

115TH CONGRESS
2D SESSION

S. 2318

To require the payment of user fees by qualified professional asset managers seeking an individual exemption from certain requirements.

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 2018

Ms. BALDWIN (for herself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require the payment of user fees by qualified professional asset managers seeking an individual exemption from certain requirements.

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 “Pension Stability Act”.

5 **SEC. 2. USER FEES.**

6 (a) IN GENERAL.—Not later than 6 months after the
7 date of enactment of this Act, the Secretary of Labor (re-
8 ferred to in this section as the “Secretary”) shall promul-
9 gate regulations establishing user fees applicable to large

1 regulated banks, savings and loan associations, insurance
 2 companies, and federally registered investment advisors
 3 (referred to in this section as “entities”) that—

4 (1) meet the definition of a “qualified profes-
 5 sional asset manager”, as set forth by the Secretary;
 6 and

7 (2) apply for an individual exemption, pursuant
 8 to the Prohibited Transaction Exemption 84–14,
 9 from the prohibitions of section 406 of the Employee
 10 Retirement Income Security Act of 1974 (29 U.S.C.
 11 1106) and the sanctions resulting from the applica-
 12 tion of section 4975 of the Internal Revenue Code
 13 of 1986, despite the inability of such entities to com-
 14 ply with section I(g) of this exemption.

15 (b) USER FEE AMOUNTS.—

16 (1) GENERAL FEES.—In establishing user fees
 17 under subsection (a), the Secretary shall ensure that
 18 such fees—

19 (A) are not less than \$1,000,000 per appli-
 20 cation for an individual exemption under section
 21 I(g) of Prohibited Transaction Exemption 84–
 22 14; and

23 (B) are scaled higher than the base fee es-
 24 tablished under subparagraph (A), based on the
 25 severity of the crime related to such application.

(2) REPEAT OFFENDERS.—In the case of an entity that previously filed an application for an individual exemption under section I(g) of the Prohibited Transaction Exemption 84–14 (including a successor company or a company that has subsequently acquired a previous offender), the applicable user fee under paragraph (1) shall be multiplied by the number of such prior applications.

(c) TRANSFER OF FEES COLLECTED.—

(1) IN GENERAL.—Amounts collected in user fees under this section shall be transferred to the first and the second Pension Benefit Guaranty funds described in section 4005(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305(a)) and shall be allocated—

(A) to the fund used with respect to basic benefits guaranteed under section 4022A of such Act, until such time that the Pension Benefits Guaranty Corporation’s annual projections report indicates that such fund and the fund used with respect to basic benefits guaranteed under section 4022 of such Act have substantially similar future financial conditions and substantially similar risks of insolvency; and

1 (B) thereafter, to each of the funds de-
2 scribed in subparagraph (A) in equal amounts,
3 subject to paragraph (2).

4 (2) ADJUSTMENTS TO ALLOCATIONS.—If, after
5 amounts collected in user fees under this section
6 have been allocated in accordance with paragraph
7 (1)(B), the Director of the Pension Benefit Guar-
8 anty Corporation determines that the future finan-
9 cial conditions or risks of insolvency of the funds
10 used with respect to basic benefits guaranteed under
11 each of sections 4022A and 4022 of the Employee
12 Retirement Income Security Act of 1974 are no
13 longer substantially similar as described in para-
14 graph (1)(A), the Director, in consultation with the
15 board of directors of the Pension Benefit Guaranty
16 Corporation, shall determine an appropriate alloca-
17 tion of such amounts between such funds.

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