

408(g) Fiduciary Adviser FAQ

Frequently Asked Questions | Adviser Use Only

Qualifying financial professionals may take on the role of "Fiduciary Adviser," which allows them to provide investment advice to retirement plan participants and help plan sponsors reduce their fiduciary liability through an "Eligible Investment Advice Arrangement."

What you need to know to become a 408(g) Fiduciary Adviser to retirement plan participants.

1. I'm the adviser on the plan. Does that make me the 408(g) Fiduciary Adviser on the plan as well?

No. A separate 408(g) Fiduciary Adviser agreement must be executed between the plan and the 408(g) Fiduciary Adviser.

2. Can I offer 3(38)/3(21) services and also offer 408(g) Fiduciary Adviser services?

Yes. Advisers offering both types of services would have two separate agreements to ensure that the terms and compensation arrangements are suitable for each type of service.

3. Why should I consider offering the 408(g) Fiduciary Adviser model?

The 408(g) Fiduciary Adviser model is advantageous to all stakeholders and is a differentiator in the marketplace. The plan sponsor and participants benefit by having access to an investment professional that is held to the ERISA fiduciary standard. Also, plan sponsors are not liable for the advice offered by the 408(g) Fiduciary Adviser, provided the plan committee retains oversight of the 408(g) Fiduciary Adviser. The 408(g) model also gives advisers additional liability protections and the flexibility to utilize a defined contribution plan's existing investment offerings.

4. What is necessary for me to offer 408(g) Fiduciary Adviser services?

The 408(g) Fiduciary Adviser model is flexible and available through a registered investment adviser, a broker-dealer, a trust department of a bank, or an insurance company. To provide investment advice to plan participants, the adviser and plan sponsor must enter into an eligible investment advice arrangement (EIAA). There is also an annual audit requirement to ensure compliance with the 408(g) rules, as well as annual notification requirements to the plan sponsor and participants.

5. Do I need any special certifications to offer 408(g) Fiduciary Adviser services?

It depends. There are two approaches to offering 408(g) Fiduciary Adviser services – arrangements that use a "computer model" approach and arrangements that use a "level fee" approach. (Some advisers might offer both choices.) If a computer model approach is used, then the algorithms within the computer model require a certification. If a level fee approach is used, then no certification is required. Regardless of which 408(g) model is utilized, an annual audit is required to ensure compliance with the applicable rules, including annual participant and plan sponsor disclosures.

6. Do plan sponsors have to change service providers or investment options to utilize a 408(g) Fiduciary Adviser?

No. A 408(g) Fiduciary Adviser does not supplant or replace any plan service provider or investment options. 408(g) Fiduciary Advisers work in conjunction with existing plan offerings.

7. Who pays for the services of a 408(g) Fiduciary Adviser?

Various compensation approaches are available. 408(g) Fiduciary Adviser fees can be paid directly by the plan sponsor or can be paid directly or indirectly by the plan participants.

8. As a 408(g) Fiduciary Adviser, can I offer other retail services to participants?

Yes. 408(g) Fiduciary Advisers can offer additional products and services to participants. However, there must be careful coordination of the EIAA and your organization's other compliance requirements.

FOR MORE INFORMATION

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