



May 22, 2024

Submitted via regulations.gov

Office of Regulations and Interpretations
Employee Benefits Security Administration
RIN 1210-AC09
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

**Re: Request for Information – SECURE 2.0 Section 319 –
Effectiveness of Reporting and Disclosure (RIN 1210-AC09) (89
Fed. 4215, January 23, 2024)**

To Whom It May Concern:

This letter responds to the request for public comments on the “Request for Information-SECURE 2.0 Section 319 – Effectiveness of Reporting and Disclosure,” issued January 23, 2024 (“RFI”).

The SHRM mission is to create better workplaces where employers and employees thrive together. As the voice of all things work, workers and the workplace, SHRM is the foremost expert, convener and thought leader on issues impacting today’s evolving workplaces. As such, we appreciate the opportunity to provide the Department of the Treasury, the Employee Benefits Security Administration of the U.S. Department of Labor and the Pension Benefit Guaranty Corporation (the “Departments”) with comments on its Request for Information to develop a public record for purposes of the directive in Section 319 of the Consolidated Appropriations Act of 2023 (“SECURE 2.0”) to review the existing reporting and disclosure requirements for certain retirement plans under the Employee Retirement Income Security Act of 1974 (“ERISA”) and the Internal Revenue Code (“Code”) that are applicable to each agency. With nearly 340,000 members in 180 countries, SHRM impacts the lives of more than 362 million workers and families globally. The

anticipated flow-through changes to the reporting and disclosure obligations under SECURE 2.0 have the potential to significantly burden SHRM member organizations.

A. Disclosure to Plan Participants and Beneficiaries

1. Participants and Beneficiaries—Receipt and Comprehension of Required Disclosures.

Q-1: *Number of required disclosures. Is the effectiveness of required disclosures from the Agencies affected by the number of notices and disclosures that are furnished to participants and beneficiaries each plan or calendar year (e.g., annual notices and quarterly benefit statements) and, if so, how? Similarly, is the effectiveness of disclosures affected by the number of notices and disclosures that are triggered by certain events (e.g., individual statements of deferred vested benefits), including when plans are required to furnish notices upon request from a participant or beneficiary? In your view, what is the relative significance of the required disclosures, are participants and beneficiaries able to recognize the significance of each notice or disclosure, and does this ability influence your view on how many disclosures should be required or whether certain disclosures are more or less effective? If you believe that the number of notices and disclosures is too high, what steps could the Agencies take to reduce the number of disclosures without sacrificing participants' and beneficiaries' receipt of important information? To the extent there are concerns with the number of disclosures, to what extent could these concerns be mitigated by combining multiple disclosures into a single mailing or delivery, or by consolidating information that currently must be furnished in multiple disclosures into a single disclosure? Are there specific disclosures, or specific information, that lend themselves to such a combination or consolidation, and, if so, why? For example, as explained in Q&A-8 of Department of Labor Field Assistance Bulletin No. 2008-03, the Labor Field Assistance Bulletin No. 2008-03, the Labor Department, Treasury Department, and the IRS previously coordinated to ensure that plan sponsors could comply with the notice requirements of Code sections 401(k)(13)(E) (relating to Qualified Automatic Contribution Arrangements) and 414(w)(4) (relating to Eligible Automatic Contribution Arrangements) and ERISA sections 404(c)(5) (relating to Qualified Default Investment Alternatives) and 514(e)(3) (relating to preemption for Automatic*

Contribution Arrangements) with a single, stand-alone document (although plan sponsors are not required to combine those notices). Further, for plan sponsors that wish to combine those notices, the Labor Department, Treasury Department, and the IRS previously provided a sample notice that may be used to help a plan sponsor satisfy these notice content requirements. As another example, see §54.4980F-1, Q&A-9(g)(3), in which a plan is treated as providing a section § 54.4980F-1, Q&A-9(g)(3)(ii) and meets the content and timing requirements for that notice.

Q-1 Comment: While the disclosure framework is designed to ensure that participants and beneficiaries have the information they need to make informed decisions about their retirement savings, its effectiveness can indeed be influenced by the volume of notices and disclosures furnished. Below are some considerations:

Information Overload: A high number of disclosures, especially if they are complex or technical in nature, can lead to information overload, making it difficult for participants and beneficiaries to absorb and understand the information.

Significance Recognition: The ability of participants and beneficiaries to recognize the significance of each notice or disclosure can vary. Some may not fully understand the implications of certain disclosures due to their complexity or the use of technical jargon.

Event-Triggered Disclosures: Disclosures triggered by certain events can be effective as they provide timely and relevant information. However, they may also contribute to the volume of information that participants and beneficiaries need to process.

To address these issues, the Agencies could consider the following steps:

Consolidation of Disclosures: Combining multiple disclosures into a single mailing or delivery can reduce the number of separate communications, making it easier for participants and beneficiaries to manage the information.

Simplification of Language: Using plain language can make disclosures more understandable, enhancing their effectiveness.

Prioritization of Information: Highlighting key information in each disclosure can help participants and beneficiaries recognize the significance of the information.

Use of Digital Platforms: Leveraging digital platforms for delivering disclosures can make it easier for participants and beneficiaries to access and review the information at their convenience.

Q-2: *Timing of required disclosures. Do the timing requirements for when certain disclosures must be furnished increase or decrease the likelihood that participants will pay attention to them. In addition to the Form PR and the Form 5500 Annual Report, what are other data sources the Department could use to collect data on the topics enumerated in SECURE 2.0 section 344(1), e.g., the fees assessed in such plans, or the range of investment options provided in such plans? Should changes be made to when information is disclosed to participants and, if so, how? For example, to what extent would it be beneficial for plans to harmonize timing requirements to specific points in time corresponding to participants' major life milestones or events? Explain how such changes could be implemented and how they would enhance the likelihood that participants would pay attention to the disclosure or disclosures or otherwise improve the disclosure experience.*

Q-2 Comment: It would be beneficial for plans to harmonize timing requirements to specific points in time corresponding to participants' major life milestones or events because participants would likely pay more attention if the disclosures related to topics participants are already considering. Below are some considerations:

Personal Relevance: Participants and beneficiaries would likely place greater emphasis on the personal relevance of the disclosures. They would likely appreciate receiving information that is directly applicable to their current life situation or major life events.

Ease of Understanding: Participants and beneficiaries might also stress the importance of the disclosures being easy to understand. Complex jargon or overly technical language could deter them from fully engaging with the information.

Cybersecurity/Privacy Concerns: Participants and beneficiaries might have more concerns about privacy, especially if the system is tracking major life events. They would likely want assurances that their personal information is being handled securely.

Q-3: *Content of required disclosures. Is there duplicative, redundant, stale, or inconsistent information disclosed to participants under current rules promulgated under ERISA or the Code? If so, which information? Why do you consider that information duplicative, redundant, stale, or inconsistent? Do either ERISA or the Code, or regulations issued thereunder, currently require disclosure of any information that is unhelpful or outmoded, for example, due to the passage of time or changes in the regulatory, business, or technological environment? If so, what information and why is it unhelpful or outmoded? Is there information that should be disclosed instead of the unhelpful or outmoded information? If so, what information? How could it be improved? In analyzing the content of required disclosures, commenters are reminded to consider the objective stated in SECURE 2.0 section 319, that participants and beneficiaries be furnished the “information they need to monitor their plans, plan for retirement, and obtain the benefits they have earned.”*

Q-3 Comment: We believe that all of the information required to be provided to participants is important. Collectively, such disclosures provide participants with important information about their savings for retirement. However, disclosures are often voluminous and can be shortened for the benefit of participants.

Q-4: *Comprehension of information furnished in required disclosures. Section 319 of SECURE 2.0 requires that the Agencies’ report to Congress include an analysis of “the rate at which participants and beneficiaries are receiving, accessing, understanding, and retaining disclosures.” As to individuals’ understanding, the Agencies are interested in commenters’ views on whether and how the length of specific disclosures, and the complexity of the information disclosed, may impact individuals’ understanding of the disclosures. Besides length, what other factors affect comprehension of the information contained in notices and disclosures or, possibly, whether participants and beneficiaries even try to read and understand disclosures? Does review and comprehension of participants and beneficiaries vary among: (1) industries; (2) individuals of different ages, genders, education levels, socio-economic classes, place of living, impairments or disabilities, or other demographic characteristics; or (3) different types of disclosures? To what degree does the presentation, delivery, and design of the disclosures (as opposed to their written*

content) impact the likelihood that participants and beneficiaries will read and understand the information disclosed? Are there design elements or tools that are particularly effective, for example, mixed media presentations, the use of social media, or plain language infographics? If so, should these presentation and design elements be required, or are there steps that could be taken to facilitate use of those methods? Are participants and beneficiaries regularly surveyed or otherwise assessed regarding their comprehension of information about their plans? How are those surveys or reviews conducted? What additional information should be considered in developing disclosures that are effective for different participants and beneficiaries? How can the Agencies effectively measure the extent to which participants and beneficiaries understand the information that is disclosed to them?

Q-4 Comment: Comprehension of information in disclosures can be influenced by several factors:

Length and Complexity: Long and complex disclosures can be overwhelming and discourage individuals from fully reading and understanding the information.

Demographics: Comprehension can vary based on age, gender, education level, socio-economic class, place of living, impairments or disabilities, and other demographic characteristics. For example, younger individuals may prefer digital formats, while older individuals may prefer physical copies.

Presentation and Design: The way information is presented and designed can significantly impact comprehension. Clear headings, bullet points and logical organization can improve readability.

Use of Media: Mixed media presentations, social media and infographics can make information more engaging and easier to understand. These tools can be particularly effective when tailored to the audience's preferences and needs.

Additional Information: Consideration should be given to the specific needs and preferences of different participants and beneficiaries. This could include providing information in multiple languages or formats to accommodate different needs.

Q-5: *Information disclosed to participants and beneficiaries is often quite technical and complex. However, for disclosures to be useful, information needs to be*

conveyed in “plain language” – in a way that is understandable to a highly demographically diverse population of workers and their beneficiaries. Labor Department disclosures, for example, generally required to be “written in a manner calculated to be understood by the average plan participant.” Similarly, certain PBGC notices to affected parties must be “readable and written in a manner calculated to be understood by the average plan participant.” Also, the Treasury Department and the IRS require that notices to participants and beneficiaries be written in a manner calculated to be understood by the average plan participant. Are these standards sufficient to ensure that notices and disclosures are likely to be comprehensible to participants and beneficiaries and, if not, what additional or different standards would enhance individuals’ understanding? Further, not all workers speak English or speak English only as a second (or further removed) language. Some of the Agencies’ disclosures are subject to standards as to the use of additional languages. Are these standards sufficient? If not, what barriers to comprehension exist for non-native English-speakers, and what further steps could the Agencies take to reduce these barriers? Do plans take additional steps, in addition to what is required by ERISA and the Code, to educate or tailor disclosures to their participant populations? Is there existing research, user testing, or other considerations that the Agencies should review or steps they could take to increase the effectiveness of disclosures to participants and beneficiaries in underserved communities?

Q-5 Comment: The disclosure standards set by the Agencies to be written in a manner understandable by the average plan participant are important for ensuring comprehensibility. However, the effectiveness of these standards can be influenced by several factors:

Language Proficiency: Not all workers are proficient in English or use it as their primary language. This can create barriers to comprehension for non-native English speakers. To address this, agencies could consider providing translations of disclosures in other languages prevalent among workers.

Literacy Levels: The literacy level of plan participants can significantly impact the comprehensibility of disclosures. Tailoring the language and presentation of

disclosures to match the literacy levels of the target audience could enhance understanding.

Complexity of Information: Disclosures often contain complex, technical information. Simplifying this information, using plain language and providing definitions for technical terms could make disclosures more accessible.

Format and Presentation: The way information is presented can impact its comprehensibility. Using clear headings, bullet points, charts and other visual aids can make information easier to digest.

Tailored Education: Plans could take additional steps to educate participants about their disclosures. This could include informational sessions, explanatory materials or access to advisors who can provide personalized guidance.

Research and User Testing: Agencies could review existing research on effective communication strategies and conduct user testing to assess the comprehensibility of their disclosures. Feedback from these tests could be used to refine and improve disclosure practices.

Consideration for Underserved Communities: Special attention should be given to underserved communities who may face additional barriers to comprehension. This could include providing disclosures in multiple languages, using culturally relevant examples and offering additional support and resources to these communities.

Q-6: *Accessing required disclosures. As noted in Question 4, section 319 of SECURE 2.0 requires that the Agencies' report to Congress include an analysis of "the rate at which participants and beneficiaries are receiving, accessing, understanding and retaining disclosures." (Emphasis added.) The Agencies understand "access" to refer to the extent to which participants and beneficiaries open and look at, review, or consult the disclosure for purposes of using its information, either contemporaneous with the receipt of the disclosure or at any point in the future. What tools, if any, do entities have to discern whether participants and beneficiaries are accessing disclosures? Do individuals commonly access disclosures only on receipt, at regular intervals throughout the year, or only at specific points in time corresponding to major life milestones (e.g., marriage divorce, childbirth, adoption, retirement, or job change)? Do participants and beneficiaries access disclosures more or less frequently*

depending on how the disclosures are furnished, for example, whether they receive paper disclosures in the mail, electronic disclosures via email, text messages, mobile applications, or notifications of disclosures' availability on a continuous-access website? Do they access certain disclosures at higher rates than others? What are best practices in ensuring that participants and beneficiaries have ready access to relevant information at the time they need it, and that they know they have such access?

Q-6 Comment: Entities can use various tools and methods to discern whether participants and beneficiaries are accessing disclosures, including:

Analytics Tools: Digital platforms can use analytics tools to track the number of times a document is viewed or downloaded. These tools can provide insights into when and how often disclosures are accessed.

Surveys and Feedback Forms: Entities can conduct surveys or provide feedback forms to understand how often and why participants access disclosures.

User Activity Monitoring: On digital platforms, user activity such as clicks, time spent on a page or navigation paths can be monitored to understand user engagement with the disclosures.

Timing: Some individuals may access disclosures immediately upon receipt, while others may do so at regular intervals or at specific life milestones.

Delivery Method: The frequency of access can also depend on how the disclosures are furnished. For instance, electronic disclosures might be accessed more frequently due to their ease of access and searchability.

Content: Certain disclosures might be accessed more frequently due to their relevance or importance to the individual.

Best practices to ensure ready access to information include:

User-Friendly Design: Disclosures should be designed in a user-friendly manner, with clear headings and simple navigation.

Multiple Delivery Methods: Providing disclosures through multiple channels (e.g., mail, email, mobile apps, websites) can ensure wider reach and accessibility.

Timely Notifications: Regular reminders or notifications about the availability of new disclosures can prompt individuals to access the information.

Search Functionality: A robust search function on digital platforms can help individuals find relevant information quickly.

Help and Support: Providing help resources or support personnel can assist individuals in accessing and understanding the disclosures. By implementing these practices, entities can ensure that participants and beneficiaries have ready access to relevant information when they need it.

Q-7: *Retaining disclosures after receipt. As noted in Question 4, section 319 of SECURE 2.0 requires that the Agencies' report to Congress include an analysis of "the rate at which participants and beneficiaries are receiving, accessing, understanding and retaining disclosures." As to retention of disclosures, do plans collect data or conduct surveys on how often participants and beneficiaries download, print, save, or otherwise 'retain' disclosures for future use? If so, how, and are any trends evident from such data? Does data exist on how often participants and beneficiaries request copies of disclosures, for example, do they often request paper disclosures to be re-mailed or electronic versions of disclosures to be re-sent via email, text, or mobile application, and, if so, are any trends evident from such data? To what extent, if any, does the ability of plan participants to access plan-related information online, such as through a continuous access secure website, impact conventional retention behavior? What methodologies exist, or are in development, for measuring retention of disclosures by participants and beneficiaries?*

Q-7 Comment: The retention of disclosures can be influenced by several factors:

Ease of Access: Participants are more likely to retain disclosures that are easy to access. This includes disclosures that can be easily downloaded, printed or saved for future reference.

Relevance of Information: Participants are more likely to retain disclosures that contain information they deem important or relevant to their interests or needs.

Format of Disclosures: The format in which disclosures are presented can impact retention. For example, participants may prefer electronic disclosures due to their ease of storage and searchability.

Frequency of Use: Participants may retain disclosures that they need to refer to frequently. For example, they might save disclosures related to their benefits or plan details.

Online Access: The ability to access plan-related information online, such as through a continuous access secure website, can impact conventional retention behavior. Participants may be less likely to retain physical copies of disclosures if they know they can easily access the information online.

Q-8: *Participant and beneficiary engagement; decision-making. Do plans collect data on participant and beneficiary levels of engagement in response to participant notices and disclosures and, if so, what data is collected, and how is “engagement” defined and determined? What impediments, if any, prevent or dissuade plans from collecting such data? If such data is collected, do plans act in response to such data and, if so, are there illustrative examples? For example, are there circumstances when plans act based upon evidence of a participant’s lack of engagement? To the extent sensitive or confidential information may be used in efforts to enhance engagement with participants and beneficiaries, do best practices exist for plans to ensure that such information is accessible but is not inappropriately used or disclosed to other parties? Do plans collect data on the extent to which disclosures impact participant and beneficiary behavior and decision-making? If so, how is this impact assessed? Is certain information or are certain disclosures more likely to elicit engagement or modify individuals’ behavior? If so, which information or disclosures, and how? Do plans and plan service providers have ready access to information on when or how often plan participants and beneficiaries visit a plan’s website or open plan-related emails or text messages? Are there any impediments to plans collecting and considering such information in assessing engagement and effectiveness? If so, what are those impediments?*

Q-8 Comment: Many recordkeepers track most, if not all, of the data indicated here. That data is then commonly communicated to plan sponsors with suggestions on improvement (e.g., more participation). We believe this process is critical to encouraging plan participation and providing material assistance for participants to attain retirement goals.

**2. Plans, Plan Administrators, and Plan Service Providers-
Furnishing Required Disclosures.**

Q-9: *Provision of preferred contact information to plans. Section 319 of SECURE 2.0 requires that the Agencies' report to Congress include an analysis of "how participants and beneficiaries are providing preferred contact information." Given the fact-based nature of this analysis, the Agencies request data, statistics, or other information from plans about whether, how, and for what reasons (e.g., upon hire or plan eligibility, residential move, physical or mental impairment, marriage or divorce) participants and beneficiaries communicate and update their contact information for plan purposes. For example, new employees or participants may indicate their preferred contact information in plan enrollment materials, and existing employees and existing participants may update their preferred contact information directly on a plan's website, a mobile application, or other databases, or by contacting the plan sponsor directly. Likewise, some employees, participants, and beneficiaries may need to provide and update contact information on file with their employer, their unions (if collectively bargained), and other plans that may be administered by different recordkeepers or other entities. Do plans remind employees, participants, and beneficiaries to check the accuracy of their contact information and update as necessary and, if so, when, and how? Are there circumstances when plans check the accuracy of a participant's or beneficiary's contact information, and, if so, under what circumstances; how are such checks performed? Are there observable trends in this data, for example, changes in response to Agency regulatory or other actions or changes in the retirement plan industry?*

Q-10: *Delivery—furnishing disclosures to participants and beneficiaries. Section 319 of SECURE 2.0 requires that the Agencies' report to Congress include an analysis of both "the methods by which plan sponsors and plans are furnishing disclosures" and "the rate at which participants and beneficiaries are receiving, accessing, understanding, and retaining disclosures." (Emphasis added.) Each Agency has specific guidelines as to methods by which plans may furnish disclosures to participants and beneficiaries, including the circumstances in which disclosures may*

be furnished electronically (e.g., via email, website access, mobile and smartphone applications, or audio and video channels), rather than on paper. As information technology evolves, so might the standard for “effective” delivery of information to participants and beneficiaries. Are there certain disclosures that participants and beneficiaries prefer to receive on paper (e.g., highly individualized and complex notices, such as quarterly and annual benefit statements), and, if so, what explains this preference? Commenters are encouraged to provide data, statistics, or other information about which delivery methods are most commonly used by plans and factors that may explain participants’ preferences for certain delivery methods. For plans that deliver disclosures electronically, does data exist on participant opt-in and opt-out rates, practices, and trends in such rates? Do plans regularly reassess compliance with applicable electronic delivery standards or survey plan participants and beneficiaries regarding their preferences for how to receive information from their plans? Do plans periodically evaluate whether disclosures are successfully received by participants and beneficiaries and, if so, how? What data exists about rates of receipt? Are there observable trends in this data, for example, in response to Agency regulatory or other actions, changes in participant and beneficiary preferences, technological advances, or changes in the retirement plan industry? To what extent are age, demographics, or residence relevant to participants’ and beneficiaries’ effective access to and use of electronic means of delivery? If these variables are relevant, what are best practices for addressing differential use of and access to electronic disclosures?

Q-9 and Q-10 General Comments: Plan sponsors commonly delegate (and pay for) recordkeepers to address communications with participants, including updating contact information and beneficiary designations, and the recordkeepers keep close track of such data and statistics. We believe that such critical information and designations warrant both electronic and paper communications to avoid missing participants and/or beneficiary designations. In terms of electronic communications, we believe having consistent global requirements between the Agencies would significantly improve participant communications.

Q-11: *Availability of model notices or model language. In some cases, the Agencies offer, or are required by statute to provide, model notices or model language that can be used by plans or plan administrators to satisfy the content requirements of required disclosures. To what extent does the provision of models reduce the cost to plans for preparing required disclosures? The Agencies generally provide model notice or language in English; what are commenters' views on the Agencies' provisions of model notice or language in one or more languages other than English and how to determine which languages? To what extent does the provision of such models impact the understanding and retention of the disclosure by a participant or beneficiary? Are there additional model notices or model language that the Agencies could provide for specific disclosures that would be especially helpful to plans that would reduce the burden on plans to prepare such disclosures?*

Q-12: *Participant and beneficiary feedback regarding notices and disclosures. Please describe the extent to which plans receive questions from, or are made aware of concerns from, individuals who receive required notices and disclosures regarding those communications. What procedures are in place to respond to such questions and concerns? Are there common themes in the types of issues that result in inquiries from participants and beneficiaries? Is there any notable difference in the types of questions and concerns that are raised by telephone, by email, or otherwise?*

Q-13: *Costs of disclosure. What is the aggregate annual cost to defined contribution and defined benefit plans to make required disclosures? Are costs significantly higher for certain disclosures than others and, if so, which disclosures and why? To what extent are these disclosure costs paid from plan assets or from the general assets of the plan sponsor? Are there ways to lower disclosure costs without negatively impacting the comprehensiveness or effectiveness of the information that is required to be disclosed? Commenters are encouraged to provide any data relevant to these questions.*

Q-11 – Q-13 General Comments: SHRM members are concerned with the overall complexity of these disclosures and the need to inform participants and beneficiaries. Another concern is that requiring disclosures to be sent to participants and beneficiaries in more than one language will increase the time and expense to

prepare and mail multiple disclosures. We encourage the Agencies to attempt further simplification of this process rather than increase the administrative burdens.

B. Reporting to the Agencies

1. Submission of Required Reports by Plans.

Q-14: *Frequency and timing of reports. What is your view on the number of reports that must be filed with the Agencies each plan or calendar year and how this number impacts a plan's ability to implement reporting procedures efficiently? Are the timing requirements of any reports in conflict or inefficient, either for one Agency or across the Agencies? Could the filing deadlines for any reports, either for ERISA or the Code or both, be modified to allow consolidation of more than one report without compromising the Agencies' timely receipt of information.*

Q-14 Comment: We urge the Agencies to simplify the reporting requirements and limit the changes to the number of reports and their required submission times.

Q-15: *Content of reports. Please describe the extent to which any of the reports required by ERISA or the Code collect more, or less, information than you believe should be necessary for the Agencies to discharge their oversight and other responsibilities? If so, which reports, and how could they be modified to inform the Agencies more effectively? Do any challenges exist in obtaining information from sources subject to laws other than the Code and ERISA (e.g., Federal securities laws or State insurance laws) that is necessary, or helpful, for preparation of reports?*

Q-15 Comment: Whether a report is requesting too much information or too little information for the Agencies to do their jobs is subjective. We encourage the Agencies to request the minimum information necessary and believe that it may be possible for the Agencies to share the information in the Form 5500 to help populate other required forms.

Q-16: *Clarity of reporting requirements. Are the instructions for reports clear and helpful? Are there particular reports for which the instructions could be simplified or could more accurately reflect the administration of retirement plans? Should the Agencies make instructions available in languages other than English? Should instructions be written subject to a readability standard, such as in a manner*

reasonably calculated to be understood by the target filers (for example large companies versus small employers)?

Q-16 Comment: We believe having instructions available in languages other than English, and tailoring the instructions for large companies versus small employers could be helpful.

Q-17: *Efficacy of filing methods for reports. Do the filing methods for reports need updating or improvement? For reports that must be filed electronically, are there circumstances when plans would benefit from waiver procedures permitting EBSA paper filings and, if so, what plans, what reports, and what circumstances? Alternatively, are there reports that must be filed on paper that would be more effectively filed electronically, and, if so, as a mandate or as an option?*

Q-17 Comment: We believe that our members, along with other plan sponsors, would benefit from permitting all forms to be filed electronically. However, we also believe that there should be reasonable waiver procedures permitting paper filings, especially since unexpected issues may arise that necessitate paper filings. Understanding that the Agencies will receive many comments, we encourage the Agencies to strongly consider the benefits of allowing all forms to be filed electronically as a way to quickly and securely provide the information.

Q-18: *Improving Agency assistance with reporting requirements. Are the Agencies' customer service personnel and capabilities sufficient or in need of improvement for the questions about the content of reports, technical support for completing and filing reports, or otherwise? Should the Agencies monitor, track, and disclose user experience for any reports? If so, how should the Agencies compile this data and use it to inform improvements to customer service protocols, including technical support?*

Q-18 Comment: We believe that increasing the number of agents who are trained and available to answer our members' questions about the content of reports and provide technical support for completing and filing reports would be beneficial.

Q-19: *Costs of Reporting. What is the aggregate annual cost to defined contribution and defined benefit plans to submit reports required by ERISA and the Code? Are costs significantly higher for certain reports than others and, if so, which*

reports, and why? To what extent are such reporting costs paid from plan assets versus from the general assets of the plan sponsor? Commenters are encouraged to provide any data relevant to these questions.

Q-19 Comment: The aggregate annual costs of submitting required reports can be significant, and those costs vary relative to the size of the reporting plan. It is more common for sponsors of large plans to pay for such costs from general assets than it is for sponsors of smaller plans.

2. *Participants, Beneficiaries, and Third Parties—Use of Publicly Available Information and Data.*

Q-20: *Use of reports and data by participants and beneficiaries. Is there information reported to the Agencies, but not affirmatively required to be furnished by plans to participants and beneficiaries, that might be beneficial to participants and beneficiaries? If so, what information and to what benefit? Could such information be furnished in a cost-effective manner or made available to participants and beneficiaries? If so, please describe these methods and how they could be cost effective. Is there evidence that participants and beneficiaries request to review any reports (or certain information or data) that is reported?*

Q-21: *Use of reports and data by other entities. Do any of the reports required by ERISA and the Code fail to collect information that data users other than the Agencies, including the public at large, data aggregators, and participant advocates, would find useful? If so, which reports and information, and how could reports be modified to collect this information in a cost-effective manner? How would this information be used and how would requesting this information benefit retirement plan participants and beneficiaries, plans, or others? What information should be publicly available, and, if so, how might confidentiality, security, or other concerns be managed (e.g., protection of return information as required by Code section 6103?) To what extent do plans and plan service providers give third parties, such as data aggregators and consultants, access to plan data (e.g., plan investment lineups and associated fees, costs, and performance data) that could facilitate the development of analytic tools and comparative analyses that could be used by plan fiduciaries, participants, or beneficiaries to improve retirement outcomes? Are there impediments*

to the disclosure of useful plan data to such third parties that are inappropriate or that interfere with the cost-effective delivery of such analytic tools or comparative analyses?

Q-20 and Q-21 General Comments: Our members strongly believe that the Agencies should balance the public interest in providing relevant information versus insignificant information. With that said, we are committed to helping participants reach their retirement goals by providing useful data for retirees to make informed retirement choices.

C. Additional Questions

Q-22: *Coordination of Agencies' reporting and disclosure requirements. Would participants, beneficiaries, and plans benefit from increased coordination between the Agencies regarding one or more reporting or disclosure requirements and, if so, how? What steps could the Agencies take to achieve such coordination, for example which specific disclosures, reports, or information could be effectively harmonized by the Agencies and how could the Agencies do so in a cost-effective manner?*

Q-23: *Alternative methods for information collection. SECURE 2.0 section 319(b)(3) explicitly provides that the Agencies may "conduct appropriate surveys and data collection to obtain any needed information." If this authority were used, what data or information should be collected, and what are cost-effective methods that the Agencies could employ to collect such data or information, for example, by consulting with a balanced group of participant and employer representatives, conducting focus groups, preparing surveys, or holding a joint hearing?*

Q-24: *Additional information. Is there any information or are there any suggestions that the Agencies should consider that are not addressed by the questions in this RFI and that may be important to achieve the desired effectiveness of reporting and disclosures as set forth in SECURE 2.0 section 319?*

Q-22 – Q-24 General Comments: While we believe that adding other potential methods of providing information to participants and beneficiaries may be helpful, we urge the Agencies to balance the desire to provide additional information with the potential usefulness of such information. Therefore, we encourage the

Agencies to conduct more frequent RFIs to consider whether any additional information is necessary before adding to the reporting requirements.

Conclusion

SHRM supports the intent behind the RFI, which we believe will benefit employers and employees alike. We are grateful for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, reading "Emily M. Dickens".

Emily M. Dickens, J.D.
Chief of Staff, Head of Government Affairs & Corporate Secretary