



Retirement Plans: Participant-level Fee Disclosures

In 2010, a Department of Labor (DOL) [final rule](#) created participant-level fee disclosure requirements for the administrators of participant-directed retirement plans, which expanded ERISA's fiduciary duty requirements for these plans.

The final rule requires administrators of these plans to disclose, on a regular and periodic basis, certain fee, expense and other information regarding plan investments and participants' rights to direct their plan investments.

Plan administrators must provide plan-related and investment-related information to participants on or before the date they can first direct their investments under the plan and on an annual basis after the initial disclosure. Also, on a quarterly basis, plan administrators must provide a statement to participants that shows the dollar amount of the plan-related fees and expenses actually charged to or deducted from their individual accounts.

LINKS AND RESOURCES

- DOL's Retirement Plan Fee Disclosures [webpage](#)
- DOL's [final rule](#) on participant-level fee disclosures for retirement plans
- DOL's [direct final rule](#) from March 19, 2015, addressing the timing of annual disclosures
- DOL's [fact sheet](#) on participant-level fee disclosure requirements

Which Retirement Plans are Affected?

The participant disclosure requirements affect **participant-directed individual account plans**. A participant-directed plan is a retirement plan that allocates investment responsibilities to participants or beneficiaries. Thus, participant-directed 401(k) plans, certain 403(b) plans and other tax-qualified defined contribution plans are subject to the participant disclosure requirements.

Also, these disclosures are not limited to the administrators of ERISA Section 404(c) plans. Unlike ERISA Section 404(c) compliance, which is voluntary, administrators of participant-directed plans must comply with these participant disclosure requirements or risk violating their fiduciary duties.

Simplified employee pension plans (SEPs), SIMPLE retirement accounts and governmental plans are not subject to the participant disclosure requirements.

What are the Required Disclosures?

The final rule requires plan administrators to provide participants with two types of information—plan-related information and investment-related information.

Plan-related Information

Plan-related information consists of the following three types of information:

- General plan information;
 - Administrative expense information; and
 - Individual expense information.
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General plan information includes information about the structure and mechanics of the plan, such as an explanation of how to give investment instructions under the plan, a current list of the plan's investment options, and a description of any "brokerage windows" or similar arrangement that enables the selection of investments beyond those designated by the plan.

Administrative expense information means an explanation of any fees and expenses for general plan administrative services that may be charged to or deducted from all individual accounts. Examples include fees and expenses for legal, accounting and recordkeeping services. The disclosure requirement for administrative expenses applies only to administrative expenses that are paid using plan assets. It does not apply to plan-related expenses that are paid by the plan sponsor.

Individual expense information includes an explanation of any fees and expenses that may be charged to or deducted from the individual account of a specific participant or beneficiary based on the actions taken by that person. Examples include fees and expenses for plan loans and for processing qualified domestic relations orders.

This plan-related information must be given to participants on or before the date they can first direct their investments. After the initial disclosure, it must be provided on an annual basis.

In addition to the plan-related information that must be furnished up front and annually, participants must receive statements, **at least quarterly**, showing the dollar amount of the plan-related fees and expenses (whether administrative or individual expenses) actually charged to or deducted from their individual accounts, along with a description of the services for which the charge or deduction was made. These specific disclosures may be included in quarterly benefit statements required under Section 105 of ERISA.

Investment-related Information

Investment-related information includes several types of core information about each investment option under the plan, as described below.

- **Performance Data**—Participants must be provided specific information about historical investment performance. For investment options that do not have fixed rates of return, such as mutual funds, one-, five- and 10-year returns must be provided. For investment options that have a fixed or stated rate of return, the annual rate of return and the term of the investment must be disclosed.
- **Benchmark Information**—For investment options that do not have a fixed rate of return, the name and returns of an appropriate broad-based securities market index over one-, five- and 10-year periods (matching the performance data periods) must be provided. Investment options with fixed rates of return are not subject to this requirement.
- **Fee and Expense Information**—For investment options that do not have a fixed rate of return, the total annual operating expenses expressed as both a percentage of assets and as a dollar amount for every \$1,000 invested, and any shareholder-type fees or restrictions on the participant's ability to purchase or withdraw from the investment. For investment options that have a fixed rate of return, any shareholder-type fees or restrictions on the participant's ability to purchase or withdraw from the investment.
- **Internet Website Address**—Investment-related information includes an internet website address that is sufficiently specific to provide participants and beneficiaries access to specific additional information about the investment options for workers who want more information or information that is more current.
- **Glossary**—Investment-related information includes a general glossary of terms to assist participants and beneficiaries in understanding the plan's investment options, or an internet website address that is sufficiently specific to provide access to such a glossary.

Investment-related information must be furnished to participants or beneficiaries on or before the date they can first direct their investments. After the initial disclosure, it must be provided on an annual basis.

It also must be furnished in a chart or similar format designed to facilitate a comparison of each investment option available under the plan. The final rule includes, as an appendix, a model comparative chart, which, when correctly completed, may be used by the plan administrator to satisfy the rule's requirement that a plan's investment option information be provided in a comparative format.

Other Requirements

After a participant has invested in a particular investment option, he or she must be provided with any materials the plan receives regarding voting, tender or similar rights in the option. Upon request, the plan administrator must also furnish prospectuses, financial reports, and statements of valuation and of assets held by an investment option.

The final rule provides plan administrators protection from liability for the completeness and accuracy of information provided to participants if the plan administrator reasonably and in good faith relies upon information provided by a service provider.

The final rule also makes similar changes to the disclosure requirements for plans that elect to comply with ERISA section 404(c).

What are the Deadlines for the Disclosures?

Plan administrators must disclose information about plan investment options, such as fee and performance information, to participants and beneficiaries at least annually. DOL regulations provide that “annually” means at least once in any **14-month period**. The initial disclosure can be satisfied by using the most recent annual disclosure provided to all participants.

In addition, plan administrators must disclose plan-related expenses that are charged to participants’ accounts on a quarterly basis. “Quarterly” means at least once in any three-month period. However, if this disclosure is included in the quarterly benefit statement under ERISA Section 105, it must be provided no later than 45 days following the end of the relevant period.

Source: U.S. Department of Labor

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