

**§408(b)(2) Covered Service Provider (CSP)  
 Disclosure Review Checklist**

Note: this checklist should be used in conjunction with the [Identify Your Covered Service Provider Checklist](#)

*This material is for the sole purpose of providing general information and does not under any circumstances constitute legal advice. You should not act on these materials without first obtaining the advice of counsel.*

§408(b)(2) provides relief from ERISA's prohibited transaction rules for service contracts or arrangements between a plan and a party in interest if the contract or arrangement is reasonable, the services are necessary for the establishment or operation of the plan and no more than reasonable compensation is paid for the services. In order for an arrangement to be reasonable, the CSP must disclose specific information to a responsible plan fiduciary. This checklist will help you review the disclosures as to content. The Plan Sponsor must perform due diligence in determining the reasonableness of the fees vs the services provided.

**General timing requirements** - A CSP must disclose the required information to the responsible plan fiduciary reasonably in advance of the date the contract or arrangement is entered into, extended or renewed. The initial CSP disclosures were required by July 1, 2012.

The CSP must inform the Plan Sponsor of any changes to investment information at least **annually**. The CSP must provide the Plan Sponsor of any non-investment related changes within **60 days** of the change.

**Services**

A description of the covered services to be provided to the plan pursuant to a contract or arrangement

**Status (Fiduciary or RIA)**

If applicable, a statement that the CSP, an affiliate or a subcontractor<sup>1</sup> will provide, or reasonably expects to provide services pursuant to the contract or arrangement directly to the covered plan (or to an investment contract, product or entity that holds plan assets and in which the covered plan has a direct equity investment) as a fiduciary

If applicable, a statement that the CSP will provide, or reasonably expects to provide, services pursuant to the contract or arrangement directly to the covered plan as an investment adviser registered under either the Investment Advisers Act of 1940 or any State law.

**Compensation**

A description of all *direct compensation* i.e., compensation received directly from the plan, either in the aggregate or by service, that the CSP reasonably expects to receive

A description of all *indirect compensation* i.e., compensation received from any source other than the covered plan or the CSP

- including identification of the services for which the indirect compensation will be received and
- identification of the payer of the indirect compensation and
- a description of the arrangement between the payer and the CSP pursuant to which such indirect compensation is paid.

A description of *compensation among related parties (revenue sharing)* if it is set on a transaction basis (e.g., commissions, soft dollars, finder's fees or other similar incentive compensation based

<p>on business placed or retained) or is charged against the covered plan's investment and reflected in the net value of the investment (e.g., 12b-1 fees) including:</p> <ul style="list-style-type: none"> <li>• identification of the services for which such compensation will be paid and</li> <li>• identification of the payers and recipients of such compensation (including the status of a payer or recipient as an affiliate or a subcontractor).</li> </ul>	
<p>A description of any compensation that the covered service provider reasonably expects to receive in connection with termination of the contract/arrangement and how any prepaid amounts will be calculated and refunded upon termination</p>	<input type="checkbox"/>
<p><b>Recordkeeping Services</b></p>	
<p>A description of all direct and indirect compensation that the CSP reasonably expects to receive in connection with recordkeeping services</p>	<input type="checkbox"/>
<p>If the CSP reasonably expects recordkeeping services to be provided without explicit compensation, or when offset or rebated based on other compensation received by the CSP, then a reasonable, good faith estimate of the cost to the covered plan of recordkeeping services, including an explanation of the methodology and assumptions used to prepare the estimate and a detailed explanation of the recordkeeping services that will be provided should be disclosed to the covered plan.</p> <p>The estimate should take into account, as applicable, the rates that the CSP would charge to, or be paid by, third parties, or the prevailing market rates charged, for similar recordkeeping services for a similar number of covered participants and beneficiaries</p>	<input type="checkbox"/>
<p><b>Investment disclosure – fiduciary services</b></p> <p>For each investment contract, product or entity that holds plan assets and in which the covered plan has a direct equity investment, and for which fiduciary services will be provided pursuant to the contract or arrangement with the covered plan, the following information must be provided unless it is disclosed to the responsible plan fiduciary by the CSP providing recordkeeping or brokerage services:</p>	
<p>This section is not applicable to our plan</p>	<input type="checkbox"/>
<p>A description of any compensation that will be charged directly against an investment such as commissions, sales loads, sales charges, deferred sales charges, exchange fees, account fees, and purchase fees; and that is not included in the annual operating expenses of the investment contract, product or entity</p>	<input type="checkbox"/>
<p>A description of the annual operating expenses (e.g., expense ratio) if the return is not fixed and any ongoing expenses in addition to annual operating expenses (e.g., wrap fees, mortality and expense fees), or for an investment contract, product or entity that is a designated investment alternative, the total annual operating expenses expressed as a percentage and calculated in accordance with DOL§ 2550.404a-5(h)(5) and</p>	<input type="checkbox"/>
<p>For an investment contract, product or entity that is a DIA, any other information or data about the DIA that is within the control of, or reasonably available to, the CSP and that is required for the covered plan administrator to comply with the disclosure obligations of DOL §2550.404a-5(d)(1)</p>	<input type="checkbox"/>
<p>The above information was provided by: _____</p>	<input type="checkbox"/>
<p><b>Investment disclosure – recordkeeping and brokerage services</b></p>	
<p>A description as noted in <b>Investment Services - Fiduciary</b> for each designated investment alternative for which recordkeeping and brokerage services are provided to a covered plan that is an individual account plan (most defined contribution plans)</p>	<input type="checkbox"/>

<p>Generally, a CSP may comply with this requirement by providing the disclosure material provided by the issuer of the designated investment alternative or information replicated from such materials that include the required information provided that</p> <ul style="list-style-type: none"> <li>• The issuer is not an affiliate</li> <li>• The issuer is a registered investment company, an insurance company qualified to do business in any State, an issuer of a publicly traded security, or a financial institution supervised by a State or federal agency</li> <li>• The CSP acts in good faith and does not know that the materials are incomplete or inaccurate, and furnishes the responsible plan fiduciary with a statement that the CSP is making no representations as to the completeness or accuracy of such materials</li> </ul>	<input type="checkbox"/>
<p><b>Manner of receipt</b> - A description of the manner in which compensation will be received, i.e., billed or deducted from the covered plan's accounts(s) or investments.</p>	<input type="checkbox"/>

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<sup>1</sup> CSP, an affiliate or subcontractor will be collectively referred to as CSP for the remainder of this checklist