Retirement plan advisors can help plan sponsors select and review retirement plan investment options, stay up to date with evolving regulations, and assist with fiduciary processes. They can also help provide clarity about provider service fees and expenses and deliver participant education or advice. These are all important roles, but how do you find the right advisor? How can you validate that your current advisor is providing state-of-the-art services at a competitive price?

The advisor request for proposal (RFP) appears to be on a fast track to become the preferred method for conducting an advisor search or documenting that an existing advisor is qualified to meet an individual plan’s specific needs. This position paper—with insights gleaned from CAPTRUST’s experience responding to more than 700 advisor RFPs over the past ten years—provides a step-by-step roadmap for executing an effective advisor RFP process that will help you find an advisor suited to your plan and participants’ needs—whether you already have an advisor or are considering hiring one.

At CAPTRUST, we believe that professional retirement plan advisors can help plan sponsors manage their plans more effectively and create better outcomes for their plans and participants. Advisors can assist with plan design, participant engagement, investment, fiduciary process, and vendor management issues related to overseeing a retirement plan. While it may at first seem daunting to many plan sponsors, finding the right advisor can be made easier by following a thoughtful process that includes a comprehensive advisor RFP.
INTRODUCTION

The ongoing evolution of employer-sponsored retirement plans and accompanying increased scrutiny of fiduciary responsibility have heightened the need for plan sponsors to benchmark retirement plan services and fees against industry norms and best practices. Plan sponsors have for a long time used a formal request for proposal (RFP) process to identify prospective recordkeepers, third-party administrators, and investment managers—or to benchmark and validate incumbent providers. Recently, many plan sponsors have started taking the same approach when hiring retirement plan advisors or benchmarking an existing advisor’s services and fees. In fact, the advisor RFP appears to be on a fast track to become the preferred method for conducting an advisor search or documenting that an existing advisor is qualified to meet an individual plan’s specific needs.

At CAPTRUST, we see four primary plan sponsor motivations for engaging in an advisor RFP process:

1. PLAN CHANGES OVER TIME
Retirement plans grow and change over time as a result of acquisitions, divestitures, downsizing, hiring, and investment returns. Many plan sponsors engage advisors to determine if existing plan features and services are up to date and appropriate for the plan’s participant base.

2. INCREASED FIDUCIARY BURDEN
The challenges of complying with ERISA guidelines and Department of Labor (DOL) regulations seem to grow annually. While some plan sponsors feel well equipped to cope with these increasing responsibilities, many do not and seek to share fiduciary liability with a retirement plan advisory firm.
3. MARKET INTELLIGENCE

An advisor RFP can provide a robust evaluation of a plan’s incumbent advisor and can be used to verify that fees and services charged are competitive, identify any missing capabilities, and provide written documentation of the advisor selection or benchmarking process. It is always prudent from a fiduciary perspective to understand the market.

4. FORMALITY OF PROCESS

Having a long-term relationship with an advisor who has provided good service to your plan and participants for a fair fee may not be enough to satisfy DOL investigators during an audit. Documenting the process for how and why you selected that advisor can help provide additional protection.

Of course, commissioning an advisor RFP does not obligate a plan sponsor to hire a retirement plan advisor. While we believe a skilled, professional advisor can bring to a plan specialized expertise, the mere act of conducting a formal advisor RFP process can provide helpful insights to plan sponsors—even if they choose not to engage an advisor. A formal advisor RFP process provides an opportunity to gather intelligence on the current state of the art for retirement plan advisory services, pricing for those services, and the different business models of advisors providing them.

Conducting an advisor RFP process will cause you to think critically about your plan and whether the current service model, investment lineup, and other plan components continue to effectively meet the needs of plan participants. The process is also likely to identify potential service gaps or fiduciary issues. Regardless of whether you choose to use an advisor or not, a well-documented RFP process provides support for your decision and demonstrates that, as a plan sponsor, you have covered all the bases.

BENEFITS OF CONDUCTING AN ADVISOR RFP

- Alignment of retirement plan goals with advisory services and business models available
- Fiduciary risk mitigation through the application of a deliberate process
- Better understanding of fees for services
- Detection of evolving industry trends
- Benchmarking of current costs versus industry averages
- Inherent fairness of process

WHY HIRE A RETIREMENT PLAN ADVISOR?

By and large, plan sponsors are navigating the heightened investment, fiduciary, and regulatory complexities of managing qualified retirement plans with the help of a professional retirement plan advisor. According to Fidelity Investments, approximately three out of every four defined contribution plan sponsors currently work with a retirement plan advisor. That percentage rises to 83 percent for plans with over $50 million in assets—suggesting that once plans reach a certain size, the level of complexity and fiduciary liability becomes significant enough for plan sponsors to seek outside guidance and support.¹

An advisor dedicated to the retirement plan market can provide a host of valuable services. Regular investment option review, regulatory due diligence, fiduciary process implementation, and fee benchmarking were cited by plan sponsors as the top services provided by advisors in a 2013 Retirement Advisor Council plan sponsors survey.

Some advisors are willing to assume a 3(21) co-fiduciary role for a retirement plan, sharing the responsibility for providing a prudent plan at a reasonable cost to participants, or to assume additional liabilities as a 3(38) investment manager. Others may have specialized experience working with the particular issues of concern, such as integration of qualified and nonqualified plans, validating your choice of Qualified Default Investment Alternative (QDIA), handling company stock, or delivering participant advice—to name a few.

TOP TEN MOST VALUED ADVISOR SERVICES

In 2013, the Retirement Advisor Council engaged several defined contribution plan sponsor focus groups in a discussion about retirement plan advisory services to better understand which services they value the most. They were asked to allocate the fees they pay their own advisors to a list of services in proportion to the value they receive for the services rendered. The results of this exercise are as follows:

1. Review investment options with you periodically
2. Examine if your plan is administered according to applicable laws, regulations, and stated policies
3. Assist you with the implementation of fiduciary process
4. Help you understand the fees providers charge for their services
5. Ensures that your participants have access to education, communication, services, and asset allocation counseling they need to make informed decisions
6. Support you with investment provider due diligence
7. Learn the circumstances and benefits philosophy of your organization
8. Meet with employees one-on-one to provide retirement plan education
9. Monitor the fulfillment of service by your retirement plan service provider
10. Meet with employees in groups to provide retirement plan education


¹ The 2012 Fidelity Plan Sponsor Attitudes Survey Results: Third Edition
CONSTRUCTING AN EFFECTIVE ADVISOR RFP

Now that we have established the potential value of a retirement plan advisor and the benefits of conducting an advisor RFP, it is time to consider how to construct an effective RFP and manage the advisor evaluation and selection process. The suggestions in this paper are gleaned from CAPTRUST Financial Advisors’ experience responding to over 700 advisor RFPs over the past ten years and can help plan sponsors develop and manage an effective advisor RFP process. While an advisor RFP must be comprehensive and objective, it need not be overwhelming—if you follow the steps and strategies outlined in this paper.

We have organized the process into the three stages of an RFP, each comprised of several smaller steps:

**Stage 1: PREPARATION**
**Stage 2: IMPLEMENTATION**
**Stage 3: DECISION MAKING**

While an advisor RFP must be comprehensive and objective, it need not be overwhelming.
STAGE 1: PREPARATION

There are two requirements for the successful preparation of an advisor RFP. The first requirement is to clearly identify the goals of the RFP process itself. Goals may include new advisor selection, existing advisor replacement, fee and service benchmarking, or market intelligence gathering. The second requirement is to view your RFP through the lens of your plan and participants. Current market or advisory service intelligence is only as good as it is relevant to your plan.

We recommend creating an advisor RFP committee, comprised of key retirement plan stakeholders. The role of this group is to think critically about the needs of your organization, plan, and participants. Some initial questions or topics to start the discussion include:

- Do you plan to hire or replace a retirement plan advisor or is industry benchmarking the primary objective?
- How broad is the scope of services you are looking for?
- Are you simply looking for an investment consultant? Or someone that can also address plan design, participant engagement, vendor selection, and fiduciary issues?
- Are you looking for an ongoing relationship with a retirement plan advisor or are you considering a one-time project?
- Do you want to outsource some of your fiduciary liability?
- If you have multiple plans, are you looking for a single retirement plan advisor for all of them?

This is not a project to rush as it may lead to a long-term hiring decision or other permanent changes to your retirement plan. We have seen advisor RFPs that failed to achieve the desired outcome because they lacked a clear outcome, were poorly thought out, or simply went through the motions without ample investment of time.

The group should come to a consensus on the key issues the RFP should address and outline a timeline and process for preparation, implementation, and a final decision. It will be helpful to appoint an individual to lead the RFP project and, ideally, another to act as a primary contact to communicate with respondents on behalf of the RFP committee.
The next important task is to gather information to document your retirement plan’s current state. Any plan audit should include an analysis of the following documents:

- Investment lineup
- Quarterly investment review
- Annual plan review
- Investment policy statement
- Fee disclosure
- Current service provider agreements
- Number of participants and demographic reports
- Actuarial report (if applicable)

These documents will help you determine which services are required and which are optional—which in turn will help you formulate questions regarding the services your plan will be requesting from a retirement plan advisor. For example, your annual plan review and quarterly investment review should help identify service gaps or areas that need improvement—such as low deferral rates, poor investment performance, or top-heavy issues—that should prompt the addition of questions in the appropriate section of the RFP. In a broad sense, your RFP’s goal should be to identify an advisor that satisfies your retirement plan and service needs at a reasonable cost. Your ability to target and customize your questions will increase the likelihood of a positive outcome.
The advisor RFP process is an excellent opportunity to evaluate and improve a qualified retirement plan, both for the company and plan participants. Thus, the process should be as comprehensive as possible without being discouraging to candidates. Based on our experience, we suggest that individual questions be tailored under these ten broad categories:

- **General firm overview**—Ownership, history, principal biographies, and menu of services
- **Client experience**—Number of clients and assets under care from clients like you, representative client list, and references
- **Legal**—Current status as registered investment advisor or broker-dealer, outstanding and recent legal proceedings, or complaints against the advisor
- **Fiduciary status and services**—Scope of services, protections, and pricing
- **Investment consulting services**—Scope of services, reporting, research capabilities, and team
- **Committee/trustee education and training**—Advice on meeting minutes and new member orientation
- **Provider search experience**—Number of providers and searches performed for plans like yours
- **Participant services**—Participant communication, education, and advice
- **Nonqualified plan capabilities**—Additional services for key executives and highly compensated employees
- **Technology**—Data sources, disaster recovery, business continuity plan, and privacy and data security policies

With a broad outline of categories to cover, combined with a robust assessment of plan needs and services, you are ready to craft your advisor RFP. Keep in mind that these categories provide a starting point for potentially hundreds of questions related to your specific plan and requirements. The advisor RFP template crafted by the Retirement Advisor Council and the DOL questionnaire on selecting plan consultants are good starting points for developing individual questions. An overview of the template has been included on pages 9–11 and the questionnaire on pages 18–19 for your reference.

Now that you have identified your goals, gathered your documents, and drafted questions, it's time to move on to implementation.
The section that follows is excerpted from content developed by the Retirement Advisor Council (RAC) as part of an initiative to create awareness and drive adoption of the advisor RFP process by plan sponsors. In addition to the template RFP, the RAC has also documented a protocol for its use that plan sponsors may find helpful. For more information, please visit their website at www.dcpicadvisors.com.

REQUEST FOR PROPOSAL-GUIDELINE QUESTIONS

FIRM/TEAM INFORMATION

1. Firm (Team) Name
2. Address
3. Contact for this RFP, including name, phone number, a fax number, and email address.
4. Describe the ownership and structure of your firm (team).
5. List your firm’s lines of business.
6. How many years has your firm been in business?
7. Briefly describe your firm’s history.
   a. How many years has your firm been servicing retirement plan clients?
   b. What documentation of your firm’s history servicing retirement plan clients can you provide?
8. What is the total number of employees in the firm?
   a. Of those, number of employees who are Investment Advisory Representatives (IAR).
   b. If you use sub-contractors, who are they and for what services?
9. What is the position of your firm in the employer-sponsored retirement plans business?
   a. Percentage of revenue from retirement plan investment advisory services.
   b. Plan assets under advisement.
   c. Total number of clients with defined contribution plans under your advisement.
   d. Number of core client plans (with whom your firm has regular quarterly contact).
   e. Number of client plans added over the past 24 months.
   f. Number of clients lost over the past 24 months.
   g. Publications your firm has created or contributed to.
   h. Recognition received from independent sources demonstrating expertise and credibility.
10. Please list the types of services your firm offers for retirement plans.
11. Please describe your firm’s experience helping clients through complex processes such as Department of Labor audits, Internal Revenue Services audits, voluntary compliance actions, partial plan termination determinations, plan mergers of spin-offs, plan terminations, or corrective contributions.
12. Describe what differentiates your firm from other investment consulting firms.
13. How does your firm define and measure the success of retirement plan consulting relationships?
14. Please list the federal, state, and other regulatory agencies with which your firm is licensed or registered, and the type of license held.
15. Have any individuals from your firm ever been disciplined by any government regulator for unethical or improper conduct or been sued by a client who was not happy with the work performed by the firm?
16. Has your firm or any advisor of your firm been found guilty of any violation or paid any fines because of violations of securities regulations or ERISA?
17. Is your firm bonded/insured? If so, to what amount?
18. Does your firm work with client plans on an advisory basis? If applicable, please provide a copy of both parts of your firm’s most recent SEC Form ADV.
19. Does your firm work with clients on a commission basis?
20. Please provide a current list of representative clients.
21. Please list four reference clients similar to our organization in terms of size.
SERVICE TEAM

1. Describe your service model to our plan (staff, responsibilities, interactions with our plan, frequency of in-person meetings, frequency of conference calls, team dynamics).

2. Primary contact for our relationship:
   a. Overall experience with employer-sponsored retirement plans
   b. Commitment to the retirement plans business
   c. Education, honors, designations, and other credentials
   d. Regular activities to stay current on market and regulatory developments
   e. Area of expertise
   f. Years with the firm
   g. Role at the firm
   h. Number of plans supported
   i. Average size of plans supported

3. If the primary contact will not be the only person with whom we will be working, please list name(s), contact information, and profile information for each person including:
   a. Overall experience with employer-sponsored retirement plans
   b. Education, honors, designations, and other credentials
   c. Area of expertise
   d. Years with the firm
   e. Role on the team serving our plan
   f. Number of plans supported
   g. Average size of plans supported
   h. Number of plans lost this year

INVESTMENT SERVICES

1. Describe your firm’s approach to 401(k) plan investment consulting.

2. What investment policy statement support do you offer?

3. What tools does your firm use to evaluate investment funds and managers?

4. Describe your investment research resources and capabilities.
   a. How are investment benchmarks determined?
   b. Is your investment research proprietary or from a third party?

5. Do you hold performance review meetings with clients and what reports do they receive?

6. Do you have an investment watch list and what is your termination recommendation process?

7. What actions do you take when investments are not performing?

8. Provide a sample of a written recommendation provided to a client.

9. If your firm plans to offer investment advice to our plan, please explain.

PARTICIPANT SERVICES

1. Please list the types of services your firm provides to retirement plan participants.

2. Do you offer advice and education?

3. Do you offer model allocations?

4. What resources do you have dedicated to participants?

5. Please provide two specific examples of ways in which your firm has made a positive impact on retirement plans you support over the past 24 months. (For example: increased participation, increased deferrals, enhanced services, lowered fees)
PROVIDER/VENDOR SERVICES

1. Describe your vendor benchmark service and process.
2. Describe your service provider search RFP service and process.
3. In the past 36 months, how many third-party administrator (TPA), recordkeeper, or trustee searches have you conducted for the DC and DB plans your firm supports?
   a. How many of these resulted in a change in TPA, recordkeeper, or trustee?
   b. List the top three TPA, recordkeepers, or trustees that you have recommended
4. With how many different service providers does your firm work to support current clients?
5. What experience do you have with our current service provider?
6. What plan design change initiatives have you led with your clients in the past 24 months?

FIDUCIARY STATUS AND COMPLIANCE

1. Do you intend to act as a fiduciary for the plan or its participants?
2. What compliance resources does your firm provide?
3. Do you offer committee training, education, and support?
4. Describe your fiduciary responsibility under ERISA to our plan, including your ability to serve in an ERISA 3(21) or 3(38) capacity.
5. Describe your fiduciary responsibility to our plan participants.
6. Describe potential conflicts of interest that may arise with the proposed advisory relationship.
7. If your firm has a written policy for addressing conflict of interest, please describe it.
8. Have any of your clients been the subject of an investigation by the Department of Labor? If so, please describe.

FEES

1. How is your firm compensated for services?
2. What percentage of your firm’s revenue is derived from:
   a. Commission revenue?
   b. Advisory revenue?
3. Please explain your firm’s policy regarding receipt of any form of compensation or benefits from companies or individuals whose products or services you may refer or recommend.
4. Please describe any and all fees for services to our plan under this proposal.
5. Are you willing to guarantee your fees for a specific period of time?
6. Please provide a sample if your firm plans to provide a written agreement or a letter of engagement detailing services provided to our plan.
7. What is your ability to offset fees with 12b-1 fees, finders’ fees, or other fees embedded within the plans’ investments?

TECHNOLOGY

1. Describe any technology available to your firm (excluding technology of our provider).
2. What applications do you run that would be beneficial to our plan?

SECURITY AND BUSINESS CONTINUITY

1. Please describe the succession plan for the primary contact who will be working with our plan.
2. Please describe the succession plan of your firm.
3. Please describe your firm’s data security measures.
4. Please describe your firm’s disaster recovery plans.
STAGE 2: IMPLEMENTATION (SIX TO EIGHT WEEKS)

In addition to a broad set of questions, your advisor RFP should provide respondents with a company overview and plan requirements, specific instructions for completing the RFP, and what to include in a response. We recommend organizing the RFP into the following five sections:

1. **Company introduction**
   
   This section provides the respondent an overview of your organization, its retirement plan, and the rationale behind your advisor RFP.

2. **RFP instructions and information**
   
   This section provides a detailed timeline and schedule for the RFP process, contact information, and parameters for respondents to follow when completing and delivering their response.

3. **Plan overview and respondent requirements**
   
   This section provides an in-depth retirement plan overview, the services you require, and your expectations of an advisor, plus a list of minimum qualifications all responding firms should meet. For example, you may require a minimum number of similar clients or a firm asset size threshold.

4. **Questions**
   
   This section includes the categories and associated questions your committee has identified as most important for respondents to answer. Crafting specific questions that are aligned with your goals and objectives will improve the responses you receive. Most RFPs follow a similar structure and format, but don’t let that restrict you to generic questions. They will likely fail to differentiate one advisor from another.

5. **Supporting Materials, Documents, and Information**
   
   This section includes any content or deliverables (e.g., investment policy statement, quarterly review, advisory agreement) that would help respondents make their commentary more applicable and impactful.

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Most RFPs follow a similar structure and format, but don’t let that restrict you to generic questions.
Casting a wide net will increase the likelihood of finding a solid advisor match for your plan. You can develop a potential respondent list through consultation with key plan stakeholders, service providers, and industry peers. In addition, financial and retirement industry trade publications such as PLANSPONSOR and Pensions & Investments publish consultant directories or databases with the names, contact information, and services provided which can be an excellent source of candidates. Even your incumbent advisor may offer suggestions. Recognizing that some candidates may decline to respond, a list of eight to twelve candidates is a good starting number, leaving some room for drop-offs.

The breadth of your RFP is one factor that will influence the number of advisors you include. Highly specialized services, limited scope, or project work may limit the number of advisors interested, so you will need to start with a longer list. Meanwhile, the opportunity for a broad, multi-faceted relationship will raise the number of eligible partners. Another factor to consider is your capacity to thoroughly review and consider the responses you receive and the time it will take to review them. Advisor RFP process efficiency can be improved by specifying how responses should be constructed either through content limitations, overall packaging, the inclusion or exclusion of marketing materials, and details for electronic or hard copy submissions. You should also address the safeguarding and confidentiality of corporate and retirement plan information included. This can be accomplished by providing appropriate non-disclosure or confidentiality agreements and asking respondents to execute and return them in advance.

Finally, to keep the process manageable and unbiased, establish a deadline for respondents to formally express their intention to bid on your retirement plan as well as for inquiries about the content, purpose, or process of your advisor RFP. All inquiries received and their responses should be aggregated into a single deliverable and distributed to all respondents who have formally expressed intent to bid, regardless of whether or not they made an inquiry.

Our experience indicates that six to eight weeks is a sufficiently long period to receive intents to bid and collect, answer, and circulate questions from respondents while still allowing them time to provide thoughtful responses.
STAGE 3: DECISION MAKING
(FOUR TO EIGHT WEEKS)

The responses are in. It’s time to dig in and start the review process and begin moving toward a decision.

The aim of the review process is to identify the handful of three to six advisors with the most experience, success, and necessary infrastructure in the areas most critical to your plan and needs. Your immediate reaction is likely to be one of surprise at the wide variation of packaging, heft, and thoroughness of the responses you have received. Even this superficial aspect may provide insights into the mindsets of responding advisors—and may eliminate a candidate or two.

A more detailed examination of the first set of responses will give your RFP committee a good sense of the different types of advisory services and business models at your disposal. You should expect that many of the respondents will offer similar-sounding—if not identical—services, so identifying the strongest candidates will require thoughtful interpretation and analysis of the responses.

Some tips on what to look out for in your review process include:

• Look for advisors who frame their responses as solutions or focus on outcomes rather than just listing their background and capabilities.
• Beware of “check the box” answers to questions where every respondent could say the same thing.
• Look for responses that go deeper either by evidencing an understanding of the challenge you have framed or illustrating the unique advantages they can bring to your plan.
If you have asked the right questions, a short list of three to six retirement plan advisors will likely emerge from the pool of respondents. Determining the two to three finalists, however, may require asking follow-up questions of each advisor. You may also want to review your goals and priorities with your RFP committee in light of what you have observed or learned from the responses reviewed. Lastly, a couple of targeted questions, asked of the committee, will confirm whether an advisor truly has what it takes to meet your needs.

These questions could include:

- Is the advisor’s focus aligned with our company’s needs and goals?
- Are they qualified to provide the requested services?
- Do they have the necessary experience to be an advocate for our retirement plan?
- Are there any potential conflicts of interest?
- What are the specific proposed services and associated fees?

The discussions that lead up to determining finalists can provide further direction on the questions, scenarios, and case studies that you will want to include as part of a finals presentation.

Once you have selected your finalists, each of which you believe could more than adequately provide the expertise and services your plan requires, the next step is to identify the one retirement plan advisor that is both capable and has the demeanor, creativity, and collaborative skills to be a productive partner in managing your retirement plan. You will do this by organizing a meeting for each finalist to present to your RFP committee (and any other decision makers) to demonstrate the value that can be added to your plan.

To properly set the stage for an effective finals process, you should provide finalists with detailed and specific expectations for the meeting, a formal agenda or format to be followed, and a clear idea of the topics you wish to be addressed. Be warned that, at this stage, they may all start to sound alike; every finalist will have a due diligence process, access to industry databases, provider relationships, and investment research. To help differentiate them, you should ask them to demonstrate how their capabilities apply to your plan. Demand more specifics such as how their
While selecting the right advisor to help manage your plan may be the objective of your advisor RFP, documenting your process is equally important from a fiduciary liability standpoint. Be sure to fully track your process, from initial meetings with plan stakeholders through question development, candidate list, review, and final selection. The more robust and comprehensive your documentation, the less likely your decision will be questioned by regulators or other third parties.
CONCLUSION

Retirement plan advisors provide important services for plan sponsors and participants—but how do you find the right advisor? How do you know you are getting state of the art services for your plan and a competitive price? We believe that a well-crafted and well-run advisor RFP process can help plan sponsors identify and prioritize their most important issues, gather intelligence on advisory services available in the market, help simplify decision making, and document an important fiduciary process.

While the prospect of drafting and running an advisor RFP process may be intimidating, by applying the step-by-step process, best practices, and tips outlined in this paper, this potentially overwhelming project can become attainable. Conducting an advisor RFP will cause you to think critically about your plan and whether the current service model, investment lineup, and other plan components continue to effectively meet plan participant needs. The process is also likely to identify potential service gaps or fiduciary issues. Regardless of whether you choose to use an advisor or not, a well-documented advisor RFP process provides support for your decision and demonstrates that, as a plan sponsor, you have covered all the bases.

ADVISOR RFP CHECKLIST

PREPARATION
- Determine purpose and key stakeholders
- Gather content and retirement plan information

IMPLEMENTATION
- Assemble your deliverable
- Identify recipients
- Determine and finalize response structure
- Distribute RFP to candidates

DECISION MAKING
- Receive and review final responses
- Determine finalists
- Conduct finals meetings
- Select advisor
- Document process
The Employee Retirement Income Security Act (ERISA) requires that fiduciaries of employee benefit plans administer and manage their plans prudently and in the interest of the plan’s participants and beneficiaries. In carrying out these responsibilities, plan fiduciaries often rely heavily on pension consultants and other professionals for help. Findings included in a report by the staff of the U.S. Securities and Exchange Commission (SEC) released in May 2005, however, raise serious questions concerning whether some pension consultants are fully disclosing potential conflicts of interest that may affect the objectivity of the advice they are providing to their pension plan clients.

Under the Investment Advisers Act of 1940 (Advisers Act), an investment adviser providing consulting services has a fiduciary duty to provide disinterested advice and disclose any material conflicts of interest to their clients. In this context, SEC staff examined the practices of advisers that provide pension consulting services to plan sponsors and trustees. These consulting services included assisting in determining the plans’ investment objectives and restrictions, allocating plan assets, selecting money managers, choosing mutual fund options, tracking investment performance, and selecting other service providers. Many of the consultants also offered, directly or through an affiliate or subsidiary, products and services to money managers. Additionally, many of the consultants also offered, directly or through an affiliate or subsidiary, brokerage and money management services, often marketed to plans as a package of bundled services. The SEC examination staff concluded in its report that the business alliances among pension consultants and money managers can give rise to serious potential conflicts of interest under the Advisers Act that need to be monitored and disclosed to plan fiduciaries.

To encourage the disclosure and review of more and better information about potential conflicts of interest, the Department of Labor and the SEC have developed the following set of questions to assist plan fiduciaries in evaluating the objectivity of the recommendations provided, or to be provided, by a pension consultant.

1. Are you registered with the SEC or a state securities regulator as an investment adviser? If so, have you provided me with all the disclosures required under those laws (including Part II of Form ADV)?

You can check yourself—and view the firm’s Form ADV—by searching the SEC’s Investment Adviser Public Disclosure (IAPD) website. At present, the IAPD database contains Forms ADV only for investment adviser firms that register electronically using the Investment Adviser Registration Depository. In the future, the database will expand to encompass all registered investment advisers—individuals as well as firms—in every state. If you can’t locate an investment adviser in IAPD, be sure to contact your state securities regulator or the SEC’s Public Reference Branch.

2. Do you or a related company have relationships with money managers that you recommend, consider for recommendation, or otherwise mention to the plan? If so, describe those relationships.

When pension consultants have alliances or financial or other relationships with money managers or other service providers, the potential for material conflicts of interest increases...
depending on the extent of the relationships. Knowing what relationships, if any, your pension consultant has with money managers may help you assess the objectivity of the advice the consultant provides.

3. Do you or a related company receive any payments from money managers you recommend, consider for recommendation, or otherwise mention to the plan for our consideration? If so, what is the extent of these payments in relation to your other income (revenue)?

Payments from money managers to pension consultants could create material conflicts of interests. You may wish to assess the extent of potential conflicts.

4. Do you have any policies or procedures to address conflicts of interest or to prevent these payments or relationships from being a factor when you provide advice to your clients?

Probing how the consultant addresses these potential conflicts may help you determine whether the consultant is right for your plan.

5. If you allow plans to pay your consulting fees using the plan’s brokerage commissions, do you monitor the amount of commissions paid and alert plans when consulting fees have been paid in full? If not, how can a plan make sure it does not over-pay its consulting fees?

You may wish to avoid any payment arrangements that could cause the plan to pay more than it should in pension consultant fees.

6. If you allow plans to pay your consulting fees using the plan’s brokerage commissions, what steps do you take to ensure that the plan receives best execution for its securities trades?

Where and how brokerage orders are executed can impact the overall costs of the transaction, including the price the plan pays for the securities it purchases.

7. Do you have any arrangements with broker-dealers under which you or a related company will benefit if money managers place trades for their clients with such broker-dealers?

As noted previously, you may wish to explore the consultants’ relationships with other service providers to weigh the extent of any potential conflicts of interest.

8. If you are hired, will you acknowledge in writing that you have a fiduciary obligation as an investment adviser to the plan while providing the consulting services we are seeking?

All investment advisers (whether registered with the SEC or not) owe their advisory clients a fiduciary duty. Among other things, this means that advisers must disclose to their clients information about material conflicts of interest.

9. Do you consider yourself a fiduciary under ERISA with respect to the recommendations you provide the plan?

If the consultant is a fiduciary under ERISA and receives fees from third parties as a result of their recommendations, a prohibited transaction under ERISA occurs unless the fees are used for the benefit of the plan (e.g., offset against the consulting fees charged the plan) or there is a relevant exemption.

10. What percentage of your plan clients utilize money managers, investment funds, brokerage services, or other service providers from whom you receive fees?

The answer may help in evaluating the objectivity of the recommendations or the fiduciary status of the consultant under ERISA.
Greg Middleton
Senior Manager
CAPTRUST Advisor Support Group

As a senior manager within the Advisor Support Group, Greg and his team are responsible for supporting the ongoing business development activity for the firm’s financial advisors, specifically in the areas of advisor request for proposals, conferences and seminars, and finals presentations. Prior to this role, Greg worked in the marketing department and was responsible for the development and support of the CAPTRUST brand, including a rebranding initiative, strategic marketing programs, marketing collateral, and media relations. Greg earned a Bachelor of Science in Business Administration with a concentration in marketing from East Carolina University where he was a member of the Pirates’ swim team and an Iron Pirate Award winner. Greg is a member of the American Marketing Association (AMA), Association of Proposal Management Professionals (APMP), and Society for Human Resource Management (SHRM). He earned the ARPS (Accredited Retirement Plan Specialist) certification through the Society of Professional Asset-Managers & Record Keepers (SPARK).

CAPTRUST Financial Advisors is an independent investment research and fee-based advisory firm specializing in providing retirement plan and investment advisory services to retirement plan fiduciaries, executives, and high-net-worth individuals.

Headquartered in Raleigh, N.C., the firm represents $114 billion in client assets with offices in Alabama, California, Connecticut, Florida, Georgia, Iowa, Massachusetts, Michigan, Minnesota, Missouri, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, and Washington, D.C.

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