



BENEFIT NEWS BRIEFS

Field Assistance Bulletin Gives Relief On Distribution Of Annual "Comparative Chart" To Participants In Participant-Directed Individual Account Defined Contribution Plans

In *Field Assistance Bulletin (FAB) 2013-02*, the DOL established a safe harbor for plans sponsors of participant-directed individual account defined contribution (DC) plans to distribute the annual "comparative chart" they must provide to plan participants and beneficiaries. The FAB is available online at: <http://www.dol.gov/ebsa/pdf/fab2013-2.pdf> and the press release at: http://benefitslink.com/src/dol/FAB_72013_404a5release.pdf.

By way of background, in October 2010, the DOL published a final regulation on disclosure requirements for participant-directed individual account DC plans, with further regulations and guidance issued later. The regulation requires that plan administrators disclose detailed investment-related information to plan participants and beneficiaries about the plans' designated investment alternatives. See [Benefit News Briefs 2010-86](#), [Client Bulletin 2012-07](#), and [Special Bulletins 2012-24 and 28](#).

DC plans covered by the regulation operating on a calendar-year basis had to furnish a comparative chart of the investment alternatives for the first time no later than August 30, 2012, and subsequently "*at least annually thereafter*" (i.e. once within any subsequent 12-month period).

For example, a plan administrator that furnished the first required chart on August 25, 2012, must furnish the next comparative chart no later than August 25, 2013.

However, in light of plan sponsor concerns that the chart's distribution date does not coincide with other required annual mailings, and other operational matters, *FAB 2013-02* allows plan administrators to "*reset*" the comparative chart distribution deadline one time, for either the 2013 or the 2014 comparative chart - if the responsible plan fiduciary determines that doing so will benefit the plan's participants and beneficiaries and provided that no more than 18 months may pass before participants receive their next comparative chart.

This enforcement policy does not alter a plan administrator's obligations under the regulation to timely update the investment information that is available at the plan's internet web address or to notify participants about changes to investment information, such as a new plan investment option.

Thus, under the *FAB*, a plan administrator may furnish the "*2013 comparative chart*" no later than 18 months after the prior comparative chart was furnished.

For example, if a plan administrator furnished the first comparative chart on August 25, 2012, the "*2013 comparative chart*" would be due no later than August 25, 2013. In accordance with this *FAB*, however, the DOL will take no enforcement action based on timeliness if the plan administrator furnishes the "*2013 comparative chart*" by February 25, 2014.

The *FAB* recognized that some plan administrators may have already furnished their "*2013 comparative chart*." Other plan administrators may already have incurred administrative costs and taken steps in order to furnish their 2013 comparative chart no later than August 30, 2013. In such cases, these plan administrators, if they wish, may furnish the "*2014 comparative chart*" no later than 18 months after furnishing the prior comparative chart (2013 chart).

* * *

LEGAL DISCLAIMER: Information contained in this publication is not legal advice, and should not be construed as legal advice. If you need legal advice upon which you can rely, you should seek a legal opinion from your attorney.