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GUIDE TO APPLYING THE FIDUCIARY DUTY TO ROLLOVERS

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Every year, millions of Americans complete 401(k) rollovers and hundreds of billions of dollars in assets are transferred from employer-sponsored plans to IRAs and other accounts. Rolling over a 401(k) is a significant financial decision that can offer access to a broader range of investment choices, facilitate the delivery of services that the client needs and make it easier to keep track of assets. But poor or conflicted advice about rollovers can expose the client to unnecessary costs, significant tax penalties, loss of creditor protection or other adverse consequences. This guide helps a CFP® professional develop a rollover recommendation that's in the best interests of the client and maximizes the client's potential for meeting their long-term goals.

The Duty of Care Process section of this guide

- Provides examples of the qualitative and quantitative information about the Client's personal and financial circumstances that a CFP® professional should gather
- Clarifies that Financial Advice about a rollover consists of several related, but distinct, recommendations
- Identifies four potential alternative courses of action and ten features of the Client's current employer plan and each alternative that a CFP® professional should consider (if applicable)
- Describes eight characteristics of each alternative course of action that a CFP® professional might assess in developing a recommendation

INTRODUCTION

Whether and how to roll over employer-sponsored retirement plan assets is an important financial decision that may have a significant effect on when a Client is able to retire and what level of assets a Client will have available during their retirement. This guide addresses a CFP® professional's fiduciary obligations when providing Financial Advice on whether to roll over assets from an employer plan.

Frequently Considered Rollover Options

When a Client switches jobs or retires, they face a significant decision—what should they do with their retirement account from their old employer? Here are frequently considered options:

Individuals Considering a Rollover Should be Encouraged to Obtain Financial Advice

A CFP® professional should encourage individuals who are considering a rollover to obtain Financial Advice before making that decision.

Limiting communications about rollovers to only general education, especially in a 1:1 setting, may be challenging. If a CFP® professional decides to provide general education materials about rollovers that do not constitute Financial Advice, then the CFP® professional should make clear to the Client that they are not making a recommendation. It is the content, context and presentation of the communication itself, however, that will determine whether the CFP® professional has provided Financial Advice. Statements describing the communication will be given such weight as CFP Board in its judgment deems appropriate.

Practice Tip

A CFP® professional should consider providing any educational information in writing or documenting any discussion in which the CFP® professional provides that education. Without documentation, a CFP® professional may experience greater difficulty later establishing that the information the CFP® professional provided verbally was educational information and not Financial Advice.

WHAT IS FINANCIAL ADVICE?

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CFP Board's *Code of Ethics and Standards of Conduct* (*Code and Standards*) defines Financial Advice as including a communication that, based on its content, context and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to, among other things, the value of or the advisability of investing in, purchasing, holding, gifting or selling Financial Assets. The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry. The more individually tailored the communication is to the Client, the more likely the communication will be viewed as Financial Advice. Providing services or furnishing or making available marketing materials, general financial education materials or general financial communications that a reasonable CFP® professional would not view as Financial Advice does not constitute Financial Advice.

Why this matters:

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interest of the Client.

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When Has a CFP® Professional Provided Education (And Not Financial Advice)

A communication is more likely to be considered educational if it:

- Provides **objective information** about the alternatives available to the Client;
- Is **general** and **not tailored** to the Client or to a targeted group of persons; and
- **Avoids using language** that directly or indirectly expresses a preference or recommendation, such as "If I were you, I would see the benefit of a rollover."

Educational communications that are not Financial Advice remain subject to other provisions of the *Code and Standards*. For example:

- **The communication** must be **accurate** and materially **complete** so as not to mislead the Client (Standard A.2, Duty of Integrity);
- A CFP® professional must provide the information in a manner and format that a Client **reasonably may be expected to understand** (Standard A.11, Duty to Provide Information to a Client);
- A CFP® professional must **provide the educational information with competence**, which means with relevant knowledge and skill to apply that knowledge (Standard A.4, Duty of Competence); and
- A CFP® professional must also **comply with relevant laws and regulations, as well as the policies and procedures** of the CFP® Professional's Firm that do not conflict with the *Code and Standards* (Standards A.8 and D.2).

When a Client Asks a CFP® Professional to Help Roll Over Assets

A CFP® professional may receive a "directed order" from a Client to roll over assets. A directed order occurs when a Client explicitly requests a rollover, and not when a Client merely expresses an interest in a rollover.

Additionally, if a CFP® professional has information that would cause a prudent professional to determine that the rollover is not in the Client's best interests, then the CFP® professional must inform the Client of that conclusion, the reasons for that conclusion and the possible consequences of taking that course of action. Likewise if a CFP® professional knows that the Client is basing the directed order on materially inaccurate or incomplete information or assumptions—including that the Client does not understand educational information that the CFP® professional previously provided—then the CFP® professional must correct the misunderstanding or supplement the information already provided so that the information is accurate and complete.

If the Client nevertheless clearly and specifically directs a CFP® professional to continue with the directed order to roll over assets, then the CFP® professional is obligated to follow the Client's instruction. A CFP® professional should document the discussion with the Client, including the Client's ultimate instruction. A CFP® professional also may elect to terminate the Engagement if the Client instructs the CFP® professional to take actions that the CFP® professional believes are not in the Client's best interests.

Myths	Reality
'I have to roll over'	A rollover may not be required
'I can undo this later'	Decisions may be irreversible

DUTY OF LOYALTY

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A CFP® professional's recommendation about a rollover is Financial Advice that is subject to the Fiduciary Duty, and the CFP® professional must fulfill the Duty of Loyalty and the Duty of Care. To satisfy the Duty of Loyalty, a CFP® professional must make full disclosure of all Material Conflicts of Interest that could affect the professional relationship, obtain the Client's informed consent and manage the conflict in the Client's best interests.

1. Disclose Conflicts Fully

First, a CFP® professional must make full disclosure of all Material Conflicts of Interest with the Client that could affect the professional relationship. This obligation requires a CFP® professional to provide the Client with sufficiently specific facts so that a reasonable Client would be able to understand the CFP® professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and be able to give informed consent to such conflicts or reject them. In other words, a CFP® professional must provide the Client with information that enables a reasonable Client receiving the disclosure to understand a conflict and how it could affect the Financial Advice the Client will receive from the CFP® professional.

2. Obtain Informed Client Consent

Second, a CFP® professional must obtain the Client's consent before providing any Financial Advice regarding which the CFP® professional has a Material Conflict of Interest.

3. Manage Conflicts in the Client's Best Interests

Third, a CFP® professional must adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising the CFP® professional's ability to act in the Client's best interests.

Identifying Conflicts of Interest in Rollover Recommendations

Financial Advice to roll over assets into an IRA raises several Material Conflicts of Interest.

1. Rollover-Driven Compensation

First, Financial Advice about whether to roll over assets or keep assets in an employer plan presents a Material Conflict of Interest if rolling over assets would result in compensation that a CFP® professional (or their firm) otherwise would not receive. This Conflict of Interest exists regardless of compensation model. Both commission payments and assets under management (AUM) fees create financial incentives to recommend a rollover.

2. Conflicts Arising From Choice of Account Type or Compensation Model

Second, a CFP® professional who is both a registered representative of a broker-dealer and an investment adviser representative (or who otherwise offers multiple alternative compensation models for Client services) has a Conflict of Interest related to the choice of account or compensation model used. Specifically, a CFP® professional has an incentive to recommend the type of account or compensation model that will result in the most revenue for the CFP® professional and/or the CFP® Professional's Firm, even if a different account type or compensation model would be in the Client's best interests.

This conflict may arise with any account type. For example, there is an incentive for a CFP® professional to recommend that the Client open an advisory account that pays the CFP® Professional's Firm a percentage of the assets under management, even if a brokerage account would be in the Client's best interests (because, for example, the CFP® professional does not anticipate providing investment management or other ongoing services). By further example, a CFP® professional has an incentive to recommend that the Client open a brokerage account that pays the CFP® professional a commission based on the value or amount of transactions, even if an investment advisory account would be in the Client's best interests (because, for example, the CFP® professional anticipates active trading in the account that would result in sales-related compensation that is greater than would result from an asset management fee).

3. Investment-Level Compensation Conflicts

Third, if the Client does roll over assets, then a CFP® professional also might have a Conflict of Interest concerning the investment recommendations within the account. A CFP® professional might earn more sales-related compensation from recommending certain investments that pay the CFP® Professional's Firm a higher commission. Additionally, some firms might offer proprietary products or have "revenue sharing" arrangements with mutual fund companies, where the firm receives a fee or other benefit when a Client purchases those investments.

Fully Disclosing Rollover Conflicts of Interest and Obtaining Informed Consent

A CFP® professional must fully disclose any Material Conflicts of Interest, including the conflicts mentioned above, with sufficiently specific facts so that a reasonable Client would be able to understand the CFP® professional's conflicts and the business practices that give rise to the conflicts, and give informed consent to such conflicts or reject them. Among other things, a CFP® professional must specifically disclose the incentive to recommend a rollover. In providing the Client with information, a CFP® professional might, for example:

Explain Available Options

Explain the other options available to the Client, such as keeping assets where they are (i.e., not rolling over assets) or rolling over assets into another employer plan.

Explain Compensation Incentives From Account Type

For the conflict arising from a CFP® professional's form of compensation (such as commission, assets under management or flat fee), explain the incentive inherent to the type of compensation. Note: A CFP® professional does not meet this standard by merely disclosing the type of compensation, as that information is not sufficiently specific to enable the Client to provide informed consent. The CFP® professional also must explain the incentive that the compensation creates and how it could affect the Financial Advice.

Explain Incentives Relating to Investment Selection

Explain and disclose the incentives to the CFP® professional or the CFP® Professional's Firm that reasonably could arise during management of the account, such as the sale of proprietary products.

Other Guidance Resources

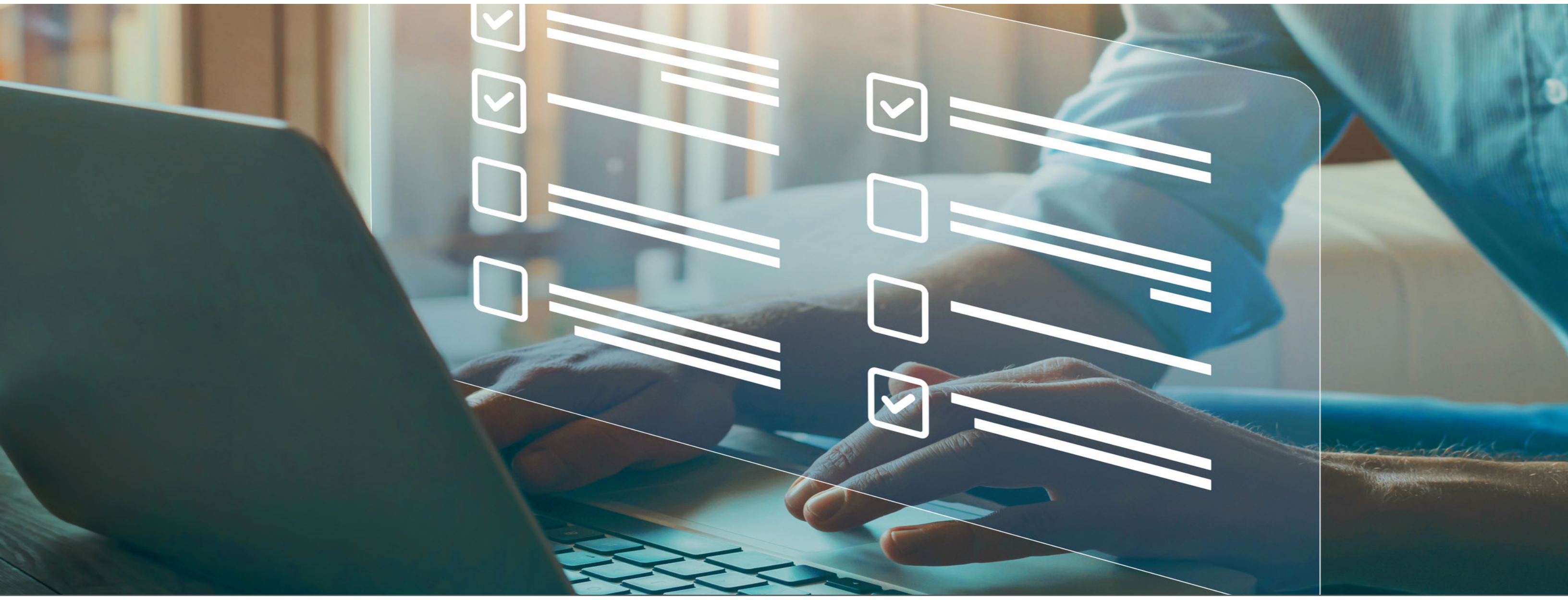
CFP Board has issued a set of *Frequently Asked Questions on Conflicts of Interest.* Among other things, the FAQs address conflicts that arise under different compensation models and discuss what is required for "full disclosure" of Material Conflicts of Interest. While a CFP® professional is not required to disclose these conflicts in writing, CFP Board recommends written disclosure. The *Code and Standards* provides that evidence of oral disclosure of a conflict will be given such weight as CFP Board in its judgment deems appropriate.

Managing Conflicts of Interest Through a Duty of Care Process

Finally, a CFP® professional must adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising the CFP® professional's ability to act in the Client's best interests. Following a firm's conflict management process can help a CFP® professional fulfill this obligation. However, if a CFP® professional knows, or reasonably should know, that the firm's conflict management measures are insufficient to prevent the conflict from compromising the CFP® professional's ability to provide Financial Advice in the Client's best interests, then the CFP® professional must implement additional conflict management practices. This may include managing the conflict through a process, consistent with a CFP® professional's Duty of Care, that is reasonably designed to result in Financial Advice that is in the Client's best interests despite the Conflicts of Interest.

The *Guide to Satisfying the Duty of Care* sets forth a 7-step process for complying with the Duty of Care when providing Financial Advice that does not require Financial Planning. This section of the guide applies that process to rollovers.

If the CFP® professional is providing advice about rollovers as part of a Financial Planning Engagement, then the CFP® professional must follow the process set forth in the Practice Standards for the Financial Planning Process. The scope of the information that a CFP® professional must obtain and analyze, and the depth of the requisite analysis, typically is greater for Financial Planning than it is for Financial Advice that does not require Financial Planning.



STEP 1 Understand the Client's Personal and Financial Circumstances

A CFP® professional must gather information to understand the Client's personal and financial circumstances necessary to provide Financial Advice in the Client's best interests concerning a potential rollover.

The Duty of Care guide provides examples of the qualitative and quantitative information that a CFP® professional might need to gather for Financial Advice generally. For Financial Advice concerning a rollover, examples of qualitative or subjective information include the Client's:

- ☐ Health and life expectancy
- ☐ Expected time horizon and goals for the assets, including when the Client might begin distributions from the assets
- ☐ Likelihood of taking a loan or making an early withdrawal from retirement assets
- ☐ Contemplated investment strategy
- ☐ Risk tolerance
- ☐ Desire to consolidate or simplify financial holdings
- ☐ Desire for additional services and Financial Advice, such as portfolio management, Financial Planning or distribution planning
- ☐ Need for protection from creditors
- ☐ Level of satisfaction with the current employer plan or IRA, including, for example, the customer service provided or the ease of making desired transactions

Examples of quantitative or objective information include the Client's:

- ☐ Age
- ☐ Assets in non-retirement accounts and other retirement accounts
- ☐ Liabilities
- ☐ Income and tax situation
- ☐ Capacity for risk

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STEP 2 Discern the Financial Advice Required to Fulfill the Scope of Engagement

After understanding the Client's financial and personal circumstances, a CFP® professional must determine the Financial Advice required to fulfill the Scope of Engagement. For rollovers, the Financial Advice the CFP® professional is providing consists of several different but related Financial Advice recommendations, including:

- ☐ Whether to sell the assets in the Client's existing employer plan as a preparatory step to moving them into a different account (as most 401(k) plans do not support in-kind rollovers)
- ☐ Whether to withdraw the assets from the existing plan and roll them over into a new account (i.e., whether to "roll out" the proceeds)
- ☐ The account type and scope of services that would be in the best interests of the Client (i.e., what the proceeds should "roll into")
- ☐ How to invest the assets in the account (if the CFP® professional is responsible for implementation)

FOLLOW FIRM POLICIES AND LAWS, RULES AND REGULATIONS

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Firm Policies and the Law

A CFP® professional must be aware of and follow the CFP® Professional's Firm's policies and procedures with respect to rollovers, as well as any applicable laws, rules or regulations. A CFP® professional providing individualized investment advice regarding benefit plan assets, including rollover of those assets, may be subject to requirements under the Employee Retirement Income Security Act of 1974 (ERISA) and the regulations implementing it.

For example, the Department of Labor's Prohibited Transaction Exemption (PTE) 2020-02, *Improving Investment Advice for Workers & Retirees*, establishes conditions for when financial institutions and their representatives may receive compensation resulting from making conflicted fiduciary recommendations to retirement plan participants and IRA owners.

The Securities and Exchange Commission also has issued guidance (Staff Bulletin: Standards of Conduct for Broker-Dealers and Investment Advisers Account Recommendations for Retail Investors) as to how Regulation Best Interest (Frequently Asked Questions on Regulation Best Interest) and the fiduciary standard for investment advisers under the Investment Advisers Act (Commission Interpretation Regarding Standard of Conduct for Investment Advisers) are implicated by rollover recommendations.

The laws, rules and regulations that apply to rollovers contain requirements that are not set forth in this guide. These may include, if applicable, specific disclosures and acknowledgments as well as an annual retrospective compliance review process.

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STEP 3 Analyze the Current and Potential Course(s) of Action to Fulfill the Scope of Engagement

A CFP® professional must analyze the Client's current course of action and reasonably available alternative courses of action. The "current course of action" in the context of rollover advice is remaining in the current employer-sponsored retirement plan (except in the case of "forced rollovers" for small account balances). Potential alternative courses of action include:

- ☐ Rolling over the assets to a traditional IRA or a Roth IRA, as appropriate, or purchasing an Individual Retirement Annuity
- ☐ Rolling over assets into a plan with a new employer (in which case the CFP® professional must gather information about the new employer's retirement plan)
- ☐ Rolling over assets into a plan with a previous employer

  Note: This option is typically not available, because most plans do not permit incoming rollovers from separated employees. The Thrift Savings Plan, however, allows former federal employees to move funds into that plan.
- ☐ Making a withdrawal from the plan

  For example:
  - ☐ A Client with company stock in an employer plan could consider taking a taxable distribution of that stock to receive net unrealized appreciation tax treatment

    Note: With net unrealized appreciation, the Client immediately pays income tax on only the company stock's cost basis. Any appreciation would then be taxed as capital gains upon sale of the stock, rather than having the entire distribution taxed as ordinary income.
  - ☐ A Client approaching or in retirement or a Client facing an immediate financial hardship might consider taxable distributions
  - ☐ Other Clients might consider starting a substantially equal periodic payment plan

Analyzing the Client's current course of action and potential alternative course(s) of action requires evaluating relevant information. Accordingly, a CFP® professional must understand and analyze the features of the Client's current employer plan and each alternative. Relevant information includes, if applicable:

- ☐ The asset classes and investment options in the plan or account, including brokerage accounts or mutual fund windows, and the availability of guaranteed insured retirement income products
- ☐ The availability of Roth accounts and Roth conversions
- ☐ The costs, including the fee schedule for the plan or account as well as the expenses for the available investment options
- ☐ Services provided that are relevant to the Client, such as investment advice or financial planning
- ☐ The applicable distribution rules, such as the availability and flexibility of a substantially equal periodic payment election or features to support taking required minimum distributions
- ☐ The availability of principal protection and/or guaranteed lifetime income features
- ☐ The ability to borrow from the plan
- ☐ If the current employer plan has significant holdings in company stock
- ☐ The extent to which the plan or account offers protection from creditors, both in bankruptcy and otherwise
- ☐ The circumstances under which penalty-free withdrawals are available, such as hardship distributions or distributions following separation from service

Information about the Client's current employer plan and any new employer plan should be readily available to the Client as a result of Department of Labor regulations (Reporting and Disclosure Guide for Employee Benefit Plans) mandating disclosure of plan-related information to plan participants. If information about the employer plan is not reasonably available from the Client or otherwise, then a CFP® professional may make a reasonable estimation of expenses, asset values, risk and returns based on credible publicly available information, such as Form 5500, reliable benchmarks or third-party commercial services. A CFP® professional must explain to the Client the estimates and how the CFP® professional developed the estimates.

STEP 4 Develop Recommendations

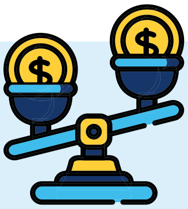
Next, a CFP® professional must determine which course of action, including the current course of action and any alternatives, is in the best interests of the Client. To do this, the CFP® professional must conduct a comparative analysis of the advantages and disadvantages of each reasonably available alternative in light of the Client's individual needs and circumstances. This analysis must include both a comparison of the characteristics of each alternative and an evaluation of how those different characteristics would or would not be in the best interests of the particular Client. Characteristics that a CFP® professional might consider in this analysis include:

- ☐ The extent to which the alternative facilitates the delivery of services that the Client needs, such as financial planning (e.g., risk management, tax planning and estate planning)
- ☐ The ability to execute a financial plan or investment strategy in the best interests of the Client
- ☐ Depending on the Client's time horizon, the ease of taking loans, early withdrawals or distributions
- ☐ Costs (see graphic on next page for additional discussion)
- ☐ The benefit of consolidating multiple retirement accounts and reducing the risk of "orphaned" or "forgotten" accounts
- ☐ The account types or fee arrangements that are reasonably available to the Client if the Client rolled assets over into an IRA with the CFP® professional, as compared to the alternatives
- ☐ The need for protection from creditors
- ☐ Client preferences

Evaluating Costs

Under the Duty of Care, a CFP® professional **may not cause the Client to incur excessive costs** relative to comparable, reasonably available alternatives.

The CFP® professional must always consider **the costs of each alternative.**



The CFP® professional must have a **reasonable basis to recommend that the account with higher costs is in the Client's best interests.**

However, cost is not the only relevant factor.

In fact, making a recommendation based on **a comparison of cost alone generally would not fulfill the Duty of Care.**

A CFP® professional must **consider other relevant factors**.

There may be more than one reasonably available alternative that will satisfy the CFP® professional's duty to act in the best interests of the Client. Thus, there may be more than one option that a CFP® professional could prudently recommend, consistent with the Duty of Care, to the Client.

Conversely, if a CFP® professional determines that none of the reasonably available courses of action would be in the Client's best interests, then the CFP® professional would not be able to recommend any of them to the Client. This situation may arise if a CFP® Professional's Firm offers limited account choices or a limited product menu. If a CFP® professional knew that none of the reasonably available options would be in the Client's best interests, then the CFP® professional would not satisfy the Duty of Care simply by recommending the "least bad" option from the limited menu of choices.

When performing this analysis, a CFP® professional does not have to be familiar with or evaluate every possible course of action. Instead, a CFP® professional must review possible courses of action that a prudent professional would evaluate under the facts and circumstances at the time of developing the Financial Advice. A CFP® professional is expected to be generally aware of the range of widely available financial products and services in the marketplace.

STEPS 5-7: PRESENTING, IMPLEMENTING AND MONITORING/UPDATING

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STEPS 5,6,7 Present, Implement and Monitor/Update the Financial Advice

If the CFP® professional recommends a rollover, then the Client commonly will request that the CFP® professional implement the Financial Advice—i.e., initiate the rollover. The CFP® professional must have or obtain the competence necessary to implement the rollover in the best interests of the Client, taking care to follow applicable rules to avoid inadvertent tax consequences. The CFP® professional's implementation responsibilities also would include recommending investment choices for the Financial Assets in the rollover account that are in the best interests of the Client in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances. Finally, depending upon the Scope of Engagement, the CFP® professional might be required to review, at appropriate intervals, whether a change in the Client's personal and financial circumstances warrants an update to the recommendations previously provided.

From Rollover Recommendation to Ongoing Monitoring

Present the recommendation

Implement the rollover correctly

Monitor to see if circumstances warrant a change and, if so, update

DOCUMENTATION

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For Financial Advice that does not require Financial Planning, a CFP® professional generally is not required to present a written recommendation to the Client or document compliance with the Duty of Care process.

Notwithstanding, CFP Board recommends documenting how the Duty of Care process was applied, particularly with respect to Steps 3 and 4, relating to the alternatives considered and the reasons that a rollover was in the best interests of the Client.

A CFP® professional might experience difficulty demonstrating that the Financial Advice was in the Client's best interests without contemporaneous documentation of the basis for the recommendation.

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APPENDIX CHECKLIST FOR APPLYING THE DUTY OF CARE PROCESS TO ROLLOVERS

APPLYING THE DUTY OF CARE PROCESS TO ROLLOVERS CHECKLIST

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CFP Board designed this checklist to help CFP® professionals provide Financial Advice about rollovers in a manner that complies with the Duty of Care. This is a checklist version of CFP Board's *Guide to Applying the Fiduciary Duty to Rollovers.*

This checklist does not set forth the only way to apply the Duty of Care to a rollover recommendation. The Duty of Care does not require a CFP® professional to always consider every item in this checklist. Conversely, the considerations identified here are not exhaustive and, depending on the circumstances, a CFP® professional may need to obtain additional information or evaluate other factors as well.

Step 1: Understand the Client's personal and financial circumstances

- ☐ **Gather qualitative information**

  Examples:
  - ☐ Health and life expectancy
  - ☐ Expected time horizon and goals for the assets, including when the Client might begin distributions from the assets
  - ☐ Likelihood of taking a loan or making an early withdrawal from retirement assets
  - ☐ Contemplated investment strategy
  - ☐ Risk tolerance
  - ☐ Desire to consolidate or simplify financial holdings
  - ☐ Desire for additional services and Financial Advice, such as portfolio management, Financial Planning or distribution planning
  - ☐ Need for creditor protection
  - ☐ Level of satisfaction with current plan
- ☐ **Gather quantitative information**

  Examples:
  - ☐ Age
  - ☐ Assets in non-retirement accounts
  - ☐ Assets in other retirement accounts
  - ☐ Liabilities
  - ☐ Income and tax situation
  - ☐ Capacity for risk

Step 2: Discern the Financial Advice Required to Fulfill the Scope of Engagement

- ☐ **Understand that a rollover recommendation consists of several different but related Financial Advice recommendations:**
  - ☐ Whether to sell the assets in the Client's existing employer plan as a preparatory step to moving them into a different account
  - ☐ Whether to withdraw the assets from the existing plan and roll them over into a new account
  - ☐ The type of account and scope of services that would be in the best interests of the Client
  - ☐ If the CFP® professional is responsible for implementing any recommended rollover, then how to invest the assets in the account

Step 3: Analyze the Current and Potential course(s) of Action to Fulfill the Scope of Engagement

- ☐ **Identify the Client's current course of action and reasonably available alternative courses of action**
  - ☐ Remain in the current employer-sponsored retirement plan
  - ☐ Roll over the assets to a traditional IRA or a Roth IRA, as appropriate, or purchasing an Individual Retirement Annuity
  - ☐ Roll over assets into a plan with a new employer
  - ☐ Roll over assets into a plan with a previous employer (if available)

1. The Guide to Satisfying the Duty of Care sets forth a 7-step process for complying with the Duty of Care when providing Financial Advice that does not require Financial Planning; if the CFP® professional is providing advice about rollovers as part of a Financial Planning Engagement, then the CFP® professional must follow the process set forth in the Practice Standards for the Financial Planning Process. The scope of information that a CFP® professional must obtain and analyze—and the depth of that analysis—will typically be greater for Financial Planning than it will be for Financial Advice that does not require Financial Planning.

- ☐ Make a withdrawal from the plan, considering:
  - ☐ Availability of net unrealized appreciation tax treatment
  - ☐ Need for taxable distributions
  - ☐ Whether to begin a substantially equal periodic payment plan

☐ **Understand and analyze the features of the Client's current employer plan and each of the reasonably available alternatives**

Examples:

- ☐ Asset classes and investment options in the plan or account, including brokerage accounts or mutual fund windows, and the availability of guaranteed insured retirement income products
- ☐ Availability of Roth accounts and Roth conversions
- ☐ Costs, including the fee schedule for the plan or account as well as the expenses for the available investment options
- ☐ Services provided that are relevant to the Client, such as investment advice or financial planning
- ☐ Applicable distribution rules, such as the availability and flexibility of a substantially equal periodic payment election or features to support taking required minimum distributions
- ☐ Availability of principal protection and/or guaranteed lifetime income features
- ☐ Ability to borrow from the plan
- ☐ Holdings of employer stock
- ☐ Bankruptcy protection and protection from creditors
- ☐ Availability of penalty-free withdrawals, such as hardship distributions or distributions following separation from service

Step 4: Develop recommendations

☐ **Conduct a comparative analysis of the advantages and disadvantages of the potential alternative course of action (including the current course of action) and determine which is in the best interests of the Client**

Characteristics to Consider:

- ☐ Additional services that are appropriate for the Client, such as financial planning (e.g., risk management, tax planning and estate planning)
- ☐ Ability to execute a financial plan or investment strategy in the best interests of the Client
- ☐ The ease of taking loans, early withdrawals or distributions
- ☐ Costs
- ☐ Benefit of consolidating multiple retirement accounts and reducing the risk of "orphaned" or "forgotten" accounts;
- ☐ Account types or fee arrangements that are reasonably available to the Client if the Client rolled assets over into an IRA with the CFP® professional, as compared to the alternatives
- ☐ Need for protection from creditors
- ☐ Client preferences

Step 5: Present the recommendation to the Client

Steps 6: Implement the Recommendation (if included in the Scope of Engagement)

If the CFP® professional recommends a rollover, then:

- ☐ Implement the rollover in the best interests of the Client
- ☐ Follow applicable rules to avoid inadvertent tax consequences
- ☐ Help the Client select investment choices for the Financial Assets in the rollover account that are in the best interests of the Client in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances

Step 7: Monitor/Update the Financial Advice (if included in the Scope of Engagement)

If the CFP® professional has monitoring and updating responsibilities, then:

- ☐ Monitor to see if circumstances warrant a change or update, and update as appropriate

Documentation: Document how the Duty of Care Process was applied