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BY FACSIMILE AND FIRST CLASS MAIL

Mr. John J. Canary
Chief, Division of Coverage, Reporting & Disclosure
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5669
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Re: Revision of Form 5500 (RIN 1210-AB06)

Dear Joe:

I am following up on our conversation to describe an arrangement that should be considered in connection with the proposed changes to the Schedule C disclosure of service provider compensation on the Form 5500 annual report.

We have a client that serves as the trustee of a series of collective investment funds that are used as investments by defined benefit and defined contribution pension plans subject to ERISA. The trustee serves in the role of a "manager of managers," hiring sub-advisers to the funds to achieve diversification in investment style for each asset class or sub-class. The investing plans are charged a trustee fee by the trustee for management and administration of the fund, and the trustee pays the sub-advisers out of the trustee fees it receives. The trustee fee is not affected by changes in sub-advisers or sub-adviser fees – those matters are the exclusive responsibility of the trustee.

The client's concern is whether it would be necessary to report the sub-adviser fees as "indirect compensation" in response to element (g) of Line 1 on the proposed Schedule C. Because the sub-advisers would, as investment advisors with respect to the plan assets held in the collective funds, be considered to be providing services with respect to those plan assets and therefore as fiduciaries to the investing plans, the proposed wording could be read to require such disclosure, even though the sub-advisers are paid by the fund trustee rather than the investing plans.

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It is our view that the Form 5500 should not require reporting of the sub-adviser fees. The amounts paid to the sub-advisers will be drawn from the trustee fee, which would be reported. If the sub-adviser fees were to be reported as well, the result would be duplicative disclosure of the same fee amounts, making it appear as if the investment management expenses for the collective funds are almost twice as high as they actually are.

In addition, the plans themselves are not involved in hiring the sub-advisers, nor do they pay the compensation of the sub-advisers – their trustee fees paid by the plans are not affected by changes in the sub-adviser fees. While the sub-advisers would be considered ERISA fiduciaries, the substance of these arrangements is that the sub-advisers are really providing services to the fund trustee, who is ultimately responsible to the investing plans for the sub-advisers' investment performance. The sub-advisers have no direct relationship with the investing plans, only with the collective funds.

For these reasons, the proposed changes should be clarified to make clear that sub-adviser compensation need not be reported on the Schedule C where the sub-adviser's sole relationship to the plan is as a sub-adviser to a collective fund trustee, and the sub-adviser is paid solely by the trustee out of its trustee fees.

Thank you for your consideration.

Sincerely,

Donald J. Myers