

DOL: Final Regulations on Participant Fee Disclosures

On October 14, 2010, the Department of Labor (“DOL”) published final disclosure regulations for participant-directed individual account plans, such as 401(k) and 403(b) plans. The new regulations were drafted to provide broad guidelines concerning fees, expenses, and various other plan and participant-level information. While the disclosure regulations are effective as of December 20, 2010, the applicability date of the regulations is the first day of the first plan year starting on or after November 1, 2011. For most plans, this applicability date will be January 1, 2012.

Information that Must be Provided at Initial Plan Eligibility Date and Annually Thereafter

- Identification of the investment alternatives (“underlying investment options”)
- Procedures for directing investments, any restrictions on changing investment elections, and general information on voting/tender rights of the underlying investment options
- Description of a brokerage window, if applicable
- Explanation of expenses paid by all plan participants, such as recordkeeping fees, and the basis upon which such expenses shall be allocated among plan participants
- Explanation of expenses charged to individual accounts, such as fees for loan processing and QDROs

These disclosures may be provided in a summary plan document or separate statement, and any changes to the above information must be communicated within a specified timeframe. With regard to the underlying investment options, a plan administrator must also provide information in a comparative format that highlights historical performance of the investment option and an appropriate benchmark, all expenses and fees associated with the investment option, and an internet website address to access more information on the option. Other disclosures apply, and a model chart to communicate these items can be found via www.dol.gov. Disclosures must be made to all eligible employees, not just plan participants and beneficiaries.

Information that Must be Provided Quarterly

- Statement detailing the amount of any fees/expenses actually charged to a participant’s or beneficiary’s account, including:
 - A description of services for which the fees were charged
 - Explaining, if applicable, that some administrative services were paid for from the operating expenses of underlying funds (i.e. 12b-1’s or revenue sharing agreements). Note: only a general statement is necessary; there is no requirement for providing actual dollar amounts.

Additional Information that Must be Provided

- Upon request, participant or beneficiary must receive prospectuses, financial reports, asset lists, and valuation information for any underlying investment option.
- Any participant or beneficiary actually invested in an underlying investment option must receive any materials received by the plan administrator relating to voting or tender rights.

The information above is intended to be a brief overview of the DOL’s Final Regulations on Participant Fee Disclosures, and should not be construed as a full-text summary or legal advice. Please contact your ERISA counsel, service providers, or any of the professionals at DiMeo Schneider & Associates, L.L.C. for more information.