

DOL Sets Final Effective Dates for ERISA Fee Disclosure Rules

The Department of Labor has issued a final rule that extends the effective dates of the new fee disclosure rules for ERISA plans.

- The effective date for the rules requiring service providers to disclose fee information to plan fiduciaries has been extended from July 16, 2011 to **April 1, 2012**. The new effective date is three months later than the extended effective date that was proposed in a notice published on May 31, 2011 (discussed in our Alert of June 1, 2011).
- The deadline for plan administrators to furnish certain detailed fee disclosures to participants in participant-directed 401(k) and other plans has been pushed back to **60 days after** the new service provider fee disclosure rules take effect – that is, to **May 31, 2012**, assuming no further extensions of the April 1, 2012 effective date – or, if later, 60 days after the first day of the first plan year that begins on or after November 1, 2011. Quarterly disclosures required under the new rules will need to be furnished to participants and beneficiaries no later than 45 days after the end of the quarter in which the initial fee disclosures are furnished.

The Department's decision comes as a response to comments on its May 31, 2011 notice, many of which stated that additional time is needed to comply with the new disclosure rules. The Department stated that extending the effective dates as described above strikes a balance between providing additional time needed for effective compliance and timely implementation of the new rules.

As outlined in our [Alert](#) of August 17, 2010, the new rules for service providers will require detailed disclosure of direct and indirect fees paid for services provided to ERISA plans. Once these rules take effect, a contract for services to an ERISA plan that does not satisfy these disclosure requirements would not be exempt from the prohibited transaction rules, possibly exposing plan fiduciaries to liability for violating ERISA and service providers to excise taxes and potential disgorgement of fees. As outlined in our [Alert](#) of October 20, 2010, the new rules for plan administrators relating to disclosure in 401(k) and other participant-directed plans provide for a fiduciary duty to furnish participants with certain information about fees and expenses charged to participant accounts.

For additional information about the new rules, please contact any member of the Ropes & Gray [Benefits Practice Group](#).