



U.S. Labor Department Permits Participant-Directed Retirement Plans To Reschedule Delivery of Annual Comparative Chart of Investments

Client Advisories

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On July 22, 2013, the U.S. Department of Labor announced a temporary enforcement policy permitting employers to delay providing certain investment information that would otherwise be due to participants no later than August 30, 2013.

Department of Labor Regulations currently require that administrators of participant-directed individual account plans, such as 401(k) plans, provide detailed investment information to plan participants in the form of a comparative chart of the investment alternatives. The first such comparative chart was due no later than August 30, 2012. Subsequently, an updated chart must be distributed at least annually.

Under the Department of Labor's July 22 announcement, a plan administrator (usually the employer) will be treated as satisfying the "at least annually thereafter" requirements of these particular disclosure regulations if a 2013 comparative chart is provided to plan participants and beneficiaries no later than 18 months after the prior comparative chart was furnished. So, for calendar year plans that provided an initial comparative chart on August 25, 2012, the 2013 comparative chart will now be due no later than February 25, 2014, rather than August 25, 2013. This allows employers who determine it is in the best interests of plan participants to coordinate the comparative chart delivery with the delivery of other required plan information, such as annual benefit statements.

Recognizing that some plan administrators may already have begun the process of preparing and distributing the 2013 comparative charts, the Department of Labor allows the one-time 18-month period to be used for either the 2013 or the 2014 comparative chart. So, for example, if the plan described above provides the 2013 comparative chart on August 25, 2013, the 2014 comparative chart would be due no later than February 25,

2015. This affords plan administrators two alternative opportunities to get a one-time permanent reset of the timing for this annual disclosure.

You should be working closely with your investment providers to have the required disclosures prepared and distributed. Should you have any questions about the disclosure rules or how this Department of Labor enforcement policy affects your plan, please contact Nancy Wasch, Esquire, Partner in Archer's **Employee Benefit Plans/Executive Compensation/ERISA Group** at (215) 246-3106 or nwasch@archerlaw.com, or **L. Gerald Rigby**, Esquire, Group Chair, at (215) 246-3160 or grigby@archerlaw.com.

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