Retirement Income
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Expect Three New Regs by Year-End

By Editor Test *Tue, Sep 14, 2010*

"This fall promises to be interesting," said Los Angeles ERISA attorney Fred Reish.

The Department of Labor has reported that it has three new sets of guidance at the Office of Management and Budget, which suggests that all three will be issued before the end of the year, says Fred Reish, an ERISA expert and managing director, Reish & Reicher, a Los Angeles law firm. "This fall promises to be interesting," he noted.

• *New TDF disclosures. This regulation that would impose new disclosure requirements on target date funds in order to qualify as QDIAs and to obtain the fiduciary safe harbor for defaulted participants.* When effective, this will require that additional, meaningful information be given to the participants preceding default. (As a practical matter, participants who elect those investments will be given the same information).

• *Fee disclosure regulation for participants.* This rule was issued in proposed form by the Bush Administration, but was never finalized. The new Administration has picked up that regulation and developed a final regulation. While DOL speakers are giving little specific information, it appears that the regulation will be similar to the proposal. The burden for complying with the regulation will primarily fall upon recordkeepers and bundled providers.

• *An expanded definition of fiduciary*. There is little in the way of information about the contents of the regulation. However, it seems clear that it will expand the definition of fiduciary advice and that more financial advisers and investment advisers/consultants will be considered to be fiduciaries. Depending on how far that definition is expanded, it could have a major impact on broker-dealers.