

MEMO# 26511

September 19, 2012

DOL Activates 408(b)(2) Non-Compliant Provider Notification Online Filing Tool

[26511]

September 19, 2012

TO: PENSION MEMBERS No. 31-12
OPERATIONS COMMITTEE No. 34-12
BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 41-12
BROKER/DEALER ADVISORY COMMITTEE No. 46-12
TRANSFER AGENT ADVISORY COMMITTEE No. 56-12 RE: DOL ACTIVATES 408(b)(2) NON-COMPLIANT PROVIDER NOTIFICATION ONLINE FILING TOOL

The Department of Labor has activated the online filing tool through which plan fiduciaries are able to inform the Department about service providers that fail to furnish the required 408(b)(2) disclosures. [1] As you may recall, the final 408(b)(2) regulation conditions relief from ERISA's prohibited transaction provisions and associated excise taxes on the plan fiduciary informing the Department of the disclosure failure after first requesting in writing that the covered service provider furnish the required disclosures. The final 408(b)(2) regulation provided two alternative methods of notification to the Department - either through U.S. mail or through electronic delivery to a Department email address provided in the final regulation. [2] In July 2012 the Department issued a direct final rule proposal amending the notification format and providing for an online tool in lieu of the Departmental email address. [3] The Department received no comments in response to the direct final rule proposal and therefore the online notification process was activated effective September 17, 2012.

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endnotes

[1] The online filing tool can be found here:
<http://www.dol.gov/ebsa/regs/feedisclosurefailurenotice.html>. The Department's press release regarding the online filing tool can be found here:
<http://www.dol.gov/ebsa/newsroom/2012/EBSA091712.html>.

[2] A copy of the final regulation can be found here: <http://www.dol.gov/ebsa/pdf/2012-02262-PI1.pdf>. For a description of the final regulation, see [Memorandum](#) to Pension Members No. 8-12 [25876], dated February 7, 2012; [Memorandum](#) to Pension Committee No. 6-12, Pension Operations Advisory Committee No. 6-12, Operations Committee No. 4-12, Bank Trust and Retirement Advisory Committee No. 6-12, Broker/Dealer Advisory Committee No. 5-12, Transfer Agent Advisory Committee No. 7-12 [25875], dated February 7, 2012.

[3] For a description of the direct final rule implementing the online filing program, see [Memorandum](#) to Pension Members No. 28-12, Operations Committee No. 23-12, Bank Trust and Retirement Advisory Committee No. 35-12, Broker/Dealer Advisory Committee No. 38-12, Transfer Agent Advisory Committee No. 47-12 [26378], dated August 8, 2012.

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