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*Simplifying Retirement Plans for Business*

## FEE DISCLOSURE REGULATIONS

### Released July 16, 2010

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Fee Disclosure Regulations under ERISA Section 408(b)(2) were released on July 16, 2010. These “interim final regulations” relate directly to the disclosure of fees by service providers and must be complied with by July 16, 2011.

#### A few key points related to the final regulations:

- Applies to all contracts as of the effective date (July 16, 2011), including those entered into prior to that date
- Applies to all “covered service providers” who reasonably expect to receive at least \$1,000 in compensation for services to a plan
- Disclosure of the fees must be in writing and should detail the services to be provided and the compensation that a covered service provider reasonably expects to receive
- For indirect compensation, the service provider must disclose the services to which the compensation applies and the payer of the indirect compensation
- Providers of multiple services (“bundled providers”) are required to separately disclose the cost of recordkeeping services

#### What does this mean to retirement plans?

- Retirement plan fiduciaries will have to review all service contracts and arrangements and request the fee information or risk breaching their duties under ERISA
- Fiduciaries should be mindful of “excessive fees” paid to service providers, particularly under revenue sharing arrangements that do not explicitly disclose indirect fees from third parties in connection with managing plan assets
- If the plan currently uses a “bundled provider”, the service provider must separately disclose the recordkeeping services. This includes compensation received for recordkeeping services, even if it is offset or rebated based on other compensation received by the service provider. The service provider must give a reasonable and good faith estimate of the cost to the covered plan of such recordkeeping services

This information is intended only as an overview of the fee disclosure regulations. Please refer to the DOL’s website, [www.dol.gov](http://www.dol.gov), for detailed information on the disclosure requirements.

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