



## New Fee Disclosure Rules for Participant-Directed Retirement Plans

On October 15, 2010, the Department of Labor issued final regulations that create new fee disclosure requirements for 401(k) plans and other participant-directed retirement plans. The regulations are intended to ensure that plan administrators provide participants with the information they need to make informed decisions about their retirement savings.

**What Information Should Be Included?** The new participant disclosure is required to include two separate categories of information: plan-related information and investment-related information.

**Plan-Related Information.** The disclosure is required to include each of the following:

- **General plan information**, including a list of available investment funds; the names of the plan's investment manager(s); procedures through which participants and beneficiaries can make investment elections; restrictions on investments, transfers of investments, or voting rights; and a description of any arrangements that allow participants to invest in funds outside those directly offered by the plan (e.g., investments through individual brokerage accounts);
- **Administrative expenses** that may be charged to the plan, including a description of how expenses will be assessed and whether any expenses are paid from revenue sharing paid to the plan by the plan's investment funds; and
- **Individual expenses**, including charges related to plan loans, investment advice, investment management fees, or fees related to qualified domestic relations orders that are charged to an individual participant's account.

**Investment-Related Information.** In addition to the plan-related information described above, the disclosure is also required to include the following information about each of the plan's investment funds:

- **Name and type of fund**;
- **Performance data**, including average 1-, 5-, and 10-year returns (or, for funds with a fixed rate of return, the term and the rate of return);

- **Benchmark information** (e.g., a comparison of the fund's performance to an appropriate index);
- **Fees and expenses**, expressed as total annual operating expenses and as a percentage of each \$1,000 invested;
- **Restrictions** on a participant's ability to purchase or withdraw from the fund;
- **Web-site address** where participants can find additional information about the fund, including identifying information, investment strategies, portfolio data, and updated performance data; and
- **Glossary** of general investment terms or a web-site address where such a glossary can be found.

The investment-related information is required to be provided to participants in a chart or similar format that makes it easier for participants to compare investment funds. The Department of Labor has published a model comparative chart that may be used to satisfy this requirement.

**Who Should Receive the Information?** The information described above is required to be provided to all participants and to any beneficiary who has the right to direct investments (e.g., due to a participant's death or a qualified domestic relations order).

**When Should the Information Be Provided?** The information described above is required to be provided on or before the first date on which a participant can make an investment election and annually thereafter.

In addition, certain other investment-related information is required to be provided after a participant first invests in each fund, and, upon request, the plan administrator is required to also provide prospectuses, financial statements, valuation information, and a list of portfolio assets for each fund.

Also, each quarter, participants are required to receive a statement showing the actual expenses charged to their accounts. This statement is required to include both the actual dollar amount charged to the participant's account and a description of the services to which the charges relate.

**How Can the Information Be Provided?** The required disclosure may be included in the plan's summary plan description and/or quarterly participant benefit statements. It also may be provided as one or more separate documents.

**When Are the New Disclosure Rules First Effective?** The new disclosure rules are effective for plan years beginning on or after November 1, 2011. For calendar-year plans, the rules will become effective January 1, 2012.

**What If I Have Questions?** If you have any questions about these new fee disclosure rules, please contact David Putnal (404.888.8836), Toby Walls (404.888.8870), Teri King (404.888.8847) or Brenna Clark (404.888.8842).

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