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Re: Applicability Date of Service Provider Fee Disclosure Rules Moved to Jan. 1, 2012

Dear Clients and Other Friends:

On February 11, the DOL's Employee Benefits Security Administration ("EBSA") issued a press release stating that it will extend the "applicability date" of DOL interim final regulations under ERISA § 408(b)(2) governing service provider fee disclosures to January 1, 2012. These rules impact plan sponsors and service providers of employer-sponsored ERISA retirement plans. The applicability date is the date compliance is required under these rules. Under the interim final rules, the applicability date was originally established as July 16, 2011. Therefore, this DOL press release asserts that these rules will now apply to plan contracts or arrangements for services in existence on or after January 1, 2012 (the new applicability date).

Phyllis C. Borzi, Assistant Secretary of EBSA explained the reason for the extension of the applicability date as follows: "Given the need to ensure a careful review of all the valuable input we received on the interim final rule, including suggestions for a summary document to further assist plan fiduciaries in their review of furnished information, we now believe plans and plan service providers would benefit from an extension of the rules' applicability date. An extension of the applicability date to January 1, 2012 will ensure that we have the time we need to get the final rule right and that plans and their service providers have the time they need to undertake orderly and efficient compliance efforts following publication of the final rule."

This extended compliance date is welcome news for plan sponsors and plan service providers. The extension will allow additional time to address fee disclosure requirements as included in the *finalized* version of the rules (likely to be issued in the coming weeks). One change hinted at in the quote above is that the DOL may issue a summary fee disclosure template, which was not part of the interim final rules published last year.

For a discussion of the interim final rules, please see our Client Letter dated August 12, 2010 available at: http://www.khblaw.com/docs/08.19.2010-khb_dol.pdf. The DOL's Feb. 11 press release can be found at: <http://www.dol.gov/ebsa/newsroom/2011/ebsa021111.html>

We have experience assisting plan sponsors and plan service providers in addressing fee disclosure requirements. Please contact us if we may help you.

Thank you,

Ted Rice