Decision Support Services

Consulting services that draw from DALBAR's experience, expertise and research.

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Introduction

Why Should You Pay Attention to the Fee Disclosure Regulations?

The July 2012 fee disclosure regulations put covered service providers in a position where each is required to justify that the compensation received is satisfactory to the plan fiduciary, to the extent that the plan fiduciary pays attention and decides to become actively involved. For plan fiduciaries that do not become involved the burden of the regulation is simply the cost of preparation and distribution of the disclosure materials.

The central issue becomes whether or not plan fiduciaries will become actively involved. If they do become actively involved one can expect that there will be questioning of fees leading to disruptive changes in services, products, advisers and providers.

The argument against the probability of active involvement by plan fiduciaries is the history of disclosures. This history indicated that plan fiduciaries, particularly among smaller plans seldom challenge their service providers. This apathy is understandable, considering that plan costs, except for matching contributions, are typically borne by the participants of the plan. If this apathy remains the case for the fee disclosure regulations, the prudent course of action is to merely comply with the regulations and deal with the few disruptions that do occur in the normal course of business.

This apathetic response would be likely were it not for the Participant Disclosure in which the combination of several new factors could cause a more vigorous response by plan fiduciaries. These new factors and their probable effects are:

Outreach to Every Participant. Unlike the July disclosure that reaches only plan fiduciaries, the Participant Disclosure is delivered to **every participant of every participant directed plan**. The sheer number of participants involved, 72 million, will create a massive response to this unfamiliar communication. The fact that the communication describes fees that most participants believe do not exist, will cause an even higher level of upheaval. Questions of all flavors, from simple inquiries or need for clarification to indignation and even outrage will barrage plan fiduciaries, service providers and advisers.

High Visibility of Fee Disclosures. The Participant Disclosure is most likely to be included with a participant statement to control costs but in doing so, the fee information is packaged with the most often read communication. This will make the disclosure visible to the maximum number of participants and thus cause a large number of participants to question fees.

Disparity in Dollar Fees between High Balance and Low Balance Participants.
Plans with asset based fees are disproportionately high for high balance participants who are most likely to be senior executives with considerable influence with plan fiduciaries. These executives are likely to demand a cost structure that does not have them bearing the expense for the low balance participants.

Confusion with Presentation. The comparative disclosure model offered by the DoL was analyzed and found to be confusing to average participants. Use of this model without significant improvements is likely to deluge plan fiduciaries, service providers and advisers with requests for explanations.

Lack of Guidance on a Course of Action. The regulations require that disclosures be made clear but do not require that either plan fiduciaries or plan participants be given guidance on what can be done if they object to the information on the disclosure (fees, services or fiduciary status). This failure to anticipate an expected reaction will likely lead to poor decision making on the part of the plan fiduciary (replace the provider) or the participant (exit the plan).

Why prepare?

If the expectation is that there will be little or no reaction to the Participant Disclosure then there is little preparation required except to train all who might have contact with plan fiduciaries and participants to respond to inquiries about the new documents.

If on the other hand the expectation is that there will be a significant response and possible dislocation then a major effort as described in the next section will be required before either the July 2012 or the Participant Disclosure requirements are made.

Additional Fee Disclosure Considerations

Nothing in fee disclosure regulations protects plan fiduciaries from consequences of:

- ✓ Deceptive practices
- ✓ Omission of material facts
- ✓ Fraud

Compliance with Fee and Expense Disclosure exposes plan fiduciaries to

- ✓ Inconsistent reporting
  - Showing dollars where required but not in other places
  - Showing different fees and expenses on different reports
  - Showing dollars that don't add to same total on different reports
- ✓ Unexplained differences
  - Differences between estimates and actuals
  - Differences between government, plan and participant reports
- ✓ Excessive fees
  - Fees that are not reasonable for comparable services
  - Services that are paid for but not used
- ✓ Inappropriate allocation
  - Portion of fee charged to each participant is out of line with participant's choices… they pick low cost investments but are charged same fee
  - Per capita fee burdens for low balance participants
- ✓ Fiduciary status
  - Conflict with services described

Decision Support Services

…to make the best choices, to be compliant, to lower costs, to support advisers and to retain clients.

Assists in key decisions that:

Create a strong image of being transparent about fees and expenses

Minimize the volume of service issues that develop at the release of the disclosure

Meet regulatory requirements, support advisers and plan sponsors, prepare for client service volumes

Decisions such as:

Pre-notification before regulatory delivery requirement

Linkage of three different fee disclosure requirements

How to prepare for and handle disclosure of fiduciary status

Nature and level of adviser support to be provided

Disclosure differences in various client segments

Disclosure differences with various business partners

Deliverables

Expert review of plans and documents

Decision making workshops led by industry experts

Fees

Minimum fee	$5,000
Hourly rate	$350
Typical engagements:	
Review of plans (20 hours)	$7,000
Review of simple disclosure document (10 hours)	$3,500
Review of comprehensive disclosure document (30 hours)	$10,500
One day decision making workshop (20 hours)	$7,000

Note: Travel expenses are additional