



Participant Fee Disclosure – Investment - Related Information

Fee Disclosure Series: Part 4 of 4

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In this ASCi Alert 12-05, we discuss the participant fee disclosure rules relating to investment-related information. This completes the ASCi Alert series on participant fee disclosure. As outlined in ASCi Alert 12-02, plan administrators are responsible for the following participant disclosures:

1. General plan-related information (at least annually);
2. General information about administrative expenses (at least annually);
3. General information about individual expenses that may be charged to participant accounts (at least annually);
4. Specific information about administrative expenses and individual expenses actually charged to the participant account (at least quarterly); and
5. Investment-related information (some mandatory and some upon request).

In ASCi Alert 12-03, we discussed the first three plan-related fee disclosure requirements, which must be included in the initial and annual disclosure. Also in ASCi Alert 12-03, we included a summary chart on the timing for all plan-related information under the participant disclosure regulations.

In ASCi Alert 12-04, we focused on the fourth disclosure requirement relating to specific information about administrative and individual expenses necessary for the quarterly disclosure. In this ASCi Alert 12-05, we discuss the fifth disclosure requirement relating to investment-related information.

Automatically Disclosed Investment-Related Information

The plan administrator must provide certain investment-related information automatically (described below) to participants and beneficiaries on or before the date on which he or she can first direct his or her investments and at least annually thereafter. The compliance date for the initial annual disclosure that includes the investment-related information was the later of the first day of the first plan year beginning on or after November 1, 2011, or (2) 60 days after the compliance date of the service provider disclosure rules (i.e., July 1, 2012).

ASci Insight – The investment-related information must be based on the latest information available to the plan. The plan administrator must provide the investment-related information for both open and closed designated investment alternatives.

(Closed investments include designated investment alternatives that are closed to new investments, but that allow participants and beneficiaries to maintain prior investments in the alternative and to transfer their interests to other plan investment alternatives.)

The plan administrator must provide the following investment-related information to each participant and beneficiary:

Identifying information: This includes the name of each designated investment alternative and the type or category of the investment (e.g., money market fund, balanced fund, employer stock fund).

ASci Insight – The regulations define a designated investment alternative as any investment alternative designated by the plan into which participants and beneficiaries may direct the investment of assets held in, or contributed to, their individual accounts. The term does not include brokerage windows, self-directed brokerage accounts or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan.

Performance data: For designated investment alternatives whose return is not fixed, the performance data includes the average annual total return of the investment for 1-, 5-, and 10-calendar year periods ending on the date of the most recently completed calendar year (as well as a statement that indicated that the investment's past performance is not necessarily an indication of how the investment will perform in the future). For designated investment alternatives whose return is fixed or stated for the term of the investment, the performance data includes both the fixed or stated annual return and the term of the investment. If the issuer of the fixed or stated rate of return may adjust the rate prospectively, the plan administrator must provide a statement to this effect and how to obtain the most recent rate of return.

Benchmarks: For designated investment alternatives whose return is not fixed, the plan administrator must provide the name and returns of an appropriate broad-based securities index over the 1-, 5-, and 10-calendar year periods comparable to the performance data periods provided for the designated investment alternative.

Fee and expense information: For designated investment alternatives with respect to which the return is not fixed, the plan administrator must provide:

- The amount and a description of any shareholder-type fee (e.g., commissions, sales loads, redemption fees, etc.) and a

description of any restriction or limitation that may be applicable to a purchase, transfer or withdrawal of the investment in whole or in part;

- The total annual operating expenses of the investment expressed as a percentage (i.e., expense ratio);
- The total annual operating expenses of the investment for a one-year period expressed as a dollar amount for a \$1,000 investment (based on no returns and on the expense ratio);
- A statement indicating the fees and expenses are only one of several factors that participants and beneficiaries should consider when making investment decisions; and
- A statement that the cumulative effect of fees and expenses can substantially reduce the growth of a retirement account and that the Department of Labor website has examples demonstrating the long-term effect.

For designated investment alternatives with respect to which the return is fixed, the plan administrator must provide:

- The amount and a description of any shareholder-type fee; and
- A description of any restriction or limitation that may be applicable to a purchase, transfer or withdrawal of the investment in whole or in part.

Internet website address: The plan administrator must provide participants and beneficiaries with an Internet website address that is sufficiently specific to allow access to information regarding the designated investment alternative's investment objectives, performance data, strategies, and fees and expenses.

Glossary: The plan administrator must provide a general glossary of terms to assist participants and beneficiaries in understanding the designated investment alternatives, or an Internet website address that is sufficiently specific to provide access to such a glossary.

ASCI Insight – The DOL has decided not to provide its own sample glossary. In Field Assistance Bulletin 2012-02, the DOL mentions two sample glossaries. One entitled Sample Glossary of Collective Investment Fund Terms for Disclosures to Retirement Plan Participants, which was developed by the American Bankers Association (www.aba.com). The other entitled Sample Glossary of Investment-Related Terms for Disclosures to Retirement Plan Participants, which was developed by the SPARK Institute and the Investment Company Institute and endorsed by the American Benefits Council, the American Council of Life Insurers, ASPPA and the Society for Human Resource Management (available at www.sparkinstitute.org).

Annuity options: If a designated investment alternative is an annuity, the plan administrator must make the following disclosures:

- The name of the contract, fund or product;

- The objectives and goals;
- The benefits and factors that determine the price;
- Any withdrawal or transfer limitations;
- Any fees, such as surrender charges, that may reduce the value of the annuity option;
- A statement that insurance company guarantees are subject to its long-term financial strength and claims-paying ability;
- An Internet website that provides more detailed information about the annuity option.

Comparative format: The plan administrator must provide the investment-related information described above in a chart or similar format that is designed to facilitate a comparison of such information for each designated investment alternative under the plan and prominently displays the date as of which the information is provided. The chart must include:

- A statement indicating the name, address and telephone number of the plan administrator (or designee) to contact for certain additional information;
- A statement that the additional information is available at the listed Internet website address(es); and
- A statement explaining how to request, free of charge, paper copies of the website information.

ASCI Insight – The DOL has provided a model comparative-format chart under the regulations to assist plan administrators. Use of the model chart is not required, but a fiduciary that uses and accurately completes the model chart is deemed to meet the formatting requirement of the regulations. You can find the model chart as an appendix to DOL Reg. §2550.404a-5.

Investment-Related Information upon Request

Upon request of the participant or beneficiary, the plan administrator must provide:

- Copies of prospectuses for the disclosure of information to investors;
- Copies of financial statements or reports;
- A statement of the value of a share or unit each designated investment alternative and the date of the valuation; and
- A list of the assets comprising the portfolio of each designated investment alternative which constitutes plan assets and the value of each such asset.

ASCI Insight – The plan administrator may decide to provide the above information along with the automatically-provided information rather than on request.

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