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Uncovering 1035 and Transfer Opportunities

1) What are the best strategies to look for?

- Has an income rider, and the client is either unsure if they even want to use it or know they will never activate income. Strip the Income rider, get rid of the fee, and allow the client to accumulate more. Why pay a fee for something you really don't need?
- The client is only trying to max out their death benefit. SPL opportunity if it's NQ. Or an annuity with a death benefit rider if they can't pass underwriting, if it's qualified or perhaps the NQ basis is too low, and they need a tax-free exchange.
- Has an income rider, and loves the guaranteed income, however, looking to produce even MORE income. Run an income analyzer quote and let's see if we can beat what they currently have.
- Upgrading a single income for life rider to a joint income for life with a doubler.
- Old annuity without an income rider with very basic crediting strategies. Why put a trampoline in a basement? If a client has a 3% annual cap with no income rider, that's an easy sale.
- Don't let surrender charges scare you. If the client is not in the right annuity and they have a 7% surrender, then it's better to offset that surrender with a bonus compared to staying in an annuity that is not best suited for the client.
- Variable annuities are a goldmine. Lock in their gains, secure their death benefit, produce a higher amount of lifetime income, drop a 4% fee to a 1% fee, add an income doubler. Most of these VAs have asset allocation requirements. For example, 40% of the money is required to be in bonds. Even if we gave a VA the benefit of the doubt and said it averaged 8% per year, you still must calculate the fees. On average the out the door fees total around 3-4%. That's about a 3%-5% net return if you're lucky. Can't FIAs accomplish the same returns?
  Download **"Secrets of Variable Annuities" by Bill Broich**. Go to firstannuity.net click on Resources > Annuity Resources.

2) What questions to ask the insurance company when getting information on your client's policy? Get on the phone WITH the client and get these answers. What questions to ask the client?

- Contract Value?
- Surrender Value?
- Is this Qual or NQ money? For NQ, what's the basis?
- Income Base?
- Death Benefit?

- Is there a fee attached?
- When does the rollup stop growing?
- What are the distribution rates for each age? Basically, what's the lifetime income we can take if we kept deferring the income rider?
- What are the current crediting strategies?
- What are the current cap/participation rates?
- Is this a single or a joint income rider?
- Is there an income doubler attached? For nursing home? 2/6 ADLs?
- If it's a Variable Annuity: You also need to ask the insurance company what the ME&A is (Mortality, Expense and Administration), the rider cost and the current subaccount expenses.

- Client, what are you trying to accomplish with this money?
- If it's income later, when are you looking to trigger the income?
- Are you okay with having a 4% fee taken out of your account every year even if the market is down?
- Are you okay with losing this money or would you like to protect it from market loss?

3) How to get this past suitability

- <u>DETAILS</u> on answering <u>WHY</u> we are doing this. Give them every reason to easily say "yes" because it makes so much sense. Don't just say that we are dropping the fee from 3% to 1%. Quantify it. Say we are dropping the fee from around 3k per year to about 1k per year. In 10 years this will save the client a total of over 20k.
- Some companies like American Equity have pre-suitability forms you can even fill out online and know on the spot if it's approved. This is highly recommended especially if you are working on an annuity with a surrender charge.
- Know the companies that have hard and fast suitability rules: For example, F&G will never take a surrender charge over 5% and Legacy never over 7%.
- We usually must offset the surrender charge with a bonus to make the client whole. If there is a 6% surrender charge, then a bonus 4 or 5% bonus is usually not going to cut it. Overall most carriers need to see the loss from surrender be made up with by a bonus.

https://www.thinkadvisor.com/2018/05/08/finra-fines-fifth-third-6m-over-variable-annuity-e/

FINRA Sanctions Fifth Third Over Variable Annuity Exchanges

The broker-dealer failed to appropriately consider and accurately describe the costs and benefits of VA exchanges, FINRA says.

By **Melanie Waddell** | May 08, 2018 at 11:28 AM

The Financial Industry Regulatory Authority said Tuesday that it has fined Fifth Third Securities, Inc., $4 million and required the firm to pay approximately $2 million in restitution to customers for failing to appropriately consider and accurately describe the costs and benefits of variable annuity exchanges.

Fifth Third also recommended exchanges “without a reasonable basis to believe the exchanges were suitable,” FINRA said.

FINRA found that Fifth Third failed to ensure that its registered reps obtained and assessed accurate information concerning the recommended VA exchanges, and that the BD’s registered reps and principals were not adequately trained on how to conduct a comparative analysis of the material features of the VAs.

As a result, “the firm misstated the costs and benefits of exchanges, making the exchange appear more beneficial to the customer,” FINRA states.

Susan Schroeder, FINRA's executive vice president and head of enforcement, said that FINRA remains vigilant in examining how member firms market variable annuities, which are "complex products pitched to retirees and people saving for retirement."

By reviewing a sample of VA exchanges that the firm approved from 2013 through 2015, FINRA states that it found that Fifth Third misstated or omitted at least one material fact relating to the costs or benefits of the VA exchange in approximately 77% of the sample.

For example, Fifth Third:

- Overstated the total fees of the existing VA or misstated fees associated with various additional optional benefits, known as riders.
- Failed to disclose that the existing VA had an accrued living benefit value, or understated the living benefit value, which the customer would forfeit upon executing the proposed exchange.
- Represented that a proposed VA had a living benefit rider even though the proposed VA did not, in fact, include a living benefit rider.

The BD's principals ultimately approved approximately 92% of VA exchange applications submitted to them for review, FINRA found. "However, in light of the firm's supervisory deficiencies, the firm did not have a reasonable basis to recommend and approve many of these transactions."

Fifth Third also failed to comply with a term of its 2009 settlement with FINRA.

In the 2009 action, FINRA found that, from 2004 to 2006, Fifth Third effected 250 unsuitable VA exchanges and transactions and had inadequate systems and procedures governing its VA exchange business.

"For more than four years following the settlement, the firm failed to fully implement an independent consultant's recommendation that it develop certain surveillance procedures to monitor VA exchanges by individual registered representatives," FINRA states.

Fifth Third neither admitted nor denied the charges but consented to the entry of FINRA's findings.

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Qualification Details:

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Annual premium:

Final expense only - 100%

Medicare Supplement only - 70%

Combo application - 100%

Hospital Advantage 2.0 - 100%

Annuity - 5% (15,000 Production credit maximum per case)

***Travel dates subject to change**

****Must meet minimum production requirements.**

Qualification Requirements: Applications must be issued between (03/01/2018 - 03/04/2019) in order for production credits to count towards the contest. Agents may qualify under either Life and Health or Annuity only, not both. Individual production only, LOA agents cannot be combined under a single agency. Producer must be in good standing to qualify and have an active contract on the date of departure. Premium lapses occurring during the qualification period will be deducted from gross premium credits. Sentinel is unable to substitute awards in lieu of attendance. Sentinel may change qualifications and dates due to unforeseen circumstances.

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THIS WEEK'S ANNUITY CARRIER NEWS

Sagicor

Sagicor announces "Rock The Summer" enhanced commission bonus incentive for up to 1.25% more than street from 5/1/18 - 7/6/18 for the Milestone MYGA, Sage Secure FIA, Sage Select Bonus FIA and their Sage Choice SPDA. See attached Flier for exact commission's based on product, product duration, age and qualification details . Call your marketer if you have any questions.

ONGOING ANNUITY CARRIER NEWS

Guggenheim

Guggenheim is changing rates **effective May 1, 2018** on the TriVysta on the below strategies. Please see the attached rate sheet for more details.

CROCI Sectors II 5.5% VC Index

1 year Pt-to-PT w/Spread = 2.4%

2 year Pt-to-Pt w/ Participation = 80%

Lincoln Financial

Rates are increasing for OptiBlend **effective May 1, 2018**! Please see the rate chartfor more details.

North American

North American has announced the creation of a new Pre-Sale Suitability form. This form will be **available May 15, 2018** for verbal or email submission to the North American Suitability Team to determine suitability prior to submitting an application. This form will become REQUIRED for all new annuity business **effective June 15**. Please contact your First Annuity Advisor Consultant for more information.

Oxford

Oxford has increased rates on their Multi-Select, Royal Select and Silver Select product lineup. Click hereto read more.

Pacific Life

Rates are increasing for Pacific Index Dimensions 10 **effective May 1**, 2018! Please see the rate chartfor more details.

Reliance Standard

Reliance Standard announced a rate change **effective on either 4/17 or 5/2** depending on the crediting method. Participation Rates will be **effective 5/2**. All other rate changes are effective 4/17. **Click Here**

for more information.

https://www.thinkadvisor.com/2018/05/08/1-in-3-americans-have-less-than-5000-in-retirement/

1 in 3 Americans Have Less Than $5,000 in Retirement Savings

New research finds waning confidence in Social Security, as more Americans expect to work longer.

By **Emily Zulz** | May 08, 2018 at 10:45 AM

Financial security in retirement is a key issue for many Americans, according to Northwestern Mutual's 2018 Planning & Progress Study.

Nearly eight in 10 Americans are "extremely" or "somewhat" concerned about affording a comfortable retirement, while two-thirds believe there is some likelihood of outliving retirement savings.

The study finds that these fears are substantiated.

One in three Americans have less than $5,000 in retirement savings and one in five have no retirement savings at all, according to the study. One in three baby boomers surveyed had less than $25,000.

Moreover, three-quarters of Americans believe it is "not at all likely" or only "somewhat likely" that Social Security will be available when they retire.

Despite this, less than half (46%) of adults have taken no steps to prepare for the likelihood that they could outlive their savings.

“As financial implications of retirement become increasingly complex, inertia just isn’t an option,” said Rebekah Barsch, vice president of planning for Northwestern Mutual, in a statement. “The good news is that it’s rarely too late to start. In fact, we often compare financial and physical fitness because the hardest part is taking the first step. However, once people commit to a strategy and start seeing positive results, they’re motivated to meet and even exceed their goals.”

The study also finds that these concerns about financial security in retirement may be leading people to work longer. According to the study, more working Americans anticipate retiring at 70 or older (38%) than in the more traditional 65-to-69 age range (33%).

Among the more than half (55%) of Americans who believe they will have to work past age 65 out of necessity, 73% cited “not enough money to retire comfortably” as the dominant driver.

Other reasons mentioned include Social Security not being sufficient to take care of their needs (61%) and concerns over rising costs like health care (52%).

“Continuing to work later in life should be a personal choice, not a mandatory requirement for survival,” Barsch said in a statement. “Proactive financial planning can be the difference between a desired and a default retirement lifestyle.”

The 2018 study is based on an online survey of 2,003 U.S. adults conducted from March 7 to 19 (and an oversample of 601 interviews with millennials age 18-34). Data were weighted to be representative of the U.S. population based on Census targets for education, age, gender, race/ethnicity, region and household income.

https://www.thinkadvisor.com/2018/05/08/state-pensions-reverse-2-year-decline-in-funded-st/

State Pensions Reverse 2-Year Decline in Funded Status

Robust stock market gains pushed up state retirement systems' aggregate asset value, according to Wilshire Consulting.

By **Michael Fischer** | May 08, 2018 at 02:04 PM

The funding ratio of state pension plans increased to 70.2% in the 2017 fiscal year, ended June 30, up 2.8 percentage points from the previous fiscal year, Wilshire Consulting **reported** Monday.

The increase reversed two consecutive years of aggregate funded ratio declines, according to the report.

"A primary driver of the improvement in the funding ratio was the increase in global equity values for the 12-month period ending June 30, 2017," Ned McGuire, managing director and a member of the pension risk solutions group at **Wilshire Consulting**, said in a statement. "In fact, the estimated aggregate asset value is the highest since Wilshire began reporting on state retirement system funding levels" — 22 years ago.

On a more somber note, a recent report predicted that within the next decade, some states would face **insolvency** because of their pensions, absent significant changes.

The Wilshire Consulting report said pension assets for the 71 state retirement systems that reported actuarial data for fiscal 2017 (out of 130 systems from which data were gathered) grew to $3.2 trillion, up more than 9% from $2.9 trillion in 2016. The key drivers of higher asset values were robust investment returns and contributions, it said.

Aggregate total pension liability increased by nearly 5% to $4.5 trillion from $4.3 trillion. The three main contributors in aggregate TPL were interest cost, changes in assumptions used to determine TPL (Other) and continued annual service cost, the report found.

Wilshire pointed out that despite the increase in aggregate TPL, the aggregate shortfall decreased by an estimated $54 billion to $1.3 trillion from $1.4 trillion, the result of the significant increase in aggregate assets.

According to the report, discount rates have trended lower over the past several years, and the trend continued in fiscal 2017. The discount rate represents the expected long-term rate of return on invested plan assets used to calculate the liability value (present value of a stream of projected benefit payments).

The range for discount rates in 2017 was 4.2% to 8%, with a median of 7.25%, down 25 basis points from 2016.

The report noted that asset allocation varied greatly by retirement system. In fiscal 2017, state pension plans had aggregate allocations to equity, including private equity, equal to 57.6%. Other allocations:

- Fixed income – 22.8%
- Real assets – 13.9%
- Alternatives – 4.8%
- Cash – 1%

https://www.thinkadvisor.com/2018/05/07/dol-announces-fiduciary-rule-enforcement-policy/?kw=DOL%20Announces%20Fiduciary%20Rule%20Enforcement%20Policy&et=editorial&bu=TA&cn=20180507&src=EMC-Email&pt=DailyWire

DOL Announces Fiduciary Rule Enforcement Policy

Labor is "throwing retirement savers under the bus," Barbara Roper says.

By **Melanie Waddell** | May 07, 2018 at 11:04 AM

The Labor Department announced Monday that financial institutions should be allowed to continue to rely upon the temporary enforcement policy set out in its fiduciary rule, pending the department's issuance of additional guidance, which it plans to issue "in the future."

The Department states in its **Field Assistance Bulletin No. 2018-02** that it is "convinced that this temporary enforcement relief is appropriate and in the interest of plans, plan fiduciaries, plan participants and beneficiaries, IRAs and IRA owners."

Labor's Employee Benefits Security Administration notes that on Monday the U.S. Court of Appeals for the 5th Circuit is expected to issue a mandate "effectuating its opinion vacating the entire fiduciary rule, the [best-interest contract] exemption, the principal transactions exemption, and related amendments to existing PTEs."

Labor had until April 30 to appeal the 5th Circuit's decision and did not do so.

For the period from June 9, 2017 — when the rule's Impartial Conduct Standards took hold — until after regulations or exemptions or other administrative guidance has been issued, Labor states that it "will not pursue prohibited transactions claims against investment advice fiduciaries who are working diligently and in good faith to comply with the impartial conduct standards for transactions that would have been exempted in the BIC exemption and principal transactions exemption, or treat such fiduciaries as violating the applicable prohibited transaction rules."

While Labor intends to provide "appropriate guidance in the future," it is aware that some financial institutions "may be uncertain as to the breadth of the prohibited transaction exemptions that remain available for investment advice fiduciaries following the court's order."

The uncertainty about fiduciary obligations and the scope of exemptive relief, Labor states, "could disrupt existing investment advice arrangements to the detriment of retirement plans, retirement investors and financial institutions."

Labor further states that financial institutions "have devoted significant resources to comply with the BIC exemption and the principal transactions exemption and may prefer to continue to rely upon the new compliance structures."

Barbara Roper, director of investor protection for the Consumer Federation of America, told ThinkAdvisor Monday after reviewing Labor's bulletin that "this is just further evidence that DOL is willing to bend over backwards to accommodate the firms, and throwing retirement savers under the bus in the process."

Fred Reish, partner in Drinker Biddle & Reath's employee benefits and executive compensation practice group in Los Angeles, explained to ThinkAdvisor that "DOL is saying that it will not enforce prohibited transactions if fiduciary advisors comply with the transition requirements of the exemptions."

More specifically, Reish added, "if a fiduciary advisor is working diligently and in good faith to satisfy the conditions of the transition exemptions, which are the Impartial Conduct Standards, the DOL and the IRS will not enforce the prohibited transaction rules against them."

Steve Saxon, an attorney specializing in the Employee Retirement Income Security Act with the Groom Law Group in Washington, added that "overall, [the bulletin] is good and expands the options financial institutions have in dealing with this change in circumstances. Shortly, we would hope that the department would provide short-term exemptive relief."

Reish sees Labor issuing "one or more proposed and temporary exemptions, to give more formal relief."

Labor, he adds, will likely not issue "final exemptions until they see" the Securities and Exchange Commission's final standard of conduct rules. "Then [Labor] will incorporate compliance with those rules into the exemptions."

The 5th Circuit had yet to issue its mandate to vacate Labor's rule by press time Monday afternoon.

Saxon added that while Labor's fiduciary rule is all but dead, "the fiduciary status of service providers offering advice is not. If fiduciary advice given results in the payment of compensation there is a prohibited transaction. But with the vacating of the fiduciary rule, there is no longer an exemption–hence the need for relief. The non- enforcement policy should be followed by an exemption taking the place of the BIC exemption."

George Michael Gerstein, an ERISA attorney with Stradley Ronon in Washington, told ThinkAdvisor on Monday that "financial services firms should comb through their compliance approach to the DOL rule over the past couple of years and identify and address specific compliance requirements that may no longer be technically required."

The focus, Gerstein said, "is on good faith compliance with the impartial conduct standards, predicated on flexibility. Flexibility is key here. It is imperative to avoid foot faults, which can be used against them by state regulators, as happened against Scottrade."

https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2018-02

Field Assistance Bulletin No. 2018-02

Printer Friendly Version
Date:
May 7, 2018
Memorandum For: Mabel Capolongo, Director of Enforcement
Regional Directors

From: Lyssa E. Hall
Director, Office of Exemption Determinations

Subject: Temporary Enforcement Policy on Prohibited Transactions Rules Applicable to Investment Advice Fiduciaries

Background

This document announces a temporary enforcement policy related to the Department of Labor's rule defining who is a "fiduciary" under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1986 (Code), and the associated prohibited transaction exemptions, including the Best Interest Contract Exemption (BIC Exemption), the Class Exemption for Principal Transactions In Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (Principal Transactions Exemption), and certain amended prohibited transaction exemptions (collectively PTEs).

The rule, entitled "Definition of the Term 'Fiduciary'; Conflict of Interest Rule -- Retirement Investment Advice," the BIC and Principal Transactions Exemptions, and the amendments to existing PTEs became applicable on June 9, 2017. The Department delayed the applicability date of certain provisions in the PTEs to provide an extended transition period through July 1, 2019, to consider possible changes or modifications to the fiduciary rule and PTEs.[1] During the extended transition period, the BIC Exemption and Principal Transactions Exemption provided broad relief from certain prohibited transactions provisions of ERISA and the Code for investment advice fiduciaries that satisfied the "impartial conduct standards."[2] Further, the Department adopted a temporary enforcement policy stating that it would not pursue claims against fiduciaries who were working in good faith to comply with the fiduciary rule and applicable provisions of the PTEs, or treat those fiduciaries as being in violation of the fiduciary rule and PTEs.[3] In response to these developments, many financial institutions created and implemented compliance structures designed to ensure satisfaction of the impartial conduct standards.

On or about May 7, 2018, the United States Court of Appeals for the Fifth Circuit is expected to issue a mandate effectuating its opinion vacating the entire fiduciary rule, the BIC Exemption, the Principal Transactions Exemption, and related amendments to existing PTEs. The Department understands that financial institutions, advisers, and retirement investors may have questions regarding the investment advice fiduciary definition and related exemptive relief following the court's order. The Department intends to provide appropriate guidance in the future. At this point, however, the Department is aware that some financial institutions may be uncertain as to the breadth of the prohibited transaction exemptions that remain available for investment advice fiduciaries following the court's order. The uncertainty about fiduciary obligations and the scope of exemptive relief could disrupt existing investment advice arrangements to the detriment of retirement plans, retirement investors, and financial institutions. Further, some financial institutions have devoted significant resources to comply with the BIC Exemption and the Principal Transactions Exemption and may prefer to continue to rely upon the new compliance structures.

Based upon these concerns, the Department has concluded that financial institutions should be permitted to continue to rely upon the temporary enforcement policy, pending the Department's issuance of additional guidance. The Department is convinced that this temporary enforcement relief is appropriate and in the interest of plans, plan fiduciaries, plan participants and beneficiaries, IRAs, and IRA owners.

Temporary Enforcement Policy

Accordingly, for the period from June 9, 2017, until after regulations or exemptions or other administrative guidance has been issued, the Department will not pursue prohibited transactions claims against investment advice fiduciaries who are working diligently and in good faith to comply with the impartial conduct standards for transactions that would have been exempted in the BIC Exemption and Principal Transactions Exemption, or treat such fiduciaries as violating the applicable prohibited transaction rules.[4] Of course, investment advice fiduciaries may also choose to rely upon other available exemptions to the extent applicable after the Fifth Circuit's decision, but the Department will not treat an adviser's failure to rely upon such other exemptions as resulting in a violation of the prohibited transaction rules if the adviser meets the terms of this enforcement policy.

The Department is evaluating the need for other temporary or permanent prohibited transaction relief for investment advice fiduciaries, including possible prospective and retroactive prohibited transaction relief. The Department will, of course, consider any applications for additional relief.

This Bulletin is an expression of the Department's temporary enforcement policy, and it does not address the rights or obligations of other parties.