



U.S. Department of Labor

Employee Benefits Security Administration

Fact Sheet: Proposed Regulation Improving Fiduciary Disclosures to Workers in Participant-Directed Individual Account Plans

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Background

An estimated 65 million participants are covered by approximately 437,000 participant-directed individual account plans (including 401(k) plans). These plans give participants and beneficiaries the opportunity to direct the investment of all or a portion of the nearly \$2.3 trillion in assets held by these plans.

While workers in these plans are responsible for making retirement savings decisions, there is concern as to whether they have access to basic plan and investment information in a format useful to making informed decisions about management of their own retirement accounts.

Plans that elect to comply with section 404(c) of the Employee Retirement Income Security Act (ERISA) already disclose information to participants about their plans and designated investment options, including associated fees and expenses. However, compliance with section 404(c) is voluntary and because not all plans elect to comply, the 404(c) disclosure requirements do not extend to all participant-directed plans.

Overview Of Proposed Regulation

The proposed regulation requires that uniform, basic disclosures be given to all participants and beneficiaries who direct the investment of assets in their individual accounts, and that investment-related information be presented in a format that makes comparisons easy.

The proposed regulation mandates that the required disclosures be provided on a regular and periodic basis, generally when a participant becomes eligible to participate in the plan, and annually thereafter.

The Department's Employee Benefits Security Administration estimates that the proposal will result in net benefits of \$6.1 billion to participants and beneficiaries over the period 2009-2018.

Disclosure Of Required Information

The Department believes that when a plan allocates investment responsibility to participants and beneficiaries, plan fiduciaries must take steps to ensure that these participants and beneficiaries, at specified intervals, are made aware of their responsibilities and are provided sufficient information to make informed decisions when managing their plan accounts.

Plan fiduciaries must provide participants and beneficiaries with specified plan and investment information, including fee and expense information. Generally, this information must be provided when a participant becomes eligible to participate in the plan, and annually thereafter. Plan fiduciaries must disclose:

- General plan information, including the investment options available under the plan and how to

provide investment direction;

- Information concerning the plan's investment options, for example fee and expense information, past performance data, comparable benchmark returns, and a web site address;
- A description of fees and expenses charged to participants and beneficiaries for plan administrative services, such as legal, accounting, and recordkeeping charges, as well as how these charges will be allocated to their individual accounts; and
- A description of fees and expenses charged to a specific participant's account based on actions taken by that participant, such as charges for processing loans, QDROs, or investment advice.

In addition, plan fiduciaries must disclose to participants, on a quarterly basis, the actual dollar amount charged to the participant's account during the preceding quarter for specified administrative expenses.

The proposal also requires that investment-related information, including fees and expenses, must be disclosed in a chart or similar format that will help participants easily compare the plan's investment options. The Department developed a model chart that may be used by plan fiduciaries to satisfy this requirement, but the proposal also provides fiduciaries with the flexibility to create their own chart or comparative format.

The Department proposed that the regulation, when finalized, would be effective for plan years beginning on or after January 1, 2009.

Contact Information

For questions about the proposed regulation, contact EBSA's Office of Regulations and Interpretations at 202.693.8500. Comments on the proposed regulation should be directed to the U.S. Department of Labor, Employee Benefits Security Administration, Room N-5669, 200 Constitution Avenue, NW, Washington, DC 20210, Attention: Participant Fee Disclosure Project; or electronically to e-ORI@dol.gov or www.regulations.gov.

This fact sheet has been developed by the U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC 20210. It will be made available in alternate formats upon request: Voice phone: 202.693.8664; TTY: 202.501.3911. In addition, the information in this fact sheet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

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