

MEMO# 25279

June 14, 2011

Institute Comment Letter on 408(b)(2) and Participant Disclosure Extension

[25279]

June 14, 2011

TO: PENSION MEMBERS No. 32-11
OPERATIONS MEMBERS No. 12-11
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 34-11
TRANSFER AGENT ADVISORY COMMITTEE No. 46-11 RE: INSTITUTE COMMENT LETTER ON
408(b)(2) AND PARTICIPANT DISCLOSURE EXTENSION

The Institute filed the attached comment letter to the Department of Labor on its proposal to extend the applicability date of the section 408(b)(2) service provider disclosure regulation and the date on which disclosure first must be provided to participants under the new 404(a) participant disclosure rule. [\[1\]](#)

The letter points out that open issues remain on both the 408(b)(2) and participant disclosure rule. DOL received over 40 comments on the interim final 408(b)(2) and the final rule is not yet under review at the Office of Management and Budget. As the Institute stated in its August 2010 comment letter on the interim rule, if the final rule imposes new obligations on service providers, the effective date should be extended to give service providers at least a year to implement the new requirements. [\[2\]](#)

The letter supports the extension and expansion of the 60-day participant disclosure transition rule. DOL has said that aligning application of the 408(b)(2) and participant disclosure rules will help plans and that it is working on informal guidance to address technical issues on the participant disclosure rule. The letter suggests DOL reconsider the general applicability date for the participant disclosure rule if it further extends the date for 408(b)(2) or if the anticipated FAQs require time to digest.

Michael L. Hadley
Associate Counsel

[Attachment](#)

endnotes

[1] See [Memorandum](#) to Pension Members No. 26-11, Operations Members No. 11-11, Bank, Trust and Recordkeeper Advisory Committee No. 31-11 and Transfer Agent Advisory Committee No. 41-11 [25237], dated June 1, 2011.

[2] See [Memorandum](#) to Pension Members No. 36-10, Bank, Trust and Recordkeeper Advisory Committee No. 30-10, Transfer Agent Advisory Committee No. 52-10 and Operations Committee No. 24-10 [24520], dated August 30, 2010.

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