ADVISORY FEE BILLING CHECKLIST

The following represents a list of some important considerations that should be addressed when an advisory firm is conducting a review of its advisory billing arrangements to ensure accuracy.

1. Ensure that the fee billing arrangements in each client's agreement are consistent with and within the parameters outlined in the firm's Form ADV (e.g., ensuring that clients are not charged more than what is contemplated in the Form ADV disclosures). If not, either the client agreements or thee Form ADV must be amended.
2. Ensure that only those assets for which billing is contemplated are included for billing purposes (e.g., if the client agreement excludes certain assets (e.g., held-away assets, cash, cash equivalents, or variable annuities) from fee billing, the adviser should not be charging fees on such assets).
3. Ensure that the appropriate fee rate is charged to clients. This is particularly important where the adviser charges different fees for different types of services or charges different fee rates for different clients.
4. Ensure that any breakpoint discounts are properly provided to clients (e.g., if there are discounts based on more assets being given to the adviser for management, the client should receive those discounts).
5. Ensure that any discounts are properly applied if the adviser has agreed to aggregate market values of other family members together for determining the fee rate to be charged to a household.
6. Ensure that other discounts and rebates have been applied correctly.
7. Ensure that fees have been properly prorated for additions and withdrawals of assets if the client agreement calls for such proration.
8. Ensure that any fees have been properly adjusted according to the client agreement when a client relationship is initiated and when a client relationship is terminated.
9. Ensure that the client is being billed at the proper time and with proper frequency (e.g., if the client agreement calls for the client to be billed in arrears, the client should not be billed in advance. If the client agreement calls for the client to be billed quarterly, the client should not be billed monthly).
10. Ensure that the proper metric for valuing client assets for billing purposes is being used (e.g., if the client agreement calls for fees to be based on the fair market value of assets as of the end of a billing period, the adviser should not charge fees based on the average daily balance of the assets over the entire billing period or the cost of the assets).
11. Ensure that the proper valuation source is being used for advisory billing purposes (e.g., if the client agreement calls for assets to be based on the fair market value of assets as valued by the custodian, the adviser should not be billing on assets based on the fair market value of assets as valued by its portfolio accounting/management system. Various factors may contribute to discrepancies in valuation including, among other things: (a) unsettled trades; (b) accrued income; (c) pricing of securities; and (d) dividends earned but not received. Additionally, with respect to private fund securities, if the client agreement calls for assets to be valued by the

custodian, the adviser should not be using the valuation provided by the fund sponsor. If the adviser wishes to use the valuation provided by the fund sponsor, the adviser should amend the client agreement and the Form ADV.

12. Ensure that the value on which assets are being charged properly considers any margin being used to manage the account (e.g., if the client agreement says that fees should be charged on assets net of margin, the client should not be charged assets gross of margin. If the client agreement is silent on whether assets are charged gross or net of margin, the adviser should not charge fees based on assets gross of margin unless there are specific disclosures that have been made to the client beforehand).
13. Ensure that clients are not charged improper expenses (e.g., when a client is in a wrap program, the client is not being charged for brokerage commissions and other transaction costs that are included in the wrap fee).
14. Ensure that clients who are not "qualified clients are not being charged performance fees.
15. Ensure that any performance fees being charged are charged in accordance with the description in the client agreement, paying particular attention to situations where high watermarks or hurdle rates apply.

Disclaimer:

The foregoing information is provided for informational purposes only and does not constitute legal advice. Readers should consult an attorney if they require advice regarding their particular circumstances.

This document is courtesy of Richard Chen of Richard L. Chen PLLC (www.richardlchen.com), a law firm serving the investment advisory community. Please contact Richard at rich@richardlchen.com with any questions.