

October 20, 2010

DOL Finalizes New ERISA Disclosure Rules for Participant-Directed Retirement Plans

On October 20, 2010, the U.S. Department of Labor (DOL) published a [final regulation](#) imposing new disclosure requirements for participant-directed individual account retirement plans. The final regulation requires the plan administrator of such a plan to:

- Provide participants quarterly statements of plan fees and expenses deducted from their accounts;
- Also provide, prior to a participant's initial plan investment and at least annually thereafter, certain information about both the plan and the investments available under the plan, including the cost of those investments;
- Use prescribed methodologies when calculating and disclosing expense and return information about investments;
- Present that information in a format intended to facilitate "comparison shopping" among the plan's investment options; and
- Give participants access to certain additional investment information when received by the plan or on request.

While a number of plans already offer participant disclosures to similar effect, the regulation materially revamps the regulatory mandates for affected plans, in ways that will necessitate changes to the systems and processes of many plan sponsors and platform providers. The final regulation is accompanied by a [press release](#), a [fact sheet](#), and a Model Comparative Chart, which is reproduced at the end of this Legal Alert.

Effective Date

The new regulation is "effective" as of December 20, 2010, but "applicable" for plan years beginning on or after November 1, 2011. Thus, for calendar year plans, compliance is required on January 1, 2012. The initial disclosures required under the new regulation may be provided to existing participants within 60 days after the plan's applicable date.

Affected Plans

The new regulation applies to participant-directed individual account plans (as defined in ERISA §3(34)) that:

- Allocate investment responsibilities to participants or beneficiaries and
- Are subject to the general fiduciary duty provision of ERISA §404(a).

Thus, participant-directed 401(k) and other tax-qualified defined contribution plans, as well as 403(b) plans subject to ERISA, are generally subject to the new regulations. This new disclosure regime is not limited to ERISA §404(c) plans. For plans that make use of §404(c) fiduciary relief, however, conforming changes are made to those regulations.

- Governmental plans are not subject to the new rules.

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- Also not subject to the new rules are SEP or SIMPLE IRAs (pursuant to an exception in the regulation) or retail IRAs (which are never subject to ERISA §404).
- In response to commentary, DOL declined to exclude small plans. DOL also declined to include plans where participants do not direct investments.

Comments:

- For employers making available 403(b) offerings that intend not to be subject to ERISA, this addition to the regulatory superstructure for ERISA-governed plans raises the stakes for taking that position. And “voluntary” compliance as a best practice as always runs the risk of excessive employer involvement, potentially bringing the program within ERISA.
- In an apparent bid to bolster its litigation position, DOL added to the §404(c) regulation a statement to the effect that plan fiduciaries are not relieved of liability for fiduciary breaches in the selection and monitoring of investment options. Courts have sometimes been reluctant to accept DOL’s limiting view of §404(c), in part because that view was expressed only in the preamble to rather than the text of the regulation. It remains to be seen whether a post hoc change to the regulation will be more influential with the courts.

Overview of New Disclosure Requirements

The new regulation expands the fiduciary duties related to participant-directed individual account plans to include a duty to disclose on a regular and periodic basis certain fee, expense and other information regarding investments and participants’ right to direct investments.

- The final regulation specifies that the plan administrator has this duty but contemplates that the administrator may designate another person to execute these disclosures on its behalf.
- Plan administrators that reasonably rely in good faith on information provided by service or investment providers are protected from liability for the completeness and accuracy of that information.
- Pending further guidance, the general ERISA disclosure mechanics regulation (29 CFR §2520.104b-1) applies to these disclosures, including DOL’s electronic disclosure safe harbor.

The regulation mandates the following system of disclosures:

- An initial disclosure of plan and investment information, provided on or before the day a participant or beneficiary first can direct his or her investments;
- A repetition of that disclosure, at least annually;
- A contemporaneous description of any change in that information;
- Statements at least quarterly showing the dollar amount of plan-related fees and expenses actually deducted from participant accounts;
- Upon request, prospectuses, financial reports and statements of share value and of “plan assets” held by an investment option; and
- Upon receipt by the plan, materials regarding voting, tender and similar rights in an investment option (only provided to participants invested in that option). This is a familiar requirement under the existing §404(c) regulations.

The detailed specifications for the plan and investment disclosure, the quarterly statement and the supplemental disclosures on request are described below.

- Except where otherwise indicated, fees and expenses may be expressed as a monetary amount, formula, percentage of assets, or per capita charge.

- At least quarterly or annually means at least once in every 3- or 12-month period, whether the plan operates on a calendar or fiscal year basis.
- The regulation includes the usual requirement that the disclosures be written in a manner calculated to be understood by the average plan participant.

Plan and Investment Disclosure

Recipients: All plan participants, all employees eligible to participate in the plan, and all beneficiaries who have the right (e.g., pursuant to a qualified domestic relations order or after the participant's death) to direct the investment of their accounts.

Comments:

- DOL declined to limit the disclosure requirement to enrolled participants. Employees eligible to participate but not enrolled in the plan must receive the disclosure.
- For new employees, the disclosure may take the form of the last annual disclosure and any subsequent updates.
- Former employees who still have plan account balances apparently are also to receive the disclosures.

Timing:

- The disclosure must initially be provided *on or before* the date on which the participant or beneficiary *can first direct* his or her investments.
- The disclosure must be provided at least annually thereafter.
- If any plan information in the disclosure changes, participants and beneficiaries must be provided a description of the change generally in the 30- to 90-day period before the effective date of the change. (DOL abandoned the notion of materiality for such updates, thinking that all information in the disclosure is material.) If advance notice cannot be provided due to unforeseeable events or circumstances beyond the plan administrator's control (e.g., the exigent discontinuance of an investment option), the description of the change may be provided as soon as reasonably practicable.

Comments:

- In general, the final regulation is an improvement over the proposed regulation on these timing points.
- While the requirement to provide this disclosure to eligible but not participating employees is a complication, given the way plan systems often operate, the timing rule may provide some opportunity to manage that complication.
- For changes in plan information, disclosure is prospective, not retrospective as in the proposed regulation. This is further, functional regulation of plan sponsors' otherwise unilateral authority to modify their plans.
- The addition or subtraction of an investment option is subject to the contemporaneous update requirement.
- Changes in the more granular investment disclosures are not subject to that requirement, although common practice is to provide participants notice of at least some of those changes.

Plan Information: Form and Content

Form	
	May be provided as part of the plan's summary plan description or pension benefit statement, if provided to the requisite recipients with the requisite frequency.
Content	
General	<ul style="list-style-type: none"> ▪ An explanation of the circumstances under which participants and beneficiaries may give investment instructions. ▪ An explanation of any specified limitations on such instructions under the terms of the plan, including any restrictions on transfer to or from a designated investment alternative. ▪ A description of or reference to plan provisions relating to the exercise of voting, tender and similar rights appurtenant to an investment in a designated investment alternative, as well as any restrictions on such rights. ▪ An identification of any designated investment alternatives offered under the plan. ▪ An identification of any designated investment managers. ▪ A description of any brokerage windows, self-directed brokerage accounts or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan.
Administrative expenses	<p>An explanation of:</p> <ul style="list-style-type: none"> ▪ Any fees and expenses for general plan administrative services (e.g., legal, accounting, recordkeeping) which (i) may be charged against the individual accounts of participants and beneficiaries and (ii) are not reflected in the total annual operating expenses of any designated investment alternative; and ▪ The basis on which such charges will be allocated (e.g., pro rata, per capita) to, or affect the balance of, each individual account.
Individual expenses	<p>An explanation of any fees and expenses that:</p> <ul style="list-style-type: none"> ▪ May be charged against the individual account of a participant or beneficiary on an individual, rather than on a plan-wide, basis — e.g., fees attendant to processing plan loans or qualified domestic relations orders, fees for investment advice, fees for brokerage windows, commissions, front or back-end loads or sales charges, redemption fees, transfer fees and similar expenses, and optional rider charges in annuity contracts; and ▪ Are not reflected in the total annual operating expenses of any designated investment alternative.

Investment Information: Form and Content

The required investment disclosure varies for:

- Investment options for which the return is fixed (*i.e.*, options that provide a fixed or stated return for a stated period or maturity and that shift investment risk from the participant to a bank, insurance company or other entity). Examples include CDs, GICs, the fixed account option in variable annuities, and similar interest-bearing contracts from banks and insurance companies. Money market and stable value funds are not fixed return options for this purpose;
- Investment options for which the return is not fixed. There are special rules for options investing in qualifying employer securities, *i.e.*, a company stock fund; and
- Annuity options (*i.e.*, options that are part of a contract, fund or product that permits participants or beneficiaries to allocate contributions towards the future purchase of retirement income payments guaranteed by an insurance company).

Form	
	<ul style="list-style-type: none"> ▪ A chart or similar format that is designed to facilitate a comparison across the investment options available under the plan, and that prominently displays the “as of” date of disclosure. ▪ Must include: <ul style="list-style-type: none"> ▪ Contact information for the plan administrator or its designee that will provide the supplemental information that is available on request. ▪ A statement that additional information, including more current performance data, is available at the Web site addresses described below. ▪ A statement about how to obtain, without charge, paper copies of the Web site information for fixed return and annuity options described below. ▪ Plan administrators that accurately complete and use the model chart published by DOL (reproduced at the end of this Legal Alert) will be deemed to have complied. ▪ Non-required information may also be included, provided it is not inaccurate or misleading.
Content	
Identifying information	<ul style="list-style-type: none"> ▪ The name of each designated investment option. ▪ The type or category of the investment (<i>e.g.</i>, money market fund, balanced fund, large-cap stock fund, employer stock fund, employer securities). The preamble contemplates that the investment provider’s characterization of its investment normally will be appropriate.
Options for which the return is not fixed	<ul style="list-style-type: none"> ▪ For options registered under the Investment Company Act of 1940 (the 1940 Act), the average annual total return (defined below) of the option for the 1-, 5- and 10-calendar-year periods (or the life of the investment option, if shorter) ending on the date of the most recently completed calendar year. For options not registered under the 1940 Act, reasonable estimates of 5- and 10-year returns may be used for plan years beginning before October 1, 2021, if the plan administrator reasonably determines that the necessary information to calculate those returns is not available. ▪ The name of an “appropriate broad-based securities market index” as a benchmark for the investment option, and comparable performance data for that benchmark. Unless it is widely recognized and used, the benchmark may not be administered by an affiliate of the investment issuer, its investment adviser, or a principal underwriter. ▪ For options that are not managed to a single index, a proportionate blend of two or more indexes may optionally be provided, in addition to the returns of the required benchmark. ▪ A statement that past performance is not necessarily indicative of future performance. ▪ The total operating expenses (defined below) of the investment option expressed as an expense ratio and as a dollar amount for a one-year period on a \$1,000 investment assuming no investment return. ▪ A statement indicating that fees and expenses are only one of several factors that participants and beneficiaries should consider when making investment decisions. ▪ A description and the amount of any “shareholder-type fee,” <i>i.e.</i>, fees charged directly against a participant’s or beneficiary’s investment, such as commissions, sales loads, sales charges, deferred sales charges, redemption fees, surrender charges, exchange fees, account fees, and purchase fees, which are not included

	<p>in the total annual operating expenses of any designated investment alternative.</p> <ul style="list-style-type: none"> ▪ A description of any restriction or limitation that may be applicable to a purchase, transfer, or withdrawal of the investment in whole or in part, such as round trip, equity wash or other restrictions. ▪ A statement that the cumulative effect of fees and expenses can substantially reduce the growth of a participant's or beneficiary's retirement account and that participants and beneficiaries can visit the Web site of DOL's Employee Benefit Security Administration for an example demonstrating the long-term effect of fees and expenses. ▪ A "sufficiently specific" Web site address that makes available to participants and beneficiaries information about: <ul style="list-style-type: none"> ▪ The investment issuer's name. ▪ The option's investment objectives or goals, in a manner consistent with the SEC's Form N-1A (the registration form for mutual funds) or Form N-3 (the registration form for variable annuities supported by "managed" separate accounts), "as appropriate." ▪ The option's principal strategies (including a general description of the types of assets held; a specific inventory of holdings is not required) and principal risks, again in a manner consistent with Form N-1A or N-3. The proposed disclosure of whether the option is actively or passively managed was not included in the final regulation. ▪ The option's portfolio turnover rate, determined in a manner consistent with Form N-1A or N-3. ▪ The option's current total return, updated at least quarterly or more frequently if required by other applicable law. ▪ The option's fee and expense information as described above.
<p>Options that invest in qualifying employer securities</p>	<p>The same disclosures required for other options for which the return is not fixed, with the following exceptions:</p> <ul style="list-style-type: none"> ▪ The total operating expenses of the investment option generally are <u>not</u> required to be disclosed, either as an expense ratio or as a dollar amount. Unitized funds are required to provide this information, however. ▪ For the Web site disclosures: <ul style="list-style-type: none"> ▪ Instead of a discussion of strategy and risks, a statement about the importance of a well-balanced and diversified investment portfolio is required (DOL indicates that the language provided in Field Assistance Bulletin 2006-03 should be used for this purpose). ▪ The option's portfolio turnover rate is <u>not</u> required information. ▪ Fee and expense information described above is <u>not</u> required unless the company stock fund is a unitized fund.
<p>Options for which the return is fixed</p>	<ul style="list-style-type: none"> ▪ The guaranteed minimum and, if applicable, current fixed or stated rate of return, and the term for which the disclosed rate applies. ▪ If applicable, a statement that the issuer may adjust the rate prospectively, and directions on where (e.g., a telephone number or Web site) to obtain the most recent rate of return. ▪ A description of any shareholder-type fee and of any restriction or limitation on purchases, transfers or withdrawals, as described above. ▪ A "sufficiently specific" Web site address that makes available to participants and beneficiaries information about:

	<ul style="list-style-type: none"> ▪ The investment issuer's name. ▪ The option's objectives or goals (e.g., to provide stability of principal and guarantee a minimum rate of return). ▪ The option's rate of return information, updated on at least a quarterly basis, or more frequently if required by other applicable law. ▪ The option's shareholder-type fees, and restrictions and limitations on purchases, transfers or withdrawals.
<p>Annuity option</p>	<p>To the extent not otherwise provided in the fee and expense information described above:</p> <ul style="list-style-type: none"> ▪ The name of the contract, fund or product. ▪ The option's objectives or goals (e.g., to provide a stream of fixed retirement income payments for life). ▪ The benefits and factors that determine the price (e.g., age, interest rates, form of distribution) of the guaranteed income payments. ▪ Any limitations on the ability of a participant or beneficiary to withdraw or transfer amounts allocated to the option (e.g., lock-ups) and any fees or charges applicable to such withdrawals or transfers. ▪ Any fees that will reduce the value of amounts allocated by participants or beneficiaries to the option, such as surrender charges, market value adjustments, and administrative fees. ▪ A statement that guarantees of an insurance company are subject to its long-term financial strength and claims-paying ability. ▪ A "sufficiently specific" Web site address that makes available to participants and beneficiaries information about: <ul style="list-style-type: none"> ▪ The name of the option's issuer and the name of the contract, fund or product. ▪ A description of the option's objectives or goals. ▪ A description of the option's distribution alternatives/guaranteed income payments (e.g., payments for life, payments for a specified term, joint and survivor payments, optional rider payments), including any limitations on the right of a participant or beneficiary to receive such payments. ▪ A description of costs and/or factors taken into account in determining the price of benefits under an option's distribution alternatives/guaranteed income payments (e.g., age, interest rates, other annuitization assumptions). ▪ A description of any limitations on the right of a participant or beneficiary to withdraw or transfer amounts allocated to the option and any fees or charges applicable to a withdrawal or transfer. ▪ A description of any fees that will reduce the value of amounts allocated by participants or beneficiaries to the option (e.g., surrender charges, market value adjustments, administrative fees).
<p>Glossary</p>	<p>A general glossary of terms to assist participants and beneficiaries in understanding the designated investment alternatives, or a "sufficiently specific" Web site address that provides access to such a glossary along with a general explanation of the purpose of the address.</p> <ul style="list-style-type: none"> ▪ DOL declined to provide such a glossary, although it left open the possibility that it might do so in the future.

For purposes of these disclosures:

- “Average annual total return” means the average annual compounded rate of return that would equate an initial investment to the ending redeemable value of that investment, calculated with the before tax methods of computation prescribed in Form N-1A, N-3, or N-4 (the registration form for variable annuities supported by separate accounts structured as “unit investment trusts”), as appropriate, except that such method of computation may exclude any front-end, deferred or other sales loads that are waived for the participants and beneficiaries of the covered individual account plan.
 - A special definition applies for purposes of employer stock.
 - For employer stock (other than unitized funds), “average annual total return” generally means the change in value of one share of stock on an annualized basis over a specified period, calculated by taking the sum of the dividends paid during the measurement period, assuming reinvestment, plus the difference between the stock price (consistent with ERISA § 3(18)) at the end and at the beginning of the measurement period. For this purpose, reinvestment of dividends is assumed to be in stock at market prices at approximately the same time actual dividends are paid.
- “Total annual operating expenses” means (i) for 1940 Act registered products, the annual operating expenses and other asset-based charges before waivers and reimbursements (*e.g.*, investment management fees, distribution fees, service fees, administrative expenses, separate account expenses, mortality and expense risk fees) that reduce the alternative’s rate of return, expressed as a percentage, calculated in accordance with the applicable SEC form; or (ii) for an investment alternative that is not registered under the 1940 Act, the sum of the following fees and expenses, before waivers and reimbursements, for the alternative’s most recently completed fiscal year, expressed as a percentage of the alternative’s average net asset value for that year:
 - Management fees as described in Form N-1A that reduce the alternative’s rate of return,
 - Distribution and/or servicing fees as described in Form N-1A that reduce the alternative’s rate of return, and
 - Any other fees or expenses that reduce the alternative’s rate of return (*e.g.*, externally negotiated fees, custodial expenses, legal expenses, accounting expenses, transfer agent expenses, recordkeeping fees, administrative fees, separate account expenses, mortality and expense risk fees), excluding brokerage costs described in Item 21 of Form N-1A.

Comments:

- DOL plainly made a concerted effort to develop a disclosure regime that would be workable across the variety of investment structures commonly utilized in participant-directed plans.
- Because of the inherent difficulty of that undertaking, however, there will no doubt be complexities or worse as plan administrators and providers develop the disclosures for specific plans.
- The regulation significantly models, and in places expressly adopts, elements of the SEC disclosure regime for mutual funds and registered variable annuities. For plans that include investment products of providers not accustomed to SEC registration forms, the chance for such complexities seems greater.
- Bank collective investment funds and other investments not registered under the 1940 Act will need to become familiar with certain SEC requirements to which they otherwise would not be subject. With regard to such unregistered investments, commentators had expressed concern that the proposed definition of total annual operating expenses (which relied exclusively on the SEC definition of annual operating expenses in Form N-1A) would prove difficult to apply. For example, unlike a mutual fund, a bank collective investment fund is not required to deduct all of its operating expenses from the fund’s assets, and may instead charge some or all of its operating expenses directly to the plans investing in the fund, which would be difficult to account for under SEC standards. DOL responded

by adding the alternate definition of total annual operating expenses. Although this alternative definition addresses this specific concern, it nonetheless continues to refer to concepts expressed in Form N-1A.

- Where an investment option falls into more than one category (for example, a variable annuity is both an option for which the return is not fixed and an annuity option), it appears that the disclosure required for both categories should be provided. To conclude otherwise would ignore the inclusion of Form N-3 and Form N-4 in the definitions of average annual total return and total annual operating expenses. Note that the Model Comparative Chart provided by DOL discusses a variable annuity option only under Annuity Options, but separately provides information on the underlying fund for the annuity as an option for which the return is not fixed. Although the Model could be clearer on this point, it appears that variable annuity-level charges were factored into average annual total returns and total annual operating expenses for the underlying funds.
- Because non-required information may also be included, provided it is not inaccurate or misleading, it should be acceptable for plans to also show “net” total annual operating expenses after expense waivers and reimbursements. Such additional “net” expense information is typically provided in mutual fund and variable annuity prospectuses.
- Credit risk is treated differently for different types of investments: it is to be noted in the plan and investment disclosure for annuity options, it presumably is to be described in the Web site “principal risk” disclosure for bond funds, but it apparently need not be mentioned at all for options that fix return.

Quarterly Disclosure of Plan-Related Fees and Expenses

Recipients. Participants and beneficiaries whose accounts actually experienced such fees and expenses.

Timing. At least once in every 3-month period, but otherwise not specified.

Form and Content

Form	
	May be provided in the quarterly pension benefit statement. Fees and charges reported in transactional confirmations need not be repeated in the quarterly statement.
Content	
Amount of fee	The dollar amount of the plan-related fees and expenses that are actually charged (whether by liquidating shares or deducting dollars) during the preceding quarter to the participant's or beneficiary's account for individual services.
Related service	A description of the services to which the charges relate, e.g., plan administration or loan processing fee.
Revenue sharing	If applicable, a statement that some plan administrative expenses for the prior quarter were paid from the total annual operating expenses of one or more of the plan's investment options through revenue sharing arrangements, 12b-1 fees, sub-transfer agent fees and similar arrangements.

Information to be Provided on Request

Recipients. To each participant or beneficiary, either at the times specified for the plan and investment disclosure or on request.

Timing. No specific timing rules are provided.

Form and Content

Form	
	<ul style="list-style-type: none"> ▪ The form is inherent in certain of the disclosures. ▪ No form is specified for the other disclosures.
Content	
Offering document	<ul style="list-style-type: none"> ▪ For SEC-registered investments, a copy of the prospectus or, alternatively, any short-form or summary prospectus in an SEC-approved form. ▪ For unregistered investments, any similar document provided by the investment entity.
Financial statements	<p>To the extent provided to the plan for an investment option:</p> <ul style="list-style-type: none"> ▪ Financial statement or report ▪ Statement of additional information (an SEC registration document) ▪ Shareholder report ▪ Any similar materials
Share value	<ul style="list-style-type: none"> ▪ The share or unit value ▪ The date of that valuation
Investment holdings	<ul style="list-style-type: none"> ▪ A list of portfolio holdings of each option that constitute “plan assets” for ERISA purposes ▪ The value or portfolio weighting of each such holding

Open Issues

DOL reserved (i) a provision for target date funds, and (ii) the provision in the proposed rule providing for electronic delivery. In light of the range of commentary it received on electronic delivery, DOL plans to publish in the near future a request for information on electronic delivery of plan information to participants and anticipates resolving that issue in advance of the compliance date for this regulation. In the interim, both the preamble and the fact sheet note the availability of DOL’s general safe harbor for electronic delivery.

Additionally, despite the detailed and comprehensive nature of the final regulations, a footnote in the preamble indicates that there may be “extraordinary situations” in which a fiduciary may have disclosure obligations even beyond those required under the final rule. The footnote gives the example of a fiduciary who knows that, due to fraud, information in a public financial report may mislead investors with respect to the value of a designated investment alternative. The example states that such a fiduciary is obligated to protect plan participants by disclosing the information or preventing additional investments in the designated investment alternative until the information is made public. DOL did not provide any other examples of situations that might trigger additional disclosure obligations.



If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

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Model Comparative Chart

ABC Corporation 401k Retirement Plan

Investment Options – January 1, 20XX

This document includes important information to help you compare the investment options under your retirement plan. If you want additional information about your investment options, you can go to the specific Internet website address shown below or you can contact [insert name of plan administrator or designee] at [insert telephone number and address]. A free paper copy of the information available on the website[s] can be obtained by contacting [insert name of plan administrator or designee] at [insert telephone number].

Document Summary

This document has 3 parts. Part I consists of performance information for plan investment options. This part shows you how well the investments have performed in the past. Part II shows you the fees and expenses you will pay if you invest in an option. Part III contains information about the annuity options under your retirement plan.

Part I. Performance Information

Table 1 focuses on the performance of investment options that do not have a fixed or stated rate of return. Table 1 shows how these options have performed over time and allows you to compare them with an appropriate benchmark for the same time periods. Past performance does not guarantee how the investment option will perform in the future. Your investment in these options could lose money. Information about an option's principal risks is available on the website[s].

Table 1—Variable Return Investments								
Name/ Type of Option	Average Annual Total Return as of 12/31/XX				Benchmark			
	1yr.	5yr.	10yr.	Since Inception	1yr.	5yr.	10yr.	Since Inception
Equity Funds								
A Index Fund/ S&P 500 www. website address	26.5%	.34%	-1.03%	9.25%	26.46%	.42%	-.95%	9.30%
	S&P 500							
B Fund/ Large Cap www. website address	27.6%	.99%	N/A	2.26%	27.80%	1.02%	N/A	2.77%
	US Prime Market 750 Index							
C Fund/ Int'l Stock www. website address	36.73%	5.26%	2.29%	9.37%	40.40%	5.40%	2.40%	12.09%
	MSCI EAFE							
D Fund/ Mid Cap www. website address	40.22%	2.28%	6.13%	3.29%	46.29%	2.40%	-.52%	4.16%
	Russell Midcap							
Bond Funds								
E Fund/ Bond Index www. website address	6.45%	4.43%	6.08%	7.08%	5.93%	4.97%	6.33%	7.01%
	Barclays Cap. Aggr. Bd.							
Other								
F Fund/ GICs www. website address	.72%	3.36%	3.11%	5.56%	1.8%	3.1%	3.3%	5.75%
	3-month US T-Bill Index							
G Fund/ Stable Value www. website address	4.36%	4.64%	5.07%	3.75%	1.8%	3.1%	3.3%	4.99%
	3-month US T-Bill Index							

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Generations 2020/ Lifecycle Fund www. website address	27.94% N/A N/A 2.45%	26.46% N/A N/A 3.09% S&P 500
		23.95% N/A N/A 3.74% Generations 2020 Composite Index*

*Generations 2020 composite index is a combination of a total market index and a US aggregate bond index proportional to the equity/bond allocation in the Generations 2020 Fund.

Table 2 focuses on the performance of investment options that have a fixed or stated rate of return. Table 2 shows the annual rate of return of each such option, the term or length of time that you will earn this rate of return, and other information relevant to performance.

Table 2—Fixed Return Investments			
Name/ Type of Option	Return	Term	Other
H 200X/ GIC www. website address	4%	2 Yr.	The rate of return does not change during the stated term.
I LIBOR Plus/ Fixed- Type Investment Account www. website address	LIBOR +2%	Quarterly	The rate of return on 12/31/xx was 2.45%. This rate is fixed quarterly, but will never fall below a guaranteed minimum rate of 2%. Current rate of return information is available on the option's website or at 1-800-yyy-zzzz.
J Financial Services Co./ Fixed Account Investment www. website address	3.75%	6 Mos.	The rate of return on 12/31/xx was 3.75%. This rate of return is fixed for six months. Current rate of return information is available on the option's website or at 1-800-yyy-zzzz.

Part II. Fee and Expense Information

Table 3 shows fee and expense information for the investment options listed in Table 1 and Table 2. Table 3 shows the Total Annual Operating Expenses of the options in Table 1. Total Annual Operating Expenses are expenses that reduce the rate of return of the investment option. Table 3 also shows Shareholder-type Fees. These fees are in addition to Total Annual Operating Expenses.

Table 3—Fees and Expenses		
Name / Type of Option	Total Annual Operating Expenses As a % Per \$1000	Shareholder-Type Fees
Equity Funds		
A Index Fund/ S&P 500	0.18% \$1.80	\$20 annual service charge subtracted from investments held in this option if valued at less than \$10,000.
B Fund/ Large Cap	2.45% \$24.50	2.25% deferred sales charge subtracted from amounts withdrawn within 12 months of purchase.
C Fund/ International Stock	0.79% \$7.90	5.75% sales charge subtracted from amounts invested.
D Fund/ Mid Cap ETF	0.20% \$2.00	4.25% sales charge subtracted from amounts withdrawn.

Bond Funds			
E Fund/ Bond Index	0.50%	\$5.00	N/A
Other			
F Fund/ GICs	0.46%	\$4.60	10% charge subtracted from amounts withdrawn within 18 months of initial investment.
G Fund/ Stable Value	0.65%	\$6.50	Amounts withdrawn may not be transferred to a competing option for 90 days after withdrawal.
Generations 2020/ Lifecycle Fund	1.50%	\$15.00	Excessive trading restricts additional purchases (other than contributions and loan repayments) for 85 days.
Fixed Return Investments			
H 200X / GIC	N/A		12% charge subtracted from amounts withdrawn before maturity.
I LIBOR Plus/ Fixed- Type Invest Account	N/A		5% contingent deferred sales charge subtracted from amounts withdrawn; charge reduced by 1% on 12-month anniversary of each investment.
J Financial Serv Co. / Fixed Account Investment	N/A		90 days of interest subtracted from amounts withdrawn before maturity.

The cumulative effect of fees and expenses can substantially reduce the growth of your retirement savings. Visit the Department of Labor's website for an example showing the long-term effect of fees and expenses at http://www.dol.gov/ebsa/publications/401k_employee.html. Fees and expenses are only one of many factors to consider when you decide to invest in an option. You may also want to think about whether an investment in a particular option, along with your other investments, will help you achieve your financial goals.

Part III. Annuity Information

Table 4 focuses on the annuity options under the plan. Annuities are insurance contracts that allow you to receive a guaranteed stream of payments at regular intervals, usually beginning when you retire and lasting for your entire life. Annuities are issued by insurance companies. Guarantees of an insurance company are subject to its long-term financial strength and claims-paying ability.

Table 4—Annuity Options			
Name	Objectives / Goals	Pricing Factors	Restrictions / Fees
Lifetime Income Option www. website address	To provide a guaranteed stream of income for your life, based on shares you acquire while you work. At age 65, you will receive monthly payments of \$10 for each share you own, for your life. For example, if you own 30 shares at age 65, you will receive \$300 per month over your life.	The cost of each share depends on your age and interest rates when you buy it. Ordinarily the closer you are to retirement, the more it will cost you to buy a share. The cost includes a guaranteed death benefit payable to a spouse or beneficiary if you die before payments begin. The death benefit is the total amount of your contributions, less any withdrawals.	Payment amounts are based on your life expectancy only and would be reduced if you choose a spousal joint and survivor benefit. You will pay a 25% surrender charge for any amount you withdraw before annuity payments begin. If your income payments are less than \$50 per month, the option's issuer may combine payments and pay you less frequently, or return to you

			the larger of your net contributions or the cash-out value of your income shares.
Generations 2020 Variable Annuity Option www. website address	To provide a guaranteed stream of income for your life, or some other period of time, based on your account balance in the Generations 2020 Lifecycle Fund. This option is available through a variable annuity contract that your plan has with ABC Insurance Company.	You have the right to elect fixed annuity payments in the form of a life annuity, a joint and survivor annuity, or a life annuity with a term certain, but the payment amounts will vary based on the benefit you choose. The cost of this right is included in the Total Annual Operating Expenses of the Generations 2020 Lifecycle Fund, listed in Table 3 above. The cost also includes a guaranteed death benefit payable to a spouse or beneficiary if you die before payments begin. The death benefit is the greater of your account balance or contributions, less any withdrawals.	Maximum surrender charge of 8% of account balance. Maximum transfer fee of \$30 for each transfer over 12 in a year. Annual service charge of \$50 for account balances below \$100,000.

Please visit www.ABCPlanglossary.com for a glossary of investment terms relevant to the investment options under this plan. This glossary is intended to help you better understand your options.