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Benefit Plan Audit Specialists

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## US Labor Department Proposes that Service Providers Give Employers a Guide for 401(k) Fee Disclosures

The **U.S. Department of Labor** on March 11, 2014 **requested public comments on a proposed rule that would require** pension plan **service providers to furnish employers and other plan fiduciaries with a guide to assist them in navigating fee**

## **disclosure documents.**

“The department’s recent fee disclosure rules were a good first step in bringing transparency to the 401(k) industry and disclosing potential conflicts of interest. However, some employers, particularly small businesses, may be having a hard time locating the required fee disclosures when they are embedded in lengthy or complex documents,” said Assistant Secretary of Labor for Employee Benefits Security Phyllis C. Borzi. “Much like a roadmap, a guide can help employers locate fee information, which will help them better understand what they are being charged by financial services providers.”

In 2012, the department published a final rule requiring that companies that provide certain services to employer-sponsored 401(k) plans by furnishing detailed information about their services and the compensation they will receive, including payments from third parties. The rule allows such companies to use existing contracts and other documents to provide this information to plan fiduciaries. The department has found that the fee information is often contained in lengthy contract documents, or spread out among multiple documents.

The **proposal announced would amend the 2012 rule to require that covered service providers furnish a guide if disclosures are made using multiple or lengthy documents.** The guide must specifically identify the document, page or other specific locator, such as section, that enables the employer to quickly and easily find fee information.

The notice of proposed rulemaking is open for public comment. The notice also references an announcement by the department to conduct focus group sessions with fiduciaries to pension plans with fewer than 100 participants. The purpose of the focus group testing approach is to explore current practices and effects of the 2012 fee disclosure rule. The focus groups may provide additional information about the need for this proposal and what disclosure formats may be most useful to

plan fiduciaries.

The proposal will be published for public comment in the March 12 edition of the Federal Register. The text is available here [www.dol.gov/find/20140311/](http://www.dol.gov/find/20140311/).

[Pension & Investments reported on March 11, 2014](#) that rules passed in 2012 were designed to help increase transparency, “but that goal isn’t served if the disclosures are buried in a mountain of paper,” Labor Secretary Thomas Perez said during a media briefing call.

Phyllis Borzi said on the call that after monitoring service provider practices since 2012, officials found many “lengthy, complicated disclosures, some full of legalese, spread out among multiple documents. ... We are particularly concerned that some employers, particularly small employers, may not be reaping the full benefits of the fee disclosure regulation. Service and compensation arrangements have become increasingly complex, making it difficult for plan sponsors to know what they’re getting.”



Ms. Borzi said some kind of “road map” for easily finding information about fees and related income including revenue-sharing would only be required of service providers “who use overly lengthy or multiple documents.” “The goal here is to do something that’s helpful to plan sponsors and fiduciaries, and not overly burdensome. The goal is to get it right,” Ms. Borzi said.



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## Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

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