

Industry Groups Urge DOL to Allow Broader Use of Electronic Communication for Retirement Plan Participant Disclosures

Industry Groups Urge DOL to Allow Broader Use of Electronic Communication for Retirement Plan Participant Disclosures

Washington, DC, March 28, 2012 - A coalition of 15 trade associations representing the retirement plan community, including employers and retirement services firms, is urging the U.S. Department of Labor (DOL) to permit broader use of electronic communications to deliver the disclosures to retirement plan participants required by new DOL regulations. In a [letter submitted](#) yesterday to the DOL's Employee Benefits Security Administration, the coalition urged DOL to pursue a policy that would encourage and facilitate the use of modern electronic forms of communication. "Electronic communication today is no longer the exception, it is the norm," the coalition wrote in its letter.

The coalition is responding to DOL's recently released interim guidance on the use of electronic media, known as Technical Release 2011-03R. [A survey conducted by The SPARK Institute](#) found that the interim guidance does not provide meaningful incentives or make it more feasible for plan sponsors and their service providers to use electronic media instead of paper for the required disclosures.

"We are concerned that the guidance in the Technical Release provides little relief beyond that already available through EBSA's current safe harbor, particularly as it relates to affirmative consent and dependence on paper as the default method of delivery," said Larry H. Goldbrum, general counsel of The SPARK Institute, a coalition member. "Based on responses to the survey and discussions with other coalition members, it is clear that a substantial majority of service providers do not intend to make use of the Technical Release policy and the required disclosures will be delivered in paper form, rather than electronically," Goldbrum said.

Among the concerns about the interim guidance identified in the survey are the inability of existing systems to support the DOL's interim e-delivery approach without costly changes; the required affirmative action on a per participant basis for plans to use electronic communications; and the administrative impracticality of the required implementation and monitoring.

Coalition members continue to believe that the prior guidance developed by the DOL in December 2006, in the form of Field Assistance Bulletin 2006-03, is a viable approach to encouraging and fostering electronic disclosure by employee benefit plans, while providing important safeguards for ensuring that participants who still want to receive required disclosures in paper format can do so.

"Research shows that participants of all ages and incomes increasingly prefer to access information online and we believe that doing so makes it easier for participants to act on the information," said David Abbey, Senior Counsel-Pension Regulation, of the Investment Company Institute.

"There is broad movement toward electronic delivery of information. For example, IRS makes tax forms available online now instead of mailing them. The DOL should join IRS and many other federal agencies embracing e-delivery for the benefit of investors and customers," said ASPPA Executive Director and CEO Brian H. Graff. "Making e-delivery more available can also help to keep the costs of retirement plans down by cutting down on paper statements that have to be prepared and mailed," he added.

Coalition members include the American Bankers Association, American Benefits Council, American Council of Life Insurers, American Society of Pension Professionals & Actuaries (ASPPA), Financial Executives International Committee on Benefits Finance, Financial Services Institute, Financial Services Roundtable, Insured Retirement Institute, Investment Company Institute, Plan Sponsor Council of America, Securities Industry and Financial Markets Association, Small Business Council of America, The ERISA Industry Committee, The SPARK Institute and the U.S. Chamber of Commerce.

The SPARK Institute represents the interests of a broad-based cross-section of retirement plan service providers and investment

managers. The Institute provides research, education, testimony and comments on pending legislative and regulatory issues to legislators and regulatory agencies. Collectively, its members serve approximately 70 million participants in 401(k) and other defined contribution plans.

The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$12.98 trillion and serve over 90 million shareholders.

The American Society of Pension Professionals & Actuaries (ASPPA) is a national organization of more than 8,500 retirement plan and benefits professionals that serves as the educator, voice, and advocate for the employer-based retirement system. ASPPA members are administrators, actuaries, advisors, attorneys, accountants, and other financial services professionals who provide consulting and administrative services for qualified retirement plans.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.