

FEE DISCLOSURES: ACTION NEEDED

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July 1st was the deadline for plan service providers to provide their 408(b)(2) fee disclosures to plan sponsors. Did you receive one? Does it contain all the DOL-required elements?

You must take action if the service provider is covered by the rule and did not provide the 408(b)(2) disclosure or the disclosure did not comply with the requirements of ERISA Section 408(b)(2). You must give service providers 90 days to conform with 408(b)(2). If not corrected within 90 days, ERISA Section 408(b)(2) requires you to fire the service provider or risk your compliance and become subject to DOL penalties and IRS tax assessments.

If your service provider refuses to furnish requested information, you must notify the DOL within 30 days. If your service provider is unresponsive, you must notify the DOL within 90 days. If the requested information concerns future services to be performed after the 90-day period ends, you must end the service arrangement as soon as feasible. The DOL has provided a model fee disclosure failure notice on its website.

Meanwhile, plan sponsors have an upcoming deadline for sending notices to participants of the plan's fees. These notices are to be prepared using the 408(b)(2) notices provided by the plan's service providers and must be sent to participants by August 30, 2012.

For more information contact any attorney in our Employee Benefits Practice Group.