

Congress of the United States
Washington, DC 20515

November 20, 2019

Submitted Electronically

(<https://www.regulations.gov/comment?D=EBSA-2019-0005-0001>)

Employee Benefits Security Administration
Office of Regulations and Interpretations
200 Constitution Avenue NW, Room N-5655
Washington, D.C. 20210

**RE: Public Comment Opposing Proposed Rule Making
Electronic Disclosure by Employee Benefits Plans
RIN No. 1210-AB90
Federal Register No. 2019-22901**

Dear Sir or Madam:

Please accept this correspondence in opposition to the proposed rule published on October 23, 2019 and identified as RIN Number 1210-AB90, Federal Register Number 2019-22901. This opposition is being filed within the public comment period that expires on November 22, 2019.

As a Member of Congress, I have an obligation to advance policies that are in the best interest of my constituents so that they can achieve and maintain financial security during their working lives and in retirement. With that obligation in mind, I oppose the Department of Labor/Employee Benefits Security Administration's proposed rule that would require retirement plan administrators to provide participants and beneficiaries certain mandatory disclosures by electronic means unless and until participants and beneficiaries opt-out.

The rationale for this proposed rule is that it would "significantly reduce the costs and burden associated with furnishing many of the recurring and most costly ERISA disclosures." This proffered rationale—and the purported cost savings—fails to consider the digital divide that remains a real challenge for many of my constituents, including seniors and rural residents. As AARP has noted:

Internet use has steadily increased since 2000 so that in 2018 about 90 percent of Americans use the internet. However, certain groups have lower use based on factors such as age, income, education, and community type. *Less than 75 percent of individuals over the age of 65 use the internet*, while a slightly lower percentage of individuals with less than a high school education uses the internet. Rural communities use the internet less than urban and suburban communities.

See AARP Letter to Honorable Preston Rutledge, August 26, 2019 at p. 4-5 (citing, *inter alia*, Pew Research, Internet/Broadband Fact Sheet, *Internet Use Over Time and Who Uses the Internet*, June 12, 2019) (emphasis added).

With less than seventy-five percent (75%) of the senior population using the internet, it is clear that this proposed rule is not designed to benefit retirement plan participants and beneficiaries. Indeed, the proposed rule has been published in contravention of public sentiment. According to an AARP survey, eighty-four percent (84%) of respondents over the age of 50 expressed a preference of paper over electronic disclosures. *Id.* at p. 6 (citing AARP, *401(k) Participants' Awareness and Understanding of Fees* at p. 7, 34, June 2007).

For the avoidance of any confusion, there is nothing stopping retirement plan participants and beneficiaries from opting into an e-delivery of disclosures. There is nothing stopping plan administrators from public outreach, education, and recommendation that participants and beneficiaries forego paper delivery. This proposed rule is nothing more than a “solution” in search of a problem.

We as a society owe our seniors clear written communications that help them understand their retirement benefits. As such, and for the reasons articulated herein, I respectfully request that the Department of Labor and/or the Employee Benefits Administration not adopt this proposed rule.

Sincerely,



SUSAN WILD
Member of Congress