

Office of Regulations and Interpretations  
Employee Benefit Security Administration  
Room N-5655  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210



Attn: Electronic Disclosure by Employee Benefit Plans, RIN 1210-AB90

To Whom It May Concern:

The Principal Financial Group® (“Principal”) appreciates the opportunity to provide comments regarding the Department of Labor’s (the “Department”) Electronic Disclosure by Employee Benefit Plans proposed regulation (“Proposed Rule”). Our comments are based on nearly 80 years in the retirement industry providing recordkeeping, investment, and administrative services to employers of all sizes and their covered employees. We currently provide retirement plan services to more than 48,800 retirement plans and 9.4 million employee participants that would be impacted by this proposed regulation.<sup>1</sup>

We commend the Department for this extremely important regulatory initiative addressing disclosure delivery rules that have long been outpaced by advances in technology and societal trends. Current disclosure delivery rules are burdensome and costly, with participants generally bearing the brunt of the associated printing and mailing costs.

Digital technologies are transforming all aspects of our personal lives, businesses and society. The Pew Research Center recently reported that smartphone ownership among Americans has now reached 81 percent and nearly three-quarters of American adults own a laptop or desktop computer.<sup>2</sup> The Investment Company Institute reports even higher internet access rates among individuals with defined contribution plan accounts.<sup>3</sup>

Businesses are leveraging digital connectivity and e-commerce to engage with consumers in increasingly personalized and effective ways, and retirement plan sponsors and recordkeepers are no exception. Over recent years, Principal has made significant investments in digital platforms for plan participants, leveraging behavioral economics science and leading research on how modern consumers learn, make choices, and take action.

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<sup>1</sup> This internal statistical data is as of Oct. 2019 and representative of plan services on the Principal® and Wells Fargo IRT systems. Please note; this numerical data has been combined as of this time period and may not show a true representation of data in its final state; participant numbers contain both eligible and active life counts.

<sup>2</sup> Pew Research Center Survey conducted from Jan. 8 to Feb. 7, 2019.

<sup>3</sup> 2018 study found that 93% of households owning defined contribution accounts had access to the internet.

Approximately two years ago, we introduced redesigned online and digital application experiences for workers, including those who are newly eligible for their employer's retirement plan and those already participating in a plan. These interactive and personalized experiences are delivering dramatic improvements in workers' retirement savings rates relative to more traditional ways of engagement:

When enrolling through our new, online enrollment experience in 2018:

- The average deferral rate for newly eligible employees is nearly 8 percent (that's more than 34 percent higher than other enrollment methods) and 29 percent of newly eligible employees defer 10 percent or more.
- For existing participants of plans that transition to Principal, nearly 1 in 4 participants opt to save 10 percent or more.
- When looking at all participants who have visited the website, average deferrals are 50 percent higher than those who do not engage online.

Specialized and personalized financial wellness education and planning is available to all clients' employees through our interactive financial wellness experience called My Virtual Coach®. Results for 2018 include:

- Those who enroll by taking the full experience have an average deferral rate of 8.26 percent.
- Those existing participants who elect and subsequently take part in future My Virtual Coach Checkups have an average deferral rate of 9.15 percent.
- 30 percent more participants increased deferrals after having access to their Retirement Wellness Scores and Retirement Wellness Planner compared to participants who did not access.
- The Retirement Wellness Score among participants who use the Retirement Wellness Planner is more than 10 points higher than the average score (a score of 100 points signaling an estimate that you are on track to meet 100 percent of your retirement income goal).
- Access to a growing suite of financial wellness education and assistance addresses common challenges like dealing with student loan debt, building emergency savings, budgeting and establishing a will.

These results demonstrate how well-designed and intuitive online and digital platforms are helping workers cut through inertia and take action. By allowing employers to broadly adopt the proposed notice and access format, the Department is not only helping to reduce production and mailing costs for plans but also helping to expose more workers to these beneficial online and digital experiences.

We commend the Department for a thoughtful, well-designed proposal. Generally, we feel the proposal addresses many of the challenges and concerns that our employer clients have experienced under the current notice regime.

Additionally, there are several areas where we feel the Proposed Rule could be improved. We submit the following for the Department's consideration:

**Notice and comment disclosure framework.** We believe the proposed framework is an appropriate step in acknowledging well-established shifts in consumer behavior brought on by technological advancements and increased access to the internet. By expanding electronic addresses to include email addresses, smartphone numbers, and electronic addresses assigned by an employer, the Department is allowing employers and recordkeepers to reach workers where they are most comfortable receiving important information and conducting business.

Principal has for many years provided required notices on our secure website for all employers and participants. This information is now also provided in our smartphone application for participants, which features not only secure log-in with two-factor authentication, but also participant-enabled fingerprint or facial recognition. For those employers with employees who don't qualify under the existing safe harbor, paper mailings are provided in addition to the notices provided and stored on the secure website. In 2018, nearly 1.7 million participants of our employer clients required paper mailings. This demonstrates the difficulty in meeting the requirements of the existing safe harbor.

While the Proposed Rule is clear about the ability to post the notice of internet availability to an email address or a smartphone number, it is not clear whether disclosures may be posted to a smartphone or other mobile application. It would be beneficial for the Department to clarify that other internet-based mechanisms, including smartphone and other mobile applications, are covered under the new safe harbor.

**Initial paper notification of default electronic delivery.** The Proposed Rule requires that employers furnish a paper notice to each individual, prior to the administrator's reliance on the new safe harbor and at the time the individual becomes eligible for participation, stating that some or all covered documents will be furnished electronically, the individual's right to obtain a paper version of a covered document, free of charge, and an explanation of how to exercise these rights. This initial notice is required to be provided in paper form, even for employers who are currently operating under the existing safe harbor. To ensure that employers who are meeting the requirements of the existing safe harbor are not burdened by a new paper notice, the Department should clarify that the initial notice may be furnished electronically to any individuals who meet the conditions for electronic delivery under the existing safe harbor.

**Field Assistance Bulletin No. 2006-03 superseded.** FAB 2006-03 allows employers to meet their benefit statement furnishing obligations by providing participants continuous access to benefit statement information through one or more secure websites, provided that participants and beneficiaries have been furnished notification that explains the availability of the required benefit statement information, how such information can be accessed, and their right to request and obtain paper copies free of charge. The notice may be furnished via paper or by electronic means.

The Proposed Rule supersedes FAB 2006-03, treating any individuals not classified as Covered Individuals as having elected out of electronic delivery and requiring additional steps to acquire a valid electronic address or provide all covered documents in paper. Upon the Proposed Rule's effective date, many plans will initially be burdened by producing and mailing lengthy benefit statements for non-Covered Individuals, having previously relied on providing an annual paper notice of the availability of benefit statements on a secure website. The Department should preserve the ability to provide an annual paper notice of the availability of benefit statements on a secure website.

**Content of Notice of Internet Availability.** The Proposed Rule outlines a list of required information to be contained in each Notice of Internet Availability. We anticipate that most employers who will comply with the new safe harbor will seek to provide an annual notice for all covered documents. In this context, the required information outlined in the Proposed Rule, including a brief description of each Covered Document covered by the Notice, will lead to lengthy and complicated notices that are likely to be counterproductive to encouraging action. This is especially true when considering many notices will be sent via text message on smartphones.

The Proposed Rule also applies a new readability standard to the Notice of Internet Availability by requiring a minimum Flesch Reading Ease test score of 60. Relying on a standard established by a singular organization is inconsistent with prior, principles-based Department guidance that materials be written in a manner understood by the average plan participant. It also raises concerns that the basic nomenclature required by the Proposed Rule's stipulation to include a description of each Covered Document will result in a failed test result.

We encourage the Department to be less prescriptive regarding the content of the Notice of Internet Availability and allow employers and recordkeepers to continue to seek clear and innovative messaging that seeks to drive more individuals to secure websites and mobile applications. For example, the Department should consider removing the requirement that a brief description of each Covered Document be included in the Notice of Internet Availability. We also urge the Department to maintain consistency with prior, principles-based guidance related to readability of participant disclosures to avoid any unintended, negative consequences.

**Opt-out for individuals.** Section (f)(2) of the Proposed Rule states, "Covered individuals must have the right to opt out of electronic delivery and receive only versions of some or all covered documents." Requiring a menu approach to opting out of disclosures will be challenging for some employers and recordkeepers to implement and track. The Department should clarify that the opt out can be offered on a global basis only, on a classification basis (i.e. those provided in a combined, annual Notice of Internet Availability), or on a per document (i.e. "menu") basis.

**404a-5 participant disclosures.** Section (i) of the Proposed Rule outlines the annual Covered Documents that may be included in a combined Notice of Internet Availability. This list includes comparative charts

that provide fee and performance information about a plan's designated investment alternatives as required under the Department's 404a-5 participant disclosure rules. 404a-5 rules also require "general plan" and "administrative and individual expenses information" disclosures yet the Proposed Rule does not include these disclosures as available under the combined Notice of Internet Availability. The majority of our employer clients combine the disclosure elements required by 404a-5 into a singular disclosure document. We encourage the Department to include all required disclosures under 404a-5 as available under Section (i) of the Proposed Rule to ensure participants are not inundated with numerous notices that have less contextual relevance when presented separately.

**Coordination with IRS electronic delivery requirements.** To ensure a consistent set of rules related to electronic disclosure of covered documents, the Department should coordinate with the IRS related to documents under the IRS' purview. For example, the Department should confirm that QDIA notices can still be combined with automatic enrollment notices required by the IRS and that delivery of these notices could be fulfilled per IRS electronic disclosure rules or that IRS would view compliance with DOL safe harbors as satisfying IRS electronic disclosure rules.

**Retention requirements for covered documents.** The Proposal requires that any covered document must remain available on the website until it is superseded by a subsequent version of the covered document. As the Department noted in the preamble, some covered documents are generated due to singular events and have no subsequent version that will supersede them. We agree with the Department's suggestion that the final rule state that a covered document must remain available on the website until it is superseded by a subsequent version of the covered document or, if applicable, until it ceases to have continued relevance.

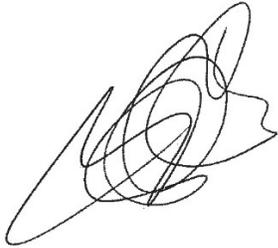
**Special rule for severance from employment with the plan sponsor.** This special section related to plan participants who have severed employment seems to be unnecessarily duplicative. The obligations the plan fiduciary has for this category of participants are not different from those of other categories of plan participants. We suggest the Department remove this section or clarify that, upon a covered individual's severance from employment, an employer may choose to provide a paper notice describing the covered documents electronically available to the participant.

## **Conclusion**

Principal strongly supports the Department's efforts to modernize delivery requirements for retirement plan disclosures. As we noted in this letter, we have seen beneficial improvements in retirement savings levels and projected retirement outcomes for those participants who use our interactive, online and digital tools relative to those who use more traditional methods of engagement. We believe the Proposed Rule will help more individuals to get more engaged in their retirement planning and decision-making by encouraging them to access their important documents online and in digital applications, further exposing them to intuitive and effective education and planning tools.

Thank you again for the opportunity to comment.

Sincerely

A handwritten signature in black ink, appearing to read 'Gerald Patterson', written in a cursive style.

Gerald Patterson  
Senior Vice President – Retirement & Income Solutions  
Principal Financial Group

### **About the Principal Financial Group**

Principal Financial Group® (Principal®)<sup>4</sup> is a global investment management leader offering retirement services, insurance solutions and asset management. Principal offers businesses, individuals and institutional clients a wide range of financial products and services, including retirement, asset management and insurance through its diverse family of financial services companies. Founded in 1879 and a member of the FORTUNE 500®, Principal Financial Group has \$626.8 billion in assets under management<sup>5</sup> and serves some 24 million customers worldwide from offices in Asia, Australia, Europe, Latin America and the United States. Principal Financial Group, Inc. is traded on the Nasdaq under the ticker symbol PFG. For more information, visit [www.principal.com](http://www.principal.com).

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<sup>4</sup> “The Principal Financial Group” and “The Principal” are registered service marks of Principal Financial Services, Inc., a member of the Principal Financial Group.

<sup>5</sup> As of December 2018.