

July 31, 2012 Webinar Q&A

Participant Fee Disclosure: What Plan Sponsors Need to Know

GENERAL QUESTIONS:

Q: Will sentinel send us all of the information that we need to send out?

A. Sentinel will supply all of the information needed for mutual fund investments held on our daily valuation platform or held at Sentinel Securities. If assets are held in brokerage accounts or if the plan uses models and the funds in the models are not available for the participants to choose as investments, then the plan sponsor may need to supply additional information.

Q: Do we contact our sentinel rep if we have plan specific questions regarding the Sentinel's Solution

Yes.

Q: Do you have an example of the quarterly fee disclosure?

A. Our quarterly statements are currently going through an extensive redesign process. The new statements will provide participants with more information and projections of their retirement account which are not available on the current statements, as well as the information required as part of the fee disclosure rules. We will provide information on the new statements shortly.

Q. Is the revenue recapture statement about reducing fees included on the 404a-5 or on the participant statement?

A. A statement that certain fees may be paid from the revenue recapture account will be on the participant's quarterly statement and also on the annual 404a-5 notice.

Q: Will your reports include the RIA's investment and plan advisory fees?

A. If the investment advisory fee is charged to the plan it will be shown on the participant's quarterly statement as a deduction from their account balance. The annual disclosure contains a general statement about fees that may be paid from the plan

Q: Will the expense information include transaction fee information by the custodian/trading platform as well as any fees charged by the fund?

A. The purpose of the expense information in the comparative chart is so that participants can compare investments offered in the plan and investments outside the plan therefore the additional expenses of running the plan are not included in the fund expense information. Information regarding the fees charged by the platform, custodian, recordkeeper, or investment advisor appear in a general form on the annual disclosure and in detail on participant statements.

Q: Isn't this investment information already on the Fund Fact Sheets?

A. Yes, much of this information is available on the fund fact sheets usually distributed with enrollment materials and available online. Since fund fact sheets are not required, and not every plan provides them, the Department of Labor wanted to make sure each participant received a baseline minimum amount of information, hence the comparative chart requirement.

Q: Fund expense - does this require a category average for comparison as performance data is required to have?

A. No, comparative or benchmark information is not required to be given for the investment expenses.

Q: how about disclosure for Sentinel Pension Advisors managed portfolios?

A. Sentinel is planning to provide disclosure for our managed portfolios in the same way we provide the disclosure for other investments available in the plan. We will provide performance, benchmarks, and expenses for the model.

Q: Will all these be available to participants online?

A. No, Sentinel will not be posting the Annual notice online for the participant at the present time. We are looking at alternatives to accomplish this. Since quarterly fee information is on the participant statements, it will be online. The annual disclosure notice will be on the Plan Sponsor website.

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Q: Do administrative fees have to include potential fees? (I.e., Plan Sponsor asks for some admin, legal, audit fees to be paid by the plans/participant accounts.)

A. The statement of fees and expenses in the annual notice is a general description of fees which could be paid from the plan and does not contain specific dollar amounts since these are not known. The participant statements will show the actual amount a participant in the plan is charged for services such as legal, accounting, administration, etc.

Q: What are requirements for disclosures being in "plain English" for everyone to understand?

A. The Department of Labor regulations require that the notice be written in plain language so that it is easily understandable by the average participant. Some of the financial concepts and explanations may be complex but we have done our best to explain them clearly.

DISTRIBUTION OF THE NOTICE QUESTIONS

Q: If a participant opts in and does not have access to internet as part of job, it is still ok, as long as we have a signed form from them?

A. Yes, If a participant affirmatively opts in to receive the disclosure electronically it can be sent to them electronically whether or not they have access to email or the internet at work. This opt-in must be done each year.

Q: Can sponsors get "opt-in" forms to send with initial disclosure to increase e-mail distribution? Can "opt-in" form be included in quarterly statement distribution?

A. The plan sponsor could send an opt-in form with the initial disclosure but it is only valid for 12 months. After that time period a paper notice will be need to be sent informing the participant that they may again opt in to electronic distribution. The opt-in form can only be included with the quarterly statements if they are being sent on paper. These rules are for participants who do NOT use the employers email system as a regular part of their job duties.

Q: All of our employees have a company e-mail that is routinely used as part of their daily responsibilities. However, some employees use their personal e-mail address for Sentinel website purposes. Can we use the company e-mail address exclusively to deliver the required Disclosure Statements? Again, the employees use this company e-mail on a daily basis as part of their daily responsibilities.

A. If the employee uses an employer provided email address and accesses the employer's email system as an integral part of their job duties, the employer is permitted to distribute the notice through company email. Of course, this will not work for terminated employees or beneficiaries so other arrangements will need to be made to deliver the notice to these participants.

Q: Is the employer responsible for providing hard copy to all employees or simply the website?

A. Posting the disclosure notice on a company website is NOT sufficient. Each employee must get a copy of the disclosure.

Q: Do we need proof that we sent hard copies from the post office?

A. You are not required to get proof that you have sent out the disclosures. If your procedure is to mail them out and you can show that you followed your procedure that will be sufficient. One way to demonstrate that you followed your procedure would be to show that most of your participants actually received the notice. Another way might be to mail a notice to the company at the same time you send it to the employees.

Q: We will have to issue a disclosure to every employee, enrolled or not?

A. Every employee who is eligible to contribute to the plan must get the disclosures – even if they currently have no account balance and are not contributing to the plan.

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Q: Do those people who are participants or eligible participants have named as beneficiaries for their retirement plan need to receive the annual disclosure document as well?

A. Beneficiaries only need to receive the disclosure if the participant is deceased and the beneficiary is now directing the investments in the account. Instead of the terms "Participant" and "Beneficiary" it may be more helpful to think in terms of "everyone with an account balance and any employee eligible to get a contribution or make a deferral" should get a disclosure.

Q: Please clarify how we can distribute info to former employees still in our retirement plan. We don't always have their most current mailing address, but have email addresses. Can they be sent electronically?

A. You should send them an email asking for their current mailing address. If you can not get their mailing address you should send the disclosure to the email address you have. Email distribution is not technically sufficient but it is better than not sending the disclosure.

Q: What if you have former employees who still have a balance but you have no valid address and have not been able to locate them even by using the SSA.

A. Send the notice to the last known address and if it is returned as undeliverable, keep the returned envelope to show you sent the disclosure.

Q: When is the due date for the annual disclosure after the initial 8/30/12 due date.

A. New annual disclosures will need to be sent to participants once each year. The Department of Labor regulations do not specify when during the year the annual disclosures must be made. Sentinel will probably continue to send the disclosures during the summer in future years.

Q: If Sentinel does the mailing, how will sponsor know if any of the mailing was undeliverable? Will sponsor address be the return address on the mailing?

A. The return address for the packages that Sentinel mails out is the address of the Plan Sponsor. The Plan Sponsor will receive any undeliverable disclosure packages.

Q: Approximately how many pages is each disclosure packet?

A. The disclosure is approximately 6-8 pages depending on the number of investment options offered.

Q: Do you have a template for the paper form allowing it to be sent electronically?

A. We do not have a sample template. See the next question below for more.

Q: Does Sentinel have sample language for e-mail election form to send to those with no integral e-mail address.

A. The opt-in form must be sent on paper and can not be emailed to the participant or beneficiary. The opt-in only needs to explain that the participant or beneficiary may opt-in for electronic distribution of the disclosures and solicit an email address for that purpose. The form should also inform them that they have the right to get the disclosures sent to them on paper at no charge.

SELF-DIRECTED BROKERAGE QUESTIONS

Q: What happens if the 401(k) plan is an employee self-directed plan and the company does not direct any investments - and all employees are eligible for deferral upon employment - employees can buy or sell any stock fund etc. and are charged a transaction fee.

A. Since the plan has no Designated Investment Alternatives there will not be a comparative chart listing the investments in the plan. The plan sponsor does need to provide information to all employees about the brokerage options available in the plan, who to contact, and how to utilize the options. The plan administrator must give employees a general description of the brokerage accounts and any fees or expenses that may be charged against an individual's account. The DOL requires disclosure of:

- Any start-up fees
- Termination fees
- Ongoing fees

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- Commissions or other per trade fee
- Any sales loads that may be known
- Fees for any other services

In addition, any fees charged to the participant during the previous quarter must be disclosed on the quarterly statement with an explanation of the fee (e.g., \$19.99 trade fee, \$25 account maintenance fee). In most cases these fees will appear on the brokerage statement so additional disclosure may not be needed.

The plan administrator is responsible for the selection of brokerage account providers under ERISA section 404(a)'s statutory duties of prudence and loyalty. This duty can not be delegated to a participant by allowing the participant to choose their own provider – the fiduciary of the plan is still responsible for the choice.

Plans with only self directed brokerage accounts and no designated Investment Alternatives do not qualify for protections under section 404(c) since 404(c) required that the fiduciary select at least three Designated investment Alternatives.

The DOL has been clear that “a plan fiduciary’s failure to designate investment alternatives, for example, to avoid investment disclosures under the regulation, raises questions under ERISA section 404(a)’s general statutory fiduciary duties of prudence and loyalty.”

Q: When discussing that the DOL is concerned that a sponsor might not be fulfilling its fiduciary responsibility because there are no investment alternatives given and the plan is solely self directed - is this a violation?

A. This may be a violation - See above answer.

Q: Will the participant disclosure supplied by Sentinel as TPA include information regarding self directed brokerage accounts, company stock and other non-DIA options?

A. The participant disclosure supplied by Sentinel will only include the self directed brokerage account disclosure if the brokerage accounts are at Sentinel Securities. If the accounts are not at Sentinel Securities, the plan sponsor will need to obtain or create disclosures for the brokerage accounts and include them with the disclosure supplied by Sentinel.

Q: What happens if we have directed and self-directed 401(k) plan options?

A. If a plan has both a trustee directed investment which is mandatory for all participants, and a set of participant directed options, the participant directed options will be subject to the disclosure requirements. No additional disclosure is required for the trustee directed option since the participants do not have a choice regarding the trustee directed investment.

Q: Do the fees for the self directed 401(k) accounts have to be shown on the monthly/quarterly statements?

A. Yes, the fees for the self directed investments need to be shown on the participant statements. Most brokerage statements will show all fees that were taken out of participant assets on the brokerage statement. If the fees are not shown on the brokerage statement, the sponsor may need to provide a supplemental statement showing the fees paid from the brokerage account.

Q: I'm sorry. I think I missed something. Who provides this "chart" for the funds/investments in PCRA accounts?

A. No chart is required for investments in the brokerage account since those investments are not Designated Investment Alternatives.