To require the payment of user fees by qualified professional asset managers seeking an individual exemption from certain requirements.

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 2018

Ms. BALLENG (for herself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require the payment of user fees by qualified professional asset managers seeking an individual exemption from certain requirements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “Pension Stability Act”.

SEC. 2. USER FEES.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor (referred to in this section as the “Secretary”) shall promulgate regulations establishing user fees applicable to large
regulated banks, savings and loan associations, insurance companies, and federally registered investment advisors (referred to in this section as “entities”) that—

(1) meet the definition of a “qualified professional asset manager”, as set forth by the Secretary; and

(2) apply for an individual exemption, pursuant to the Prohibited Transaction Exemption 84–14, from the prohibitions of section 406 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1106) and the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986, despite the inability of such entities to comply with section I(g) of this exemption.

(b) USER FEE AMOUNTS.—

(1) GENERAL FEES.—In establishing user fees under subsection (a), the Secretary shall ensure that such fees—

(A) are not less than $1,000,000 per application for an individual exemption under section I(g) of Prohibited Transaction Exemption 84–14; and

(B) are scaled higher than the base fee established under subparagraph (A), based on the severity of the crime related to such application.
(2) Repeat Offenders.—In the case of an entity that previously filed an application for an individual exemption under section I(g) of the Prohibited Transaction Exemption 84–14 (including a successor company or a company that has subsequently acquired a previous offender), the applicable user fee under paragraph (1) shall be multiplied by the number of such prior applications.

(c) Transfer of Fees Collected.—

(1) In general.—Amounts collected in user fees under this section shall be transferred to the first and the second Pension Benefit Guaranty funds described in section 4005(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305(a)) and shall be allocated—

(A) to the fund used with respect to basic benefits guaranteed under section 4022A of such Act, until such time that the Pension Benefits Guaranty Corporation’s annual projections report indicates that such fund and the fund used with respect to basic benefits guaranteed under section 4022 of such Act have substantially similar future financial conditions and substantially similar risks of insolvency; and
(B) thereafter, to each of the funds described in subparagraph (A) in equal amounts, subject to paragraph (2).

(2) ADJUSTMENTS TO ALLOCATIONS.—If, after amounts collected in user fees under this section have been allocated in accordance with paragraph (1)(B), the Director of the Pension Benefit Guaranty Corporation determines that the future financial conditions or risks of insolvency of the funds used with respect to basic benefits guaranteed under each of sections 4022A and 4022 of the Employee Retirement Income Security Act of 1974 are no longer substantially similar as described in paragraph (1)(A), the Director, in consultation with the board of directors of the Pension Benefit Guaranty Corporation, shall determine an appropriate allocation of such amounts between such funds.