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RETIREMENT PLANNING

SEC Sees Indications Of Fund Payments To Pension Planners

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The Securities and Exchange Commission is finding troubling indications that mutual-fund companies and other money managers paid retirement-plan consultants to be recommended to the consultants' clients, people familiar with the probe said.

The SEC, ramping up scrutiny of potential financial-services industry conflicts, in December launched a broad examination of retirement-fund consulting to determine whether consulting firms and money-management companies engaged in quid pro quo arrangements and whether clients were informed of any financial relationships between their consultants and the management companies they recommend.


Since then, regulators have become "troubled" by what they have uncovered, said a person familiar with the probe, and some consultants and money managers may be referred to SEC enforcement officials for regulatory action that could result in fines and other penalties.

Revelations of wrongdoing in the retirement-fund arena would be yet another blow to the financial-services sector, which is reeling from the latest investigative salvo by New York Attorney General Eliot Spitzer, this one into alleged bid-rigging and kickbacks in the insurance industry.

Last week, Mr. Spitzer sued **Marsh & McLennan Cos.** over allegations that the world's largest insurance brokerage firm rigged bids in arranging insurance for its clients. The SEC scrutiny of the employee-benefits field is especially significant for Marsh because its Mercer Investment Consulting Inc. unit is a major player in retirement-fund consulting and has confirmed that it is one of several consultants that received an SEC request for data late last year.

Mercer said in a statement that it doesn't "request, require or accept payment from investment managers in order for them to be included or recommended in a manager or mutual-fund search." The company added that it is cooperating with the SEC inquiry.

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Consultants hold great sway over which money managers or mutual-fund family their clients -- corporations, state and local governments and other employers -- pick for workers' retirement programs, including 401(k) plans. Industry insiders say the potential conflicts include the millions of dollars that fund managers pay retirement-consulting firms for organizing conferences and other services.

It isn't against the law for consultants to take money from asset managers for such services, which also include software design, as long as they are disclosed to the SEC and to retirement-plan clients. But critics have complained for years that the fees sometimes are larger than what the consultants disclose to their clients and implicitly tied to the consultants' recommendations, making them look like little more than kickbacks.

Mercer's clients and competitors long have questioned its relationship with Putnam Investments, another Marsh unit that runs a family of mutual funds and is a major provider of 401(k) retirement plans. Mercer recently got out of the business of recommending 401(k) plan administrators -- a service that Mercer itself now offers -- but still recommends mutual funds and investment managers.

Former Putnam employees, including those who marketed its mutual funds to retirement plans, say that Putnam and Mercer employees were told to keep an arm's length distance from each other's units to avoid conflicts. One Putnam salesman said that he and his colleagues had such a hard time landing Mercer clients that they joked about wishing Marsh would sell Mercer to Fidelity Investments, their cross-Boston rival.

But there were instances when Mercer recommended Putnam as a provider to retirement-plan clients. Ingram Micro Inc., a Santa Ana, Calif., tech company, in the late 1990s choose Putnam for its retirement plan on a recommendation from Mercer, its consultant, recalls Ryan Jones, who was hired as Ingram's benefits manager shortly thereafter. "It smelled pretty fishy to me," says Mr. Jones, who now works elsewhere as a benefits consultant. "I never felt it was a good idea to have Mercer come in and say that Putnam's doing a good job." Within six months of starting at Ingram, Mr. Jones replaced Mercer with another consultant. A spokeswoman for Ingram said the company recently had decided to replace Putnam with Fidelity Investments as its plan administrator.

A Marsh & McLennan spokeswoman said that Mercer's investment-manager recommendations always are based on an objective assessment of historical and prospective investment performance.

Employees of Marsh's three main operating units -- Putnam, Mercer and Marsh Inc., the insurance brokerage firm -- long have been encouraged to steer customers to each other, and Mr. Spitzer's office is expected to look into whether that created conflicts of interest that hurt its clients.

In a letter to shareholders in Marsh's 2000 annual report, the company noted that several years earlier, it had begun "a series of cross-company activities to make sure our clients were aware of all our capabilities. The resulting increase in revenue led us to formalize the approach last year." The letter said that Marsh was having its "management team" lead the effort, which it called "Business in Combination," or BIC, and that the team had been given "a global mandate to develop" it.

The Marsh spokeswoman says that the program was intended to get business units to refer customers to each other only "when it's in the best interest of a client." To encourage cross-selling of services, she explained, business units that made successful referrals got a fee from their counterpart units, enhancing the referring

unit's bottom line. Putnam, however, was barred from making referral payments to Mercer because the company viewed such payments as inappropriate. Critics say such payments create the appearance of a conflict of interest.

One retirement-plan consultant said he received in the summer of 2003 an e-mail from a Putnam relationship manager that suggested otherwise.

The consultant had been evaluating a corporate client's Putnam-run retirement plan, including Putnam's fees. The Putnam manager told the consultant in an e-mail that Marsh's BIC program had saved the client considerable sums, because it had received \$200,000 in discounts on other services it purchased from Marsh, including from Mercer and the insurance brokerage unit.

"All of this is paid by Putnam annually," the e-mail says in explaining how the discounts were financed via the BIC program, according to the consultant. The Putnam manager argued that such savings should be considered when evaluating the Putnam plan's overall costs, the consultant said.

Such discounts could represent a conflict, because employers are supposed to pick retirement-plan services based on what is best for their workers, not what is best for the company. The Marsh spokeswoman denied that any referral money from the BIC program was used to finance discounts and suggested that any Putnam employee who implied otherwise was mistaken.

--Arden Dale contributed to this article

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