

Spurgeon, Melissa - EBSA

From: michelle.cranford@wachovia.com
Sent: Tuesday, April 24, 2007 4:48 PM
To: EBSA, E-ORI - EBSA
Subject: Fee Disclosure in 401(k) Plans
Attachments: 401K Fee Disclosure PWBA.pdf; STG51241

Ladies and Gentlemen,

You have recently asked for comments about fee disclosure for 401(k) and other defined contribution plans. I have two comments.

1. Investment and plan and administrative fees affect both defined benefit and defined contribution plans. Why is the scrutiny of the Congress only focused on the latter? Pension fees can affect a plan sponsor's ability to fully fund its pension obligations, yet despite the failure of many companies to meet minimum pension funding obligations, attention is not being focused on fees in pension plans.
2. The attached pro-forma fee disclosure developed by the PWBA and the ABA is a most useful tool, and one that we already use in disclosing our fees to our sponsors. We encourage them to use this tool if they are comparison pricing, because it puts all the vendors on the same playing field. I recommend that this tool be incorporated as part of the annual disclosure to plan sponsors and participants along with the Summary Annual Report.

Please note that my comments do not represent the position of my employer, and that I am speaking only as one individual with 20 years of experience in the field as a service provider.

Respectfully submitted with best regards,

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ABC PLAN
401(k) PLAN FEE DISCLOSURE FORM
For Services Provided by XYZ Company¹

Overview

The Employee Retirement Income Security Act of 1974, as amended (ERISA) requires employee benefit plan fiduciaries to act solely in the interests of, and for the exclusive benefit of, plan participants and beneficiaries. As part of that obligation, plan fiduciaries should consider cost, among other things, when choosing investment options for the plan and selecting plan service providers.

This 401(k) plan fee disclosure form may assist you in making informed cost-benefit decisions with respect to your plan. The purpose of this form is to help you determine the total cost of the plan. It is also intended to provide you with a means to compare investment product fees and plan administration expenses charged by competing service providers, regardless of how a particular service provider structures its fees.

The 401(k) plan fees included in this disclosure form represent the following: ____ actual 401(k) plan expenses for the period X/XX/XX through X/XX/XX or ____ estimated 401(k) plan expenses² for the period X/XX/XX through X/XX/XX. Additional investment product information regarding fees may be obtained from the product prospectus, annuity contract or other similar documents. Additional information relating to plan administration services and expenses is contained in documentation provided by the service provider, including the contract for plan services. Other plan expenses may include legal fees for initial plan design and ongoing amendments resulting from changes in pension law or plan design and the cost of a mandatory annual audit. You need to contact your legal advisor or accountant to determine these charges.

Selecting a service provider requires that you evaluate and differentiate services offered by competing companies. Cost is one of the criteria, but not the only criterion, for making this evaluation. Other factors of equal or greater importance to consider include the quality and type of services provided, the anticipated performance of competing providers and their investment products and other factors specific to your plan's needs. *The service provider offering the lowest cost services is not necessarily the best choice for your plan.*

Calculation of Fees

In general, fees are calculated in four ways:

- **Asset-based:** expenses are based on the amount of assets in the plan and generally are expressed as percentages or basis points.
- **Per-person:** expenses are based upon the number of eligible employees or actual participants in the plan.
- **Transaction-based:** expenses are based on the execution of a particular plan service or transaction.
- **Flat rate:** fixed charge that does not vary, regardless of plan size.

Fees may be calculated using one or any combination of these methods. Plan administration-related expenses can also be charged as one-time fees or ongoing expenses. One-time fees are typically related to start-ups, conversions (moving from one provider to another) and terminations of service. Ongoing fees are recurring expenses relating to continuing plan operation.

¹ There may be plan expenses incurred by other providers, other than the company completing this form. For a complete list of expenses charged to your plan, please contact all plan service providers with whom you contract or may contract and request fee information with respect to their services.

² If you are considering a conversion from an existing plan service provider to a new service provider, you will need to provide the service provider(s) with certain information about the plan, including the number of plan participants, the number of eligible participants and the amount of plan assets in order for the service provider(s) to be able to complete this form. Similarly, if you are considering starting a plan, you will need to provide the service provider(s) with estimates of plan participants and plan assets. When providing potential service providers with information regarding your plan, it is critical that you provide identical information to all of the competing companies in order to ensure equivalent comparisons.

ABC PLAN
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Total Plan Expenses

Contact Name: _____
Institution: _____
Phone: _____

	Amount/ Estimate³
I. Investment Product Fees (See Schedule A)	
A. Collective Investment Fund(s)	\$ _____
B. Insurance/Annuity Product(s)	\$ _____
C. Mutual Fund(s)	\$ _____
D. Individually Managed Account(s)	\$ _____
E. Brokerage Window	\$ _____
F. Other Product(s) (Specify)	\$ _____
Total Investment Product Fees	\$ _____
II. Plan Administration Expenses (See Schedule B)	
Total Plan Administration Expenses	\$ _____
III. Plan Start-Up or Conversion Related Charges (See Schedule C)	
One Time Start-Up/Conversion expenses	\$ _____
IV. Service Provider Termination Related Charges (See Schedule D)	
Service Provider Termination expenses	\$ _____
Total Plan Expenses	\$ _____

For definitions of terms used throughout this disclosure form, see Schedule E.

³ Amounts are calculated based on rates charged, which are identified in attached schedules as applied to relevant information (for example amount of assets or number of participants). Certain calculations may be estimates based on information provided by you, the plan sponsor, and may vary as circumstances change.

ABC PLAN
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Schedule A

Investment Product Fees/Estimates

Collective Investment Fund	Assets (X/X/XX)	Management Fee	Other* (Specify)	Total Cost
Fund 1				
Fund 2				
Fund 3				
Fund 4				
TOTAL				

Insurance /Annuity Product	Assets (X/X/XX)	Management Fee	Mortality Risk and Administrative Expense (M&E Fee)	Other* (Specify)	Total Cost
Fund 1					
Fund 2					
Separate Account 1					
Separate Account 2					
TOTAL					

Mutual Fund	Assets (X/X/XX)	Expense Ratio ⁴	Front-end Load	Other* (Specify)	Total Cost
Fund 1					
Fund 2					
Fund 3					
Fund 4					
TOTAL					

Individually-Managed Account	Assets (X/X/XX)	Management Fee	Other* (Specify)	Total Cost
Product 1				
Product 2				
Product 3				
Product 4				
TOTAL				

* Fees represent product-related charges paid by the plan. Fees associated with participants' transfer of account balances between investment options, including investment transfer expenses and any contingent back-end loads, redemption fees and surrender charges should be included in "other" expenses. In addition, any wrap fees or pricing charges for non-publicly traded assets should be included in the "other" expenses column. For investment product termination fees associated with plan termination or conversion, see Schedule D. Insurance companies incur marketing and distribution costs, which are recouped through charges assessed against the plan.

⁴ Includes 12b-1 fee and management fee. (See the fee table in the fund prospectus).

ABC PLAN
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Schedule A, continued

Investment Product Fees/Estimates

Brokerage Window⁵	Assets (X/X/XX)	Commission (Range)	Transaction Fee (Range)	Other* (Specify)	Total Cost
Total Transactions					

Other Product⁶	Assets (X/X/XX)	Management Fee	Other* (Specify)	Total Cost
Product 1				
Product 2				
Product 3				
Product 4				

Total Investment Product Fees \$ _____

⁵ When providing potential service providers with information/assumptions regarding the brokerage window plan feature, it is critical that you provide identical information to all of the competing companies in order to ensure equivalent comparisons.

* Fees associated with participants' transfer of account balances between investment options, including investment transfer expenses and any contingent back-end loads, redemption fees and surrender charges should be included in "other" expenses. In addition, any wrap fees or pricing charges for non-publicly traded assets should be included in the "other" expenses column. For investment product termination fees associated with plan termination or conversion, see Schedule D. Insurance companies incur marketing and distribution costs, which are recouped through charges assessed against the plan.

⁶ Other products could include investment vehicles such as REITs and limited partnerships.

ABC PLAN DISCLOSURE FORM
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Schedule B

PLAN ADMINISTRATION EXPENSES

<u>Expense Type</u>	<u>Rate/ Estimate</u> [*]	<u>Bundled Service Arrangement</u> (<input checked="" type="checkbox"/>) ⁷	<u>Total Cost</u> ^{**}
<u>Administration/Recordkeeping Fees:</u>			
• Daily valuation	\$ _____	<input type="checkbox"/>	\$ _____
• Payroll processing	\$ _____	<input type="checkbox"/>	\$ _____
• Balance inquiry	\$ _____	<input type="checkbox"/>	\$ _____
• Investment transfer	\$ _____	<input type="checkbox"/>	\$ _____
• Contract administration charge	\$ _____	<input type="checkbox"/>	\$ _____
• Distribution processing	\$ _____	<input type="checkbox"/>	\$ _____
• QDRO processing	\$ _____	<input type="checkbox"/>	\$ _____
• Participant statements	\$ _____	<input type="checkbox"/>	\$ _____
• Plan sponsor reports	\$ _____	<input type="checkbox"/>	\$ _____
• VRU/Internet services	\$ _____	<input type="checkbox"/>	\$ _____
• Other (specify)	\$ _____	<input type="checkbox"/>	\$ _____
Subtotal			\$ _____
<u>Participant Education/Advice:</u>			
• Participant education materials/distribution	\$ _____	<input type="checkbox"/>	\$ _____
• Education meetings (frequency__)	\$ _____	<input type="checkbox"/>	\$ _____
• Investment advice programs	\$ _____	<input type="checkbox"/>	\$ _____
• Other (specify)	\$ _____	<input type="checkbox"/>	\$ _____
Subtotal			\$ _____
<u>Trustee/Custodial Services:</u>			
• Certified annual trust statement	\$ _____	<input type="checkbox"/>	\$ _____
• Safekeeping of plan assets	\$ _____	<input type="checkbox"/>	\$ _____
• Other (specify)	\$ _____	<input type="checkbox"/>	\$ _____
Subtotal			\$ _____

* Amounts represent the method by which the fee is calculated, for example as a percentage of plan assets under management, based upon number of participants or based upon number of transactions. For start-up or take-over situations, fees are based upon estimates and/or certain assumptions, i.e., regarding assets under management and number of participants. When providing potential service providers with information/assumptions regarding your plan, it is critical that you provide identical information to all of the competing companies in order to ensure equivalent comparisons. Without a standardized set of assumptions, service providers will certainly use differing assumptions, defeating the intended purpose of clarifying fee comparisons among service providers.

⁷ Services provided under a bundled services arrangement are indicated by a check mark next to the specific service.

** Amounts represent flat dollar amount charges or total charges based upon the particular method of calculation. In some instances, these amounts represent estimates based on assumptions provided by you, the plan sponsor.

ABC PLAN DISCLOSURE FORM
For Services Provided by XYZ Company
Schedule B, continued

<u>Expense Type</u>	<u>Rate/ Estimate</u> *	<u>Bundled Service Arrangement</u> (✓)	<u>Total Cost</u> **
<u>Compliance Services:</u>			
• Nondiscrimination testing	\$ _____	<input type="checkbox"/>	\$ _____
• Signature ready form 5500	\$ _____	<input type="checkbox"/>	\$ _____
• Annual audit	\$ _____	<input type="checkbox"/>	\$ _____
• Other (specify)	\$ _____	<input type="checkbox"/>	\$ _____
Subtotal			\$ _____
<u>Plan Amendment Fee:</u>			
• Plan amendment fee	\$ _____	<input type="checkbox"/>	\$ _____
• Plan document/determination letter fee	\$ _____	<input type="checkbox"/>	\$ _____
• Other (specify)	\$ _____	<input type="checkbox"/>	\$ _____
Subtotal			\$ _____
<u>Loan Administration:</u>			
• Loan origination fee	\$ _____	<input type="checkbox"/>	\$ _____
• Loan processing fee	\$ _____	<input type="checkbox"/>	\$ _____
• Loan maintenance and repayment tracking fee	\$ _____	<input type="checkbox"/>	\$ _____
• Other (specify)	\$ _____	<input type="checkbox"/>	\$ _____
Subtotal			\$ _____
Total separate charges			\$ _____
Total bundled services			\$ _____
(Less offsets/credits paid to plan)			\$(_____)
Total Plan Administration Expenses			\$ _____

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Schedule C

ONE TIME START-UP/CONVERSION EXPENSES

<u>Expense Type</u>	<u>Rate/ Estimate</u> *	<u>Total Cost</u> **
• Start-up/conversion education program	\$ _____	\$ _____
• Start-up/conversion enrollment expense	\$ _____	\$ _____
• Installation fee	\$ _____	\$ _____
• Start-up/conversion plan document fee/filing fee	\$ _____	\$ _____
• Other (specify)	\$ _____	\$ _____
Total Start-up/Conversion expenses		\$ _____

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**ABC PLAN
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Schedule D**

SERVICE PROVIDER TERMINATION EXPENSES

<u>Expense Type</u>	<u>Rate/ Estimate</u> *	<u>Total Cost</u> **
<u>Investment Product Expenses</u>		
• Contract termination charges	\$ _____	\$ _____
• Back-end load	\$ _____	\$ _____
• Product termination fee	\$ _____	\$ _____
• Other (specify)	\$ _____	\$ _____
Total		\$ _____
<u>Plan Administration Expenses</u>		
• Service provider termination charge	\$ _____	\$ _____
• Service contract termination charge	\$ _____	\$ _____
• Other (specify)	\$ _____	\$ _____
Total Termination Expenses		\$ _____

* Amounts represent the method by which the fee is calculated, for example as a percentage of plan assets under management, based upon number of participants or based upon number of transactions. For start-up or take-over situations, fees are based upon estimates and/or certain assumptions, i.e., regarding assets under management and number of participants. When providing potential service providers with information/assumptions regarding your plan, it is critical that you provide identical information to all of the competing companies in order to ensure equivalent comparisons. Without a standardized set of assumptions, service providers will certainly use differing assumptions, defeating the intended purpose of clarifying fee comparisons among service providers.

** Amounts represent flat dollar amount charges or total charges based upon the particular method of calculation. In some instances, these amounts represent estimates based on assumptions provided by you, the plan sponsor.

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Schedule E

DEFINITION OF TERMS

Administration/Recordkeeping Fee: Fee for providing recordkeeping and other plan participant administrative type services. For start-up or takeover plans, these fees typically include charges for contacting and processing information from the prior service provider and "matching up" or mapping participant information. Use of this term is not meant to identify any ERISA Section 3(16)(A) obligations.

Annual Audit: Federal law requires that all ERISA-covered plans with more than 100 participants be audited by an independent auditor. It is also common to refer to a DOL or IRS examination of a plan as a plan audit. Any charge imposed by a service provider in connection with this audit is reflected on Schedule B.

Back-End Load: Sales charges due upon the sale or transfer of mutual funds, insurance/annuity products or other investments, which may be reduced and/or eliminated over time.

Balance Inquiry: Fee that may be charged each time a participant inquires about his or her balance.

Brokerage Commission: A fee paid to a broker or other intermediary for executing a trade.

Brokerage Window: A plan investment option allowing a participant to establish a self-directed brokerage account.

Bundled Services: Arrangements whereby plan service providers offer 401(k) plan establishment, investment services and administration for an all-inclusive fee. Bundled services by their nature are priced as a package and cannot be priced on a per service basis.

Collective Investment Fund: A tax-exempt pooled fund operated by a bank or trust company that commingles the assets of trust accounts for which the bank provides fiduciary services.

Contract Administration Charge: An omnibus charge for costs of administering the insurance/annuity contract, including costs associated with the maintenance of participant accounts and all investment-related transactions initiated by participants.

Contract Termination Charge: A charge to the plan for "surrendering" or "terminating" its insurance/annuity contract prior to the end of a stated time period. The charge typically decreases over time.

Conversion: The process of changing from one service provider to another.

Distribution Expense: The costs typically associated with processing paperwork and issuing a check for a distribution of plan assets to a participant. May include the generation of IRS Form 1099R. This fee may apply to hardship and other in-service withdrawals as well as to separation-from-service or retirement distributions.

Eligible Employee: Any employee who is eligible to participate in and receive benefits from a plan.

Expense Ratio: The cost of investing and administering assets, including management fees, in a mutual fund or other collective fund expressed as a percentage of total assets.

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Schedule E (continued)

Front-End Load: Sales charges incurred when an investment in a mutual fund is made.

Individually Managed Account: An investment account managed for a single plan.

Installation Fee: One-time fee for initiating a new plan or initiating new services.

Investment Transfer Expense: Fee associated with a participant changing his or her investment allocation, or making transfers among funding accounts under the plan.

Loan Maintenance and Repayment Tracking Fee: Fee charged to monitor outstanding loans and repayment schedule.

Loan Origination Fee: Fee charged when a plan loan is originally taken.

Loan Processing Fee: Fee charged to process a plan loan application.

Management Fee: Fee charged for the management of pooled investments such as collective investment funds, insurance/annuity products, mutual funds and individually managed accounts.

Mortality Risk and Administrative Expense (M&E Fee): Fee charged by an insurance company to cover the cost of the insurance features of an annuity contract, including the guarantee of a lifetime income payment, interest and expense guarantees, and any death benefit provided during the accumulation period.

Nondiscrimination Testing Expense: Tax qualified retirement plans must be administered in compliance with several regulations requiring numerical measurements. The fee charged for the process of determining whether the plan is in compliance is collectively called nondiscrimination testing expense.

Participant: Person who has an account in the plan.

Participant Education Materials/Distribution Expenses: All costs (including travel expenses) associated with providing print, video, software and/or live instruction to educate employees about how the plan works, the plan investment funds, and asset allocation strategies. There may be a one-time cost associated with implementing a new plan, as well as ongoing costs for an existing program.

Plan Document/Determination Letter Fee (Filing Fee): Fee charged for a written plan document. Fee can also include the costs associated with preparing and filing IRS required documentation, including the request for a determination letter (document issued by the IRS stating whether the plan meets the qualifications for tax-advantaged treatment).

Plan Loan: The law allows participants to borrow from their accounts up to prescribed limits. This is an optional plan feature.

ABC PLAN
401(k) PLAN FEE DISCLOSURE FORM
For Services Provided by XYZ Company
Schedule E (continued)

Product Termination Fee: Investment-product charges associated with terminating one or all of a service provider's investment products.

QDRO (Qualified Domestic Relations Order): A judgment, decree or order that creates or recognizes an alternate payee's (such as former spouse, child, etc.) right to receive all or a portion of a participant's retirement plan benefits.

Separate Account: An asset account established by a life insurance company, separate from other funds of the life insurance company, offering investment funding options for pension plans.

Service Provider Termination Charge: Plan administrative costs associated with terminating a relationship with a service provider, with the permanent termination of a plan, or with the termination of specific plan services. These may be termed "surrender" or "transfer" charges.

Signature Ready Form 5500: Fee to prepare Form 5500, a form which all qualified retirement plans (excluding SEPs and SIMPLE IRAs) must file annually with the IRS.

Start-up/Enrollment Expense: Costs associated with providing materials to educate employees about the plan, and enrolling employees in the plan. This may be part of, or included in, the education programs. There may be a one-time cost associated with implementing a new plan, as well as ongoing enrollment costs.

Trustee Services: Fees charged by the individual, bank or trust company with fiduciary responsibility for holding plan assets.

VRU: Voice Response Unit.

Wrap Fee: An inclusive fee generally based on the percentage of assets in an investment program, which typically provides asset allocation, execution of transactions and other administrative services.

12b-1 Fee: A charge to shareholders to cover a mutual fund's shareholder servicing, distribution and marketing costs.