

PUBLIC SUBMISSION

Received: March 18, 2024 Tracking No. ltx-tq9e-ds5i Comments Due: April 22, 2024 Submission Type: Web
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Docket: EBSA-2024-0001

Request for Information—SECURE 2.0 Section 319—Effectiveness of Reporting and Disclosure Requirements

Comment On: EBSA-2024-0001-0001

Request for Information: SECURE 2.0—Effectiveness of Reporting and Disclosure Requirements

Document: 1210-AC09 comment 0003 Anonymous 03182024

Submitter Information

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General Comment

I am commenting in support of this proposed rule, which would ensure that participants have a better understanding of their retirement plans under the Employee Retirement Income Security Act of 1974 (ERISA). This includes an assessment of current requirements and any recommendations, which would also address the directive of SECURE 2.0 Act of 2022 to develop a public record. I especially support transparency in multiple areas that take into account the average American's understanding of financial planning. Please look at the attachment for my detailed comments, as they exceeded the comment box character count maximum. Thank you.

Attachments

Public Comment vfinal

Re: EBSA-2024-0001-0001

“Request for Information: SECURE 2.0 – Effectiveness of Reporting and Disclosure Requirements”

I am commenting in support of this proposed rule, which would ensure that participants have a better understanding of their retirement plans under the Employee Retirement Income Security Act of 1974 (ERISA). This includes an assessment of current requirements and any recommendations, which would also address the directive of SECURE 2.0 Act of 2022 to develop a public record. I especially support transparency in multiple areas that take into account the average American’s understanding of financial planning.

Background

Lee et al. (2011) explain that the United States has a large aging population that is approaching retirement, making retirement financial services very relevant. SECURE 2.0 was set up to encourage more Americans to have retirement savings. This included requiring companies to automatically enroll employees into retirement plans (with the option for employees to opt out of coverage), the catch-up IRA contribution limit for older people increased, part-time workers now have a chance to participate in 401(k) plans, and working employees now have a chance to begin a 401(k) plan with matching contributions from employers when they make student loan payments (Commuto, 2022).

Question 3: Content of Disclosures; Question 4: Comprehension of Information

Although Lee et al. (2011) look at retirement information from an advertising point of view, some of these principles apply to what a financial plan should include. Lee et al. (2011) explain the typical information included are: “(1) financial product-focused information (i.e., risk–return estimation, transaction cost and composition of financial offering) and (2) financial company-focused information (i.e., past performance, firm’s stability, firm’s reputation and certification information)” (p. 398). They explain that research shows consumers who do not have financial literacy may make decisions based on how information is presented to them. When there is too much information, consumers may focus on irrelevant information. I would thus recommend to avoid intimidating consumers with financial jargon, or to perhaps include a page with a brief explanation of major terms. A link to a government website with some educational materials could also be included. The purpose of the retirement plan information is to help consumers make informed decisions, which means they should have a good understanding of the kinds of risks and returns they can expect from their retirement plan choices.

Narayanan and Seyhun (2017) agree that “most Americans do not have sufficient financial acumen and self-discipline to manage their own retirement portfolio,” as demonstrated by the fact that “56% of Americans have less than \$10,000 in their retirement accounts” (p. 2). Prior to ERISA being enacted in 1974, most Americans were on employer-sponsored pension plans, which meant the burden of managing assets was placed on the employers and Americans did not need much financial acumen. There were of course limitations to that model (e.g., Americans who changed jobs frequently could not qualify for retirement plans), but with defined

contribution plans, competent management is required: either through an educated investor (with no conflicts of interest) or the beneficiary managing their own assets. Most Americans have lower investment returns because of risk-aversion or not understanding the fundamentals of investment. The choice is ultimately up to the consumer, but “their choice is influenced by the options presented to them in the retirement plan” (p. 24). An example given is that “more than 27% of all employees hold at least half of their 401(k) balances in company stock and nearly 7% have their entire account in company stock, as evidence of suboptimal diversification” (p. 28). Narayanan and Seyhun (2017) explain, “[b]ecause of their lack of financial education or even basic familiarity of investments, the American public needs professional investment advice,” and this advice needs to follow the fiduciary standard that require professionals “to put client interests ahead of their own” (p. 16).

Question 11: Model Language; Question 16: Clarity; Question 20: Use of Reports

Narayanan and Seyhun (2017) advocate for transparency: expected annual returns and risks should be clear so consumers can make informed decisions, and basic information like hidden fees should be included. The authors also point out that “if only publicly traded investments are allowed, investors would be protected to some extent by relying on the wisdom of the public markets which have been shown to be informally efficient” (p. 48). They also recommend that the risk level of retirement plans should be consistent with age ranges, meaning that the “proportions of riskier assets should be reduced as the investor gets closer to the retirement age,” (p. 49) with of course the exception that if someone has a financial education or financially-savvy investors, they can be more active in managing their investment portfolio. By risk-assets, they are referring to the risk-tolerance levels in the “proportions of equity, corporate bonds and government bonds in the retirement portfolio” (p. 52).

Lee et al. (2011) also recommend two types of financial information, transaction cost and composition of product information, be included in retirement plans to “improve the overall quality of consumers’ economic decision making and contribute to financial literacy by improving consumers’ awareness and knowledge of the critical nature and features of retirement plans” (p. 410). They recommend finding “a balance between the kinds of information (interest rates, fees, and other terms, conditions, features, etc.) and” a format that takes into account that “the difficult concepts of financial offerings are better comprehended when presented in a consumer friendly format” (p. 413). This format could include using “consumer friendly language that avoids technical and financial terms or jargons,” and to consider including “supplemental information, particularly in a graphical format” (p. 413). Lee et al. (2011) also recommend taking into account “the default bias:” consumers will automatically consider what is presented as the default to be the best option. Perhaps a link to an online retirement calculator could be helpful? One where consumers can plug in their information to get an idea of how much they would be saving for retirement with each of the options offered?

Question 1: Number of Disclosures; Question 5: Language-Based Issues; Question 10: Delivery; Question 24: Additional Information

Lastly, according to a 2023 White Paper by Two Sides, their global survey shows that “58% of consumers don’t pay attention to online adverts,” and “65% of consumers prefer to read books in print” (p. 2). Looking specifically at bills and statements, the preference for print increased from 19% in 2021 to 28% in 2023. In order to ensure consumer comprehension and the continued mixed bag of preferences for print versus digital, I think the best thing to do is to allow consumers to select their preference individually. Most retirement plans provide updates on a quarterly basis, so I would recommend updates to be no less than on a biannual basis. I also appreciate that this proposed rule is taking into account that not all workers have English as their first language. As Spanish is the second most spoken language in the US according to the U.S. Census Bureau (2022) (41MM Spanish speakers versus 241MM English-only speakers), I would encourage considering translating retirement plans into Spanish. Perhaps consumers can select online their preference for which language to receive their retirement plan in. I would also recommend taking into account the research on cybersecurity risks (Bokert and Hahn, 2018) and including a brief section that can reassure employees that their personal information and plan assets will be secure. Some states require that employees receive some identify theft and credit monitoring protection if data has been breached, and most states require that employees be notified of any breaches.

Conclusion/Summary

In conclusion, for maximum comprehension and transparency, I recommend dispensing retirement plan information on a quarterly to biannual basis in a format that takes into account that most Americans do not have financial acumen. This can be done by avoiding jargon and unnecessary information, with perhaps a link to additional educational information like a retirement plan calculator, or supplemental information that uses a graphical format. The key information to include would be financial product-focused information (risk-return estimation, fees, etc.), financial company-focused information (past performance, firm’s reputation, etc.), transaction costs, and composition of product information. The format of the presentation should keep in mind biases like risk-aversion and default bias, and how the proportions of riskier assets should reduce as consumers age. Considerations for the large proportion of non-English speakers, particularly Spanish, the mixed preferences of print vs. digital media, and the increasing risks of cybersecurity should also be considered. For those reasons I support this proposed rule, but with these additional considerations.

References

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