



408(b)(2) Checklist

Responsible Plan Fiduciary Duties Under Section 408(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA):

1. Determine if your plan is covered under the regulation
2. If yes, determine which service providers are covered
3. Verify you have received all of the required disclosures
4. Ensure the services are necessary
5. Determine the plan fees are reasonable

IS YOUR PLAN COVERED?	
Covered Plans	Plans not Covered
<p>Employee pension benefit plans or pension plans within the meaning of ERISA section 3(2)(A)*</p> <p>*Excluded: Frozen 403(b) plans consisting exclusively of annuity or custodial accounts to which contributions were ceased prior to January 1, 2009, in which the employee is fully vested and can enforce the rights and benefits under the contract or account against the insurer or custodian without any involvement by the employer</p>	<ul style="list-style-type: none"> • Simplified Employee Pension (SEP) plans • SIMPLE retirement accounts • IRAs • Keogh/H.R. 10 plans • Health Savings Accounts • Nonqualified Plans <p>Employee pension benefit plans exempted from Title I of ERISA including:</p> <ul style="list-style-type: none"> • governmental plans • non-electing church plans • foreign plans • unfunded excess benefit plans • non-ERISA 403(b) plans

WHICH SERVICE PROVIDERS ARE COVERED?		
Must Pass Both the Compensation and Function Test		
	Yes	No
<p>Compensation Test: Providers that expect to receive \$1,000 or more in compensation, direct or indirect*, during the life of the arrangement.</p> <ul style="list-style-type: none"> • Direct Compensation- Fees paid directly by the plan (or from a participant’s or beneficiary’s account) • Indirect Compensation- Anything of monetary value received from any source other than the covered plan, the plan sponsor, the covered service provider, an affiliate, or subcontractor <p>Function Test: Provides one or more of the services described below:</p>		
1. ERISA fiduciary services provided directly to the plan		
2. ERISA fiduciary services to an investment contract, product or entity that holds plan assets and in which the plan has a direct equity investment Services not provided in the capacity of a fiduciary are not covered (i.e. most mutual fund investments)		
3. Services provided directly to the covered plan as an investment adviser registered under the Investment Advisers Act of 1940 or pursuant to state law		
4. Recordkeeping or brokerage services to a covered plan that is an individual account plan that permits participants and beneficiaries to direct the investment of their accounts, if one or more designated investment alternatives will be made available (e.g., a “platform provider”) in connection with such services.		
5. Providers (or an affiliate or subcontractor) of one or more of the following services to the covered plan who expects to receive “indirect compensation” or certain payments from related parties in connection with such services: Accounting, auditing, actuarial, banking, consulting, custodial, insurance, investment advisory, legal, recordkeeping, securities brokerage, third party administration, or valuation services.		
<i>If you answered no to all of the questions above (one through five), the fee disclosure rules do not apply to the service provider.</i>		
Affiliates and subcontractors of a covered service provider do not need to separately disclose if the Plan has no direct arrangement with them.		

Covered Service Providers for your plan:

1. _____ 2. _____

*Excludes non-monetary compensation valued at \$250 or less

REQUIRED DISCLOSURES-General	Yes	No
1. The materials clearly outline the services to be provided under the contract or arrangement and must include services that will be performed by its affiliates and subcontractors (not just the services that make it a “covered” service provider) so the responsible plan fiduciary is able to determine if compensation for the services is reasonable.		
2. All compensation-related disclosures detailing the manner of receipt of compensation, such as whether the plan will be billed for fees, fees will be directly deducted from plan accounts, or fees will be directly deducted from plan investments.		
3. A written statement clarifying if the provider will be providing investment advice as a registered investment adviser and whether or not the adviser is serving as a fiduciary in that role.		
4. A description of all direct compensation (from the plan) that will be received by it, an affiliate, or a subcontractor.		
5. A description of all indirect compensation (compensation from sources other than the plan, the plan sponsor, the covered service provider, an affiliate, or subcontractor) that will be, or reasonably expected to be, received. The written statement identifies: <ul style="list-style-type: none"> a. The payer of the indirect compensation b. Describes the arrangement between the payer and the service provider to help fiduciaries identify any conflicts of interest, and c. Identifies the services associated with the compensation received 		
6. A description of all compensation reasonably expected to be paid among the service provider, its affiliates, and subcontractors that is set on a transaction basis (e.g. commissions, soft dollars, finder’s fees, etc.) or charged directly against a plan investment and reflected in the net value of the investment (i.e., 12b-1 fees). The description identifies the payer and recipient and outlines the services for which such compensation will be received.		
7. A written disclosure of any compensation the service provider, its affiliates or subcontractors reasonably expect to receive for termination of the contract or arrangement, and how any prepaid amounts will be calculated and refunded upon such termination.		
8. If the service provider is providing recordkeeping services for the plan, a separate disclosure provides a description of all direct and indirect compensation that the covered service provider, an affiliate, or subcontractor expects to receive in connection with the recordkeeping services. In addition, if there is no explicit compensation for recordkeeping services, or it is offset or rebated based on other compensation received (“revenue sharing”), the covered service provider must furnish a reasonable and good faith estimate of the cost of the services including an explanation of the methodology used to prepare the estimate and a detailed explanation of the record keeping services that will be provided.		

<p style="text-align: center;">REQUIRED DISCLOSURES-Investment-Related</p> <p>Required from those providing services to a plan investment contract, product or entity holding plan assets and in which the plan has a direct equity investment, or is a record keeper or broker that makes available designated investment alternatives on a platform for participant-directed individual account plan. This includes any information that is within the control of, or reasonably available to, the covered service provider and is required for the plan administrator to comply with the participant-level disclosure regulation of Section 404(a)(5) of ERISA.</p>	Yes	No
<p><i>1. Identifying information</i> Name and type or category of the designated investment alternative.</p>		
<p><i>2. Performance Data</i> 1-, 5- and 10-year average annual total returns, ending on the date of the most recently completed calendar year (or for the life of the investment, if shorter) as well as a statement indicating that an investment’s past performance is not necessarily an indication of how the investment will perform in the future. For investment options that have a fixed or stated rate of return, the current rate of return, the minimum rate guaranteed under the contract, and the term of the investment must be disclosed.</p>		
<p><i>3. Benchmark Information</i> The name and returns of an appropriate broad-based securities market index over the 1-, 5-, and 10-year periods for which performance data must be disclosed. Investment options with fixed rates of return are not subject to this requirement.</p>		
<p><i>4. Fee and Expense Information</i></p> <ul style="list-style-type: none"> a. Total annual operating expenses that are reflected in the net value of the investment option expressed as a percentage (e.g., expense ratio) and as a dollar amount for a \$1,000 investment b. Compensation that will be charged directly against the covered plan’s investment that is not included in the annual operating expenses (e.g., commissions, sales charges, redemption fees, surrender charges, exchange fees, account fees, purchase fees, etc.) c. Ongoing expenses in addition to annual operating expenses (e.g., wrap, mortality and expense fees) d. A description of any restriction or limitation that may be applicable to a purchase, transfer, or withdrawal of the investment in whole or in part (such as round trip, equity wash, or other restrictions). <p>For investment options that have a fixed rate of return only items “b.” and “d.” are required.</p>		
<p><i>5. Internet Web Site Address</i> Although the plan administrator is responsible to furnish an Internet Web site to plan participants, the service provider may have within its control, or reasonably available to it, information about the investment options that must be provided at the Web site address including:</p> <ul style="list-style-type: none"> a. Name of the investment’s issuer b. The investment’s objectives or goals c. The investment’s principal strategies (including a general description of the types of assets held) and principal risks d. The investment’s portfolio turnover rate e. The investment’s performance (as described above) updated at least quarterly f. The investment’s fee and expense information (as described above) 		

<p>6. <i>Glossary</i> Plan administrators are solely responsible to provide a general glossary of terms to participants and beneficiaries to assist them in understanding the plan’s investment options, or an Internet Web site address that is sufficiently specific to provide access to such a glossary along with a general explanation of the purpose of the address. Did your service provider assist with providing this?</p>		
<p>7. <i>Special Rules</i> If the covered service provider has information about designated investment alternatives that fall within the participant-level disclosure regulation’s “special rules” the covered service provider may have to furnish information necessary for the covered plan administrator to comply with the regulation’s requirements for annuity options, employer securities, fixed-return investments, and target date or similar funds. This does not transfer legal responsibility for fulfilling the participant-level disclosure regulation to the service provider.</p>		
<p>Investment-related disclosures for designated investment alternatives must conform to the requirements of the DOL’s participant disclosure regulation (DOL Reg. 2550.404a-5) and may be “passed through” from a regulated, unaffiliated issuer under certain conditions. It must also be furnished in a chart or similar format designed to facilitate a comparison of each investment option available under the plan and include information about how to request, and obtain free of charge, a paper copy of the information required to be maintained on a Web site (described above) and the name, address, and telephone number of the plan administrator.</p>		

If you answered yes to all of the questions in the “Required Disclosure” sections, you may have received ample information under the final fee disclosure rules. If you answered no to any of these questions, the covered service provider has not provided sufficient information and you must follow the steps outlined below.

If You Are Missing Required Information

In order for a plan fiduciary to qualify for a class exemption from the prohibited transaction rules the responsible plan fiduciary must issue a written request to the covered service provider requesting the missing information. The responsible plan fiduciary then has 30 days to report the failure of disclosure to the Department of Labor from the earlier of the covered service provider’s refusal to provide the information or 90 days from the written request. In addition, if the information relates to future services, the responsible plan fiduciary must consider terminating the contract as soon as possible within their duty of prudence.

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This material has not been reviewed, approved, or authorized by any federal or state regulatory agency as meeting the requirements of any applicable rules or regulations. Additionally, the materials have not been reviewed by legal counsel and do not provide investment, legal, or tax advice of any kind. The materials are not intended, nor should they be relied upon, as a substitute for appropriate professional advice with respect to complying with the disclosure requirements of the DOL’s 408(b)(2) regulations or any other requirements.