All Boats Rise on The Regulatory Tide

Earlier this year, new regulatory fee disclosures took the retirement industry by storm. Providers heeded the forewarnings from the Department of Labor (DOL) to prepare in advance and were ready to support plan sponsors when the time came. As the industry challenged advisers to be equally prepared to communicate the changes to their clients, some rose to the occasion, while many rode out the arrival of the new regulations with a wait-and-see approach. Three highly regarded third-party administrators (TPAs) discussed what is working and what is not as far as the industry's response to the new requirements, and offered their views on best practices for assisting plan sponsors who feel overwhelmed or are struggling with how to comply. All three agreed that when financial professionals utilize a team approach, all boats rise.

From left: **Marc M. Roberts**, president of Associated Pension Consultants, Sacramento, CA; **Parrish Pettey,** partner at Alliance Benefit Group of Houston, TX; and **Bryan Jacobson,** chief executive officer at PenSys Inc., Sacramento, CA

PA: From the TPA lens, what is the biggest challenge plan sponsors face in terms of the new regulations?

Roberts: From the standpoint of a plan sponsor, the regulatory requirements for 408(b)2 and 404(a)(5) present additional burdens in keeping qualified plans compliant. Although the Department of Labor has worked to provide support and guidance, it is clear that more is needed.

Conceptually, the new regulations sound great: more disclosure on all fronts about fees and costs to both plan sponsors and participants. In reality, given the myriad forms that retirement plans may take, what's lacking is a single, easy-to-use portal to disseminate the information. Of course, plan sponsors are acting in good faith, but as the support team, we—TPAs and advisers—bear the burden of responsibility in the eyes of our clients. Even though it is the plan sponsor's charge to provide the participant-level information, they rely on us to keep them up-to-date and in compliance.

Pettey: Most plan sponsors are now asking, "What do we do now?"

In theory, they have received a lengthy list of fee ranges that may or may not apply to their plan. This may arrive in the form of a new agreement or contract, often drafted by attorneys and, in many cases, received from multiple covered service providers. Generally speaking, these plan sponsors are only slightly more informed about what they are being charged for plan services than they were prior to the July 1 effective date for 408(b)(2). In some cases, they are much more confused. The obvious challenge—read: opportunity—is to synthesize this voluminous data into useful and relevant information.

Jacobson: I believe the biggest challenge plan sponsors have is just opening the envelope and reading the disclosures. Employers are so overburdened with the sheer volume of notices they receive, they have become numb to them. In this case, I fear they may view the sponsor-level disclosures as just another item to fill the circular file cabinet. Who can blame them?

For those who do open the envelope, the vast majority will be challenged to glean relevant information from either an oversimplified disclosure or an overly complicated, legalistic document that serves primarily to confuse and detract from the fees being paid. A lucky few will be working with TPAs, record-keepers and advisers who have created truly simple, straightforward disclosures that clearly outline the services performed and fees paid.

PA: What would you suggest advisers say, or do, to help plan sponsors (or participants) increase their knowledge or comfort level?

Roberts: Advisers should view the current regulatory environment as an opportunity to add value to their own services. They should reach out to trusted TPAs and strategic partners

to create a competitive advantage. Advisers who embrace this "team approach" are better equipped to help their clients learn and understand the rules. Perhaps most importantly, advisers must feel comfortable in their own knowledge of the information they are providing to help the plan sponsor or participant feel at ease.

Pettey: Advisers should try to accomplish what the regulations do not. In other words, advisers should go beyond mere compliance with the fee disclosure and instead offer a service that aggregates all plan fees and expenses into one metric. Examples include a total cost per participant in actual dollars. Or they should provide access to such a service through a local TPA.

Jacobson: The first order of business for advisers is to understand the rationale behind the new regulations and the potential impacts—or should I say, penalties—on their clients if the disclosures are not handled correctly. The best advisers will be well-versed in the disclosures being provided to their clients and participants by each service provider. Advisers should also be prepared to be challenged on their services and fees. Having a one-page flyer outlining their services and expected costs will assist advisers in reinforcing their value. Personally reviewing each disclosure, creating a disclosure checklist and a method for documenting ongoing reviews will help instill a level of comfort and reinforce the adviser's value to his client.

PA: Is there a particular best practice or approach you have employed in your own practice that advisers can benefit from?

Roberts: The keystones of our practice are servicing and educating plan sponsors. This includes helping sponsors understand their role, as well as the roles of the adviser and TPA, in the plan's administration. While we stress that they can rely on our expertise so they are free to run their business, we also thoroughly review upfront their role and responsibilities.

We began discussing the new regulations with our current clients some time back, in anticipation of concerns that might arise. We found that this proactive, educational approach helped to reduce any panic when the regulations did take effect. Our clients knew it was coming and what to expect, based on the proposals and the perception of DOL expectations. Our best practice has been education, preparation and assuring clients they have support, should questions arise. It's not too late for advisers to take this same approach.

Pettey: One potential unintended consequence of fee disclosure is the overwhelming attention given to only one aspect of a plan's operation: fees. This narrow focus could lead to a migration to the least expensive options, meaning cheap administrators and recordkeepers, an index fund-only approach or the elimination of adviser and fiduciary services, to give a few examples. But, more importantly, it misdirects the conversation away from performance, service, value and, ultimately, the primary purpose of the plan: getting our work force to and through retirement.

Advisers should consider refocusing plan sponsors on the ultimate purpose of the retirement plan: *retirement*. At the risk of drawing on the oft-used analogy of the medical profession, focus more on the plan's overall "health" or retirement readiness and less on what certain services cost. When was the last time you asked your doctor how much the needle cost that was used for your flu shot or if she or he could lower the overall cost of your appointment by using a different brand of stethoscope?

Jacobson: Let's be honest. Changing regulations create additional burdens on plan sponsors, are usually confusing and at times are counterintuitive. Delivering such news can be met with a "kill the messenger" response. However, we believe that taking a proactive approach and dealing with changes head-on is a big part of our value statement to our clients. They need to stay informed. We make sure we are available to discuss changing regulations and to help create a plan to deal with the changes. This keeps a focus on value-added services instead of just fees.

Advisers who are not prepared to openly discuss the disclosures with clients and participants because they fear a poor reaction to fees will soon lose the business. Advisers who have created and can articulate a professional service model—particularly one that includes working with a local TPA for additional plan design and technical support—will embrace the new regulations as an opportunity to meet with their clients, and those of their competition, and reinforce their value statement. ■

Our panel noted that several service providers have developed tools and programs to assist advisers in creating and delivering ongoing value for their prospective and existing clients in the current regulatory environment. To learn more about The Hartford's *Practice Management Portfolio* system, the regulatory changes and how TPAs can support your dialogue with plan sponsors, contact The Hartford's Retirement Plans sales desk at 1-800-874-2502, option 4.

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