



DOL amends timing of annual participant fee disclosure

On March 19, the Department of Labor (DOL) published a direct final rule regarding the timing of annual participant fee disclosures required under ERISA Rule 404a-5. This rule applies to participant-directed defined contribution plans subject to ERISA.

Background

The final [participant fee disclosure rules issued in October 2010](#) require plan sponsors to disclose plan-related fee information to participants and beneficiaries in the form of a comparative chart at least annually. The rules defined “annually” as “at least once in any 12-month period.” This definition results in the deadline being accelerated each year as plan sponsors and service providers worked to provide the disclosure before the anniversary of the prior year’s delivery date.

In 2013, the DOL solicited comments on whether the fee disclosure regulation should be amended to provide additional flexibility regarding this deadline. Prudential participated with industry groups in providing comments on the need for additional flexibility.

Direct final rule

The direct final rule amends the deadline by which plan sponsors must furnish the annual 404a-5 disclosure to participants and beneficiaries from “at least once in any 12-month period” to “at least once in any 14-month period.” This additional time provides welcome relief as it alleviates the concerns regarding the annual deadline “creeping” earlier each year.

This rule will automatically take effect on June 17, 2015, unless adverse comments are received by the DOL by April 20, 2015. If adverse comments are received, the direct final rule will be withdrawn and the DOL will later address public comments in a subsequent final rule.

Temporary enforcement policy

Acknowledging that some sponsors will provide 2015 disclosures before the June 17, 2015 effective date of the direct final rule, the DOL also issued a temporary enforcement policy. Under this policy, the DOL will treat a plan administrator as satisfying the deadline if annual disclosures are furnished within the new 14-month deadline, and the plan sponsor reasonably determines that using the extended deadline will benefit participants and beneficiaries.

Prudential’s response

While this change will not impact Prudential Retirement’s 404a-5 disclosure timing, the amended deadline will provide welcome flexibility in meeting the annual participant fee disclosure deadline.

Compliance Bulletin by Prudential Retirement

The Pension Analyst is published by Prudential Retirement, a Prudential Financial business, to provide clients with information on current legislation and regulatory developments affecting qualified retirement plans. This publication is distributed with the understanding that Prudential Retirement is not rendering legal advice. Plan sponsors should consult their attorneys about the application of any law to their retirement plans.

©2015 Prudential Financial, Inc. and its related entities.

Prudential, the Prudential logo, the Rock symbol and Bring Your Challenges are service marks of Prudential Financial, Inc., and its related entities, registered in many jurisdictions worldwide.