

Participant disclosure requirements under 404(a)(5)

Important information for businesses offering qualified plans

Federal regulations require that participants in ERISA-qualified employer-sponsored retirement plans that allow participants to direct their own investments be given additional plan disclosures. Participants must receive these disclosures both before they have access to direct the investments in their plan accounts and annually thereafter.

Plan-related information

- **General plan information**, such as the plan's structure and mechanics, investment options, or in the case of brokerage accounts, a description of the brokerage window or similar arrangement that allows for investments beyond the preselected menu on the platform
- **Administrative expenses**, including an explanation of general plan administrative fees and expenses that may be charged to or deducted from participant accounts (recordkeeping expenses, overall plan legal expenses, etc.)
- **Individual expenses**, which are any specific fees charged to a participant account based on that participant's actions (plan loan expenses, qualified domestic relations order [QDRO] processing, etc.)

Investment-related information

The following must be provided in a comparative chart format:

- **Performance data**, which must include one-, five-, and 10-year returns for investments with fluctuating returns. If 10-year returns are not available, returns from the time of inception must be included. Other rules apply for investments with a fixed rate of return.

- **Benchmark information**, including the name and returns of an appropriate index over the same time periods as above must be provided for investments with fluctuating returns. This requirement does not apply to investments with a fixed rate of return.
- **Expenses and fees**, comprised of the total annual operating expenses and fees for investments with fluctuating returns must be provided in two formats:
 - As a percentage of assets
 - The dollar amount for each \$1,000 invested

Shareholder-type fees and any restrictions on purchases or withdrawals from the investment must also be included both for investments with fluctuating returns and investments with fixed rates of return. Other disclosure elements include items such as:

- **Website address**, for additional specific information
- **Glossary of terms**, providing participants a better understanding of the plan's investment alternatives, must be in the disclosure or on the website.

If participants in a plan are utilizing a self-directed brokerage account that allows for unlimited investment options, the comparative investment chart is not required. Disclosure requirements may be satisfied with the plan related information including a general statement that certain fees exist and that they may be charged against the individual or beneficiary account, in addition to providing directions as to how the participant can obtain information about such fees in connection with any particular investment. If the plan limits investment options,

the investment chart would most likely be required. You may find sample charts and more information available at the DOL website*: <https://www.dol.gov/agencies/ebsa>. Other disclosures must be provided upon request. Added disclosures must also be offered for certain special investment alternatives, such as employer stock.

Important note

Because participants are often unfamiliar with the fees and expenses included in these disclosures, they may assume they are subject to additional charges. Therefore, you should communicate with participants so they understand the nature of their fees and expenses. Explain that the fees have always existed and the disclosure provides the information in an easy to understand format. Additional information pertaining to this regulation is available at the DOL website*: <https://www.dol.gov/agencies/ebsa>.

What you can expect

Although it is the plan sponsor/administrators responsibility to provide these additional disclosures to participants, many plan sponsors turn to the plan's recordkeeper to supply them with the necessary information for the disclosures. In many cases, you can expect your recordkeeper to provide you with a template annual disclosure document to satisfy the requirements of 404(a)(5). You'll need to review the information to determine if the disclosure is adequate and provides all the relevant information. After you approve the information, some recordkeepers may place it on the participant website while others may distribute it directly to participants as you instruct.

In addition, you should receive copies of account statements and associated trade confirmations showing all deductions taken directly out of participant accounts along with descriptions of the services provided in return. These types of statements and trade confirmations apply to brokerage accounts as well. You will need to take this information and consolidate it into a disclosure notice for distribution to the participants to satisfy the requirements under 404(a)(5).

With the increasing fiduciary responsibilities around fees and expenses, now is a prime opportunity to review the structure of your retirement plan from both the investment structure and service providers. Your Wells Fargo Advisors Financial Advisor can assist you in the review process. Contact your Financial Advisor today to get the review and analysis underway.

Next steps

It is important to ensure the operating procedures for the plan have been updated and incorporate the disclosure requirements for both existing participants as well as newly eligible employees.

For more information about plan sponsors' fiduciary responsibilities, ask your Financial Advisor for one of these reports:

- "Reporting Retirement Plan Compensation"
- "Understanding Your Fiduciary Responsibilities"
- "Qualified Retirement Plan Checklist"



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The information provided above is a general summary and you should contact your legal advisors and/or record-keeper for more information.

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