

## **401(k) News and Notices**

May 31, 2012

Because many of our clients have 401(k) plans, we thought a summary of the changes that will take effect on 1 July 2012 would be helpful.<sup>1</sup> The Department of Labor's Employee Benefits Security Administration (EBSA) will implement a rule that will help America's workers manage and invest the money they contribute to their 401(k)-type pension plans in a more informed manner. This rule will ensure:

- workers in this type of plan are given, or have access to, the information they need to make informed decisions, including information about fees and expenses
- the delivery of investment-related information in a format that enables workers to meaningfully compare the investment options under their pension plans
- that plan fiduciaries use standard methodologies when calculating and disclosing expense and return information to achieve uniformity across the spectrum of investments that exist among and within plans, thus facilitating "apples-to-apples" comparisons among their plan's investment options
- a new level of fee and expense transparency

### **Overview of the Rule**

- The rule provides that the investment of 401(k) plan assets is a fiduciary act and requires plan fiduciaries to act prudently and solely in the interest of the plan's participants and beneficiaries.
- The rule provides that when a plan allocates investment responsibilities to participants or beneficiaries, the plan administrator must take steps to ensure that participants and beneficiaries, on a regular and periodic basis, are made aware of their rights and responsibilities with respect to the investment of assets held in, or contributed to, their accounts.
- The rule provides that sufficient information be given to employees regarding the plan and the plan's investment options, including fee and expense information, to make informed decisions with regard to the management of their individual accounts.
- The rule provides that a plan administrator must provide each participant or beneficiary with certain *plan-related* and *investment-related* information.

### **Plan-Related Information**

- An explanation of any fees and expenses for general plan administrative services that may be charged to or deducted from all individual accounts. Examples include fees and expenses for legal, accounting, and recordkeeping services.
- An explanation of any fees and expenses that may be charged to or deducted from the individual account of a specific participant or beneficiary based on the actions taken by that person. Examples include fees and expenses for plan loans and for processing qualified domestic relations orders.
- Participants must receive statements, at least quarterly, showing the dollar amount of the plan-related fees and expenses (whether "administrative" or "individual") actually charged to or deducted from their individual accounts, along with a description of the services for which the charge or deduction was made.

### **Investment-Related Information**

#### *Performance Data*

- Participants must be provided specific information about historical investment performance. 1, 5, and 10-year returns must be provided for investment options, such as mutual funds, that do not have fixed rates of return. For investment options that have a fixed or stated rate of return, the annual rate of return and the term of the investment must be disclosed.

### *Benchmark Information*

- For investment options that do not have a fixed rate of return, the name and returns of an appropriate broad-based securities market index over 1, 5, and 10-year periods (matching the Performance Data periods) must be provided. Investment options with fixed rates of return are not subject to this requirement.

### *Fee and Expense Information*

- For investment options that do not have a fixed rate of return, the total annual operating expenses expressed as both a percentage of assets and as a dollar amount for each \$1,000 invested, and any shareholder-type fees or restrictions on the participant's ability to purchase or withdraw from the investment.
- For investment options that have a fixed rate of return, any shareholder-type fees or restrictions on the participant's ability to purchase or withdraw from the investment.

### *Internet Web Site Address*

- Investment-related information includes an Internet Web site address that is sufficiently specific to provide participants and beneficiaries access to specific additional information about the investment options for workers who want more current information.

The July 1 effective date of the final regulation means information (including associated fees and expenses) must be furnished no later than August 30, 2012, with the first quarterly statements being furnished no later than November 2012.

### **In-Service Rollover and Self-Directed Update**

Many 401(k) plans offer an option to complete what is referred to as an *in-service* rollover. This allows an actively employed 401(k) participant to "roll over" proceeds from their employer's 401(k) plan to an existing or new rollover IRA. The trigger to complete this type of rollover is typically reaching the age of 59 ½. It does not result in a taxable event because proceeds are deposited to an existing or a new rollover IRA. Participants can continue to make additional contributions to their 401(k) as long as they are employed by the plan sponsor.

Another trend with 401(k) plans is the *self-directed* option. This option allows the participant to open a separate 401(k) account with a custodian like Charles Schwab or Fidelity Investments. Ongoing contributions are redirected to this new self-directed 401(k) and the investments are managed by the participant or an independent investment manager. Like the in-service rollover, one of the main advantages is the increased number of investment options that are available through Charles Schwab and Fidelity and the ability of the participant to secure professional investment management.

Both the *in-service* and *self-directed* 401(k) options will allow direct management by Rinehart Wealth Management. While these 401(k) plan options may provide additional flexibility, there may still be investment restrictions, fees imposed by your company administrator or other reasons they are not the best solution for you. Before making any changes to your 401(k), you should consult with your Financial Advisor to ensure any decision you make is right for your particular situation.

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<sup>i</sup> Information in this newsletter was sourced from the U.S. Department of Labor and the Federal Register / Vol. 77, No. 23 / Friday, February 3, 2012 / Rules and Regulations