



Washington Update

Proposed changes that could affect your Retirement Program

August 2010

DOL issues “interim final” service provider fee disclosure rules

On July 16, 2010, the Department of Labor (DOL) issued long-awaited and much-debated [interim final rules](#) requiring certain service providers to disclose fee information to fiduciaries of defined benefit and defined contribution plans (including 403(b) plans) that are subject to ERISA. Originally proposed under the Bush administration, these rules were withdrawn under the Obama administration, revised, and have now been issued in “interim final” form.

An interim final rule has the full force and effect of law, and affected parties must comply with its requirements. However, stakeholders are allowed to submit comments for the agency to consider and possibly reflect in the ultimate final rules without the need to repropose them.

As a result, while these rules are effective July 16, 2011, the DOL is accepting comments on them until August 30, 2010.

What are the major impacts of these rules?

The interim final rules require service providers, such as Prudential Retirement, to provide specific disclosures to plan fiduciaries, if the service provider expects to receive direct or indirect compensation of \$1,000 or more from the plan for providing certain services. These services include fiduciary services, recordkeeping or brokerage services provided to participant-directed defined contributions plans, actuarial services and other consultative services.

What action must plan sponsors take as a result of these rules?

While service providers will be responsible for providing timely disclosures to covered plans in accordance with these rules, the DOL generally expects plan fiduciaries to use the disclosure information to fulfill their fiduciary duties to select and monitor service providers and investments in the best interest of plan participants.

What’s next?

Although the DOL does not expect to make significant changes to these rules, some changes are possible in response to comments received during the new comment period. The DOL has specifically asked for comments regarding the scope of the service providers covered by the rules, and whether a “summary disclosure statement” should be required. Prudential Retirement is actively participating with industry groups that are preparing comments on these and other aspects of the rules.

Meanwhile, Representative George Miller (D-California) may continue to push for legislation addressing fee disclosure, which could supersede the interim final rules. While we believe that many of Rep. Miller’s concerns are addressed by the recently issued rules, we will continue to follow this activity, and will keep you informed of any developments that will affect you.

Before the interim final rules were issued, Prudential Retirement had already begun to take steps to ensure plan sponsors received timely, accurate, and meaningful disclosures regarding fee information before entering into a contract with us, and annually thereafter. We are currently reviewing these disclosures to ensure they fully comply with the DOL’s fee disclosure rules, and will provide any updated disclosures to our clients prior to July 16, 2011. Prudential Retirement will provide further details on the interim final rules in an upcoming *Pension Analyst* publication.

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