

Publications

Labor and Employment Alert: Final Delay For Participant Disclosure of Plan Fees for Participant Directed, Defined Contribution Plans

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The Department of Labor (DOL) has again delayed the timing for the expanded disclosure of plan fees and returns to coordinate the deadlines for service providers to give plans compensation information and the deadlines for plans to disclose that information to participants. However, the DOL warns that further extensions are unlikely. You can find an overview of the content for the participant disclosures in our [October 2010 Client Alert](#).

Timing for disclosures by service providers to plans

As you may recall, Interim Final Regulations under ERISA section 408(b) (2) require service providers to provide plans with information about the service provider's direct and indirect compensation. Under the new guidance, Service providers will not be required to provide this information until April 1, 2012. If a service provider does not provide the required disclosure, the compensation may be a "prohibited transaction."

Timing for distribution of the annual notices to participants

The initial annual notices must be distributed to participants by the later May 31, 2012 (i.e., 60 days after April 1, 2012) and 60 days after the first day of the first plan year starting on or after November 1, 2011. This means that any plan whose plan year begins between November 1, 2011 and April 1, 2012 must distribute notices by May 31, 2012. Subsequent annual notices must be provided annually but the timing within a year has not been mandated.

Timing for distribution of quarterly notices

The initial quarterly notices must be distributed to participants within 45 days after the end of the quarter in which the initial annual notices were required. For a calendar year plan, this means that the first quarterly notices are due by August 14, 2012.

Interestingly, it is not clear how this timing rule will be applied for fiscal year plans that do not provide statements based on the calendar quarter. For example, it is unclear whether a plan with a November 1 plan year would be required to distribute its first quarterly statement by August 14, 2012 (45 days after the end of the calendar quarter that included May 31, 2012) or by September 14, 2012 (45 days after the end of the plan's fiscal quarter that included May 31, 2012).

Subsequent quarterly notices must be distributed each quarter, but there is no specific timing requirement.

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