



April 30, 2018

The Honorable Preston Rutledge  
Assistant Secretary  
US Department of Labor  
Employee Benefits Security Administration  
200 Constitution Avenue N.W.  
Washington, DC 20210

Dear Mr. Rutledge:

The Investment Company Institute<sup>1</sup> and the American Retirement Association<sup>2</sup> are pleased to submit for your consideration a 2018 update to the 2011 study, “Delivering ERISA Disclosure for Defined Contribution Plans: Why the Time Has Come to Prefer Electronic Delivery.”

The 2011 study, led by Professor Peter Swire, concluded that shifting the default method of delivering defined contribution (DC) participant plan disclosures to electronic delivery, rather than relying on outmoded paper delivery systems, would produce significant improvements in the efficiency and effectiveness of disclosure. In this update, Professor Swire and co-author DeBrae Kennedy-Mayo find that the evidence in support of a shift in the default method has grown even more compelling and urgent.<sup>3</sup> The update concludes that electronic delivery of notices, including DC plan notices, will reduce costs, provide greater access, and improve the quality of notices for Americans.

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<sup>1</sup> The [Investment Company Institute](#) (ICI) is the leading association representing regulated funds globally, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI's members manage total assets of US\$21.9 trillion in the United States, serving more than 100 million US shareholders, and US\$7.5 trillion in assets in other jurisdictions. ICI carries out its international work through [ICI Global](#), with offices in London, Hong Kong, and Washington, DC.

<sup>2</sup> The American Retirement Association is a national organization of more than 20,000 retirement plan and benefits professionals that serves as the educator, voice, and advocate for the employer-based retirement system. ARA members are administrators, actuaries, advisors, attorneys, accountants, and other financial services professionals who provide consulting and administrative services for qualified retirement plans.

<sup>3</sup> Peter P. Swire is the Holder Chair of Law and Ethics at the Georgia Tech Scheller College of Business. He has appointments by courtesy with the College of Computing and School of Public Policy. He is Senior Fellow with the Future of Privacy Forum, a member of the National Academy of Sciences Forum on Cyber-Resiliency, and Senior Counsel with Alston & Bird, LLP. In 2015, the International Association of Privacy Professionals, among its over 20,000 members, awarded him its Privacy Leadership Award. His publications and other information are available at [www.peterswire.net](#).

The Investment Company Institute and its members—who manage \$8.8 trillion in mutual fund investments for retirement savers in DC plan accounts and IRAs—and the American Retirement Association and its members—more than 20,000 retirement plan professionals serving in a wide range of capacities in support of, and sponsoring, workplace retirement plans—urge the Department to modernize its existing delivery rules to put to use the dramatic and advantageous evolution in technology, and its expanding availability over the past decade, to benefit plan participants.

Allowing plans to make electronic delivery the default method for communicating with participants (while still allowing participants to opt for paper) will:

- enhance the effectiveness of ERISA communications, particularly to individuals with disabilities or for whom English is not the primary language;
- produce significant cost savings for 80 million retirement investors;
- maintain security of information; and
- reduce the environmental impact of tons of discarded paper every single year.

The updated study offers compelling and robust evidence to support such a shift, including:

- Internet usage has become virtually universal among most plan participants. As of 2016, 93 percent of households owning DC accounts have access to the internet, up from 86 percent in 2010.
- Households with DC plan accounts use the internet at high rates, even if they are members of demographic groups that overall are less inclined to use the internet. For example, 79 percent of DC account-owning households with income between \$20,000 and \$39,999 make use of the internet, compared with just 67 percent of all US households with income in that range. Among households age 65 or older, 76 percent of DC account holders use the internet, compared with just 56 percent of all households in that age group.
- In 2016, 88 percent of households owning DC accounts engaged in online banking, just one example of the high and increasing comfort with using the internet for such sensitive activities as financial transactions and medical communications.
- Plan participants who interact with their plan's website tend to have higher contribution rates.
- Since 2011, the quality of assistive technology on the internet has progressed greatly for the visually impaired and others with disabilities.
- The quality of translation software also has improved greatly since 2011: free translation software is now available to translate more than 100 languages, accounting for more than 99 percent of the online population.

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- Electronic delivery is becoming the norm for the US government for delivery of notices. For example, the Social Security Administration, the Office of Personnel Management, and the federal Thrift Savings Plan often provide notices electronically.
- Plans would experience significant cost savings by changing the default delivery method to electronic delivery—savings that would be shared with plan participants. With an average of six mailings per year, assuming a cost of \$0.80 per notice to one participant, total printing and mailing costs for paper delivery could exceed \$385 million a year in aggregate.

The 2011 study and 2018 update provide overwhelming evidence that the time has come to provide retirement plan sponsors the flexibility to establish electronic delivery as the default method for communicating participant statements and other plan information. Furthermore, expanding electronic delivery as the default method of participant communications is consistent with Executive Order 13789, which directs federal agencies to simplify regulations and reduce regulatory compliance costs.

ICI, ARA, and their members look forward to working closely with you and your colleagues within the Employee Benefits Security Administration (EBSA) in developing appropriate and effective regulatory policies in this area. We would welcome the opportunity to meet you and to convey in person our strong interest in electronic delivery, as well as to review the 2018 update with you. Our offices will be in touch next week to request such a meeting. In the meantime, we would be happy to provide additional information on these issues or to discuss this matter with you or your staff.

Sincerely,



Paul Schott Stevens  
President & CEO  
Investment Company Institute



Brian H. Graff, Esq., APM  
CEO  
American Retirement Association

Attachment

cc: The Honorable Alexander Acosta, Secretary  
Jeanne Klinefelter Wilson, Deputy Assistant Secretary for Policy, EBSA  
Timothy D. Hauser, Deputy Assistant Secretary for Program Operations, EBSA  
Joe Canary, Director of Office of Regulations and Interpretations, EBSA  
US Department of Labor