

Corporate & Financial Weekly Digest

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Department of Labor Extends Specified Applicability Dates

Co-authored by [Evan A. Belosa](#)

The U.S. Department of Labor's Employee Benefit Security Administration (EBSA) published a notice in the *Federal Register* on June 1 that proposed to extend the applicability dates for fiduciary-level fee disclosure regulations (29 CFR 2550.408(b)-2(c)) and related participant-level disclosures (29 CFR 2550.404a-5) under the Employee Retirement Income Security Act to January 1, 2012, and April 30, 2012, respectively.

In July 2010, EBSA had proposed interim final regulations requiring retirement plan service providers to make significant disclosures regarding fees and potential conflicts of interest to plan fiduciaries. The disclosures as originally promulgated were scheduled to apply to contracts and services subsequent to July 16, 2011. EBSA also had published a final rule on October 20, 2010, concerning the disclosure of fee and expense information by plan administrators to participants and beneficiaries, with an effective date of November 1, 2011, with a 60-day transition period for compliance. This participant-level disclosure would require plan administrators of 401(k)s, for example, to disclose plan and fee information to participants as a prerequisite for an individual employee to direct investments under a plan.

EBSA has received numerous requests by participants to extend the compliance deadlines for both disclosure regulations. In February, EBSA announced that it intended to extend the compliance date for the fiduciary-level fee disclosures from July 16, 2011, to January 1, 2012, the formalization of which it has accomplished with the June 1 notice. Once notified of EBSA's intention, however, commentators argued that the participant-level disclosure regulation should follow the fiduciary-level fee disclosures; the disclosures under the latter include relevant information required to be disclosed on the former. EBSA, by its June 1 notice, agreed with such commentators and extended the transition period from 60 days to 120 days, thus giving calendar year plans until April 30, 2012, to make the initial disclosures required under participant-level disclosures. EBSA believes the additional time for compliance will lead to greater compliance and coordination of the two related requirements.

Full text of the notice can be read [here](#).