Vorys Benefits Brief: Update Regarding Paper Delivery of Retirement Plan Statements

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The U.S. Department of Labor (DOL) issued proposed regulations (available here) on February 25, 2026 (2026 Proposed Regulations) that modify the rules for the delivery of retirement plan statements to plan participants and beneficiaries. Importantly, the 2026 Proposed Regulations only address the exceptions to the requirement for plan administrators to provide paper copies of benefit statements under Section 338 of the SECURE 2.0 Act of 2022 (SECURE 2.0). They do not address electronic delivery of any other plan communications that are required under ERISA or the Internal Revenue Code.

On May 12, 2026, in Field Assistance Bulletin No. 2026-02 (available here), the DOL reiterated its temporary enforcement policy permitting plan administrators to rely on either the 2026 Proposed Regulations or the current regulations until the DOL issues final regulations or other applicable administrative guidance.

Background

ERISA requires plan administrators to furnish a broad range of disclosures to plan participants and beneficiaries, including summary plan descriptions (SPDs), summary annual reports, notices of material modification, and retirement plan statements. When ERISA was first enacted, these disclosures were typically provided in paper form, delivered by hand or by mail to each participant's last known address. With the advent of electronic communications, many plans have moved to using electronic delivery methods in accordance with 2002 and 2020 electronic disclosure safe harbors issued by the DOL. The following links provide background on those safe harbors: 2020 Vorys client alert and chart comparing the 2002 and 2020 safe harbors.

Under ERISA, participant-directed defined contribution plans are required to provide quarterly statements to participants and beneficiaries, and defined benefit plans are required to provide statements every three years. SECURE 2.0 amended ERISA to require defined contribution plans to provide at least one paper benefit statement per calendar year, and defined benefit plans to provide at least one paper benefit statement every three calendar years, unless an exception applies. The paper statement requirement does not apply (i) to one participant plans, (ii) if the statement is furnished electronically under the 2002 electronic disclosure safe harbor, or (iii) if the participant has affirmatively requested electronic delivery of the statement. The paper benefit statement requirements are effective for plan years beginning after December 31, 2025.

The 2026 Proposed Regulations update the 2002 and 2020 electronic disclosure safe harbors to reflect these new statutory requirements. The DOL's temporary enforcement policy provides that the DOL will not take enforcement action against plan administrators that comply in good faith with a reasonable interpretation of the 2026 Proposed Regulations.

Key Takeaways

1. Paper Statement Requirement: The 2026 Proposed Regulations remind plan administrators that, unless an exception applies, benefit statements must be provided in paper form at least once each calendar year for defined contribution plans (such as 401(k) plans) and at least once every three calendar years for defined benefit plans. All plans are also required to provide paper statements upon request.

2. Process to Opt-Out of Paper Delivery:

- For plans following the 2002 safe harbor, participants who first become eligible to participate, and beneficiaries who first become eligible for benefits, after December 31, 2025 must be given a one-time initial notice on paper of their right to request that all disclosures be furnished on paper. This notice must be provided before the benefit statements are delivered electronically instead of on paper.
- For plans following the 2020 safe harbor, a paper benefit statement must be furnished, unless a participant affirmatively requests electronic delivery of the benefit statement. Any benefit statement furnished on paper must include an explanation of how to request that all such statements be provided by electronic delivery.

3. Fees: For plans following the 2020 safe harbor, at least one paper statement must be delivered without any fee or charge. For example, if a participant elected for all statements to be delivered in paper, the plan could charge a fee for three of the four quarterly statements delivered to the participant in a year. This may require changes to contracts with vendors who charge a fee for participants who opt out of electronic delivery.

Next Steps for Employers and Plan Administrators

In light of the 2026 Proposed Regulations and the DOL's temporary enforcement policy, employers and plan administrators should consider the following actions:

Review retirement plan disclosure practices. Plan administrators should work with legal counsel to assess how the 2026 Proposed Regulations may affect their existing retirement plan disclosure practices and service provider arrangements. If a plan administrator uses the 2002 and/or the 2020 safe harbors, the content of notices and disclosures related to benefit statements likely need to be revised when the 2026 Proposed Regulations are finalized. Plan administrators also may want to evaluate whether they want to make any changes to their disclosure processes in light of the 2026 Proposed Regulations. For example, plan administrators who utilize the 2002 safe harbor and want to avoid providing paper benefit statements to new participants may want to consider providing the one-time initial notice (described above) before the 2026 Proposed Regulations are finalized. In addition, some employers have expressed concerns about the cost and data security risks that arise from broad mailing of participant statements. The temporary enforcement policy opens a window for plans to avoid sending unsolicited paper statements to a significant portion of the plan population.

Engage with retirement plan recordkeepers and administrators. Plan administrators should work closely with their third-party administrators and recordkeepers to confirm compliance with the paper benefit statement requirement under SECURE 2.0 and to define the process to elect the form of delivery. For example, employers may wish to split the process into two elections – one for the electronic delivery of statements and one for the electronic delivery of all other plan communications. Otherwise, a person who elects into paper statements would need to receive all plan communications on paper.

Monitor for a final rule. Given the significance of electronic delivery to plan administration, it is likely that the DOL will finalize some version of these proposed changes. Employers should track regulatory developments and begin planning for implementation well in advance of any effective date.

Contact Legal Counsel

If you have any questions about how this guidance affects your retirement plan administration, consult with legal counsel.