

# Updated Pershing ERISA §408(b)(2) Fee Disclosure

This notice is to inform you that as of December 2020, BNY Mellon's Pershing has updated its Subcontractor Compensation Disclosure under the Employee Retirement Income Security Act of 1974, as amended (ERISA) Regulation § 408(b)(2). We have provided links to Frequently Asked Questions and the updated Subcontractor Compensation Disclosure.

## What Covered Service Providers Must Do

In 2012, the Department of Labor (DOL) finalized regulations under ERISA Regulation §408(b)(2) to ensure that plan fiduciaries of qualified retirement plans fulfill their obligations in determining whether compensation paid for plan services is reasonable.

Under the ERISA Regulation §408(b)(2), the term "Covered Service Provider" includes specific service providers to ERISA-covered retirement plans (ERISA Clients) that reasonably expect to receive at least \$1,000 in compensation over the life of the relationship. Covered Service Providers include:

- A fiduciary or registered investment advisor
- A recordkeeper or broker that provides investment options to participant-directed plan accounts
- Certain other service providers that earn indirect compensation

Covered Service Providers to ERISA Clients are obligated to make fee-related disclosures to plan fiduciaries, including information about affiliates or subcontractors with whom they work. Failure to provide the disclosures to plan fiduciaries will subject Covered Service Providers and plan fiduciaries to ERISA's prohibited transaction rules and possibly to substantial fines and penalties.

Pershing is not a Covered Service Provider, as defined by ERISA Regulation §408(b)(2), and does not have the responsibility of making direct disclosure to ERISA Clients. However, firms that determine that they have disclosure obligations may need to disclose information regarding Pershing's role. To that end, we have prepared the following documents for your information:

- [Frequently Asked Questions](#)—this document provides responses to common questions we have been receiving from firms about the regulation and its impact.
- [Pershing's Subcontractor Compensation Disclosure](#)—the regulation requires disclosure of direct and indirect compensation received by (and certain compensation shared among) the Covered Service Provider, its affiliates and sub-contractors. Given Pershing's subcontractor relationship with introducing broker-dealers, we reviewed our disclosure explaining compensation received.

## Next Steps for Covered Service Providers

If you determine that your firm provides services to ERISA Clients and is considered a Covered Service Provider, we encourage you to review the Subcontractor Compensation Disclosure and update your disclosures with the most up to date disclosure if applicable.

January 2021

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