



## I'm Paying What?

### Practical Steps for Managing the New Fee Disclosure Regulations

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The title of this regulatory update could very well reflect the reaction that many plan sponsors and participants will have as they begin to receive more detailed fee data from their retirement plan providers. As you may know, the Department of Labor (DOL) has focused significant attention over the past few years on increasing plan sponsor and participant understanding of retirement plan fees and services. There is no question that clarity and transparency are required. Their analysis has led to several important new regulations which the majority of plan sponsors will need to comply with over the next 9-12 months. Specifically, these new regulations are:

- ▶ **Updated Form 5500, Schedule C** (effective for 2009 plan years): includes expanded requirements for service provider reporting of *actual* direct and indirect compensation
- ▶ **Service Provider Fee Disclosure – ERISA 408(b)(2) Interim Final Regulation** (revised effective date of January 1, 2012): requires a statement of the services provided, the service provider's fiduciary status, *expected* direct and indirect compensation, and the manner in which the service provider will receive such compensation
- ▶ **Participant Fee Disclosure – ERISA 404(a)(5) Final Regulation** (applicable for plan years beginning on or after November 1, 2011): information required to be disclosed includes general plan related information such as administrative and individual expenses and the available investment options; investment specific information such as performance data, benchmark information, fee and expense information (shown as a % of assets *and* as a dollar amount), and where to find additional information.

These new regulations should help to illuminate the real costs associated with sponsoring, and investing in, retirement programs like 401ks. It is also apparent that these regulations raise the bar on your role in monitoring and analyzing your retirement plan fees.

Rather than provide you with the specific details of each regulation in this paper (available upon request), the consulting team at Stable Two Financial has created a potential roadmap for successfully navigating these important new disclosure requirements.

As a starting point, it is important to recognize that simply having more data regarding your plan fees will not be enough to meet your fiduciary obligation of ensuring that the fees you are paying are, in fact, reasonable. Disclosure does not equate to understanding, nor guarantee that what you're paying is appropriate. The only way to determine "reasonableness" is by implementing a thoughtful evaluation process and periodically conducting some form of benchmarking or due diligence.

As you approach the implementation of these new regulations, consider the following:

- ▶ Take the time to understand the regulations and their implications to your specific plan. While there is no shortage of information on this subject, there are a number of requirements and implications that you'll want to think through well before you need to comply with them. This education process should include all pertinent internal stakeholders, such as:
  - your investment or retirement plan committee
  - any other plan fiduciaries
  - your HR/Benefits or Finance staffs (who may be confronted with participant questions)
- ▶ Develop a process that you will follow consistently to monitor the reasonableness of your fees. In other words, develop a strategy for what you will do with the new data that you and your participants will be receiving. Include:
  - The frequency of the reviews and the process you will use for benchmarking (e.g. is it the same for all service providers or will it differ depending on their function)



- Format for analysis and reporting (e.g. should it be at the aggregate plan level or at the more granular provider level – our suggested method)
- Don't forget to consider the quality and quantity of services being provided by each provider (e.g. are the fees being paid reasonable relative to the services being provided?)
- Frequency with which you'll conduct more formal due diligence
- ▶ Make sure that you understand the revenue sharing arrangement(s) used by the plan's providers and determine whether the revenue generated is appropriate for a plan like yours.
- ▶ Use your periodic fee reviews to evaluate the potential pricing impact of introducing lower cost investment options such as institutional alternatives or mutual funds with lower cost share classes.
- ▶ If you don't already do so, now would be an excellent time to introduce one or more low cost index funds into the investment line-up for those participants who favor low cost, passive investments.
- ▶ Determine how you will evaluate the cost and performance of investment options such as insurance company general accounts which historically have not declared a specific "expense ratio."
- ▶ If your provider requires that you maintain some level of their proprietary funds, determine if you have full visibility into the revenue that they are generating from these funds (note: if the provider responds that they don't receive a level of revenue that is beyond the typical competing fund, then ask them why are they requiring that you invest in them.)
- ▶ The ultimate responsibility for distributing the participant disclosure rests with you, the plan sponsor, not the provider. While many providers are building solutions that will help relieve you of this burden, you still need to review your provider's materials to ensure that they comply with the regulations, and that you are comfortable with their process and the timing of the disclosures.
- ▶ Determine your communication strategy with participants. They will be receiving a lot of new information. Is there a way to help them understand what this new data means to them?

- ▶ Anticipate the types of questions that you are likely to receive from your plan participants. Determine the appropriate answers in advance, as well as the individual(s) who will address these questions. If your provider will be fielding most calls, make sure that you understand and support their approach.

The success of your new process can be measured by your confidence in answering this participant question: "How do you know that we're not over paying for the investments in this plan?" Being able to clearly describe or demonstrate that you have a prudent process in place will help provide greater peace of mind to all plan stakeholders.

Managing these new responsibilities doesn't have to be an overwhelming task, but they may require that you create a more formal and documented approach to reviewing plan expenses than you have applied in the past. If you don't understand what the information you receive means, it's your fiduciary obligation to ask for help from someone who is knowledgeable in this area. We hope that the comments in this paper help you create a practical approach to managing these new regulations, and ultimately help you control the costs associated with your employer sponsored retirement plan.

For additional information regarding these regulations, or retirement plan management in general, please contact us at [information@stabletwofinancial.com](mailto:information@stabletwofinancial.com).

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