
From: Erik Babocsi [mailto:erik@ebcfinancial.com]

Sent: Monday, August 30, 2010 2:00 PM

To: EBSA, E-ORI - EBSA

Subject: 408(b)(2) Comments

I am writing to state my comments for the 408(b)(2) regulations.

1. Fee disclosure. It is my recommendation that all fees be disclosed as a dollar value. I do not take issue with fees being reported via formula or other method. However, such reporting methods are on a relative basis and not absolute. Formulas do not always result in an accurate accounting of fees. Plans are funded at various times throughout the year, thus impacting the result of the calculation. Providers collecting compensation from Plans maintain accurate records for their billing purposes. Therefore, I would determine that it is easy for the providers to report their compensation to the Plan trustees on both bases. Doing so would serve to increase transparency in fee reporting to Plan trustees.
2. Statement of Role. Current regulations require an individual or entity acting as a fiduciary to a Plan to disclose this information. However, this is no such requirement for an individual or entity not servicing the Plan as a fiduciary. This is a confusing policy. It would be much simpler and transparent for the Plan trustees to have the role of a service provider clearly stated. My experience has shown this is more of an issue with smaller 401K plans being sold and serviced by a broker. The trustees of the plan assume the individual is a fiduciary, when such individual is not a fiduciary. Requiring explicit statement of the role an individual or entity services the Plan is should be required. I suggest nothing more complicated than the following:

I service your plan as a fiduciary, my role is that of (fill in role)

I services your plan as a non-fiduciary, my role is that of (fill in role)

Thank you,

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