

DEFERRED COMPENSATION PLAN BOARD REPORT 10-03

Date: February 5, 2010
To: Board of Deferred Compensation Administration
From: Staff
Subject: Self-Directed Brokerage Option: Charles Schwab
Advisory Services

Members
Eugene K. Canzano, Chairperson
Richard Kraus, Vice-Chairperson
Sally Choi, First Provisional Chair
Maggie Whelan, Third Provisional Chair
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Recommendation:

That the Board of Deferred Compensation Administration approve use of both the Charles Schwab Institutional Group and Advisor Network for Deferred Compensation Plan Self-Directed Brokerage Option (SDBO) participants following issuance to all SDBO participants of amended release language providing specific reference to these advisory services.

Discussion:

Background - In June 2009 the Board authorized third-party-trading of participant accounts within the Deferred Compensation Plan Self-Directed Brokerage Option (SDBO) offered through Charles Schwab. The term “third-party-trading” refers to a participant’s ability to allow another individual to trade the participant’s account within the SDBO. At the same time it took this action, the Board declined a separate option which would have opened up Schwab’s Institutional Group and Advisory Service to SDBO participants, two groups of investment advisory services delineated as follows:

- *Institutional Group* - Charles Schwab Institutional Group provides a trading platform and business services for independent investment advisors who custody and invest their clients’ assets at Charles Schwab. Charles Schwab currently provides these services to approximately 5,900 independent advisors. By execution of a Schwab Personal Choice Retirement Account ® (PCRA) Limited Power of Attorney (LPOA) for a Schwab Investment Advisor, a participant may grant authority to an independent investment advisor that has a relationship with Schwab to trade in a participant’s self-directed brokerage account at Schwab. A participant may also authorize Schwab to pay investment advisory fees to the independent investment advisor from their Schwab self-directed brokerage account.
- *Advisor Network* - This is essentially a referral service for participants directing them to a pre-approved list of independent investment advisors who have a relationship with the Charles Schwab Institutional Group. This is a subset of the 5,900 independent investment advisors noted above. This service is only available to participants with investment assets of \$500,000 or more. Participants who meet this qualification are able to contact Schwab and request a referral to a local financial advisor. There are approximately 200 such advisors nationwide. Schwab indicates that typically the use of an advisor in its SDBO occurs because the participant already has a relationship with the advisor and not through a referral.

In June 2009 the Board declined opening up participant access to these advisory services based on a City Attorney finding that the Plan would not be specifically indemnified by those participants using this particular service, and a staff finding that there was no practical way to obtain that indemnification. Since that time, following additional inquiries from one of the Plan participants who had requested that he be allowed to utilize the Schwab Advisory Service network, staff and the City Attorney have reconsidered the finding that there was no practical way to obtain the desired indemnification.

The current SDB participant release, which every participant acknowledges receipt of prior to joining the SDBO, contains the following language:

“I affirm that using the SDB is my choice and that I have sought the advice of an investment professional to the extent I deem necessary. I agree that I am solely responsible for, and agree to release, hold harmless and indemnify Great-West Retirement Services, my employer, Plan Sponsor, Plan Administrator, Plan Trustee(s), the SDB provider and their directors, officers, employees and agents, or any fiduciaries responsible for the Plan, from any and all liability for any negative consequences, losses, costs or expenses that result from (1) my election to use the SDB option or (2) any investment decisions I make in connection with the SDB option...”

While this language is broad, it does not provide specific mention of the Charles Schwab advisory services. Following consultation with the Board’s legal counsel, staff and counsel have determined that if this release was slightly modified to include specific reference to the advisory services, and if this language was then reissued to all SDBO participants (and also modified as a required disclosure for new enrollees) the City’s Plan should have adequate protection.

Investment advisors are a resource that investors have available to them outside of the Plan. Providing access to them within the Plan opens up yet another layer of service for an investment option (the SDBO) which is intended to provide broad discretion to participants in any event. As a result, staff recommends that the Board approve use of both the Charles Schwab Institutional Group and Advisor Network for Deferred Compensation Plan Self-Directed Brokerage Option (SDBO) participants following issuance to all SDBO participants of amended release language providing specific reference to these advisory services.

Submitted by: _____
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Approved by: _____
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