



Fee Disclosure

A detailed overview for plan sponsors and their advisors

BY JOHN CARNEVALE, PRESIDENT & CEO, SENTINEL BENEFITS & FINANCIAL GROUP

The Department of Labor (DOL) is implementing two new regulations regarding fees and fee transparency for retirement plans this year. Each regulation has a simple and important objective. The purpose of the first regulation is to create a clear and consistent process to ensure that plan sponsors know and understand the fees being assessed to manage their company-provided retirement plans [408(b)(2)]. The purpose of the second regulation is to ensure that plan participants are provided with all of the costs associated with participating in their company-provided retirement plan before and while they participate [404(a)(5)].

Sentinel Benefits has been monitoring the progression of these new regulations for the past 24 months through independent research and participation in national forums. We created two task forces to ensure that both Sentinel and our clients will satisfy these new regulations. Each task force was assigned the responsibility of providing (1) a clear understanding of the requirements of each regulation and (2) a comprehensive strategy to deliver the necessary disclosures as required.

To follow is the first of a two part series that summarizes the outcomes from each task force. The first is a summary of the provisions of the new regulations and how plan sponsors and participants will be affected. The second will be Sentinel's position and course of action to respond to these new regulatory requirements, which will be released at the beginning of February. In addition, we plan to host webinars to provide additional information and answer questions.

SERVICE PROVIDER DISCLOSURE

Regulation 408(b)(2)

What is the Purpose of this new regulation?

The DOL requires that plan fiduciaries will review the mandated disclosures in order to evaluate the amount of compensation paid to service providers and to determine if the amount is fair and reasonable in light of the services being provided.

Who has the responsibility for complying?

All service providers to retirement plans covered by this regulation must disclose all fees they are receiving. If plan fiduciaries do not receive these disclosures, they are responsible for informing the DOL that their provider did not disclose the required information.

What must be disclosed?

Service providers must disclose all direct and indirect fees they receive. Direct fees are fees that a service provider receives directly from a plan or plan sponsor. An example of a direct fee would be a bill from the plan's record keeper that is paid by the plan from plan assets such as an asset-based fee or a participant fee. Indirect revenue is revenue received from a third party for providing services to a plan. For example, if a broker receives commissions or service fees from a mutual fund for providing services to your plan, that is an indirect fee. The required disclosure must also specify the services being provided to the plan as well as the service provider's status as a fiduciary (or not) to the plan. In addition, plan record keepers

will need to provide detailed information regarding the plan's investments.

When does this new regulations apply?

The deadline for these disclosures is **April 1, 2012**. Disclosures must also be provided when a contract is renewed, or if any of the information changes.

PARTICIPANT DISCLOSURE

Regulation 404(a)(5)

What is the purpose of this new regulation?

The DOL believes it is important to provide participants with sufficient information about plan expenses, investment expenses and investment performance so that they are able to make informed decisions about participating in their employer-sponsored plan.

Who has the responsibility for complying?

All Plan Administrators (generally the Plan Administrator is the plan sponsor/employer) of retirement plans covered¹ by this regulation are responsible for disclosing fees to plan participants. Since most employers will not be equipped to compile the required information, employers will need to rely on their plan record keeper for the necessary information to distribute to their employees.

What must be disclosed?

The information that must be disclosed to plan participants is very extensive and includes the following:

GENERAL PLAN-RELATED INFORMATION

(provided at initial enrollment and annually)

- ▶ The circumstances under which participants may give investment instructions.
- ▶ Any limitation on such instructions, such as restrictions on transfers to or from a designated investment alternative.

- ▶ A description or reference to plan provisions relating to the exercise of voting, tender and similar rights pertaining to an investment in a designated investment alternative.
- ▶ An identification of designated investment alternatives under the plan.
- ▶ An identification of any designated investment manager.
- ▶ A description of any brokerage windows or self-directed brokerage accounts available under the plan.
- ▶ Changes to any of the above information, which generally must be provided at least 30 days, but not more than 90 days, in advance of the effective date of the changes.

PLAN ADMINISTRATIVE EXPENSES & FEES

(provided at initial enrollment and annually)

- ▶ An explanation of expenses and fees for general plan administrative services that potentially can be charged against participants' plan accounts.
- ▶ The basis on which such charges are allocated to, or affect the balance of, participants' plan accounts.
- ▶ Changes to the above information, which generally must be provided at least 30 days, but not more than 90 days, in advance of the changes.

PARTICIPANT SPECIFIC EXPENSES & FEES

(provided at initial enrollment and annually)

- ▶ An explanation of any expenses and fees that potentially can be charged against an individual participant's account, rather than on a plan-wide basis and that are not reflected in the total annual operating expenses of designated investment alternatives. These expenses

and fees would include fees for processing plan loans or qualified domestic relations orders, fees for investment advice, fees for using brokerage windows, commissions, front or back-end loads or sales charges, redemption fees.

- ▶ Changes to the above information, which generally need to be provided at least 30 days, but not more than 90 days, in advance of the changes.

(provided quarterly with participant statements)

- ▶ At least quarterly, the dollar amount of the expenses and fees described above that are actually charged during the preceding quarter to the participants' accounts.
- ▶ A description of the services to which the charges relate.
- ▶ An explanation of whether some of the plan's administrative expenses for the preceding quarter were paid from the annual operating expenses of one or more of the plan's designated investment alternatives (e.g., through 12b-1 fees, sub-transfer agency fees, etc.).

INVESTMENT RELATED INFORMATION

(provided at initial enrollment and annually)

- ▶ The name of each investment alternative.
- ▶ The type of investment, such as a money market fund, blended fund, large cap stock fund, employer stock fund, employer securities, etc.
- ▶ Extensive information on performance data and expenses and fees.

The investment information must be presented in the form of a comparative chart so that employees can easily compare each of the investments. In addition, a web site address must be supplied for each investment in order to provide more information.

When does this new regulation apply?

The first disclosures must be delivered to plan participants no later than **May 31, 2012**. In addition, on an ongoing basis, participants must receive detailed disclosures both annually and on their quarterly statements, regarding fees that were actually deducted from their accounts.

The initial disclosures must be made to the participants on or before they can direct their investments. Because of this timing rule, employers must be aware of the requirements and will need to achieve a high level of coordination between human resources functions and retirement plan administration.

¹ Most, but not all plans are covered by this new regulation. Any plan covered by ERISA that offers a choice of investments to participants is subject to these rules. If these disclosures are not made to the participants as the regulation requires, the Plan Administrator will have violated his/her fiduciary duties. These regulations do not apply to trustee-directed plans, Defined Benefit plans, Individual Retirement Accounts (IRA), or Simplified Employee Plans (SEP).

Material prepared by Sentinel Benefits & Financial Group located at 55 Walkers Brook Drive, Reading, MA.

©2012 Sentinel Benefits & Financial Group. All rights reserved.

Sentinel Benefits & Financial Group is a leading employee benefit consulting and administration firm. Our broad range of financial services makes Sentinel Benefits an excellent choice for clients seeking a single resource to manage all of their employee benefits including group insurance brokerage, Flexible Spending Accounts (FSA), Health Reimbursement Accounts (HRA), COBRA, retirement plan consulting & administration and investment advisory services. Sentinel serves more than 4,000 businesses throughout the United States. For more information, please visit www.sentinelgroup.com.

 **Sentinel Benefits**
& FINANCIAL GROUP
Custom Solutions for Life and Wealth