

From Paper to Digital as the Default Delivery Method for Retirement Plan Disclosures

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On October 22, 2019, the Department of Labor (“DOL”) released a proposed rule that seeks to modernize the disclosure rules for ERISA covered retirement plans. If the proposal were to become final, it would be the first comprehensive notice and comment rulemaking regarding how plan administrators communicate with plan participants and beneficiaries since DOL established its electronic disclosure safe harbor 17 years ago. The proposal, titled “Default Electronic Disclosure by Employee Pension Benefit Plans under ERISA” (the “Proposed Rule”) follows on an executive order issued on August 31, 2018 that directed DOL to explore “the potential for broader use of electronic delivery as a way to improve the effectiveness of disclosures and to reduce their associated costs and burdens.” In DOL’s spring update to its regulatory agenda, DOL described the rule it was working on as not only following the President’s directive but also seeking “to make ... disclosures more understandable and useful for participants and beneficiaries.”

While the Proposed Rule was made public today, it is not expected to be published in the Federal Register until October 23, 2019. At that point, DOL will accept comments on the proposal for 30 days. If finalized, the Proposed Rule could lead to a dramatic shift for retirement plans and service providers from paper formats to electronic formats that could lead to greater participant engagement and reduced mailing costs. Notably, the Proposed Rule is limited to retirement plans and does not apply to health and welfare plans. We will be providing a longer write up on the details of the Proposed Rule next week. In the meantime, if you have questions or would like to discuss, please contact your regular Groom attorney.

The Proposed Rule can be found at:

<https://www.federalregister.gov/documents/2019/10/23/2019-22901/default-electronic-disclosure-by-employee-pension-benefit-plans-under-employee-retirement-income>

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