

DOL Issues Guidance on 404(a)(5) Participant-Level Disclosures

May 10, 2012

Attorney Articles

On May 7, 2012, the Department of Labor (the “DOL”) issued Field Assistance Bulletin No. 2012-02 (the “FAB”). The FAB provides the DOL’s answers to many frequently asked questions regarding the new disclosures that plan administrators must issue to participants and beneficiaries in participant-directed individual account plans, including such plans as 401(k), 403(b) plans, and money purchase pension plans. These new disclosures are commonly known as the participant-level disclosures or the 404(a)(5) disclosures.

The FAB provides helpful guidance on a variety of issues related to the new participant disclosure requirements, including confirmation that the new disclosures can be furnished along with, or as part of, other documents and that the initial quarterly disclosure should include only fees and expenses from the quarter to which that disclosure relates, and not all fees and expenses for the year-to-date. The FAB also expansively clarifies what information must be communicated to participants regarding brokerage windows offered under the plan. In total, the FAB provides 38 answers on 15 topics. The FAB is available here: <http://www.dol.gov/ebsa/pdf/fab2012-2.pdf>.

As a reminder, for calendar year plans the plan administrator must furnish the first initial disclosures to participants and beneficiaries no later than August 30, 2012 and the first quarterly disclosures no later than November 14, 2012; the deadlines for non-calendar year plans may differ.

If you have questions about the new participant-level disclosures, please contact the attorney in the Benefits and Compensation practice group with whom you work.

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