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Fee Disclosure— *What Plan Sponsors Need to Recognize and Do Upon Receiving this Information*

By **Scott Fremer, CEBS** and **James R. Sotell, AIF**

Fee disclosure is finally upon us after various delays. On February 3, 2012, finalized regulations were published by the Department of Labor ("DOL") for service providers to disclose fees to plan fiduciaries called 408(b)(2).

Sponsors may be asking themselves:

Is this a big deal?
What do I really need to do with this information?

The regulations will usher in a new era of fee disclosure and transparency that the retirement plan industry has not experienced. This will provide Plan Sponsors insights to the fees they are paying and who is receiving them at a level not seen before by many Sponsors.

COMPERIO's view is that significant changes in the way plan services are evaluated will emerge with this increased fee transparency from 408(b)(2).



After Fee Disclosure no longer will a plan sponsor have the misperception that their provider is giving them "free" recordkeeping services.

- Company A and Company B are similar in plan characteristics:
 - ◆ \$80 million in plan assets
 - ◆ Contribute the same amount
 - ◆ 800 participants.
- **Company A** pays an annual fee of \$100 per participant which equals \$80,000 per year.
- **Company B** has no explicit fees for plan administrative or what appears to be "free" recordkeeping. Explicit fees rarely tell the whole story.



In order to get a true understanding of the total fees, you have to "look under the hood". You have to look at investment expense ratios and the revenue that is being generated and paid to the provider to offset those administrative fees.



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An examination of the investment options reveals:

The total fees for Company A are \$480,000 or 0.60% which is comprised of investment management (0.50%) and administration (\$80,000).

The total fees for Company B are \$640,000 or 0.80%. What is different with Company B is that a portion of the 0.80% expenses is shared back to the recordkeeper to offset the “Free” recordkeeping. The recordkeeper is getting 0.30% or \$240,000. This works out to be \$300 per participant.

By digging deeper, the initial assertion of free recordkeeping for Company B has changed dramatically! In actuality Plan B is paying more than Plan A, but the fiduciaries were not aware of how the service provider was being compensated. The passing of 408(b)(2) fee disclosure is designed to address this issue head on. With greater disclosure will come greater responsibility. Do you think Company B fiduciaries have fulfilled their duties of assessing that costs are reasonable and that they have acted in participants’ best interest?

While we believe that the new regulations are not a cure-all for the industry, this evolution in disclosure will make it easier for retirement fiduciaries and their advisors to answer the following questions:

- ◇ **What types and amounts of revenue are being collected by the providers?**
- ◇ **Who are all of the organizations receiving revenue from the plan and its participants?**
- ◇ **How is the revenue being allocated to provide administrative services?**
- ◇ **What is the total amount of compensation paid by the plan to a broker and their broker-dealer?**

An even bigger question surrounding these changes is what does this mean to plan sponsors from a fiduciary perspective?

COMPERIO foresees these five issues becoming critical for Plan fiduciaries:

Greater Transparency - for the first time since the advent of defined contribution plans in general and 401(k) plans in particular, providers will be required to supply access to all revenue being collected and identify all parties that are receiving revenue from the plan. Even if they have not been available in the past, the pieces are now available for the committees to determine what they are paying for plan administration, investment, education and advisory services and if those fees are reasonable.

Increased Responsibility - Without a legal requirement to disclose fees, many plan sponsors have found it nearly impossible to get a complete picture of their arrangement. A case can be made that, now that fiduciaries have access to all revenue being collected, it is imperative that fiduciaries become more proactive in performing the task of determining whether the services and fees are reasonable.

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Need to Benchmark - while the fee information for a plan sponsor's specific plan will now be available, that information, in and of itself, is useless unless that data can be compared to the fees and services available in the marketplace. Plan fiduciaries will need to periodically take the time, or hire an independent consultant to compare the fee and service structure that they currently have with peers as well as other service providers and document the review that has been done. As the DOL states: "If it's not documented, it's not been done".

Evaluation of Current Advisor/Broker - for those plan sponsors that use a commission-based advisor, it is possible under the new disclosure rules that plan fiduciaries will be seeing the compensation paid to that advisor for the very first time. This will provide an opportunity to determine if the services being rendered by the advisor are commensurate with the level of compensation. It will also present an opportunity to evaluate whether the plan should be using the existing asset-based commission structure or should consider adopting a flat fee based structure for advisory services.

Services Assessment - fee disclosure will not generate a significant movement towards the low cost providers. It should provoke an analysis of the service model currently being used and a determination if those services align with the corporate philosophy of providing a retirement program. Just because one company pays more than another for retirement services is not a fiduciary breach but one must validate and document the additional value being provided the Plan (i.e. additional level of employee education or more in-depth investment due diligence on the investment menu).

The new fiduciary world has arrived and with greater disclosure rules will be greater accountability by plan fiduciaries. The days of not understanding fees or saying our recordkeeping is free are behind us.

Participant Disclosure Next- Are You Prepared?

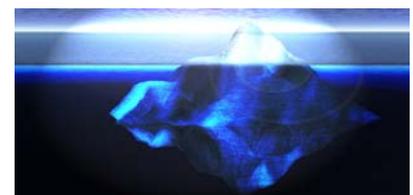
A second important date for plan sponsors is August 30, 2012. That's the date that **mandatory disclosure of fees to plan participants becomes effective.**

What many sponsors do not realize is that participant disclosure under 404(a)(5) is the responsibility of the Plan Administrator **not** the organizations that provide services to the Plan. Plan Committee Members need to ask the following questions to their advisors and service providers in order to determine the assistance they will receive in meeting the disclosure requirements:

- ◇ Does my provider plan on providing assistance to our Plan Administrator to help us comply with the participant disclosure regulations?
- ◇ What is our provider's strategy to ensure we provide the proper materials by the new deadline?
- ◇ Is my provider going to provide the required information directly to plan participants?
- ◇ What are the fees associated with complying with the new regulations?

Most service providers are taking the lead as if plan participant fee disclosure is the providers' responsibility but we have seen many different approaches and differing levels of fees to meet the disclosure requirements.

Comperio anticipates the new disclosure requirements will create significant dialogue by plan fiduciaries now that fees are becoming more transparent, especially to plan participants. All plan fiduciaries should be prepared to answer questions on the types of services that are necessary for the plan, why the existing service providers were hired and how the fees that are being paid by both the plan sponsor and plan participants compare to the fees of similar organizations.



The fees below the surface will be disclosed and participants will soon become aware of these costs