

Key Revisions to the Defined Contribution Plan Fee Transparency Act of 2009 Relative to the Defined Contribution Plan Fee Transparency Act of 2007

By Rep. Richard Neal

Disclosures to Retirement Plan Participants

- The enrollment notice given to employees in advance of plan participation will contain several new pieces of information:
 - any restrictions on transferring money in or out of plan investment alternatives,
 - an explanation of the difference between passive investment management and active investment management,
 - the returns on plan investment alternatives over the preceding 1, 5 and 10-year periods in comparison to a benchmark, and
 - where participants can find further information about the plan's investment alternatives and investing generally.
- This notice will also be provided annually.
- The notice to participants about their accounts and the fees assessed against them will be provided on a quarterly rather than annual basis (except in the case of plans of fewer than 100 participants).
- Fees that are charged and disclosed on a percentage of assets basis must be accompanied by an example that translates the asset charge into an illustrative dollar amount.
- In providing required disclosures to plan participants, plan administrators may reasonably rely on information provided by service providers.
- The bill promotes electronic delivery of all retirement plan notices required under the Internal Revenue Code, not simply the new notices instituted under the bill.

Disclosures by Retirement Plan Service Providers to Plan Administrators

- Service providers will have to disclose whether they may benefit from the offering of their own proprietary investment products or those of third parties.
- Service providers will have to disclose whether any investment products offered to the plan may be available at different price levels.
- Service providers will have to disclose to plan administrators a schedule of any transaction charges that participants may face.
- A clarification that the requirement for bundled service providers to provide certain unbundled service pricing information does not mean they must provide these unbundled services.
- In providing required disclosures, service providers may reasonably rely on information provided by third-parties.
- Service contracts for *de minimis* amounts would be exempt from the bill's specific disclosure requirements.

Penalties for failure to Comply

- The cap on employer penalties for failure to provide the required participant notices is revised to be the lesser of \$500,000 or 10% of plan assets so as not to be unduly punitive for small plan sponsors.
- The cap on service provider penalties for failure to provide the required notices to plan administrators is revised to be the lesser of \$1,000,000 or 10% of plan assets so as not to be unduly punitive for service providers to small plans.