

Reproduced with permission from Pension & Benefits Reporter, 39 BPR 824, 05/01/2012. Copyright © 2012 by The Bureau of National Affairs, Inc. (800-372-1033) <http://www.bna.com>

Disclosure

Pension Rights Center, Other Groups Express Support for DOL Electronic Disclosures Policy

Seven groups, including the Pension Rights Center and the AFL-CIO, wrote a letter April 19 to the Department of Labor urging the continued use of the department's current policy regarding electronic communications to plan participants.

The groups said there are millions of workers without access to computers in the workplace and many more who are computer illiterate. "These individuals would be denied vitally important information if these rules were changed," the letter said.

"In our view, the Department of Labor has already provided employers and financial institutions with sufficient latitude by allowing them to automatically provide information electronically to those people who work with their employer's computer network as an integral part of their day job. This is a compromise we support," the letter said.

The groups said workers without computer access should have the choice to receive communications either electronically or by paper.

"While there are costs to paper copies, there are greater costs when participants and beneficiaries miss significant information about their [Section] 401(k) plans—which are the predominant retirement savings vehicle for millions of Americans," the groups said.

The letter stands in opposition to a March 27 letter from 15 retirement industry groups that asked DOL to broaden its policy on electronic communication (60 PBD, 3/29/12; 39 BPR 625, 4/3/12).

DOL's current regulation (29 C.F.R. § 2520.104b-1(c)) requires that disclosures under the Employee Retirement Income Security Act be made electronically only to those plan participants who work on computers in their day-to-day employment or those participants who consent to electronic disclosures. In Technical Release 2011-03R, the department said that, with regard to the ERISA Section 404 participant-level disclosure rules, disclosures in the pension benefit statement may be provided electronically (236 PBD, 12/9/11; 38 BPR 2293, 12/13/11).

Accompanying Memorandum. The groups supporting DOL's current policy included a memorandum with the letter that in part responded to the arguments in the March 27 letter that electronic communication should be the default method of communication.

"The signatories to the March 27 letter contend that the Technical Release [2011-03R] should be replaced because its protections will result in additional costs, in the form of paper copies, which will ultimately be borne by plan participants," the groups said.

"The reality is that computer access and usage in the United States is very much a function of age, occupation, education and income," the groups said.

The other groups involved in the April 19 letter include Consumers Union, the National Consumers League, National Council of La Raza, the National Women's Law Center, and the Service Employees International Union.

Full text of the letter and the accompanying memorandum can be found at http://www.pensionrights.org/sites/default/files/docs/120419_group_letter_and_memorandum_on_electronic_disclosure.pdf.