

Effective Date Deferred until 2012 for New ERISA Regulations on Fee Disclosure

The Department of Labor announced on February 11 that new rules regarding fee disclosure by providers of services to ERISA plans will not take effect until January 1, 2012. As we informed you in a prior [Alert](#), new rules released on July 16, 2010 as interim final regulations had been scheduled to go into effect on July 16, 2011.

As outlined in our prior Alert, the Department's interim final regulations under Section 408(b)(2) of ERISA would require detailed disclosure of direct and indirect fees paid for services provided to ERISA plans, including the estimated cost of recordkeeping services for which no explicit compensation is paid. A contract for services to an ERISA plan that does not satisfy the new rules would not be exempt from the prohibited transaction rules as a "reasonable" arrangement for services, exposing plan fiduciaries to liability for violating ERISA and service providers to excise taxes and potential disgorgement of fees. The Department said that the delayed effective date will provide it with time to review and incorporate comments received on the new rules.

For additional information, please feel free to contact any member of Ropes & Gray's [Benefits Practice Group](#).