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The PRS Report

AUGUST 30TH DEADLINE FOR PROVIDING PARTICIPANT DISCLOSURES

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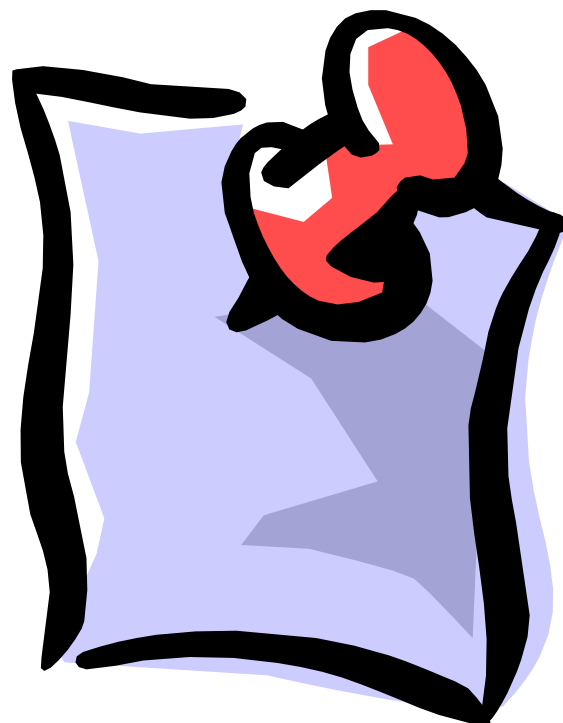
AUGUST 30TH DEADLINE FOR PROVIDING PARTICIPANT DISCLOSURES

Introduction

As you may recall, our last newsletter discussed the Fee Disclosure that you, as plan sponsor, should have received by July 1, 2012 from the covered service providers (CSPs) of your plan. You probably now have that disclosure in hand. If the Plan is an Individual Account Plan which provides for participant direction of investments then, with the information you received, as well as perhaps information from additional sources, you will need to prepare and distribute Annual Participant Disclosures by August 30, 2012. We hope that along with what you already received from the CSPs, the following will lend clarity to your obligations.

Who is to receive the annual notices?

Although often referred to as the participant fee disclosure regulation, the regulation's underlying purpose is to provide participants and beneficiaries sufficient information in order for them to make informed decisions about the investment choices they make. The rules apply only to ERISA plans which provide for individual accounts and permit the participant to choose the investment for his contributions, such as in 401(k) plans. Anyone who is *eligible* to direct a contribution, regardless of whether or not he actually has contributions (accounts) to direct or is enrolled in the plan, must receive the information.



AUGUST 30TH DEADLINE FOR PROVIDING PARTICIPANT DISCLOSURES (cont.)

When must the information be provided?

The first annual disclosure, for calendar year plans, is to be provided to participants no later than **August 30, 2012** and then annually thereafter. For new participants, the disclosure must be provided on or before the date when the participant first becomes eligible to direct his investments. If there are subsequent changes to the required information, participants must be notified of the changes at least 30 days, but not more than 90 days, before the effective date of the change.

In addition, the quarterly notices, currently being provided to participants of such plans, must also be updated to include additional fee and expense information – specifically to disclose the actual amount of fees and expenses deducted from the accounts. Quarterly notices are to be distributed by the 45th day after the close of the quarter. The first quarter affected by the changes ends on September 30, 2012.

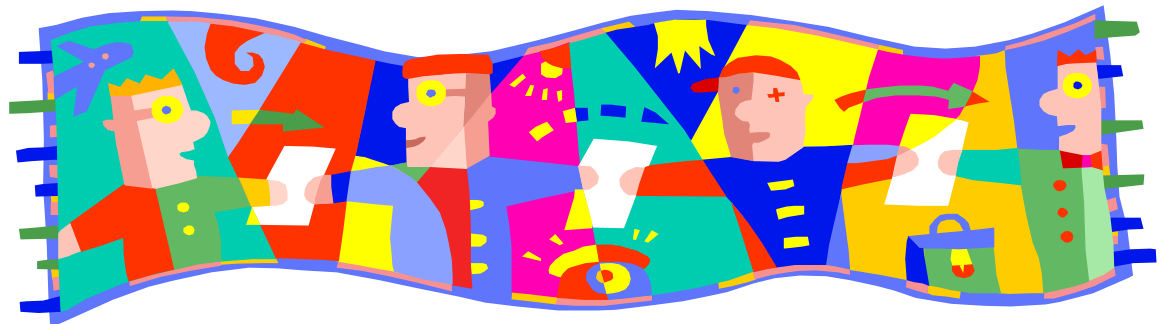
Who must provide the disclosures?

The Plan Administrator (often the Plan Sponsor) is responsible for providing the notices to participants. Your service providers may assist you in gathering and preparing the information.

What information is to be provided?

It is reasonable to expect that most of the information you need to include in the participant disclosure will have been provided to you by the investment provider of your plan most likely in the form of templates and charts together with other information.

The information to be provided generally falls into two categories: *plan-related information* and *investment-related information*.



AUGUST 30TH DEADLINE FOR PROVIDING PARTICIPANT DISCLOSURES (cont.)

Plan Related Information:

The Plan related information can be further subdivided as follows:

General Plan Information

Such information includes a current list of the investment options under the plan, as well as a description of any “brokerage windows” or similar arrangement that a participant may select. How investment instructions are given by participants and to whom must be included with the descriptions.

Administrative Expenses Information

These expenses are those which would be charged to or deducted from all participant accounts (shared by all participants) typically on a pro-rata or per-capita basis. Examples of these expenses would be for legal, accounting, third party administration, and recordkeeping services, but would not include expenses already reflected in the annual operating expenses of the particular investment vehicle. Some asset providers include their administrative (recordkeeping) charges as a sub-category of the expense ratio, in which case, it is included in the fee and expense information section of the disclosure. Other asset providers will include their recordkeeping charges in this section. The actual charges made to the participants’ accounts are shown on the quarterly statements.

By and large, the plan sponsors of plans serviced by PRS pay for third party administrative services directly from company funds, that is, without deducting these fees from participants’ accounts. Since the majority of the plan documents we draft state that administrative expenses may be paid from participant accounts, this must be so stated in this section. If the situation changes, and the plan sponsor decides to have some or all of the administrative expenses deducted from participant accounts, the participants must receive a notice at least 30 days (but not more than 90 days) prior to the effective date of the change.



AUGUST 30TH DEADLINE FOR PROVIDING PARTICIPANT DISCLOSURES (cont.)

Although not required to, we **recommend** that plan sponsors who do pay for administrative costs themselves state this fact in this section of the disclosure to give themselves credit for not charging participants for this expense. We believe that this puts the Plan Sponsor in a good light.

Individual Expenses Information

These are the expenses charged to or deducted from the individual account of the specific participant on account of whom the expense was incurred. Examples of these fees would be charges incurred for a loan or for processing a Qualified Domestic Relations Order. The annual statement would explain the fees that can be deducted. The quarterly statement must show the amount actually charged to the account of the individual for that quarter, as applicable.



Investment Related Information:

For *each* investment option under the Plan, the following information must be provided:

- **Performance Data:** Specific information about historical investment performance must be provided. If there is no fixed rate of return, 1-, 5- and 10-year (or the life of the investment, if shorter) rates of return are to be disclosed. If there is a fixed rate of return for investment, the annual rate of return and the term of the investment is to be provided.
- **Benchmark Information:** For investment options without a fixed rate of return, the name and returns of an appropriate broad-based securities market index over the respective time frames must be provided.
- **Fee and Expense Information:** These fees and expenses include total annual operating expenses of the fund, shareholder fees (examples commissions, sales charges and loads) and restrictions on the participant's ability to purchase or withdraw from an account.

In addition, a web site address is to be provided to which participants will be directly linked to information regarding the specific investment.

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A Glossary of terms –or web site address for such a Glossary – must also be provided to participants.

This information must be provided in a format, such as a chart, for each investment, in order to facilitate comparisons between the investments.

Summary

This is a very brief summary as to the information Plan Sponsors are required to give the participants on an annual basis. The majority of the information to be provided is based on the specific investments offered to participants. Your asset company and/or financial advisor should be of assistance in preparing the disclosures.

To assist our clients, Pension Review Services will provide supplemental information about the administrative expenses that may be paid by the plan as well as the “individual expenses” for which the Plan permits charges to the particular individual accounts, as provided by Plan documentation. Separate agreements with the asset providers may provide for additional fees.



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