
From: Anderson, Kurt (Phila) [AndersonkR@ballardspahr.com]
Sent: Monday, March 08, 2004 4:03 PM
To: e-ori@dol.gov
Subject: Comment re Automatic Rollover Regulation

Gentlemen,

I am an attorney representing a federal credit union which sponsors both qualified defined benefit and defined contributions retirement plans for its eligible employees, both of which contain mandatory cash-out provisions for small benefits/accounts.

With respect to the proposed regulations regarding EGTRRA's automatic rollover requirement issued on March 2, 2004, we respectfully request that the final regulation address whether a credit union, or other "regulated financial institution" within the meaning of the proposed automatic rollover regulation, can establish IRAs at its own institution in order to satisfy the automatic rollover requirement with respect to distributions from qualified plans which it maintains for its own employees, including to charge fees in connection with the establishment and maintenance of such IRAs in accordance with the limitations set forth in the proposed regulation. In particular, we believe the final regulation should specifically address whether an regulated financial institution can establish IRAs at its own institution for automatic rollovers from its own qualified plans and charge fees in connection therewith without running afoul of either the fiduciary duty and prohibited transaction rules under ERISA.

I assume that once a distribution to an IRA has occurred the distributed monies are no longer plan assets, but the issue still remains whether the utilization of the financial institution's own IRAs, with knowledge that fees will be charged with respect to the creation and maintenance of the IRA, could cause a potential prohibited transaction to occur. Since it would be most efficient for a financial institution to utilize its own products with respect to satisfying the automatic rollover rule, the addressing of this issue in the final regulation is, we believe, an important one.

If you have any questions regarding this e-mail, please contact the undersigned. I would appreciate it if the Department of Labor would acknowledge receipt of this e-mail and the comments described herein.

Respectfully submitted,

Kurt R. Anderson.

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