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Default Electronic Disclosure by Employee Pension Benefit Plans under Employee Retirement Income Security Act

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Submitter Information

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General Comment

November 19, 2019

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 Motion Picture Industry Health Plans Comments on Proposed Regulations Regarding Electronic Disclosure by Employee Benefit Plans

To whom it may concern:

The Motion Picture Industry Health Plan (MPIHP) respectfully submits these comments on the Departments 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.

By way of background, MPIHP is a multiemployer health plan covering more than 70,000 participants, plus their dependents. The Plan primarily covers people who work behind the scenes on motion picture and television production. MPIHP has a robust, participant-friendly web site providing a wealth of information about the Plan. While Plan participants regularly communicate electronically using computers and mobile devices in their daily lives, given the nature of their work, they do not typically access documents at specific locations (e.g., movie and television sets) where those duties are performed and accessing the Plan sponsors electronic information system is not an integral part of their duties. Thus, MPIHP 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).

MPIHP agrees with the Departments analysis that an additional safe harbor is advisable to facilitate electronic disclosure of those documents required to be provided participants, beneficiaries, and other individuals entitled to such documents (Covered Individuals) under ERISA. Accordingly, MPIHP supports reasonable regulations that would do so. A plan administrators ability to satisfy ERISAs 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 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, MPIHP believes that electronic access or delivery is reasonably calculated to ensure actual receipt of the information in the required disclosures.

In addition, MPIHP strongly believes that the considerations described above apply to ERISA-covered employee welfare benefit plans no less than they do to retirement plans. Accordingly, MPIHP 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 provide benefits, a critical issue in light of the rising cost of healthcare.

The MPIHP 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,

David Asplund
Chief Executive Officer