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Thursday, April 10, 2014

RIAs, Heed This Rollover "Reminder"

By Neil Anderson

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Retirement plan advisors of all stripes, be they broker or RIA, should take heed of **Finra's** latest words on the subject of IRA rollovers.

At the end of last year the regulatory agency released what it framed as a reminder to brokers and broker-dealers "of their responsibilities concerning IRA rollovers." **Joan Neri**, counsel on the employee benefits and executive compensation practice group at **Drinker Biddle**, is urging RIAs to set aside their usual avoidance of Finra issues to examine the so-called reminder.

In notice 13-45, Finra tells brokers that the act of recommending that someone roll into an IRA must follow the suitability standard. To do so, Finra wants brokers to identify the relevant factors. Finra lists possible factors (investment options, fees, services, penalty-free withdrawals, different levels of protection

from creditors, required minimum distributions and company stock), while allowing for others, and Finra wants brokers to compare such factors between the plan and the other options (rolling into an IRA, rolling into a new plan, or cashing it out). Yet advisors may not have ready access to some of this information when it comes to the current plan.

Fine, you say, but you're an IAR with an RIA, so Finra has no hold over you. Yet here's the kicker: RIAs are subject to the fiduciary standard, which, in Neri's words, is "always viewed as a higher standard than a suitability standard."

"We now have a higher standard in terms of suitability," Neri tells **401kWire**. "This is a clear message to RIAs that they need to pay attention to this ... ERISA fiduciaries really need to be paying attention."

The Finra "reminder" (which Neri describes as basically new guidance, not a true reminder) also distinguishes between rollover education and rollover recommendation. For brokers and RIAs who want to stick just with rollover education, Neri urges such advisors to "at least put together an unbiased educational piece that educates the participant as to what the considerations should be."

Neri says that it would not surprise her if the DoL's fiduciary redefinition proposal, prior versions of which covered IRAs, came out consistent with this Finra guidance. ●

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