

**2017 Advisory Council on Employee Welfare and Pension Benefit Plans
Mandated Disclosure for Retirement Plans – Enhancing Effectiveness for Participants
and Sponsors**

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Description of Issue:

Retirement plan sponsors are required to provide plan participants and beneficiaries multiple disclosures and notices with respect to the retirement plans in which they participate. Previous *Advisory Councils on Employee Welfare and Pension Plans* ('Councils') and the US Government Accountability Office ('GAO') have recommended that the US Department of Labor ('DOL') undertake a comprehensive review of these disclosures and notices.

In 2005, the Council studied *Communications to Retirement Plan Participants*. The Council assessed, among other topics, whether participants understand their rights under retirement plans and whether the current forms of required communications accomplish their objectives. The Council made specific recommendations with respect to improving the format and delivery of certain mandatory disclosures, including the Summary Plan Description (SPD), Summary of Material Modifications (SMM) and the Summary Annual Report (SAR).

In 2009, the Council further focused on *Promoting Retirement Literacy and Security by Streamlining Disclosures to Participants and Beneficiaries*. The Council studied the efficacy of ERISA's reporting and disclosure schemes as well as problems and costs related to such disclosures. Among other recommendations, the Council recommended that 1) The DOL should review all pension plan disclosures required under Title I of ERISA and determine whether there are opportunities for streamlining such requirements and 2) The DOL should form an interagency working group that would adopt regulations and propose legislation, both of which would replace the current participant disclosure requirements (including statutory requirements) with respect to pension plans in its entirety with a new streamlined, electronic-focused system.

The goal of the 2017 Council is to offer the Department draft materials and recommendations, including guiding principles for use in streamlining existing Department of Labor disclosures and developing future disclosures in an effort to ease the regulatory burden to both plan sponsors and participants while enabling those disclosures to be more useful to the participants and beneficiaries that receive them and other audiences who may utilize them. The 2017 Council intends to complement the work of the 2005 and 2009 Councils while not duplicating the work done by previous Councils in this area. The Council will seek witness testimony that includes recommendations for improvement on specific disclosures, including but not limited to the SPD, SMM, SAR and Annual Funding Notice (AFN) to advance the recommendations made by previous Councils.

Objective and Scope:

We are focused on the content and usability of disclosures required by the Department of Labor relating to retirement plans (as defined by the Employee Retirement Income Security Act of 1974 (ERISA)), including single employer and multiemployer defined benefit and defined contribution plans. Disclosures required by agencies other than the Department of Labor are outside of the scope of this project.

The Council is aware that the use of electronic disclosures may have a significant impact on the results and recommendations of this topic. While the Council will not preclude the incorporation of electronic and other forms of disclosure in its deliberations, the Council does not intend to focus specifically on the distribution methods as a part of the oral witness testimony on this topic.

The Council is examining this topic and intends to draft recommendations to the Secretary of Labor for consideration. Our study will include the following:

- A. Are there duplicative disclosure requirements and/or specific disclosures that could be eliminated or combined to relieve the burden on the plan sponsor and/or the participants/beneficiaries?
- B. Is the content of the disclosures understandable and are there specific recommendations and examples that can be provided to improve the communication of the content in existing disclosures?
- C. Are disclosures readable in accordance with federal plain language guidelines?
- D. Are the disclosures valuable to users and are the disclosures material to a participant's understanding of the plan and their decision making?
- E. When should disclosures be made to participants to optimize the objective of the specific disclosures?
- F. Should the disclosures indicate "Action Required"; "Action Requested"; "No Current Action Required"; "For Information Purposes Only" or other introductory comments to inform participants of their purpose?
- G. Would a 'Summary'/Quick Start Guide" to disclosures help achieve the above objectives?
- H. What is/are the most effective and efficient methods of design and distribution?
- I. How do the above considerations differ between small, medium and large single and multiemployer plans?

The Council encourages interested parties to submit sample/model disclosures and other tools that can be used to provide plan sponsors, vendors and plan participants with guidance related to the required disclosure for their retirement plans. The Council recognizes that there will not be one model notice for specific required disclosures that works for all plans, but the Council is inviting submission of examples of communications that are effective for participants.