

DOL Issues Changes to Final Fee Disclosure Rule

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The DOL has published changes to the final 408(b)(2) service provider fee disclosure rule. A plan fiduciary must receive the disclosures required by this regulation in order for the arrangement to qualify for the statutory exemption from prohibited transactions for reasonable contacts for legal, accounting or other services necessary for the establishment or operation of the plan. The final rule's effective date has been extended to July 1, 2012, to allow additional time for compliance. Because the disclosure to participants in participant directed investment individual account plans flows from the fiduciary's receipt of the disclosures from service providers, the effective date of the plan level and investment level disclosures for such plans is now August 30, 2012 and the first quarterly participant statement must reflect the additional disclosures and be furnished no later than November 14, 2012. Fully vested Code Section 403(b) annuity contracts and custodial accounts issued before January 1, 2009, where there is no longer any sponsoring employer involvement are exempt from the rule. The final regulations apply to service providers to plans that expect to receive at least \$1,000 in compensation from the plan. If indirect compensation is paid, additional information must be disclosed by a covered service provider to a responsible plan fiduciary. The service provider must provide a description of the total annual operating expenses of a designated investment alternative. Those operating expenses must be expressed as a percentage, calculated in accordance with the participant disclosure rules. All investment-related information must be disclosed at least annually; however, changes to initial disclosures must be made within 60 days. The service provider may correct errors or omissions in disclosures of "changes" to previously disclosed information within 30 days after learning of the error or omission. Under the modified rule, a responsible plan fiduciary, upon discovering that a service provider has failed to disclose certain information, must terminate the service arrangement "as expeditiously as possible" if the information relates to future services and is not disclosed promptly within 90 days from a follow-up written request from the fiduciary. A comprehensive summary of the changes can be found [here](#). [Final regulation](#). [Fact Sheet](#). [News Release](#).