



## Money & the Law: Bringing clarity to 401(k) costs

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A popular buzzword these days for discussions of government and business conduct is “transparency” — meaning don’t hide things. Thanks to recent regulatory action by the Department of Labor, greater transparency is coming to the world of 401(k) retirement plans.

These are plans whereby employees can invest a portion of their earnings before tax is paid. Investing before tax is paid is better than investing after tax is paid because, well, there is more money to invest. In theory, at least, there will then be a larger amount saved when the time comes to withdraw (and pay taxes on) this money.

A problem with 401(k) plans has long been that plan participants don’t have a clue what they are paying to have the money in their account managed and invested. Running around in the background of every 401(k) plan are hoards of people purchasing and selling securities, keeping records, generating reports, etc. 401(k) plan participants pay for all of this by having money taken out of their account. But finding out how much has been taken out and what the money has paid for has been somewhere between very difficult and impossible — the opposite of transparency. Two Department of Labor regulations going into effect this year are intended to improve on this circumstance.

The first of these regulations applies to “plan administrators.” Plan administrators are the ones who deal directly with plan participants — informing them how the plan works, what investment options are available, the balance (if any) remaining in their accounts after the latest news on Greek sovereign debt, etc. Under this regulation, referred to as “the participant-level disclosure regulation,” plan administrators will be required to tell plan participants in detail what they are paying for administrative expenses applicable to the plan as a whole (for example, legal and accounting fees); what they are paying for activity in their own account (for example, brokerage commissions); and what fees and expenses are applicable to the various investment vehicles — think mutual funds — the plan offers to participants. The biggest expenses here will be sales charges and the fees fund managers collect for running the fund (the “expense ratio”). Plan administrators will also have to give plan participants performance information, showing how a fund has performed in comparison with a market benchmark over varying time periods — one year, five years, 10 years and since inception.

Participant-level disclosures will additionally contain this statement: “The cumulative effect of fees and expenses can substantially reduce the growth of your retirement savings.” And, there will then be a reference to a Department of Labor website that gives the details about how fees and expenses can cut into your hopes for a comfortable retirement — [www.dol.gov/ebsa/publications/401k\\_employee.html](http://www.dol.gov/ebsa/publications/401k_employee.html).

The second regulation applies to parties selling services to retirement plans and requires detailed disclosure to the plan’s sponsor of direct and indirect compensation paid to the service provider and all other information a plan administrator needs to comply with the participant-level disclosure regulation. Compliance with the service provider regulation becomes mandatory July 1. The participant-level disclosure regulation kicks in 60 days later.

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