

**MEMO# 26160**

May 18, 2012

## **DOL Issues Technical Correction to Supplemental Guidance on Participant Disclosure Rules**

[26160]

May 18, 2012

TO: PENSION COMMITTEE No. 16-12  
PENSION OPERATIONS ADVISORY COMMITTEE No. 16-12 RE: DOL ISSUES TECHNICAL CORRECTION TO SUPPLEMENTAL GUIDANCE ON PARTICIPANT DISCLOSURE RULES

As a reminder, the Institute will hold a conference call on Tuesday May 22, 2012 at 3:00 PM ET to discuss Field Assistance Bulletin 2012-02. Please RSVP to Brenda Turner ([bturner@ici.org](mailto:bturner@ici.org)) by close of business on Monday, May 21. To participate in the call, please dial 1-888-390-0975 and enter passcode 53852. (See [Memorandum](#) to Pension Committee No. 15-12, Pension Operations Advisory Committee No. 15-12 [26157], dated May 14, 2012.)

This is to advise you of a technical correction to Field Assistance Bulletin 2012-02 (the "FAB") issued by the Department of Labor on May 17, 2012. [\[1\]](#) The FAB provides answers to frequently asked questions (FAQs) regarding implementation of the participant-level disclosure regulation (29 C.F.R. §2550.404a-5). [\[2\]](#)

The FAB's FAQ 19 addresses the return information for a plan's designated investment alternatives that must be made available at the required Web site address. Section 2550.404a-5(d)(1)(v)(E) of the regulation requires that for a plan's designated investment alternatives with respect to which the return is not fixed, the Web site data must enable a participant to obtain the average

annual total return for 1-, 5- and 10-year periods, ending on the date of the most recently completed calendar quarter. [\[3\]](#)

The original FAQ 19 stated that such information is to be provided for 1-, 5-, and 10-calendar year periods, ending on the date of the most recently completed calendar year (emphasis added). The Institute discussed these inconsistencies with the Department subsequent to the issuance of FAB 2012-02. The DOL corrected FAQ 19 to accurately restate the requirements of the regulation – so that such information is to be provided for 1-, 5-, and 10-year periods, ending on the date of the most recently completed quarter.

Further, correcting FAQ 19 to state that this data is to be provided for 1-, 5- and 10-year periods (rather than calendar year periods) reflects that such performance data is measured on a rolling-forward basis, as of the end of each calendar quarter.

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**endnotes**

[1] The revised FAB is available here: <http://www.dol.gov/ebsa/regs/fab2012-2.html>. For the Institute's Memorandum regarding the FAQs, see [Memorandum](#) to Pension Members No. 21-12, Bank Trust and Retirement Advisory Committee No. 22-12 [26153], dated May 11, 2012.

[2] See [Memorandum](#) to Pension Members No. 49-10, Transfer Agent Advisory Committee No. 76-10, Bank, Trust, and Recordkeeper Advisory Committee No. 49-10, Broker/Dealer Advisory Committee No. 56-10, and Operations Committee No. 37-10 [24702], dated November 11, 2010.

[3] A copy of the final regulation can be found here:  
<http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=24323>.

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