Pension Advances

Because pension advances are drawing more attention and might be something clients contact you about, NPARC is providing this brief overview of what pension advances are and possible areas of concern.

**What are pension advances and how do they work?**

Pension advances are a relatively new practice and have drawn attention from Congress, the Consumer Financial Protection Bureau, the Securities and Exchange Commission, and the Financial Industry Regulatory Authority. Also known as pension or settlement income streams, a pension advance occurs when a business gives a retiree a lump sum payment in exchange for the right to some or all of that retiree’s monthly pension payments. In some cases, businesses offering pension advances require retirees to establish a joint bank account,[**[1]**](http://pensioncounseling.net/pension-advances#1) but prevent the retiree from accessing the account without permission from a business representative.

Pension advances avoid the rules governing loans – such as limits on interest rates and disclosures of interest rates and fees. Interest rates associated with pension advances are extremely high, and often violate state interest rate limits.  When combined and added over the period of the loan, the fees and interest rates charged to a retiree receiving a pension advance typically far exceed the value of the loan.

**Problems with pension advances**

In addition to avoiding rules for loans and interest rates, there is a possibility that pension advances could violate ERISA’s assignment and anti-alienation[**[2]**](http://pensioncounseling.net/pension-advances#2) provisions, as well as the laws regulating military and government pensions.

We don’t know why, but it seems that military retirees are a primary target for pension advances. However, federal, state, and private-sector retirees can also be vulnerable.

**What you should tell your clients**If you receive client calls about pension advances, let them know that while you cannot provide them with financial advice, you can provide the following information:

* Pension advances are risky and could result in a loss of much-needed retirement income.
* The interest rates associated with pension advances have been known to be extremely high, and often violate state interest rate limits.  As a result, a pension advance may result in a substantial loss of retirement income.
* Pension advances are currently being looked into by Congress, the Consumer Financial Protection Bureau, and the Securities and Exchange Commission to determine whether they are legal under current law and, if they are, whether new laws or regulations should be developed to curb or eliminate them.
* At least one lawsuit has been filed challenging the legality of pension advances (see footnote 1), and legislation has been introduced in Congress[**[3]**](http://pensioncounseling.net/pension-advances#3) to curb the practice for those with military and federal pensions. The proposed legislation does not address pension advances for private-sector retirees.
* Pension advances were designed to take advantage of legal loopholes, which means that many of the protections retirees normally enjoy might not apply to pension advances.

**Pension or Settlement Income Streams**Investments in “pension income streams” are related to pension advances. Firms offering pension advances solicit other retirees to invest their money in funds that pay out the advances. These retirees are guaranteed a return on their investments. Both the Securities and Exchange Commission and the Financial Industry Regulatory Authority have issued an "[**investor alert**](http://www.finra.org/Newsroom/NewsReleases/2013/P258273)" warning, among other things, that if the underlying investment is determined to be illegal and things go wrong, investors could have difficulty collecting any return on their investments.

**Relevant articles**

* *CNN Money*: [**http://money.cnn.com/2013/05/21/retirement/pension-advance/**](http://money.cnn.com/2013/05/21/retirement/pension-advance/)
* *New York Times*: [**http://www.nytimes.com/2013/04/28/business/economy/pension-loans-drive-retirees-into-more-debt.html?\_r=0**](http://www.nytimes.com/2013/04/28/business/economy/pension-loans-drive-retirees-into-more-debt.html?_r=0)

[1] See this National Consumer Law Center pleading for a description of one way that pension advance providers have set up joint accounts with retirees to gain access to their pension funds: [**http://www.nclc.org/images/pdf/litigation/closed/amos\_complaint.pdf**](http://www.nclc.org/images/pdf/litigation/closed/amos_complaint.pdf)

[2] This joint AARP / National Consumer Law Center presentation includes information on how pension advances could interfere with ERISA’s anti-alienation provisions: [**http://www.nclc.org/images/pdf/conferences\_and\_webinars/webinar\_trainings/presentations/2012-2013/keeping-the-spigot-open\_webinar\_12-19-2012\_final\_combined.pdf**](http://www.nclc.org/images/pdf/conferences_and_webinars/webinar_trainings/presentations/2012-2013/keeping-the-spigot-open_webinar_12-19-2012_final_combined.pdf)

[3] H.R. 3310, the ASSURE Act was introduced into Congress in 2013. See the full legislative language here: [**http://thomas.loc.gov/cgi-bin/query/z?c113:H.R.3310**](http://thomas.loc.gov/cgi-bin/query/z?c113:H.R.3310).