

FROM THE PRESIDENT/CEO OF NRS JOHN SCIARRA

RETIREMENT PLAN SERVICE PROVIDER DISCLOSURES

UNDER DEPARTMENT OF LABOR REGULATIONS 408(B)(2) AND 404A-5

Final Department of Labor (“DOL”) ERISA 408(b)(2) regulations concerning disclosing compensation received from employer retirement plans were issued in February 2012. Third Party Administrators (“TPAs”) are preparing for compliance with these regulations that are effective July 1, 2012. There are many retirement plan service providers affected by the regulation because some clients arrange for plan expenses to be paid from their retirement plan, rather than paying a service provider directly. Also, a service provider sometimes receives a portion of its plan service fees from other financial service providers.

Although these are new regulations, NRS has always practiced full disclosure of fees and charges to its clients and financial advisors, and has been fee transparent from its inception. This is evidenced by the NRS Plan Services Agreement (PSA) and Fee Schedule. Therefore, NRS will easily comply and provide the 408(b)(2) regulation disclosure information to its clients before the required date of July 1, 2012 and beyond. However, it is important that Plan Sponsors understand the importance of these new Disclosure Regulations, and their associated responsibilities.

Revenue Sharing / Cost Sharing

The focus of this article is to explain and share information concerning the term “revenue sharing” and its effect on TPAs and Plan Sponsors because it is an integral part of these new regulations. Some financial service providers (investment providers) offer TPA revenue sharing programs to help offset the cost of plan level compliance and

administration. Hence, **NRS prefers to redefine revenue sharing as “cost sharing”**. Cost sharing is usually built into the financial service provider’s plan asset charge, then paid to the TPA from a general account, or it is an added asset charge on plan assets. A thorough analysis is required to determine the cost impact on a particular plan. However, as you know, cost is only a small piece of the equation, as overall performance and service must be seriously considered as well.

At NRS, we have a specific cost sharing fee schedule for those clients who select a financial service provider that cost shares. **Most TPA cost sharing programs are offered in the allocated 401(k) plan or participant directed profit sharing plan marketplace.** The NRS cost sharing fee schedule reflects a lower base fee and lower eligible employee fee than its “non-cost sharing” fee schedule, where there is no subsidy.

Cost sharing programs vary by financial service provider. Qualification requirements, rollover assets, ongoing contributions, asset growth and retention are factors considered when determining cost sharing monies. The volatility within these factors and the administrative time and effort to calculate the results of these factors can make it challenging to achieve a dollar for dollar offset of the plan administration fees. Occasionally, cost sharing monies may further reduce the already discounted NRS fee. It is important to note that NRS monitors its cost sharing plans to ensure that the total monies received are properly aligned with the services provided.

TPAs vs. Bundled Providers

NRS has been advised that bundled plan service providers are evaluating their internal costs to provide plan level compliance and administration in response to these new regulations. The regulations focus more attention on plan charges, along with a stronger requirement to disclose these

charges. NRS believes that many bundled providers are driving more of their business to TPAs because of the added value TPAs bring to the technical and plan level compliance side of the business, and at a lower cost. Ultimately, the Plan Sponsor must understand that even though they may not be receiving an invoice or bill from a bundled provider, the plan is paying for these services, and in many cases, paying more than an unbundled arrangement.

DOL Regulation 404a-5

Service provider 408(b)(2) fee disclosure to employers is an integral part of the DOL regulations concerning fee disclosure to plan participants under 404a-5 regulation disclosures. The 404a-5 regulations place a duty on plan fiduciaries to inform plan participants who direct their investments of plan fees charged to their accounts. In order to carry out that duty, fiduciaries must be provided with appropriate cost information from those who receive the fees. The first of these participant disclosures is required by August 30, 2012 for calendar year plans. In most cases, the financial service provider will be the main provider for participant disclosures. Taken together, the new DOL regulations should result in better informed plan participants and better informed plan fiduciaries.

Implementation to Occur Soon

In the coming weeks, NRS will provide those clients who are required to receive disclosure information under the 408(b)(2) regulation with a detailed explanation of the cost sharing (revenue sharing) program for their plan. In doing this, NRS has coordinated with financial service providers who have developed the required information. However, Plan Sponsors may be receiving duplicate information, both from NRS and the investment service provider. We think it is better to provide more than adequate information to be certain that full disclosure is achieved.

REMINDERS FOR MAY 2012

- **05/15/12**
Form 5500/8955-SSA
Forms due for 7/31/2011 Plan Year Ending (“PYE”) that are on extension
- **05/15/12**
Employer Contributions
Contributions due for Defined Contribution PYE 2/28/12 and for PYE 8/30/11 that are on extension
- **05/31/12**
Form 5500/8955-SSA
Forms due for 10/31/2011 PYE

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