



Retirement Planning

Plan Sponsor Fee Disclosure Final Regulations

The Employee Retirement Income Security Act (ERISA) Section 408(b)(2) rules are designed to help plan fiduciaries fulfill their duty to ensure that retirement plans and plan participants are charged no more than “reasonable” fees by plan service providers and that there aren’t any potential conflicts that may affect the provider’s performance of its duties. Business owners, acting as plan sponsors, are deemed to be fiduciaries for qualified plan purposes. The regulations require service providers to disclose to the plan, in advance, the fees these providers will receive, both from direct charges to the plan or plan accounts, and indirectly from compensation received from third parties and through relationships with other service providers. Generally, these rules are effective January 01, 2012.

Plan sponsors face many challenges in today’s stringent and ever-changing regulatory landscape. On October 20, 2010, the Department of Labor (DOL) issued participant fee disclosure rules under ERISA Section 404(a), which require plan fiduciaries to act prudently and solely in the interest of plan participants. These new regulations are meant to help plan administrators explain to their participants the true costs of their retirement plan, which will, in turn, allow for more informed decision-making by participants when managing their retirement accounts.

The fee disclosure regulations focus on the DOL’s initiatives to increase transparency surrounding plan and investment expenses as they impact plan sponsors and participants, focusing on two major areas – service providers and participant level disclosure. Retirement security has been a top priority on Capitol Hill and, in recent years, members of Congress and federal regulators have expressed interest in increasing transparency on how services are provided to employee benefit plans as well as how fees paid directly or indirectly by retirement plan participants are communicated

to them. These regulations are intended to give both plan sponsors and plan participants the opportunity to more easily “comparison shop” among plan providers, make more informed decisions, potentially lowering the overall costs of administering and saving through a qualified retirement plan, and ultimately improving retirement outcomes. In addition to promoting transparency of fees, these initiatives may also help highlight value and encourage plan sponsors to choose the products and services that best meet their needs and are most likely to help their employees achieve their retirement goals.

How Plan Sponsors Benefit:

- Increased transparency
- Better comprehension of services
- Easier to compare costs & benefits of service providers
- Easier to obtain compensation information
- Enhanced value for plan participants

Although the participant fee disclosure obligation rests on the plan fiduciary, the DOL recognizes that most fiduciaries rely extensively on their service providers for accurate fee and investment information. Therefore, the new rules provide that if the plan administrator or other plan fiduciary relies in good faith on disclosure information provided by the plan’s service provider, the fiduciary will generally not be liable for the completeness and accuracy of that information.

Participants must receive all plan-related disclosures no later than the date they are first eligible to direct their investments. Notice must be given annually thereafter. A description of any subsequent changes to the disclosure information must be communicated to each participant at least 30 days, but not more than 120 days, before the change goes into effect.



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While costs are understandably a critical consideration for you and your employees, consider what you receive in exchange. In the final analysis, it's the value you receive that counts. So, make sure you look at the disclosed data you will be receiving in light of that bigger picture. You will want to consider important factors, such as the financial strength, client service, and comprehensive solutions your service provider can deliver to you and your employees as you evaluate provider and investment options. While the new

rules may appear daunting, it's important to remember that you aren't alone. Your service providers are aware of these new regulations and have likely been preparing for their implementation. Now is a good time to reach out to your Guardian Financial Representative to discuss how to coordinate your efforts to be ready to meet the new DOL requirements.

Please consult with your Guardian Financial Representative if you have any questions concerning this document.

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Guardian Financial Representatives may call the Business Resource Center for Advanced Markets, at 1.800.871.7780, Option 3, for additional information.

