

DOL Issues Proposed Regulations for Electronic Delivery of ERISA-Required Retirement Plan Disclosures

November 1, 2019

The DOL recently issued proposed regulations which provide a “Notice-and-Access” safe harbor for the electronic delivery of ERISA-required disclosures. Under the proposed regulations, plan administrators can fulfill their obligation to provide these disclosures by making the information accessible online and by sending a notice of Internet availability (“Internet Availability Notice”) of the disclosures to participants’ e-mail addresses. The Internet Availability Notice must include a brief description of the document being posted online, a website address where the document is posted, and instructions for requesting a free paper copy of the disclosures or electing paper delivery of such disclosures in the future. Although the Internet Availability Notice must generally be sent each time a disclosure is posted online, the proposed regulations would allow a plan administrator to combine such notices in certain circumstances.

The proposed regulations only apply to retirement plans, not health and welfare plans, and a plan administrator must first (i) provide each participant with an initial notification via paper copy and (ii) allow the participant to opt out of electronic delivery of disclosures before the administrator may implement and rely on this new safe harbor. The proposed regulations would become effective 60 days following publication of a final rule in the Federal Register.

The proposed regulations are available [here](#).