



SPECIAL BULLETIN

DOL Releases Field Assistance Bulletin 2012-02 On Participant Fee Disclosures

The DOL published *Field Assistance Bulletin (FAB) 2012-02* providing guidance on the new participant fee disclosure requirement in the form of 38 Q&As. The *FAB* is available at: <http://www.dol.gov/ebsa/pdf/fab2012-2.pdf> or by "[clicking here.](#)" A specially prepared version with an interactive Table of Contents for ease of use is available by "[clicking here.](#)" (30 pages) The *FAB* contains **transitional timing rules** in Q&As-35-37, summarized below. See *Client Bulletins 2012-07* and *2012-13* for more information on the participant fee disclosure regulation. A copy of the regulation with an added Table of Contents for ease of use with the Q&As is available by: "[clicking here.](#)"

When must a plan administrator furnish the first initial disclosures, both plan-related and investment-related, required by the regulation? (Q&A-35)

A plan administrator must furnish the first initial disclosures (*i.e.*, the annual disclosures to participants and beneficiaries) no later than:

- 60 days after July 1, 2012, the effective date of the 408(b)(2) fiduciary-level fee disclosure regulation, or, if later,
- 60 days after the first day of the first plan year that begins after November 1, 2011.

Accordingly, for **most plans**, including calendar year plans, the first initial disclosures must be furnished to participants and beneficiaries no later than August 30, 2012.

The quarterly statement of fees/expenses actually deducted has to be furnished no later than November 14, 2012, the 45th day after the end of the third quarter (July-September) in which the initial disclosure was required. Must the initial quarterly statement of fees and expenses actually deducted reflect fees and expenses deducted prior to the third quarter? (Q&A-36)

No, the initial quarterly statement must reflect only the fees and expenses deducted for the calendar or plan-year quarter to which the statement relates. At least quarterly, participants and beneficiaries must be furnished with the dollar amount of any fees and expenses

actually deducted from their account along with a description of the services to which the charges relate. The regulation, applicable to individual account plans for plan years beginning on or after November 1, 2011, provides that the initial quarterly disclosure must be furnished no later than 45 days after the end of the quarter in which the first set of initial disclosures are required to be furnished. The quarterly disclosure need only reflect the fees and expenses actually deducted during the third quarter.

A plan's initial annual disclosures are due no later than August 30, 2012. If a plan administrator furnished these disclosures before the publication of this FAB and the disclosures do not fully comply with the FAB, what is the DOL's position on providing an additional extension or transition period for plan administrators who have or are about to furnish such disclosures? (Q&A-37)

Further delays are not forthcoming but for enforcement purposes, the DOL will take into account whether covered service providers and plan administrators have acted in good faith based on a reasonable interpretation of the new regulations. If they have acted in good faith based on a reasonable interpretation of the new regulations, *enforcement actions generally would be unnecessary if the covered service provider or plan administrator, as applicable, also establishes a plan for complying with the requirements of this FAB in future disclosures.*

FAB 2012-02

The FAB is broken down into eight categories as shown below.

Scope

- *Covered Individual Account Plan (Q&A-1 &-2)*

Disclosure of Plan-Related Information

- *General Information (Q&A-3 & -4)*
- *Administrative Expenses (Q&A-5-12)*
- *Brokerage Windows (Q&A-13)*
- *Individual Expenses (Q&A-14)*

Disclosure of Investment-Related Information

- *Generally (Q&A-15)*
- *Benchmarks (Q&A-16)*
- *Internet Web Site Address (Q&A-17-19)*
- *Glossary (Q&A-20)*
- *Comparative Format (Q&A-21-24)*
- *Information to be Provided Upon Request (Q&A-25)*

Form of Disclosure (Q&A-26)

Definitions (Q&A-27-29)

Total Annual Operating Expenses (Q&A-31-34)

Dates; Transitional Rules (Q&A-35-37)

Amendments to 29 CFR Section 2550.404(c)-1 (Q&A-38)

Plan Professionals and administrators involved in the participant fee disclosure requirement will want to read the Q&As in their entirety.

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