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## Participant Fee Disclosure Guidance and Upcoming Effective Dates

On May 7, the Department of Labor (the "DOL") published 38 "Frequently Asked Questions" that provide additional guidance on the new participant fee disclosure requirements for 401(k) plans and other participant-directed retirement plans.

**Effective Dates Not Extended.** Despite the new guidance, the DOL will not extend the deadline for complying with the new fee disclosure requirements. Plan administrators must still provide an initial annual disclosure that describes certain plan and investment-related information by August 30, 2012. Plan administrators must also provide an initial quarterly disclosure that describes actual expenses charged to participants' accounts by November 14, 2012.

**Good Faith Reliance.** However, the DOL recognizes that service providers and plan administrators began making changes to their recordkeeping, information management and communication systems in 2010 and 2011 to comply with the new rules, and that changes to their systems at this point may be administratively burdensome. Therefore, the DOL will not take enforcement actions against plan administrators and service providers who (i) acted in good faith based on a reasonable interpretation of the fee-disclosure regulations, and (ii) have established a plan for complying with the new guidance in future disclosures.

**New Guidance.** The 38 FAQs provide additional guidance and clarification on a number of issues, including:

- Which plans are covered by the new rules, including 403(b) plans;
- That administrative expenses paid exclusively from forfeitures and general assets of the employer do not need to be disclosed;
- That any fees and expenses deducted from a participant's or beneficiary's account prior to the third quarter of 2012 need not be reflected in the initial quarterly disclosure of fees and expenses actually charged to participants' accounts;
- Required disclosures of recordkeeping fees and revenue sharing agreements;
- Required disclosures regarding brokerage windows and self-directed brokerage accounts;
- Compliance with the new web-site, glossary and comparative chart requirements;
- Required disclosures upon the request of a participant or beneficiary; and
- The format of the required disclosures.

**Service Provider Fee Disclosure Deadline.** Service providers and plan administrators should also be aware of the upcoming deadline to comply with the new service provider fee disclosure requirements. Service providers must provide plan fiduciaries of retirement plans with the disclosures necessary to assess the reasonableness of their fees by July 1, 2012.

**Contact Information.** For more information, please contact David Putnal (404-888-8836), Toby Walls (404-888-8870), Brenna Clark (404-888-8842) or Angela Marino (404-888-8822).

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