

**American Federation
of Musicians &
Employers' Pension Fund**

Fourteen Penn Plaza – 12th Floor
New York, NY 10122
(212) 284-1200
Fax (212) 284-1300
www.afm-epf.org

November 21, 2019

VIA ELECTRONIC 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 American Federation of Musicians and Employers' Pension Fund
Comments on Proposed Regulations Regarding Electronic Disclosure by
Employee Benefit Plans

To whom it may concern:

The American Federation of Musicians and Employers' Pension Fund (the "AFM-EPF" or "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 convey the AFM-EPF's support for the proposed regulation as it would apply to retirement plans.

The AFM-EPF is a multiemployer pension plan which covers over 49,000 participants and beneficiaries, including pensioners. It primarily covers professional instrumental musicians who perform work under collective bargaining agreements between employers and the American Federation of Musicians. The AFM-EPF has a robust, participant-friendly web site which provides a wealth of information about the Plan.

Like many individuals, Plan participants often communicate electronically using mobile devices and computers. Due to the nature of their work, however, Plan participants do not generally access documents at specific locations (e.g., theaters, concert halls and other performance venues) where their duties are performed. Furthermore, accessing the Plan sponsor's electronic information system is not an integral part of their duties.

Thus, the AFM-EPF is limited in its use of the existing safe harbor for electronic disclosure under the Employee Retirement and Income Security Act of 1974, as amended (“ERISA”). Specifically, the AFM-EPF is limited to an “opt-in” program whereby participants may affirmatively consent to electronic disclosure of required documents. Unfortunately, the “opt-in” program is more burdensome to administer than an “opt-out” program, and its requirement for affirmative action by a participant unduly hinders its expansion.

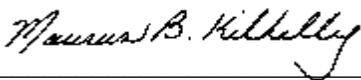
Overall, the AFM-EPF agrees with the Department’s analysis that an additional safe harbor is appropriate to expand the availability of electronic disclosure of those documents required to be provided participants, beneficiaries, and other individuals entitled to such documents (“Covered Individuals”) under ERISA. Given the pervasive availability of, and access to, electronic communication platforms, the AFM-EPF believes that electronic access or delivery is reasonably calculated to ensure actual receipt of the information in the required disclosures. Moreover, 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 costs and the administrative burden of mailing physical copies on a large scale.

The savings achieved by these reduced costs are particularly important in light of the financial challenges the AFM-EPF is facing. Accordingly, the AFM-EPF supports a regulation that would permit the use of an “opt-out” program.

The AFM-EPF thanks the Department for the opportunity to provide these comments, and respectfully requests that the Department take them into consideration when finalizing the proposed regulation.

Sincerely,

Board of Trustees of the
American Federation of Musicians and Employers’ Pension Fund

By: 

Maureen B. Kilkelly
Executive Director