

Schedule C Guidance

Plans required to file Form 5500 Schedule C

If your plan had 100 or more eligible participants (this includes active employees who are eligible to participate and terminated employees with account balances) on the first day of the plan year, your plan is considered a large plan filer and will generally be required to file an IRS Schedule H, with the following exception:

- If the plan filed as a small filer last year (Form 5500-SF or Schedule I) and the plan covered fewer than 121 participants on the first day of the current plan year, the Form 5500-SF or Schedule I may be completed instead of a Schedule H and the Form 5500 filing would continue to file as a small plan filer.

If your plan has less than 100 participants at the beginning of the plan year or your plan meets the above exception, your plan is considered a small plan filer and would not need to file a Schedule C or gather fee compensation information needed for the Schedule C filing and therefore may disregard the following information.

Background:

The Department of Labor (DOL) has implemented new reporting requirements on Form 5500 Schedule C relating to plan fees/compensation. This is effective for plan years beginning in 2009 and is required for all large plan filers. It is the responsibility of the Plan Sponsor (or named Plan Administrator) to request and collect the fee/compensation information from all applicable Service Providers associated with the plan including Service Providers associated with individual participants' Self Directed Brokerage Accounts. There are a series of questions in the Year End Questionnaire that are designed to assist you in the collection of this information and for ensuring timely and accurate reporting on the Schedule C.

Fee Disclosure Information We Track and Report

As your provider we can track and report your plan's Direct Compensation and Indirect Compensation including fees for administrative, record-keeping, compliance, plan document maintenance and for indirect compensation for all investment funds we hold and report, on your annual summary. You will **NOT** need to provide fee compensation information related to these services.

Fee Disclosure Information You May Need to Provide to Us

There are three areas in which you may need to provide us fee disclosure information relating to Direct and Indirect Compensation received by outside service providers for your plan so that we can include this information on the Form 5500 Schedule C filing. If any of the following three scenarios apply for the current plan year, you will need to provide the fee disclosure information you received from these providers to us through the Year-End Questionnaire. There are a series of questions in our Year-End Questionnaire that will assist you in providing this information to us.

- Broker or advisor
- Prior carrier - your plan transferred from a another carrier during this plan year
- Outside assets – one or more plan assets are held by an outside carrier

To assist you in understanding the questions and terminology used in the Year-End Questionnaire, we have provided a glossary of terms below. Many of these definitions can also be accessed through links in the Year-end Questionnaire.

Definitions:

Indirect Compensation: Compensation received from sources other than directly from the plan or Plan Sponsor for services rendered to the plan during the plan year. Includes fees and expense payments received by a person from mutual funds, bank commingled trusts, insurance company pooled separate accounts, and other managed separate accounts / pooled investment accounts in which the plan invests and that are charged against the fund / account and reflected in the value of the plan's investments. Also included is Non-Monetary Compensation, such as free meals, transportation, hotel accommodation and seminar / conference attendance. Examples: management fees paid by a mutual fund to its investment advisors, sub-transfer agency fees, shareholder servicing fees, account maintenance fees and 12b-1 distribution fees. Other examples include finder's fees, float revenue, brokerage commissions, research and other products / services received from a broker or third party in connection with security transactions (soft dollars), and other transactions based fees received in connection with transactions / services involving the plan. Special rules apply to non-monetary compensation such as gifts and meals.

Eligible Indirect Compensation: This is Indirect Compensation (see definition above) that in order to be classified and reported as **Eligible Indirect Compensation**, the plan sponsor must have received written materials that disclose and describe the following:

- The existence of the indirect compensation
- The services provided for the indirect compensation or the purpose of the payment of indirect compensation
- The actual dollar amount, estimated dollar amount or a description of the formula used to calculate or determine the compensation
- The identity of the party paying and receiving the compensation.

For indirect compensation to be eligible to be reported as Eligible Indirect Compensation, the disclosures should include language indicating: that the written disclosures are intended to meet the Form 5500 Schedule C requirements for reporting as Eligible Indirect Compensation.

Disclosures: These are written documents that may be provided by service providers and would include materials that disclose and describe the existence of Indirect Compensation and the services provided or purpose of the payment. The disclosure will also provide details of the amount of compensation, actual dollar amount, estimated dollar amount or a description of the formula used to determine the compensation and the identity of the party or parties paying and receiving the compensation.

Direct Compensation: This is fee compensation paid directly out of plan assets including charges to the plan forfeiture / fee recapture accounts, charges to a plan's trust account before allocations are made to individual participant accounts and direct charges to participant's individual plan accounts. Payments made by the Plan Sponsor to the Service Provider which are not reimbursed by the plan are NOT included for this reporting purpose.

Service/Fee Codes: The DOL has provided a list of codes that describe the services provided and compensation received. Enter as many codes necessary that apply to the Service Provider in question. Click on the Services Fee Code box for a listing of the service codes.

Person Providing Disclosures: The person or organization that provided the plan the written disclosures on fee compensation.

Relationship to Employer, Employee Organization or Party-in-Interest: Enter any relationship of the Service Provider identified to the Plan Sponsor, to the participating Employee or Employer Organization, or to any person known to be a party-in-interest (e.g., employee of employer, vice-president of employer, affiliate of plan record-keeper, etc.). Select 'none' if there is no relationship.

Service Provider: This is the name of the person or organization providing a service to the plan who received the compensation relating to services provided to the plan. (For Eligible Indirect Compensation, enter the name of the person who provided the required disclosures on behalf of the Service Provider).

To assist you in determining who might be considered a service provider, please remember that any person or organization that provides a service to the plan in exchange for fee compensation would be considered a Service Provider for purpose of reporting on the Schedule C. Fee compensation for Service Providers that you may need to report on the Year-end Questionnaire may include (but are not limited to this list): accounting including auditing, contract administrator, record-keeping Services, consulting, custodial, trustee, insurance, investment management, sales loads, brokerage services, shareholder services, insurance, investment advisory, legal, participant loan and/or communications, commissions, investment company/mutual fund, distributions, account maintenance, or any other service provider fees.

Service Provider Address: This is the address of the Service Provider (or person) who received the compensation relating to services provided to the plan. (For Eligible Indirect Compensation, enter the address of the person who provided the required disclosures on behalf of the Service Provider).

Service Provider EIN: This is the Employer Identification Number of the Service Provider (or person) who received the compensation relating to services provided to the plan. (For Eligible Indirect Compensation, enter the name of the person who provided the required disclosures on behalf of the Service Provider). **Note:** Do not use the person's Social Security Number in lieu of an EIN due to privacy concerns. If a person does not have an EIN (e.g. self employed) the person's address is sufficient

Source Name: The name of the company / person who paid the Indirect Compensation to the Service Provider.

Source Address: The address of the company / person who paid the Indirect Compensation to the Service Provider.

Source EIN: The Employer Identification Number of the company / person who paid the Indirect Compensation to the Service Provider. **NOTE:** Do not use the person's Social Security Number in lieu of an EIN because of privacy concerns. If a person does not have an EIN (e.g., self-employed), the person's address is sufficient.

Formula/Description of Indirect Compensation: Describe the Indirect Compensation, including any formula, used to determine the Service Provider's eligibility for or the amount of the Indirect Compensation.

Failure/Refusal to Provide Information: Indicate Yes or No if the Service Provider failed or refused to provide any of the required fee / compensation information to complete the Form 5500 Schedule C. Before responding No, please be sure you have given the service provider an opportunity to provide disclosure information on the fee compensation they have received in connection to services provided to your plan. While most providers will provide disclosures, there are a number of reasons why a plan sponsor may not have received a fee compensation disclosure. If you have not received fee disclosure information, please request that information from the service provider. We have provided guidance below on how to request this information.

A failure to satisfy the reporting requirements may result in a prohibited transaction under ERISA with the potential for an excise tax on the amount of compensation involved. This can be a significant issue to both the Plan and the Service Provider and should be not be taken lightly.

If the plan sponsor believes they should have received a disclosure but may have not received one, the plan administrator should request a fee disclosure from the service provider.

A request should be made in writing to each Service Provider for the required compensation information. The request should include a statement that they will be listed on the Schedule C as a Service Provider who failed to provide fee compensation disclosures.

- If the Service Provider fails to provide the requested information within a reasonable time frame (generally 90 days of the written request), the plan fiduciary should deem the Service Provider to have failed to comply with the request for the required information.
- Immediately contact your tax or legal advisor for more information or specific guidance.
- Indicate on the Year End Fee / Compensation Questionnaire that the Service Provider failed or refused to provide the required information, and should be reported as such on Schedule C.

Helpful Hints

Data Collection from Service Providers

The following are suggestions to assist you in the requesting and collection of the compensation data from your plan advisors needed to meet the new Form 5500 Schedule C reporting requirements.

1) Identify All Plan Service Providers: Review your records to identify all parties who are / have provided services to your plan during the reporting year. This would generally include such providers as:

- Investment advisors you have hired to manage or advise you (or the participants) on the plan's investments
- For each participant with self-directed investment accounts, the broker or investment advisor associated with that account
- Trustee / Custodian
- Plan Recordkeeper
- Preparer of Form 5500 (may be same as Plan Recordkeeper)
- Compliance Testing (may be same as Plan Recordkeeper)
- Legal
- Accounting / Auditing
- Actuarial
- Other Consultants hired to provide services to the plan

Please review the Service Codes tab for a complete list of possible service providers as provided in the Department of Labor's instructions.

2) Written Request for Compensation Information: For your protection, you should make a written request to all identified service providers for the required compensation information. This should be done prior to the end of the plan's reporting year, so as to give the service providers time to begin collecting the required data. Be sure to include a deadline for the provider to return the requested information (generally no later than 90 days following the plan year end), as well as

a statement indicating that you will report them on Schedule C as a service provider who has failed or refused to provide the required compensation information needed to complete Schedule C if they do not comply by the stated deadline.

3) Items to include with the Written Request: You may wish to print off and include the following items from this document to help the advisor understand the required information to be provided.

- Background and key terms section from the Compliance User Guide
- Service Codes

4) Direct Fees (Compensation) Paid from Plan Assets: Neither you or the service providers will need to provide the amount of any fees that were paid from plan assets. Those amounts will be identified from the existing records by the Plan Recordkeeper. However, you may need to provide information relating to the service provider or the nature of the fee type if not on record.

5) Investment-Related Compensation: The plan's investment advisor(s) should be made aware of the types of compensation that are required to be reported on Schedule C, including:

- Investment Advisory / Management Fees paid directly from Plan Assets
- Brokerage Commissions
- Insurance Commissions
- Sales Loads (Front End and Deferred)
- Sub-Transfer Fees
- 12b-1 Distribution Fees
- Finders Fees / Placement Fees
- Mutual Fund Operating Expenses (obtain from Fund Companies)
- Non-Monetary Compensation (free meals, transportation, hotel accommodation, seminar / conference attendance)

6) Follow Up: At some predetermined time prior to the stated deadline, you should follow up with each service provider as to the status of the required information to be provided and estimated time of delivery. Ideally, follow ups should be done in writing. REMINDER - Form 5500 and related schedules cannot be finalized until all service provider / compensation data needed for the Schedule C is received.

7) Failure / Refusal to Provide Compensation Data: Should a service provider fail or refuse to provide the requested information, there are two options available to you.

- Obtain a "good faith" statement from the advisor. For the 2009 Plan Year ONLY, the Department of Labor has indicated the Plan Administrator is not required to report service providers as having failed to provide the required information if the service provider has provided a statement stating that it made a good faith effort to make recordkeeping / information system changes in a timely fashion but, despite such efforts, the service provider was unable to complete the system changes for the 2009 Plan Year.
- Authorize the preparer of the Form 5500 to report the advisor as having failed / refused to provide the required information.

8) Record Retention: For your protection be sure to keep copies of all written requests, follow ups and other communications for your records.