

Congress of the United States
Washington, DC 20510

April 3, 2013

The Honorable Jacob J. Lew
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Seth D. Harris
Acting Secretary of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Lew and Acting Secretary Harris:

Today, we released a Government Accountability Office (GAO) report finding that workers often do not receive uniform or unbiased information when they leave an employer and need to decide what to do with their 401(k) savings. Over 60 million workers depend on 401(k) plans for their retirement security and almost 10 million employees typically change jobs each year. Rollovers from 401(k)-type plans represent over 90 percent of all new funds that flow into Individual Retirement Accounts (IRAs). This rollover market is the fastest growing part of the American retirement market. This is the employees' money and they should have simple, straightforward and honest information during the rollover process; if not, it can cost them valuable retirement resources.

GAO undercover investigators found consumers are being presented with false and misleading information regarding fees and their options when they leave their jobs. GAO called 30 firms and seven incorrectly said that their IRA was free or there were no fees to open or maintain an IRA. GAO also reviewed the websites of ten large firms and found that five said their IRAs were free. The websites generally had fee information scattered among multiple documents, making it difficult to find and understand.

GAO found that rollover information is either too complex or too basic for a worker to make an informed decision. Neither the Departments of Labor (DOL) nor Treasury has issued comprehensive rules on the timing and substance of information that must be provided to workers on all of their 401(k) account options when they separate from service.

Finally, GAO found that service providers play a large role in the decisions workers make when they leave their jobs. Some call terminating employees and try to sell them an IRA and often try to make it as easy as possible to rollover into an IRA, usually by handling all of the paperwork for workers. These workers may not realize the person they call could just be a salesperson at a call center who is not acting in their best interest.

For most workers, this is their largest financial asset and they have a right to full and fair information on all of their investment options. Service providers should not be permitted to provide incomplete information or steer workers to company investment products.

Given the findings of this report, we call on DOL and Treasury to modify their previous guidance and protect consumers from receiving biased marketing and conflicted advice. We concur with GAO's recommendation that your agencies issue guidance establishing uniform standards, including model notices, when workers terminate service under a 401(k) or similar type account. We call on you to ensure that IRA fees are being fully and fairly disclosed and to inform us if legislation is needed to achieve this goal. Finally, we would like you to make it easier for people to retain or rollover their balances into a 401(k) to reduce pre-retirement cash-outs.

This country is already facing a retirement savings crisis. DOL and Treasury are the lead agencies charged with protecting the retirement security of the American people. We urge your prompt action to protect workers' retirement security in this area.

Sincerely,



Bill Nelson
Chairman
Senate Special Committee on Aging



Tom Harkin
Chairman
Senate Committee on Health, Education,
Labor, and Pensions



George Miller
Ranking Member
House Committee on Education
and the Workforce