

May 24, 2019

The Honorable Preston Rutledge
Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Expedite and Prioritize Guidance on Electronic Delivery

Dear Assistant Secretary Rutledge:

The undersigned organizations are writing to urge the Department of Labor (“Department”) to expedite and prioritize the publication of proposed regulations that would expand the use of electronic delivery for retirement plan disclosures and notices, while also preserving the option to receive paper delivery of such disclosures and notices. ***Specifically, we are requesting the Department to propose regulations, without delay, that would permit plan sponsors to make electronic delivery the default method of delivery for retirement plan disclosures and notices, unless an employee otherwise requests paper copies.***

On August 31, 2018, President Trump issued an Executive Order on Strengthening Retirement Security in America directing the Department to review within one year actions that would make retirement plan disclosures more understandable and useful, while also reducing the costs and burdens they impose on employers and other plan fiduciaries responsible for their production and distribution. According to the Executive Order, the review shall explore the broader use of electronic delivery as a way to improve the effectiveness of disclosures and to reduce their associated costs and burdens. The President’s 12-month deadline is, of course, rapidly approaching. We are encouraged to see the regulatory action included in the latest Unified Agenda and would urge the Department to further prioritize electronic delivery as a part of any rulemaking to reduce costs and burdens as outlined by the Executive Order.

Consistent with the Executive Order’s direction regarding electronic delivery, the interested parties below are requesting the Department to expedite and prioritize the publication of proposed regulations that would permit plan sponsors to make electronic delivery the default delivery method for retirement plan disclosures and notices, unless an employee otherwise requests paper copies. If finalized, those regulations would immediately make retirement plan disclosures and notices more efficient and useful for retirement savers. It also could make disclosures and notices much less costly.

Electronic delivery empowers retirement plan participants by providing them constant and real-time access to information about their retirement benefits and other online tools that can assist with retirement planning. Retirement savers could more easily retain copies of benefit statements, search for relevant information, and link to relevant information and options, such as increasing their retirement contributions. In addition, electronic means enable plan sponsors to

improve communications with plan participants such as by linking to financial wellness opportunities and educational materials.

As evidenced by the dozens of House and Senate cosponsors backing the Receiving Electronic Statements to Improve Retiree Earnings Act (“RETIRE Act”) during the 115th Congress, support for the electronic delivery of retirement plan communications, with a right to paper upon request, is widespread, bipartisan, and growing.

If necessary, the Department should move forward with guidance expanding the use of electronic delivery untethered to any other guidance projects seeking to change the substance or content of retirement plan disclosures. The Department could, for example, immediately propose regulations to expand the use of electronic delivery, while simultaneously issuing a request for information (“RFI”) on ways to make the content of retirement plan disclosures and notices more understandable and useful for retirement savers. The Department does not need to newly engage in the same type of study for electronic delivery, because it previously received responses to an RFI on electronic disclosure in 2011, and there is ample evidence of increased access to and use of the Internet since then.

All of the undersigned organizations are supportive of the Department moving expeditiously to enable the use of electronic delivery, and offer our expertise and resources to assist the Department. We are eager to work with the Department to accomplish the goals set out in the Executive Order. Please do not hesitate to reach out directly to any of the organizations below.

American Bankers Association
American Council of Life Insurers
American Retirement Association
ERISA Industry Committee
Investment Company Institute
Securities Industry and Financial Markets Association
SPARK Institute
U.S. Chamber of Commerce

cc:

Timothy Hauser
Jeanne Wilson
Joseph Canary
Jeff Turner