



September 15, 2008

Filed Electronically

Mr. Robert J. Doyle, Director
Office of Regulations and Interpretations
US Department of Labor
Employee Benefits Security Administration
Frances Perkins Bldg., Rm. #N5677
200 Constitution Ave., NW
Washington, DC 20210-0001

Re: Proposed Regulation Regarding Participant Disclosures

Dear Mr. Doyle:

We appreciate your giving us the opportunity to supplement our formal comments regarding the proposed quarterly statement of actual administrative costs charged to participant accounts.

As we explained in our comments submitted on September 8, 2008, ASPPA and CKR submit that the proposal of a quarterly statement of the actual dollar amount charged against participant accounts is inappropriate because: (1) the information would necessarily be inaccurate and therefore misleading in light of the timing of the offsetting of revenue sharing; (2) the statement will not provide participants with information that is sufficiently useful to outweigh the cost of compliance; and (3) requiring fiduciaries to release an inaccurate statement would place them in an untenable conflict position. As also stated in our comments, this is due in large part to the fact that it may take as long as 180 days to receive and reconcile the revenue sharing that will be used to offset administrative expenses. Thus, depending on the accounting method utilized by the service provider, the amount of administrative expenses disclosed on a quarterly basis will necessarily be either understated or overstated, creating confusion.

Nevertheless, we recognize the importance of providing participants with meaningful disclosures regarding the costs borne by their accounts. Accordingly, we offer, as an alternative, the following approach for your consideration:

1. In lieu of the quarterly statement, the fiduciaries would be required to deliver an annual statement that reconciles the prior year's administrative expenses. The statement would be delivered concurrently with, or as a part of, the quarterly benefit statement delivered to the participant for the first quarter of the next plan year. (If the fiduciaries elect to do so, they may deliver the annual statement of administrative expenses with the benefit statement for the fourth quarter of the current plan year.)

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2. The annual statement of administrative expenses would show the dollar amount of administrative costs actually charged to the participant's account for the preceding plan year (or the current plan year if delivered with the fourth quarter benefit statement) net of revenue sharing or other offsets.
3. In addition, the initial/annual explanation of administrative expenses (required by subsection (c)(2)(i) of the Proposed Regulation) would (i) explain what the administrative charges are for, (ii) explain what offsets, if any, are available to reduce this charge, and (iii) would also advise participants that a more detailed quarterly statement of the actual charges would be available on the recordkeeper's Web site on request.

Attached to this letter are samples of the annual statement of administrative expenses and sample language to be included in the initial/annual explanation.

We would be happy to discuss these suggestions further if that would be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "B. H. Graff". The signature is fluid and cursive, with the first and last names being the most prominent parts.

Brian H. Graff, Esq., APM
Executive Director/CEO

SAMPLE ANNUAL DISCLOSURE STATEMENT

The net amount of administrative costs charged against your account during the [insert year] plan year was: \$_____.

Administrative costs include amounts chargeable by all plan service providers for services (such as administrative, consulting, recordkeeping, investment advisory services, accounting, legal, etc.) that were allocatable to your account for the year.

The net administrative charge shown reflects amounts received by the plan service provider in the form of “revenue sharing” that is paid by the investment providers for recordkeeping and administrative services performed by the plan service provider on their behalf. [Add as appropriate: It also includes an allocation of plan forfeitures.]

The net amount charged to your account is the actual dollar amount paid out of your account for all administrative services during the year.

SAMPLE LANGUAGE FOR INITIAL/ANNUAL EXPLANATION

Administrative expenses are charged annually against your account. The plan must pay these expenses for necessary services such as recordkeeping, annual administration, investment advisory services, accounting and legal services.

The amount of administrative expense is reduced (offset) by amounts received by the plan service provider in the form of “revenue sharing” that is paid by the providers of the Plan’s investment alternatives for recordkeeping and administrative services performed by the plan service provider on their behalf. [Add as appropriate: It also includes an allocation of plan forfeitures.]

You will receive a statement annually showing the net amount of the administrative expenses actually charged to your account for these services for the prior Plan Year. A more detailed quarterly statement of the actual charges is available on the plan recordkeeper’s Web site by visiting [include URL]. You should be aware, however, that the quarterly statement may not fully reflect the application of offsetting amounts because of the timing of receipt by the plan service provider of revenue sharing payments or other offset amounts; therefore, the quarterly statements may not accurately reflect the actual amount that will be charged to your account for the year.