

UNDERSTAND ERISA AND GROW YOUR PRACTICE

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DISCLOSURE

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UNDERSTAND ERISA AND GROW YOUR PRACTICE

- Increase your revenue.
- Build your credibility.
- Provide solutions that your clients seek.
- Recognize opportunities.
- Improve your prospecting.

SPONSORS CARE ABOUT ERISA COMPLIANCE

- DOL is being tougher than ever on investment professionals and plan sponsors with regard to retirement plans.
- Increasingly litigious environment for employers and investment professionals alike.
- Investment professionals often poorly understand ERISA which means that improvement here can differentiate you.

OVERVIEW

- Disclosures to Plan Sponsor required under ERISA 408(b)(2)
- Disclosures to Plan Participant Required Under ERISA 404(a)(5)
- IRS Employee Plans Compliance Resolution Systems EPCRS
- Qualified Default Investment Arrangement – QDIA
- Eligible Automatic Contribution Arrangement – EACA
- Qualified Automatic Contribution Arrangement – QACA
- Shield Sponsor from Losses Due to Participant Choices ERISA 404(c)

ERISA 408(b)(2)

ERISA 408(b)(2)

What is it?

Who does it cover?

What does it require?

Why does it matter?

How can it help you?

ERISA 408(b)(2)

What is ERISA 408(b)(2)?

Legislation requiring extensive disclosures to Responsible Plan Fiduciaries about fees paid to Covered Service Providers from Covered Plans. Only applies if Covered Plan pays the fees!

ERISA 408(b)(2)

What is a Covered Plan?

- Any Title I Pension Plan
- Not a SEP, SIMPLE, IRA or non-ERISA 403(b)

Who is a Covered Service Provider?

- RIAs or Brokers/Dealers
- TPAs, record keepers
- Anyone providing services for indirect compensation

ERISA 408(b)(2)

408(b)(2) Failure = PT

- Generally any transaction between the plan and the service provider is a Prohibited Transaction (PT).
- Exception exists for a 'reasonable' transaction.
- Transaction must comply with 408(b)(2) to be 'reasonable'.

Consequences of Failure to Comply

- CSP who engages in a PT must correct the PT (return the compensation); and
- Pay a 15% excise tax on that compensation

ERISA 408(b)(2)

How can it help you?

- Discuss merits of paying fees from company.
- Check client's other service agreements for compliance.
- Ask prospects if their service agreements comply.

ERISA 404(a)(5)

ERISA 404(a)(5)

- What is it?
- How can it help you?

ERISA 404(a)(5)

What is it?

- Only applies if the plan is participant directed.
- Requires extensive participant disclosures.

ERISA 404(a)(5)

How can it help you?

- Gives you a chance to discuss:
 - Fees
 - Investment Options
 - Plan Participation and Auto-Enrollment Arrangements
 - 404(c) compliance

EPCRS

EPCRS

- What is it?
- How can it help you?

What is it?

- An Inexpensive Way to Correct Plan Failures

What Kinds of Failures?

- Top-Heavy Contribution
- Restatement or Amendment Adoption
- Required Minimum Distribution (RMD) Processing
- Allocation or Testing

How can it help you?

- The failure is probably be outside the scope of services you provide.
- Uncovering failures in the plans of your prospects and knowing how to resolve them differentiates you and builds credibility.

DIA OR QDIA?

DIA OR QDIA?

- What are they?
- How can they help you?

What are they?

- Default Investment Alternatives (DIAs) are investments selected for participants who make no investment elections.
- Typically target-date or balanced funds rather than money market or stable value funds.
- Qualified Default Investment Alternatives (QDIAs) protect the fiduciary.

DIA OR QDIA?

How can they help you?

- Client may not have considered the issue or may default participants to money market.
- Allow you to discuss auto-enrollment.

AUTO-ENROLLMENT ARRANGEMENTS

AUTO-ENROLLMENT ARRANGEMENTS

- What are they?
- How can they help you?

What are they?

- General Description
 - Recently allowable thanks to legislative changes
 - Participant who does nothing is defaulted into the plan rather than defaulted out.

AUTO-ENROLLMENT ARRANGEMENTS

- Eligible Automatic Contribution Arrangement (EACA)
 - Does not require automatic deferral increases or employer contributions.
 - Does not bypass discrimination testing.

AUTO-ENROLLMENT ARRANGEMENTS

- Qualified Automatic Contribution Arrangement (QACA)
 - Require automatic deferral increases and employer contributions.
 - Bypasses discrimination testing.
 - It may be cheaper than safe-harbor 401(k) Plan and get the same result (i.e., deemed passage of ADP and top-heavy discrimination tests)

How can they help you?

- Auto-enrollment Programs Generally Enhance Plan Design
 - Increases Participation
 - Improves Testing Matrices
 - Improves Pricing Thanks to Increased Assets

ERISA 404(C)

ERISA 404(C)

- What is it?
- How can it help you?

ERISA 404(c)

What is it?

- Intends to shield the employer from liability related to participant investment choices.
- Previously, the primary difficulty was complying with the myriad of disclosures.
 - Those are now required under ERISA 404(a)(5)

ERISA 404(c)

How can it help you?

- Clients may not be aware that they can get the protection more easily.
- Presently, the primary requirement is the notice to participants of intent to comply.

SUMMARY

- ERISA 408(b)(2) – Plan Sponsor Disclosures
- ERISA 404(a)(5) – Participant Disclosures
- EPCRS - Corrects plan failures.
- DIA – For participants who make no election
- ACA – Automatic Contribution Arrangements are your friends.
- ERISA 404(c) – Shield sponsor from investment losses

SUMMARY

- This information can help you:
 - Differentiate yourself,
 - Build credibility, and
 - Create opportunity

Questions?