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NEW DOL FEE DISCLOSURE RULES FOR 401(K)S

New regulations mean plan sponsors will have to be more accountable.

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401(k) plan sponsors will need to become 401(k) plan analysts. The Department of Labor is implementing new regulations for 401(k)s this year to address some longstanding issues. The intention is to make indirect plan costs visible and leave plan participants better informed.

Beginning April 1, the DOL is requiring 401(k) plan sponsors to disclose fees and expenses related to the operation of the 401(k) to all plan participants. Specifically, the expense ratios of the funds within the plan must be disclosed, along with the amount per \$1,000 that it would cost participants to be invested in a particular fund.¹

A 2011 AARP survey found that 62% of 401(k) participants didn't know how much they were paying in fees, demonstrating that this move may be long overdue.¹

As a plan sponsor, the new regulations will impact you in three ways:

- You now have to assume greater degrees of vigilance and diligence.
- You will have a new obligation to gauge the acceptability of the plan vendor's fees and costs.
- It will be wise to take a "total systems" view of your 401(k) and test it periodically to check that the "end users" are being well-served by the plan vendor's offering.²

As a plan fiduciary, you will have three ongoing duties. These duties are required by the new DOL 408(b)(2) regulation. Periodically, you must:

- **Check** to see that the plan vendor has sent you suitable fee and expense disclosures. *(This should be routine.)*
- **Review** these disclosures to make sure they conform to federal law. *(Are you receiving sufficient information on fees and plan costs?)*
- **Audit** the plan with the input of an independent consultant to see if the fees are fair. *(Is the existing service arrangement reasonable or are plan participants getting gouged?)*

In previous years, plan sponsors routinely delegated these tasks. No more. If you fail to do this, it could constitute a breach of fiduciary responsibility.²

The new rules - 408(b)(2) and 404(a)(5) - come out of concern that plan vendors may obscure avenues of indirect compensation as they communicate with plan sponsors.²

How can you step up and meet these new responsibilities? Employers will now have to look at their 401(k)s from a holistic perspective. It could be illuminating; it could be dismaying, as some businesses may learn that a plan vendor with whom they have had a long relationship has been less than forthcoming about certain fees and other factors.

It is the right time to ask for help? An experienced, independent retirement plan consultant can help you with an annual audit of the 401(k) fees and expenses, and contribute insights to help you meet these challenges and obligations with knowledge and confidence.



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Citations.

- 1 - blogs.smartmoney.com/encore/2012/01/06/3-retirement-trends-for-2012/ [1/6/12]
- 2 - www.rolandcriss.com/news/RolandCriss-Fee_Disclosure_WP_Part_I.pdf [2/2/12]