

BENEFITS EDGE

A RESOURCE FOR PLAN SPONSORS



Participant Fee Disclosure - Are you Ready?

Employers take note. Generally starting in 2012, your employees must receive more information regarding the fees and expenses associated with their retirement plans. Below, we answer questions about this new requirement from the U.S. Department of Labor (DOL).

Which plans do the disclosure rules apply to?

The rules apply to most plans that allow participants to direct the investment of their account assets, such as 401(k) plans and profit sharing plans. The rules don't apply to simplified employee pension plans (SEPs), SIMPLE plans, IRAs, or non-ERISA employer-sponsored plans.

When do we have to provide disclosure?

Participants and beneficiaries must receive certain general plan- and investment-related information on or before the date they can first direct their plan investments. You must provide follow-up disclosures annually. In addition to the information that must be furnished up front and annually, participants must receive statements, at least quarterly, showing the dollar amount of certain administrative and individual expenses actually charged to or deducted from their plan accounts. Statements must describe the services for which the charge or deduction was made. You may include these specific disclosures with your plan's quarterly benefit statements.

What kinds of general plan-related information do we have to provide?

You must give participants information about the structure and mechanics of the plan, such as: (1) a current list of investment options offered; (2) an explanation of how they may give investment instructions, and (3) if applicable, a description of any brokerage window, self-directed brokerage account, or similar arrangement that enables a participant to select investments beyond those designated by the plan.*

What administrative and individual expenses do we need to report?

Your disclosures must explain any fees and expenses for general plan administrative services that may be charged to or deducted from all individual accounts, such as the costs of legal, accounting, and recordkeeping services. You also must explain any individual expenses that may be charged to or deducted from the individual account of a specific participant or beneficiary based on the actions taken by that person. Examples include fees and expenses for plan loans and for processing QDROs.*

What about investment-related information?

The following investment-related information must be disclosed: (1) one-, five-, and 10-year returns for mutual funds and other plan investment options that do not have a fixed rate of return; (2) annual rate of return and investment term for fixed rate

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We're asking for employee feedback!



On August 19th, we unveiled a BB&T PlanTrac User Satisfaction Survey participant survey on the BB&T PlanTrac website.

The survey will ask your employees questions about how they use the site and how we can make it better. We will use the feedback to define new projects and increase the quality of our participant website and available services. All responses are collected anonymously.

Users will find a description of, and a link to, the survey on the PlanTrac Overview page. Participation in the survey is completely voluntary.

Health Care Plans: An Action Plan for Compliance

In the past several years, the Employee Benefits Security Administration has stepped up enforcement efforts with respect to employee health and welfare plans. The Patient Protection Affordable Care Act (PPACA), enacted on March 23, 2010, includes numerous health-related provisions to take effect over a four-year period beginning in 2010. Additional compliance notices to participants are required. The scope of healthcare plan discrimination rules has been broadened. Significant regulation and oversight are anticipated for the administration of health care, and employers will need guidance and assistance to ensure compliance.

The penalties and risks for non-compliance can be significant. Failure to comply with a Public Health Service Act (PHSA) mandate set for under PPACA may trigger an excise tax of \$100 per day per participant. Failure to provide a compliant Summary Plan Description may carry a penalty of \$110 per day. Furthermore, the Department of Labor as well as individual plan participants may bring civil action against group health plans and insurers to enforce the PHSA mandates.

There are several steps an employer can take to build an action plan for compliance. The employer should identify plans that may be subject to the health care reform rules and PHSA mandates and determine whether the plan is "grandfathered". Important questions to ask are: Is the medical plan discriminatory in any way? Is the plan document complete with respect to all ERISA requirements? Are employees properly notified of their rights as required by PPACA, ERISA and HIPAA?

In order to determine whether a group health plan complies with the nondiscrimination requirements of Section 105(h) of ERISA, a nondiscrimination test can be performed. The group health plan must pass both an eligibility test and a benefits test. The eligibility test requires that the plan pass at least one of three separate mathematical tests, based on plan participation levels. The benefits test requires that all benefits provided to highly compensated employees be offered to non-highly compensated employees and prohibits employer contributions from varying based on the employee's age, years of service or compensation.

Self-funded plans are subject to the requirements now; however, penalties are not being assessed for fully insured plans until additional guidance is released. Now is still the opportune time for plan sponsors of fully insured plans to test. If a fully insured plan passes the nondiscrimination test, the plan sponsor will have the peace of mind to know that the plan is well positioned to satisfy the nondiscrimination requirements. If a fully insured plan does not pass the nondiscrimination test, the plan sponsor will have time to carefully consider plan design alternatives that will meet the company's goals and objectives.

Another vehicle that can aid plan sponsors in compliance efforts is a wrap plan document. Plan sponsors frequently look to their insurance policy as their plan document, but contracts and policies are almost always incomplete with respect to ERISA requirements. The wrap document is merely a document that incorporates by reference all group insurance

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Plan Automation: One, Two, Three

About a fifth of employees who are eligible to participate in an employer-sponsored retirement savings plan don't contribute.



Nor are many of these employees saving for retirement outside of their employers' plans. Workers who don't participate in an employer-sponsored plan are much less likely than those who do to have total savings and investments of at least \$50,000 (56% versus 13%).* And among those employees who do participate, a relatively small fraction regularly rebalance their accounts — one reason so many participant accounts were hit hard by the 2008 stock market crash.

What can plan sponsors do to increase plan participation and help participants increase their plan account balances? Automate their plans.

Automatic Enrollment

With automatic enrollment, when an employee becomes eligible to participate in the plan, a set percentage of the employee's compensation is withheld (often 3%) and deposited in a 401(k) plan account for the employee. Some employers apply automatic enrollment only to new employees, but you could

choose to automatically enroll all of your eligible employees. All employees must be given the option to decline participation.

Automatic Contribution Escalation

Along with automatic enrollment, consider automatic contribution escalation. You can increase the automatic deferral percentage over time as long as the increases are made in accordance with a specified schedule. You must notify employees of the amount of the deferral increases and when increases will occur. Employees must be given the option to opt out of increases.

Automatic Rebalancing

You may have several options for offering participants automatic rebalancing: Make automatic rebalancing an optional feature of your plan and encourage participants to use it; offer managed accounts; or choose a default investment option for your plan, such as a life-cycle or target-date fund, that automatically rebalances.

Questions on how automation can benefit your plan? Contact your plan Consultant to learn how BB&T can help your employees better prepare for their retirement.

**2010 Retirement Confidence Survey, Employee Benefit Research Institute, www.ebri.org*

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

September 30

Summary Annual Report (SAR) must be provided to participants in calendar year plans if Form 5500 was filed by August 1.

October 1

Annual Notice Season begins. Includes 401(k) Safe Harbor, ACA, QACA Safe Harbor and QDIA. Notices must be distributed between October 1 and December 1.

October 17

DB/PBGC premiums due for 2011 for mid-size and large plans.

October 17

Form 5500 due for calendar year plans if Form 5558 extension was filed.

December 31

ADP/ACP refunds due to maintain qualified status. If not corrected by this date, the plan must use EPCRS methods to resolve the issue.

December 31

Discretionary Amendments for 2011 due.

Health Care Plans (Cont'd)

policies, booklets and other contracts that provide welfare benefits to employees. It contains the important and explicit ERISA mandated language clarifying the plan sponsor's position on its legal obligations, discretionary powers, claims procedures, etc. Another benefit of the wrap document is that the plan sponsor can file one single 5500 for all ERISA benefits incorporated into the wrap plan, thereby reducing administrative costs.

In addition to notifications set forth under a wrap plan document, the plan sponsor is also required to provide notices to employees to make them aware of certain rights and options. Examples of such notices would include Women's Health and Cancer Right Act, Children's Health Insurance Program Reauthorization Act, Medicare Part D Notice, and Patient Protection Notice.

Stanley, Hunt, DuPree & Rhine (SHDR), a division of Branch, Banking & Trust Company (BB&T), is uniquely positioned to offer guidance to employers faced with the task of complying with the increasingly complicated requirements. SHDR provides compliance services to help plan sponsors meet regulatory requirements and relieve some of the administrative burden. Among the welfare services SHDR provides are: nondiscrimination testing, wrap documents, tailored notice packets and 5500 preparation.

Participant Fee Disclosure (Cont'd)

investments; (3) the name and one-, five-, and 10-year returns of an appropriate broad-based securities benchmark index (matching plan investment performance data periods); (4) for mutual funds and other plan investment options that do not have a fixed rate of return, total annual operating expenses expressed as both a percentage of assets and as a dollar amount per \$1,000 invested; (5) for both variable and fixed rate investments, any shareholder-type fees or restrictions on purchases or withdrawals; (6) an Internet website that provides access to specific additional information about the plan's investment options for individuals who want more or more current information; (7) a glossary of terms to help participants and beneficiaries understand the plan's investment options or a website address where they can access such a glossary.*

Your plan's investment-related information must be presented in a chart or similar format designed to make it easy for participants to compare each of the investment options available under your plan.

BB&T is prepared to assist you with fee disclosure. We will prepare the notices and update quarterly statements to provide all required information. Contact your plan's Consultant with any questions.

** These lists are not all-inclusive.*