

## ERISA §404(a)(5) Disclosures for All Eligible Plan Participants in Your Retirement Plan

As your TPA, we are attempting to assist you in your responsibility to issue an **annual disclosure** so as to comply with new Department of Labor regulations for retirement plans that permit **participant direction of investments**.

***The initial annual notice was to be delivered to all eligible plan participants on or before August 30, 2012. Following annual notices must be issued no later than 18 months after the 2012 disclosure was furnished.***

***Please note that this annual disclosure must be delivered to all eligible plan participants, including:***

1. Employees who have satisfied the plan's eligibility and entry date requirements
2. Active plan participants who do not have their own FBO accounts
3. Terminated plan participants who have not yet received a distribution of benefits
4. QDRO payees, former spouses who have not yet received their divorce settlements
5. Death benefit beneficiaries who have not yet received their death benefit settlements

### **For delivery by electronic means:**

1. You may use the e-delivery method for your employees who generally have the ability to access email at work, where access to emails is an integral part of the individual's job duties.
2. You need to have a cover email that informs them that important information regarding their retirement plan is attached and that they may request a printed copy, if desired

### **For delivery by mail:**

1. For those who are not active employees, you will likely want to mail a printed copy of this disclosure to the last known mailing address.
2. Likewise, for those employees who work outside of the office or off-site, without regular access to email will need to receive a printed copy of the disclosure by the deadline.

### **Hand delivery:**

1. In lieu of giving active employees an email, another method might be to print the disclosure and hand it to them at the office.
2. If you use this approach, it may be good to have a simple roster listing and have them sign that they received the information (just a best practice, not a necessity)

**Background:** Handling the necessary Department of Labor dictated participant fee disclosure rules under

Section 404(a)(5) of ERISA is very difficult for a plan like yours that offers participant directed brokerage accounts for some of the money. The responsibility to provide these disclosures falls upon the Plan Sponsor and it is not something that is part of our services engagement with your firm. However, we recognize that without our help clients are going to be lost as to how to try to comply.

### **Retrieve and Distribute the Appropriate File as Shown Below:**

Go to [www.plandesign.com/feeregulations](http://www.plandesign.com/feeregulations) and access the FBO/Self Directed Brokerage Account 404a5 Disclosure Template

**We highly recommend you prepare some sort of a supplement (or edit the file) telling the participants where they have or can have brokerage accounts and who the investment professional is, if any, who can assist them with investing questions. Give them the person's contact information.**