



## §408(b)(2) Fee Disclosure Review

Prepared on

Responsible Plan Fiduciary obligations with respect to ERISA Section 408(b)(2) disclosures include the following:

1. Determine if your plan is covered under the regulation.
2. Determine which service providers are covered.
3. Verify you have received all the required disclosures from each covered service provider.
4. Ensure the services are necessary.
5. Determine the plan fees are reasonable.
6. Assess potential conflicts that could affect quality of services.
7. Document your review and decisions.

The Responsible Plan Fiduciary(s) for the \_\_\_\_\_ hired Castle Rock Investment Company to assist in the duties outlined above and review the §408(b)(2) fee disclosure(s) provided by the covered service provider(s). This report documents the findings of the review.

### 1. Determine if the plan is covered under the regulation

Yes. The \_\_\_\_\_ is an employee pension benefit plan within the meaning of ERISA section 3(2)(A) and is covered by the §408(b)(2) regulation.

### 2. Determine which service providers are covered (pass both the compensation and function test)

**Compensation Test:** Providers that expect to receive \$1,000 or more in compensation, direct or indirect\*, during the life of the arrangement.

- Direct Compensation- Fees paid directly by the plan (or from a participant's or beneficiary's account)
- Indirect Compensation- Anything of monetary value received from any source other than the covered plan, the plan sponsor, the covered service provider, an affiliate, or subcontractor

**Function Test:** Provides one or more of the services described below:

- a. ERISA fiduciary services directly to the plan
- b. ERISA fiduciary services to an investment contract, product or entity that holds plan assets and in which the plan has a direct equity investment. Note: Services not provided in the capacity of a fiduciary are not covered (i.e. most mutual fund investments)
- c. Investment advisory services directly to the plan
- d. Recordkeeping or brokerage services if one or more designated investment alternatives will be made available in connection with such services
- e. Accounting, auditing, actuarial, banking, consulting, custodial, insurance, investment advisory, legal, recordkeeping, securities brokerage, third party administration, or valuation services if the provider (or an affiliate or subcontractor) expects to receive indirect compensation from related parties in connection with such services.

\*Excludes non-monetary compensation valued at \$250 or less.

Which Service Providers to the plan pass the Compensation Test and Function Test and are Covered Service Providers?

Third Party Administrator

Compensation Test       Function Test       CSP

Record Keeper

Compensation Test       Function Test       CSP

Directed Trustee

Compensation Test       Function Test       CSP

Legal Counsel

Compensation Test       Function Test       CSP

Auditor

Compensation Test       Function Test       CSP

Investment Adviser

Compensation Test       Function Test       CSP

Brokerage Services

Compensation Test       Function Test       CSP

The Covered Service Providers to the plan are:

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### 3. Verify all of the required disclosures have been received

#### General Information

Yes No

- a.   Description of services to be provided under the contract or arrangement and services that will be performed by its affiliates and subcontractors
- b.   Express acknowledgement of fiduciary status when applicable
- c.   Statement on the provision of investment advice as a registered investment adviser and whether serving as a fiduciary in that role
- d.   Manner of receipt of compensation: whether the plan will be billed for fees or fees will be directly deducted from plan accounts or investments
- e.   Description of all direct compensation (from the plan) that will be received by it, an affiliate, or a subcontractor.
- f.   Description of all indirect compensation (compensation from sources other than the plan, the plan sponsor, the covered service provider, an affiliate, or subcontractor) that will be, or reasonably expected to be, received. The written statement includes:
  - i. Identity of the payer of the indirect compensation
  - ii. Description of the arrangement between the payer and the service provider, and
  - iii. The services associated with the compensation received
- g.   A description of compensation paid among the covered service provider, an affiliate, or a subcontractor in connection with services set on a transactions basis (e.g. commissions, soft dollars, finder's fees or other similar incentive compensation based on business placed or retainers) or fees charged directly against a plan investment and reflected in the net value of the investment (i.e., 12b-1 fees).
  - i. Identity of the payer and recipient of the compensation and their status as an affiliate or subcontractor
  - ii. The services associated with the compensation received

- h.   Contract termination compensation and how any prepaid amounts will be calculated and refunded upon such termination.
- i.   A description of all direct and indirect compensation expected to be received in connection with the recordkeeping services.

If there is no explicit compensation for recordkeeping services, or it is offset or rebated based on revenue sharing, the CSP must furnish a reasonable and good faith estimate of the cost of the services including the methodology used to prepare the estimate and explanation of the record keeping services that will be provided.

## Investment-Related Information

Required from those providing services to a plan investment contract, product or entity holding plan assets and in which the plan has a direct equity investment or is a record keeper or broker that makes available designated investment alternatives on a platform for participant-directed individual account plan. This includes any information that is within the control of, or reasonably available to, the covered service provider and is required for the plan administrator to comply with the participant-level disclosure regulation of Section 404(a)(5) of ERISA.

### Yes No

j.   *Identifying information*

Name and type or category of the designated investment alternative.

k.   *Performance Data*

1-, 5- and 10-year average annual total returns, ending on the date of the most recently completed calendar year (or for the life of the investment, if shorter) as well as a statement indicating that an investment's past performance is not necessarily an indication of how the investment will perform in the future. For investment options that have a fixed or stated rate of return, the current rate of return, the minimum rate guaranteed under the contract, and the term of the investment must be disclosed.

l.   *Benchmark Information*

The name and returns of an appropriate broad-based securities market index over the 1-, 5-, and 10-year periods for which performance data must be disclosed. Investment options with fixed rates of return are not subject to this requirement.

m.   *Fee and Expense Information*

- i. Total annual operating expenses that are reflected in the net value of the investment option expressed as a percentage (e.g., expense ratio) and as a dollar amount for a \$1,000 investment
- ii. Compensation that will be charged directly against the covered plan's investment that is not included in the annual operating expenses (e.g., commissions, sales charges, redemption fees, surrender charges, exchange fees, account fees, purchase fees, etc.)

- iii. Ongoing expenses in addition to annual operating expenses (e.g., wrap, mortality and expense fees)
- iv. A description of any restriction or limitation that may be applicable to a purchase, transfer, or withdrawal of the investment in whole or in part (such as round trip, equity wash, or other restrictions).

For investment options that have a fixed rate of return only items “ii.” and “iv.” are required.

**Yes No**

n.   *Internet Web Site Address*

Did the service provider establish an Internet Web site for the plan participants with information about the designated investment alternatives? This responsibility belongs to the plan administrator although the service provider may have within its control, or reasonably available to it, the information about the investment options that must be provided at the Web site address including:

- i. Name of the investment issuer
- ii. The investment’s objectives or goals
- iii. The investment’s principal strategies (including a general description of the types of assets held) and principal risks
- iv. The investment portfolio turnover rate
- v. The investment’s performance (as described above) updated at least quarterly
- vi. The investment fee and expense information (as described above)

o.   *Glossary*

Plan administrators are solely responsible to provide a general glossary of terms to participants and beneficiaries to assist them in understanding the plan’s investment options, or an Internet Web site address that is sufficiently specific to provide access to such a glossary along with a general explanation of the purpose of the address. Did your service provider assist with providing this?

p.   *Special Rules*

If the covered service provider has information about designated investment alternatives that fall within the participant-level disclosure regulation’s “special rules” the covered service provider may have to furnish information necessary for the covered plan administrator to comply with the regulation’s requirements for annuity

options, employer securities, fixed-return investments, and target date or similar funds. This does not transfer legal responsibility for fulfilling the participant-level disclosure regulation to the service provider.

Investment-related disclosures for designated investment alternatives must conform to the requirements of the DOL's participant disclosure regulation (DOL Reg. 2550.404a-5) and may be "passed through" from a regulated, unaffiliated issuer under certain conditions. It must also be furnished in a chart or similar format designed to facilitate a comparison of each investment option available under the plan and include information about how to request, and obtain free of charge, a paper copy of the information required to be maintained on a Web site (described above) and the name, address, and telephone number of the plan administrator.

**Castle Rock Investment Company** certifies that it has reviewed the §408(b)(2) fee disclosure(s) to the Responsible Plan Fiduciary(s) of the \_\_\_\_\_ provided by the Covered Service Provider(s) identified above and verifies the information contained in this report.

**Report prepared by:**

### **If You Are Missing Required Information**

Failure to provide all of disclosures required under ERISA Regulation Section 2550-408b-2 constitutes a prohibited transaction and plan fiduciaries are responsible for ensuring that the plan does not enter into prohibited transactions. For a plan fiduciary to qualify for a class exemption from the prohibited transaction rules the responsible plan fiduciary must issue a written request to the covered service provider requesting the missing information. If the service provider does not provide the information within 90 days of the written request (or refuses to provide the information) the responsible plan fiduciary has 30 days to report the failure of disclosure to the Department of Labor electronically on their website at <https://www.askebsa.dol.gov/dfn/> or by mail to:

U.S. Department of Labor  
Employee Benefits Security Administration  
Office of Enforcement  
P.O. Box 75296  
Washington, DC 20013

***In addition, if the missing information relates to future services, the responsible plan fiduciary must consider terminating the contract as soon as possible within their duty of prudence.***

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This material has not been reviewed, approved, or authorized by any federal or state regulatory agency as meeting the requirements of any applicable rules or regulations. Additionally, the materials have not been reviewed by legal counsel and do not provide investment, legal, or tax advice of any kind. The materials are not intended, nor should they be relied upon, as a substitute for appropriate professional advice with respect to complying with the disclosure requirements of the DOL's 408(b)(2) regulations or any other requirements.