

APS RECEIVERSHIP
FREQUENTLY ASKED QUESTIONS

July 26, 2017

Question: *I would like to transfer my CRA outside of ETC. How can I do this?*

Answer: If the loss allocation was paid from the IRA, the CRA was issued to the IRA. It cannot be sold or transferred to a third party. It can be held in the IRA and the client can change custodians or administrators without a need to re-register the CRA.

Question: *Can I take a distribution of my CRA?*

Answer: If a client no longer wishes to maintain an IRA, the CRA can be distributed to the client as any other asset. The client should consult his/her tax advisor on the tax implications of any distribution before taking it. The client should also discuss with his/her custodian or administrator regarding tax reporting of a distribution.

The Receiver has not completed her pursuit of assets and therefore cannot provide any information regarding a distribution nor the value of the CRA at this time.

Question: *What is the value of my CRA? Can it be reduced to \$0?*

Answer: The Receiver is continuing her recovery efforts and cannot provide any information regarding a distribution nor the value of the CRA at this time.

Question: *What is the status of the settlement funds with First Utah Bank and a future distribution?*

Answer: The Receiver is in the process of collecting the settlement funds from First Utah Bank and its insurer and does not anticipate any issue with securing all of the settlement funds by the July 27, 2017 deadline under the settlement agreement.

The Receiver is continuing her recovery efforts and is not yet in a position to make a distribution.

The Receiver has made a claim to a \$1 million insurance policy issued by Chubb. Curtis DeYoung's lawyers have a competing claim to a portion of the \$1 million proceeds on the grounds they are entitled to payment of their defense costs from the policy. The Receiver is preparing her final brief to be submitted to the Court relating to her claim to the full policy limits and the judge will then need to adjudicate that matter.

The Receiver is also preparing her final plan of distribution. The plan of distribution will need to be approved by the Court, and notice provided to all clients

before the Receiver will be in a position to make a distribution. Please continue to refer to the Receiver's website for updates.

January 27, 2017

Question: *I voluntarily took a distribution from my account in 2016. Who will issue my IRS Form 1099-R and when will I receive my form?*

Answer: If you had an IRA, Roth IRA, SEP, Simple IRA, Coverdell ESA, or HSA, the Receiver will issue an IRS Form 1099-R for distributions taken from American Pension Services, Inc. ("APS"). Equity Trust Company will issue an IRS Form 1099-R for distributions taken from Equity Trust Company.

If you had a 401(k) or Roth 401(k) with APS, Equity Trust Company will issue your IRS Form 1099-R, as all 401(k) and Roth 401(k) accounts were transferred to Equity Trust Company in 2015 and are administered by Equity Trust Company.

All IRS Forms 1099-R will be mailed by January 31, 2017.

Question: *My account was force transferred to Equity Trust Company by court order on March 29, 2016. Will I receive a 1099-R?*

Answer: **Unless you requested and took a distribution** from your account after its transfer to Equity Trust Company, you will not receive an IRS Form 1099-R on account of the transfer, as the transfer was a trust-to-trust transfer and not a tax reportable distribution.

Question: *I was required to take a minimum required distribution from my self-directed retirement account for 2016. Who will send me my account balance and my minimum required distribution information?*

Answer: If you made your loss allocation payment and your account was transferred to Equity Trust Company by December 31, 2016, you would have received a statement of your account balance and any required minimum distribution calculation from Equity Trust Company.

Please note, if your account is still with APS and if you have not yet paid your loss allocation, you are currently in violation of the Court's orders entered in the APS Receivership case. Legal actions including your asset(s) are currently being considered and pursued by the Receiver.

Due to the termination of APS business operations on December 18, 2015, the Receiver did not and will not make any required minimum distributions from your account.

Question: *In 2016, I received an asset assignment from the Receiver and a letter that APS was resigning as administrator of my account. Will I receive a 2016 IRS Form 1099-R?*

Answer: Yes. You will receive a 2016 IRS Form 1099-R for the amount of the account balance reflected on the APS records on the date of distribution. You will receive this form by January 31, 2017.

Question: *Will I receive a copy of my year-end account statement noting my account balance?*

Answer: If your account was transferred before December 31, 2016, Equity Trust Company will mail you a copy of your account statement and balance as of December 31, 2016.

If you have not yet made your loss allocation payment and your account is still with the APS Receivership, upon request, the Receiver will mail you a copy of your account statement as of December 31, 2016. Please note that the account statement will not reflect your loss allocation of ten percent (10%) based on your April 25, 2014 account value.

Question: *I made a contribution to my account during 2016. Who will report my contribution?*

Answer: If you made a contribution to your account during 2016 and your account was transferred to Equity Trust Company before December 31, 2016, Equity Trust Company will report your contribution. If you made a contribution between January 1, 2016 and December 31, 2016, and you subsequently transferred your account, Equity Trust Company will use the information provided by the Receiver to report your contribution. The Receiver will report contributions on accounts that have not transferred to Equity Trust Company by December 31, 2016.

Question: *I made a loss allocation payment to transfer my account. Will my loss allocation payment be reported as a contribution?*

Answer: In October 2015, the Receiver mailed a letter to all clients who made a loss allocation payment to their APS account.

If you notified the Receiver or her staff that you wanted to treat your loss allocation payment, or a portion thereof, as a contribution, the Receiver will report your loss allocation payment (or the portion that you designated) as a contribution. If you did not notify the Receiver, the Receiver will follow the Court-approved approach and treat your loss allocation payment as a restorative payment and not as part of your retirement account.

Question: *My account has been transferred to Equity Trust Company and shows the Contingent Repayment Agreement as an asset. What is the value of the asset and can I revalue that asset?*

Answer: The Contingent Repayment Agreement is similar to an unsecured promissory note. The amount payable is contingent upon currently unknown future events. Currently, the Contingent Repayment Agreement is valued at the amount of your ten percent (10%) loss allocation. The Contingent Repayment Agreement represents the right to receive a proportionate share of any distribution of APS Receivership Assets, pursuant to the terms of the Contingent Repayment Agreement. At this time, the Receiver is still in the process of pursuing recovery of a number of claims and assets (“Receivership Assets”). The amount of recovery of any Receivership Assets is currently unknown, as is the amount of any distributions. Therefore, the most accurate information available as to the value of the Contingent Repayment Agreement at this time is the currently reflected face value.

The Receiver will advise all Contingent Repayment Agreement holders if the status changes.

Question: *What is the best way to contact the Receiver?*

Answer: You may still contact the Receiver by e-mail at info@apsreceiver.com. You may also contact the Receiver’s legal counsel at the law offices of Ballard Spahr LLP, 201 S. Main St., Suite 800, Salt Lake City, Utah 84111.

January 25, 2016

Question: *I took a distribution from my account in 2015. Who will issue my IRS Form 1099-R and when will I receive my form?*

Answer: If you had an IRA, Roth IRA, SEP, Simple IRA, Coverdell ESA, or HSA, **and** your account was transferred to Equity Trust Company as of December 31, 2015, Equity Trust Company will issue your IRS Form 1099-R.

If you had a 401(k) or Roth 401(k) with APS, Equity Trust Company will issue your IRS Form 1099-R, as all 401(k) and Roth 401(k) accounts were transferred to Equity Trust Company during 2015.

If you did not transfer to Equity Trust Company as of December 31, 2015 or you have not yet transferred from APS, the Receiver will issue your IRS Form 1099-R.

Equity Trust Company will report all distributions that occurred at APS for your account prior to the transfer of your account. If you received distributions both before and after your account transfer, you may receive one IRS Form 1099-R from APS for distributions prior to your transfer, and one IRS Form 1099-R from Equity Trust Company for any distributions you received after your account transfer.

All IRS Forms 1099-R will be mailed by January 31, 2016.

Question: *I am required to take a minimum required distribution from my self-directed retirement account. Who will send me my account balance and my minimum required distribution information?*

Answer: If you made your loss allocation payment and your account was transferred by December 31, 2015, you will receive a statement of your account balance and any required minimum distribution calculation from Equity Trust Company.

If you have not yet paid your loss allocation and your account is still with the APS Receivership, the Receiver will mail you a copy of your December 31, 2015 account statement, as well as a letter with your calculated minimum required distribution for your account.

Please note, if you have not yet paid your loss allocation, you are currently in violation of the Court orders entered in the APS Receivership case. To avoid any adverse actions, including liquidating your asset(s) or contempt proceedings, please make arrangements to fund your loss allocation payment.

Additionally, due to the termination of APS business operations on December 18, 2015, the Receiver will not make any minimum required distributions from your account until you have paid your loss allocation and transferred your account. After the transfer of your account, you may take your minimum required distribution at Equity Trust Company.

Question: *Will I receive a copy of my year-end account statement noting my account balance?*

Answer: If your account was transferred before December 31, 2015, Equity Trust Company will mail you a copy of your account statement and balance as of December 31, 2015.

If you have not yet made your loss allocation payment and your account is still with the APS Receivership, the Receiver will mail you a copy of your account statement as of December 31, 2015. Please note that this account statement will not reflect the loss allocation of ten percent (10%) based on your April 25, 2014 account value.

Question: *I made a contribution to my account during 2015. Who will report my contribution?*

Answer: If you made a contribution to your account during 2015 and your account was transferred to Equity Trust Company before December 31, 2015, Equity Trust Company will report your contribution. If you make a contribution between January 1, 2016 and April 15, 2016 and you subsequently transfer your account, Equity Trust Company will use information provided by the Receiver to report

your contribution. The Receiver will report contributions for accounts that have not transferred to Equity Trust Company by May 31, 2016.

Question: *I made a loss allocation payment to transfer my account. Will my loss allocation payment be reported as a contribution?*

Answer: In October 2015, the Receiver mailed a letter to all clients who made a loss allocation payment to their APS account.

If you returned the letter affirmatively electing to treat your loss allocation payment, or a portion thereof, as a contribution, the Receiver will report your loss allocation payment (or the portion that you designated) as a contribution. If you did not return the letter, the Receiver will follow the court-approved approach and treat your loss allocation payment as a restorative payment and not as part of your retirement account.

Question: *I have payments that continue to be sent or automatically deposited to APS even though my account has transferred. When will those payments be transferred to Equity Trust Company?*

Answer: Equity Trust Company continues to work to re-register assets held within transferred accounts. However, it is the client's responsibility to ensure payments are sent to Equity Trust Company. Clients may work with Equity Trust Company to notify payers of the new address to which to send payments. You may contact Equity Trust Company at (844) 226-6436 to assist with making appropriate changes for your payments.

Beginning on March 31, 2016, the Receiver will return any checks or automatic deposits made to APS for an account transferred to Equity Trust Company.

January 4, 2016

Question: *My account has been transferred to Equity Trust Company and shows the Contingent Repayment Agreement as an asset. What is the value of the asset and can I revalue that asset?*

Answer: The Contingent Repayment Agreement is similar to an unsecured promissory note. The amount payable is contingent upon currently unknown future events. Currently, the Contingent Repayment Agreement is valued at the amount of your ten percent (10%) loss allocation. The Contingent Repayment Agreement represents the right to receive a proportionate share of any distribution of APS Receivership Assets, pursuant to the terms of the Contingent Repayment Agreement. At this time, the Receiver is still in the process of pursuing recovery of a number of claims and assets ("Receivership Assets"). The amount of recovery of any Receivership Assets is currently unknown, as is the amount of any distributions. Therefore, the most accurate information available as to the value of

the Contingent Repayment Agreement at this time is the currently reflected face value.

Question: *I recently saw that the Court approved the settlement with First Utah Bank. When will I receive funds from that settlement and how much will I receive from the settlement?*

Answer: On December 23, 2015, the Court approved a settlement with First Utah Bank. Funds received from this settlement will be added to any additional future recovery of Receivership Assets. Once the Receiver has concluded her recovery efforts, the amount of any distribution can be calculated and returned to those clients that have funded their loss allocation. Each client who has funded their ten percent (10%) loss allocation will receive any future distributions on a pro rata basis to their loss allocation. At this time, the date and amount of any future distribution is unknown. Once this information becomes known, the Receiver will notify APS clients.

Question: *Now that the APS office is closed, what is the best way to contact the Receiver?*

Answer: You may still contact the Receiver by e-mail at info@apsreceiver.com. You may also contact the Receiver's legal counsel at the law offices of Ballard Spahr LLP, 201 S. Main St., Suite 800, Salt Lake City, Utah 84111.

The Receiver has set up a mail forwarding service and any mail sent to the APS office address will be forwarded to the Receiver's legal counsel at Ballard Spahr LLP.

If you need to fund your loss allocation and are mailing funds for the loss allocation, you may send those loss allocation payments to:

Diane Thompson
Court-appointed Receiver, American Pension Services, Inc.
C/O Ballard Spahr LLP
201 S. Main St., Suite 800
Salt Lake City, UT 84111

Question: *I transferred to Equity Trust Company, how do I get information regarding my account?*

Answer: You may contact Equity Trust Company customer service at (844) 226-6436.

Question: *My assets have not been re-registered from APS to Equity Trust Company, when will that happen?*

Answer: Equity Trust Company is working on re-registering all assets from APS to Equity Trust Company. This process may take considerable time, depending upon the number and nature of the assets held within your account. The Receiver continues

to work with Equity Trust Company to facilitate the re-registration of assets. You may contact Equity Trust Company customer service at (844) 226-6436 for more specific information regarding your account.

Question: *I recently received a letter indicating that the settlement with First Utah Bank had been approved. The letter also references a claims bar order. What does this mean?*

Answer: On December 23, 2015, the Court entered Findings of Fact, Conclusions of Law, and an Order on Motions to: (1) Intervene; and (2) Approve Settlement with First Utah Bank . The Court also entered a Claims Bar Order.

The Findings of Fact, Conclusions of Law, and Order is the document used by the Court to approve the settlement with First Utah Bank. This document contains the details of the approved settlement with First Utah Bank.

The Claims Bar Order is a separate document that prohibits APS clients from suing or seeking additional recovery from First Utah Bank on claims related to their APS accounts.

Question: *My letter about the December 23, 2015 settlement didn't include a copy of the Court documents. How can I get a copy of those documents?*

Answer: The letter did not contain a copy of the Court documents. These documents have been posted to the Receivership website at www.apsreceiver.com. If you do not have access to a computer, you may request a hard copy be mailed to you by calling (801) 531-3083. Hard copies will be mailed in a double-sided, four pages per physical page format.

October 14, 2015

Question: *I just received a letter regarding my loss allocation payment and possible treatment as a contribution, what does this letter mean?*

Answer: On August 7, 2015, the Court issued an order stating all loss allocation payments received by APS would be treated as outside of the retirement account, not as contributions for tax purposes. Because the loss allocation payments would be considered as outside of the retirement accounts, the loss allocation payments will not be reported on an IRS Form 5498, nor will any later distribution be reported on an IRS Form 1099.

Some clients may report their loss allocation payments as a contribution to their retirement accounts on their tax forms. If you would like to report your loss allocation, up to the limit allowed under the Internal Revenue Code, as a contribution, you must complete and return the letter you recently received to the Receiver indicating your desire to have the payment deemed as a contribution.

Question: *Do I need to complete and return this letter?*

Answer: Yes. If you plan on reporting your loss allocation payment as a contribution to your retirement account on your tax filing, you must complete and return this letter.

Question: *What happens if I don't return this letter?*

Answer: If you do not return this letter, your loss allocation will not be reported to the IRS by the Receiver as a contribution and will not show on your IRS Form 5498. Please note the Receiver must receive the letter by October 30, 2015.

Question: *Should I treat my loss allocation as a contribution?*

Answer: You will need to discuss this question with your independent tax advisor, legal counsel, or other qualified professional. The statutory limit for 2015 is \$5,500 for individuals under the age of 50 or \$6,500 for individuals who are 50 years or older. However, there are additional statutes that may affect your contribution limits, which is why you should discuss this question with your independent tax advisor, legal counsel, or other qualified professional.

October 13, 2015

Question: *I received a document related to a settlement with First Utah Bank, what is this?*

Answer: The Receiver has reached a settlement with First Utah Bank and its insurance companies arising out of the misappropriated APS funds. The settlement agreement, however, requires Court approval. The Receiver has moved for Court approval, which motion allows IRA account owners to submit responses to the Receiver in support of or opposition to the settlement.

If you would like to respond or object to the settlement, you will need to provide the Receiver your written response or objection **BY NOVEMBER 2, 2015**. ALL RESPONSES AND/OR OBJECTIONS MUST BE SUBMITTED TO THE RECEIVER, NOT THE COURT. The Receiver will then compile all responses and submit them to the Court as submitted on or before November 9, 2015. The Receiver has the opportunity to file a reply to the responses and objections by November 23, 2015. **A hearing has been scheduled to consider the Motion and Responses for December 2, 2015, at 9:30 a.m.**

Question: *I would like to submit a response or objection to the settlement with First Utah Bank. Who do I file my objection with?*

Answer: You must file your response with the Receiver through her legal counsel at the following address:

Mark R. Gaylord, Esq.
Ballard Spahr LLC
201 S. Main St., Suite 800
Salt Lake City, UT 84111

Question: *When is the deadline for filing a response or objection?*

Answer: Any response or objection must be **RECEIVED by November 2, 2015**. Any response or objection received after this date may not be included in the Receiver's submission to the Court.

Question: *Am I required to submit a response?*

Answer: You are not required to submit a response or objection to the settlement.

Question: *What happens if the settlement is not approved by the Court?*

Answer: If the settlement agreement is not approved, the Receiver will ask the Court for approval to file a lawsuit against First Utah Bank for herself and on behalf of all IRA account owners.

As with any lawsuit, if the Court declines to approve the settlement, the Receiver expects First Utah Bank and their insurance companies to mount a vigorous defense against the Receiver's claims. Because the main insurance policy in favor of the Bank is a burning limits policy (meaning the Bank's attorney fees may be paid out of the policy), a vigorous defense mounted by the Bank will reduce the amount of insurance proceeds available were the Receiver to prevail in the case. The Receiver will also incur additional fees and costs to pursue a recovery. The Receiver believes that a settlement is in the best interest of all clients and the Receivership Estate. The SEC has also approved the terms of the settlement and believes it is in the best interest of all clients and the Receivership Estate.

Question: *What do APS clients get out of the settlement?*

Answer: When the Receiver has exhausted her recovery efforts, funds recovered by the Receiver will be distributed to clients on a pro-rata basis according to their loss allocation. The amount of money the Receiver recovers remains uncertain. The settlement with First Utah Bank will result in approximately \$5.6 million being contributed to the Receivership Estate for distribution as approved by the Court.

Question: *What is a "claims bar order"?*

Answer: If the settlement with First Utah Bank is approved, the Court will enter a claims bar order, which will bar any IRA Account Owner that had a self-directed retirement account with APS or had First Utah Bank as their custodian of their account while APS was their third-party administrator from asserting a separate legal action against First Utah Bank related to their APS accounts.

May 22, 2015

Question: *I received a large packet in the mail, what is it? What do I need to do?*

Answer: The large packet contains a number of documents and forms. A more thorough explanation of the documents is found in an answer updated on April 13, 2015.

Ultimately, you are required to move your account to Equity Trust Company and fund a loss allocation equal to 10% of your account balance on April 25, 2014. Your plan balance can be found by looking to the long list of account numbers and balances found in the packet. You will need to submit a direction letter to move your account to Equity Trust Company and complete an Equity Trust Company Account Application. You must return the Direction Letter and the three pages of the Equity Trust Account Application to APS by mail at 4168 W. 12600 S., Suite 300, Riverton, Utah 84096 before June 30, 2015.

*** Please note that if you wait to submit your paperwork on June 30, 2015, the “blackout period” for transition and establishment of your account at Equity Trust Company may be longer due to the volume of files. ***

Question: *I don't want to transfer to Equity Trust Company, what can I do?*

Answer: APS is winding down operations and will no longer be in business. Pursuant to a Court order, all clients must transfer to Equity Trust Company. As part of the transfer to Equity Trust Company, Equity Trust Company has agreed to waive account management fees for the first twelve months after you transfer your account. Equity Trust Company has also agreed to waive account termination fees for the first nine months after you transfer your account. Should you elect not to stay with Equity Trust Company, you may terminate or transfer your account as you see fit; however, you must transfer your account to Equity Trust Company.

Question: *I have little cash in my account, how do I fund my loss allocation?*

Answer: There are a number of ways a client may fund their loss allocation. Ultimately, the client is responsible for making the decision that best suits their situation. We also encourage clients to speak with their qualified independent tax advisor, financial planner, or legal counsel regarding the implications of their decision.

A client may:

- Make a contribution to their IRA, provide they meet the IRS requirements;
- Liquidate an asset or membership interest of their IRA LLC, or return cash from the LLC and return cash to their APS account;
- Sell an asset within their account to generate the necessary loss allocation;
- Transfer funds from another retirement account to APS to fund their loss allocation;
- May liquidate a brokerage account held within their APS account;
- May seek a non-recourse loan on assets within their account to fund their loss allocation.

This list is not exhaustive and clients may look to options outside of this list to fund their loss allocation.

Question: *I refuse to fund my loss allocation, what will happen?*

Answer: The Receiver has a number of tools available to her regarding clients that refuse to fund a loss allocation. The Receiver may place a lien on assets held within your account, may liquidate the assets held within your account, may distribute assets to you and issue an IRS Form 1099-R indicating the value of your assets as reportable income, or a combination of the above. The Receiver may elect to pursue other options allowable under the law and the Plan of Liquidation and is not foreclosing any options at this time.

Question: *What happens if I don't complete my paperwork to transfer?*

Answer: You must submit your completed paperwork to transfer your account to Equity Trust Company by June 30, 2015. The Receiver may seek a Court order, or any other legal relief, to force your transfer to Equity Trust Company. Furthermore, the Receiver may begin the process of liquidating assets held within client accounts for the purpose of creating the necessary loss allocation under the Plan of Liquidation.

Question: *How will I know if my account has been transferred to Equity Trust Company?*

Answer: You will receive a letter from APS indicating that your account has been transferred to Equity Trust Company. This letter will include the dedicated phone number for APS clients to contact Equity Trust Company. A copy of your contingent payment agreement will be included with the letter, with the original stored in your file at Equity Trust Company. Furthermore, you will no longer be able to access your account data using the www.americanpension.com website, as your account is no longer with APS. If you attempt to log-on to the www.americanpension.com website and there is no data associated with your account, then your account has been transferred.

April 13, 2015

Question: *I am confused by the packet I received in the mail. Which forms must be completed?*

Answer: We understand the packet is large and may be confusing to some. The packet contains a letter explaining that Judge Shelby approved the Plan of Liquidation ("Plan") and the account transfer process. The packet also contains the Plan and a number of forms. Not all forms need to be completed and returned. If you are not objecting to the value of your account on April 25, 2014, you need only submit the forms entitled "Direction Letter Request to Transfer Account to Successor Equity Trust Company" and the first three pages of the attached Equity Trust Company Account Application. You will also need to provide for your allocation of loss, either from existing cash within your APS account or through other means.

Question: *I did not receive a packet, what do I do?*

Answer: If you did not receive a packet you request a replacement packet by mail by contacting APS at 801-571-0667 or e-mailing your request and updated address to info@apsreceiver.com. You may also find the documents contained in the packet under the “Document” link at <http://www.apsreceiver.com> under the date of March 31, 2015.

Question: *I have questions about Equity Trust Company?*

Answer: The packet contains two documents related to Equity Trust Company; both are located at the back of the packet you received. The first is a two-page document describing Equity Trust Company and contains the Equity Trust website www.TrustETC.com/Welcome for more information. You can also call Equity Trust Company at (844) 226-6436.

Question: *The Equity Account Application is about thirty pages. Do I need to send the entire application back?*

Answer: No. You need only return the first pages of the application with your personal details completed. Should additional information be required by Equity Trust Company after your transfer, they will contact you directly.

Question: *I have multiple accounts at APS. Do I need to complete transfer paperwork for each of them?*

Answer: Yes. Each account is a separate retirement account and forms will need to be submitted for each account. Some accounts may have sufficient funds to make the allocation of loss or some may be subject to revaluation or in-kind asset treatment.

Question: *Do I have to read that long legal document?*

Answer: We strongly encourage all APS clients to read the Court-approved Plan. The process for moving your account to Equity Trust Company, your allocation of loss, and a number of other details can also be found in the other documents in the packet.

Question: *What was my IRA account balance on April 25, 2014?*

Answer: The document labeled as Exhibit B is a list of all APS IRA account numbers and balance on April 25, 2014. You should locate your APS account number on the list and find the account balance next to the number. If you have multiple accounts at APS, you will need to locate each account balance.

Question: *What was my 401(k) account balance on April 25, 2014?*

Answer: Clients with affected APS 401(k) accounts were sent a separate schedule, with an account number and the associated amount subject to an allocation of loss. If you

have both IRA and 401(k) accounts, you should have received a packet for each account and will need to submit the appropriate paperwork for each account.

Question: *I think I have an In-Kind Exemption, what do I need to do?*

Answer: This exemption is **only** available to clients that had an asset (**not cash**) transferred into their APS account and that asset was held within their APS account without any deposits or withdrawals. An example of this exemption would be a client who transferred precious metals or stock from another administrator to APS and APS held only those precious metals or stock. If you funded your APS account with a cash contribution or rollover from another retirement account and **then** purchased your stock, precious metals, or other assets, you are **not** eligible for in-kind treatment. This is because the cash used to fund your purchase was commingled with the APS Master Trust Account from which money was misappropriated.

If you believe you have an account that should be treated as in-kind, please submit the In-Kind Exemption Request Form, all supporting documentation, and the non-refundable \$500.00 processing fee. You will be notified of a decision on your in-kind request in writing within sixty (60) days.

Question: *I think my account should be revalued as of April 25, 2014, what do I need to do?*

Answer: Clients may request to revalue their assets as of April 25, 2014 under limited circumstances.

If your real estate was valued by equity plus the outstanding debt, rather than the equity on the real estate, you are eligible.

If you submitted a valid revaluation request to APS prior to the Receivership that was dismissed by APS you are eligible. You will need to submit documentation of your attempt to revalue and the denial by APS. A statement that you had a phone call with APS is not sufficient documentation.

If your account contained an unauthorized investment or if you believe an asset was revalued for some accounts but not revalued for your account, you may be eligible to revalue. Some client funds were invested by Mr. DeYoung using forged direction letters or without the client's consent. Many of these investments are now worthless for a variety of reasons. You will need to submit a statement that your investment was not authorized or that your direction letter was forged and that the investment is now worthless.

If you believe you qualify for revaluation, submit the Revaluation Request Form, supporting documentation, and a \$500.00 non-refundable processing fee. You will be notified of a decision on your request in writing within sixty (60) days.

Question: *What is the Contingent Repayment Agreement? Do I need to complete that form and return it to APS?*

Answer: No. The Contingent Repayment Agreement that was sent with your packet is for informational purposes. APS will send you a copy of the completed Agreement once your account has been transferred. The original will be sent to Equity Trust Company. The Receiver will make distributions to your IRA, if there are any funds available after the Receiver has completed her recovery efforts.

Question: *I have multiple IRAs either at APS or other institutions. Can I transfer money between the accounts to fund my loss allocation?*

Answer: You may conduct a trustee-to-trustee transfer of funds between your IRA accounts. You must complete a transfer letter, a copy of which is posted to <http://www.apsreceiver.com>. We strongly encourage you to speak to your qualified independent tax advisor, financial planner, or legal counsel regarding the potential tax consequences, if any, of your proposed transfer.

Question: *May I use cash in my APS account to pay my \$500.00 non-refundable Revaluation or In-Kind Exemption fee?*

Answer: No. You may not use your account to pay the \$500.00 non-refundable revaluation or in-kind processing fee.

Question: *I don't have any cash in my APS account to make my loss allocation, what do I do?*

Answer: Clients without sufficient cash within their APS accounts may make a contribution to their account to fund their allocation of loss. Clients should consult their qualified independent tax advisor, financial planner, or legal counsel regarding any potential tax consequences of any contribution to their account.

Clients may also wait for notice from the Receiver about a requested Private Letter Ruling from the IRS regarding the impact of a payment to their IRA to fund their allocation of loss. The Receiver requested an expedited ruling on her Private Letter Ruling request, but there is no anticipated date for the ruling at this time. The Receiver will notify clients about the Private Letter Ruling through the Receivership website at <http://www.apsreceiver.com>.

MARCH 30, 2015

Question: *I just received my packet; it is long and I don't want to read it? Can someone at APS just explain it to me?*

Answer: Everything you need to know is contained in the packet, including the forms that need to be completed. Staff will be happy to answer your questions, to the extent possible, should you still have questions.

Question: *The packet contains a number of forms. Which ones need to be completed?*

Answer: There are two required forms: (1) the American Pension Services, Inc. Direction Letter, Request to Transfer Account to Successor Equity Trust Company; and (2) the Equity Trust Company account application.

A client only needs to submit the Revaluation Request Form or the In-Kind Exemption Request Form if they meet the narrow circumstances for the revaluation of an asset or the treatment of an asset in-kind. The client must meet the narrow circumstances described in the Plan and follow all instructions on the forms in order to have their assets revalued or treated as in-kind

Question: *How do I know if my account is eligible for revaluation?*

Answer: The Plan of Liquidation describes the circumstances under which an account may be revalued. The circumstances are: 1) an account holding real estate that was improperly valued by the addition of outstanding debt to the equity of the property; 2) investments that were not authorized and were revalued for some, but not others; and 3) investments that are part of the National Note receivership that were not previously revalued.

Question: *How do I know if my assets are eligible for in-kind treatment?*

Answer: As noted in the both the Plan and the instructions on the in-kind exemption request form, in order for assets to be treated as in-kind, a non-cash asset must have been transferred to APS, and the client never made any deposits or withdrawals from the account.

Question: *My account holds only property, does this mean I can wait to liquidate the property before I must make my allocation of loss?*

Answer: As stated In the Plan approved by the Court, a client must submit their direction letter and loss allocation within ninety days. However, in the event that clients have only assets that may be illiquid or assets that are difficult to liquidate, a client may wait until the IRS issues a Private Letter Ruling that was requested by the Receiver. Once the Private Letter Ruling is received, a client must make their loss allocation and transfer to Equity Trust within thirty days.

Question: *I don't have enough cash in my account to make my loss allocation, what do I do?*

Answer: Clients without sufficient cash within their account to make the ten percent (10%) loss allocation may direct APS to sell or liquidate an asset within the account by providing an appropriate direction letter. Clients may also make a contribution to their account to make their loss allocation. APS cannot offer advice or make suggestions as to how to make your loss allocation or on investments held within your account. Clients should consult their qualified tax professional, financial

advisor, or legal counsel to discuss their options and the consequences, if any, of making a contribution for their loss allocation.

Question: *What is my account balance as of April 25, 2014?*

Answer: The Receiver has included a schedule, as Exhibit B for clients with IRAs and labeled as a Schedule of Account Balances for clients with 401(k) accounts, that details clients' account balances as of April 25, 2014. The account balances are listed by account number.

Question: *Why are management fees still being charged on my account? Aren't fees waived for the next year?*

Answer: The Receiver recognized the need for clients to continue to direct investments within their APS accounts during the Receivership, and thus continues to operate APS as a functional business under the supervision of the Court. While clients are not able to close or move accounts, clients may continue to direct transactions within their account, subject to the requirements of a Court order signed May 21, 2014. The Receiver maintained the fee schedule utilized by APS prior to the Receivership, with only slight modifications to the fee for mailings and certified checks. Under this fee schedule, management fees are charged in advance on each client's account anniversary date. During the transition to Equity Trust Company, clients will also be directing transactions within their account; thus, APS continues to operate until all accounts are transferred to Equity Trust.

As part of the transition, Equity Trust Company has agreed to waive account management fees for the first year. This waiver of fees will begin once your account is transferred to Equity Trust Company. Clients electing to defer transfer to Equity Trust Company are still subject to the APS fee schedule currently in effect.

Question: *If I make my loss allocation, am I done with the APS receivership and will APS sign a release or waiver of liability for me or my account?*

Answer: Clients who complete the steps detailed in the Plan will be transferred to Equity Trust Company. Upon the transfer to Equity Trust Company, each client who made an allocation of loss will receive a contingent payment agreement to be held as an asset within their account. Additionally, after transferring to Equity Trust Company, clients will no longer be subject to the Court-ordered asset freeze and will be able to direct investments free from Court supervision.

Although clients will no longer hold an account with APS, the Receiver and her staff will continue their efforts to recover funds misappropriated from APS and maximize client recovery. The Receivership will continue during this time and will be terminated once all recovery efforts have been exhausted and a final distribution

is made to clients under the contingent repayment agreement. Furthermore, as stated in the Plan, the Receiver and her staff calculated the actual loss due to misappropriation at APS at approximately 6.75%, with an additional 3.25% to allow for the proper revaluation of accounts. These figures assumed no additional recovery by the Receiver. Should there be any additional recovery, funds will be returned to investors under the terms of the contingent payment agreement. Once a final distribution is made, the Court will wind down the Receivership. A release is not necessary.

MARCH 3, 2015

Question: *I have both an Individual Retirement Account (IRA) and a 401(k) account with APS, will both accounts be moved to Equity Trust Company?*

Answer: Equity Trust Company will be the new trustee and custodian of your IRA account and the third party administrator for your 401(k) account.

Question: *How long will the transition to Equity Trust Company take?*

Answer: The transfer of client accounts is a complicated process. The Receiver and Equity Trust Company will be working to facilitate the transfer of client accounts as quickly as possible. The first step will be that clients will be mailed a package of forms, information, and a copy of the Amended Modified Plan of Liquidation. Please be sure to update your address by completing and returning the Client Information Form at <http://www.apsreceiver.com> if you have recently relocated. Clients will be moved in groups as they complete the necessary forms and provide for their loss allocation. As of now, the estimated time for the first group is approximately eight to twelve weeks. This is just an estimate and is subject to change.

Question: *Will Equity Trust Company be able to handle all of my assets?*

Answer: Equity Trust Company has is capable of handling all assets currently held by APS clients.

Question: *What must I do to transfer my accounts from APS to Equity Trust Company?*

Answer: Clients will receive a Notice of the Amended Modified Plan of Liquidation (“Notice”) by both regular mail and e-mail. The Notice will include the steps required of all clients and all the forms that will need to be completed by clients.

Question: *Re-registering and re-recording assets costs money. Will I need to pay those costs from my account to have assets re-registered and re-recorded from APS’s name to Equity Trust Company’s name?*

Answer: No. Neither the client nor their account will be charged with the cost of changing

the name on assets and re-registering or re-recording the assets.

Question: *I don't have enough cash in my account to make my loss allocation, what do I do?*

Answer: Clients without sufficient cash within their account to make the ten percent (10%) loss allocation may direct APS to sell or liquidate an asset within the account by providing an appropriate direction letter. Clients may also make a contribution to their account to make their loss allocation. Clients should consult their qualified tax professional, financial advisor, or legal counsel to discuss the consequences, if any, of making a contribution for their loss allocation.

Question: *I am waiting for the Private Letter Ruling from the IRS, how long after the Private Letter Ruling will I have to make appropriate arrangements for the payment of my Loss Allocation?*

Answer: Clients should seek the advice of a qualified tax professional, financial planner, or legal counsel regarding the tax consequences of the potential private letter ruling and whether to wait for it or make a contribution to provide for their loss allocation. Clients may also make their loss allocation prior to the receipt of the private letter ruling. Once the private letter ruling is received, and notice of the private letter ruling is given to the client, clients will have approximately ninety (90) days to make their loss allocation payment.

Question: *Will I still be able to direct transactions within my account during the transition from APS to Equity Trust Company?*

Answer: Clients may still direct transactions within their self-directed account. However, clients will need to maintain a ten percent (10%) cash-to-asset ratio in their account following any transaction. There may be a small period of time immediately before your account is transferred where transactions will be prohibited simply to preserve account data while the account is transferred. Clients will be notified of this blackout period should it apply to their account.

Question: *Will APS liquidate assets in my account without me knowing?*

Answer: No, neither APS nor the Receiver will liquidate any asset. Clients needing to liquidate assets within their account to make their allocation of loss will need to submit appropriate direction letters.

Question: *APS recently charged management fees for my account; will those fees be pro-rated? Will I be charged new management fees at Equity Trust Company?*

Answer: Fees charged by APS will not be pro-rated based on the transfer of accounts. However, Equity Trust Company has agreed not to charge clients administrative

fees for their individual accounts for one year following their transfer to Equity Trust Company.

Question: *Am I required to transfer to Equity Trust Company?*

Answer: Yes. All clients of APS will be transferred to Equity Trust Company once the clients complete all necessary steps. A client may then transfer to an administrator of their choice if they do not wish to remain with Equity Trust Company. In addition to waiving account management fees for the first year following the transfer, Equity Trust Company has agreed to waive transfer and termination fees for the first nine (9) months following the transfer to them. If a client elects to transfer away from Equity Trust Company during the first nine (9) months, they may be charged fees from their chosen new administrator.

FEBRUARY 27, 2015

Question: *What is a Fair Market Valuation and why do I need it?*

Answer: A Fair Market Valuation is used to change the value American Pension Services, Inc. (APS) lists on its records for an asset within your self-directed account. Each year by May 31, APS is required to provide the Internal Revenue Service (IRS) with an IRS Form 5498 showing the fair market value of your account as of December 31 of the prior year. It is the self-directed account holder's responsibility to provide accurate fair market values for each asset (other than cash) within your account. **Please note that the Fair Market Valuation form cannot be used by clients who wish to seek a revaluation for purposes of your Loss Allocation under the Amended Modified Plan of Liquidation, signed by the Court on February 27, 2015.**

Question: *What is the Loss Allocation?*

Answer: Under the Amended Modified Plan of Liquidation, each account will be charged an allocation of loss equal to ten percent (10%) of the amount APS listed in its records as the account's fair market value on April 25, 2014, the date the Receiver took control of APS operations. This 10% allocation is referred to as the Loss Allocation.

Question: *What information should I submit with the Fair Market Valuation form?*

Answer: The Fair Market Valuation form lists the required documentation that should be submitted with the form in order to adjust the value of an asset. The documentation may include a formal appraisal, bankruptcy paperwork, receivership paperwork for assets within your account, foreclosure documentation, or corporate filings indicating the value of an asset.

Question: *Do I need an independent valuation?*

Answer: Yes. Clients will need to have an independent appraiser prepare a valuation and sign the Fair Market Valuation form. The signature of the independent appraiser on the Fair Market Valuation form must also be notarized.

Question: *What if I don't provide a valuation for an asset in my account?*

Answer: If APS does not receive a Fair Market Valuation form, APS records will reflect the last fair market value you provided as the current fair market value of the assets within your account. This amount will be provide to the IRS on IRS Form 5498.

Question: *Do I need a Fair Market Valuation on my foreign currency, precious metals, brokerage accounts, money market accounts, or cash?*

Answer: Yes. However, if your account contains assets that have easily determined values (such as foreign currency, precious metals, brokerage accounts, or money market accounts) you do not need to include an independent appraisal for valuation. You also do not need to provide updates to the value of any cash held by APS or First Utah Bank.

Question: *Who should pay the cost of the valuation?*

Answer: If there are expenses associated with a valuation of an asset held within your IRA, your IRA should pay for the cost of the valuation. This is an expense relevant to the account any paying the costs associated with a valuation personally may be a prohibited transaction. In order to have valuation expenses paid from your IRA, you will need to submit a Bill Pay Direction Letter and supporting documentation (such as an invoice) to APS. To avoid potential prohibited transactions, you should not pay the costs of a valuation directly and then seek reimbursement from your IRA. We recommend you speak to your legal counsel or qualified tax or financial professional regarding any potential prohibited transaction.

Question: *Do I need to submit the Fair Market Valuation for to the IRS?*

Answer: No. APS will report the fair market value of assets as of December 31. APS will only report the fair market value of your total account and not individual assets.

Question: *Does submission of the Fair Market Valuation Form affect my stated account value as of April 25, 2014 or change my Loss Allocation under the Amended Modified Plan of Liquidation?*

Answer: No. The current Fair Market Valuation form can be used to substantiate a change to the recorded value of an asset or assets within your account(s).

Question: *What can I do if I disagree with the listed value of my account on April 25, 2014?*

Answer: The Receiver took over operations of APS on April 25, 2014. In her Amended Modified Plan of Liquidation, the Receiver is using the recorded fair market value on April 25, 2014 for all APS accounts. The Receiver also used the recorded fair market valuation on April 25, 2014 when she and her staff calculated the allocation of loss of ten percent (10%) for all accounts. Upon approval of the Amended Modified Plan of Liquidation, clients will be notified of the approval and mailed a copy of the Amended Modified Plan of Liquidation. The Amended Modified Plan of Liquidation details the limited circumstances in which clients will be able to modify their calculated allocation of loss. Only clients that (1) had attempted to revalue their accounts prior to April 25, 2014 but were rebuffed in their efforts; (2) had an unauthorized investment not revalued down, but was revalued down for others; (3) had an improper valuation of non-recourse debt; or (4) had investments in the National Note receivership that were not previously revalued down, are eligible for a modification of their allocation of loss. Clients seeking to modify their allocation of loss will need to complete Court-approved forms, which will be mailed with the mailed Amended Modified Plan of Liquidation, provide supporting documentation, and pay a non-refundable \$500.00 fee. The Receiver will review the valuation requests at that time.

DECEMBER 18, 2014

Question: *What occurred at the hearing on December 17, 2014?*

Answer: The Court held a hearing on the Receiver’s Proposed Modified Plan of Liquidation (the “Plan”), which was filed with the Court on December 5, 2014. Judge Robert J. Shelby indicated that he approved of the Plan with some minor modifications. The Receiver is in the process of making those minor modifications and preparing an Order for Judge Shelby to sign. Once Judge Shelby signs the Order, we will immediately post a copy of it on the APS Receivership website (www.apsreceiver.com). The Order will provide important information to APS clients regarding the next steps for clients, pertinent forms, and the related timeline for items.

Question: *If the Judge indicated approval of the Plan, can I move my account now?*

Answer: APS clients cannot yet move their accounts from APS. The Receiver will notify all APS clients when accounts may be moved to the new administrator.

Question: *I disagree with the valuation of the assets in my account as of April 25, 2014 and would like to update the value of those assets?*

Answer: The Receiver will notify clients when the process for revaluation is open and available. After the Receiver provides the notification, clients may send requests for revaluation.

Question: *The Plan refers to APS accounts being sold to a new administrator. Who is the new administrator?*

Answer: The Receiver has signed confidentiality agreements with all the potential purchasers of the APS accounts and will disclose the purchaser when the Court approves of the sale.

Question: *If the Court indicated approval of the Plan, am I still subject to the 20% liquidity requirement?*

Answer: Yes, APS clients are still subject to the liquidity requirement. APS continues to operate pursuant to the Receivership Order of April 24, 2014 and a Clarifying Order, dated May 21, 2014. Copies of both Orders are available on the APS Receivership website (www.apsreceiver.com). It is the Clarifying Order that includes the 20% liquidity requirement.

Question: *Why am I still being charged management fees for my account at APS when my assets are frozen?*

Answer: APS continues to administer client accounts and will do so until all accounts are moved to a new administrator. The Court has authorized the Receiver to continue operating APS under the terms set forth by the Receivership Order and the Clarifying Order. Clients are still able to direct investments and transactions within their APS account subject to the terms ordered by the Court. APS also continues to administer client accounts with regard to income received and payments required for investments and assets held in client accounts.

Question: *My account was closed, but I received a bill for management fees?*

Answer: The Receiver is aware that some clients were recently charged a management fee despite closing their accounts. Any client who believes they have closed their account but were still charged a management fee, should provide notice to APS in writing.

SEPTEMBER 19, 2014

Question: *What is the Notice to APS Clients and Creditors?*

Answer: The Receiver submitted the Proposed Plan of Liquidation to the court on August 22, 2014. The court is allowing clients to respond, object, or otherwise comment on the Proposed Plan using the APS Client/Creditor Response to Proposed Plan of Liquidation form, which has been e-mailed and mailed to all APS clients and creditors. All objections, concerns, suggestions, and other comments must be received **in writing**. The Receiver will provide all forms received to the court for the court's review. The Receiver will also review any client forms received. The client forms will help the court evaluate the Proposed Plan.

Depending on the client forms received, the Proposed Plan may be amended. All client forms must be submitted **in writing by October 20, 2014.**

Question: *What is the Proposed Plan of Liquidation?*

Answer: The Proposed Plan of Liquidation is a plan the Receiver has submitted to the court. The Plan proposes how the Receiver plans to wrap up the operations of APS and how to allocate the loss among APS customers due to the misappropriation of funds. The Plan also proposes how the Receiver will transition APS client accounts to another administrator. The court will need to approve the Plan before it can be executed. The court has scheduled a hearing on December 2, 2014 at 2:30pm at the new federal courthouse to consider the Plan.

Question: *Are my funds being liquidated now?*

Answer: No, your accounts are not being liquidated at this time. The court must approve the Proposed Plan of Liquidation before any liquidation of accounts can occur. The court has required APS to provide the Notice to APS Clients and Creditors in order to seek client feedback in the form of objections, concerns, suggestions, or any other comment on the Proposed Plan before evaluating the Proposed Plan. Clients have until **October 20, 2014** to make objections, suggestions, or other comments to the court **in writing.**

Question: *What is Appendix B, referred to in the letter?*

Answer: Appendix B, referred to in the letter, is a list of all client account numbers and the balance of those accounts on April 25, 2014. All names and other identifying information has been removed from Appendix B. Appendix B was not included in the letter because of its length. Instead, a copy of your personalized information, with your name, address, account number, and account balance on April 25, 2014 has been included in the packet mailed to you. Should you care to review Appendix B, it is available at the APS Receiver website, under the documents link.

Question: *Why does the Notice indicate my account value as of April 25, 2014?*

Answer: April 25, 2014 is the date that the Receiver took control of APS and is the date the Receiver proposes in the liquidation plan to value APS clients' accounts for the purpose of allocating the loss..

Question: *Why must I contribute 10% to cover the APS loss?*

Answer: The Proposed Plan of Liquidation covers a number of methods that are typically used in situations involving misappropriation of funds. Those methods are included as a chart in Appendix A of the Proposed Plan of Liquidation. The Proposed Plan indicates why the Receiver believes the chosen method is the most appropriate for APS.

Question: *Do I need to fill out the attached form to object to the Proposed Plan of Liquidation?*

Answer: If you would like to object to, or make suggestions or additional comments on the Proposed Plan of Liquidation, your comments must be submitted **in writing**. The Receiver has provided a claim form entitled "APS Client/Creditor Response to Proposed Litigation Form" to all APS clients and creditors via e-mail and first class U.S. mail. The form has instructions on where to return the Form. All forms received will be presented to the court. If you have no objections, suggestions, or comments, you do not need to fill out the form and return it. Again, if you do have any objections, suggestions, or other comments, you must complete the form in writing and return it.

Question: *Why do I need to fill out an objection form, won't my call be enough?*

Answer: The Receiver will submit all client forms returned to the court in their original condition. The court requires that all forms be in writing for consideration.

Question: *What if I agree with the Proposed Plan of Liquidation?*

Answer: You need not do anything at this time; however, you may submit a form expressing your agreement with the Proposed Plan.

Question: *What if I disagree with the valuation of my account balance on April 25, 2014?*

Answer: There will be a separate period to object to the valuation of your plan that will occur later. However, you may submit your objections, suggestions, any other comments on the current form.

Question: *Do I have to use the form provided by the Receiver?*

Answer: It is not mandatory, but using the form will enable the Receiver to more effectively and efficiently collect and provide all comments to the court.

JULY 28, 2014

Question: *What is a Liquidation Plan?*

Answer: The Liquidation Plan is a plan the Receiver will submit to the court in which the Receiver will propose how she plans to wrap up the operations of APS, including how the Receiver will propose to allocate the loss among APS customers due to the misappropriation of funds, and how the Receiver proposes to transition APS accounts to another administrator. The court will need to approve the Plan before it can begin to be executed.

JULY 23, 2014

Question: *What happened at the Court hearing on July 23, 2014?*

Answer: On July 23, 2014, the Court considered and ruled on the following:

- Motion for Authorization to Submit Liquidation Plan on August 22, 2014 filed by the Receiver. The Court granted the Motion, and the Receiver will submit a Liquidation Plan on or before August 22, 2014.
- Motion for Preliminary Injunction filed by the Securities and Exchange Commission. The Court granted the Motion and issued a Preliminary Injunction, effective immediately.
- Motion to Dissolve Temporary Restraining Order and Suspend or Dissolve Order Appointing Receiver filed by Curtis DeYoung. The Court denied the Motion and the Order Appointing Receiver, Freezing Assets and Other Relief remains in full effect.

JULY 18, 2014

Question: *Can I trade using my online brokerage account?*

Answer: Yes, you may engage in standard securities transactions within your account. The online broker may require additional information from the Receiver. The Receiver has entered into a Memorandum of Understanding with TD Ameritrade. You may send a request to the Receiver via email at info@apsreceiver.com or via postal mail at 4168 W. 12600 S., Suite 300, Riverton, UT 84096 if there are additional online brokers that require action by the Receiver.

JUNE 25, 2014

Question: *Are my APS accounts at First Utah Bank insured by the FDIC?*

Answer: Certain retirement accounts for which First Utah Bank is the passive custodian have pass-through deposit insurance with the FDIC. The official FDIC website at www.fdic.gov contains many resources for questions about FDIC insurance. An additional resource is a FDIC brochure entitled *Your Insured Deposits*, available at www.fdic.gov/deposit/deposits/insured/print/yid_english.pdf. These publications are not intended as legal interpretations of the FDIC's laws and regulations, and the Receiver cannot provide any legal advice regarding FDIC insurance. All further questions should be directed to your attorney.

JUNE 10, 2014

Question: *Can out-of-state clients view the court hearings online?*

Answer: The court hearings can only be observed in person at the courthouse. However, we will post official transcripts from the court hearings as soon as they are available at www.apsreceiver.com.

JUNE 3, 2014

Question: *I just received Form 5498 in the mail. What is this? Do I have to do anything with it?*

Answer: IRS Form 5498 reports total annual contributions to an IRA account and identifies the type of retirement account you have, such as a traditional IRA, Roth IRA, a simplified employee pension (a "SEP") IRA or a savings incentive match plan for employees (a "SIMPLE") IRA. Form 5498 also reports amounts that you rollover from other types of retirement accounts into an IRA. Form 5498 reflects the fair market value of your account as of the last day of the calendar year. The fair market value reported on your Form 5498 is based off on the last information you provided to American Pension Services. You are obligated to provide American Pension Services with the fair market value of your account, and related documentation, on at least an annual basis. You can view instructions on how to update the fair market value of your account at: <https://americanpension.com/pages/fmv>

Additionally, Form 5498-SA reports your annual contributions and rollovers into tax-free health savings accounts (an "HSA"), as well as its fair market value based on the last value you provided to American Pension Services. Form 5498-ESA reports your annual contributions and rollovers into a Coverdell educational savings account.

You don't have to do anything with Form 5498, Form 5498-SA or Form 5498-ESA; they are being provided to you for your records.

Question: *Is the safety deposit box reconciliation complete and can I receive verification of my funds held in the safety deposit boxes?*

Answer: We are still in the process of reconciling the safety deposit boxes. In the coming weeks, we will be sending each APS client an account reconciliation and valuation form to assist in the reconciliation. We will inform you when the forms have been mailed.

Question: *Can I exchange my foreign currency for United States Dollars (USD) or a different foreign currency?*

Answer: Yes. Please provide us with a foreign currency sell direction letter (available at <https://americanpension.com/pages/forms>) and we will process your request as quickly as possible. The currency obtained from the exchange must be deposited directly to your APS account and will remain subject to the terms of the Receivership Order.

MAY 29, 2014

Question: *The Court's Clarifying Order dated May 21, 2014, allows the Receiver to approve certain transactions but requires account holders to maintain or reach a ratio of 20% cash to asset value following any reinvestments. Why is there a 20% cash liquidity requirement?*

Answer: The Receiver must maintain sufficient cash reserves in order to make required distributions, pay expenses and continue operating APS pursuant to the Court's orders. The Receiver may now provide APS clients the ability to direct investments of the majority of their account balances.

Question: *My brokerage accounts are still frozen. What can you do to help?*

Answer: We are speaking with the compliance departments at the brokerage firms where certain accounts have been frozen. We have provided them with a copy of the Clarifying Order, which permits APS clients to change the investments within their accounts, so long as the funds are not disbursed. However, those brokerage firms must satisfy their own internal review process before authorizing transactions. We will keep you informed of any updates.

Question: *Will APS file and mail IRS Forms 5498 for tax year 2013?*

Answer: Yes. All required 5498 Forms were filed with the IRS on May 23, 2014. The 5498 Forms are available on the APS website and we are currently mailing copies of all 5498 Forms, so you should receive them in the mail in the next couple of weeks. If you do not receive your 5498 Forms by mid June, please contact the APS offices.

MAY 21, 2014

Question: *I saw that on May 21, 2014, the Court entered an Order Clarifying Order Appointing Receiver, Freezing Assets, and Other Relief ("Clarifying Order"). What transactions are permitted now?*

Answer: The Clarifying Order gives the Receiver discretion to approve certain transactions

that are requested by APS clients in a proper buy/direction letter. The types of transactions that may be approved include:

1. Ordinary and necessary expenses to preserve existing assets. For example, HOA fees, property taxes, utility bills, and repair and maintenance costs.
2. Regularly scheduled monthly, quarterly, or semi-annual distributions as well as minimum distributions to clients over 70.5 years of age as required by IRS regulations.
3. Transferring cash into a closely-held LLC, partnership, or corporation that owns identifiable hard assets like real estate. Requests to transfer cash to LLCs that do not own hard assets will generally not be approved.
4. Using cash held in your account to buy a new asset (real estate, stocks, foreign currency, etc.) or selling an existing asset (real estate, stocks, foreign currency, etc.) and then using the proceeds to buy a new asset.

It is important to understand that the Clarifying Order places two limitations on any transactions you want to have approved.

First, a transaction generally will not be approved unless you maintain cash in your accounts equal to 20% of your total assets administered by APS. For example, if you have \$500,000 in total assets under management and you want to buy real estate, then the total real estate transaction cannot exceed \$400,000 (80%) because you will be required to maintain a cash balance of at least \$100,000 (20%) in your accounts. In addition to the 20% cash requirement, you may also be required to submit a written acknowledgment and agreement that you may be required to liquidate some of your investments in the future to generate cash when the final Court-approved Plan of Liquidation is implemented.

Second, although you may freely change the nature of your assets (e.g., cash to real estate, real estate to stocks, stocks to cash, etc.) all assets will continue to remain frozen by the Receivership Order regardless of how the asset is held. For example, if you sell a parcel of real estate for \$400,000, the proceeds from that sale must be contributed back into your APS accounts and will remain frozen by the Receivership Order. You can reinvest that \$400,000 into a new asset, like stocks, but those stocks will also remain frozen by the Receivership Order. In other words, you can change the nature of your assets as many times as you like, but you cannot liquidate those assets and distribute the cash to yourself.

MAY 20, 2014

Question: *What is the status of the receivership case?*

Answer: The Court has scheduled a hearing on Wednesday, May 21, at 10:30 am in Courtroom 7.300 at the New Courthouse located at 351 South West Temple, SLC, UT. At the hearing, the Court will consider the Motion for Preliminary Injunction (docket entry 38). Additionally, the Defendants have filed new documents with the Court, which have been posted to www.apsreceiver.com.

MAY 19, 2014

Question: *Can I continue to buy and sell stocks, bonds, and other securities through my existing brokerage account or are my brokerage accounts frozen?*

Answer: You can continue to buy and sell stocks, bonds and other securities through your existing brokerage account like normal. However, all funds are subject to the Receivership Order, meaning they must remain in your brokerage account and may not be liquidated or distributed to you as cash.

MAY 15, 2014

Question: *I am concerned that I'm not receiving all correspondence and emails regarding my APS accounts. How can I make sure I receive all communications?*

Answer: Please provide us with your current contact information. To alert you of developments as quickly as possible and to avoid the costs associated with postal mail, we prefer to send most communications via email. To ensure we have your correct contact information, including your email address, please complete the APS Client Information Form posted on the website www.apsreceiver.com and return it to the Receiver either via email at info@apsreceiver.com or via postal mail at 4168 W. 12600 S., Suite 300, Riverton, UT 84096.

Question: *I am being charged management fees for my accounts serviced by APS? Why are management fees being charged if my accounts are frozen?*

Answer: The management fees are necessary to keep APS operational, which will protect assets frozen by the Receivership Order and allow APS clients to continue to make certain business transactions during the pendency of the Receivership. We are also seeking an order from the Court clarifying that the Receiver will be permitted to allow certain self-directed investment transactions and distributions to be made in the ordinary course of the APS clients' requests.

Question: *Do all funds made payable to APS as administrator for the investments in my accounts still have to be forwarded to APS?*

Answer: Yes. Pursuant to the Court's Receivership Order, all funds made payable to APS as administrator for your self-directed accounts must be forwarded to APS. In addition to violating the Receivership Order, diverting payment of such funds to APS may be considered unauthorized distributions and could result in significant taxes and penalties. Please consult with your personal attorney and/or accountant or tax advisor regarding any legal or tax implications.

Question: *Can I make payments from my self-directed accounts to myself instead of APS?*

Answer: No. In addition to violating the Receivership Order, making payments directly to yourself instead of through APS may be considered unauthorized distributions and could result in significant taxes and penalties. Please consult with your personal attorney and/or accountant or tax advisor regarding any legal or tax implications.

MAY 13, 2014

Question: *What new information is available at this time?*

Answer: On May 12, 2014, the Receiver filed a "Preliminary Report of Receiver" with the Court. The Report outlines what steps have been taken thus far in securing and reconciling assets and has been posted to the apsreceiver.com website.

Question: *I want to fund an LLC from my IRA Account. Can I do that?*

Answer: Not at this time. The Receiver is in the process of requesting additional clarification of the order appointing Receiver and freezing assets to confirm that her actions are consistent with the portion of the order stating that "the Receiver may authorize the implementation of clients' instructions as to reallocating assets within an account to new or additional investments, and away from existing investments."

Question: *I have a securities/stock account with an outside brokerage firm which is held by my IRA. May I buy and sell stocks with the funds which are presently in trust with the outside brokerage firm?*

Answer: Yes, as long as funds/stocks remain in the account.

MAY 9, 2014

Question: *What happened at the status conference on May 8, 2014?*

Answer: Judge Robert J. Shelby extended the duration of the Temporary Restraining Order to May 22, 2014. A new status conference has been scheduled before Judge Shelby on May 21, 2014 at 10:30 a.m. The status conference is open to the public.

Question: *I was receiving scheduled monthly distributions from APS prior to the date the Receiver was appointed. Will I continue to receive those distributions each month?*

Answer: If you received scheduled monthly distributions prior to April 25, 2014, the Receiver will endeavor to continue to provide you with same distribution each month. New requests for distributions submitted after April 25, 2014, are not permitted at this time.

Question: *Can I roll the assets held in my IRA to a new custodian?*

Answer: Not at this time.

Question: *I purchased foreign currency and was informed by APS that the physical currency was being held in safe deposit boxes. Is this foreign currency secure?*

Answer: On April 25, 2014, the Receiver took control of all safe deposit boxes containing foreign currency. The Receiver is still in the process of reconciling the foreign currency inventory with the client accounts.

MAY 6, 2014

Question: *Are communications with the Receiver kept confidential?*

Answer: Communications with the court-appointed Receiver and her team will be kept confidential to the best of their ability. Please understand, however, that the Receiver may be required by law to disclose certain communications to the Court, the SEC, and/or other third parties.

Question: *When will I receive a statement showing the balance in my account?*

Answer: We cannot provide accurate account balances until the Receiver's investigation and review of financial records is complete. However, we are restoring access to the account login via the APS website, <http://www.americanpension.com>, which will show account balances based on information as of April 24, 2014, which was prior to the commencement of the court-appointed receivership. Some subsequent

transactions may be reflected in your account balance, but because the receivership is still in the process of balancing and reconciling the accounts, we cannot guarantee at this time that each account balance or record is accurate or has been fully updated.

Question: *Why are my accounts frozen?*

Answer: The court has ordered all accounts held with APS to be frozen in order to protect those assets and to prevent any unlawful transfers or other diminution of APS assets until the Receiver has conducted a full investigation and balanced and reconciled the accounts.

Question: *When can I move cash and other assets out of APS?*

Answer: All accounts held with APS have been frozen pursuant to court order and will remain frozen until the Receiver completes its investigation and the court orders the accounts unfrozen. We are currently unable to provide an estimate as to when this will occur, but we will keep you updated.

Question: *I recently funded my account with APS but have not made any actual investments through APS. Can I withdraw that money?*

Answer: No. All funds provided to APS are frozen pursuant to the court's order.

Question: *Are there specific types of funds and accounts that were affected? How do I know if my funds were affected?*

Answer: Until the Receiver's investigation is complete, we cannot determine whether specific funds and accounts were affected or determine how that might impact any particular account or funds.

Question: *I purchased foreign currency through APS and want to convert that foreign currency into US Dollars, can I do this?*

Answer: Yes, but with a caveat. Foreign currency will be converted to US dollars if you provide a direction letter instructing the Receiver to make that conversion. All applicable fees for the conversion will be charged to your account. However, you will not be able to withdraw the US Dollars from your account because it will remain frozen pursuant to the court order.

MAY 5, 2014

Question: *When is the next scheduled court hearing?*

Answer: The next court hearing is scheduled on May 8, 2014, at 9:30 am in Courtroom

7.300 at the United States District Court, for the District of Utah, located at 351 S West Temple, Salt Lake City, Utah, 84101.

MAY 2, 2014

Question: *My only assets are real property. Are they safe?*

Answer: Yes. Your properties will continue to be held as assets and we will continue to pay expenses to preserve those assets such as HOA fees, taxes, and utilities.

Question: *Can I currently roll my IRA to a new custodian?*

Answer: No. The Court order does not permit the release of assets to account holders or other custodians. All assets must remain under the supervision of the receiver until further order of the Court.

Question: *What can I and should I do right now?*

Answer: The best thing you can do right now is remain patient. The purpose of the Court order freezing assets and appointing us as receiver is to protect your assets. The next Court hearing is ~~May 9th~~ (See below for updated date/time) and we will post any updates from that hearing as quickly as possible.

Question: *I can't see my statement online, what can I do?*

Answer: We are working to restore the website so you can review your statement online. Meanwhile, you can call our office at (801) 571-0667 to request a statement.

MAY 1, 2014

Question: *I have property under contract that I am ready to purchase or sell in my account. Can this still happen?*

Answer: Yes. We are generally able to process purchases with cash on account. The Court order permits the Receiver to implement clients' instructions to reallocate assets in their account and into new or additional investments. Sales of property with proceeds payable to the account may generally proceed under the same authority.

Question: *Can I continue making deposits into my retirement account (either through payroll or individually)?*

Answer: Yes. The Court order allows clients to continue making deposits into their accounts, and investment directions for these funds can be placed.

Question: *Are property taxes, utility fees, HOA fees and other expenses being paid on account-owned properties?*

Answer: Yes. Our primary goal is to protect and preserve the assets in client accounts, including real property. The Court order allows us to make payments and disbursements in order to do so

APRIL 29, 2014

Question: *Is APS still in business?*

Answer: Yes. But its operations are controlled by the Court through the Receiver, at least until the next scheduled court hearing. As a result, temporary limitations on APS and its operations have been put in place to protect account holders.

Question: *Is any money missing from APS accounts?*

Answer: Maybe. The SEC's papers filed with the Court indicate that the SEC has reason to conclude that over \$20 million is missing out of \$300 million under management. You can read more about this in the SEC's pleadings, which will be posted to the receivership website once they are unsealed by the Court. The defendants in the litigation have a right to contest the SEC's conclusions. Ultimately, the Court will determine what money, if any, is missing.

Question: *Could any new funds be lost?*

Answer: No, so long as they were located in the identified APS accounts that have been frozen by the Court's Order. As part of the Court's appointment of a Receiver, such accounts are now protected against improper withdrawals.

Question: *Can I make a new withdrawal from my account prior to the next Court hearing?*

Answer: No. The Court has determined that no new withdrawals can occur, at least until the next hearing. This is to protect the interests of all account holders.

Question: *I don't want to make a new withdrawal, but I am owed a scheduled automatic distribution. Will this still occur?*

Answer: Probably not. We will be assessing any scheduled automatic distributions. We can only authorize those if permitted by Court Order. We realize they are an important matter for many account-holders. They will be addressed as soon as possible, consistent the terms of the Court's Orders in this matter.

Question: *I want to sell an asset in my account (such as stock, gold, or property). Can I do that prior to the next Court hearing?*

Answer: No. No sales of assets can occur at this time absent extraordinary circumstances.

Question: *I want to purchase an asset with the money in my account (such as stock, gold, or property). Can I do that prior to the next Court hearing?*

Answer: No. No new purchases can occur until the next Court hearing absent extraordinary circumstances.

Question: *Why is the APS website not working?*

Answer: The website may be unavailable at times over the course of the next week due to the ongoing investigation. We apologize for the inconvenience this will cause. We will strive to have the website operational as soon as possible

Question: *Why cannot I get through on the phones and/or get a response to my email?*

Answer: We are working hard to get the Court the information it needs. That is the first step in protecting APS account holders. Because this is our first task, we are unable at this time to respond to all of the inquiries we receive. Please be patient. We will be able to respond to inquiries more efficiently once we have completed the initial steps we need to take to protect account holders.

April 13, 2016

Question: *I transferred my self-directed retirement account from Equity Trust Company to a new administrator. How do I transfer or re-register my Contingent Repayment Agreement?*

Answer: If you have transferred your account from Equity Trust Company to a new administrator, your Contingent Repayment Agreement has been transferred with your account.

The Contingent Repayment Agreement does not need to be re-registered or re-issued and will still be held in your account with your new administrator.

Under an agreement between the Receiver and Equity Trust Company approved by the Court, any distribution made by the Receiver under the Contingent Repayment Agreement will be sent to Equity Trust Company. Equity Trust Company is contractually obligated to credit the accounts for the clients for which they retained and for tracking and forwarding funds to new administrators for clients that have been transferred.