

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

RIN 1210-AB54

**Amendment Relating to Reasonable Contract or Arrangement Under Section 408(b)(2) –
Fee Disclosure/Web Page**

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule is a companion to the Department of Labor (Department) Employee Benefits Security Administration’s direct final rule (published today in the “Rules and Regulations” section of the **Federal Register**) amending the Department’s fiduciary-level fee disclosure regulation under section 408(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA) to revise the mailing address and enhance the web-based submission procedure for notices filed under the regulation’s fiduciary class exemption provision.

The Department is publishing this amendment as a direct final rule without prior proposal because the Department views this as highly technical and anticipates no significant adverse comment. The Department has explained its reasons in the preamble to the direct final rule. If the Department receives no significant adverse comment during the comment period, no further action on this proposed rule will be taken. If, however, the Department receives significant adverse comment, the Department will withdraw the direct final rule and it will not take effect. In that case, the Department will address all public comments in a subsequent final rule based on this proposed rule. The Department will not institute a second comment period on this rule. Any parties interested in commenting must do so during this comment period.

DATES: Comments must be received on or before [INSERT DATE THAT IS 30 DAYS AFTER PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: Written comments may be submitted to the addresses specified below. All comments will be made available to the public. *Warning:* Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. Comments may be submitted anonymously.

Comments, identified by RIN 1210–AB54, may be submitted by one of the following methods:

- *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email*: e-ORI@dol.gov
- *Mail or Hand Delivery*: Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N-5655, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, *Attention*: RIN 1210-AB54; Class Exemption Notice - Web Submission.

Comments received by the Department of Labor may be posted without change to <http://www.regulations.gov> and <http://www.dol.gov/ebsa>, and will be made available for public inspection at the Public Disclosure Room, N-1513, Employee Benefits Security Administration, 200 Constitution Avenue NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Allison Wielobob, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693-8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: As noted above, in the “Rules and Regulations” section of today’s **Federal Register**, the direct final rule being published makes technical changes to the Department’s existing fiduciary-level fee disclosure regulation under ERISA section 408(b)(2) (the “408(b)(2) regulation”). The 408(b)(2) regulation includes a class exemption provision (in paragraph (c)(1)(ix)) pursuant to which “innocent” responsible plan fiduciaries may obtain relief when they unknowingly receive incomplete or incorrect disclosures

from a covered service provider. In certain circumstances, the responsible plan fiduciary, in order to obtain relief, must file a notice with the Department of Labor concerning the covered service provider's failure (paragraph (c)(1)(ix)(C)). The final rule provides that notices may be sent to a Departmental mailing address or submitted electronically to a specified email address (paragraph (c)(1)(ix)(F)). The direct final rule amends this paragraph of the 408(b)(2) regulation to provide that notices may be sent to a revised Departmental mailing address or, in lieu of the previously furnished email address, pursuant to separate instructions provided by the Department. Such instructions will enable submission through a dedicated link on the Department's Web site, at www.dol.gov/ebsa/regs/feedisclosurefailurenotice.html. The amendment proposed by this notice is the same as the amendment contained in the direct final rule. Please refer to the preamble and regulatory text of the direct final rule for further information and the actual text of the amendment. Additionally, all information regarding Statutory and Executive Orders for this proposed rule can be found in the Supplementary Information section of the direct final rule.

Signed at Washington, D.C., this 2nd day of July, 2012.

Phyllis C. Borzi

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

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