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An Executive Summary From Our Experts to You on Topics That Matter

DOL Electronic Disclosure Safe Harbor For Retirement Plans

The DOL has created a "safe harbor" for the electronic distribution of ERISA-required notices and disclosures. This new rule will create a more efficient method of distributing critical plan-related documents. It may also help reduce the costs of plan administrators. This rule will go into effect July 27th, 2020.

"This will ease some of the administrative burdens for employers who sponsor retirement plans. Employers who want to take advantage of this safe harbor need to obtain email addresses for all participants and prepare their website to post notices for the plan," stated Todd Yawit, AIF®, Director of Employer Sponsored Retirement Plans at Saxon Financial Services, Inc.

Key Rule Takeaways

The safe harbor will allow for plans to use mobile applications to deliver notices and disclosures. Mobile user friendliness may create greater overall plan engagement by retirement plan participants.

The rule will bring an end to the ability to provide pension benefit statement information via a "continuous access website". This may result in fewer participants receiving their pension benefit statements electronically.

The DOL eliminated the ability to rely on either the DOL's or the IRS' electronic delivery rules for qualified default investment alternative notices.

The DOL limited the new safe harbor to retirement plan documents and information thereby excluding employee welfare benefit plans and their related notices (e.g., COBRA Notices and notices of adverse benefit determinations for group health and disability plans).

During the COVID-19 emergency, plans have "good faith" relief allowing notices to be provided through email, text messaging and continuous access website. Due to this, many plans may choose not to rely on the new safe harbor rule until the end of the COVID-19 emergency.

Permitted Document Delivery

The new safe harbor permits electronic delivery by either of two ways:

- Posting covered documents on the plan sponsor's website, if appropriate notification of internet availability is furnished to the participant's electronic address, or;
- Sending the documents directly to the participant's electronic address, with the covered document either in the body of the e-mail or as an attachment.

The new safe harbor is limited to retirement plan disclosures. It does not apply to ERISA-required notices for health or welfare plans, and does not apply to notices required solely by the IRS, such as the Special Tax Notice that must be provided in advance of an "eligible rollover distribution," or notices required by another government agency.

In addition, the safe harbor is limited to certain "covered documents" that are provided to "covered individuals" who have a valid electronic address (such as an e-mail address or a smartphone number). The new safe harbor does not supersede the 2002 safe harbor; instead, the 2002 safe harbor remains in place as an additional option for plan administrators.

SOURCES: benefitspro.com/2020/06/11/dol-finalizes-electronic-disclosure-safe-harbor-for-retirement-plans/