

3200 North Central Avenue, Suite 2250
Phoenix, Arizona 85012-2346
PHONE 602.280.1000 FAX 602.265.1495

David L. Niederdeppe
dniederdeppe@rrulaw.com
J. Kenneth Kelley
kkelley@rrulaw.com
Brian S. Kelley
bkkelley@rrulaw.com

November 22, 2019

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
2q00 Constitution Avenue NW
Washington, DC 20210

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

Dear Sir or Madam,

This office represents a number of multiemployer pension benefit plans governed by ERISA and would be subject to the Proposed Rule that aims to amend 29 CFR 2520 and the rules governing electronic disclosures for those plans. A number of those pension benefit plans are related to similarly-administered welfare plans. At the direction of a number of such plans, we are submitting comment, pursuant to Section D(1) of the Proposed Rule, to encourage the Department to seek expansion of these same electronic disclosure rules to employee welfare benefit plans, as defined in section 3(1) of ERISA.

The concerns that the Proposed Rule seeks to address apply equally to multiemployer retirement and welfare plans. Welfare plans have the same concerns about cost and timeliness of disclosures that would be substantially alleviated by the increased ability to deliver required disclosures electronically. Additionally, the administration and delivery of health care is increasingly taking place online—through web portals or mobile applications. The level of engagement with these services is continuously increasing and participant satisfaction with such services tends to be high. Participants who engage with such services are showing a preference for convenient, immediate access to their benefits information. Electronic delivery also increases the likelihood that participants will retain the disclosures, as paper copies are more easily lost or thrown away. Pairing electronic disclosure with electronic delivery and administration of benefits is an advantage for both plans and participants and beneficiaries.

Many of the documents identified in the Proposed Rule as “covered documents” that are appropriate for electronic distribution are similarly appropriate for distribution for welfare plans. Specifically, summary plan descriptions, summaries of material modification, and summary annual reports are all appropriate for electronic distribution from a welfare plan, which would be appropriately paired with other required annual notices. One benefit of electronic disclosure is that the notices might be separated and sent throughout the year, reducing the volume of any single notice, and potentially increasing the likelihood of engagement with each individual notice.

Electronic disclosure becoming more available as a tool for ERISA benefit funds is a positive change for those funds, as well as their participants and beneficiaries. This remains true whether those funds are administering a retirement or a welfare benefit. Our client funds support the implementation of these rules for ERISA retirement benefit plans, and respectfully request the implementation of such rules for ERISA welfare benefit plans.

Sincerely,



Brian S. Kelley, for
RYAN RAPP UNDERWOOD
& PACHECO, PLC