

ELEMENTS OF DEFINED CONTRIBUTION PLAN FEES AND SERVICE PROVIDER COMPENSATION

The attached list identifies service- and fee-related data elements that defined contribution plan sponsors and service providers may want to discuss when entering into agreements. This list was developed by plan sponsor and financial services industry organizations as a reference tool to aid plan sponsors and service providers in complying with their responsibilities under ERISA Section 408(b)(2). Section 408(b)(2) allows plan fiduciaries to enter into certain service contracts and arrangements if no more than reasonable compensation is paid.

Services and investment products available to defined contribution plans vary widely and can be provided in a bundled package or obtained on a stand-alone basis. The list is designed to address this diversity and to allow meaningful comparison among and between products and services and between bundled and stand-alone arrangements. It also addresses indirect compensation received by plan service providers from unaffiliated parties and affiliates in connection with services provided to the plan. Such indirect compensation may be paid to plan service providers by firms providing plan investment options on account of services rendered both to the plan and to the firm providing the investment option. This indirect compensation may be used as a credit against fees that the service provider otherwise would have charged to the plan. In using the list, plan sponsors would inquire about the scope of specific services that are included (and not included) within a particular service element and its related fee. The list is intended as a discussion and compliance tool. It is not a form and sponsors and providers retain flexibility with respect to the specific format in which fee information is disclosed.

How are bundled arrangements or all-inclusive charges to be discussed when this list is used?

The list can accommodate the practice of bundling many specific service elements into a single product with a single fee. The service provider would show the bundled price, rather than separate charges, and make clear what services are included. The specificity of the list should assist plan sponsors and providers in discussing the services that are and are not included in a bundled fee.

Many plan sponsors seek bottom line cost or expense levels for their plans after inquiring about the specific services to be provided. That is, plan sponsors may ask for a total cost for all investment-related services and a total cost for all other (administrative) services. The list does not preclude disclosure of bottom line cost figures and could assist in discussions about these costs.

How are overlapping data elements or inapplicable elements treated?

The list is a guide for discussions between plan sponsors and service providers. Plan sponsors can use the list to inquire about the specific services that the provider offers and which data elements do not apply. Where certain charges could be associated with multiple data elements, each charge should be disclosed only once. Redundant or duplicative disclosure of a service fee

or product charge should be avoided as “double disclosure” will confuse rather than clarify the costs charged to the plan.

Is this data element list a fee disclosure form to be filled out?

No. The list is a tool for discussion and should not be used as a form to be filled out by service providers. For example, it is certainly not intended that plan sponsors would place blanks beside each data element and ask service providers to fill in a corresponding charge. Thus, the data element list differs from the 401(k) Plan Fee Disclosure Form that the Department of Labor has previously made available.