



qualified pension professionals, inc.

specializing in the administration of 401(k) plans

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Participant Fee Disclosures Under Section 404a-5

As a sponsor of a qualified plan, you are responsible for the distribution of several required participant notices. Starting in 2012, this responsibility increased with the introduction of the ERISA §404a-5 Participant Fee Disclosures.

Who the Rules Apply To...

The rules apply to all qualified plans that contain participant-directed assets. If all of your plan's assets are in a pooled, trustee directed account, this does not apply to you. If any of your plan's assets are participant-directed, these rules apply to you.

What you need to do...

Most investment companies that provide recordkeeping services will be providing either a sample notice for you to complete or preparing the notices for you. If you receive information in multiple pieces or from different sources (i.e. if you have investments with multiple investment companies) they must be provided to the participants at the same time (staple them together).

Contact your investment advisor if you have any questions regarding what assistance is available for your plan's assets.

If you don't follow these rules...

Many of the investment companies intend to assist with these notices. It's possible they will be able to alleviate much of this burden and may even fulfill this requirement for you, but you, as Plan Administrator, are ultimately responsible to ensure these disclosures are being made. If you do not comply with these regulations it may result in a breach of fiduciary duty that could expose you to both professional and personal liability.

What the Rules Say...

Annual Requirements: Every year all plan participants (including terminees) and beneficiaries with the right to direct investments, must receive notice of the following information:

1. General Plan Information:

- a. Explanation of when participants may give investment instructions and any plan limits on those instructions (i.e. transfer to/from a designated investment alternative ("DIA")).
- b. Description of or reference to plan provisions regarding exercise of voting or other rights pertaining to investing in a DIA, and any restrictions on those rights.
- c. Identification of any DIA offered under the plan and, if applicable, investment managers.
- d. Description of any brokerage window or similar arrangement allowing investments beyond those designated by the plan.
- e. Any changes to the above information must be provided to participants 30-90 days prior to the effective date of the change.

This article is only intended to provide general information. It does not offer legal or tax advice, nor does it profess to treat all of the issues surrounding any one topic.



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2. Plan Fee and Expense Information:

- a. Fees for general plan services charged against accounts which are not reflected in the total operating expenses of any DIA (i.e. legal, accounting, recordkeeping expenses, etc.).
- b. Fees for services to the individual participant accounts (i.e. plan loans, distributions, commissions, transfer fees, investment advice, brokerage windows, sales charges, redemption fees, etc.).
- c. The basis on which charges will be allocated (i.e. prorata, per capita, etc.).
- d. Any changes in the above information must be provided to participants 30-90 days prior to the effective date of the change.

3. Investment Related Information: Must be provided in a comparative chart (not applicable to brokerage accounts)

- a. Identifying information, Name of DIA, type or category of investment
- b. Performance data
- c. Benchmarks
- d. Fee and expense information
- e. Internet Web site address specific to each investment fund
- f. Glossary of terms
- g. Annuity options

Quarterly Requirements: Every quarter plan participants (including terminees) and beneficiaries, with the right to direct investments, must receive notice of the following information:

1. Administrative and Individual expenses

- a. Dollar amount charged to the participant/beneficiary account during the prior quarter.
- b. Description of services provided for such amount.
- c. If applicable, explanation that some of the plan's administrative expenses for the prior quarter were paid from the total operating expenses of one or more of the plan's DIAs (i.e. through revenue sharing arrangements, 12b-1 fees, sub-transfer agent fees, etc.).

Upon Request: Certain items must be available to participants upon request, i.e. prospectuses, financial reports, statements of valuations and list of assets held by any portfolios of each DIA.