

## MEMORANDUM

TO: All Retirement Board Members, Administrators, and Chapter 32, Section 23B Filers

FROM: Thomas J. O'Donnell, Compliance Officer

RE: Disclosure of Compensation

DATE: October 18, 2018

Each year and as part of the RFP process, all “investment service providers” or prospective investment service providers must file annual disclosures with the retirement board and PERAC. These disclosures include arrangements for **compensation paid, or to be paid**, to the contractor or a related person, by others in connection with the services the contractor provides to the retirement board or any other client; disclosure of compensation in whatever form paid, **or expected to be paid**, by the contractor or a related person to others in relation to the services provided to the retirement board or any other client; and disclosure of any conflict of interest that the contractor may have, that may interfere with the ability of the contractor to provide unbiased and objective services to the retirement board.

Under Section 23B of Chapter 32 of the Massachusetts General Laws, the contractor must “...annually disclose to the commission and the retirement board compensation, in whatever form, paid or expected to be paid, directly or indirectly, by the contractor or a related person to others in relation to the contractor’s services to the retirement board or any other client;”.

The Commission would like to use this memo to remind filers that “compensation” may come in many forms including an economic interest in an investment.

“...compensation, in whatever form...”

The statute requires that “...compensation, in whatever form...” be disclosed. In many instances, such as in the context of cash payments, this term is clear. However, there exist many forms of compensation that may take place in relation to investment activities. For example, directing brokerage to a particular broker, purchase of services from a vendor that provides consulting services to a retirement board as well as payment for attending conferences sponsored by such a vendor, all must be disclosed. It should be noted that the types of compensation provided in this context have evolved and new mechanisms for providing compensation have developed. Recently, some managers have initiated compensation in the form of political and/or charitable contributions made in response to requests by potential or existing investors or their representatives. Any such contributions must be disclosed.



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PERAC has also received filings stating that in some instances parties may receive "... an economic interest in the partnership which will serve as general partner to the Partnership." In some cases these interests have been provided to "Certain principals" of a law firm that "have also agreed to advise the Partnership on marketing strategies..."

We have also received disclosures that state "... compensates its attorneys primarily based on hourly time charges, although in certain situations the compensation for the legal advisors is affected by how successful the Partnership is in raising funds from tax exempt and taxable sources."

Vendors have also reported that "The compensation paid by the Partnership and General Partner to [law firm] will be a function of both the time devoted to the project as well as the fund's success in the marketplace."

Another disclosure states "The Partnership and the General Partner principally compensate their attorneys based on hourly charges, but [law firm] will also receive an economic interest in the General Partner which will be dependent on the Partnership's success in the tax exempt sector."

All of these arrangements must be disclosed in detail to the retirement board and PERAC each year and as part of a response to an RFP.