

June 10, 2014

Reference: RIN 1210-AB08

Dear Sir / Madam:

The Retirement Advisor Council (“The Council”) is grateful for the opportunity to comment on the Department of Labor’s proposed Amendment Relating to Reasonable Contract or Arrangement Under Section 408(b)(2) – Fee Disclosure.

The Council advocates for successful qualified plan and participant retirement outcomes through the collaborative efforts of experienced, qualified retirement plan advisors, investment firms and asset managers, and defined contribution plan service providers. The Council accomplishes this mission by its focus on:

- Identifying duties, responsibilities and attributes of the professional retirement plan advisor
- Sharing our professional standards with plan sponsors who are responsible for the success of their plans
- Providing collective thought capital to decision makers, product providers, legislators and the public
- Giving voice to the retirement plan advisor community
- Offering tools to evaluate advisors, ensuring the quality of services needed for successful retirement outcomes.

The Department is proposing a regulatory provision requiring that Covered Service Providers (CSPs) furnish a guide along with the initial disclosures required by the rule, if the disclosures are contained in multiple or lengthy documents. The Department believes that plan fiduciaries, especially in the case of small plans, need a tool to effectively make use of the required disclosures. The Department also believes that CSPs are best positioned to provide the guide in a cost-effective manner. The Department anticipates that the guide requirement will be especially beneficial to fiduciaries of small and medium-sized plans. The Department has requested comments on a number of issues related to this guide. The Council opted to answer two questions

Would an alternative tool to a guide be more, or less beneficial to plan fiduciaries, as compared to the proposed guide?

We believe periodic cost and service benchmarking are more beneficial to plan fiduciaries than fee disclosures combined with the proposed guide.

It is our observation that information delivered in writing rarely satisfies plan sponsors’ need for assistance because many lack the time, interest, or expertise needed to dedicate several hours to study the information presented. To act with prudence, many rely on the services

of an independent Professional Retirement Plan Advisor. For those who retain the services of a specialized Advisor, the ultimate guide is the Advisor they have selected to examine disclosures, to provide the necessary explanations, to explain how facts and circumstances of their plan impacts services and cost, and to answer all questions – baseline and technical. The assistance the best written guide can provide pales in comparison with the interaction between a plan sponsor and a plan Advisor familiar with the sponsor, participant demographics, plan design, and investment policy.

Sponsors of small plans in particular rely on the services of Retirement Plan Advisors. Indeed, few small plan sponsors have on staff an employee dedicated to retirement benefits. Many rely on the services of a Retirement Plan Advisor whom they may have hired in an ERISA 3(21) or ERISA 3(38) fiduciary capacity to comply with the requirement to act with the care, skill, prudence and diligence that a prudent man would use in the conduct of an enterprise of a like character and with like aims.

In the request for comments, the Department indicates it could require CSPs to supply a contact for plan fiduciaries seeking help locating information in disclosures. Providing a contact to answer questions when needed would be less costly than requiring a guide, roadmap, or summary. Of all the professionals (auditor, attorney, etc.) with whom plan sponsors interact, we believe the Advisor is the best placed to deliver 408(b)(2) disclosure education. For this reason, as an alternative to mandating a written disclosure guide, we recommend mandating the following sentence in disclosure language: “Please consult with the Professional Retirement Plan Advisor of your organization before filing this document.”

By Professional Retirement Plan Advisor, we mean an investment advisor, securities broker, investment consultant, or benefits consultant who works primarily or exclusively with retirement plans. Additionally, a Professional Retirement Plan Advisor may have ancillary business.

A study¹ of 400 plans published in 2011 found that employers of all economic sectors, all industries, and all sizes use Professionals more or less in the same proportions. Contrary to popular opinion, it is not necessary to be a large organization to partner with a Professional: within the 100 and up market, the study found 44% of plan sponsors who rely on a Professional have 100 to 500 employees.

Services that more than two-thirds of clients of Professionals receive according to the study include:

- Periodic review of investment options
- Examination of plan compliance with applicable laws, regulations, and stated policies
- Assistance with the understanding of the fees providers charge for their services
- Support with investment provider due diligence

¹ The Value of a Professional Retirement Plan Advisor: A survey sponsored by Franklin Templeton Investments, John Hancock Investments, MFS Investment Management, MassMutual Financial Group, and Transamerica Retirement Solutions, © 2011 EACH Enterprise, LLC. Executive Summary: <http://www.retirementadvisor.us/images/ProfRPA-104-ES10a.pdf>

- Assistance with the implementation of the fiduciary process
- Monitoring of fulfillment of services by the retirement plan service provider
- Assistance with Investment Policy Statement formulation
- Support with service provider due diligence
- Assistance with corrections as possible
- Coordination of participant access to the education, communication, services and asset allocation counseling needed to make informed decisions

Generally, Professional Advisors are the contact of first resort for plan sponsors when a serious problem or concern arises; they are also the predominant source of new ideas for the plan. The majority of plan sponsors who rely on a Professional Advisor find the services their Advisor delivers absolutely critical. Advisors receive glowing reports from clients surveyed for the study. For instance, 67% of plan sponsors who use the services of a Professional to help understand the fees providers charge for their services did an outstanding job with this task.

Is the number of pages requirement an appropriate standard of disclosure complexity?

We believe length of disclosure is not an appropriate standard of complexity. As a matter of fact, we believe that in many instances, a longer disclosure is more beneficial to plan fiduciaries as they consider the impact of decisions on the retirement readiness of participants. Simpler disclosures sometimes make for more complex decisions. To illustrate our point, we offer Exhibit A based on an example directed to consumers in the food industry. We believe the same principles apply in the business-to-business sector.

- On the left-hand side, a succinct price disclosure updated frequently and delivered electronically leads consumers to the cheaper, more harmful product
- On the right-hand side, a longer disclosure itemizing nutrition facts leads consumers to the healthier choice

If the ultimate aim of the Department is to enhance the retirement readiness of US workers, we believe a longer disclosure to plan sponsors itemizing the contents of the retirement plan service package will be more effective than a succinct disclosure (paper or electronic) or a guide to help fiduciaries read the longer disclosure.

Exhibit A



Nutrition Facts		
Serving Size 1 cup (53g)		
Servings Per Container about 10		
Amount Per Serving	Total Raisin Bran	with % with % skims milk
Calories	160	200
Calories from Fat	5	5
% Daily Value**		
Total Fat 1g*	1%	1%
Saturated Fat 0g	0%	0%
Trans Fat 0g		
Polyunsaturated Fat 0g		
Monounsaturated Fat 0g		
Cholesterol 0mg	0%	1%
Sodium 180mg	7%	10%
Potassium 270mg	8%	13%
Total Carbohydrate 40g	13%	15%
Dietary Fiber 5g	21%	21%
Sugars 17g		
Other Carbohydrate 18g		
Protein 3g		
Vitamin A	10%	15%
Vitamin C	0%	0%
Calcium	100%	110%
Iron	100%	100%
Vitamin D	25%	40%
Vitamin E	100%	100%
Thiamin	100%	100%
Riboflavin	100%	110%
Niacin	100%	100%
Vitamin B ₆	100%	100%
Folic Acid	100%	100%
Vitamin B ₁₂	100%	110%
Pantothenic Acid	100%	100%
Phosphorus	10%	25%
Magnesium	8%	10%
Zinc	100%	100%

* Amount in cereal. A serving of cereal plus skim milk provides 1g total fat, less than 5mg cholesterol, 240mg sodium, 470mg potassium, 47g total carbohydrate (23g sugars, 19g other carbohydrates), and 7g protein.

** Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Potassium		3,500mg	3,500mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

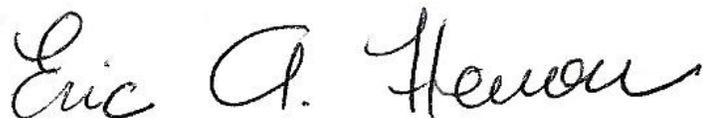
Ingredients: Whole Grain Wheat, Raisins, Sugar, Corn Bran, Corn Syrup, Brown Sugar Syrup, Salt, Trisodium Phosphate, Annatto Extract Color. BHT Added to Preserve Freshness.

Vitamins and Minerals: Calcium Carbonate, Zinc and Iron (mineral nutrients), Vitamin E Acetate, A B Vitamin (niacinamide), A B Vitamin (calcium pantothenate), Vitamin B₆ (pyridoxine hydrochloride), Vitamin B₂ (riboflavin), Vitamin B₁ (thiamin mononitrate), A B Vitamin (folic acid), Vitamin A (palmitate), Vitamin B₁₂, Vitamin D

CONTAINS WHEAT; MAY CONTAIN ALMOND INGREDIENTS.

We are grateful for your consideration of our comments on the proposed Amendment Relating to Reasonable Contract or Arrangement Under Section 408(b)(2) – Fee Disclosure. We are available to meet with you to discuss our comments. For additional information, please contact me at (860) 653-1705.

Respectfully,



Eric Henon
Executive Director
Retirement Advisor Council