
From: Alan Moore [mailto:AlanM@slavic.net]

Sent: Tuesday, April 24, 2007 3:49 PM

To: EBSA, E-ORI - EBSA

Subject: Fee comments to DOL

As a TPA for over 2000 401k plans, and affiliated with a Registered Investment Advisor, my experience has been that fee disclosure regulations are already on the books, but they are poorly enforced, and unfathomably explained. For example, Title 29 CFR 2520.102-3(l) states the Summary Plan Description should describe any and all fees that would affect a participants balance and to whom those fees are paid; but I defy you to find an SPD that does that. There are no exceptions of fees in that regulation for 12b-1 and Sub TA fees paid by the mutual funds; there is no exception for selling agreements in which mutual funds pay to get on 401k platforms. Fidelity for example, collects fees from most outside mutual funds they make available to 401k plans they administrate or farm-out to their preferred TPA list; that is a violation of section 406 self dealing in my opinion, not to mention non disclosure to participants and adopting employers, all the while hiding behind a prospectus which is too complicated to be understood by the average participant. The whole mutual fund industry, except Vanguard, is not forthcoming as to fees and the DOL never does anything about it, to the detriment of participants. You want to make a difference, mandate a one page, simple English, disclosure form that must be in the SPD. Otherwise, the mountain of complicated regulations and disclosure forms the DOL comes up with, will be another nightmare that can't be enforced because even your own agents won't be able to understand it. If you have a real concern for participants, you will proscribe a form with the following information(to include in the SPD), mandated for anyone providing services to a 401k plan.

FEE DISCLOSURE

Plan Provider Name _____

List all fees that will be deducted from participant accounts and/or fees/expenses that may reduce(net out of) the return of the investment products and to whom they are paid.

List all brokers, advisors, third party administrators, trustees, sponsors, mutual fund companies receiving any remuneration from the plan and the amounts, that you are affiliated with and describe your affiliation.

You ask these two questions and then let the courts take care of those that do not truthfully comply; participant class action suits will do the police work for the DOL and participants will be able to assess the fees they are paying. Whatever you do, for once in regulatory history, make it short and simple and to the point.

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