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COMPLIANCE ADVISORY



Prudential
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DOL allows a one-time “re-set” of annual participant fee disclosure deadline

The [participant fee disclosure rules](#) require plan administrators of participant-directed defined contribution plans covered by ERISA to disclose information about investment options, such as fee and performance information, in a comparative format to participants and beneficiaries at least annually. Most plans were required to provide an initial annual disclosure to participants no later than August 30, 2012, with the subsequent annual disclosure to be delivered within 12 months from the date the initial disclosure was provided.

On July 22, the Department of Labor (DOL) issued [Field Assistance Bulletin \(FAB\) 2013-02](#) announcing a temporary enforcement policy that allows sponsors of participant-directed defined contribution plans a one-time “reset” of the deadline for their annual 404(a) disclosure.

2013 annual disclosures

Under the FAB, a plan sponsor may furnish the plan’s 2013 annual 404(a) disclosure no later than 18 months after the date the 2012 disclosure was provided to participants. *For example, if a plan sponsor furnished the initial annual disclosure to participants and beneficiaries on August 25, 2012, the 2013 disclosure would have an August 25, 2013 deadline. However, in accordance with the terms of the FAB, the DOL will consider the 2013 disclosure to be furnished timely if it is furnished by February 25, 2014.*

2014 annual disclosures

In the event the plan sponsor has already furnished the 2013 disclosure to participants, or has incurred costs or taken steps to furnish the disclosure to participants, the sponsor may instead choose to furnish the 2014 disclosure to participants no later than 18 months after furnishing the 2013 disclosure.

For example, if a plan sponsor furnished the initial annual disclosure on August 25, 2012, and intends to furnish the second annual disclosure on August 25, 2013, the 2014 disclosure would have an August 25, 2014 deadline. However, in accordance with the terms of the FAB, the DOL will consider the 2014 disclosure to be furnished timely if the plan sponsor furnishes the 2014 disclosure by February 25, 2015.

DOL considers window period for disclosure deadline

Additionally, the DOL has stated that they will consider whether to allow a 30-day or 45-day window during which a subsequent annual disclosure would have to be furnished, rather than fixing the 12-month period to end on one specific day. The DOL is accepting comments on this topic.

Prudential’s response

Prudential Retirement has already delivered 2013 annual fee disclosures to participants in plans that elected to use our full support services. For plans that elected our partial support services, Prudential has provided the 2013 disclosures to plan sponsors for their delivery to participants. Prudential will assess whether the guidance in the FAB will affect our 2014 disclosure timing and will keep you informed of any changes.

Compliance Advisory by Prudential Retirement

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