

The DOL Announces Final Rule for Electronic Delivery of ERISA-Required Retirement Plan Disclosures

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The DOL recently announced a final rule which provides an additional “Notice-and Access” safe harbor for plan administrators to electronically deliver ERISA-required notices and disclosures. The final rule is substantially similar to the proposed rule (which we discussed in a previous blog post [here](#)). Under the final rule, plan administrators may electronically deliver certain “covered documents” to “covered individuals” with electronic addresses by (i) posting the covered documents on a website and sending a notice of Internet availability (“**NOIA**”) to the covered individual’s electronic address or (ii) sending covered documents directly to a covered individual’s electronic address. The NOIA may be sent on an annual basis, describing multiple covered documents, and must include (x) a description of the covered documents being posted, (y) the address of or hyperlink to the website where the covered documents are posted, and (iii) information about the covered individual’s right to request covered documents in paper or opt out of electronic delivery. The final rule only applies to retirement plans, not health and welfare plans. Before a plan administrator may implement the “Notice-and-Access” safe harbor, the plan administrator must first (i) provide an initial paper notification to each covered individual notifying them of the new electronic delivery method and the electronic address that will be used, and (ii) allow each covered individual to opt out of electronic delivery. Although the final rule is effective 60 days after the date it is published in the Federal Register, the DOL will not take enforcement action against a plan administrator who uses this safe harbor before such date. The final rule is available [here](#).