

## Asset Manager Disclosure Obligations to ERISA Plans

### Regarding Schedule C of DOL Form 5500

In October 2007, the Department of Labor approved amendments to Schedule C of DOL Form 5500 requiring increased disclosure of fees and expenses paid by plans for services rendered to the plan. This information is to be used by plan administrators in reviewing the compensation paid for services provided to the plan. The changes to Form 5500 are effective for plans beginning on or after January 1, 2009.

To meet the enhanced requirements, plans will be required to disclose on Form 5500 Schedule C compensation provided to broker-dealers through research services received via client commission arrangements (CCAs), as they relate to plan accounts.

For asset managers who use ERISA plan commissions to obtain research services, the manager may need to provide the following information to aid the plan in completing the Eligible Indirect Compensation Disclosures section of Schedule C:

**1. Disclosure of the existence of the indirect compensation**

The asset manager will need to disclose that they receive third-party and/or proprietary research with commissions transacted on behalf of the plan, generally through a CCA.

**2. Disclosure of services provided for the indirect compensation or the purpose for payment of the indirect compensation**

The asset manager will need to disclose to the plan the purpose for receiving research through CCAs. This could be satisfied by indicating that the proprietary and third-party research services are being used to assist the manager in its investment decision-making process. Alternately, the manager could disclose the research services being used through CCAs utilizing plan commissions.

**3. The amount of (or estimate) of the compensation or a description of the formula used to calculate or determine the compensation**

The asset manager may choose two ways in which to disclose the amount of compensation to the plan. The manager may choose to disclose the exact amount of compensation received or the manager may choose to provide an estimate of the compensation for all services received. If an estimate is provided, the formula or method used to determine the estimate must be disclosed and be deemed reasonable. The method or formula must provide sufficient information for the plan fiduciary to use in evaluating the reasonableness of the compensation and whether any potential conflicts of interest exist.

**4. The identity of the party or parties paying and receiving the compensation**

The asset manager will need to disclose to the plan the individual broker-dealer, or in aggregate with other identified broker-dealers,

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providing in excess of \$5,000 of research to the manager based upon compensation paid by the plan.

The DOL has not provided guidance on how the Eligible Indirect Compensation Disclosures must be provided to the plans by the asset managers. However, items 1 and 2 above are currently required to be disclosed by asset managers on the managers' Form ADV.

To simplify the disclosure process, asset managers could add the information required by Items 3 and 4 to their Form ADV. However, if asset managers choose not to include the information needed to satisfy Items 3 and 4, that information could be provided to the plans in a separate disclosure document.

If an asset manager chooses not to disclose its compensation using the Eligible Indirect Compensation exemption in the manner referenced above, the asset manager must disclose each arrangement and exact dollar amount of compensation greater than \$5,000 in detail and in a manner that meets the disclosure requirement set forth by the DOL.

For more detailed information on the enhanced disclosure requirements, visit the FAQs on the DOL [website](#).

Additionally, within the next month, CAPIS, in conjunction with The Alliance for Independent Research, will be publishing a more detailed legal memorandum on this topic.



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