

November 18, 2019

**VIA MAIL FILING**

Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Attention: Electronic Disclosure by Employee Benefit Plans, RIN 1210-AB90  
Room N-5655  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, D.C. 20210

Re: The Equity-League Health Trust Fund's Comments on Proposed Regulations Regarding Electronic Disclosure by Employee Benefit Plans

To whom it may concern:

The Equity-League Health Trust Fund (the "Fund" or the "Plan") respectfully submits these comments on the Department's proposed regulation regarding electronic disclosure by employee benefit plans. The proposed regulation was published in the *Federal Register* on October 23, 2019 (RIN 1210-AB90). The purpose of this letter is to encourage the Department to expand the proposed regulation to cover disclosures from employee welfare benefit plans, such as the Fund. For the reasons described more fully below, electronic access to required documents would benefit the Fund's participants and reduce Fund costs.

By way of background, the Fund is a multiemployer health plan that was established in 1961 covering over 7,000 participants, retirees and dependents. The Fund primarily covers live theater performers across the nation who perform work under collective bargaining agreements between nearly 2,000 contributing employers and Actors' Equity Association. The Fund maintains an extremely user-friendly and informational web site providing participants with important information regarding their benefits under the Plan. In addition to utilizing the website to view important information regarding benefits under the Plan, approximately 75%-80% of Plan participants utilize the website to make self-payments for coverage.

While Fund participants regularly communicate electronically using computers and mobile devices in their daily lives, given the nature of their work as live performers, they do not typically have access to documents at specific locations (e.g., rehearsals and performances) where those duties are performed, and accessing the Fund's website is not an integral part of their duties as performers. Thus, the Fund can only make limited use of the existing safe harbor for electronic disclosure under the Employee Retirement and Income Security Act of 1974, as amended ("ERISA").

The Fund (and the affiliated Equity-League Pension Trust Fund, which covers more than 50,000 individuals) agrees with the Department's analysis that an additional safe harbor is advisable to facilitate electronic disclosure of those

documents required to be provided to participants, beneficiaries, and other individuals entitled to such documents (“Covered Individuals”) under ERISA. Accordingly, the Fund supports reasonable regulations that would do so. A plan administrator’s ability to satisfy ERISA’s disclosure requirements by providing electronic access or delivery of required documents, other than to those Covered Individuals who affirmatively elect to receive physical copies, would significantly reduce Fund costs and the administrative burden of mailing physical copies on a large scale. Moreover, given the pervasive availability of, and access to, electronic communication platforms, the Fund believes that electronic access or delivery is reasonably calculated to ensure actual receipt of the information in the required disclosures.

In addition, the Fund strongly believes that the considerations described above apply to ERISA-covered employee welfare benefit plans no less than they do to retirement plans. Accordingly, the Fund encourages the Department to expand upon the proposed regulation so that the final regulation applies the same type of safe harbor to employee welfare benefit plans, and to coordinate with the Treasury Department and Department of Health and Human Services where applicable. This will promote efficient administration and allow plans to use more of their assets to serve the fundamental goal of providing benefits to plan participants, which has become a critical issue in light of the rising cost of healthcare.

The Fund thanks the Department for the opportunity to provide these comments, and respectfully requests that the Department take them into consideration before finalizing the proposed regulation.

Sincerely,

Board of Trustees of the Equity-League Health Trust Fund

By:   
Arthur Drechsler  
Executive Director