

# 408(b)(2) PLAN SPONSOR SOLUTIONS TRANSCRIPT

## Part A: 408(b)(2) Plan Sponsor Requirements

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Webinar Panel: Moderator: Edward M. Lynch, Jr., Founder and Chief Executive Officer of Fiduciary Planned Governance, LLC. ("Ed")

Panelists: Mary Rosen, Associate Regional Director of the Department of Labor EBSA in Boston. ("Mary")

Louis S. Harvey, Founder and Chief Executive Officer of DALBAR, Inc. ("Lou")

## 408(b)(2) Plan Sponsor Solutions

Responsibilities and Solutions to  
Comply with Old and New  
Regulations  
[May 16, 2012](#)



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### Ed:

Good afternoon, everyone. Welcome to Webinar 408(b)(2): Plan Sponsor Solutions. My name is Ed Lynch. I'm the founder and Chief Executive Officer of Fiduciary Planned Governance, LLC, a governance consulting organization that supports broker dealers, advisors, plan sponsors and other fiduciaries in meeting their governance obligations.

With me today is Mary Rosen, who is the Associate Regional Director of the Department of Labor EBSA in Boston and Lou Harvey, founder and Chief Executive Officer of DALBAR.

We'll be covering six key elements related to the regulation today, both what the regulation is about and its essential elements, as well as appropriate responses to managing what is required of the regulation.

To begin, I'm going to turn to Mary, and ask Mary could you summarize for us the essential elements in the 408(b)(2) regulation?

## 408(b)(2) Plan Sponsor Requirements

Necessary Service

Reasonable Contract

Reasonable Compensation

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### **Mary:**

Yes I'd be happy to do that, Ed.

What this regulation [408(b)(2)] is aimed at doing is providing plan fiduciaries [who are typically] plan sponsors with information from the service providers that allow the plan sponsor to determine that the service is necessary, the contract is reasonable, and that reasonable compensation is being paid to the service provider.

Now, this is a responsibility of plan fiduciaries; they have the responsibility to act prudently and solely in the interest of the plan's participants and beneficiaries.

In addition, entering into a transaction with service providers is technically a prohibited transaction, but what 408(b)(2) does is it provides an exemption for this [prohibited] transaction by saying if you determine the service is necessary, the contract is reasonable, and that reasonable compensation is being paid, the prohibited transaction will be exempt and there won't be ramifications resulting for the fiduciaries.

What the new regulation does is it amends the exemption by saying to the service provider that this is the type of information you have to disclose to the plan sponsor in order that the plan sponsor arrives at the determination that the service is necessary, the contract is reasonable, and the compensation is reasonable.

So there's a responsibility on the part of the service provider to disclose the required information to the sponsor and then there's a responsibility on the plan sponsor to make sure that the contract is reasonable and that the compensation is reasonable.