

HIGHLIGHTS OF FEE DISCLOSURE FAQs –FAB 2012-02

May 8, 2012

INTRODUCTION

The Department of Labor issued answers to 38 frequently asked questions (“FAQ”), relating to participant fee disclosures under ERISA § 404(A)(5). This review includes 15 of the FAQs that are judged to have a significant effect on the disclosures of a large portion of the retirement plan community.

FAQ # 3

If disclosures of plan-related and investment related information are both combined in the same document, it is sufficient to list the designated investments only once and not separately for each requirement.

FAQ # 5

When the cost of administrative services are paid from investment expenses, the required quarterly explanation must include the service (such as record keeping), the cost of the service, and the method used to allocate the cost to the participant’s account.

FAQ # 9

The cost of record keeping expense is included the quarterly disclosure of total annual operating expenses of a plan's designated investment alternatives, only if the cost is actually paid in a way that reduces the rate of return of the designated investment alternatives (e.g., through revenue sharing).

FAQ # 10

When administrative expenses are funded by designated investment alternatives, it is not necessary to list which investments pay for specific administrative services in the quarterly disclosure.

FAQ # 11

Quarterly disclosures require an explanation, even if all the administrative expenses are paid by designated investment alternatives of the plan.

FAQ # 13

The availability and cost of brokerage windows must be described in the annual disclosure and at a minimum, include sufficient information to enable participants and beneficiaries to understand how the window, account, or arrangement works (e.g., how and to whom to give investment instructions; account balance requirements, if any; restrictions or limitations on trading, if any; how the window, account, or arrangement differs from the plan's designated investment alternatives), whom to contact with questions and any fees and expenses that may be charged.

The quarterly disclosure for participants that use brokerage services must show the dollar amount of fees and expenses that actually were charged during the preceding quarter against their individual accounts. The disclosure must include a description of the services to which the charge relates and must clearly explain the charges (e.g., \$19.99 brokerage trades, \$25.00 brokerage account minimum balance fee, \$13.00 brokerage account wire transfer fee, \$44.00 front end sales load).

FAQ # 16

An investment’s target asset allocation may be used to calculate a blended benchmark used in the comparative chart.

FAQ # 17

Alternatives for Web site addresses required in the comparative chart include:

- Third party administrator or recordkeeper may establish and maintain the Web site.
- Use the existing Web site address of the employer who sponsors the plan to make available the required supplemental investment information.
- Use Web site addresses provided by the designated investment alternative(s) (e.g., the family of mutual funds comprising the plan's investment platform) as long as this address is sufficiently specific to lead the participant to the required information.

FAQ # 21

Multiple comparative charts may be used providing that all are furnished to participants and beneficiaries at the same time in a single mailing or transmission and the comparative charts or documents are designed to facilitate a comparison among designated investment alternatives available under the plan. However, individual investment issuers may not separately distribute comparative charts reflecting their particular investment alternatives.

FAQ # 22

Comparative charts need not be updated more than annually if there is a change in fees or expenses.

FAQ # 24

The "Since Inception" returns on the comparative chart is only required for investments that have been in existence for less than ten years.

FAQ # 28

A model portfolio is required to be a designated investment alternative if participants own shares of the model itself or if the model includes investment(s) that is(are) not, themselves, designated investment alternatives.

FAQ # 30

Disclosure requirements may not be avoided by not designating any investment alternatives but instead making all investments on a record keeper's platform available. However, the volume of disclosures can be reduced to three investments.

FAQ # 35

Effective dates remain, July 1, 2012 for 408(b)(2) and August 30, 2012 for 404(a)(5).

FAQ # 37

In light of the significance of the required disclosures and the already extended delay, the Department does not believe further broad-based extensions are appropriate.