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10 fee disclosure facts every plan sponsor should know


(Photo credit: Michelle Meiklejohn)

Christmas may be upon us but this upcoming Easter might be the more important season for 401(k) plan sponsors and fiduciaries – assuming certain vested interests have their way again, but I get ahead of myself.

As of April 1, 2012, the Department of Labor's new service provider Fee Disclosure Rule becomes effective. Originally published in July 2010 with an effective date 12 months later, this new rule requires "covered service providers of retirement plans to disclose comprehensive information about their fees and potential conflicts of interest to ERISA-covered plan fiduciaries."

Assistant Secretary Phyllis C. Borzi has said, "Employers and workers will benefit from the increased transparency provided by these fee disclosure rules."

Bowing to industry pressure, this past summer the DOL delayed the effective date of this rule to next spring. Apparently, employees did not need the benefits of increased transparency as soon as originally intended.

1. **There are three general types of disclosure requirements**: Plan level (administration) expenses, participant-based expenses and investment-related data. The DOL provides a convenient page outlined 401(k) fees on its website. Information regarding investment-related data, as we shall see in the next two points, remains rather muddled.

2. **Some fees matter**. When it comes to investment products, some fees have greater bearing than other fees. Fees related to marketing a particular mutual fund, like 12b-1 fees, can add to the costs of the plan without really providing any real value to plan participants. Fortunately, according to recent Investment Company Institute ("ICI") data, very few plans continue to use mutual funds with 12b-1 fees.

3. **Some fees don't matter**. Folks of all types from kind-hearted regulators to unscrupulous salesmen want to include mutual fund expense ratios as part of your "fees." Truth be told, the impact of mutual fund expense ratios already reflect in the

performance data on that fund. The only time expense ratios really matter is when you compare similar types of index funds (e.g., “S&P 500” or “Russell 2000”). Worst, if all you really want is low fees, then buy a money market fund. Let us know how that worked out for growing your retirement assets in 30 years.

4. **Smaller plans, be prepared for surprises.** You're probably using bundled service providers because you were afraid of paying higher fees. Guess what? Maybe you were all along. You would have been surprised if you were aware of any of the many benchmarking studies available to 401(k) plan sponsors.

5. **Larger plans, be prepared for surprises.** If you're using bundled services, you're about to find out why you probably shouldn't be. And here's the bad news, a recent ICI study reveals 90 percent of 401(k) plans – including large ones – use bundled service providers.

6. **All plan sponsors will have greater fiduciary liabilities** – they're now responsible for collecting and presenting – this data. The DOL has a specific suggestion for how to present this data. The DOL wants fees to be openly disclosed because it's worried too many people believe their 401(k) is free. Many participants, and unfortunately many plan sponsors, will experience “sticker shock” when they see the fees they've been paying.

7. **All vendors will have greater liabilities** – they can't hide fees anymore. You might think this will worry those vendors, and you're right. What you might not think, and what they might not think either, is that this disclosure should worry plan sponsors, too.

8. **Performance data reporting requirements may actually mislead 401(k) investors.** It's important plan sponsors understand the limitations of the DOL's sample Model Comparative Chart and how it might cause investors to make damaging decisions. Fortunately, plan sponsors are not required to use this sample and, instead, can rely on a better report.

9. **Participants will either respond with difficult questions or (more likely) won't even read their statements.** The chances for information overload is even greater now, but those employees that do read their statements now have more ammunition to question what their plan sponsor is doing with their retirement assets.

10. **Certain players in the industry – particularly bundled service providers like insurance companies and brokers – don't like this rule and have already successfully worked to delay its effective date.** Don't be surprised if they convince the DOL to do it again.

Unlike what a popular movie once implied, perhaps, after it's all said and done, the end of the Mayan Calendar – the Year 2012 – will not mark the end of civilization as we know it. Maybe it just will just mark the beginning of the end of overpriced 401(k) service providers.

About the Author

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