

Advisor Retirement Plan Update

QUARTER 4 2011



Struggling with fee disclosure? We can help!

Plan Sponsor Fee Disclosure is currently scheduled to be effective April 1, 2012. The rules require that certain providers give information about the fees and payments they expect to receive, including any payments they receive on behalf of the plan from other service providers (such as 12b-1 fees or revenue sharing). This will allow for the plan sponsor to have the needed transparency to be able to assess if the fees they are paying to their service providers are reasonable.

Covered service providers (CSP) must make certain disclosures in writing to plan sponsors regarding the fees they expect to receive. CSPs are investment advisors, recordkeepers and anyone who receives indirect compensation (money paid to a CSP that comes from a source other than the plan sponsor or the plan assets). For existing contracts, the disclosure must be made before April 1, 2012. For any new clients, the disclosure must be made before entering into an agreement with the plan sponsor.



YOUR RETIREMENT PARTNER

The Department of Labor rules state that the service provider who has the direct relationship with the plan sponsor must be the one to provide the fee disclosure. See page 2 and 3 for sample disclosure documents.

Sample Service Provider Fee Disclosure — ERISA 408(b)(2) Regulations

The purpose of this form is to comply with the requirements of DOL Reg. 2550.408b-2(c)

Plan Information:

Plan Name: The Millionaire's Club 401(k) Plan

Responsible Plan Fiduciary: Mr. Millionaire

Covered Service Provider Information:

Name: Investments R Us

Address: 123 Main Street Main, OH 44321

Contact: Joe Schmoe

Phone Number: (440) 456-7890

E-mail Address: joeschmoe@iru.com

Disclosure Information:

Date of Disclosure: January 1, 2012

Description of services: Investment Advisory

Status: A Fiduciary and a Registered Investment Advisor to the Plan

Direct Compensation (A description of all the direct compensation that the CSP, an affiliate or a subcontractor reasonably expects to receive for services performed under the contact):

Services Provided	Compensation Expected	Method of Receipt
Pooled Fund Management	\$5,000	Billed to the plan assets

Indirect Compensation (A description of all the indirect compensation that the CSP, an affiliate or a subcontractor reasonably expects to receive for services performed under the contact):

Services Provided	Compensation Expected	Payer of Indirect Compensation	Method of Receipt
Investment Advisory	\$5,000	Mid-Atlantic Trust Co.	12(b)(1) fees

Related Party Compensation (A description of compensation that will be paid among the CSP, an affiliate or subcontractor in connection with the described services):

Services Provided	Compensation Expected	Payer	Recipient	Status of Payer	Method of Receipt
None					

Termination Compensation:

Termination Charges	Method of receipt	Prepayment Policy
There is a \$500 charge for termination of the contract.	Billed to the plan	Any amounts billed for a plan year that we have not prepared will be refunded to the plan.

Investment Appendix

The purpose of this form is to comply with the requirements of DOL Reg. 2550.408b-2(c)

	Fund A	Fund B	Fund C	...continue for all funds in plan
Compensation Charges (Describe any compensation that will be charged directly against amount investments in connection with acquisition, sale, transfer of, or withdrawal from the investment vehicle.)				
Sales Loads				
Sales Charges				
Deferred Sales Charges				
Redemption Fees				
Surrender Fees				
Exchange Fees				
Account Fees				
Purchase Fees				
Other Fees				
Annual Operating Expenses (Describe the annual operating expenses if the return is not fixed)				
Expense Ratio				
Other Ongoing Expenses (Describe any other ongoing expenses)				
Wrap Fees				
Mortality fees				
Expense Fees				
Other Fees				

Thoughts About Fee Disclosure

One of a plan sponsor's fiduciary duties is to insure that the plan is paying fees that are reasonable. However, for many years, the plan sponsor was in the dark about how much was actually being paid by the plan. Indirect compensation made it difficult for sponsors to know all of the money that the plan was paying. Indirect compensation is the compensation paid to a service provider on behalf of the plan that is not paid through plan assets or from the plan sponsor. Examples of indirect compensation include 12(b)-1 fees and revenue sharing (sub-TA fees).



The Department of Labor (DOL) has known for years that many plan service providers were not disclosing all of the payments they received to the plan sponsor. So, the Department of Labor has required that the disclosures be made. The fee disclosure rules are meant to address the fact that clients should understand where the payments will be coming from and how much the plan will really cost prior to the time that they enter into a contract with a service provider (such as an investment advisor or a third party administrator). So, the rules state that prior to entering into a contract, certain items must be disclosed (see pages 2 and 3 of this newsletter for a sample disclosure form). However, it is important to note that all existing clients must be provided with this notice as well, prior to April 1, 2012 (as the law is currently scheduled to go into effect). Note that the disclosure does not require for you to indicate what amounts you actually earned from the plan, but rather to estimate what fees will be charged. This makes sense if you think of it as primarily a communication tool for new clients. Another interesting point to consider is that for any change to the fee disclosure, the sponsor must be notified as soon as practicable, but no later than 60 days after the service provider is aware of the change. We are hoping the

DOL changes this to an annual notification period since the information provided on the investment appendix could change frequently.

Sponsors aren't the only ones that will be dealing with fee disclosure. This year, participants will also be required to have their plan fees disclosed. A recent survey shows that 71% of participants believe that they pay no fees for their plan, and that is far from the case. Although we have been providing some detail on plan fees on the participant statements for some time, there is sure

to be questions from participants because they will now be receiving an annual notice with the expected annual fees along with more detailed fee information on their quarterly participant statements. The participants are also required to receive a comparative chart listing the assets available in the plan in an easy to read format that contains performance information along with appropriate fund benchmarks.

Expect a lot more questions about your fees and how they compare to the fees of other providers. The reason for this fee disclosure was specifically so that sponsors can make more informed decisions. Many of our advisor friends have changed from collecting 12(b)-1 fees behind the scenes to charging a flat wrap fee that is deducted from plan assets.

Failure to comply with the fee disclosure rules renders your fees to be a prohibited transaction. To correct this, you would have to return your fees and pay a 15% excise tax to the IRS. This is a law that should not be ignored!