

Retrospective Reviews – What you need to know for PTE 20-02 Compliance

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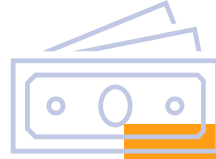


- Overview of Retirement Account Rules
- Recap 20-02 “covered transactions”
- Covered Rollover Transactions & Impact of Partial Vacatur
- Retrospective Review Requirements
- DOL Retirement Security Rule Status & Impact on Current Review Period
- Tips for completing Retrospective Review
- Action Items & Next Steps
- Q&A



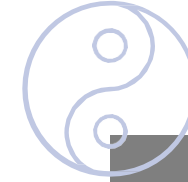
Fiduciary Advice

- Must be prudent; &
- Solely in the interest of the client



Conflict

- Increased comp. or 3rd-party payment (to FP, firm or affiliate(s))

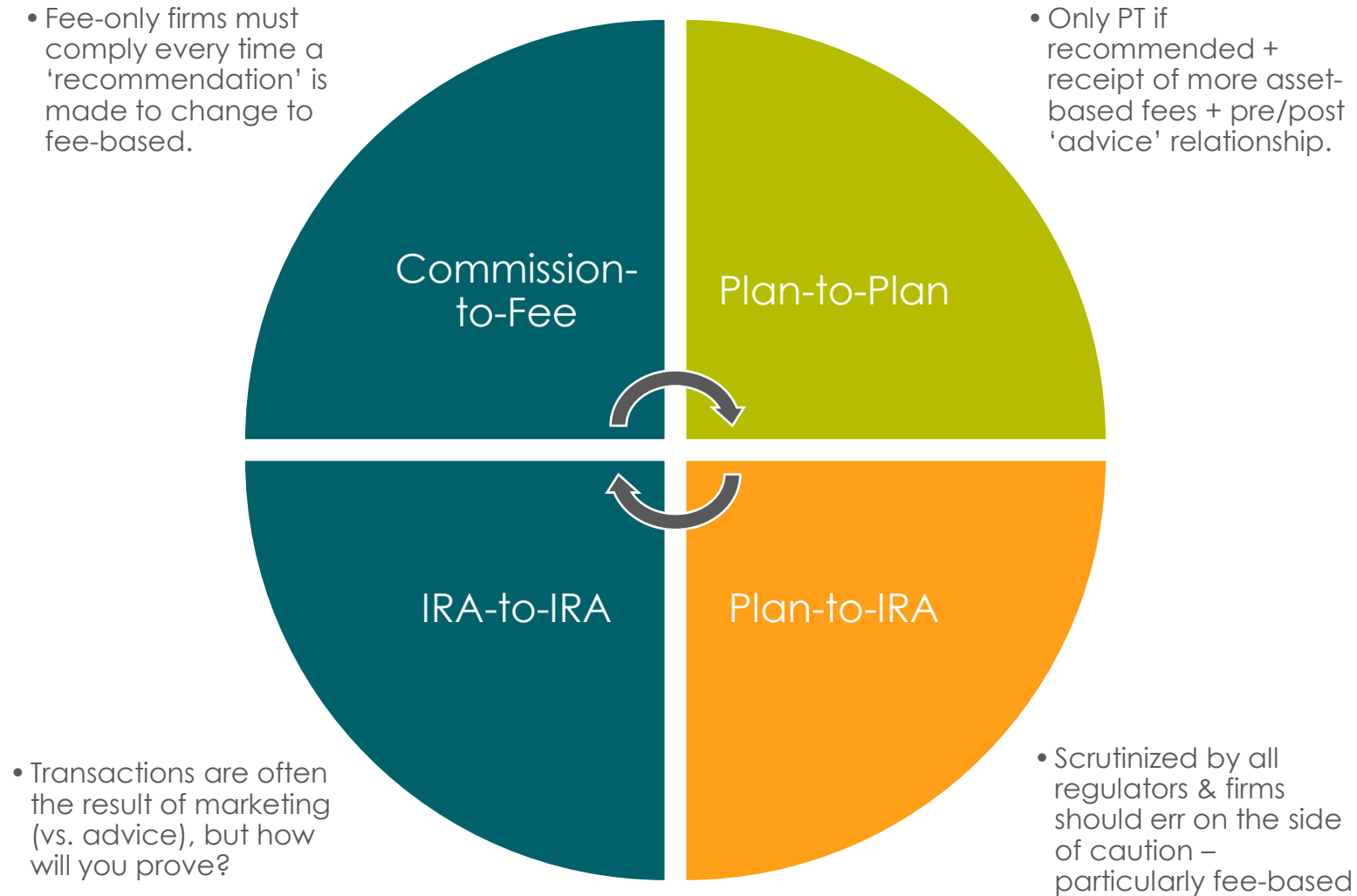


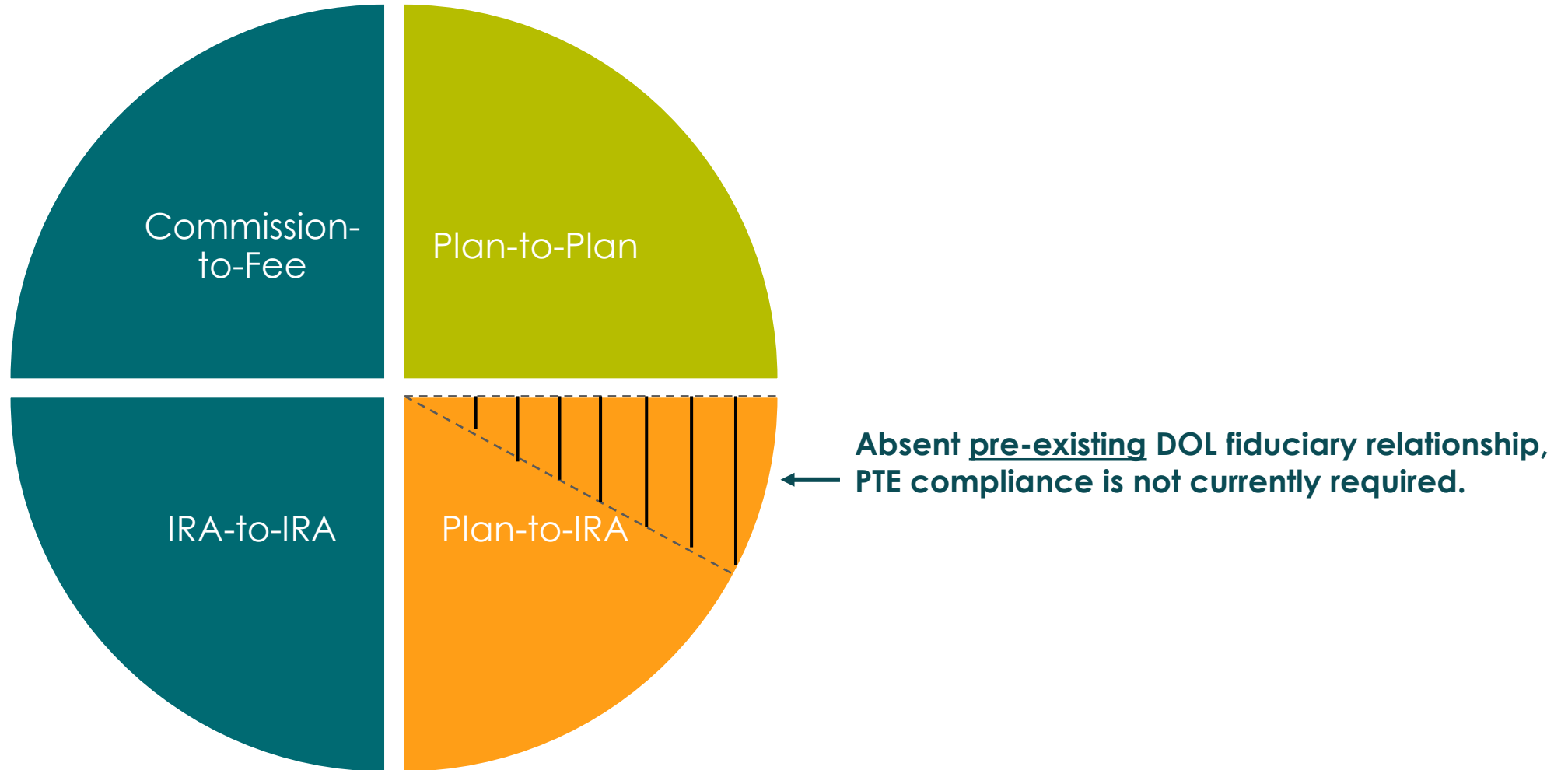
Exemption

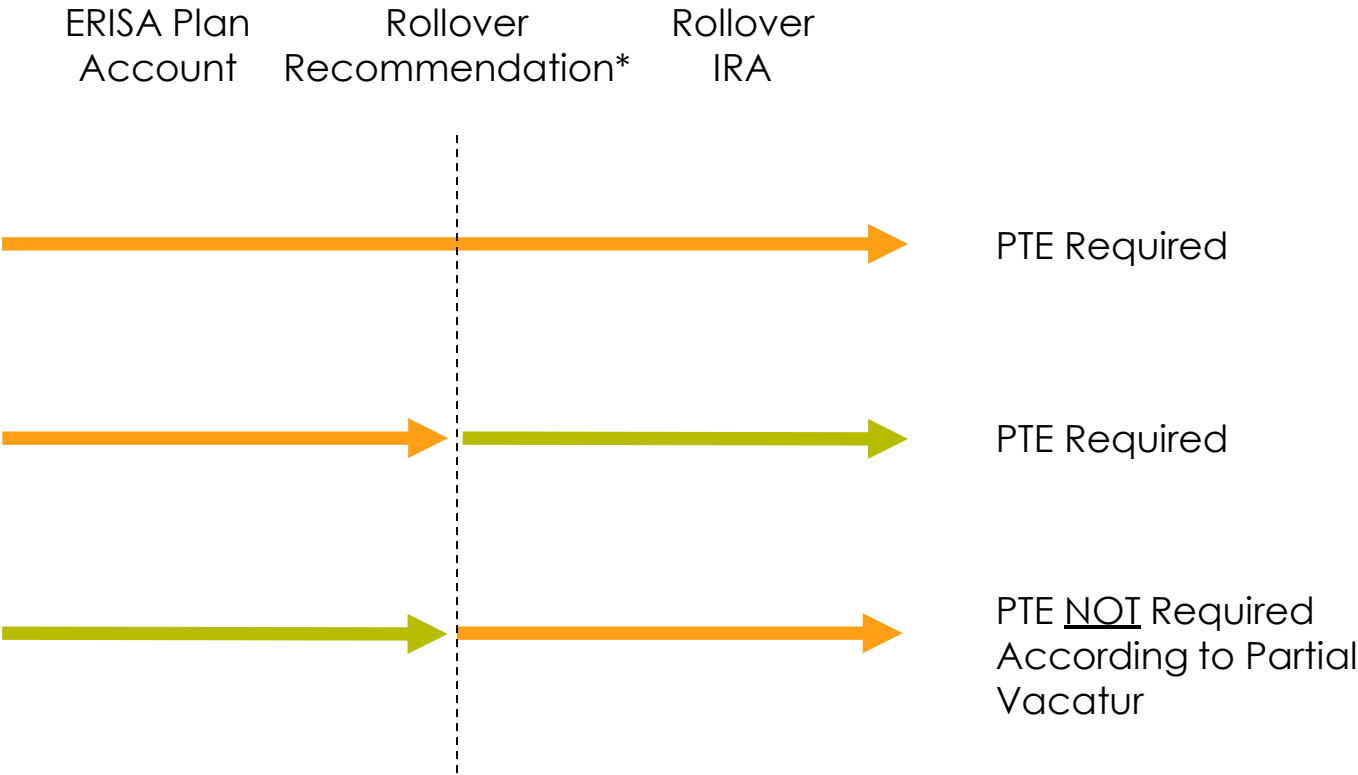
- Compliance with PTE Conditions

ERISA & IRC prohibit fiduciary advice that results in more compensation unless you comply with a PTE.

- ERISA plan to IRA
- IRA to IRA
- Change from commission to fee (or fee to commission)
- ERISA plan to ERISA plan
- Differential compensation and other advice-related conflicts such as proprietary products and limited investment menus, riskless or “covered” principal transactions (i.e., mark-ups, markdowns, etc.)







— = ERISA/IRC Fiduciary Relationship
— = No ERISA/IRC Fiduciary Relationship

* Assumes increase in advisory fee or receipt of 3rd-party payment(s)

At least annually ...

- 1) The Financial Institution conducts a retrospective review ... that is reasonably designed to assist the Financial Institution in detecting and preventing violations of, and achieving compliance with, the Impartial Conduct Standards and the policies and procedures governing compliance with the exemption.
- 2) The methodology and results of the retrospective review are reduced to a written report that is provided to a Senior Executive Officer.

Senior Executive Officer (SEO) must certify ...

- (A) The [SEO] has reviewed the report of the [R]etrospective [R]eview;
- (B) The [Firm] has in place policies and procedures prudently designed to achieve compliance with the conditions of [the PTE]; and
- (C) The [Firm] has in place a prudent process to modify such policies and procedures as business, regulatory, and legislative changes and events dictate, and to test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with the conditions of [the PTE] (collectively, the “Certification”).

Note: *PRI does not recommend combining the Report or Certification with other legal or regulatory requirements. The Report should be restricted to the specific requirements of the PTE and the Certification limited to the specific above-referenced requirements.*

When must the review be certified?

Review period	Certification due date
January 1, 2024 to December 31, 2024	June 30, 2025
February 1, 2024 to January 31, 2025	July 31, 2025

Retrospective Review Impacts

- RSR and PTE Amendments (on hold)
- Proposal guidance (applicable today):
 - Update (vs. maintain) policies and procedures
 - Sampling may not be enough
 - Test every condition- PRI Sample Report already satisfies this requirement
 - Corrections should consider “loss of ERISA protections”

- Goal = sufficient data for the SEO to be confident in signing
- Pre-approval and testing throughout the review period?
 - Leverage testing and/or pre-approval before opening accounts
 - Supplement (as necessary) to promote confidence
- Current firm testing/supervision:
 - Firm policy on sampling? If so, is there a reason to not use it?
 - If no policy, does it make sense for sampling to mirror for other compliance/ risk management programs?
- Test across transactions types to ensure coverage for all uses of PTE 20-02
- Account size, financial professional coverage, financial professional performance history

Condition	Test Criteria
Fiduciary Acknowledgment:	Delivered
Disclosure of Conflicts & Services:	Delivered, IGO & accurate
Rollover Disclosure (if applicable):	Delivered, IGO & accurate
Policies & Procedures:	Conflicts eliminated or mitigated
Impartial Conduct Standards:	Best Interest advice, reasonable comp. & best ex.
Self-Corrections (if applicable):	IGO, losses restored (if applicable) & DOL notified

- Was a covered recommendation made?
- Was the fiduciary acknowledgment delivered?
- For rollovers, was the rollover disclosure (playback) delivered?
- For rollovers from ERISA-covered plans, were approved method(s) used to obtain information on investments, services, fees
 - Source document(s) such as 404(a)(5), quarterly statements, SPD?
 - Firm-approved benchmarks?
 - Consideration of additional factors beyond investments, services, and fees
- Alignment of client's needs/objectives + recommendation + implementation?
- If attestations are required, are copies in the file?
- Were any corrections made in accordance with DOL requirements?

1. Determine the period covered for the review
2. Designate “responsible person” to prepare retrospective review
3. Identify SEO who will certify the report
4. Determine nature/scope of covered transactions
5. Determine methodology related to sampling and testing
6. Complete and certify report by no later than July 31, 2025
7. Retain a copy of the report to be able to respond to DOL if requested
8. Engage outside experts as necessary

Additional Resources

Looking to Strengthen Your ERISA Strategy?
Scan the QR code and join us on **Wednesday, June 11 at 1 PM ET** for an exclusive webinar:
“Key Business Takeaways from the 401(k) Summit – and Their Potential Impact”



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