Safe Harbor for Retirement Plan Use of Electronic Media



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The Department of Labor (DOL) issued a final rule on May 21, 2020 that establishes a new voluntary safe harbor for retirement plan administrators who want to use electronic media, as a default, to furnish covered documents to covered individuals, rather than sending potentially large volumes of paper documents through the mail. Retirement plan administrators who comply with the safe harbor will satisfy their statutory duty under ERISA to furnish covered documents to covered individuals. The new safe harbor permits the following two optional methods for electronic delivery:

- *Website Posting*. Plan administrators may post covered documents on a website if appropriate notification of internet availability is furnished to the electronic addresses of covered individuals.
- *Email Delivery*. Alternatively, plan administrators may send covered documents directly to the electronic addresses of covered individuals, with the covered documents either in the body of the email or as an attachment to the email.

The new safe harbor is effective 60 days after its publication in the Federal Register (July 20, 2020). Plans that rely on the new safe harbor will be able to eliminate significant materials, printing, and mailing costs associated with furnishing printed disclosures. In addition, the DOL as an enforcement policy, will not take any enforcement action against a plan administrator that relies on this safe harbor before that date, which provides flexibility and may reduce administrative burden on employers and pension plan service providers during this unprecedented time.

DOL Final Rule