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June 10, 2014

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-AB08; 408(b)(2) Guide

To The Department of Labor/Employee Benefits Security Administration:

Transamerica Retirement Solutions (“Transamerica”) appreciates the opportunity to comment on the proposed amendment to the Information Collection Request (“ICR”) included within the Department of Labor’s (“DOL”) March 12, 2014 notice of proposed rulemaking, *Amendment relating to Reasonable Contact or Arrangement Under Section 408(b)(2)-Fee Disclosure*¹ (“Proposed Rule”), released on April 10, 2014. The proposed rule would amend the final 408(b)(2) service provider fee disclosure regulation (Fee Disclosure Regulation”) under the Employer Retirement Income Security Act of 1974 (“ERISA”) to require that covered service providers furnish a guide to assist plan fiduciaries in reviewing the fee disclosure documents provided in accordance with the 408(b)(2) fee disclosure regulations, unless the covered service provider’s fee disclosure document is a single summary document that does not exceed a certain number of pages, of which the number is still to be determined.²

“Transamerica is a leading provider of retirement plan services for small to large organizations, serving over 23,000 plans³ nationally. Given Transamerica’s significant presence in the retirement market, we understand the need for, and strongly support, effective disclosure of revenue and fees (and the services provided in return, to plan fiduciaries to assist them in the fulfillment of their ERISA due diligence responsibilities. Consequently, we also bear the responsibility of furnishing the 408(b)(2) fee disclosure, as well as the guide contemplated in the Proposed Rule, to a significant number of responsible plan fiduciaries.

Transamerica has been able to review both the ICR and the Proposed Rule, as well as the response letter, dated April 11, 2014, submitted to you by the American Bankers Association, American Council

¹ 79 Fed. Reg 13949 (March 12, 2014)

² 77 Fed. Reg. 5632 (Feb. 3, 2012)

³ Plans under management as of December 31, 2013

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To: The Department of Labor/Employee Benefits Security Administration
From: Transamerica Retirement Solutions

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of Life Insurers, et. al. (“ACLI letter”) At this juncture, we agree with and support the position taken in the ACLI letter that the ICR and the Proposed Rule are premature, given that the DOL has not presented evidence in the form of research or survey results that supports the proposition that such a “guide” is necessary. The ICR indicates the intention of the DOL to conduct focus groups consisting of small employers to determine the possible usefulness of the “guide”. We support the concept of these focus groups, however they should have been held prior to publishing the proposal. Without the insights gained from a statistically meaningful number of focus groups, we are concerned that the DOL is moving toward an outcome, the proposed guide, the need for which may not exist. Focus groups and other objective information gathering mechanisms could determine whether such a need does in fact exist.

The lack of concrete, statistically valid support for changes to the current 408(b)(2) disclosure requirements is especially concerning because the costs associated with the development, implementation and dissemination of a 408(b)(2) summary document, will be very costly. In order for service providers to retain a viable business mode, these costs will have to be absorbed in the pricing charged to plans. If our experience is any indicator, and we believe that it is, the plan fiduciary will pass these costs on to plan participants. Unless the need for changes is clearly substantiated and cannot be viably addressed through alternative solutions, we believe that it would be unconscionable to require costly changes that would result in increased fees that would be paid by plan participants.

Transamerica also questions whether the Proposed Rule is the only, or even the best, alternative if it is determined that the current disclosure regulations are insufficient in some manner. In the Proposed Rule, the DOL requested for alternate suggestions to the proposed “guide”. One alternative to the Proposed Rule could be the possibility of a modification of the Form 5500. The Form 5500 must be reviewed and signed by the covered Plan Administrator, or responsible plan fiduciary, before it can be filed. On the other hand, there is no guarantee that the Disclosure will be reviewed by anyone regardless of the presence of a “guide” or not. The Form 5500 could be a very effective alternative if, in addition to the standard penalty of perjury statement for the Plan Administrator to swear to at the bottom of the Form 5500, a statement were to be added stating something to the effect of “I have reviewed my 408(b)(2) disclosure(s) and determined that fees being paid to covered service providers are reasonable”. The covered Plan Administrator or responsible plan fiduciary can then be required to electronically initial this statement before filing the Form. We believe that this approach would draw much more attention to the fiduciary requirements rather than by adding a ‘guide’ to the current disclosure which many fiduciaries are, presumably, not reviewing.

As stated at the outset of this letter, Transamerica understands the need for, and strongly supports, effective disclosure of revenue and fees, and the services provided in return, to plan fiduciaries to assist them in the fulfillment of their ERISA due diligence responsibilities. However, until additional research is performed that would conclusively establish that disclosures provided under the existing regulations are insufficient, we believe that the current ICR and Proposed Rule are premature. It is our position that,

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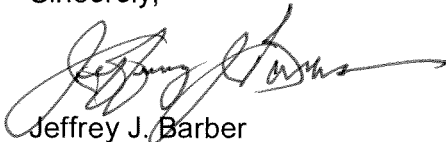
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rather than adding complexity and cost by amending the current regulations to include a 'guide' requirement, there should first be more action taken by the DOL and industry service providers to educate and assist plan fiduciaries in understanding the importance of reviewing disclosures provided under the existing regulations. If plan fiduciaries fully understand their fiduciary due diligence responsibilities, and the role that the current regulations play in helping them exercise that responsibility, we believe that the existing requirement for the responsible plan fiduciary to both report and terminate services with the violating service provider adequately ensures that bad players will be identified and forced to self-correct their disclosures. Absent any actual data to the contrary, it appears that the Proposed Regulation is attempting to respond to a need that may not exist and certainly should not be implemented based on anecdotal observations.

Transamerica appreciates the opportunity to comment on the ICR and the Proposed Rule, and we thank you for your time and the consideration that you have given to our letter.

Sincerely,



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