

## **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.