

NBIA Fiduciary Recommendation Disclosure for Covered ERISA and IRA Accounts

Neuberger Berman Investment Advisers LLC

Overview

This NBIA Fiduciary Recommendation Disclosure for Covered ERISA and IRA Accounts (“NBIA Fiduciary Recommendation Disclosure”) provides additional information to employee benefit plans subject to Title I of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and plans subject to Section 4975 of the Internal Revenue Code of 1986, as amended (the “IRC” or the “Code”) in respect of certain recommendations made by Neuberger Berman Investment Advisers LLC (“NBIA,” “us,” “our,” or “we”) and its wealth advisors or portfolio managers, in their capacity as associated persons of NBIA (“NBIA Advisers” and such plans, collectively, “Plan Clients”).

NBIA provides non-discretionary advice with respect to strategy selection for certain Plan Clients that invest through the NB Private Wealth Advisory Program (“Non-Discretionary PW Program”). For Plan Clients in the Non-Discretionary PW Program, when NBIA or an NBIA Adviser provides individualized recommendations to a Plan Client based on Plan Client’s particular needs with respect to any NBIA Fiduciary Recommendation (as defined below), NBIA (and the relevant NBIA Adviser) is a fiduciary for purposes of ERISA for those Plan Clients subject to Title I of ERISA, and Section 4975(e)(3) of the Code for those Plan Clients subject to Section 4975 of the Code in making such NBIA Fiduciary Recommendations.

In addition to this NBIA Fiduciary Recommendations Disclosure, Plan Customers should also carefully review NBIA’s Form ADV Part 2A (the “NBIA ADV Brochure”) for additional disclosure and information related to NBIA Fiduciary Recommendations.

Where NBIA makes NBIA Fiduciary Recommendations to a Plan Client, it may rely upon one or more exemptions, including, among others, Prohibited Transaction Exemption 2020-02 from rules under Title I of ERISA and/or Section 4975 of the Code, as may be applicable (“PTE 2020-02”), that are intended to regulate conflicts of interests. PTE 2020-02 is designed to permit NBIA and NBIA Advisers to provide NBIA Fiduciary Recommendations in your Best Interest (as defined below) under a fiduciary standard of care (as defined under ERISA and the Code) while adhering to prescribed conditions designed to mitigate conflicts.

NBIA Fiduciary Recommendations

For Plan Clients in the Non-Discretionary PW Program, NBIA (and the NBIA Adviser) will be deemed to be an “investment advice” fiduciary for purposes of ERISA (for those Plan Clients subject to Title I of ERISA) and the Code (for those Plan Clients subject to Section 4975(e)(3) of the Code) when NBIA or an NBIA Adviser makes individualized recommendations based on Plan Client’s particular needs concerning the following (each of the following, when individualized based on Plan Client’s particular needs, an “NBIA Fiduciary Recommendation”):

- (i) Plan Client’s equity investment goal; and
- (ii) Plan Client’s asset allocation as among strategies available through the Non-Discretionary PW Program.

Transactions and services provided by NB arising out of NBIA Fiduciary Recommendations that may be subject to ERISA’s and the Code’s conflict of interest rules may be covered by PTE 2020-02 and under other applicable exemptions. From time to time, NBIA and its affiliates may utilize one or more other prohibited transaction exemptions, to the extent they may be necessary or appropriate.

Requirements under PTE 2020-02

The way NBIA and NBIA Advisers make money creates some conflicts with the interests of Plan Clients, so NBIA and NBIA Advisers may operate under PTE 2020-02 with respect to NBIA Fiduciary Recommendations. PTE 2020-02 requires NBIA and NBIA Advisers to satisfy the Care Obligation and Loyalty Obligation (each as defined below).

Under PTE 2020-02’s provisions, NBIA and NBIA Advisers must:

- Meet a professional standard of care when making investment recommendations (give prudent advice);
- Never put the financial interests of NBIA or NBIA Advisers (or their affiliates) ahead of Plan Client’s when making recommendations (give loyal advice);
- Avoid misleading statements about conflicts of interest, fees, and investments;
- Follow policies and procedures designed to ensure that NBIA and NBIA Advisers give advice that is in Plan Client’s best interest;
- Charge no more than is reasonable for NBIA’s services; and
- Give Plan Client basic information about conflicts of interest.

Advice meets the “Care Obligation” if, with respect to an NBIA Fiduciary Recommendation to a Plan Client, the advice reflects the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, based on the investment objectives, risk tolerance, financial circumstances, and needs of Plan Client. Advice meets the “Loyalty Obligation” if, with respect to an NBIA Fiduciary Recommendation to a Plan Client, the advice does not place the financial or other interests of NBIA, the NBIA Adviser, or other party ahead of the Plan Client, or subordinate the Plan Client’s interests to those of NBIA, the NBIA Adviser, or other party. In addition, neither NBIA nor the NBIA Adviser may make statements (whether written or oral) to Plan Client about an NBIA Fiduciary Recommendation or any other relevant matter that are materially misleading at the time statements are made (including omitting information that is needed to prevent the statement from being misleading to Plan Client under the circumstances), and neither NBIA nor any NBIA Adviser will be insulated or relieved of liability that is imposed upon either as a fiduciary under ERISA and the Code, as may be applicable, when making NBIA Fiduciary Recommendations. When effecting securities transactions arising out of NBIA Fiduciary Recommendations, NBIA and the NBIA Adviser must seek to obtain best execution reasonably available under the circumstances in accordance with applicable securities rules. Finally, the compensation NBIA and the NBIA Adviser receive directly or indirectly arising out of any NBIA Fiduciary Recommendation must not exceed reasonable compensation under applicable ERISA guidance and related guidance under the Code. Under the exemption, NBIA is required to establish, maintain and enforce written policies and procedures prudently designed to ensure satisfaction of these “Impartial Conduct Standards.” PTE 2020-02 also contains additional requirements concerning our compliance. For more information, see <https://www.federalregister.gov/documents/2020/12/18/2020-27825/prohibited-transaction-exemption-2020-02-improving-investment-advice-for-workers-and-retirees> and <https://www.federalregister.gov/documents/2024/04/25/2024-08066/amendment-to-prohibited-transaction-exemption-2020-02>.

Conflicts of Interest

The way NBIA and NBIA Advisers make money creates some conflicts with the interests of Plan Clients. For this purpose, a conflict of interest is defined as “an interest that might incline [a financial institution or an investment professional]—consciously or unconsciously—to make a recommendation that is not disinterested.”

Where possible, NBIA has taken steps to mitigate or eliminate material conflicts of interest associated with NBIA Fiduciary Recommendations. For a detailed discussion of the material conflicts of interest associated with NBIA Fiduciary Recommendations, please see NBIA’s Conflict Disclosures at <https://www.nbprivatewealth.com/conflicts-disclosure-nbia>.

Material Facts About NBIA’s Relationship With You

The material fees and costs that apply to NBIA Fiduciary Recommendations made by NBIA to Plan Client and the type and scope of services provided to Plan Client, including any material limitations on the recommendations that may be made to Plan Client, are provided in the NBIA ADV Brochure and the agreement between Plan Client and NBIA.