

Informal DOL Comment Suggests Delivery of SPDs via CD Not ERISA-Compliant

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At a Q&A session between the U.S. Department of Labor (DOL) and the American Bar Association, the DOL was asked whether delivering summary plan descriptions (SPDs) by mailing them on a CD to employees who do not normally work on computers would satisfy ERISA's regulations regarding the delivery method for SPDs. Generally, delivery methods must be reasonably calculated to ensure distribution and receipt of the SPD. The DOL responded to this question by opining that such a delivery method may not be reasonably calculated to ensure receipt because the plan administrator has not taken any measures to determine if participants have the necessary technology and ability to retrieve information from the CDs. However, the DOL's response reflects only an unofficial, nonbinding staff view and thus does not necessarily represent an official position of the DOL.