

New deadline looms for retirement plan fee disclosure

A 'mad dash' by some firms to meet previous July 1 deadline, say attorneys

By Darla Mercado

July 2, 2012

Now that a new federal rule took effect requiring plan providers to disclose certain 401(k) fees to plan sponsors, those sponsors have until the end of next month to pass the information on to plan participants.

August 30 marks the deadline for employers to disclose to employees how much employer-sponsored retirement plans are costing them. On July 1, retirement plan providers were required to notify employers how much is being charged for managing employee retirement plans.

"I think the second part of fee disclosure — the participant disclosure — will be more problematic for plan sponsors," said Andrew McIlhenny, executive vice president at Firsttrust Financial Resources LLC with \$680 million in assets. "Depending on the provider, these disclosures will be voluminous, and that's going to be a problem for employers. The benefit of the retirement plans may be outweighed by the requirements for disclosure."

Service providers have had close to two years to gear up for the regulation, as an interim fee disclosure rule had been released in 2010 and the implementation date had been bumped twice from the original date of July 16, 2011. Some firms, such as Putnam Investments, had started implementing the disclosures well before the actual deadline.

But even with all that time to prepare, there were laggards.

"I was very surprised in the last two to three weeks at the amount of calls we've received from some institutions," said Marcia Wagner, managing director at The Wagner Law Group. "I think people really thought there would be some kind of extension and it never came."

"There's [was this] mad dash," said Jason C. Roberts, chief executive of Pension Resource Institute, a consulting firm for broker-dealers. "There were six or eight broker-dealers who called last week and got something out."

Smaller firms has the most trouble meeting the deadline, said experts.

"We've been working for two years to get our clients ready," said Bradford P. Campbell, counsel

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with Drinker Biddle & Reath LLP. “In the month before the deadline, we certainly did see some uptick in inquiries — people wanting to come in and have their documents double-checked.”

Ms. Wagner noted that firms that don't have their disclosures ready are procrastinating at their own peril. They place themselves at a competitive disadvantage. “There will be a transition period where people are really late to comply,” she said. “Advisers can take advantage of that and ask the plan sponsors they want to work with whether they've received their fee disclosures.”

Employers who haven't received the appropriate disclosures could be nudged into considering other service providers who are prepared. “Savvy advisers will use this transition period to gain some market share by saying that there is a fiduciary responsibility to fire those who aren't in compliance,” Ms. Wagner said.

Even among early-bird advisers and broker-dealers who were able to get their documents together in time, there were some difficulties in gathering the necessary information for plan sponsors.

“The hardest part was waiting for providers to prepare their documents so that you can articulate that information to your clients and use it in conjunction with our administration or broker-dealer data,” said Firsttrust Financial Resources' Mr. McIlhenny.

Indeed, some providers had waited until last week to turn in their fee disclosure information, which slowed up the process of talking plan sponsor clients through the fees and services. This week, Mr. McIlhenny expects to talk with his employer clients and ensure they understand the fee breakdowns.

“There seems to be some confusion at the plan sponsor level as to what they're supposed to do with the information and what's reasonable for fees,” he added.



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