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SUBMITTED ELECTRONICALLY

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210
ATTN: Fee Disclosure Applicability

Re: Notice of Proposed Extension of Applicability-Comments

Ladies and Gentlemen:

This comment letter responds to the notice of proposed extension of the applicability date of the U.S. Department of Labor (the "Department") interim final rule concerning fiduciary-level fee disclosure and the final rule concerning participant-level fee disclosure published in the Federal Register on June 1, 2011 (the "Notice"). These comments are submitted on behalf of the group of financial service companies for which FMR LLC is the parent corporation (collectively, "Fidelity"). Fidelity companies provide investment management, recordkeeping, benefit disbursement, communications and directed trustee and custodial services to more than 20,000 employer sponsored retirement plans covering millions of participants.

Fidelity appreciates the Department's consideration and proposed extension of the effective date of the interim final regulation under the Employee Retirement Income Security Act of 1974 ("ERISA") section 408(b)(2) requiring certain service providers to provide disclosures to plan fiduciaries related to compensation and services (the "408(b)(2) regulation") until January 1, 2012 as well as the proposed amendment to the transition rule included in the participant disclosure regulation set forth in 2550.404a-5 (the "participant disclosure regulation"). However, Fidelity urges the Department to consider providing additional time to allow service providers and plan fiduciaries to comply with the respective regulations for the reasons set forth below.

408(b)(2) Regulation

At a minimum, the proposed extension from the current effective date should be finalized as additional time is needed for service providers to prepare for the interim final regulation.

The Department has indicated that the final regulation will contain changes and possibly additional requirements related to a summary disclosure statement. Without knowing what these changes and additional requirements are, it is impossible to know how they will affect the systems, processes and documents that we have created and are continuing to create to comply with the interim regulation. However, we can state that there is an extremely high likelihood that any such changes and additional requirements could not reasonably be implemented by January 1, 2012. It is critical that the effective date of any new requirements have an effective date beyond January 1, 2012.

To the extent that any new changes and/or additional requirements affect the existing provisions of the interim regulation (as opposed to simply adding new, independent requirements), it is critical that the effective date of the entire final regulation be similarly extended beyond January 1, 2012. Again, without knowing what the changes and additional requirements are, we cannot provide a firm estimate of the additional time that would be needed. Given our experience in preparing for the interim regulation, however, we think that an extension of at least 12 months from interim regulation's extended effective date (i.e. January 1, 2013) would be appropriate. Otherwise, service providers would effectively have to implement the regulation twice; once for the interim and then again for the final. This is critical as additional programming and data gathering will likely be required. Depending on the extent of the changes, the costs and resources to implement this regulation twice will be enormous, and we urge the Department to take the necessary steps to avoid this.

Participant Disclosure Regulation

While the proposed change in the transition rule of the participant disclosure regulations effectively provides, subject to the technical clarifications below, an additional 60 days to provide initial disclosures to participants and beneficiaries, it simply is not enough time to allow plan administrators and their service providers to adequately prepare to distribute such disclosures. As the Department anticipated, while compliance with the participant disclosure regulation falls on the plan administrator, most plan sponsors will be looking for their service providers to take on a substantial role in assisting them with the requirements. Given that most plan service providers are subject to the 408(b)(2) regulation, they are utilizing considerable development and programming resources to prepare for those requirements. These are many of the same resources that are needed to prepare for the participant disclosure regulation.

As you are aware, many questions and uncertainties have been identified with respect to the regulation. We understand that the Department has been working on guidance to assist plan fiduciaries in understanding their responsibilities under the rules which will be very helpful. Extending the effective date beyond the 60 days contemplated would allow the Department time to issue guidance and plan fiduciaries and their service providers to incorporate this guidance into their notices and procedures resulting in better, more helpful disclosure to participants and beneficiaries.

The Department acknowledges in the Notice that there should be staged alignment of the two regulations to allow plan fiduciaries the opportunity to receive and incorporate if necessary, the information required under the 408(b)(2) regulation into participant-level disclosures. The proposed amendment of the transition rule provides calendar year plans 120 days to distribute initial notices to participants and beneficiaries. This is not sufficient time for plan fiduciaries to review the 408(b)(2) disclosures received, request and receive additional information if necessary and then incorporate such information into the initial participant disclosure notices. Indeed, fiduciaries whose plan year begins in November or December will not even get the benefit of a full 120 days. At a minimum, the transition rule should be extended from 120 to 180 days to allow for all plan fiduciaries to review the 408(b)(2) disclosures received from service providers and incorporate relevant information into participant disclosures.

Moreover, as the 408(b)(2) final regulation should be extended in whole or in part for the reasons explained above, it is essential that this extension begin on the latest effective date of any portion of the 408(b)(2) regulation. That is, if the Department extends the effective date of all or a portion of the 408(b)(2) regulation to enable service providers to implement changes or additions to the interim regulation, the Department should similarly extend the effective date of the participant disclosure regulation to 180 days following such extended effective date of the 408(b)(2) regulation.

Technical Clarifications

The participant disclosure regulation included modifications to the disclosure requirements in the Department's regulation under ERISA section 404(c) (the "404(c) regulation") to integrate the new requirements. The application of the new 404(c) regulation disclosure provision presumably was intended to coincide with the initial disclosures required under the participant disclosure regulation. However, footnote #1 in the Notice indicates that the proposed extension does not change the applicability date of the coordinating amendments to the 404(c) regulation. If the 404(c) regulation changes are not similarly delayed it could lead to an inconsistent result during the transition period where the new disclosures would be required under the 404(c) regulation before they are required under the participant disclosure regulation. It would be helpful if the Department would confirm that plan fiduciaries are not required to provide the 404a-5 disclosures referenced in section 2550.404c-1(b)(2)(i)(B)(2) of the amended 404(c) regulation until required to do so under the participant disclosure regulation. Otherwise, the stated intent (i.e. a limited extension) would not be achieved.

In addition to the extension to 120 days, the modified transition rule would also apply to newly eligible participants whereas the original would have only applied to those participants who had the right to direct investments at the time of applicability. The inclusion of newly eligible participants in the proposed transition rule is a helpful change. However, the wording of the rule now provides that all initial notices must be provided no later than 120 days from the applicability date, which could be read to include even those for whom an initial notice would otherwise be provided in subsequent years (e.g. newly hired employees in 2013). Presumably,

this was not the Department's intention and it would be helpful if the final rule was restated as follows:

Notwithstanding paragraphs (b), (c) and (d) of this section, for plans in existence on November 1, 2011 or plans that have their initial plan year begin on or before November 1, 2012, in the first plan year beginning on or after the applicability date, any initial disclosures required on or before the date on which a participant or beneficiary can direct his or her investments that would otherwise be required to be furnished prior to 180 days after such applicability date, must be furnished no later than 180 days after such applicability date.

Electronic Disclosure

In response to the Department's request for information ("RFI") related to the use of electronic media to furnish information to participants and beneficiaries covered by employee benefit plans subject to ERISA, we have already submitted a comment letter (dated May 13, 2011) that focuses on a serious timing problem for the implementation of the new participant disclosure regulation under section 404(a)(1) of ERISA. In order to meet the extraordinary initial disclosure obligation without needlessly expending extensive resources, plan administrators and their service providers need immediate confirmation that the participant disclosures may be provided in accordance with Field Assistance Bulletin No. 2006-03 ("FAB 2006-03"). This would allow an approach consistent with participant statements at least on a transitional basis, pending the development of permanent guidance under the RFI.

Target Date Disclosures

The Department issued a proposed amendment to the participant disclosure regulation on November 30, 2010 that would require additional disclosures related to target date funds to be included in certain notices required under the regulation. A final rule is forthcoming. Revising participant disclosure notices to meet these requirements will necessitate development and programming as well as creation of additional content. In order to provide plan fiduciaries and their service providers with sufficient time to do so, the effective date of such changes should be the latter of six (6) months after the compliance date for the participant disclosure regulation or six (6) months after publication of the final target date fund regulations.

We appreciate the opportunity to submit these comments for your consideration. Fidelity would be please to provide additional information or respond to any questions the Department may have.

Sincerely,



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