Johnson, founder and chairman of The RLJ Companies in Charlotte, NC. Williams and Tom Johnson, executive vice president, both of whom are former MassMutual executives, have led the RCH initiative since its inception in 2014.

In tandem with the [Advisory Opinion](#) on auto portability issued by the DOL in November 2018—which identifies RCH as the fiduciary when a participant's small-balance terminated account or safe-harbor IRA are automatically rolled into a participant's current employer plan—the [final PTE](#) completes the regulatory framework for auto portability.

Auto portability (<https://www.rch1.com/auto-portability>) is the routine, standardized, and automated movement of a retirement plan participant's 401(k) savings account from their former employer's plan to an active account in their current employer's plan. According to the [Auto Portability Simulation](#) developed by RCH, cash-outs of small accounts could be cut by two-thirds under a scenario where auto portability is broadly adopted and remains in force for a generation—and \$784 billion in retirement savings would be preserved.

RCH remains the only independent provider that defines its primary business as the consolidation of retirement savings into active 401(k) or IRA accounts and provides plans and their participants with services that streamline the seamless transfer of savings between retirement accounts. The RCH Auto Portability service, which automates the consolidation process for small accounts, has been in operation since 2017.

On behalf of a large plan sponsor in the health services sector, RCH completed the first-ever fully automated, end-to-end transfer of retirement savings from a safe-harbor IRA into a participant's active account in July 2017. To learn more, go to <https://rch1.com/plan-sponsors/rch-portability-services>.