



Participant Fee Disclosure: Plan-Related Information for the Initial and Annual Disclosure

Fee Disclosure Series: Part 2 of 4

By John P. Griffin, JD, LLM and Charles D. Lockwood, JD, LLM

In ASCi Alert 12-02, we provided general information about the participant fee disclosure requirements. As outlined in ASCi Alert 12-02, plan administrators are responsible for the following participant disclosures:

1. General plan-related information (at least annually);
2. General information about administrative expenses (at least annually);
3. General information about individual expenses that may be charged to participant accounts (at least annually);
4. Specific information about administrative expenses and individual expenses actually charged to the participant account (at least quarterly); and
5. Investment-related information (some mandatory and some upon request).

In this ASCi Alert 12-03, we will discuss the first three plan-related fee disclosure requirements, which must be included in the initial and annual disclosure. In ASCi Alert 12-04, we will focus on the fourth disclosure requirement relating to specific information about administrative and individual expenses necessary for the quarterly disclosure. In ASCi Alert 12-05, we will discuss the fifth disclosure requirement relating to investment-related information. At the end of this ASCi Alert, we include a summary chart on the timing for all plan-related information under the participant disclosure regulations.

ASci Insight – Under the disclosure regulations, the plan administrator has the responsibility to ensure that participants and beneficiaries get the proper information. The term plan administrator is the person identified as the administrator in the plan document. Most plan documents, including the ASCi documents, allow the plan administrator to delegate responsibilities to other persons (generally in writing and with the approval of the employer). The plan administrator may delegate the participant fee disclosure responsibility.

Compliance Date for Initial Annual Disclosure

For a calendar year plan, the deadline for the initial annual participant fee disclosure is August 30, 2012. For non-calendar year plans, the deadline is the later of: (1) 60 days after the first day of the first plan year beginning on or after November 1, 2011, or (2)

60 days after the compliance date of the service provider disclosure rules (i.e., July 1, 2012).

ASci Insight - This is the first of the participant fee disclosure deadlines and plan administrators and the service providers must focus on which plans are covered, delegation of responsibility for compliance, determining the applicable disclosure needs and formats based on a particular plan's design and ensuring deadlines are met.

A plan administrator also must provide the annual participant fee disclosure information on or before the date on which a participant or beneficiary can first direct his or her investments. After the initial annual disclosure the plan administrator must provide the information annually, based on the latest information available.

Plan-Related Information

The participant fee disclosure regulations separately set forth the requirements for plan-related information and investment related-information. With respect to plan-related information, the regulations require a plan administrator to disseminate the "general" information on an annual basis. (Specific administrative and individual expense disclosures must be provided quarterly.) The initial annual disclosure (due by August 30, 2012 for calendar year plans) must include this information. The annual disclosure plan-related information is further broken down into the following categories:

1. General operational and identification information
2. General administrative expenses
3. General individual expenses

ASci Insight –A plan administrator may provide plan-related and investment-related information together in a single document or in separate documents.

General Operational and Identification Information

On or before the date a participant or beneficiary can first direct his or her investments and at least annually thereafter, a plan administrator must provide the following information:

1. An explanation of the circumstances under which participants and beneficiaries may give investment direction.
2. An explanation of any specified limitations on the ability to direct investments under the terms of the plan, including any restrictions on the transfer to and from a designated investment alternative.
3. A description of (or reference to) plan provisions relating to the exercise of voting, tender, and similar rights appurtenant to an investment in a designated investment alternative as well as any restrictions on such rights.
4. An identification of any designated investment alternatives under the plan. A designated investment alternative (DIA) is any investment alternative designated by the plan into which participants and beneficiaries may direct the investment of assets held in their individual accounts. DIAs do not include brokerage windows, self-directed brokerage accounts and similar arrangements. However, see #6 below.
5. An identification of any designated investment managers. A designated investment manager (DIM) is an ERISA §3(38) investment manager that is designated by a plan fiduciary and made available to participants and beneficiaries to manage all or a portion of the assets in their individual accounts.
6. A description of any brokerage windows, self-directed brokerage accounts or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan.

If any of the above information changes, the plan administrator must furnish a description of such change to each participant and beneficiary at least 30 days, but no more than 90 days, in advance of the effective date of such change. The regulations provide an exception if unforeseeable events or circumstances beyond the control of the plan administrator prevent satisfying the advance notice requirement. In such case, the plan administrator must furnish the change information as soon as reasonably practicable.

ASCI Insight – With respect to brokerage windows, self-directed brokerage accounts and similar arrangements, the description must at a minimum provide sufficient information to enable participants and beneficiaries to understand how the window, account or arrangement works and whom to contact with questions. Also, the description must include an explanation of any fees and expenses that may be charged against an individual account in connection with any such brokerage arrangement.

General Administrative Expenses

On or before the date a participant or beneficiary can first direct his or her investments and at least annually thereafter, a plan administrator must provide an explanation of any fees and expenses for general plan administrative services, which may

be charged against the individual accounts of participants and beneficiaries and are not reflected in the total annual operating expenses of any designated investment alternative. The general administrative information must include the basis on which such charges are allocated (e.g., pro rata, per capita) to, or affect the balance of, each individual account. Administrative services may include legal, accounting and recordkeeping services as well as other administrative services.

Similar to the rule of changes to general operational and identification information, the plan administrator must furnish a description of any change in a general administrative expense to each participant and beneficiary at least 30 days, but no more than 90 days, in advance of the effective date of such change. The unforeseeable events or circumstances exception also applies to this advance notice requirement.

ASCI Insight – Administrative fee disclosures may be expressed in terms of a monetary amount, formula, percentage of assets or a per capita charge. If the fees are known at the time of the disclosure, the explanation must identify the service (e.g., recordkeeping), the cost of the services and the allocation method. If the fees are not known at the time of disclosure, an identification of the services that are expected to be performed and the allocation method ordinarily used is sufficient disclosure. If administrative fees are paid using plan forfeitures or general employer assets, no disclosure is necessary.

General Individual Expenses

On or before the date a participant or beneficiary can first direct his or her investments and at least annually thereafter, a plan administrator must provide an explanation of any fees and expenses that may be charged against the individual account of a participant or beneficiary on an individual, rather than plan-wide basis. Such individual expenses may include fees relating to participant loans, QDROs, investment advice, brokerage windows, commissions, front- or back-end loads or sales, redemptions, transfers and riders for annuity contracts. The plan administrator does not need to separately disclose these individual fees if they are reflected in the total annual operating expenses of any designated investment alternative.

The plan administrator must furnish a description of any change in a general individual expense to each participant and beneficiary at least 30 days, but no more than 90 days, in advance of the effective date of such change. The unforeseeable events or circumstances exception also applies to the advance notice requirement.

ASCI Insight – Even if only a small percentage of the plan's participants and beneficiaries select a brokerage window or similar brokerage option, the plan administrator must still provide the required annual information relating to individual expenses to all participants and beneficiaries.

ASCI has developed a template for the Annual Disclosure Statement for Plan-Related Participant Fees which can be used for the initial and annual disclosures. The Annual Disclosure Statement template (and instructions) appears on the ASCI DGEM Download Page. ASCI also is developing a pre-populated form to assist ASCI DGEM users in the generation of the Annual Disclosure Statement for Plan-Related Participant Fees.

The following chart provides a summary of the plan-related information (both annual and quarterly) that a plan administrator must disclose and when.

Participant Fee Disclosure Chart – What and When

Item #	Category	Information to Disclosure	Disclose annually ⁱ	Disclose quarterly
1	GPI ⁱⁱ	Explanation of the circumstances under which participants and beneficiaries may give investment direction. [Treas. Reg. §2550.404a-5(c)(1)(i)(A)]	x	
2	GPI	Explanation of any specified limitations on such instructions under the terms of the plan. [Treas. Reg. §2550.404a-5(c)(1)(i)(B)]	x	
3	GPI	Description of (or reference to) plan provisions relating to the exercise of voting, tender, and similar rights appurtenant to an investment in a designated investment alternative as well as any restrictions on such rights. [Treas. Reg. §2550.404a-5(c)(1)(i)(C)]	x	
4	GPI	Identification of any designated investment alternatives under the plan. [Treas. Reg. §2550.404a-5(c)(1)(i)(D)]	x	
5	GPI	Identification of any designated investment managers. [Treas. Reg. §2550.404a-5(c)(1)(i)(E)]	x	
6	GPI	Description of any brokerage windows, self-directed brokerage accounts or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan. [Treas. Reg. §2550.404a-5(c)(1)(i)(F)]	x	
7	AE ⁱⁱⁱ	Explanation of any fees and expenses for general plan administrative services, which may be charged against the individual accounts. [Treas. Reg. §2550.404a-5(c)(2)(i)(A)]	x	
8	AE	Actual amount of administrative expenses actually charged. [Treas. Reg. §2550.404a-5(c)(2)(ii)(A)]		x
9	AE	Description of services for administrative expenses charged. [Treas. Reg. §2550.404a-5(c)(2)(ii)(B)]		x
10	AE	If fees paid by revenue sharing, statement to that effect. [Treas. Reg. §2550.404a-5(c)(2)(ii)(C)]		x
11	IE ^{iv}	Explanation of any expenses that may be charged against an individual account on individual basis. [Treas. Reg. §2550.404a-5(c)(3)(i)(A)]	x	
12	IE	Dollar amount of individual expenses actually charged to an individual account. [Treas. Reg. §2550.404a-5(c)(2)(ii)(A)]		x
13	IE	Description of services for individual expenses charged. [Treas. Reg. §2550.404a-5(c)(2)(ii)(B)]		x

ⁱ This column includes the disclosure required for the initial annual disclosure and the disclosure needed on or before the date a participant or beneficiary can first direct his or her investments and at least annually thereafter.

ⁱⁱ GPI = General Plan Information

ⁱⁱⁱ AE = Administrative Information

^{iv} IE = Individual Information

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