NEW RULES FOR RETIREMENT PLAN FIDUCIARIES

Coming your way: some of the most significant changes in 30 years.

Presented by Benedict A. Mitchell Jr.

The Department of Labor has promised to update the retirement plan landscape. Three major rule changes are scheduled for the near future. All retirement plan fiduciaries and administrators should be aware of them.

#1: "Covered service providers" must fully describe their services & fees. This rule was supposed to take effect in July, but the date has been pushed back to January 1, 2012. It requires "covered service providers" (financial advisors, financial consultants or third-party administrators who expect to receive $1,000 or more in direct or indirect compensation for their services) to detail their compensation and/or fee structure to fiduciaries. (CSPs also include financial advisors or TPAs who act as fiduciaries or Registered Investment Advisors for plan sponsors.) If applicable, the CSP must detail any fees that may be charged for recordkeeping along with recordkeeping methods.[1,2]

#2: Fiduciaries must detail plan & fee information for plan participants. If such information isn't provided to plan participants after November 1, 2011, then a plan participant or beneficiary may claim a violation of fiduciary duty on the part of the plan sponsor. The new regulations require fiduciaries to disclose (and update)

- Rules related to the dissemination of investment instructions for the plan
- Plan fees and expenses paid from participant accounts (along with a breakdown of these fees, i.e., investment management fees, administration fees, cost of advice fees)
- Any other specific fees or charges that may be drawn from a plan participant's account.[3]

#3: The DOL wants to expand the definition of an ERISA fiduciary. Under this planned rule change, anyone who advises a retirement plan would be considered one. A group of nearly 30 Congressional Democrats have protested this expanded definition in a letter to Labor Secretary Hilda Solis, contending that it would backfire and eventually reduce access to investment education and information for plan participants. The concern is that the definition of "fiduciary" will become so vague that even the most basic education and advice could fall under ERISA status.[4]

The goal? The DOL wants to make these plans more transparent. This is an occasion for plan advisors to reconnect with plan sponsors, fiduciaries and participants.

Benedict A. Mitchell Jr. is a registered representative of and offers securities through Kovack Securities, Inc., member FINRA / SIPC. Advisory services offered through Kovack Advisors, Inc., a Registered Investment Advisor. 4101 Ravenswood Rd. Ste.310, Ft. Lauderdale, FL., 33312. Tel: (888) 236-9894 Ext 1. Florida Benefit Specialists is unaffiliated with Kovack Securities, Inc. and Kovack Advisors, Inc.

Citations.

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