

DOL Proposes Extension of Applicability Dates for Plan Fee Disclosure Rules

Author: John D. Martini, Partner, Philadelphia

Author: Dennis R. Bonessa, Partner, Pittsburgh

Author: Russell J. Boehner, Partner, Pittsburgh

Author: Craig P. Tanner, Partner, San Francisco

Author: John E. Cunningham, Associate, Philadelphia

Publication Date: June 22, 2011

The Department of Labor ("DOL") has issued proposed regulations that would extend and align the applicability dates for the interim-final rule regarding fiduciary-level fee disclosures under ERISA Section 408(b)(2) and the final rule regarding participant-level fee disclosures under ERISA Section 404(a).

On July 16, 2010, the DOL published interim-final regulations under ERISA Section 408(b)(2) requiring retirement plan service providers to disclose comprehensive information about their fees and potential conflicts of interest to plan fiduciaries. These disclosure requirements are scheduled to apply to service contracts or arrangements in existence on or after July 16, 2011; however, the DOL announced in February of this year that it intended to extend the applicability date to January 1, 2012. The proposal, when finalized, officially extends the applicability date.

On October 20, 2010, the DOL published final regulations under ERISA Section 404(a) requiring plan administrators to disclose information about plan and investment costs to participants and beneficiaries who direct the investment of assets in their individual accounts. These disclosure requirements apply for plan years beginning on or after November 1, 2011, and include a 60-day transition period for furnishing initial disclosures. The proposal would extend the transition period to 120 days, which means a calendar year plan will need to furnish initial disclosures of potential plan and investment costs by April 30, 2012, and initial statements of plan fees and expenses actually deducted from individual accounts by May 15, 2012.

The DOL believes that extending the applicability date for fiduciary-level fee disclosures will help ensure service providers have sufficient time to meet their disclosure obligations following the publication of the final rule. The DOL also believes that the extension of the transition period in the participant-level fee disclosure rules will assist plan fiduciaries and plan administrators in obtaining the necessary information from service providers required to comply with the participant-level fee disclosure rules.

About Reed Smith

Reed Smith is a global relationship law firm with more than 1,600 lawyers in 23 offices throughout the United States, Europe, Asia and the Middle East.

The information contained herein is intended to be a general guide only and not to be comprehensive, nor to provide legal advice. You should not rely on the information contained herein as if it were legal or other professional advice.

The business carried on from offices in the United States and Germany is carried on by Reed Smith LLP of Delaware, USA; from the other offices is carried on by Reed Smith LLP of England; but in Hong Kong, the business is carried on by Reed Smith Richards Butler. A list of all Partners and employed attorneys as well as their court admissions can be inspected at the website <http://www.reedsmith.com/>.

© Reed Smith LLP 2011. All rights reserved.