

Compliance Alert – 2022-07

To: All PCS Registered Representatives, Support Staff, Home Office Personnel
Date: October 11, 2022
Re: **PTE2020-02 Compliance - Rollover Form Requirement**

As of February 1, 2022, financial advisors who give advice to clients about whether to roll over 401(k) plan assets into an IRA (or IRA to IRA transfers/rollovers) are subject to a new set of regulations from the U.S. Department of Labor (DOL).

Specifically, advisors who would receive increased compensation as a result of recommending a rollover (such as a commission or advisory fee) must qualify for an exemption from DOL's prohibited transaction rules by complying with the new standards outlined by DOL.

The prohibited transaction rules (in ERISA and the Internal Revenue Code) prohibit an investment fiduciary from receiving additional compensation as a result of their advice, unless an exemption is available. (The DOL defines a fiduciary as any financial professional on an account, not restricted to an IAR) Under Section 406(b) of ERISA and Internal Revenue Code 4975, a fiduciary is prohibited from:

- Using ERISA plan assets for their own interest or for their own account
- Representing an adverse party in a transaction involving an ERISA plan
- Receiving consideration for a personal account from any party dealing with a plan transaction involving plan assets

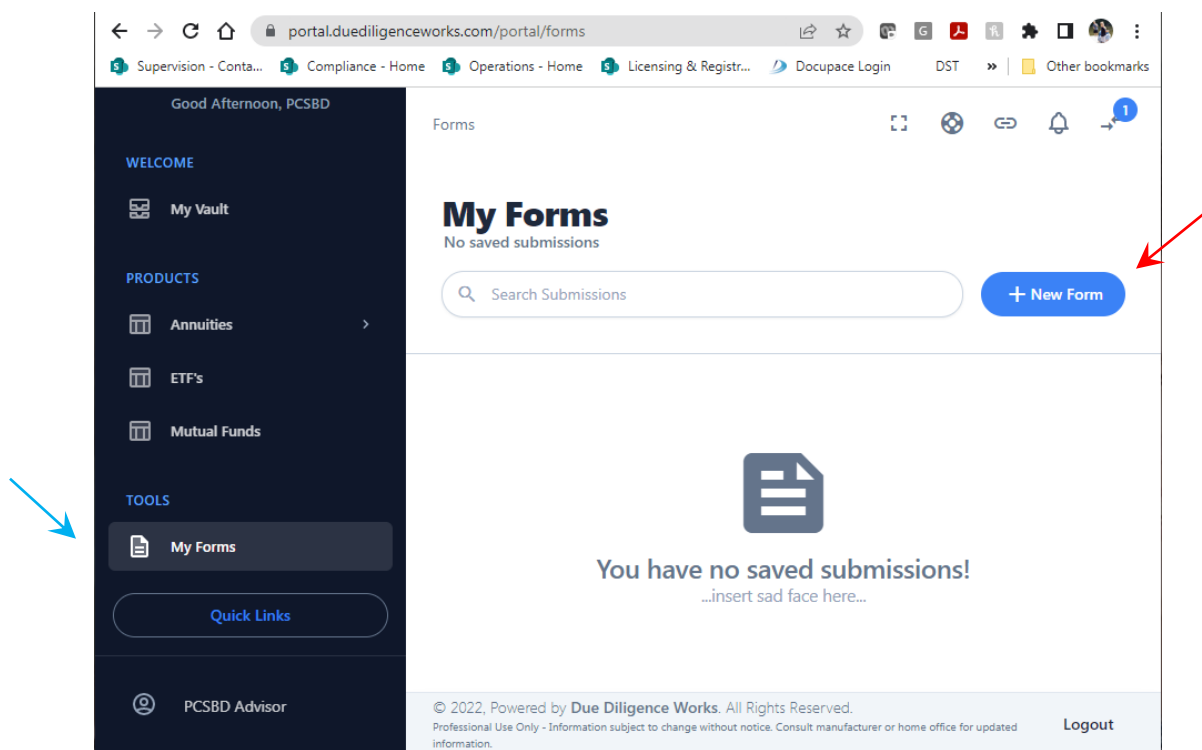
Exemptions are essential since penalties for violating the prohibited transaction rules of ERISA and the Internal Revenue Code are severe and can include an excise tax of up to 100 percent of the amount involved, compounded over time.

PTE 2020-02 expands the definition of a “prohibited transaction” under ERISA to include any recommendation for rolling over 401(k) assets into an IRA (or from one IRA to another) when doing so would increase the compensation for the financial professional/advisor. To qualify for an exemption to this rule, financial professionals/advisors must comply with six key conditions:

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1. Acknowledge that they are fiduciaries under ERISA.
2. Disclose, in writing, to the client the scope of the relationship and any material conflicts of interest.
3. Comply with DOL's Impartial Conduct Standards requiring advisors to provide prudent investment advice, charge only reasonable compensation, and avoid misleading statements.
4. Provide written disclosures to clients of why the recommendation to roll over assets is in their best interests.
5. Conduct an annual review of the firm's compliance with PTE 2020-02 (and document the results in a written report to a "Senior Executive Officer" of the financial institution); and
6. Adopt and implement policies and procedures to comply with the DOL's Impartial Conduct Standards, mitigate conflicts of interest, and document the reasons for recommending rollovers of retirement assets

One key component to complying with the new exemption is a client facing rollover form that includes a breakdown of reasons for the rollover, benefits of the rollover, and a fee comparison related to rolling over the assets. PCS has partnered with Due Diligence Works to develop an online rollover form for qualified plan rollovers, and a separate form for IRA-to-IRA transfers/rollovers. Both of these forms are now available through the Advisor Resource Center by selecting the DDW link button and navigating to forms on the left-hand side menu bar, then selecting new form in the top right corner (See blue button). All rollovers will require the new forms effective October 24th, 2022.



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When you have completed the forms, you will need to save the output (form) as a .pdf file and upload it into Docupace. Attached are step by step instructions regarding how to upload the forms. You can then include them in the client new account packet to be sent for electronic signature.

Additionally, to assist our RIA partners with compliance to the new exemption rule, PCS has included a white-label version of the forms that may be used on the advisory side by any RIA partner. The white-label version allows the advisor to enter the name of their RIA and print out a client rollover form (or save as a .pdf file) to be signed by the client and added to the RIA new account documents. There is no cost to the IAR/RIA for use of this value-add feature.

You can access the white labelled forms by clicking here: [White Label Rollover form Portal](#) or entering the URL listed below into your browser.

<https://portal.duediligenceworks.com/sso/token/XugiIiEAUK7FHGYKXrzG/u2Mr2u6fHSw8EUmTuxqvNjjV>

PLEASE NOTE: You cannot toggle between the PCS version and the white label version. You must close your internet browser to release the cookies before accessing the other version!

If you missed the training sessions on how to use the new forms, you may view a recording of the training session by accessing the PCS Advisor Resource Center, navigate to the Compliance section, and click on the link at the top of the page.

Advisor Resource Center

Home	PTE 2020 Rollover Training	
Business Management	PTE 2020 Rollover Form Training Link	
Compliance	Compliance Material	

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