

111TH CONGRESS  
1ST SESSION

# S. 401

To amend the Employee Retirement Income Security Act of 1974 to provide special reporting and disclosure rules for individual account plans, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2009

Mr. HARKIN (for himself and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Employee Retirement Income Security Act of 1974 to provide special reporting and disclosure rules for individual account plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Defined Contribution  
5 Fee Disclosure Act of 2009”.

1 **SEC. 2. SPECIAL REPORTING AND DISCLOSURE RULES FOR**  
2 **INDIVIDUAL ACCOUNT PLANS.**

3 (a) IN GENERAL.—Part 1 of subtitle B of title I of  
4 the Employee Retirement Income Security Act of 1974 is  
5 amended—

6 (1) by redesignating section 111 (29 U.S.C.  
7 1031) as section 113; and

8 (2) by inserting after section 110 (29 U.S.C.  
9 1030) the following new sections:

10 “DISCLOSURE TO EMPLOYERS SPONSORING DEFINED  
11 CONTRIBUTION PLANS

12 “SEC. 111. (a) SERVICE DISCLOSURE STATE-  
13 MENT.—The plan administrator of an individual account  
14 plan which includes a qualified cash or deferred arrange-  
15 ment (or any other plan official with contracting authority  
16 under the terms of the plan) may not enter into any con-  
17 tract with any person for services to the plan unless such  
18 plan administrator or other official has received, reason-  
19 ably in advance of entering into the contract, a written  
20 statement from such person which—

21 “(1) describes the services for the plan that will  
22 be provided under the contract and identifies any  
23 other entity that will be performing such services  
24 under the contract (including any other affiliated or  
25 third party service providers) pursuant to a direct  
26 contract with the plan administrator (or any other

1 plan official with contracting authority under the  
2 plan), and

3 “(2) provides the expected total annual charges  
4 for the services for the plan that will be provided  
5 under the contract including a reasonable allocation  
6 of such total annual charges among all relevant com-  
7 ponent charges.

8 For purposes of paragraph (2), the expected total annual  
9 charges and each component charge may be provided in  
10 the form of a dollar amount or in the form of a formula,  
11 such as a percent of assets or a dollar charge. The form  
12 of the such charges shall be consistent throughout the  
13 statement.

14 “(b) MINIMUM ALLOCATION REQUIREMENTS.—

15 “(1) IN GENERAL.—The allocation required  
16 under subsection (a)(2) shall, pursuant to rules pre-  
17 scribed by the Secretary, provide the following com-  
18 ponent charges (to the extent such services for the  
19 plan are provided under the contract):

20 “(A) Charges for investment management.

21 “(B) Charges for recordkeeping and ad-  
22 ministration.

23 “(C) Sales charges, including commissions,  
24 and charges for advisory services.

1           “(D) Any other charges not described in  
2           subparagraphs (A), (B), and (C).

3           “(2) ESTIMATIONS.—To the extent the actual  
4           charges or percentages required to be disclosed  
5           under subsection (a)(2) are not known, the service  
6           provider may provide a reasonable and representa-  
7           tive estimate and shall indicate any such estimate as  
8           being such an estimate. If any estimate of a material  
9           charge provided under such subsection is subse-  
10          quently determined to be materially incorrect, the  
11          service provider shall provide the correct amount in  
12          an amended report as soon as is reasonable after  
13          such correct amount is known. Such amended report  
14          or, in the case of a plan year in which no estimate  
15          of a material charge has been determined to be ma-  
16          terially incorrect, a report setting forth such fact,  
17          shall be provided not less often than annually.

18          “(3) DEFINITIONS.—The Secretary shall pro-  
19          vide by regulation definitions of the terms used in  
20          this subsection.

21          “(c) DISCLOSURE OF FINANCIAL RELATIONSHIPS.—

22                 “(1) IN GENERAL.—The statement required  
23                 under subsection (a) shall include a written disclo-  
24                 sure of—

1           “(A) any payments which the service pro-  
2           vider receives from an unaffiliated person other  
3           than the plan or plan sponsor in connection  
4           with the provision of services to the plan, in-  
5           cluding any payments received for including  
6           certain investment options as part of a menu of  
7           investment options,

8           “(B) any financial or personal relationship  
9           with the plan sponsor, the plan, or another per-  
10          son providing services to the plan, if such rela-  
11          tionship results in the service provider deriving  
12          any material benefit in addition to those al-  
13          ready identified in the contract in connection  
14          with its services to the plan, and

15          “(C) such other similar arrangements ben-  
16          efitting the service provider as may be specified  
17          by the Secretary.

18          “(2) INCLUSIONS.—Disclosures described under  
19          paragraph (1)(B) shall include the extent to which  
20          the service provider uses its own proprietary invest-  
21          ment products. Disclosures under this subsection  
22          may include a description of any applicable prohib-  
23          ited transaction exemption under section 408. Noth-  
24          ing in this subsection affects the operation of section  
25          406 or 408.

1 “(d) DISCLOSURE OF IMPACT OF SHARE CLASSES.—

2 The statement required under subsection (a) shall, to the  
3 extent applicable, disclose that the share prices of certain  
4 mutual fund investments may be different from the share  
5 price outside of the plan due to the existence of different  
6 share classes and the basis for these differences.

7 “(e) DISCLOSURE OF CERTAIN ARRANGEMENTS IN  
8 CONNECTION WITH FREE OR DISCOUNTED SERVICES OR  
9 REBATES BY SERVICE PROVIDERS.—

10 “(1) IN GENERAL.—In any case in which serv-  
11 ices are provided to the plan, or to the plan sponsor  
12 in connection with the plan, by any service provider  
13 without charge or for fees set at a discounted rate  
14 or subject to rebate, the statement required under  
15 subsection (a) shall include a description of the ex-  
16 tent to which, and the amount by which, consider-  
17 ation is otherwise obtained by the service provider,  
18 the plan, or the plan sponsor for such services, di-  
19 rectly or indirectly, by means of any charges against  
20 the account of the participant or beneficiary.

21 “(2) EXCEPTION.—The Secretary may provide  
22 an exception to the requirement under paragraph (1)  
23 for small plans, if such requirements are determined  
24 by the Secretary to be overly burdensome on such  
25 plans.

1       “(f) MODEL STATEMENT.—The Secretary shall pre-  
2 scribe a model statement that may be used for purposes  
3 of satisfying the requirements of this section.

4       “(g) FORM AND MANNER.—Any statement required  
5 under this section—

6               “(1) shall be provided in a form and manner  
7 prescribed in regulations of the Secretary,

8               “(2) shall be written in a manner so as to be  
9 understood by the average plan participant, and

10              “(3) may be provided in written, electronic, or  
11 other appropriate form to the extent such form is  
12 reasonably accessible to persons to whom the notice  
13 is required to be provided.

14       “(h) UPDATING.—Each contract with a service pro-  
15 vider entered into as described in subsection (a) shall re-  
16 quire that the service provider provide to the plan adminis-  
17 trator, during the term of the contract, an updated written  
18 statement described in subsection (a)—

19              “(1) at least annually, and

20              “(2) as soon as practicable after any material  
21 change in the information provided in the statement.

22       “(i) AVAILABILITY TO PARTICIPANTS.—The plan  
23 sponsor or plan administrator shall provide to participants  
24 and beneficiaries a copy of any statement received pursu-

1 ant to this section within 30 days after receipt of a written  
2 request for such statement.

3 “(j) LIMITATION.—The requirements of this section  
4 shall apply with respect to any contract for services only  
5 if the total cost for such services under such contract  
6 equals or exceeds the greater of—

7 “(1) \$5,000 per plan year, or

8 “(2) 0.01 percent of the value of plan assets as  
9 of the last day of the preceding plan year.

10 “(k) QUALIFIED CASH OR DEFERRED ARRANGE-  
11 MENT.—For purposes of this section, the term ‘qualified  
12 cash or deferred arrangement’ includes—

13 “(1) an arrangement described in section  
14 401(k)(2) of the Internal Revenue Code of 1986,  
15 and

16 “(2) an annuity contract described in section  
17 403(b) of such Code that is subject to this Act.

18 “(l) REGULATIONS REGARDING CERTAIN PROD-  
19 UCTS.—The Secretary shall prescribe regulations identi-  
20 fying any investment alternatives that may not have spe-  
21 cific fees associated with the investment, including invest-  
22 ment alternatives that provide a guaranteed rate of return.

23 “(m) PLAN ASSETS.—This section shall not apply to  
24 any contract under which payment for services is made  
25 in a manner that does not involve assets of the plan.



1 “INVESTMENT ELECTION INFORMATION

2 “SEC. 112. (a) ADVANCE NOTICE OF AVAILABLE IN-  
3 VESTMENT OPTIONS.—The plan administrator of an indi-  
4 vidual account plan which permits a participant or bene-  
5 ficiary to exercise control over the assets in the account  
6 of the participant or beneficiary shall provide to the partic-  
7 ipant or beneficiary, with respect to each plan year, notice  
8 of the investment options available for election under the  
9 plan at least 15 days prior to—

10 “(1) the participant’s initial investment of any  
11 contribution made on behalf of such participant, and

12 “(2) the effective date of any material change  
13 in investment options.

14 In the case of an automatic contribution arrangement (as  
15 defined in subparagraphs (A) and (B) of section  
16 514(e)(2)), the notice required under paragraph (1) may  
17 be provided within any reasonable period prior to such ini-  
18 tial investment. With respect to the notice required under  
19 paragraph (2), the Secretary shall prescribe regulations  
20 creating exceptions to the 15-day notice requirement in  
21 circumstances similar to those described in section  
22 101(i)(2)(C).

23 “(b) INFORMATION INCLUDED IN NOTICE.—The no-  
24 tice required under subsection (a) shall—

1           “(1) set forth, with respect to each available in-  
2           vestment option—

3                   “(A) the name of the option,

4                   “(B) the investment objectives of the op-  
5           tion,

6                   “(C) the risk level associated with the op-  
7           tion,

8                   “(D) whether the option is a comprehen-  
9           sive investment designed to achieve long-term  
10          retirement security or should be combined with  
11          other options,

12                   “(E) whether the investment option is ac-  
13          tively or passively managed,

14                   “(F) a comparison to a nationally recog-  
15          nized market-based index or other investment  
16          option that is recommended in the retirement  
17          industry as a benchmark investment option, as  
18          identified by the Secretary,

19                   “(G) where, and the manner in which, ad-  
20          ditional plan- and option-specific and generally  
21          available investment information regarding the  
22          option may be obtained,

23                   “(H) the historical return and percentage  
24          fee assessed against amounts invested under the  
25          option, and

1           “(I) include, together with any form nec-  
2           essary for making the election of investment op-  
3           tions, a statement explaining that investment  
4           options should be selected not only on the basis  
5           of the level of fees charged by each option but  
6           also on the basis of careful consideration of  
7           other key factors, including the risk level of the  
8           option and historical returns by the option, and

9           “(2) include an investment comparison chart,  
10          relating to all investment options available under the  
11          plan, as provided in subsection (c).

12          “(c) INVESTMENT COMPARISON CHART.—

13                 “(1) IN GENERAL.—

14                         “(A) CHART REQUIREMENTS.—The notice  
15                         provided under this section shall include an in-  
16                         vestment comparison chart consisting of a com-  
17                         parison chart of the potential service fees that  
18                         could be assessed against the account of the  
19                         participant or beneficiary with respect to the  
20                         plan year. The investment comparison chart  
21                         shall be presented in a manner which is easily  
22                         understood by the average participant and in-  
23                         clude such information as the Secretary deter-  
24                         mines necessary to permit participants and  
25                         beneficiaries to assess the potential services

1 that could be provided in connection with the  
2 investment options and the potential fees that  
3 could be assessed against their accounts for  
4 such services.

5 “(B) FORM.—For purposes of this sub-  
6 section, the potential service fees may be pro-  
7 vided in the form of a dollar amount or in the  
8 form of a formula, such as a percent of assets  
9 or a dollar charge for each instance that a par-  
10 ticipant or beneficiary enters into a specified  
11 transaction. The form of the potential service  
12 fees shall be consistent throughout the notice.

13 “(2) CATEGORIZATION OF FEES.—The invest-  
14 ment comparison chart shall provide information in  
15 relation to 4 categories of fees paid by the partici-  
16 pant or beneficiary, as follows:

17 “(A) Fees that vary depending on the in-  
18 vestment options selected by the participant or  
19 beneficiary, including expense ratios and invest-  
20 ment-specific asset-based fees.

21 “(B) Fees that are assessed as a percent-  
22 age of the total assets in the account of the  
23 participant or beneficiary, regardless of the in-  
24 vestment option selected. Such category shall  
25 include a statement noting fees and expenses of

1           1 or more investment alternatives which pay for  
2           services other than investment management and  
3           a statement explaining that investment options  
4           should be selected not only on the basis of the  
5           level of fees charged by each option but also on  
6           the basis of careful consideration of other key  
7           factors, including the risk level of the option  
8           and historical returns by the option.

9           “(C) Administration and transaction-based  
10          fees, including plan loan origination fees, pos-  
11          sible redemption fees, and possible surrender  
12          charges, that are either automatically deducted  
13          each year or result from certain transactions  
14          engaged in by the participant or beneficiary.

15          “(D) Fees and expenses which may be de-  
16          ducted from participants’ or beneficiaries’ ac-  
17          counts and which are not reflected in subpara-  
18          graphs (A), (B), and (C).

19          “(d) ESTIMATIONS.—To the extent the actual  
20          charges or percentages required to be disclosed under sub-  
21          section (b) or (c) are not known, the plan administrator  
22          may provide a reasonable and representative estimate and  
23          shall indicate any such estimate as being such an estimate.  
24          If any estimate of material information provided under  
25          this subsection is subsequently determined to be materially

1 incorrect, the plan administrator shall provide the correct  
2 amount in an amended report as soon as is reasonable  
3 after such correct amount is known.

4 “(e) MODEL NOTICE.—The Secretary shall prescribe  
5 a model notice that may be used for purposes of satisfying  
6 the requirements of this section, including a model invest-  
7 ment comparison chart.

8 “(f) FORM AND MANNER.—Any notice required  
9 under this section—

10 “(1) shall be provided in a form and manner  
11 prescribed in regulations of the Secretary,

12 “(2) shall be written in a manner so as to be  
13 understood by the average plan participant, and

14 “(3) may be provided in written, electronic, or  
15 other appropriate form to the extent such form is  
16 reasonably accessible to persons to whom the notice  
17 is required to be provided.

18 “(g) REGULATIONS REGARDING CERTAIN PROD-  
19 UCTS.—The Secretary shall prescribe regulations identi-  
20 fying any investment alternatives that may not have spe-  
21 cific fees associated with them, including investment alter-  
22 natives that provide a guaranteed rate of return. In addi-  
23 tion, the Secretary shall prescribe regulations providing  
24 for distinct reporting of investment alternatives that—

1           “(1) are difficult to value with reasonable cer-  
2           tainty on an annual basis, or

3           “(2) do not have generally accepted benchmarks  
4           for comparison purposes.”.

5           (b) QUARTERLY BENEFIT STATEMENTS.—Section  
6 105 of the Employee Retirement Income Security Act of  
7 1974 (29 U.S.C. 1025) is amended—

8           (1) in subsection (a)(2)—

9                   (A) by redesignating subparagraph (C) as  
10                   subparagraph (D); and

11                   (B) in subparagraph (B)(ii)—

12                           (i) in subclause (II), by striking “di-  
13                           versified, and” and inserting “diversified,”;

14                           (ii) in subclause (III), by striking the  
15                           period and inserting “, and”; and

16                           (iii) by adding at the end the fol-  
17                           lowing:

18                                   “(IV) with respect to the portion of a  
19                                   participant’s account for which the partici-  
20                                   pant has the right to direct the investment  
21                                   of assets—

22   “(aa) the starting balance of the  
23   participant’s account,

24   “(bb) the participant’s vesting  
25   status,

1           “(cc) contributions made during  
2           the quarter, itemizing separately to-  
3           tals for employer and totals for em-  
4           ployee contributions,

5           “(dd) interest earnings on the ac-  
6           count balance during the quarter,

7           “(ee) actual or estimated fees as-  
8           sessed from the account during the  
9           quarter, expressed in dollars or as an  
10          expense ratio,

11          “(ff) the ending balance of the  
12          account,

13          “(gg) the participant’s asset allo-  
14          cation, categorized by investment op-  
15          tion, including the current asset value,  
16          the changes in the asset value during  
17          the quarter, and the net return for  
18          the quarter, expressed as an amount  
19          and as a percentage, and

20          “(hh) the performance of the in-  
21          vestment options selected by the par-  
22          ticipant during the quarter as com-  
23          pared to at least 1 nationally recog-  
24          nized market-based index, as identi-  
25          fied by the Secretary.



1           “(C) ADDITIONAL REQUIREMENTS.—With re-  
2           spect to a pension benefit plan described under para-  
3           graph (1)(A)(i), the following shall apply:

4                   “(i) INFORMATION TO BE AVAILABLE UPON  
5                   REQUEST.—At the request of the participant or  
6                   beneficiary, the plan administrator shall, not  
7                   later than 30 days after the receipt of such re-  
8                   quest, provide information on the service fees  
9                   charged against the participant’s account for  
10                  the quarter for each investment option, indi-  
11                  cating separately—

12                   “(I) fees that vary depending on the  
13                   investment options selected by the partici-  
14                   pant or beneficiary, including expense ra-  
15                   tios, investment-specific asset-based fees,  
16                   possible redemption fees, wrap fees, and  
17                   possible surrender charges,

18                   “(II) fees that are assessed as a per-  
19                   centage of the total assets in the account  
20                   of the participant or beneficiary, regardless  
21                   of the investment option selected,

22                   “(III) administration and transaction-  
23                   based fees, including plan loan origination  
24                   fees, that are either automatically deducted  
25                   each year or result from certain trans-

1 actions engaged in by the participant or  
2 beneficiary, and

3 “(IV) fees and expenses that may be  
4 deducted from participants’ or bene-  
5 ficiaries’ accounts that are not reflected in  
6 subclauses (I), (II), and (III).

7 For purposes of this clause, the service fees  
8 may be provided in the form of a dollar amount  
9 or in the form of a formula, such as a percent  
10 of assets or a dollar charge for each instance  
11 that a plan participant or beneficiary enters  
12 into a specified transaction. The form of the  
13 service fees shall be consistent throughout the  
14 statement.

15 “(ii) OTHER INFORMATION.—The plan ad-  
16 ministrator shall include in such quarterly pen-  
17 sion benefit statement information relating to  
18 the historical return and risk of each invest-  
19 ment option and the estimated amount that the  
20 participant needs to save each month to retire  
21 at age 65.

22 “(iii) ESTIMATIONS.—To the extent that  
23 the actual charges or percentages required to be  
24 disclosed under this subparagraph are not  
25 known, the plan administrator may provide a

1 reasonable and representative estimate and  
2 shall indicate any such estimate as being such  
3 an estimate. If any estimate of material infor-  
4 mation provided under this subparagraph is  
5 subsequently determined to be materially incor-  
6 rect, the plan administrator shall provide the  
7 correct amount in an amended statement as  
8 soon as is reasonable after such correct amount  
9 is known.

10 “(iv) MODEL STATEMENT.—The Secretary  
11 shall prescribe a model quarterly pension ben-  
12 efit statement that may be used for purposes of  
13 satisfying the requirements of this subpara-  
14 graph or subparagraph (B)(ii).

15 “(v) EXCEPTION FOR SMALL EMPLOY-  
16 ERS.—Any plan described in paragraph  
17 (1)(A)(i) that has fewer than 100 participants  
18 and beneficiaries may provide the pension ben-  
19 efit statement under such paragraph on an an-  
20 nual rather than a quarterly basis.”; and

21 (2) by adding at the end the following new sub-  
22 sections:

23 “(d) ASSISTANCE TO SMALL EMPLOYERS.—The Sec-  
24 retary shall make available to small employers—

1           “(1) educational and compliance materials de-  
2           signed to assist such employers in selecting and  
3           monitoring service providers for individual account  
4           plans, investment options under such plans, and fees  
5           relating to such options, without any bias as to the  
6           size of the service provider and the way any par-  
7           ticular service provider delivers plan services, and

8           “(2) services designed to assist small employers  
9           in finding and understanding affordable investment  
10          options for such plans.

11          “(e) ASSISTANCE TO PLAN SPONSORS AND PLAN  
12          PARTICIPANTS AND BENEFICIARIES.—The Secretary shall  
13          provide assistance to plan sponsors of individual account  
14          plans and participants and beneficiaries under such plans  
15          with any questions or problems regarding compliance with  
16          the requirements of this section.

17          “(f) FORM AND MANNER.—Any statement required  
18          under this section—

19                 “(1) shall be provided in a form and manner  
20                 prescribed in regulations of the Secretary,

21                 “(2) shall be written in a manner so as to be  
22                 understood by the average plan participant, and

23                 “(3) may be provided in written, electronic, or  
24                 other appropriate form to the extent such form is

1 reasonably accessible to persons to whom the notice  
2 is required to be provided.

3 “(g) REGULATIONS REGARDING CERTAIN PROD-  
4 UCTS.—The Secretary shall prescribe regulations identi-  
5 fying any investment alternatives that may not have fees  
6 associated with them, including investment alternatives  
7 that provide a guaranteed rate of return. In addition, the  
8 Secretary shall prescribe regulations providing for distinct  
9 reporting of investment alternatives that—

10 “(1) are difficult to value with reasonable cer-  
11 tainty on an annual basis, or

12 “(2) do not have generally accepted benchmarks  
13 for comparison purposes.”.

14 (c) ENFORCEMENT.—Section 502(c)(7) of such Act  
15 (29 U.S.C. 1132(c)(7)) is amended by striking “section  
16 101.” and inserting “section 101, or to provide a state-  
17 ment to participants and beneficiaries or to plan adminis-  
18 trators in accordance with section 105(a)(2)(B)(ii), 111,  
19 or 112.”

20 (d) CONFORMING AMENDMENT.—The table of con-  
21 tents in section 1 of such Act, as amended by section 2,  
22 is amended by striking the item relating to section 111  
23 and inserting the following new items:

“Sec. 111. Disclosure to employers sponsoring defined contribution plans.

“Sec. 112. Investment election information.

“Sec. 113. Repeal and effective date.”.

24 (e) EFFECTIVE DATE.—

1           (1) FINAL REGULATIONS.—The Secretary of  
2 Labor shall issue final regulations to carry out the  
3 amendments made by this section not later than De-  
4 cember 31, 2010.

5           (2) APPLICATION OF PROVISIONS.—The amend-  
6 ments made by this section shall apply to plan years  
7 beginning after December 31, 2011.

8 **SEC. 3. ANNUAL PUBLICATION OF SURVEY DATA.**

9           (a) IN GENERAL.—Part 1 of subtitle B of title I of  
10 the Employee Retirement Income Security Act of 1974  
11 (29 U.S.C. 1021 et seq.), as amended by section 2, is  
12 amended—

13           (1) by redesignating section 113 as section 114;  
14 and

15           (2) by inserting after section 112 the following  
16 new section:

17           “ANNUAL PUBLICATION OF SURVEY DATA  
18           “SEC. 113. On an annual basis, the Secretary shall  
19 survey and publish, on the Internet website of the Depart-  
20 ment of Labor, data on plan investment options and me-  
21 dian fee levels of index, lifecycle investment options, bal-  
22 anced investment options, and other investment options as  
23 the Secretary deems relevant.”.

24           (b) CONFORMING AMENDMENT.—The table of con-  
25 tents in section 1 of such Act is amended by striking the

1 item relating to section 113 and inserting the following  
 2 new items:

“Sec. 113. Investment election information.

“Sec. 114. Repeal and effective date.”.

3 **SEC. 4. ENFORCEMENT COORDINATION AND REVIEW BY**  
 4 **THE DEPARTMENT OF LABOR.**

5 (a) IN GENERAL.—Section 502 of the Employee Re-  
 6 tirement Income Security Act of 1974 (29 U.S.C. 1132)  
 7 is amended by adding at the end the following new sub-  
 8 section:

9 “(n) ENFORCEMENT COORDINATION OF CERTAIN  
 10 DISCLOSURE REQUIREMENTS AND REVIEW BY THE DE-  
 11 PARTMENT OF LABOR.—

12 “(1) IN GENERAL.—

13 “(A) NOTIFICATION AND ACTION.—The  
 14 Secretary shall notify the applicable regulatory  
 15 authority (including, as determined appropriate  
 16 by the Secretary, the Securities and Exchange  
 17 Commission or the Comptroller of the Cur-  
 18 rency) in any case in which the Secretary deter-  
 19 mines that a service provider is engaged in a  
 20 pattern or practice that precludes compliance  
 21 by plan administrators with section 111 or 112.  
 22 The Secretary shall, in consultation with the  
 23 applicable authority, take such timely enforce-  
 24 ment action under this title as is necessary to

1           assure that such pattern or practice ceases and  
2           desists and assess any appropriate penalties.

3           “(B) DISSEMINATION.—The Secretary  
4           shall widely disseminate to employee pension  
5           benefit plans covered by this title and their par-  
6           ticipants and beneficiaries the identity of any  
7           service providers with respect to such plans  
8           found to be engaged in any pattern or practice  
9           that precludes compliance by plan administra-  
10          tors with section 111 or 112 and the particulars  
11          of such pattern or practice. Prior to the dis-  
12          semination of the identity of any service pro-  
13          viders identified and determined by the Sec-  
14          retary to be engaged in such a pattern or prac-  
15          tice, such service provider shall receive a notice  
16          of intent to disseminate, an opportunity to re-  
17          quest an administrative hearing, and a timely  
18          appeal to the Secretary.

19          “(C) REGULATIONS.—The Secretary shall  
20          issue regulations for the administration and en-  
21          forcement of this subsection.

22          “(2) ANNUAL AUDIT OF REPRESENTATIVE SAM-  
23          PLING OF INDIVIDUAL ACCOUNT PLANS.—The Sec-  
24          retary shall annually audit a representative sampling  
25          of individual account plans covered by this title to



1 determine compliance with the requirements of sec-  
2 tions 111 and 112. The Secretary shall annually re-  
3 port the results of such audit and any related rec-  
4 ommendations of the Secretary to the Committee on  
5 Education and Labor of the House of Representa-  
6 tives and the Committee on Health, Education,  
7 Labor, and Pensions of the Senate.”.

8 (b) REVIEW AND REPORT TO THE CONGRESS BY THE  
9 SECRETARY OF LABOR RELATING TO REPORTING AND  
10 DISCLOSURE REQUIREMENTS.—

11 (1) STUDY.—As soon as practicable after the  
12 date of the enactment of this Act, the Secretary of  
13 Labor (referred to in this subsection as the “Sec-  
14 retary”) shall review the reporting and disclosure re-  
15 quirements of part 1 of subtitle B of this title and  
16 related provisions of the Pension Protection Act of  
17 2006.

18 (2) REPORT.—Not later than 18 months after  
19 the date of the enactment of this Act, the Secretary  
20 shall make such recommendations as the Secretary  
21 considers appropriate to the appropriate committees  
22 of the Congress to consolidate, simplify, standardize,  
23 and improve the applicable reporting and disclosure  
24 requirements so as to simplify reporting for em-  
25 ployee pension benefit plans and ensure that needed

- 1 understandable information is provided to partici-
- 2 pants and beneficiaries of such plans.

