

-----Original Message-----

From: solveruds@dwave.net [<mailto:solveruds@dwave.net>]
Sent: Wednesday, April 20, 2011 7:41 PM
To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB50 - comments on RFI

Dear DOL -

For the past 30 years I have worked for financial services companies that provide retirement plan administrative services to small employers (generally less than 100 employees). I wish to provide comments in response to your recent RFI regarding electronic disclosure.

General Comments

I really like the DOL's 1977 standard for delivering information to participants and beneficiaries - that a plan administrator has to use delivery methods "reasonably calculated to ensure actual receipt." In the world of 1977, hand delivery would cover on-site recipients, and first class mail would cover off-site recipients.

I also really like the DOL's 2002 requirement that access to electronic communication must be an integral part of an employee's job if information is being distributed electronically. Changing to a "reasonable access" standard for email delivery is very similar in my mind to leaving a pile of material on a table for employees to pick up (which is not allowed).

Reasonable access isn't the issue - the issue is ensuring actual receipt.

First class mail delivery is similar to email in a lot of ways, except that: (1) paper mail is distributed exclusively by one provider, while email is distributed by a host of providers, (2) the cost of paper mail is borne exclusively by the sender, while email may require payment of a subscription for an email account, (3) paper mail is typically delivered directly to the recipient's home, while email requires the recipient to take action to retrieve the message, and (4) there is no ability with paper mail to screen out junk mail, while email systems typically have spam filters - so not every message sent will actually be received.

Taking these factors into consideration, it doesn't seem reasonable for a plan administrator to conclude that an email is as likely to be received as a paper letter. A recipient's affirmative consent via email to receive information electronically overcomes these issues, at least with respect to the plan administrator's responsibility for ensuring receipt.

In summary - I like the current DOL rules in general except that I would actually require affirmative consent to be given electronically rather than being allowable on paper; I agree that there should always be an option of first class mail (or at the employer's option, hand-delivery for on-site employees) for every participant who does not consent to email delivery.

Comments on some of the Specific Questions Asked in the RFI

1-4 irrelevant if electronic delivery requires consent.

5 email with attachments is preferable to emails with links to websites - it should not be up to the participant to go on a scavenger hunt for information; it should be up to the employer/plan administrator to provide relevant information (and not include irrelevant information).

6 keeping email addresses updated is an issue for electronic delivery.

7 Yes - that fact is self evident. If people are using the Internet and electronic media more, it is because they want to.

8 How could anybody answer this question in the negative? But again, this is not relevant if electronic delivery requires consent.

9 &10 I would require affirmative consent to be made electronically (for offsite recipients or on-site recipients without integral access to email).

14 I am opposed to using websites even if participants affirmatively consented to using websites - websites only make information available, they do not deliver the information to recipients. Also, many web pages are very difficult to navigate even for experienced web users.

15 Plan sponsors should decide whether or not to make email delivery available (or, with respect to on-site integral access employees, mandatory). Off-site recipients and non-integral access on-site recipients should have to affirmatively consent via email in order to receive email.

17 All recipients should always be able to receive paper disclosures at no cost.

18 I would require annual renewal of affirmative consent (via email) for all non-integral access recipients. I would also require employers to monitor bounce-back messages and then mail materials to those people. Upon termination of employment any on-site integral access recipient should automatically revert to paper mailings unless/until affirmative consent via email is received.

19 I don't think affirmative consent is an impediment.

22 Spam filters could be a problem.

23 I would require employers to monitor bounce-back messages.

Thank you for the opportunity to submit comments.

Ross Solverud, CPC
Wausau, WI