



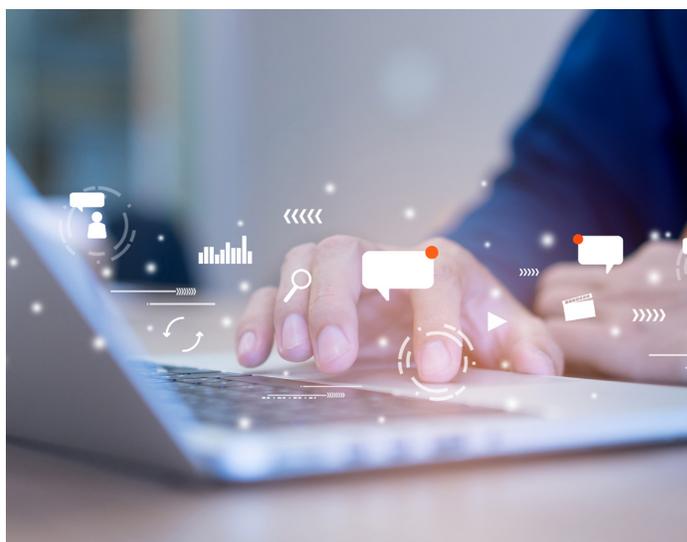
# DOL FINALIZES EDELIVERY FOR MANDATORY PARTICIPANT COMMUNICATIONS

Effective July 27, 2020, the Department of Labor (DOL) and the Employee Benefits Security Administration (EBSA) issued a long overdue final rule creating two new, optional alternative safe harbors for satisfying ERISA's required disclosure delivery requirements: website posting and email delivery.

These new eDelivery options allow private sector employers to provide mandated retirement plan disclosures by default to a personal or work email while allowing plan participants to opt for paper mailings, if preferred. This change could reduce printing, mailing and related plan costs by an estimated \$3.2 billion over the next decade as well as make required disclosures more accessible and useful for participants. Additionally, electronic information is more interactive and will be a useful resource for targeted communication to plan participants moving forward. Further, recent statistics suggest the use of electronic information can produce a 23% higher savings rate by engaging plan participants in resources provided through recordkeepers.

## Notice of Internet Availability Required

Plan participants must receive a Notice of Internet Availability (NOIA) stating where to find mandated retirement plan disclosures whether posted on a website or other electronic repository, such as a mobile application, and must comply with detailed requirements that include identifying the document, the electronic address or hyperlink to the address, where the document is accessible as well as required statements that advise participants of their right to opt out of eDelivery and receive free paper copies. Every NOIA also must include a subject line or headline with words such as, "Disclosure about your retirement plan," as well as a similar statement, "Important information about your retirement plan is now available. Please review this information."



Plan administrators may provide a consolidated NOIA for their annual disclosures including the SPD, SAR, annual funding notice, participant fee disclosures and QDIA notice. However, all other documents require a separate NOIA when a document is posted.

Although the rule requires an initial paper notice, Disaster Relief Notice 2020-01 permits e-Delivery of the NOIA during the pandemic, provided administrators make a good-faith effort to deliver paper copies as soon as administratively practicable. The DOL will not take enforcement action for delays in furnishing statements, notices and other disclosures for up to 60 days after the announced end of the COVID-19 national emergency.

Plan administrators may also send mandated retirement plan disclosures and information directly by email either via an attachment or in the content.

## Additional Information

Since the rule is optional, plan sponsors and plan administrators have flexibility in how to treat different groups of plan participants and can apply the safe harbors for different groups of employees, such as those with limited access to computers or those who use them regularly.

Employers can use an employer-provided email address as long as it has not been set up for the sole purpose to deliver plan documents. They can use personal email addresses received from employees possibly the during the employment process or other means. Finally, employers can rely on emails provided to service providers by plan participants. Moving forward, a “best practice” may be to maintain two email addresses for plan participants.

In a recent survey by the Empower Institute, of 3,000 individuals who were 21 years or older, 51% said that their personal email would be the preferred method of receiving retirement plan communication, followed by website visiting at 44% indicating they’d go to the website. Only 26% stated they’d use their work email.

Regardless of the preference of where plan participants wish to access mandated retirement plan communications, plan administrators must have a system in place to alert of any rejected or “bounce back” emails and promptly take steps to resend the notice or treat the participant as having “opted out” of eDelivery.

In addition, plan administrators must set up reasonable procedures for maintaining participants who have opted out. However, they may limit participants to changes at certain times. Finally, plan administrators must take measures to ensure continued availability of a viable email address after severance from employment. This will be a beneficial solution to tracking “lost” participants.

## Next Steps

- Start with your recordkeeper if you haven’t heard how it intends to handle new rules and what’s expected of you.
- Review your internal processes:
  - Do employees have email addresses?
  - Do they have mobile phones?
  - Do they have easy access to a computer?
  - How will you ensure you’ve collected correct email addresses and phone numbers?
  - How will you track delivery failure?

### Sources:

[“DOL’S EBSA Reveals Final Electronic Disclosure Rule,”](#) PlanAdvisor.

[“Electronic Disclosure Safe Harbor for Retirement Plans,”](#) Department of Labor.

[“Department of Labor Finalizes New Safe Harbor for Electronic Delivery of Retirement Plan Disclosures,”](#) blog by Proskaur.

[“Electrifying Insights on E-Delivery,”](#) National Association of Plan Advisors’ webinar, July 28, 2020.

Mariner Wealth Advisors (“MWA”), is an SEC registered investment adviser with its principal place of business in the State of Kansas. Registration of an investment adviser does not imply a certain level of skill or training. MWA is in compliance with the current notice filing requirements imposed upon registered investment advisers by those states in which MWA maintains clients. MWA may only transact business in those states in which it is notice filed or qualifies for an exemption or exclusion from notice filing requirements. Any subsequent, direct communication by MWA with a prospective client shall be conducted by a representative that is either registered or qualifies for an exemption or exclusion from registration in the state where the prospective client resides. For additional information about MWA, including fees and services, please contact MWA or refer to the Investment Adviser Public Disclosure website ([www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov)). Please read the disclosure statement carefully before you invest or send money.

Securities offered through MSEC, LLC, Member FINRA & SIPC.