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

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

Dear Assistant Secretary Gomez:

T. Rowe Price appreciates the opportunity to comment on the Request for Information—SECURE 2.0 Section 319—Effectiveness of Reporting and Disclosure Requirements issued by the Department of the Treasury (Treasury Department), the U.S. Department of Labor ("DOL"), and the Pension Benefit Guaranty Corporation (PBGC) (collectively, the "Agencies").

T. Rowe Price Background

Founded in 1937, Baltimore-based T. Rowe Price Group, Inc. ("TRP") is a global investment management organization with $1.54 trillion in assets under management as of March 31, 2024 – of which, more than two-thirds are identifiable as retirement assets. T. Rowe Price Retirement Plan Services, Inc., ("RPS") a T. Rowe Price Group subsidiary, provides full-service recordkeeping and plan administrative services to over 8,100 retirement plans, with approximately 2.3 million plan participants (as of March 31, 2024). T. Rowe Price Investment Services, Inc. ("TRPIS") is a registered broker-dealer. Through TRPIS, Individual Investors ("II") serves hundreds of thousands of IRA account holders, the majority of whom benefit from the retirement education and tools we supply. Through RPS and II, TRP has direct retirement account relationships with over 3.2 million plan participants and individual retirement investors.

Comments

Question 1: Number of Required Disclosures.

We Encourage the Agencies to Support and Expanded Electronic Delivery Options. Participants can be overwhelmed by the number of notices that are received. While electronic delivery does not change the number of required notices, it can help reduce the physical size of notices by highlighting the most relevant information and allowing the participants to "click through" for additional details. Therefore, we encourage the Agencies to continue to promote electronic delivery wherever possible. As technology develops, it is important to embrace its use. A Pew study of mobile phone use found that 81% of Americans own a smartphone. Moreover,

such ownership varies little among different demographics – 76% of Americans aged 65 and over have a smartphone.[1]. Furthermore, we recommend that the Agencies can further encourage electronic delivery through the coordination of rules, as more fully discussed in response to Question 22.

A Summary Annual Report Should Not be Required for Defined Contribution Plan Participants. To lessen the number of required notices, we recommend that the Summary Annual Report (SAR) be provided only upon request. An SAR must be provided to each participant covered by the plan and each beneficiary receiving benefits under the plan, including employees that have satisfied the plan's eligibility requirements, regardless of whether they elect to make deferrals.[2] The SAR, which is intended to summarize the information that appears in the plan's Form 5500 filing, has (at best) limited practical value to a defined contribution plan participant and likely contributes to participant disclosure fatigue. Rather than making this a required disclosure, we recommend that this be a disclosure that participants and beneficiaries can have access to upon request. For example, the disclosure regulations under 29 CFR § 2550.404a-5 could be modified to include a required statement of this right as well as the right to the additional information specified in 29 CFR § 2520.104b-10.

Question 3: Content of Required Disclosures.

The Sarbanes-Oxley Notice Should be Included in Conversion Communications. During a blackout period, a Sarbanes-Oxley ("SOX") notice is typically provided in addition to conversion communications relating to a change in recordkeepers.[3] We recommend that the DOL clarify that the blackout period notice requirements under 29 CFR § 2520.101-3 can be satisfied if the required content is included in more detailed conversion communications. These communications often provide, in addition to information about the blackout period, other important information related to the conversion, including information about the new recordkeeper, information about the transition, investment mapping details, and how to enroll if you're not currently contributing. Explicitly allowing the consolidation of the SOX Notice with conversion communications will help reduce redundant communications about the blackout period by allowing for a single, consolidated conversion communication.

Modify the Requirement to Send Updated Safe Harbor Notices for Mid-year Changes. A mid-year change to a designed-based safe harbor plan requires the distribution of an updated safe harbor notice if the change involves content that is required to be included in the safe harbor

[1] Pew Research Center, Mobile Fact Sheet, January 31, 2024. https://www.pewresearch.org/internet/fact-sheet/mobile/?tabItem=5b319c90-7363-4881-8e6f-f98925683a2f.
[2] 29 CFR § 2520.104b-10(a).
[3] Sarbanes-Oxley added a new section 101 (i) to the Employees Retirement Income Security Act of 1974, and final regulations were promulgated on January 24, 2003. These rules require that a plan administrator give plan participants and beneficiaries notice of any period lasting more than 3 consecutive business days during which the ability to diversify investments, obtain loans, or obtain distributions is temporarily suspended, limited or restricted consecutive business days during which the ability to diversify investments, obtain loans, or obtain distributions is temporarily suspended, limited or restricted.

notice.[4] The requirement is redundant because the safe harbor notice includes details regarding the plan that have not changed. Further, it is customary to create stand-alone communications regarding these types of changes which add to the redundancy of the information being provided. Rather than requiring plan administrators to provide an updated safe harbor notice to those who are already eligible to participate in the plan, the IRS should require that such changes be communicated within a reasonable period before the effective date of the change and can be included in stand-alone communications as described above. Participants who become eligible following the change would still receive an updated safe harbor notice.

Question 5: Plain English; foreign language-based issues; underserved communities.

Requirements Around Language Must Remain Flexible. We support the need for communications that serve the needs of all plan participants. At the same time, regulations should not be so prescriptive that they stifle innovation and flexibility. Rather, plan sponsors (and their record-keepers) should be encouraged to develop communications in the manner that is most effective for participants. For example, RPS offers a Spanish Portal that is a website developed specifically for Spanish speakers to create a custom, culturally relevant engagement. Rather than simply using a web-based language translator, RPS employed tailored educational articles, videos, webinars, and podcasts. By using a variety of tools and information, we have been able to increase engagement with Spanish-speaking populations. We have found that participants spend an average of sixteen minutes on the Spanish Portal versus five minutes on English-language content within the participant website. In addition, nine percent of visitors to the Spanish Portal completed an action on the participant website compared to five percent of website visitors who didn't visit the Spanish Portal.

Question 17. Efficacy of filing methods for reports.

We Encourage the use of E-delivery and other Updated Technologies for Filings with the Agencies. We fully support the use of electronic filing and encourage the agencies to continue to use modern technologies as they progress. In addition, we are concerned that the agencies do not use up-to-date technology. For example, there are instances where the IRS still uses fax machines.

Question 22: Coordination of Agencies' reporting and disclosure requirements.

We Recommend One E-Delivery Standard among the Agencies. There are different standards for e-delivery between DOL and IRS. Because retirement plans must provide disclosures under the regulations of each of these agencies, there are times when the rules conflict. There is no reason or policy justification for why a notice delivered electronically under IRS rules should not meet the standards for delivery under DOL rules (and vice versa). To make the provision of disclosures more efficient, we recommend that the e-delivery standards be uniform between the agencies.

[4] *See* IRS Notice 2016-16.

In the Alternative, There Should be One E-delivery Standard for Combined DOL and IRS Notices. If the agencies are unable to provide one standard for e-delivery, the agencies should provide guidance indicating that any IRS or DOL notice that may be combined may be delivered under the e-delivery standards for either agency.

Following the passage of the Pension Protection Act, DOL coordinated with Treasury and the IRS to ensure that plan sponsors could comply with the notice requirements of a qualified automatic contribution arrangement (QACA) and an eligible automatic contribution arrangement (EACA) under both the Code and ERISA with a single, stand-alone document.[5] To facilitate the combining of these notices, the IRS posted a sample "Automatic Enrollment Notice" on its website. The sample notice instructions provide that the DOL has indicated that use of the sample notice also satisfies the notice requirements under ERISA sections 404(c)(5) and 514(e)(3) and the DOL's QDIA regulations.

Field Assistance Bulletin No. 2008–03 (FAB 2008-03) clarified the consolidation of the QDIA notice with the QACA and EACA notice among others. FAB 2008-03 also clarified that plan administrators could send the QDIA notices electronically by relying on either the DOL's 2002 safe harbor or the regulations issued by the Treasury Department and the IRS at 26 CFR 1.401(a)–21 relating to use of electronic media.

The DOL's final 2020 regulations on default electronic disclosure superseded the guidance in FAB 2008-03 that permitted the QDIA notice to be delivered electronically under IRS guidelines, creating a scattered and inefficient approach (and a poor participant experience) for delivering combined IRS and DOL notices. For example, auto enrollment and QDIA notices are permitted to be (and commonly are) combined, since information about the QDIA is directly relevant to being auto enrolled in a plan. Delivering a combined auto enrollment and QDIA notice electronically may now require separating out the QDIA notice, in which case, important context regarding default investment of automatic enrollment contributions will be lost. A plan administrator who wishes to preserve context and deliver a combined notice may be required to send two identical notices (under IRS and DOL guidelines) or send a stand-alone QDIA notice under DOL guidelines in addition to a combined notice under IRS guidelines. These approaches are not ideal and likely result in notice fatigue and participant confusion, which is why it is important to have a single e-delivery standard for combined notices.

Allow Code-Required Notices to be Included in Combined Notice of Internet Availability ("NOIA"). In 2020, the DOL issued a notice-and-access safe harbor requiring a plan administrator to send a NOIA to applicable individuals when it posts a covered document online.[6] The safe harbor allows plan administrators to send a combined NOIA on an annual basis instead of every time a covered document is posted online. In addition to certain DOL notices, the rule also states that "any applicable notice required by the Code if authorized in writing by the Secretary of the Treasury" can be included in the NOIA.[7] However, Treasury and

[5] Qualified automatic contribution arrangement - Code section 401(k)(13) and ERISA section 404(c)(5); Eligible automatic contribution arrangement - Code section 414(w)) and ERISA section 514(e)(3)).
[6] 85 FR 31884
[7] 29 CFR § 2520.104b-31(i)(4).

IRS have not yet issued guidance to include Code-required notices under this rule. As such, we encourage the Treasury and IRS to propose Code-required documents for inclusion in the combined NOIA.

Question 24: Additional Information.

Data Coordination. Technology has allowed for greater data flows. However, plan sponsors are limited in how they can use the information to benefit participants. Plan sponsors use significant resources to communicate to participants about beneficiary designations where, instead, they could use designations made for other purposes (i.e., on life insurance benefits). For example, only 40.55% of plan participants on our Large Market recordkeeping platform have a beneficiary designation. Determining how to distribute the benefit when a beneficiary is not designated depends on the plan and situation; however, the most straightforward option is to send a letter to the deceased participant's address asking for someone to call in. Other options include asking the plan sponsor to contact the family. Neither of these options are optimal and it would be helpful to have guidance on coordinating data to use beneficiary designations made for other purposes. We realize that there may be issues to consider such as data security and privacy, but we encourage the Agencies to start a dialogue that could offer options.

Conclusion

Notice and disclosure is an important part of the retirement system and we believe in the transparency of information. At the same time, it is necessary to balance the need with transparency with efficiency. If participants are inundated with notices, they may not respond or read any of the messages. We support the effort of the Agencies to promote greater efficiencies through the review of notices and disclosures to determine where consolidation and elimination are appropriate.

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We appreciate the opportunity to provide our perspectives on the Request for Information. Please do not hesitate to contact us if we can be of further assistance. Feel free to contact the undersigned at Aliya.Robinson@troweprice.com.

Sincerely,

Aliya Robinson
Vice President & Managing Legal Counsel
(Legislative & Regulatory Affairs)