



Hewitt Associates LLC
100 Half Day Road
Lincolnshire, IL 60069
Tel (847) 295-5000
Fax (847) 295-7634
www.hewitt.com

Argentina
Australia
Austria
Belgium
Brazil
Canada
Channel Islands
Chile
China
Czech Republic
France
Germany
Greece
Hong Kong
Hungary
India
Ireland
Italy
Japan
Malaysia
Mauritius
Mexico
Netherlands
Philippines
Poland
Puerto Rico
Russia
Singapore
South Africa
South Korea
Spain
Sweden
Switzerland
Thailand
United Kingdom
United States
Venezuela

July 24, 2007

Submitted via email to e-ori@dol.gov

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5669
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Attention: Fee Disclosure RFI

Dear Sir or Madam:

Subject: Comment Letter Relating to Request for Information on Fee and Expense Disclosures to Participants in Individual Account Plans

Hewitt Associates, LLC (Hewitt) welcomes the opportunity to submit comments on the Department of Labor's (Department's) request for information relating to fee and expense disclosures to participants in individual account plans. This request was published by the Department in the *Federal Register* on April 25, 2007.

Who We Are

With more than 60 years experience, Hewitt (www.hewitt.com) is a leading global provider of human resources outsourcing and consulting services. Hewitt consults with more than 2,400 companies and administers human resources, health care, payroll, and retirement programs on behalf of more than 350 companies for millions of employees and retirees worldwide. Our outsourcing services process customer interactions from nearly 20 million employees and retirees annually, making Hewitt one of the largest providers of retirement plan recordkeeping and administration services in the country. Accordingly, we have extensive experience in the administration of all types of individual account plans.

Hewitt has been a vocal advocate of plan expense management and transparency for individual account plans for many years. The evolution of defined contribution plans as the primary vehicle of retirement savings for many Americans has given rise to partnership between plan participants and employers in ensuring workers' retirement security. Participants, employers, and companies providing services to individual account plans will all benefit from guidelines that clarify and simplify the disclosure and expense management process.



Office of Regulations and Interpretations

Page 2

July 24, 2007

Fee Disclosure Priorities

It is important to draw a distinction between the needs of plan participants and employers (or other plan sponsors) with respect to plan expense disclosure. (For purposes of this letter, when this letter refers to “employers” the term will also mean the “plan sponsor.”) Before participants choose to contribute to the plan, the employer has already selected service providers and investment funds for the plan. Thus, most plan costs are determined before the participant is ever involved. It is also the employer, and not the participant, that must regularly monitor and evaluate service providers, including investment managers, recordkeepers, and trustees. Therefore, we encourage the Department to continue to focus on the processes and information needed to help employers fulfill their duties around managing plan costs. Accordingly, in addition to addressing the fee disclosure to plan participants, Hewitt has included comments relating to the needs of employers.

Disclosure to Plan Participants

Hewitt provides consulting and administrative services to a large and diverse group of companies. Therefore, we realize that no single communication strategy can possibly meet the needs of all participants. However, we believe that the following disclosure guidelines would be important for all participants.

General disclosure requirements for participants in individual account plans should start with those contained in Section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA). We would anticipate that general guidance relating to participant disclosure requirements for individual account plans would be provided separately from ERISA Section 404(c). However, the requirements of Section 404(c) should be the overall starting point. Participants need to understand the type of investments offered, including investment risks, investment strategy and objectives, and performance history.

In addition, participants need to understand what factors to consider in determining whether to participate in an individual account plan. Because the basic considerations for participation are universal for all such plans, the Department should provide model disclosures as well as additional guidance on its Web site.

The Department also might consider addressing disclosure guidance with respect to types of investments not covered by the Securities Act of 1933. This would ensure uniform disclosure for all types of investment vehicles offered by plans. Finally, the



Office of Regulations and Interpretations

Page 3

July 24, 2007

Department should make sure that any new requirements are consistent with ERISA Section 404(c). Inconsistent disclosure requirements will only lead to confusion of both employers and participants.

Fee disclosure should be part of a broader communication strategy. The focus on better participant fee disclosure should not distract employers from pursuing broader communication campaigns to encourage smarter employee and participant behavior. According to our recent Hewitt Benchmark Survey, the average 401(k) participation rate is stagnant at 72%. Participant contribution rates are flat at 7.9%. Additionally, the average participant utilizes only four asset classes, even though the average plan offers eight.¹ Therefore, to help employees reach their retirement objectives, employees need to be encouraged to participate in their plans, contribute at higher rates, and better diversify their investments.

To help employees make their plan-related decisions, fee information should be communicated as only one of many components to be considered by participants. Communication should emphasize the advantages of saving for retirement through an employer-provided plan. Additionally, in making investment decisions, the plan should emphasize the need for participants to first decide on an asset allocation strategy. Participants must first be encouraged to consider their overall retirement and investment goals. For instance, investment considerations should include not only fees, but more importantly a fund's objective, style, portfolio positioning, performance history, risk, and returns. Thus, fee disclosure is only one component that should be provided to participants, whether deciding to participate or how to invest.

If fee information is emphasized over other more important factors, participants might erroneously infer that the best funds to select are the funds with the lowest costs, regardless of the asset classes or investment strategies they represent. For example, relatively lower fees might drive participants to invest their entire account in their plan's money market or stable value fund options. Given the long-term focus of retirement savings, such portfolio selections would not be optimal for most individuals. Therefore, disclosures relating to fees should include reminders that fees are only one factor to consider in an overall investment strategy.

¹ Hewitt Associates, *Research Report: How Well Are Employees Saving and Investing in 401(k) Plans, 2006 Hewitt Universe Benchmarks.*

Office of Regulations and Interpretations

Page 4

July 24, 2007

Fee disclosure requirements should promote clarity. Simplicity in the communication of fees is the most important component for participant disclosure. The information should be clear and concise, without superfluous detail.

Participants are not involved in the selection and evaluation of a plan's investment funds. Although most participants in individual account plans direct their account investments, most plans have a limited fund lineup. For participants, therefore, fee disclosure is about knowledge and information. The goal is to help participants understand what fees are associated with plan participation, the various investment options, and plan transactions. Participants do not need the same detailed fee information that is required by employers.

Fee disclosure requirements should apply to all individual account plans, regardless of whether the employer intends the plan to be covered under ERISA Section 404(c). As noted, fee information is a factor to consider when an employee is deciding whether to participate in an individual account plan. It is also important to all participants in participant-directed account plans, regardless of the application of ERISA Section 404(c). Accordingly, fee disclosure requirements should not be limited to ERISA Section 404(c) plans.

Mandatory fee disclosure should focus primarily on fees payable directly by plan participants. Asset-based fees charged to participant assets (to the plan as a whole or to an individual investment fund) should be disclosed to participants. Such fees may include investment management fees, trustee fees, and administrative fees. Often fees are charged as a "percent of assets" or "basis points." These concepts can be difficult for the average participant to understand. Therefore, communication should include examples to raise participant awareness of how fees impact investments (such as a simple example showing the effect of such fees in dollars).

For example, if a bond fund's expense ratio is 0.55 percent, this information can be made more meaningful by illustrating the impact to an employee with \$10,000 in the fund (fees equal \$55 per year). Such numeric examples may promote a common level of understanding. This type of information should be provided to employees at the time they elect to participate in the plan and it should also be available for review to enable participants to evaluate their investment strategies and investment funds on a regular basis.

Any direct dollar-based administrative-type fee (recordkeeping or trustee) charged against participant investments also should be disclosed. For example, some plans charge administrative fees directly to participant accounts (e.g., \$20 per quarter). Such

Office of Regulations and Interpretations

Page 5

July 24, 2007

fee information should be disclosed in ongoing plan communications, such as summary plan descriptions (SPD). It would also be shown on the participant's account statement.

Additionally, any transaction fees related to activities such as participant loans, hardships, or fund trading restrictions should be communicated to participants at the time of the activity to which the fee applies. The existence of such fees also should be disclosed in the plan's SPD. In addition, if sales load fees and contingent deferred sales charges apply to an investment fund, such fees should be disclosed in ongoing plan communications, such as the SPD, and in any description of participant investment options.

Employers should have discretion, but should not be required, to communicate additional fee information. The asset-based fees charged to participants are primarily used to cover the costs associated with managing the fund assets. Sometimes a portion of these fees may also be used to pay the plan's administration and trustee fees (a concept sometimes termed "revenue sharing"). We believe that the employer should be provided with full disclosure of how and what these arrangements subsidize from their service providers. Such employer disclosure is critical to the management of plan expenses. However, although it is important to disclose the total asset-based fees charged to participants, participants do not need to understand the specifics of how asset-based fees are allocated in order to make informed investment decisions. Accordingly, employers should have the option, but should not be required, to disclose such information if requested by the participant.

Similarly, plans should not be required to disclose fees that are paid by the employer. Of course, the employer should always have the discretion to disclose any plan-related fees paid from a company's assets. Some employers may believe that this demonstrates the employer's commitment to maximizing retirement plan assets. However, because such information is not relevant to the participant's investment decision process, it should not be required.

Employers should also be allowed (but not required) to provide factual information to participants relating to how plan investment fees might generally compare to similar types of retail investments that are available outside of the plan. To meet the goal of encouraging participant investment in an individual account plan, an employer should be allowed to put plan expenses into perspective with those of the investment industry in general.

Finally, Hewitt does not support the suggestion that plans should be required to provide a benchmark to which asset-based fees should be compared. Fee benchmarking and evaluation are the responsibility of the employer, not the employee. Evaluating plan fees is a complex endeavor that typically requires employers to seek out professional assistance. We do not believe that such complex evaluations would be appropriate for standard participant communications. However, such disclosure should be allowed if employers feel it is appropriate for their populations.

The method of providing information relating to plan expenses varies among employers. The results from a 2005 Hewitt survey demonstrate that fee information is provided under various circumstances by different employers.

Disclosure of Fees—How Fees Are Communicated to Participants

Fee Disclosure Communication Method	Percent of Plans	
	Administrative Fees	Investment Management Fees
Only upon participants' request	38%	30%
Disclose periodically by written communication	26%	23%
With participant account statements	28%	33%
Other (e.g., prospectus, summary annual report, summary plan document)	8%	14%

Source: Hewitt Associates, *Survey Findings: Trends and Experience in 401(k) Plans 2005*. (316 plans reporting administrative fees; 313 plans reporting investment management fees)

Thus, there currently is more than one method utilized to provide fee information. In issuing any guidance related to participant disclosure, the Department should allow some level of flexibility in the method of disclosure, as long as the required information is being provided.

How should fee information be communicated to plan participants? Ultimately, communication of fees should be managed and implemented by employers under general Department guidelines. Such methods should endeavor to help participants

Office of Regulations and Interpretations

Page 7

July 24, 2007

understand how fees impact their accounts. However, fee disclosure requirements also need to be cost effective. It would be counterproductive if disclosure requirements greatly increase administrative costs that, in turn, were passed on to plan participants.

Additionally, plans should not be required to add numerous new disclosures forms or formats. The use of existing means of communication, especially electronic technology, should help minimize the cost that will be added by any new disclosure requirements.

Plans should be allowed to make required information available through electronic access, with paper documents required only if requested. Electronic delivery standards such as those adopted by the Department in Field Assistance Bulletin 2006-03, relating to the periodic benefit statement requirements of the Pension Protection Act of 2006, would enable full and efficient disclosure in a cost effective manner.

The following suggestions for communicating fee information to participants should be considered. These means would help meet the needs for simplicity and cost effectiveness.

- Plans could provide a summary of plan fees as a standalone link (or links) on the plan's Web site, or in a document available upon request. As noted earlier, fee information should be linked to other more general information relating to the overall strategy, investment type, risk, and performance history of the investment fund.
- The SPD could provide simple summary explanations of the different methods fees are charged to participants. For a more robust explanation of the various method used to charge fees, the SPD can refer to, and the plan Web site could provide a link to, the Department's Web site. Having basic educational material provided in a simple and unbiased manner on the Department's Web site would be the most effective and cost efficient method of providing such general explanations.
- Fund fact sheets, which include a variety of information on plan investments, including expenses, are already utilized by most individual account plans. They summarize investment fund information, thereby meeting the goal of simplified disclosure.

Disclosure should ultimately be the responsibility of the employer. Finally, disclosure should be the responsibility of the employer. This may mean, however, that employers must be more requiring of all service providers in order to obtain the necessary fee information.



Office of Regulations and Interpretations

Page 8

July 24, 2007

Disclosure to Employers

Many studies, including Hewitt's own, demonstrate that it is becoming standard practice for 401(k) participants to pay for some portion (in some cases all) of a plan's administrative and trustee expenses. As noted above, the primary responsibility for managing plan costs falls upon the employer as the plan fiduciary. Section 404(a) of ERISA provides that a component of a plan fiduciary's obligations is to act solely in the interest of a plan's participants and beneficiaries for the exclusive purpose of providing benefits and defraying reasonable administrative costs. Because more and more expenses are being paid by individual account plans and because employers are obligated to manage plan assets and expenses, it is crucial that employers receive the information required to carry out their responsibilities.

Revenue sharing is a common industry practice among fund managers. Fees collected by fund managers often pay several other plan service providers. These arrangements can be beneficial for all parties concerned. However, unless appropriate disclosures are provided, revenue sharing arrangements do not allow employers to understand how much various service providers are earning for their services to the plan. Without such knowledge, it can and has been alleged that the employer does not have sufficient information to evaluate service providers and defray reasonable plan expenses. Ongoing, transparent disclosure of all revenues received by service providers with respect to services provided to a plan is, therefore, critical. Accordingly, the Department should continue to promote plan fiduciary understanding of fees paid to service providers.

Hewitt respectfully submits these comments related to fee and expense disclosures for individual account plans. We commend the Department for reaching out to the retirement plan community for input before formulating regulations on this issue.

Sincerely,
Hewitt Associates LLC

Cynthia W. Milstead
(847) 295-5000
cindy.milstead@hewitt.com

Pamela M. Hess, CFA
(503) 297-7093
pam.hess@hewitt.com