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Submitter Information

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General Comment

November 22, 2019

Office of Regulations and Interpretations
Employee Benefits Security Administration, Room N5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

RE: Default Electronic Disclosure by Employee Pension Benefit Plans Under ERISA, RIN 1210AB90

To Whom It May Concern:

I am writing as a long-time pension advocate for workers and retirees about the proposed default electronic disclosure by employee pension benefit plans that would allow plans to post documents on a website and send notifications about the documents availability to e-addresses furnished by participants, beneficiaries and persons entitled to receive covered documents. The proposed regulation should be withdrawn. It does nothing to ensure that the notice or underlying pension plan information is actually received using the default method. It also fails to protect the

rights of participants and beneficiaries to easy and long-term access to plan documents. And, there are no protections for participants and beneficiaries to exercise their rights to obtain documents from a website, sometimes years after an event occurs that would trigger a need for a particular document.

What is most troubling about the proposed regulation is that once the notice of the availability of a covered document is sent to either the individual-provided e-address or to the one that the pension plan has issued, there is no requirement to show that the notice, much less the document was received. Electronic addresses may, for many reasons, change or become ineffective. If the plan cannot show the notice was received, then it has not been received. That also means that the underlying plan document has not been received either. So, setting up a process of electronic notices for participants and beneficiaries to get needed plan information, fails.

If an individual does have access to pension documents on a website, there are no provisions stating how long that information must be available. In fact, the proposed regulation asks for information on how long superseded documents should be retained. As someone who has vested benefits from an employer pension I left twelve years ago, long-term access to pension information and eventually, benefits, is crucial. A regulation that sets up a do-it-yourself pension information retrieval system needs to deal with the reality that pension documents must be available for decades to maintain accessibility. And, if a participant or beneficiary would need access to a pension document from a website, nothing in the proposed regulation protects their long-term access years later if it is no longer there.

The Department of Labor requests comments on a variety of notice and disclosure issues in the proposed regulation. Rather than finalizing a regulation that fails to enhance disclosure to participants and beneficiaries, DOL should solicit responses from them and the stakeholders at large. Improving disclosure based on 2019 realities and best practices is the best way to enhance communications for participants and beneficiaries.

Thank you for the opportunity to comment.

Sincerely,

Amy Shannon
Pension policy consultant