AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3185
OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

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 2008”.

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:

“SPECIAL REPORTING AND DISCLOSURE RULES FOR INDIVIDUAL ACCOUNT PLANS

“Sec. 111. (a) Disclosure to Employers Sponsoring Individual Account Plans Regarding Serv-
ICES 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) and any other person may not enter into a contract 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, not less than 10 business days in advance of entering into the contract, a single written statement from such person which—

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

“(B) provides the expected total annual charges for such services for the plan that will be provided in connection with the contract, 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 the charges for the services shall be displayed prominently in the
written statement and shall be presented 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 shall specify component charges (to the extent such services for the plan are provided under the contract) as follows:

“(A) Charges for plan administration and recordkeeping;

“(B) Transaction-based charges;

“(C) Charges for investment management;

and

“(D) All such charges not described in subparagraph (A), (B), or (C) as may be specified by the Secretary.

“(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 disclosed under paragraph (1)(B) and shall indicate any such estimate as being such an estimate. Any such estimate shall be based on the previous year’s experience.

“(5) Reliance.—To the extent any of the information required to be disclosed by a service provider under this subsection is given to the service provider by an unaffiliated person which is regulated by the Federal Government or a State, the service provider may rely on the completeness and accuracy of such information unless the service provider—

“(A) knows that the information is inaccurate or incomplete,

“(B) has reason to know that the information is inaccurate or incomplete, or

“(C) has notice of facts or information that would prompt a reasonable service provider to inquire into the accuracy or completeness of the information.
“(6) Disclosure of financial relationships.—

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

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

“(ii) any personal, business, or financial relationship with the plan sponsor, the plan, or the service provider (or any affiliate thereof) or any totality of such relationships which is material, if such relationship results in the service provider (or
any affiliate thereof) deriving any material
benefit, and

“(iii) such other similar arrangements
benefitting the service provider (or any af-

filiate thereof) as may be specified by the
Secretary.

“(B) INCLUSIONS.—

“(i) IN GENERAL.—Disclosures de-
scribed under subparagraph (A)(ii) shall
include the extent to which the service pro-
vider (or any affiliate thereof) may benefit
from the offering of its own proprietary in-
vestment products or those of third par-
ties.

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

“(7) DISCLOSURE OF IMPACT OF SHARE CLASS-
ES.—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 price outside of the plan due to the existence of different share classes and provide the basis for these differences.

“(8) 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 account of the participant or beneficiary.

“(9) MODEL STATEMENT.—The Secretary shall prescribe a model statement that may be used for purposes of satisfying the requirements of this subsection.

“(10) UPDATING.—Each contract described in paragraph (1) shall require that the service provider
must provide to the plan administrator an updated
written statement described in paragraph (1) de-
scribing the material change as soon as is reasonable
after the occurrence of the change is known. The
contract shall provide that 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, must be provided not less often than annually.

“(11) LIMITATIONS.—

“(A) DOLLAR LIMITATION.—

“(i) IN GENERAL.—The requirements
of this subsection shall apply with respect
to any contract for services provided dur-
ing any plan year only if the total charged
for such services under such contract (re-

regardless of whether, in connection with
such services under such contract, such
charges are received by the service provider
(or any affiliate thereof) directly or are re-
ceived by the service provider (or any affili-
iate thereof) indirectly from other affiliated
or unaffiliated parties) equals or exceeds
$5,000.
“(ii) COST OF LIVING ADJUSTMENT.—

“(I) IN GENERAL.—In the case of any plan year beginning during a calendar year beginning after 2010, the dollar amount in clause (i) shall be increased by an amount equal to such dollar amount, multiplied by the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with September of the preceding calendar year exceeds such average for the 12-month period ending with September 2009.

“(II) ROUNDING.—If any dollar amount after being increased under subclause (I) is not a multiple of $500, such dollar amount shall be rounded to the next lower multiple of $500.

“(iii) ADJUSTMENTS BY THE SECRETARY.—The Secretary may by 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 an-
nual adjustments in such adjusted
amounts at the same rate as would apply
under clause (ii).

“(B) General applicability of re-
quirements with respect to services.—
Nothing in this subsection shall be construed to
require any service provider to provide any serv-
ice with respect to any particular plan sponsor.

“(12) Coordination with fiduciary
rules.—Nothing in this subsection affects the obli-
gations of plan sponsors and fiduciaries under part
4 of this subtitle.

“(b) Investment Election Information.—

“(1) Advance notice of available invest-
ment options.—The plan administrator of an indi-
nual account plan which permits a participant or
beneficiary to exercise control over the assets in the
account of the participant or beneficiary shall pro-
vide to the participant or beneficiary with respect to
each plan year notice of the investment options
available for election under the plan at least 10 busi-
ness days 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 par-
ticipant, and

“(B) the effective date of any material
change in investment options.

In the case of a plan that provides for immediate eli-
gibility or that contains an automatic contribution
arrangement (as defined in paragraphs (A) and (B)
of section 514(e)(2)), the notice required under sub-
paragraph (A) may be provided within any reason-
able period prior to such initial investment. With re-
spect to the notice required under this paragraph,
the Secretary shall prescribe regulations creating ex-
ceptions to the 10-day notice requirement in cir-
cumstances 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 sec-
tion 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 average participant, indi-
cating 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) the investment objectives and
principal investment strategies of the option,
“(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 infor-
mation regarding the option may be ob-
tained, and

“(vii) a statement explaining that in-
vestment 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, includ-
ing the risk level of the option, the invest-
ment objectives of the option, the principal
investment strategies of the option, and
historical returns derived by 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 para-
graph (3).

“(3) PLAN FEE COMPARISON CHART.—

“(A) IN GENERAL.—

“(i) IN GENERAL.—The notice pro-
vided under this subsection shall include a
plan fee comparison chart consisting of a
comparison of actual service and invest-
ment 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 average participant and include such information as the Secretary determines necessary to permit participants and beneficiaries to assess the services for which charges will or could be assessed against the account.

“(ii) FORM.—For purposes of this paragraph, the potential service charges shall be provided in the form of a dollar amount and may also be provided, in addition, as a percentage of assets. The form of the potential service charges shall be presented in a manner which is easily understandable by the average participant, including examples that demonstrate how the charges will be assessed against the account of the participant or beneficiary.

“(B) CATEGORIZATION OF CHARGES.—The plan fee comparison chart shall provide information in relation to 4 categories of charges
that will or could be assessed against the account of the participant or beneficiary, as follows:

“(i) 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) 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) Administration and transaction-based charges, including fees charged to participants to cover plan administration, compliance, and recordkeeping 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 account and are either automatically deducted each year or result
from certain transactions engaged in by
the participant or beneficiary.

“(iv) Any other charges which may be
deducted from participants’ or bene-
ficiaries’ accounts and which are not de-
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 manage-
ment, 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 include the amounts of the fees assessed
in connection with such option and a history of
the returns derived net of fees and expenses.
Any such history shall be for the previous year,
5 years, and 10 years (or since inception if
later).

“(4) Model notice.—The Secretary shall pre-
scribe a model notice that may be used for purposes
of satisfying the requirements of this subsection, in-
cluding a model plan fee comparison chart.
“(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 the previous year’s experience.

“(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 shall have the authority to modify such rules as appropriate to take into account new developments, including new forms of electronic media. The rules prescribed by the Secretary pursuant to this subsection shall also provide for a method, designed so as not to be overly burdensome for the average participant, for the participant or beneficiary to obtain upon request any such disclosure in writing on paper in lieu of receipt through an electronic medium.

“(d) Regulations Regarding Certain Products.—The Secretary shall prescribe regulations identifying (and establishing separate rules, if necessary, to
identify) any investment options that provide a guaranteed rate of return and that do not identify specific fees.

“(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.—The term ‘contract’ 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 definitions of other terms used in this section.”.

(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) INFORMATION RELATING TO ACCOUNTS FOR WHICH PARTICIPANT MAY DIRECT INVESTMENT OF ASSETS.—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) through (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 derived from an expense ratio (which may be ex-
pressed as a specific date estimate based on the previous year’s expense ratio),

“(v) any other 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, including the net return, 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 the previous year’s experience.

“(F) Model statement.—The Secretary shall prescribe a model pension benefit statement that may be used for purposes of satisfying the requirements of this subparagraph and subparagraph (B)(ii).

“(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 fewer than 100 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 subclauses (IV) and (V) of subparagraph (B)(ii) 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 fewer than 100 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 Inter-
nal Revenue Code of 1986 with respect to notices to par-
ticipants in pension plans. The Secretary shall have the
authority to modify such rules as appropriate to take into
account new developments, including new forms of elec-
tronic media. The rules prescribed by the Secretary pursu-
ant to this subsection shall also provide for a method, de-
dsigned so as not to be overly burdensome for the average
participant, for the participant or beneficiary to obtain
upon request any such disclosure in writing on paper in
lieu of receipt through an electronic medium.”.

(c) ENFORCEMENT.—Section 502(c)(7) of such Act
(29 U.S.C. 1132(c)(7)) is amended—

(1) by inserting “(A)” after “(7)”; and

(2) by adding at the end the following new sub-
paragraph:

“(B)(i) In the case of any violation of section 111(a)
by a service provider (as defined in section 111(e)(4)), the
service provider shall be assessed by the Secretary a civil penalty of up to $1,000 a day 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.

“(ii) Any plan administrator or other person who is a service provider with respect to the 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) shall 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.

“(iii) For purposes of this subparagraph, each violation with respect to any single participant, beneficiary, or plan administrator shall be treated as a separate violation. The Secretary may compromise, modify, or remit any civil penalty imposed on any person under this subparagraph if the Secretary determines—

“(I) that the person acted reasonably and in good faith or that severe financial hardship would otherwise occur to the plan sponsor, and

“(II) that such compromise, modification, or remission is in the interests of participants and beneficiaries.”.
(d) **CONFORMING AMENDMENT.**—The table of contents 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 DATE.**—The amendments made by this section shall apply to plan years beginning after one year after the date of the enactment of this Act.

**SEC. 3 MINIMUM INVESTMENT OPTION REQUIREMENT.**

(a) **IN GENERAL.**—Section 402 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102) is amended by adding at the end the following new subsection:

"(c) An individual account plan which permits a participant or beneficiary to exercise control over the assets in the account of the participant or beneficiary shall include at least one investment option which is an appropriate broad-based securities market index fund and which offers a combination of historical returns, risk, and fees that is likely to meet retirement income needs at adequate levels of contribution."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to plan years beginning after one year after the date of the enactment of this Act.
SEC. 4 IMPROVING EMPLOYER-EMPLOYEE RETIREMENT PRACTICES.

(a) In General.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after section 518 (29 U.S.C. 1148) the following new section:

“SEC. 519. IMPROVING EMPLOYER-EMPLOYEE RETIREMENT PRACTICES.

“(a) Public Input and Outreach.—The Secretary shall—

“(1) take such steps as the Secretary considers appropriate to solicit input from the public, relevant experts, and key stakeholders regarding issues related to employee retirement income security under employee pension benefit plans,

“(2) issue such educational materials as the Secretary considers appropriate to pension plan practitioners, service providers, and the public on best practices for employee pension benefit design and operation,

“(3) issue such information as the Secretary considers appropriate to employee pension benefit plan fiduciaries and participants regarding ways to benchmark their investment results against other plan designs and investment options, and
“(4) make, on a biennial basis, such recommendations to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, employers, service providers, employees, and the general public as the Secretary deems appropriate on ways to improve the delivery and operation of employee pension benefit plans.

“(b) ANNUAL REPORT ON RETIREMENT TRENDS AND ISSUES.—

“(1) IN GENERAL.—The Secretary shall issue an annual report to each House of the Congress and to the general public regarding the state of retirement income security in the United States, including—

“(A) data illustrating the current operation of the employer-sponsored retirement system in the United States and emerging trends relating to such system, and

“(B) recommendations for reform to improve the delivery of employer-sponsored pension benefits to retired workers and their families and improve adequacy of retirement income security in the United States.
“(2) Other specific information.—The Annual Report issued pursuant to paragraph (1) shall specify—

“(A) the number of private employee pension benefit plans in the United States, categorized as to types of plans as determined appropriate by the Secretary,

“(B) the number of active workers covered or participating in such plans,

“(C) the number of retirees and dependents receiving benefits from such plans,

“(D) the number workers who have separated from service covered under such plans and who have roll-over pension accounts or deferred vested benefits,

“(E) the number of workers and retirees with no private employee pension benefit plan coverage or benefits,

“(F) current design features of employee pension benefit plans relating to retirement income security, including—

“(i) contribution levels,

“(ii) benefit levels,

“(iii) vesting periods,
“(iv) annuity features and lump sum payment features,
“(v) eligibility requirements,
“(vi) pre-retirement distributions, and
“(vii) investment of plan assets, and
“(G) such other information as the Secretary deems appropriate.”.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 518 the following new item:

“Sec. 519. Improving Employer-Employee Retirement Practices.”.

SEC. 5. 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 participants 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 identified and determined by the Secretary to be engaged in such a pattern or practice, such service provider shall receive a notice of intent to disseminate, an opportunity to request an administrative hearing, and a timely appeal to the Secretary.
“(2) Annual audit of representative sampling of individual account plans.—The Secretary shall annually audit a representative sampling of individual account plans covered by this title to determine compliance with the requirements of sections 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 ensure that needed understandable information is provided to participants and beneficiaries of such plans.