



November 22, 2019

Preston Rutledge  
Assistant Secretary of Labor  
Employee Benefits Security Administration  
Department of Labor  
Room N-5655  
200 Constitution Avenue NW  
Washington, DC 20210

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

*Submitted electronically via [www.regulations.gov](http://www.regulations.gov)*

Dear Mr. Rutledge,

I am writing on behalf of the National Association of Health Underwriters (NAHU), a professional association representing more than 100,000 licensed health insurance agents, brokers, general agents, consultants and employee benefits specialists. We are pleased to have the opportunity to provide comments in response to the proposed rule published in the *Federal Register* on October 23, 2019, titled "Default Electronic Disclosure by Employee Pension Benefit Plans under Employee Retirement Income Security Act."

The members of NAHU help employers of all sizes purchase, administer and utilize health insurance coverage for employees and their dependents. They routinely advise clients about state and federal compliance obligations associated with operating group employee benefit arrangements. Our expertise lies in the technicalities of health-plan purchasing and administration and the real-world challenges employers and employees face therein.

Ensuring full compliance with the benefit plan disclosure and reporting requirements associated with Employee Retirement Income Security Act of 1974 (ERISA) and its related amendments is one of the most challenging and expensive areas for employer group plans to navigate. For business groups of all sizes, ERISA compliance is confusing and costly, and compliance errors are exceedingly common. For smaller employer groups, the challenge is most acute, but all companies struggle. More important, despite the purpose of the law and the best intentions of federal regulators and many business owners, the content, design and delivery of virtually all current ERISA disclosures need significant improvements. Right now, the disclosure process does not help most ERISA plan beneficiaries, the very population it is meant to serve.

As such, NAHU members are delighted that the Department of Labor and the Employee Benefits Security Administration are making a concerted effort to modernize ERISA disclosure rules. We appreciate the new safe-harbor proposal and the request for more information about potential further improvements. We are glad to share our expertise regarding ERISA health and welfare plan administration and disclosure compliance practices.



## ***Overall Approach***

NAHU appreciates and supports the DOL's decision to improve ERISA rules by the creation of a new safe harbor to allow for increased use of electronic technology for plan participant disclosures. Technology has changed substantially since the establishment of the original ERISA safe harbor so regulatory guidance desperately needs to be updated to reflect changing times. Additionally, if the EBSA were to focus resources and regulatory review efforts on improving the existing rules and sub-regulatory guidance concerning the content, design and delivery of all required disclosures, plan sponsors and participants nationwide would benefit. It would reduce costs and regulatory burden for business owners and provide more helpful and streamlined services to plan participants. Such action would reflect the president's priorities and principles outlined in Executive Order 12866.

However, NAHU would like to express our deep disappointment that the proposed rule, as drafted, excludes ERISA health and welfare plans. NAHU understands the DOL is in part following the directive of Executive Order 13847, which is specific to retirement plans. However, we do not believe that Executive Order 13847 limits the DOL to just revisions applicable to those plans. We appreciate the DOL's assertion in the preamble that group health plan disclosures cover a wide range of sensitive topics and differ from retirement plan disclosures. However, the current electronic disclosure safe harbor, developed in 2002, applies to both types of plans. That safe harbor contains no special considerations for health and welfare plans. NAHU also recognizes and agrees that the DOL shares interpretive jurisdiction over many group health plan disclosures with the Treasury Department and the Department of Health and Human Services. We believe that coordination with both Departments is crucial in moving forward. However, we note that the DOL routinely works with both Departments on inter-jurisdictional regulatory issues. Many pieces of regulatory and sub-regulatory guidance relative to group health and welfare plans are jointly issued each year by all three Departments or a combination of the three.

From the perspective of NAHU members and their group health plan clients, the need for ERISA disclosure modifications for health and welfare plans is so acute that it warrants immediate action. We urge the DOL to allow both types of arrangements to take advantage of any new safe harbor created by a final rule. NAHU also asks that you begin to work with counterparts at the Departments of Health and Human Services and Treasury (and to the extent that their regulatory oversight touches employer-based plans, the Equal Employment Opportunity Commission) on an immediate basis. That way you can craft disclosure design, content and delivery improvements to benefit all ERISA plan participants. If the DOL has concerns about health-specific disclosure content requirements, perhaps this would be a good use of the interim final rule process.

## ***Proposal for Alternative Method for Disclosure through Electronic Media***

NAHU members generally support the proposed rule and new safe harbor to allow for additional methods of disclosure through means of electronic media. The ERISA electronic distribution requirements date back almost two decades. Since then, technology has changed significantly in terms of ease of use and extensive access to devices that can access information. These changes have affected both consumers generally and employee benefit plan administrators specifically.



This update of the ERISA electronic distribution guidance would benefit all stakeholders. Allowing more efficient use of online distribution resources and employee benefit administration systems will reduce the costs of mailing, distribution, and printing that many businesses endure. Enhanced online delivery methods will also be advantageous for beneficiaries, as they can make critical documents easy to find and easy to search when needed. Searchable electronic notices are significantly more meaningful than often discarded printed notices.

When taking steps to finalize this proposal, we urge the EBSA to ensure that the safe-harbor language is as evergreen and flexible as possible. Focusing on those issues now will go a long way toward ensuring the safe harbor's long-term utility. We recommend shying away from references to specific types of electronic technology and allowing employees and plan participants to self-certify that they have access to an appropriate device and online connectivity. Also, our membership supports the use of an opt-out standard relative to electronic delivery so that modern processes will be the default.

#### ***Request for Information about the Effectiveness of ERISA Disclosures***

1. What is the best way to measure the effectiveness of a disclosure?

NAHU members believe that the best way to measure the effectiveness of ERISA disclosures is through consultation with the plan participants who are intended to benefit from the disclosure's content. Group plan administrators and employee benefit plan professionals have profound opinions about disclosure content and design. However, their higher level of knowledge about ERISA and benefit plans generally render them ineffective in determining if a disclosure meets the needs of an average plan participant. Instead, focus group testing and other means of direct engagement with plan beneficiaries who have no particular expertise in health and retirement benefits would be most effective.

2. How do plan sponsors assess the use, effectiveness and impact of disclosures?

Currently, many plan sponsors do consult with advisors, attorneys and compliance professionals to create their plan's ERISA disclosure documents. Plan sponsors also may evaluate the effectiveness of their plan's disclosures through interactions and discussions with plan participants. However, most plan administrators use EBSA-created templates for their disclosure content in order to limit their liability. These individuals feel bound to the federal template content and design, since they know it is a way to ensure adequate compliance.

That is why the idea of relegating official monitoring notice effectiveness to the plan level is inherently inadequate and inappropriate. Instead, we believe that the DOL should assume responsibility for assessing what constitutes an adequate disclosure and dedicate significant resources towards doing so. The DOL should invest in the disclosure-development process to ensure that all model templates are as useful as possible. Given the number of plan administrators that rely on those templates, there would be significant economies of scale achieved through EBSA-initiated disclosure effectiveness improvements.



3. Please identify any currently mandated disclosures for which effectiveness and efficiency could be improved.

NAHU members feel that virtually all existing ERISA documents, disclosures and templates could benefit from some improvements. The only required disclosure templates that NAHU members consistently cite as well-designed and very useful are the HIPAA notices of privacy practices. It is our understanding that both focus groups of potential notice recipients and design contests were used to develop them. NAHU strongly suggests that the EBSA utilize both of these practices to improve and streamline all existing ERISA disclosures. We also urge EBSA to make focus group testing and design competitions a routine part of the development process for all future disclosures. Finally, we believe all ERISA disclosure templates should be reviewed for content, clarity, design and effectiveness annually. Focus-group review should be an essential part of that process. Ideally, such an analysis would occur in the early spring of each year, with new template adjustments or revised disclosure guidance released by the beginning of May. That timeframe would accommodate ERISA plans with the two most common plan year dates of July 1 and January 1.

4. Would more personalized disclosures enhance engagement?

NAHU members believe the EBSA must distinguish between general disclosures directed at all plan participants, or a large subset of plan participants, and required letters or notifications that are specific to a particular individual. An example of a completely general disclosure would be the Women's Health and Cancer Rights Act notice. An example of a general disclosure requirement that may apply to a large subset of plan participants is the notice relative to Premium Assistance under Medicaid and the Children's Health Insurance Program. In contrast, an example of a required letter or notification that is specific to particular plan participants is a Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) election notice.

In the case of general disclosures, NAHU members do not believe that personalization enhances notice effectiveness. Furthermore, to require customization for general notices would significantly increase compliance costs and complications for plan sponsors. Such a practice would overwhelm companies without dedicated human resources support, and we cannot envision an effective enforcement mechanism. Concerning notifications that are specific to individual plan participants, existing law and guidance already require personalization.

5. Are there ways through regulation or appropriate guidance to require or incent plan administrators to organize information in disclosures to reflect life events so that information is available as needs arise?

Some compliance advisors already do this, as do health benefit plan administrative service vendors and other entities that plan sponsors utilize for plan management and employee engagement services. NAHU does not believe that EBSA needs to require plan sponsors to organize their disclosures in a certain way. Such a requirement would be costly and administratively burdensome for plan sponsors and impossible to enforce, and we would oppose it. Instead, if the EBSA allowed more efficient use of online distribution resources and employee benefit administration systems for disclosure organization and accessibility, all stakeholders would benefit.



NAHU encourages the modernization of rules for updating benefit plan documents stored online and the accommodation for apps to save and access notices and plan documents. Finally, the DOL could provide employers with additional resources to assist them in organizing notice information more efficiently voluntarily.

6. Are there examples of ERISA documents that are too voluminous, complex or both?

While many ERISA documents are both too voluminous and complex to provide meaning to the typical ERISA plan beneficiary, NAHU members believe that the summary plan description (SPD) is probably the most important document in this category. The SPD provides a critical legal framework for any benefit plan, and it should always be available as a valuable resource for plan beneficiaries upon request. However, right now, the lack of official templates, compliance resources and education about SPD requirements hurts both employees and business owners. Participants suffer because the resulting materials that are intended to provide them with information and protections are often confusing, incomplete, duplicative or not available.

There are two other notice templates that our members want to specifically call-out as both too long and also very confusing. One is the "Notice to Employees of Coverage Options," also known as the exchange notice, which employers subject to the Fair Labor Standards Act must give to newly hired individuals. The other is the Medicare Part D "Creditable Coverage Disclosure Notice," which ERISA plan sponsors that offer employees prescription drug coverage must distribute to Medicare-eligible plan participants, retirees and COBRA beneficiaries.

The official DOL template language in Part A of the exchange notice has not been substantially updated in six years. It still includes verbiage that indicates that crucial parts of the Affordable Care Act have yet to go into effect. Those provisions have been in place since January 1, 2014. Also, to provide genuinely useful information to employees, often it requires customization by a class of employees. However, the current notice guidance implies that the notice language should be consistent for all employees. Therefore, many employees get superfluous and confusing information.

The Medicare Part D credible coverage notice templates are also lengthy (up to four pages) long. The language in the notice templates is complex, and many employers cannot determine how to adapt the notice for their use independently. Plan participants often express confusion when reading this notice, and some of the model verbiage is subject to interpretation. Another concern specific to this notice is that it is often distributed to plan participants who are not Medicare-eligible since employers have liability concerns about potentially missing an eligible dependent. This practice often leads to more confusion and questions on the part of plan beneficiaries.

7. Should the DOL require or allow plan administrators to furnish a simpler alternative and, if so, how and what information is "key"?

NAHU suggests a new SPD distribution requirement safe harbor for employer plan sponsors that create distribute a concise reference tool for employees highlighting all of the employer-plan specific components of



the SPD. Our recommendation is similar to one contained in the 2017 ERISA Advisory Council report titled "Reducing the Burden and Increasing the Effectiveness of Mandated Disclosures with Respect to Employment-Based Health Benefit Plans in the Private Sector." To meet the safe harbor, NAHU believes the highlight document must generally follow a federal template relative to content and design. In developing such a model, we suggest that the DOL utilize focus groups and current ERISA plan participant surveys to determine which elements of an SPD are most needed by consumers. Additionally, from NAHU's perspective, the document would need to contain "key" elements that are specific to the employer plan, including plan contact information and eligibility criteria. It should also include language to guide participants and beneficiaries to appropriate detailed source materials to answer any questions regarding the plan's contents, their rights and additional relevant information.

To meet the safe harbor, NAHU proposes that an employer would have to have an updated SPD (a compliance obligation the vast majority of employer group plans, notably smaller group health and welfare plans and fully insured health and welfare plans of all sizes are not meeting). Employers would have to make the full SPD available upon request and we suggest, for this safe harbor, reducing the SPD distribution timeframe from the current 30 days. In today's world, an updated SPD can be delivered to any plan participant much more quickly upon request. Furthermore, to meet the safe harbor, the plan sponsor would need to update the new SPD highlight document annually and distribute it to plan participants annually, on request, and within 60 days of a material plan modification.

NAHU members feel that an SPD highlight document could complement the summaries of benefits and coverage (SBC). NAHU also believes an SPD highlight document safe harbor would drastically increase overall SPD requirement compliance and directly complements EBSA's proposal to allow for enhanced electronic disclosure distribution.

Along with this idea, NAHU requests that the EBSA consider developing more official compliance resources for employers to use relative SPD development and updates. The SPD provides a critical legal framework for any benefit plan, and it should be a valuable resource for plan beneficiaries. Right now, the lack of official templates, compliance resources and education about SPD requirements hurts both employees and business owners. Employers often do not comply or fully comply with SPD rules due to a lack of understanding and appropriate resources. Businesses also often contract out their SPD development process, and they have no efficient and cost-effective means to measure the quality of the documents they purchase, often at great expense. Employees then suffer because the materials that are intended to provide them with information and protections are insufficient, confusing or not available.

8. Does ERISA require disclosure of any information that has become obsolete?

There are some ERISA disclosures for health and welfare plans that are now largely obsolete, such as Michelle's Law notice. Accordingly, NAHU recommends that EBSA annually review all ERISA-disclosure requirements and issue guidance each year about disclosure modifications and new safe harbors that would allow employer plan sponsors to discontinue the use of any obsolete materials. This guidance should come at a set time each year,



well in advance of the fourth quarter, when many group benefit plans conduct open enrollment and make required ERISA disclosures. As we suggested in our answer to question three, such a review could occur in early spring of each year. That way, any new template adjustments or revised disclosure guidance could be released by the beginning of May. That timeframe would comfortably accommodate ERISA plans with the two most common plan year dates of July 1 and January 1.

9. Is there redundant or inconsistent information required to be disclosed under current requirements?

NAHU feels that redundant and inconsistent information disclosure requirements are minimal, and an annual EBSA review of all ERISA disclosure requirements and a yearly ERISA disclosure requirement guidance update would address this issue. Our membership views the volume and complexity of ERISA disclosures and their various due dates and distribution formats as much more severe problems.

10. Is the problem that there are too many disclosures, too much information must be disclosed or both? Could disclosures be simplified and condensed?

It is NAHU's view that the number of separate ERISA disclosure requirements and the complexity of content required for many notices are critical concerns. So are the broad range of notice distribution due dates, as well as various delivery mechanisms and formats for disclosure (e.g., as part of the SPD, separate notice, disclosure that can be part of the SPD or delivered distinctly). All of these factors are confusing to employers and employees alike.

Accordingly, NAHU members support the concept of consolidating all ERISA health and welfare plan disclosures that are not participant- or plan-specific into a single template notice. Employers that distributed this notice annually could be deemed to meet a compliance safe harbor. The DOL could handle ERISA retirement plan disclosures similarly. Businesses often make disclosure compliance mistakes unintentionally, and employees do not benefit from a multitude of paper notices provided at different points during the plan year. NAHU also believes consolidating all ERISA general notices and required distributions into a single annual notice would directly complement EBSA's proposal to allow for enhanced electronic disclosure distribution. An essential part of this safe harbor would be for EBSA to create a comprehensive model notice template that all employers could adapt for their use. It will also be critical for EBSA to create official compliance education resources geared at employers of all sizes. To develop this template and the related compliance resources, we strongly urge EBSA to engage focus groups of both plan participants and plan administrators. We also recommend that you partner with proven private-market vendors that specialize in employee engagement and benefits tools, perhaps through the use of contests.

11. To what extent does the design of disclosures impact the likelihood that they will be read and understood? Are there design strategies that should be employed or required?

NAHU believes that design and delivery formats have a profound impact on the effectiveness of disclosures and the likelihood that they will be read and understood. Communicating the most important ideas first in easy-to-



access formats such as bullets and pullout boxes is critical. Some topics that NAHU members believe that all notices should be designed to address clearly and efficiently are: (1) why a plan participant should care about the overall topic/intent of the disclosure; (2) when a plan participant might need to use the information contained in the communication; and (3) how the plan participant would use the information in the notice on a practical level (next steps).

NAHU strongly suggests that the EBSA utilize proven private-market entities that specialize in adult education, content creation and employee engagement to revamp all existing ERISA-disclosure templates, as well as to create any new ones. There are many design elements and strategies for electronic communications that are different than those used with traditional paper notices. EBSA should invest in improving all types of communications.

Again, we also urge EBSA to commit resources and time to annually reviewing all disclosure designs and formats. Such a review would ideally occur in early spring of each year, so that any new template adjustments or revised disclosure guidance could be released by the beginning of May. That timeframe would accommodate ERISA plans with the two most common plan year dates of July 1 and January 1.

It is our view that the DOL would do well to incent private specialists to compete to design the best disclosure products and compliance resources for plan participants and plan administrators. Most important, we feel EBSA must use plan participant focus groups to review and approve disclosure designs. Employee benefit plan professionals and ERISA experts, such as those who serve the DOL professionally, are never going to be fully competent judges as to what the average plan participant will read and fully understand.

12. Are there additional or better standards for improving the readability or content of disclosures than the general standard?

The general standard for ERISA disclosures in current use is that documents must be written in a manner calculated to be understood by the average plan participant. NAHU members believe this to be a confusing standard with no clear metrics for plan administrators to guarantee success.

Unfortunately, for this type of content, to ensure readability many factors need to be considered. For example, the reading level of a text is something that can be readily measured. It certainly is one tool that content creators could use to improve the accessibility of required disclosures. But for a disclosure to be useful, NAHU members believe that comprehension of the content is also critical. A reading scale test is not a helpful measure of how well a potential reader will understand and be able to utilize the content of a document providing detailed employee benefits information. A test of baseline knowledge of insurance-related terms and concepts would be a more accurate gauge in that regard, but there are no readily available tools to measure it.

For electronic communications, most business and online communication professionals now recommend the standard of "one thought per screen" and focusing on communicating through levels of importance. The essential idea is described first, in straightforward terms, then readers are given the option to access additional,



more detailed information elsewhere. While this idea is harder to implement using traditional paper notices, it is a standard that can readily apply to disclosures made electronically and through other alternative means.

No matter how the disclosure is prepared and delivered, the plan sponsor and EBSA's over-arching goal needs to be effective communication of what content is most important, not the form or actual words used. Priority and care should be given to allow the plan participant to readily access as little or much information about the topic at hand as he or she needs.

NAHU feels that given all of these considerations, focus group testing is a more reliable way to assess the utility of notice content for the average plan participant. It is not reasonable to expect the average plan administrator to be able to conduct such testing or even effectively apply a reading scale standard to disclosure content. However, the DOL could ensure that all disclosure templates are focus-tested and meet accepted readability standards. Also, they could provide resources to plan sponsors to assist them on a global level in improving the readability and utility of any customized disclosure or ERISA notice letter content.

13. How can the DOL best assess the views of actual plan participants on the frequency, content, design, delivery and other aspects of ERISA disclosures?

NAHU urges the DOL to routinely use survey tools and focus group testing with actual plan participants to effectively understand and respond to their views on the frequency, content, design, delivery and other aspects of ERISA disclosures. Additionally, we encourage the EBSA to dedicate significant time, money and staff resources to disclosure and compliance tool development, evaluation and improvement.

14. Do timing requirements increase or decrease the likelihood that participants will pay attention to them?

NAHU believes that current disclosure timing requirements are detrimental to plan participants and do not enhance employee engagement. Currently, the broad range of notice distribution due dates, as well as various delivery mechanisms and formats for disclosure, are confusing to both employers and employees alike. Companies often make compliance mistakes in this area unintentionally, and employees do not benefit from a multitude of paper notices provided at different points during the plan year.

Instead, NAHU supports a streamlined and consolidated notice-distribution process and compliance safe harbor for all general ERISA disclosures. NAHU suggests that EBSA allow an ERISA disclosure distribution safe harbor for all plan sponsors that distribute a consolidated general notice and a SPD highlight document annually during open enrollment, upon request, and in the case of a material plan modification.

15. Discuss the role of education in assisting participants and beneficiaries with the often technical and complex topic of ERISA disclosures, including investing generally.

The need for effective education regarding the purpose and content of required ERISA disclosures cannot be overstated. Plan participants learn and process information in different ways, and there is ample evidence to



indicate the way adults consume information is rapidly changing. Technological changes, both in the workforce and in private life, are crucial factors for consideration.

NAHU believes it is both necessary and appropriate for the DOL to invest significant resources in its model disclosure materials and related employer plan compliance resources. That way, the DOL can meet current educational standards and best practices for effective communication to ensure comprehension. If the DOL's materials are always top notch, the employers and plan participants nationwide will benefit. NAHU encourages the DOL to enter into private-public partnerships to develop and provide educational resources and enhance the EBSA's understanding and responsiveness to adult education needs.

16. What common features are in well-designed plan websites and apps that are effective in communicating information to plan participants?

Employee benefit plan administrative and employee onboarding and engagement technology is something that is constantly improving and evolving. NAHU cautions the DOL against any type of prescriptive requirements regarding website and application design that will quickly become dated. Instead, NAHU encourages the DOL to partner with the many private-market innovators in this field so that the EBSA will always be up to date on the latest methods and approaches. Additionally, the routine use of focus-group testing should help the DOL effectively evaluate which technology services work best.

17. How do plan websites and apps use voice-reader and translation features, and how well do they work?

This is an area of plan administration and benefits services that are continually improving and evolving. NAHU suggests that the DOL partner with the many private-market innovators in this field so that the EBSA will always be up to date on the latest methods. Additionally, the routine use of focus-group testing should help the DOL effectively evaluate which technology services work best regarding the accessibility of ERISA disclosures to all populations, including individuals who need to utilize translation services or may have visual or auditory impairments.

18. Some plan sponsors and participants have expressed cybersecurity concerns. What safeguards should plans use to protect people?

First, most ERISA health and welfare disclosures are general and do not contain any participant or beneficiary specific identifying information, such as a name or Social Security Number. Therefore, cybersecurity concerns are inherently limited.

However, in cases of participant-specific disclosures, ERISA health and welfare plan participants should generally reap at least some cybersecurity protections from the Health Insurance Portability and Accountability Act (HIPAA) privacy requirements and the related Health Information Technology for Economic and Clinical Health Act (HITECH) data security rules. Self-insured ERISA group health plans have a direct responsibility to comply with the HITECH data security rules, as do all health insurance carriers and providers, as well as all of



their business associates. These rules extend to health insurance agents and brokers and most compliance entities that routinely draft and may transmit ERISA disclosures for group health plan administrators. Additionally, many states have cybersecurity and data security requirements in place that may offer plan participants some protections.

19. Would some disclosures benefit from a different delivery mechanism than print?

Yes, NAHU members believe that the EBSA should seriously explore allowing delivery of required disclosures through other means than traditionally printed notices, or notices that appear in written form through electronic devices or on websites. It could be particularly beneficial to allow those notices that are not participant- or plan-specific to be delivered through videos, PowerPoint slides or other visual means. However, NAHU believes that printed versions of disclosures should always be available within a reasonable timeframe upon request.

20. How will plan sponsors share cost savings with plan participants if EBSA disclosure requirement improvements save them costs?

Employers that offer group benefit plans to their employees are being generous and absorb high costs. Particularly in the area of health and welfare plans, the overall cost of offering group coverage, as well as complying with other state and federal laws and regulations beyond the bounds of ERISA, are enormous and unabating. If plan sponsors reap savings due to disclosure-simplification improvements, the ever-increasing cost of offering employees medical care coverage will likely absorb them. In any case, ERISA fiduciary rules will require plan sponsors to use any plan assets, including those derived from potential administrative savings, responsibly. NAHU believes that any possible requirement for plan sponsors to quantify disclosure simplification savings and redistribute such savings to plan participants would be counterproductive. There is also concern that it would be in direct conflict with ERISA fiduciary requirements.

21. Are there steps that the EBSA could take to better coordinate ERISA notices with other notices required by the Internal Revenue Code and other laws?

NAHU strongly suggests harmonizing DOL notice requirements and Departments of Treasury, Health and Human Services and EEOC requirements so that employers and employees are not subject to different conditions based on the agency requiring the disclosure.

### **Conclusion**

NAHU sincerely appreciates the opportunity to provide comments on the proposed rule. We also are grateful for the change to answer all of the questions that made up your request for additional information. We look forward to working with you in the year ahead on improving both the ERISA-disclosure safe harbors, as well as simplifying and improving all current mandatory notices and disclosure requirements. NAHU members genuinely believe that improvements in this area could have a profound and positive impact on benefit plan administration. More important, we feel that if the EBSA



changes its approach to consumer disclosures and invests time and resources on improving the content, design and delivery approaches to ERISA disclosures, plan participants will reap significant benefits. If you have any questions or need additional information about our thoughts on this critical matter, please do not hesitate to contact me at either (202) 595-0787 or [jtrautwein@nahu.org](mailto:jtrautwein@nahu.org).

Sincerely,

A handwritten signature in black ink, reading "Janet Stokes Trautwein". The signature is written in a cursive style with a large, stylized initial "J".

Janet Stokes Trautwein  
Executive Vice President and CEO  
National Association of Health Underwriters