INVESTOR ALERT: THE PERILS OF PENSION INCOME DEALS

A pension provides something extremely valuable to any retiree: Guaranteed income.

A pension pays a monthly annuity for the life of the pension holder. If you are a retiree receiving an annuity, or an active employee in a government or private pension plan, you know its value.

But a pension also makes you a target for investment promoters offering to buy the rights to some or all the pension payments you would otherwise receive in the future.

In these transactions – called **stream-of-income** investments, or pension advances – the pension holder receives a lump sum that is usually significantly less than the lifetime value of the pension.

Companies that acquire the rights to the pension payments then can sell these income streams to investors, often through brokers, investment advisers, or insurance agents.

Stream-of-income investments are often marketed as safe and secure – after all, they are based on guaranteed pension payments.

The reality is they can be extremely risky.

For example, laws may prohibit the assignment of the stream of income and benefits.

A Pension Is A 'Defined Benefit'

A pension is known as a **defined benefit** plan because it pays a specific benefit to retired employees. The annuity is typicaly based on an employee's age, years on the job, and highest average salary over final years of employment. Some pensions allow partial lump-sum withdrawals at the time of retirement, but this option results in a lower annuity payment.

Retirement savings vehicles like Individual Retirement Accounts and workplace 401(k), 457, and 403(b) plans are **defined contribution** plans. Retirement income depends on how much is contributed to the plan, your choice of investments, and the return on investment.

The pension holder typically maintains the authority to redirect the payment, and if the seller does redirect the payment, the investor may be left with an unenforceable contract right.

Veterans and disabled persons are among those who sell their benefits. These individuals may be solicited when they are in financial distress and convinced to sell much needed future benefit payments at a significant reduction in their value.

The prospect of high commissions often drives the sales of stream-of-income investments.

The Securities Commissioner in October 2019 revoked the registration of **George A. "Gus" Marwieh** of Austin for fraudulent business practices.

Marwieh, an investment adviser representative, almost exclusively recommended two high-commission products to his clients, one of which was pension income investments.

Marwieh collected $115,322 in commissions from selling 23 pension income investments to clients. Commissions ranged from 5% to 8% of the investment, and in some cases Marwieh added a 1% to 2% annual management fee on the value of the investment.

According to a June 2019 Disciplinary Order, **Clair Crossland**, a Dallas investment adviser representative, received commissions of $44,466 for selling stream-of-income investments.

Among Crossland's sales were 10 investments to three clients in 2013-2014. Eight of the 10 investments were based on veteran disability pensions.

Of the 10 investments, seven were in default as of March 2019, leaving investors without their anticipated payments.

Stream-of-income transactions pose risks for pension holders and individuals who want to buy investments based on that income.

Deal With Registered Individual and Firms

Always check to see if a person or firm offering you an investment opportunity is ***registered*** to sell securities.

One of the State Securities Board's primary responsibilities is to ensure that people selling financial products and offering financial services are licensed to do do. That means background checks, passing required examinations, and being subject to compliance and other regulatory requirements.

Anyone who isn't registered cannot legally sell investments to Texas residents.

Before selling the rights to their pension payments, pension holders should consider:

- An upfront payment might be attractive – and necessary because of urgent medical or other expenses – but getting a lump sum is expensive. The company facilitating the transaction can charge high fees including commissions and administrative charges.
- Your long-term financial goals. Giving up regular guaranteed income from a pension may significantly affect your financial goals in ways you haven't considered. Consider consulting a registered financial adviser or financial planner.
- Determine what restrictions, if any, apply to your ability to assign your pension benefits. Check with your pension administrator to determine what restrictions apply. The transaction could be illegal.
- You may have to pay taxes on a lump-sum payment. Discuss the tax consequences with a tax professional.

Before entering into a pension income transaction, an investor should:

- Do a regulatory check on the background of the principal officers of the company offering the investment. Regulatory information on broker-dealers and investment advisers is available from the **Texas State Securities Board**.
- Check the legality of the transaction. Some pension rights cannot be transferred. Federal law prohibits the assignment of U.S. government pensions and disability benefits. Check out the source of the pension funds being offered for investment.
- Know how much the investment will cost you. Fees and commissions will reduce your return on investment.

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