

**From:** Blake Woodard [mailto:blake@woodardcompanies.com]  
**Sent:** Sunday, April 13, 2014 1:27 PM  
**To:** EBSA, E-ORI - EBSA  
**Subject:** RIN 1210-AB08: Proposed regs re 408(b)(2) guide

RIN 1210-AB08: Proposed regs re 408(b)(2) guide

Dear DOL –

Our firm provides non-fiduciary 401(k) consulting to medium-size plans with assets exceeding \$20 million. We are a small company, with only 6 employees. I am the last person in the country to support additional regulatory requirements, but having digested 408(b)(2), the guide is but an after-dinner mint.

Since 408(b)(2) was implemented, we have been providing a guide to services and compensation similar to the sample guide in the final 408(b)(2) regs. We spent about one hour creating the guide and about 15 minutes updating it when changes occur. I cannot speak for large service providers with hundreds of contract forms, so please be sensitive to their situations in your final proposal.

Your proposed regs asked for comments on several issues:

**Content of the guide.** I recommend that you follow the eight data elements shown in your sample guide provided with the final 408(b)(2) regs on page 5659 of the Federal Register dated 2/3/2012 . Several of these elements are not applicable for our services, but it only takes seconds to type “not applicable.”

**Page limit for single documents.** I recommend a limit of 20 pages, including signature pages and exhibits. Our agreements are less than 15 pages, but I will continue to provide the guide, because it’s essentially a table of contents and takes 15 minutes to update.

**Formatting to prevent cheating.** I recommend using the most common business document formatting, which I believe to be single space, 12-point font, 1” margins all around, excluding headers & footers. The challenge is measuring the length of documents that do not meet these standards. Would a five page document at 10-point lose its exemption, even though it clearly would fall under 20 pages at 12-point?

**Page numbers vs. section references vs hyperlinks.** I recommend that the Department approve **any one** of these three means of referencing the information. Large service providers often must customize their documents to satisfy the plan sponsors’ legal counsel, and referencing page numbers may result in errors when language is added, moved, or deleted. Therefore, section references may work better for large service providers. Small service providers are used to highly-customized agreements and have fewer contracts to maintain, but they, too, could benefit from section references. Even better than page numbers and section references are hyperlinks, so the Department should accept hyperlinks for electronic documents as an alternative to page numbers or section references. Of course, electronic documents lose their hyperlinks when printed, so the smart service provider will hyperlink a page number or section reference so that the paper reader will be able to find the information. For regulatory purposes, however, I recommend that the Department accept hyperlinks as a pure alternative to page numbers and section references.

Regards,

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