

# EMPLOYEE BENEFITS & EXECUTIVE COMPENSATION ALERT

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## **Annual Plan Information Disclosure Deadline Approaching; DOL Provides Limited Relief**

Last year, the U. S. Department of Labor (“DOL”) began requiring the sponsor of a participant-directed individual account plan (a “Participant-Directed Plan”) to furnish participants and beneficiaries, at least annually, with certain detailed “plan-level” and “investment-level” information.<sup>1</sup>

The deadline for initial compliance with the DOL’s annual disclosure rules was, for a plan operating on a calendar year basis, August 30, 2012. Consequently, because the DOL requires that the disclosures be made at least once every twelve months, the plan sponsor of a Participant-Directed Plan that issued its disclosures on August 30, 2012, is generally required to provide updated disclosures by August 30, 2013.

However, the DOL has recently stated in official guidance that, if a plan sponsor determines that it would be beneficial to participants and beneficiaries, the distribution of plan-level and investment-level information may be delayed by as long as eighteen months from the date of its prior distribution. Therefore, if a plan sponsor issued its disclosures on August 30, 2012, the next disclosure would not be due until February 28, 2014. As a result, a plan sponsor can “re-set” its required annual disclosure date to not later than February 28, 2014.

It should be emphasized that the relief recently provided by the DOL extends to the disclosure of both plan-level information (such as investment instructions, voting rights and general plan fees and expenses) and investment-level information (such as investment performance data, comparative benchmarks and expense ratios).<sup>2</sup> See our September 2011 Alert for more details regarding what constitutes “plan-level” and “investment-level” information.

For the sponsor of a Participant-Directed Plan that has already distributed its 2013 disclosures to participants and beneficiaries, the DOL will take no enforcement action if the plan sponsor delays its 2014 disclosures by six months from the date on which it would ordinarily be due. For example, if a plan sponsor distributed its 2013 disclosures on June 30, 2013, the DOL would take no enforcement action if the plan sponsor elected to distribute its 2014 disclosures by December 30, 2014, which is six months following June 30, 2014, the date the annual disclosure would otherwise be due. Notably, the “re-set” relief provided by the DOL is a one-time opportunity for a plan sponsor to establish a new annual deadline for the distribution of its plan information disclosures.

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<sup>1</sup> For a more complete explanation of “plan-level” and “investment-level” information, as well as the content and form requirements mandated by the DOL with respect to the distribution of such information, please see our September 2011 Client Alert entitled *DOL Issues New Disclosure Rules* (the “September Alert”) found [here](#).

<sup>2</sup> This enforcement policy does not alter a plan sponsor’s obligation to timely update participants and beneficiaries about changes to investment information, such as new investment options, or other information, such as investment performance data, that must be made available at the plan’s internet web address.

For details regarding the acceptable methods of distribution, including electronic distribution of plan-level and investment-level disclosures, please see our May 2012 Client Alert, *Updated Guidance on Electronic Delivery of Certain Participant Disclosures*, found [here](#).

### What Should a Plan Sponsor Do Now?

In light of the DOL's requirement for annual disclosures, the sponsor of a Participant-Directed Plan should:

- Determine whether it would be beneficial to participants and beneficiaries to delay the distribution of the fee disclosures; and
- Arrange for the preparation and distribution of all plan disclosures by the plan sponsor's applicable deadline.

***If you have any questions concerning how to proceed with respect to the DOL's disclosure rules and the attendant distribution deadlines, please contact us.***

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*This edition of the Employee Benefits & Executive Compensation Alert concerns the DOL's annual fee disclosure rules and deadlines. The Alert was written by Devin M. Karas, a member of the Employee Benefits & Pension Practice Area at Reid and Riege, P.C. The Practice Area works closely with clients to design and draft tax-qualified and nonqualified retirement plans. For information or additional copies of this Alert, or to be placed on our mailing list, please contact Devin (tel. 860-240-1063) (e-mail [dkaras@rrlawpc.com](mailto:dkaras@rrlawpc.com)) or another member of the Practice Area, John J. Jacobson, Chair (tel. 860-240-1006) (e-mail [jjacobson@rrlawpc.com](mailto:jjacobson@rrlawpc.com)), John V. Galiette (tel. 860-240-1009) (e-mail [jgaliette@rrlawpc.com](mailto:jgaliette@rrlawpc.com)), Ronald J. Koniuta (tel. 860-240-1034) (e-mail [rkoniuta@rrlawpc.com](mailto:rkoniuta@rrlawpc.com)), or Ereik M. Sharp (tel. 860-240-1074) (e-mail [esharp@rrlawpc.com](mailto:esharp@rrlawpc.com)), or the Reid and Riege attorney with whom you regularly work.*

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