

BENEFITS EDGE

A RESOURCE FOR PLAN SPONSORS



Service Provider Fee Disclosure



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In 2012, new fee disclosure regulations will take effect and have a direct impact on the way plan sponsors and participants view and compare plan expenses. Three years ago, the U.S. Department of Labor (DOL) launched a three-part project designed to improve the transparency of fees in 401(k)-type plans. The first part of the project, requiring plans to disclose the direct and indirect fees it pays on Form 5500 Schedule C, is already in place. Part two is a new regulation requiring service providers to disclose fees to plan sponsors. Part three is a regulation requiring plan sponsors to disclose fees to participants.

Part two — an interim final regulation addressing service provider fee disclosure — is an important topic that affects every plan sponsor. As responsible plan fiduciaries, sponsors have a duty to make informed decisions about the “reasonableness” of the fees the plan pays for the services it receives (as required under ERISA, the law governing qualified retirement plans). The disclosures that BB&T will prepare will help simplify that task.

Background

ERISA has strict rules for plan fiduciaries. The most important is that fiduciaries are required to act prudently and solely in the interest of the plan’s participants and beneficiaries. Fiduciaries should apply this standard when selecting and monitoring service providers and plan investments. Thus, this regulation is vital to a fiduciary performing his or her duty and avoiding a prohibited transaction.

Covered Plans

Defined benefit and defined contribution plans, such as profit sharing and 401(k) plans, are covered by this regulation. Plans that are not covered include governmental plans, non-electing church plans, plans maintained outside the United States primarily for nonresident aliens, unfunded excess benefit plans, SEPs (Simplified Employee Pension plans), SIMPLE IRAs, IRAs, and non-ERISA 403(b) plans. Note that there is a reserved section of the regulation for welfare plans, but they are not currently covered by this ruling.

BB&T Has You Covered

BB&T is ready to comply with the regulations, and will issue the required disclosures to Plan Sponsors. We remain committed to offering you our best products and services. Your BB&T Consultant is always available to answer your questions and explain the true value of the services provided to your plan and participants. The benefit of a strong retirement plan provides a great value to your employees.

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PLANSPONSOR Survey Drawing Winners!

BB&T sincerely thanks everyone who participated in the 2011 PLANSPONSOR Defined Contribution Survey. We had a great response to the survey and will use this feedback to continue to provide outstanding service and products to you and your participants. The final results of the survey will be revealed in the November issue of PLANSPONSOR Magazine.

Those who completed the survey were entered into a drawing for three fantastic prizes. The grand prize winner of an iPad2 was Mike Campbell at MedCath Incorporated. Congratulations also go to Geof Challenger of Bradshaw Automotive and Frances Garber of Kingstree Federal Savings & Loan, each winning an Amazon Kindle!

Why Have a Written Investment Policy Statement?

SITUATION:

We have a 401(k) plan that allows our employees to direct the investment of their own plan account assets. We comply with all of the pension law's Section 404(c) requirements so that our liability for investment decisions made by participants is limited. However, we don't have a written investment policy statement. A colleague of mine says we should.

QUESTION:

Why should we have a written investment policy statement?

ANSWER:

Although a written policy is not required, it would provide your company with a critical measure of fiduciary liability protection if the plan's investment choices or their performance were challenged.

DISCUSSION:

A written investment policy statement is documentary evidence that a carefully considered investment policy exists. A policy statement provides the employer and other plan fiduciaries that are responsible for plan investments with investment management guidelines. It also provides a process for making broad investment management decisions, setting investment goals, and communicating the policy to employees. Without a prudent investment policy, an employer could be found liable for fiduciary shortcomings, including poor investment results.

While the specific needs of each individual plan and sponsor determine what should be included in an investment policy statement, these statements generally include:

- The plan's investment goals.
 - Roles and responsibilities of those involved with plan investments.
 - Considerations and guidelines used in selecting and replacing investments and investment managers.
 - Procedures for monitoring investment performance, directions as to how managers should report performance, and a review schedule.
 - A statement deferring to the plan document's provisions if a conflict arises.
 - A description of how participants may control their plan account investments, the manner and frequency of investment performance reporting, and what educational materials will be provided to help participants make informed investment decisions.
- Once you have established an investment policy, you, as the employer, or the company's benefits committee should review it regularly and revise it as needed. BB&T Consultants help plan sponsors prepare and monitor their investment policy statements and provide quarterly investment monitoring reports.

Planning for Participant Fee Disclosures

After several delays, the U.S. Department of Labor (DOL) has finally settled on a deadline for the new participant-level fee disclosure rules to take effect. The goal is to provide more transparency about the fees and expenses certain plan participants pay. The rules apply to retirement plans that allow participants to direct their own investments, and require an annual notice. For most plan sponsors, the deadline for sending out initial fee-disclosure notices is May 31, 2012.*

Be Prepared

The new disclosure notices could trigger a mix of reactions among your employees. Believe it or not, some may be surprised (and not in a good way) to learn that there are costs involved in operating a retirement plan. And many of those who aren't surprised may be unhappy when they actually see their account balances reduced.

As plan sponsor, it's best to be proactive. Give some thought to the new regulations and to how your employees may react. Here are some suggestions:

- Remind your employees that fees are standard in both the retirement plan and investment industries. It's the disclosure rules that are new, not the fees.
- Fees should never be considered out of context, but aligned with the quality of service provided.

- If you pay some (or all) of the administrative expenses, be sure to make that known.

- If you provide matching contributions, show how the money offsets the fees participants pay.

- Explain how plan fees and expenses are reviewed by the company to ensure that they are reasonable and competitive.

- Lower fees do not always indicate a better fund. Funds with lower costs may not necessarily provide a high return or be a good fit for a participant's retirement plan portfolio. Consider several factors when choosing funds, such as the quality of the investment, the risk/return profile, and proper asset allocation.

BB&T is here to help you understand the new disclosure rules, and help you educate your participants. Not only will we partner with you to ensure the information in the notices is accurate and complete, we will provide you with answers to frequently asked questions and detailed explanations of each type of fee. Participants also have the option to call our Participant Service Center with questions. Contact your BB&T Retirement & Institutional Services Consultant for more information.

* For any plan with a plan year beginning between November 1, 2011, and April 1, 2012.

Important ERISA Compliance Dates for DB/DC/403(b) Plans

November 1

Participant Fee Disclosure required for plan years beginning on or after this date (first disclosures due May 31).

December 31

Due date for ADP/ACP refunds to maintain qualified status for calendar year plans. If not corrected by this date, plan must use EPCRS methods to cure.

December 31

Discretionary Plan Amendments must be adopted by this date.

December 31

Deferral "Election" deadline for partners, including self-employed owners (sole proprietor, partner, or LLC).

December 31

Election deadline for nonqualified plans beginning in 2012.

2012 COLA Adjustments for Dollar Limitations on Benefits and Contributions

The following pertains to cost-of-living adjustments applicable to dollar limitations for pension plans and other items for tax year 2012, as announced by the Internal Revenue Service on October 20, 2011.

	2011	2012
Defined Contribution		
Annual Additions Limit	\$49,000	\$50,000
Defined Benefit		
Annual Benefit Limit	\$195,000	\$200,000
Social Security		
Taxable Wage Base	\$106,800	\$110,100
Qualified Retirement Plan		
Compensation Limit	\$245,000	\$250,000
401(k)/403(b)		
Calendar Year Deferral Limit	\$16,500	\$17,000
457(b) Plan		
Calendar Year Deferral Limit*	\$16,500	\$17,000
Catch-Up Deferral Limit (Age 50+)		
401(k)/403(b)/457(b)	\$5,500	\$5,500
Highly Compensated Definition		
Compensation Test	\$110,000	\$115,000
Top-Heavy Key EE Definition		
Officer Test	\$160,000	\$165,000