

## Department of Labor Establishes Two-Month Grace Period for Participant-Level Fee Disclosure

Article By:

Brady McDaniel

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In 2010 the DOL published a final regulation ***requiring plan administrators of participant-directed individual account plans to disclose fees, expenses, and certain other plan information to participants and beneficiaries***. The regulation requires plan administrators to provide these disclosures on or before the date on which a participant or beneficiary can first direct investments and “at least annually thereafter.” The regulation defines “at least annually thereafter” to mean “at least once in any 12-month period, without regard to whether the plan operates on a calendar year or fiscal year basis.” For example, if a plan administrator provided the initial disclosure on August 25, 2012, the plan administrator had to provide the first annual disclosure no later than August 25, 2013.

After soliciting and receiving comments on alternatives to a strict annual deadline, the DOL has [amended](#) its participant-level fee disclosure regulation to change “12-month period” to “14-month period,” effectively establishing a two-month grace period for providing the disclosure. Although the change is not effective until June 17, 2015, the DOL will not take any enforcement action against plan administrators who rely on the change immediately. However, because DOL non-enforcement does not preclude participant lawsuits, plan administrators may want to consider waiting until the change is effective to take advantage of the grace period. If the DOL withdraws the change before it becomes effective because of significant adverse comment, the DOL will provide additional guidance on its enforcement policy.

The flexibility of the new rule should benefit both plan administrators and plan participants. For example, the rule change mitigates the incentive for a plan administrator to delay disclosure until the latest permissible date, since it allows a plan administrator to provide disclosure early in a given plan year without accelerating the disclosure deadline for all subsequent plan years. The rule change should also make it easier for plan administrators to consolidate participant-level fee disclosures with other participant communications.

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