

## **DOL Prohibited Transaction Exemption (2020-02) Disclosure For Retirement Account Rollover/Transfers**

On December 15, 2020 the Department of Labor (“DOL”) issued final interpretation of who is a fiduciary under ERISA and the Internal Revenue Code as well a new exemption, Prohibited Transaction Exemption (“PTE”) 2020-02. PTE 2020-02 has a disclosure requirement which this, in conjunction with other MWA Financial Services (“MWAFS”) disclosures, is intended to satisfy. The scope includes the sponsor, owner, participant and/or beneficiary of certain plans, including ERISA-covered plans, SIMPLE, SEP and solo-participant plans (including IRAs) and Coverdell education savings accounts.

This disclosure must be presented prior to a registered representative and/or investment adviser representative making a recommendation for a prospective or existing retirement investor where there would be direct or indirect compensation to the representative, firm, affiliate or related entity. This disclosure is not required when making recommendations that do not concern retirement assets.

Additional information on the business practices of MWAFS can be found at [www.modernwoodmen.org/bestinterest](http://www.modernwoodmen.org/bestinterest), including the Client Relationship Summary (Form CRS) and other important disclosures. Any questions on disclosures can be directed to the MWAFS Compliance Department at (309)558-3100 x7 or [MWAFS.Compliance@modern-woodmen.org](mailto:MWAFS.Compliance@modern-woodmen.org).

## **Fiduciary Acknowledgement & Impartial Conduct Standards**

When we provide investment advice to you regarding your retirement plan account or individual retirement account, we are fiduciaries within the meaning of Title I of the Employee Retirement Income Security Act and/or the Internal Revenue Code, as applicable, which are laws governing retirement accounts. The way we make money creates some conflicts with your interests, so we operate under a special rule that requires us to act in your best interest and not put our interest ahead of yours. Under this special rule’s provisions, also known as “impartial conduct standards”, we must:

- Meet a professional standard of care when making investment recommendations (give prudent advice)
- Never put our financial interests ahead of yours when making recommendations (give loyal advice)
- Avoid misleading statements about conflicts of interest, fees, and investments
- Follow policies and procedures designed to ensure that we give advice that is in your best interest
- Charge no more than is reasonable for our services
- Give you basic information about conflicts of interest

### Making recommendations on retirement assets

MWAFS representatives are required to conduct a thorough analysis of the rollover and/or transfer of retirement assets. This analysis includes collecting and assessing the investor’s financial profile, along with needs and goals for the investment, as well as an assessment of the assets as they are currently invested, such as in a 401(k) or other retirement plan. Additionally, representatives must not make misleading statements about investment transactions, compensation, and conflicts of interest.

The **reason for the recommendation** is evidenced in the *Rollover Certification* or the *Funding* section on the MWAFS New Account Application (Form 1964). Please take the time to thoroughly review the information in this section, which includes several pages of information specific to the transaction.

### Reasonable Compensation

The impartial conduct standard mandates that representatives receive reasonable compensation for their services and includes both direct and indirect compensation. Reasonable means the compensation cannot be excessive and does not mandate that compensation be the lowest possible. Compensation must be judged in the context of the services provided; therefore, higher compensation may be reasonable for more comprehensive and detailed services. Whether or not compensation is reasonable depends on how it compares to alternatives. The compensation paid on products sold through MWAFS are either from: 1) commissions built into the retail investment product (such as a mutual fund) by the investment company then paid through MWAFS to the registered representative; or 2) a fee charged by the investment adviser representative based on total assets under management within an account.

## **Alternatives to Rolling or Transferring Retirement Assets**

Please review this information to be fully informed of all the options when considering moving assets from an existing plan. Retirement plan assets may represent a large portion of your retirement savings. It is important to consider what distribution option is best for you. Generally, there are four options that are available:

1. Retain the assets in the former employer's plan
2. Rollover the assets to a Traditional IRA or Roth IRA
3. Rollover the assets to the plan of a new employer
4. Receive a cash distribution

### Additional information on rollover options

The following is general information which may help you form a decision as to what to do with your retirement assets:

- If the former employer's plan was subject to the Employee Retirement Security Act (ERISA), the assets are protected from claims of creditors. However, if the assets are rolled out of the plan to an IRA, assets are only protected as an exempt asset in bankruptcy up to one million dollars.
- You may receive a direct distribution from your employer's plan that is exempt from the IRS 10% early distribution penalty if you separate from the service of your employer during or after the year you turn age 55 or greater. However, if you rollover your assets to an IRA, distributions prior to age 59 ½ are subject to the IRS 10% early distribution penalty.
- All qualified assets must begin distributions at the required minimum distribution age. If you are a participant in an employer plan, are not owner of 5% or more, and continue working beyond the RMD age, distributions may be postponed until you retire. If your assets are rolled over to an IRA, distributions must begin no later than April 1 of the year after attainment of the RMD age and each year thereafter.
- A distribution from a qualified retirement plan must be made payable to a financial institution for the benefit of the account owner for a direct rollover to occur.
- Distributions from a qualified retirement plan made payable to the plan participant will result in a taxable distribution.
- If the employer's plan is funded with employer stock, you may be eligible for special tax treatment under the tax code. This special tax treatment is lost if you roll your assets into an IRA which taxes distribution as ordinary income.
- Direct rollovers from an employer-sponsored qualified retirement plan to a SIMPLE IRA are allowed only after two years have elapsed since the date the employee first participated in the SIMPLE IRA plan.
- Traditional IRAs, SEP-IRAs and SIMPLE IRAs cannot accept rollovers from designated Roth accounts in 401(k), 403(b) or governmental 457(b) plans.
- Distributions rolled over from traditional pre-tax 401(k), 403(b) or 457(b) plans and converted to a Roth IRA will be subject to ordinary federal and state income taxation.

### Ineligible Rollover Information

Distributions that can be rolled over are called eligible rollover distributions. You can roll over all or part of any distribution from your retirement plan account, except the following:

- Required minimum distributions
- Loans that are treated as a distribution
- Hardship distributions
- Distributions of excess contributions plus related earnings
- Distributions that are part of a series of substantially equal payments
- Distributions to pay for accident, health, or life insurance
- Dividends on employer securities
- Corporation allocations treated as deemed distributions
- Withdrawals electing out of automatic contribution arrangements

More information can be found at <https://www.irs.gov/retirement-plans/plan-participant-employee/rollovers-of-retirement-plan-and-ira-distributions>.