AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1984
OFFERED BY MR. ANDREWS OF NEW JERSEY

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.
This Act may be cited as the “401(k) Fair Disclosure for Retirement Security Act of 2009”.

SEC. 2. SPECIAL REPORTING AND DISCLOSURE RULES FOR INDIVIDUAL ACCOUNT PLANS.
(a) ADDITIONAL REPORTING AND DISCLOSURE RULES.—Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—
(1) by redesignating section 111 (29 U.S.C. 1031) as section 112; and
(2) by inserting after section 110 (29 U.S.C. 1030) the following new section:
“SEC. 111. SPECIAL REPORTING AND DISCLOSURE RULES FOR INDIVIDUAL ACCOUNT PLANS.
“(a) DISCLOSURE TO EMPLOYERS SPONSORING INDIVIDUAL ACCOUNT PLANS REGARDING SERVICES NECESSARY FOR ESTABLISHMENT OR OPERATION OF PLANS.”
“(1) Service disclosure statement.—The plan administrator of an individual account plan (or any other plan official with contracting authority under the terms of the plan) may not enter into a contract or arrangement for services to the plan (including, for purposes of this section, the offering of any investment option to the plan) unless such plan administrator or other official has received, reasonably in advance of entering into the contract or arrangement, a single written statement from the service provider which—

“(A) specifies such services for the plan that will be provided in connection with the contract or arrangement, and

“(B) provides the expected total annual charges for such services for the plan that will be provided in connection with the contract or arrangement, including a reasonable allocation of such total annual charges among all relevant component charges specified in paragraph (2) (regardless of how the charges are actually assessed).

The description of the services and specification of the charges for the services shall be displayed prominently in the written statement and shall be pre-
sented in a format which is understandable to the
typical plan administrator.

“(2) MINIMUM ALLOCATION REQUIREMENTS.—
The allocation required under paragraph (1)(B) in
connection with the services provided under each
contract or arrangement shall specify component
charges (to the extent such services for the plan are
provided under the contract or arrangement) as fol-

“(A) charges for administration and rec-
orderkeeping,

“(B) transaction based charges,

“(C) charges for investment management,

and

“(D) all such charges not described in sub-
paragraph (A), (B), or (C).

The Secretary may by regulation provide for the ap-
propriate allocation of component charges among the
categories of charges provided in subparagraphs (A),
(B), (C), and (D).

“(3) PRESENTATION OF CHARGES.—The total
charges described in paragraph (2)(A) and the total
charges described in paragraph (2)(C) shall each be
presented in the written statement as an aggregate
total dollar amount, and, in addition, each of such
total charges may also be presented as a percentage of assets. The charges described in paragraph (2)(B) shall be itemized separately as dollar amounts or as percentages of the applicable base amounts.

“(4) ESTIMATIONS.—For purposes of providing the statement required under this subsection in connection with any service, the service provider may provide a reasonable and representative estimate of the charges required to be specified under paragraph (1)(B) and shall indicate any such estimate as being such an estimate. Any such estimate shall be based on reasonable assumptions specified in the statement (which shall include the previous year’s experience of the plan or, in the case of a new plan, a reasonable estimate, taking into account the plan’s participants and beneficiaries).

“(5) DISCLOSURE OF FINANCIAL RELATIONSHIPS.—

“(A) IN GENERAL.—The statement required under paragraph (1) shall include a written disclosure of—

“(i) any payment to be provided (or the amount representing the value of any services to be provided) to the service provider (or any affiliate thereof) from any
entity other than the plan or the accounts
of participants or beneficiaries pursuant
to, or in connection with, the contract or
arrangement described in paragraph (1)
and the amount and type of any payment
to be made or credit to be received for
such services (irrespective of whether the
service provider (or affiliate thereof) or
other person providing such services is af-
affiliated or unaffiliated with the plan, the
plan sponsor, the plan administrator, or
any other plan official), and

“(ii) such other similar arrangements
benefitting the service provider (or any af-
filiate thereof) as may be specified by the
Secretary.

In any case in which the contract or arrange-
ment described in paragraph (1) provides for
the payments described in clause (i) in terms of
a formula, the requirements of such clause may
be met by specifying the formula to be used in
connection with such payments and describing
the application of such formula.

“(B) INCLUSIONS.—
“(i) IN GENERAL.—Disclosures described under subparagraph (A)(ii) shall include the extent to which the service provider (or any affiliate thereof) may benefit from the offering of its own proprietary investment products or those of third parties, including (but not limited to) cross-selling of affiliated products or services to the plan sponsor or participants.

“(ii) APPLICABLE PROHIBITED TRANSACTION EXEMPTION.—Disclosures under this paragraph may include a description of any applicable prohibited transaction exemption under section 408 related to the services described in the statement required under paragraph (1).

“(6) DISCLOSURE OF IMPACT OF SHARE CLASSES.—The statement required under paragraph (1) shall, to the extent applicable, disclose that the share prices of certain mutual fund investments that are available to the plan may be different from the share prices outside of the plan due to the existence of different share classes and provide the basis for these differences.
“(7) Disclosure of certain arrangements in connection with free or discounted services or reimbursements by service providers.—In any case in which services are provided to the plan, or to the plan sponsor in connection with the plan, by any service provider without explicit charge or for charges set at a discounted rate or subject to rebate, the statement required under paragraph (1) shall specify the manner in which, the extent to which, and the amount by which consideration is otherwise obtained by the service provider (or any affiliate thereof), the plan, or the plan sponsor for such services, directly or indirectly, by means of any charges against the plan.

“(8) Review by the Secretary.—The Secretary shall, from time to time as determined appropriate by the Secretary, review the accuracy and sufficiency of statements provided pursuant to this subsection.

“(9) Updating.—Each service provider shall provide to the plan administrator an updated written statement described in paragraph (1) describing any material change in the information included in the statement provided pursuant to paragraph (1) as soon as is reasonable after the occurrence of the
change is known. Such an updated written statement, or, in the case of a plan year in which no material change in the information included in the statement provided pursuant to paragraph (1) has occurred, a written statement setting forth such fact, shall be provided by the service provider not less often than annually.

“(10) LIMITATIONS.—

“(A) DOLLAR LIMITATION.—

“(i) IN GENERAL.—The requirements of this subsection shall apply with respect to any contract or arrangement for services provided during any plan year only if the total charged for such services under such contract or arrangement is reasonably expected to equal or exceed $5,000.

“(ii) ADJUSTMENTS BY THE SECRETARY.—The Secretary may be regulation adjust the dollar amount specified in this subparagraph to a lesser amount for small plans and to a greater amount for other plans and provide for appropriate annual adjustments in such adjusted amounts
“(B) **GENERAL APPLICABILITY OF REQUIREMENTS WITH RESPECT TO SERVICES.**—

Nothing in this subsection shall be construed to require any service provider to provide any service with respect to any particular plan sponsor.

“(11) **SATISFACTION OF FIDUCIARY RULES.**—

Nothing in the preceding provisions of this subsection affects the obligations of fiduciaries under part 4 of this subtitle.

“(b) DISCLOSURES TO PARTICIPANTS AND BENEFICIARIES.**—

“(1) **ADVANCE NOTICE OF AVAILABLE INVESTMENT OPTIONS.**—The plan administrator of an individual account plan that permits participants or beneficiaries to direct the investment of assets in their individual accounts shall provide to the participant or beneficiary notice of the investment options available for election under the plan before a reasonable period prior to—

“(A) the earliest date provided for under the plan for the participant’s initial investment of any contribution made on behalf of such participant, and

“(B) the effective date of any material change in investment options.
In the case of a plan that provides for immediate eligibility or that contains an automatic contribution arrangement (as defined in subparagraphs (A) and (B) of section 514(e)(2)), the notice required under subparagraph (A) may be provided within any reasonable period prior to such initial investment. With respect to any notice required under this paragraph, the Secretary shall prescribe regulations creating specific requirements for periods of advance notice to be treated as reasonable under this paragraph (of not less than 10 days) in circumstances similar to those described in section 101(i)(2)(C), and such notice may be combined with any similar notice that may be required under section 404(c)(5) or under this section.

“(2) INFORMATION INCLUDED IN NOTICE.—
The notice required under paragraph (1) shall—

“(A) include a prominent statement, in language presented in a manner which is easily understandable by the typical participant, indicating which components of the charges (both direct and indirect) for each investment option are payable by the participant or beneficiary and how such components are to be paid,
“(B) set forth, with respect to each available investment option—

“(i) the name of the option,

“(ii) information effectively describing the investment objectives of the option (such as a description of a broadly recognized asset class),

“(iii) the risk level associated with the option,

“(iv) whether the option is diversified among various classes of assets so as to minimize the risk of large losses or should be combined with other options so as to obtain such diversification,

“(v) whether the investment option is actively managed or passively managed in relation to an index and the difference between active management and passive management,

“(vi) where, and the manner in which, additional plan-specific, option-specific, and generally available investment information regarding the option may be obtained, and
“(vii) a statement explaining that investment options should not be evaluated solely on the basis of the charges for each option but should also be based on careful consideration of other key factors, including the risk level of the option, the investment objectives of the option, the principal investment strategies of the option, and historical returns of the option, and

“(C) include a plan fee comparison chart, relating to the charges described in paragraph (3) in connection with all investment options available under the plan, as provided in paragraph (3).

“(3) PLAN FEE COMPARISON CHART.—

“(A) IN GENERAL.—

“(i) IN GENERAL.—The notice provided under this subsection shall include a plan fee comparison chart consisting of a comparison of actual service and investment charges (including, for purposes of this clause, charges for the offering of an investment option) that will or could be assessed against the account of the participant or beneficiary with respect to the plan
year. The plan fee comparison chart shall
be presented in a manner which is easily
understood by the typical participant and
include such information as the Secretary
determines necessary to permit partici-
pants and beneficiaries to assess the serv-
ices for which charges will or could be as-
signed against the account.

“(ii) FORM.—For purposes of this
paragraph, the potential service charges
shall be provided in the form of a dollar
amount or as a formula (such as a per-
centage of assets), as appropriate. The
form of the potential service charges shall
be presented in a manner which is easily
understandable by the typical participant,
including examples that demonstrate how
the charges will be assessed against the ac-
count of the participant or beneficiary.

“(B) CATEGORIZATION OF CHARGES.—The
plan fee comparison chart shall provide infor-
mation in relation to the following categories of
charges that will or could be assessed against
the account of the participant or beneficiary:
“(i) Asset-based charges specific to investment.—Charges that vary depending on the investment options selected by the participant or beneficiary, including expense ratios and investment-specific asset-based charges. The information relating to such charges shall include a statement noting any charges for 1 or more investment options which pay for services other than investment management.

“(ii) Asset-based charges not specific to investment.—Charges that are assessed as a percentage of the total assets in the account of the participant or beneficiary, regardless of the investment option selected.

“(iii) Administrative and transaction-based charges.—Administration and transaction-based charges, including fees charged to participants to cover plan administration, compliance, and record-keeping costs, plan loan origination fees, possible redemption fees, and possible surrender charges, that are not assessed as a percentage of the total assets in the ac-
count and are either automatically deducted each year or result from certain transactions engaged in by the participant or beneficiary.

“(iv) Other Charges.—Any other charges which may be deducted from participants’ or beneficiaries’ accounts and which are not described in clauses (i), (ii), and (iii).

“(C) Description of Purpose for Charges.—The notice shall indicate the extent to which each charge is for investment management, transactions, plan administration and recordkeeping, or other identified services.

“(D) Fees and Historical Returns.—In connection with each investment option listed in the plan fee comparison chart, the chart shall specify (as amounts or percentages) the fees assessed in connection with such option and the historical returns, net of fees and expenses, together with language indicating the past performance does not guarantee future results. The historical returns shall be specified for the previous year, 5 years, and 10 years (or for the period since inception, if shorter).
“(4) MODEL NOTICES.—The Secretary shall prescribe one or more model notices that may be used for purposes of satisfying the requirements of this subsection, including model plan fee comparison charts.

“(5) ESTIMATIONS.—For purposes of providing the notice required under this subsection, the plan administrator may provide a reasonable and representative estimate for any charges or percentages disclosed under paragraph (2) or (3) and shall indicate any such estimate as being such an estimate. Any such estimate shall be based on reasonable assumptions stated in the notice (such as the previous year’s experience or, in the case of a new plan, a reasonable estimate, taking into account the plan’s participants and beneficiaries).

“(c) ELECTRONIC MEDIA.—Any disclosure required under this section may be provided through an electronic medium under rules prescribed by the Secretary. Such rules shall be similar to those applicable under the Internal Revenue Code of 1986 with respect to notices to participants in pension plans. The Secretary may modify such rules from time to time as appropriate to take into account new developments, including new forms of electronic media, and to fairly take into consideration the interests
of plan sponsors, service providers, and participants. The rules prescribed by the Secretary pursuant to this subsection shall provide for a method for the typical participant or beneficiary to obtain without undue burden any such disclosure in writing on paper in lieu of receipt through an electronic medium.

“(d) Regulations Regarding Certain Products.—The Secretary may by regulation identify certain types of investment options, such as an option that provides a guaranteed rate of return and that does not identify specific fees, and prescribe alternative disclosures of cost and performance measures that correspond to the particular circumstances of such options.

“(e) Definitions.—For purposes of this section—

“(1) Charge.—The term ‘charge’ means, in connection with any service provided to a plan or any financial product provided to the plan in which plan assets are to be invested, any fee, credit, or other compensation charged or paid for such service or product, including money and any other thing of monetary value to be received by the provider of the service or product, or its affiliate, in connection with the service or product.

“(2) Service.—The term ‘service’ means, in connection with a plan, a service provided directly or
indirectly to, or with respect to, the plan or a service provided directly or indirectly in connection with a financial product in which plan assets are to be invested.

“(3) CONTRACT OR ARRANGEMENT.—The term ‘contract or arrangement’ means, in connection with any 2 or more parties, any contract or arrangement entered into between or among such parties, and any extension or renewal thereof.

“(4) SERVICE PROVIDER.—The terms ‘service provider’ and ‘provider’ mean, in connection with a service, a person directly or indirectly providing such service.

“(5) REGULATIONS.—The Secretary shall provide by regulation such definitions of other terms used in this section as the Secretary determines appropriate.”.

(b) QUARTERLY BENEFIT STATEMENTS.—Section 105 of such Act (29 U.S.C. 1025) is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (H);

(B) in subparagraph (B)(ii)—

(i) in subclause (II), by striking “diversified, and” and inserting “diversified,”;
(ii) in subclause (III), by striking the period and inserting “, and”;

(iii) by adding after subclause (III) the following new subclause:

“(IV) with respect to the portion of a participant’s account for which the participant has the right to direct the investment of assets, the information described in subparagraph (C).”; and

(C) by inserting after subparagraph (B) the following new subparagraphs:

“(C) PERIODIC ACCOUNT INFORMATION FOR PARTICIPANTS AND BENEFICIARIES.—For purposes of subparagraph (B)(ii)(IV), the information described in this subparagraph consists of the following, indicating the portion of each amount described in clauses (i) though (vii) attributable to each investment option elected in connection with the participant’s account:

“(i) the starting balance of the participant’s account,

“(ii) contributions made during the quarter, itemizing separately totals for employer and totals for employee contributions,
“(iii) investment earnings or losses on the account balance during the quarter (if any),

“(iv) actual or estimated charges (within the meaning of section 111(e)(1)) which reduce the account during the quarter, expressed in dollars or, if estimated, such estimated dollar charges as are derived from an expense ratio (which may be expressed as a specific date estimate based on reasonable assumptions stated in the disclosure (such as the previous year’s expense ratio).

“(v) any other direct charges to the participant or beneficiary in connection with the participant’s account,

“(vi) the ending balance of the account,

“(vii) the participant’s asset allocation to each investment option, expressed as an amount and as a percentage, and

“(viii) how to obtain the most recently updated version of the plan fee comparison chart prepared for purposes of section 111(b)(3).
“(D) **OTHER INFORMATION.**—The plan administrator may include in the quarterly pension benefit statement information relating to the historical return and risk of each investment option and the estimated amount that the participant needs to contribute each month or year so as to retire at retirement age (as defined in section 216(l) of the Social Security Act).

“(E) **ESTIMATIONS.**—For purposes of making the disclosure of actual charges or percentages as required under this paragraph, the plan administrator may provide a reasonable and representative estimate of such charges or percentages and shall indicate any such estimate as being such an estimate. Any such estimate shall be based on reasonable assumptions included in the statement (such as the previous year’s experience).

“(F) **MODEL STATEMENTS.**—The Secretary shall prescribe one or more model pension benefit statements that may be used for purposes of satisfying the requirements of subparagraphs (B)(ii) and (C).
“(G) Annual compliance for small plans and with respect to certain information.—In the case of a plan providing for investment as described in paragraph (1)(A)(i)—

“(i) if the plan has 100 or fewer participants and beneficiaries, the plan may provide the pension benefit statement under paragraph (1) on an annual rather than a quarterly basis, and

“(ii) the plan may comply with the requirements of subparagraph (B)(ii)(IV) on an annual rather than a quarterly basis.”;

and

(2) by adding at the end the following new subsections:

“(d) Assistance to small employers.—The Secretary shall make available to employers with 100 or fewer employees—

“(1) educational and compliance materials designed to assist such employers in selecting and monitoring service providers for individual account plans which permit a participant or beneficiary to exercise control over the assets in the account of the participant or beneficiary, investment options under
such plans, and charges relating to such options, and

“(2) services designed to assist such employers in finding and understanding affordable investment options for such plans and in comparing the investment performance of, and charges for, such options on an ongoing basis against appropriate benchmarks or other appropriate measures.

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

“(f) ELECTRONIC MEDIA.—Any disclosure required under this section may be provided through an electronic medium under rules prescribed by the Secretary. Such rules shall be similar to those applicable under the Internal Revenue Code of 1986 with respect to notices to participants in pension plans. The Secretary may modify such rules from time to time as appropriate to take into account new developments, including new forms of electronic media, and to fairly take into consideration the interests of plan sponsors, service providers, and participants. The rules prescribed by the Secretary pursuant to this sub-
section shall provide for a method for the typical participant or beneficiary to obtain without undue burden any such disclosure in writing on paper in lieu of receipt through an electronic medium.

“(g) DEFINITIONS.—For purposes of this section—

“(1) CHARGE.—The term ‘charge’ means, in connection with any service provided to a plan or any financial product provided to the plan in which plan assets are to be invested, any fee, credit, or other compensation charged or paid for such service or product, including money and any other thing of monetary value to be received by the provider of the service or product, or its affiliate, in connection with the service or product.

“(2) SERVICE PROVIDER.—The terms ‘service provider’ and ‘provider’ mean, in connection with a service (as defined in section 111(e)(2)), a person directly or indirectly providing such service.

“(3) REGULATIONS.—The Secretary shall provide by regulation such definitions of other terms used in this section as the Secretary determines appropriate.”.

(e) ENFORCEMENT.—Section 502 of such Act (29 U.S.C. 1132) is amended—
(1) in subsection (a)(6), by striking “under paragraph (2)” and all that follows through “subsection (c)” and inserting “under paragraph (2), (4), (5), (6), (7), (8), (9), (10), or (11) of subsection (e)”; and

(2) in subsection (c), by redesignating the second paragraph (10) as paragraph (12), and by inserting after the first paragraph (10) the following new paragraph:

“(11)(A) In the case of any violation of section 111(a) by a service provider (as defined in section 111(e)(4)), the service provider may be assessed by the Secretary a civil penalty of up to $1,000 a day with respect to each such violation from the date of the initial violation until the date on which such violation is corrected, subject to a total maximum penalty of 10 percent of the amount involved, as determined by the Secretary.

“(B) Any plan administrator with respect to a plan who fails or refuses to provide a statement to participants and beneficiaries in accordance with section 105(a)(2)(B)(ii) or 111(b) may be assessed by the Secretary a civil penalty of up to $100 a day from the date of the failure or refusal to the date on which such statement or notice is so provided.
“(C) For purposes of this paragraph, each violation
with respect to any single participant, beneficiary, or plan
administrator shall be treated as a separate violation.”.

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

“Sec. 111. Special reporting and disclosure rules for individual account plans.
“Sec. 112. Repeal and effective date.”.

(e) EFFECTIVE DATES.—

(1) Section 111(a) of the Employee Retirement
Income Security Act of 1974 (as added by sub-
section (a) of this section) shall apply with respect
to contracts or arrangements for services entered
into after one year after the date of the enactment
of this Act.

(2) Section 111(b) of such Act (as added by
subsection (a) of this section) shall apply with re-
spect to plan years beginning after one year after
the date of the enactment of this Act.

(3) The amendments made by subsection (b) of
this section shall apply with respect to pension ben-
efit statements for calendar quarters beginning after
one year after the date of the enactment of this Act.

(4) The Secretary shall issue final regulations
under the amendments made by this section not
later than 270 days after the date of the enactment of this Act. Any act or practice in advance of the issuance of final regulations under the amendments made by this section which is in good faith compliance with the requirements of such amendments shall be treated as in compliance with any such final regulations.

SEC. 3. MINIMUM INVESTMENT OPTION REQUIREMENT FOR INDIVIDUAL ACCOUNT PLANS.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

“(6) MINIMUM INVESTMENT OPTION REQUIREMENT FOR INDIVIDUAL ACCOUNT PLANS.—Paragraph (1)(A)(ii) shall not apply in connection with any individual account plan which permits a participant or beneficiary to exercise control over the assets in the account of the participant or beneficiary unless the plan includes at least one investment option—

“(A) which is a passively managed investment with a portfolio of securities that is designed to be representative of the United States investable equity market (including representa-
tion of small, mid, and large cap stocks) or the United States investment grade bond market (including Treasury, agency, non-agency, and corporate issues), or a combination thereof, and

“(B) which is described in the terms of the plan as offered without any endorsement of the Government or the plan sponsor.

An investment shall not fail to satisfy the requirements of subparagraph (A) in connection with either market described in subparagraph (A) solely by reason of a failure to invest in all or substantially all equities or bonds (as applicable) in such market, if the methodology used to select the equities or bonds is designed to approximate in a reasonable manner the broad experience of such market.”.

(b) CONFORMING AMENDMENT.—Section 404(c)(1)(A)(ii) of such Act (29 U.S.C. 1104(c)(1)(A)(ii)) is amended by inserting “except as provided in section 404(c)(6) and” after “exercise of control,”.

(c) EFFECTIVE DATES.—

(1) The amendments made by this section shall apply with respect to plan years beginning after one year after the date of the enactment of this Act.

(2) The Secretary shall issue final regulations under the amendments made by this section not
later than 270 days after the date of the enactment of this Act. Any act or practice in advance of the issuance of final regulations under the amendments made by this section which is in good faith compliance with the requirements of such amendments shall be treated as in compliance with any such final regulations.

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

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

“(n) ENFORCEMENT COORDINATION OF CERTAIN DISCLOSURE REQUIREMENTS AND REVIEW BY THE DEPARTMENT OF LABOR.—

“(1) IN GENERAL.—

“(A) NOTIFICATION AND ACTION.—The Secretary shall notify the applicable regulatory authority in any case in which the Secretary determines that a service provider is engaged in a pattern or practice that precludes compliance by plan administrators with section 111. The Secretary shall, in consultation with the applicable authority, take such timely enforcement
action under this title as is necessary to assure
that such pattern or practice ceases and desists
and assess any appropriate penalties.

“(B) DISSEMINATION.—The Secretary
shall widely disseminate to employee pension
benefit plans covered by this title and their par-
ticipants and beneficiaries the identity of any
service providers with respect to such plans
found to be engaged in any pattern or practice
described in subparagraph (A) with the intent
to preclude compliance by plan administrators
with section 111 and the particulars of such
pattern or practice. Prior to the dissemination
of the identity of any service providers identi-
fied and determined by the Secretary to be en-
gaged in such a pattern or practice, such serv-
ice provider shall receive a notice of intent to
disseminate, an opportunity to request an ad-
ministrative hearing, and a timely appeal to the
Secretary.

“(2) ANNUAL AUDIT OF REPRESENTATIVE SAM-
PLING OF INDIVIDUAL ACCOUNT PLANS.—The Sec-
retary shall annually audit a representative sampling
of individual account plans covered by this title to
determine compliance with the requirements of sec-
tion 111. The Secretary shall annually report the results of such audit and any related recommendations of the Secretary to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.”.

(b) Review and Report to the Congress by Secretary of Labor Relating to Reporting and Disclosure Requirements.—

(1) Study.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor shall review the reporting and disclosure requirements of part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and related provisions of the Pension Protection Act of 2006.

(2) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall make such recommendations as the Secretary of Labor considers appropriate to the appropriate committees of the Congress to consolidate, simplify, standardize, and improve the applicable reporting and disclosure requirements so as to simplify reporting for employee pension benefit plans and en-
sure that needed understandable information is provided to participants and beneficiaries of such plans.