

110TH CONGRESS
1ST SESSION

H. R. 3185

To amend the Employee Retirement Income Security Act of 1974 to provide special reporting and disclosure rules for individual account plans and to establish in the Department of Labor an Advisory Council on Improving Employer-Employee Retirement Practices.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2007

Mr. GEORGE MILLER of California introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Employee Retirement Income Security Act of 1974 to provide special reporting and disclosure rules for individual account plans and to establish in the Department of Labor an Advisory Council on Improving Employer-Employee Retirement Practices.

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 “401(k) Fair Disclosure
5 for Retirement Security Act of 2007”.

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 112; and

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

10 “SPECIAL REPORTING AND DISCLOSURE RULES FOR
11 INDIVIDUAL ACCOUNT PLANS

12 “SEC. 111. (a) DISCLOSURE TO EMPLOYERS SPON-
13 SORING 401(k) PLANS.—

14 “(1) SERVICE DISCLOSURE STATEMENT.—The
15 plan administrator of an individual account plan
16 which includes a qualified cash or deferred arrange-
17 ment (or any other plan official with contracting au-
18 thority under the terms of the plan) may not enter
19 into any contract with any person for services to the
20 plan unless such plan administrator or other official
21 has received, reasonably in advance of entering into
22 the contract, a written statement from such person
23 which—

24 “(A) identifies who will be performing
25 services for the plan under the contract (includ-
26 ing any other affiliated or other third party

1 service provider whose services will be provided
2 under the contract), and

3 “(B) describes each such service and speci-
4 fies the expected total annual cost of such serv-
5 ices, itemized as to all relevant components of
6 the total cost, including any amounts to be paid
7 to affiliated or other third-party service pro-
8 viders under the contract.

9 “(2) MINIMUM ITEMIZATION REQUIREMENTS.—

10 “(A) IN GENERAL.—The itemization re-
11 quired under paragraph (1)(B) shall set forth
12 at least the following:

13 “(i) any commission for making a
14 sale;

15 “(ii) any start-up fees;

16 “(iii) expenses for investment manage-
17 ment;

18 “(iv) expenses for investment advice;

19 “(v) estimated trading expenses;

20 “(vi) expenses for administration and
21 record keeping;

22 “(vii) legal fees;

23 “(viii) trustee fees;

24 “(ix) possible termination or sur-
25 render charges;

1 “(x) total asset based fees;

2 “(xi) remuneration paid as described
3 in Rule 12b–1 of the Securities and Ex-
4 change Commission under the Investment
5 Company Act of 1940 (17 CFR 270.12b–
6 1);

7 “(xii) commissions paid as described
8 in section 28(e) of the Securities Exchange
9 Act of 1934 (15 U.S.C. 78bb(e)); and

10 “(xiii) such other costs as may be
11 specified by the Secretary.

12 “(B) ESTIMATIONS.—To the extent that
13 the actual amount with respect to any informa-
14 tion required to be provided in the itemization
15 required under paragraph (1)(B) is not known,
16 the plan administrator may provide a reason-
17 able and representative estimate and shall indi-
18 cate any such estimate as being such an esti-
19 mate. If any estimate provided under this para-
20 graph is subsequently determined to be materi-
21 ally incorrect, the plan administrator shall pro-
22 vide the correct amount in an amended report
23 as soon as practicable after such correct
24 amount is known.

1 “(C) DEFINITIONS.—The Secretary shall
2 provide by regulation definitions of the terms
3 used in this paragraph.

4 “(3) DISCLOSURE OF FINANCIAL RELATION-
5 SHIPS.—The statement required under paragraph
6 (1) shall include a written disclosure of the nature
7 of any conflicts of interest of each service provider
8 identified pursuant to paragraph (1)(A) due to fi-
9 nancial or personal relationship—

10 “(A) which the service provider may have
11 with the plan sponsor, the plan, or other per-
12 sons providing services to the plan, and

13 “(B) for which the service provider receives
14 a payment for services,
15 including the extent to which the service provider
16 uses its own proprietary investment products, the ex-
17 tent to which payments are received by a service
18 provider for including certain investment options as
19 part of a menu of investment options, and such
20 other possible conflicts as may be specified by the
21 Secretary.

22 “(4) DISCLOSURE OF IMPACT OF SHARE CLASS-
23 ES.—The statement required under paragraph (1)
24 shall, to the extent applicable, disclose that the share
25 prices of certain mutual fund investments may be

1 different than the retail share price outside of the
2 plan due to the existence of different share classes.

3 “(5) DISCLOSURE OF CERTAIN ARRANGEMENTS
4 IN CONNECTION WITH FREE OR DISCOUNTED SERV-
5 ICES OR REBATES BY SERVICE PROVIDERS.—In any
6 case in which services are provided to the plan, or
7 to the plan sponsor in connection with the plan, by
8 any service provider without charge or for fees set
9 at a discounted rate or subject to rebate, the state-
10 ment required under this subsection shall include a
11 description of the extent to which, and the amount
12 by which, consideration is otherwise obtained by the
13 service provider, the plan, or the plan sponsor for
14 such services, directly or indirectly, by means of any
15 charges against the account of the participant or
16 beneficiary.

17 “(6) MODEL STATEMENT.—The Secretary shall
18 prescribe a model statement that may be used for
19 purposes of satisfying the requirements of this sub-
20 section.

21 “(7) UPDATING.—Each contract with a service
22 provider entered into as described in paragraph (1)
23 shall require that the service provider provide to the
24 plan administrator, during the term of the contract,

1 an updated written statement described in para-
2 graph (1)—

3 “(A) at least annually, and

4 “(B) within 30 days of any material
5 change in the information provided in the state-
6 ment.

7 “(8) AVAILABILITY TO PARTICIPANTS.—The
8 plan sponsor or plan administrator shall—

9 “(A) provide to participants and bene-
10 ficiaries a copy of any statement received pur-
11 suant to this subsection within 30 days after re-
12 ceipt of a written request for such statement,
13 and

14 “(B) post a copy of such statement on any
15 Intranet website maintained by the plan spon-
16 sor (or plan administrator on behalf of the plan
17 sponsor).

18 “(9) LIMITATION.—The requirements of this
19 subsection shall apply with respect to any contract
20 for services only if the total cost for such services
21 under such contract equals or exceeds \$1,000.

22 “(10) QUALIFIED CASH OR DEFERRED AR-
23 RANGEMENT.—For purposes of this subsection, the
24 term ‘qualified cash or deferred arrangement’ has

1 the meaning given such term by section 401(k)(2) of
2 the Internal Revenue Code of 1986.

3 “(b) INVESTMENT ELECTION INFORMATION.—

4 “(1) ADVANCE NOTICE OF AVAILABLE INVEST-
5 MENT OPTIONS.—The plan administrator of an indi-
6 vidual account plan which permits a participant or
7 beneficiary to exercise control over the assets in the
8 account of the participant or beneficiary shall pro-
9 vide to the participant or beneficiary with respect to
10 each plan year notice of the investment options
11 available for election under the plan at least 15 days
12 prior to—

13 “(A) the beginning of the plan year, and

14 “(B) the effective date of any material
15 change in investment options,

16 or, if later, on the date on which the participant
17 commences participation in the plan.

18 “(2) INFORMATION INCLUDED IN NOTICE.—

19 The notice required under paragraph (1) shall—

20 “(A) set forth, with respect to each avail-
21 able investment option—

22 “(i) the name of the option,

23 “(ii) the investment objectives of the
24 option,

1 “(iii) the level of risk associated with
2 the option,

3 “(iv) whether the option is a com-
4 prehensive investment designed to achieve
5 long-term retirement security or should be
6 combined with other options in order to
7 achieve such security,

8 “(v) the historical return and percent-
9 age fee assessed against amounts invested
10 under the option,

11 “(vi) an explanation of the differences
12 between any asset-based fees and any an-
13 nual fees in connection with the option,

14 “(vii) a comparison to a nationally
15 recognized market-based index or other in-
16 vestment option that is recommended in
17 the retirement industry as a benchmark re-
18 tirement investment option,

19 “(viii) where, and the manner in
20 which, additional, plan-specific, and gen-
21 erally available investment information re-
22 garding the option may be obtained,

23 “(B) include, together with any form nec-
24 essary for making the election of investment op-
25 tions, a statement explaining that investment

1 options should be selected not only on the basis
2 of the level of fees charged by each option but
3 also on the basis of careful consideration of
4 other key factors, including the level of risk of
5 the option and historical returns by the option,
6 and

7 “(C) include a fee menu, relating to all in-
8 vestment options available under the plan, as
9 provided in paragraph (3).

10 “(3) FEE MENU.—

11 “(A) IN GENERAL.—The notice provided
12 under this subsection shall include a fee menu
13 consisting of a menu of the potential service
14 fees that could be assessed against the account
15 of the participant or beneficiary with respect to
16 the plan year. The fee menu shall be presented
17 in a manner which is easily understood by the
18 average participant and include such informa-
19 tion as the Secretary determines necessary to
20 permit participants and beneficiaries to assess
21 the potential services that could be provided in
22 connection with the investment options and the
23 potential fees that could be assessed against
24 their accounts for such services.

1 “(B) CATEGORIZATION OF FEES.—The fee
2 menu shall provide information in relation to 3
3 categories of fees, as follows:

4 “(i) fees that vary depending on the
5 investment options selected by the partici-
6 pant or beneficiary, including expense ra-
7 tios, investment-specific asset-based fees,
8 possible redemption fees, and possible sur-
9 render charges;

10 “(ii) fees that are assessed as a per-
11 centage of the total assets in the account
12 of the participant or beneficiary, regardless
13 of the investment option selected; and

14 “(iii) administration and transaction-
15 based fees, including plan loan origination
16 fees, that are either automatically deducted
17 each year or result from certain trans-
18 actions engaged in by the participant or
19 beneficiary.

20 “(C) DESCRIPTION OF PURPOSE FOR
21 FEES.—The fee menu shall include a general
22 description of the purposes for each fee, includ-
23 ing whether such fee is for investment manage-
24 ment, commissions, administration, and record-
25 keeping.

1 “(D) POTENTIAL CONFLICTS OF INTER-
2 EST.—The fee menu shall include such informa-
3 tion as the Secretary shall determine appro-
4 priate to describe potential conflicts of interests
5 that may exist with respect to any service pro-
6 viders or other parties-in-interest receiving fees
7 disclosed in the fee menu.

8 “(4) MODEL NOTICE.—The Secretary shall pre-
9 scribe a model notice that may be used for purposes
10 of satisfying the requirements of this subsection, in-
11 cluding a model fee menu.

12 “(5) ESTIMATIONS.—To the extent that the ac-
13 tual amount with respect to any information re-
14 quired to be provided in the fee menu is not known,
15 the plan administrator may provide a reasonable and
16 representative estimate and shall indicate any such
17 estimate as being such an estimate. If any estimate
18 provided under this subsection is subsequently deter-
19 mined to be materially incorrect, the plan adminis-
20 trator shall provide the correct amount in an amend-
21 ed report as soon as practicable after such correct
22 amount is known.

23 “(c) ANNUAL BENEFIT STATEMENT PROVIDED TO
24 PARTICIPANTS.—

1 “(1) IN GENERAL.—The plan administrator of
2 an individual account plan which permits a partici-
3 pant or beneficiary to exercise control over the as-
4 sets in the account of the participant or beneficiary
5 shall provide to each participant and beneficiary an
6 annual benefit statement, with respect to the assets
7 in such account that are subject to such control, not
8 later than 90 days after the close of each plan year.

9 “(2) REQUIREMENTS.—The annual benefit
10 statement of a plan shall disclose, for the preceding
11 plan year—

12 “(A) the starting balance of the partici-
13 pant’s account,

14 “(B) the participant’s vesting status,

15 “(C) contributions made during the plan
16 year, itemizing separately totals for employer
17 and totals for employee contributions,

18 “(D) earnings on the account balance dur-
19 ing the plan year,

20 “(E) fees assessed from the account during
21 the plan year,

22 “(F) the ending balance of the account,

23 “(G) the participant’s asset allocation, cat-
24 egorized by investment option, including—

25 “(i) the current asset value,

1 “(ii) the changes in the asset value
2 during the year, and

3 “(iii) the net return for the year, ex-
4 pressed as an amount and as a percentage,

5 “(H) the service fees charged against the
6 participant’s account for the year for each in-
7 vestment option, indicating separately—

8 “(i) underlying investment fees, in-
9 cluding expense ratios and trading costs,

10 “(ii) load fees,

11 “(iii) total asset based fees, including
12 variable annuity charges,

13 “(iv) mortality and expense charges,

14 “(v) guaranteed investment contract
15 fees,

16 “(vi) employer stock fees,

17 “(vii) directed brokerage charges,

18 “(viii) plan administration fees,

19 “(ix) participant transaction fees,

20 “(x) total fees, and

21 “(xi) total fees as a percentage of cur-
22 rent assets, and

23 “(I) the performance of the investment op-
24 tions selected by the participant during the year

1 as compared to a nationally recognized market-
2 based index.

3 “(3) HISTORICAL INFORMATION.—The plan ad-
4 ministrator may include in the annual benefit state-
5 ment information relating to the historical return
6 and risk level of each investment option and the esti-
7 mated amount that the participant needs to save
8 each month to retire at age 65.

9 “(4) ESTIMATIONS.—To the extent that the ac-
10 tual amount with respect to any information re-
11 quired to be provided in the annual benefit state-
12 ment is not known, the plan administrator may pro-
13 vide a reasonable and representative estimate and
14 shall indicate any such estimate as being such an es-
15 timate. If any estimate provided under this sub-
16 section is subsequently determined to be materially
17 incorrect, the plan administrator shall provide the
18 correct amount in an amended statement as soon as
19 practicable after such correct amount is known.

20 “(5) MODEL STATEMENT.—The Secretary shall
21 prescribe a model annual benefit statement that may
22 be used for purposes of satisfying the requirements
23 of this subsection.

24 “(d) CONSTRUCTION.—Nothing in this section shall
25 be construed to limit, or serve as the basis for any infer-

1 ence regarding, the duties of a fiduciary under section
2 404(a)(1)(A)(ii).

3 “(e) ASSISTANCE TO SMALL EMPLOYERS.—The Sec-
4 retary shall make available to small employers—

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

12 “(2) services designed to assist small employers
13 in finding and understanding affordable investment
14 options for such plans.

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

21 (b) ENFORCEMENT.—Section 502(c)(7) of such Act
22 (29 U.S.C. 1132(c)(7)) is amended by striking “section
23 101.” and inserting “section 101, or to provide a state-
24 ment to participants and beneficiaries in accordance with
25 section 111.”

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

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

5 (d) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply with respect to plan years begin-
 7 ning after the date of the enactment of this Act.

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

9 (a) IN GENERAL.—Section 402 of the Employee Re-
 10 tirement Income Security Act of 1974 (29 U.S.C. 1102)
 11 is amended by adding at the end the following new sub-
 12 section:

13 “(c) An individual account plan which permits a par-
 14 ticipant or beneficiary to exercise control over the assets
 15 in the account of the participant or beneficiary shall in-
 16 clude at least one investment option which is a nationally
 17 recognized market-based index fund and which, as deter-
 18 mined from time to time under regulations which shall be
 19 prescribed by the Secretary, offers a combination of his-
 20 torical returns, risk, and fees that is likely to meet retire-
 21 ment income needs at adequate levels of contribution.”.

22 (b) EFFECTIVE DATE.—The amendment made by
 23 this section shall apply with respect to plan years begin-
 24 ning after the date of the enactment of this Act.

1 **SEC. 4. ADVISORY COUNCIL ON IMPROVING EMPLOYER-EM-**
2 **PLOYEE RETIREMENT PRACTICES.**

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

7 **“SEC. 519. ADVISORY COUNCIL ON IMPROVING EMPLOYER-**
8 **EMPLOYEE RETIREMENT PRACTICES.**

9 “(a) ESTABLISHMENT.—

10 “(1) IN GENERAL.—There is hereby established
11 in the Department of Labor an Advisory Council on
12 Improving Employer-Employee Retirement Practices
13 (hereinafter in this section referred to as the ‘Coun-
14 cil’) consisting of 12 members—

15 “(A) 6 of whom shall be appointed by the
16 President, and

17 “(B) 3 of whom shall be appointed by the
18 Chairman of the Committee on Education and
19 Labor of the House of Representatives, at the
20 direction of the Committee, and 3 of whom
21 shall be appointed by the Chairman of the Com-
22 mittee on Health, Education, Labor, and Pen-
23 sions of the Senate, at the direction of the
24 Committee.

25 “(2) QUALIFICATIONS.—Members appointed
26 under this subsection shall have demonstrated

1 knowledge and experience in the law governing, and
2 the operation of, employee pension benefit plans. In
3 making appointments under this subsection, the
4 President and the Chairmen making such appoint-
5 ments shall consult to as to ensure that, of the mem-
6 bers appointed under this subsection—

7 “(A) 6 shall be representatives of pension
8 plan participants, and

9 “(B) 6 shall be representatives of employ-
10 ers, with at least 2 of such representatives of
11 employers having specialized knowledge regard-
12 ing small business retirement plans.

13 “(3) TERMS.—Members shall serve for terms of
14 3 years. A member may be reappointed. A member
15 appointed to fill a vacancy shall be appointed only
16 for the remainder of such term.

17 “(4) MEETINGS.—The Council shall meet not
18 less often than semi-annually. A majority of mem-
19 bers shall constitute a quorum and action shall be
20 taken only by a majority vote of those present and
21 voting.

22 “(b) ADMINISTRATION AND OPERATIONS.—

23 “(1) COMPENSATION.—Members of the Council
24 appointed under this subsection and the ex officio
25 members of the Council shall serve without com-

1 pensation for their service on the Council, except
2 that, while away from their homes or regular places
3 of business in the performance of services for Coun-
4 cil, members of the Council shall be allowed travel
5 expenses, including per diem in lieu of subsistence,
6 in the same manner as persons employed intermit-
7 tently in the Government service are allowed ex-
8 penses under section 5703(b) of title 5 of the United
9 States Code.

10 “(2) ADMINISTRATIVE RESOURCES.—The Sec-
11 retary shall furnish to the Council an executive sec-
12 retary and such secretarial, clerical, and other serv-
13 ices as are deemed necessary to conduct its business.
14 The Council may call upon other agencies of the
15 Government for statistical data, reports, and other
16 information which will assist the Council in the per-
17 formance of its duties.

18 “(3) FEDERAL ADVISORY COMMITTEE ACT.—
19 Section 14(a) of the Federal Advisory Committee
20 Act (relating to termination) shall not apply to the
21 Council.

22 “(c) DUTIES OF THE COUNCIL.—It shall be the duty
23 of the Council—

24 “(1) to invite members of the public to submit
25 requests for the Council to consider any issue affect-

1 ing the operation of employee pension benefit plans
2 and to review all issues presented to the Council, to
3 schedule any such issues for consideration by the
4 Council as the Council deems appropriate,

5 “(2) to hold such hearings as the Council con-
6 siders appropriate to hear testimony of relevant ex-
7 perts and key stakeholders in issues relating to em-
8 ployee retirement income security under employee
9 pension benefit plans,

10 “(3) to issue such advisories as the Council con-
11 siders appropriate to pension plan practitioners,
12 service providers, and the public on best practices
13 for employee pension benefit plan design and oper-
14 ation,

15 “(4) to present to employee pension benefit
16 plans, plan service providers, and the public such
17 academic or peer-reviewed research as the Council
18 considers appropriate regarding best practices for
19 employee pension benefit plan design and operation,

20 “(5) to issue information directed at employee
21 pension benefit plan fiduciaries and participants re-
22 garding ways to benchmark their investment results
23 against other plan designs and investment options,

24 “(6) to establish and maintain a presence on
25 the website maintained by the Department of Labor

1 for access by the general public and to include on
2 such website (in addition to such other means of
3 communication as the Council deems appropriate)—

4 “(A) information, presented in a prominent
5 manner, about the Council and how citizens
6 may write to the Council raising issues con-
7 cerning the operation of employee pension ben-
8 efit plans, and

9 “(B) information otherwise issued by the
10 Council, as determined appropriate by the
11 Council,

12 “(7) to issue, in addition to the Annual Report
13 on Retirement Trends and Issues issued pursuant to
14 subsection (d), an annual report to the Secretary,
15 the President, the Committee on Education and
16 Labor of the House of Representatives, and the
17 Committee on Health, Education, Labor, and Pen-
18 sions of the Senate summarizing—

19 “(A) those issues which were presented to
20 the Council during the year covered by the re-
21 port,

22 “(B) those issues which were discussed
23 during meetings of the Council, and

24 “(C) recommendations made to the Council
25 by Members of Congress, officials of the Em-

1 employee Benefits Security Administration, em-
2 ployers, service providers, employees, and retir-
3 ees, and

4 “(8) to make, from time to time, such rec-
5 ommendations to the Committee on Education and
6 Labor of the House of Representatives, the Com-
7 mittee on Health, Education, Labor, and Pensions
8 of the Senate, the Secretary, employers, service pro-
9 viders, employees, and the general public as the
10 Council deems appropriate on ways to improve the
11 delivery and operation of employee pension benefit
12 plans.

13 “(d) ANNUAL REPORT ON RETIREMENT TRENDS
14 AND ISSUES.—

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

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

23 “(B) recommendations for reform to im-
24 prove the delivery of employer-sponsored pen-
25 sion benefits to retired workers and their fami-

1 lies and improve adequacy of retirement income
2 security in the United States.

3 “(2) OTHER SPECIFIC INFORMATION.—The An-
4 nual Report issued pursuant to paragraph (1) shall
5 specify—

6 “(A) the number of private employee pen-
7 sion benefit plans in the United States, cat-
8 egorized as to types of plans as determined ap-
9 propriate by the Council,

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

12 “(C) the number of retirees and depend-
13 ents receiving benefits from such plans,

14 “(D) the number workers who have sepa-
15 rated from service covered under such plans
16 and who have roll-over pension accounts or de-
17 ferred vested benefits,

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

21 “(F) current design features of employee
22 pension benefit plans relating to retirement in-
23 come security, including—

24 “(i) contribution levels,

25 “(ii) benefit levels,

1 “(iii) vesting periods,
 2 “(iv) annuity features and lump sum
 3 payment features,
 4 “(v) eligibility requirements,
 5 “(vi) pre-retirement distributions, and
 6 “(vii) investment of plan assets, and
 7 “(G) such other information as the Council
 8 deems appropriate.”.

9 (b) CONFORMING AMENDMENT.—The table of con-
 10 tents in section 1 of such Act is amended by inserting
 11 after the item relating to section 518 the following new
 12 item:

“Sec. 519. Advisory Council on Employee Benefit Best Practices.”.

13 **SEC. 5. ENFORCEMENT COORDINATION AND REVIEW BY**
 14 **THE DEPARTMENT OF LABOR.**

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

19 “(n) ENFORCEMENT COORDINATION OF CERTAIN
 20 DISCLOSURE REQUIREMENTS AND REVIEW BY THE DE-
 21 PARTMENT OF LABOR.—

22 “(1) IN GENERAL.—The Secretary shall notify
 23 the applicable regulatory authority (including, as de-
 24 termined appropriate by the Secretary, the Securi-
 25 ties and Exchange Commission or the Comptroller of

1 the Currency) in any case in which the Secretary de-
2 termines that a service provider is engaged in a pat-
3 tern or practice that precludes compliance by plan
4 administrators with section 111. The Secretary
5 shall, in consultation with the applicable authority,
6 take such timely enforcement action under this title
7 as is necessary to assure that such pattern or prac-
8 tice ceases and desists and assess any appropriate
9 penalties. The Secretary shall widely disseminate to
10 employee pension benefit plans covered by this title
11 and their participants and beneficiaries the identity
12 of any service providers with respect to such plans
13 found to be engaged in any such pattern or practice
14 and the particulars of such pattern or practice.

15 “(2) ANNUAL AUDIT OF REPRESENTATIVE SAM-
16 PLING OF INDIVIDUAL ACCOUNT PLANS.—The Sec-
17 retary shall annually audit a representative sampling
18 of individual account plans covered by this title to
19 determine compliance with the requirements of sec-
20 tion 111. The Secretary shall annually report the re-
21 sults of such audit and any related recommendations
22 of the Secretary to the Committee on Education and
23 Labor of the House of Representatives and the Com-
24 mittee on Health, Education, Labor, and Pensions
25 of the Senate.”.

1 (b) REVIEW AND REPORT TO THE CONGRESS BY
2 SECRETARY OF LABOR RELATING TO REPORTING AND
3 DISCLOSURE REQUIREMENTS.—

4 (1) STUDY.—As soon as practicable after the
5 date of the enactment of this Act, the Secretary of
6 Labor shall review the reporting and disclosure re-
7 quirements of part 1 of subtitle B of this title and
8 related provisions of the Pension Protection Act of
9 2006.

10 (2) REPORT.—Not later than 18 months after
11 the date of the enactment of this Act, the Secretary
12 shall make such recommendations as the Secretary
13 considers appropriate to the appropriate committees
14 of the Congress to consolidate, simplify, standardize,
15 and improve the applicable reporting and disclosure
16 requirements so as to simplify reporting for em-
17 ployee pension benefit plans and ensure that needed
18 understandable information is provided to partici-
19 pants and beneficiaries of such plans.

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