

March 30, 2020

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

**Re: Relief Requested Due to Impact of COVID-19 Pandemic**

Dear Assistant Secretary Rutledge,

As the American Retirement Association (ARA) shared with you and your team on March 20, 2020, we believe that the ongoing and likely future impacts of the current COVID-19 (Coronavirus) pandemic will impede efforts by plan sponsors and service providers to comply with the Employee Retirement Income Security Act of 1974 (ERISA). For this reason, the ARA believes that reasonable relief relating to certain ERISA notice and disclosure requirements is appropriate. The enclosed table summarizes the requirements for which we believe extensions of 90-120 days are warranted.

The ARA is the coordinating entity for its five underlying affiliate organizations representing the full spectrum of America's private retirement system, the American Society of Pension Professionals and Actuaries (ASPPA), the National Association of Plan Advisors (NAPA), the National Tax-Deferred Savings Association (NTSA), the American Society of Enrolled Actuaries (ASEA), and the Plan Sponsor Council of America (PSCA). ARA's members include organizations of all sizes and industries across the nation which sponsor and/or support retirement saving plans and are dedicated to expanding on the success of employer-sponsored plans. In addition, ARA has nearly 28,000 individual members who provide consulting and administrative services to sponsors of retirement plans. ARA's members are diverse but united in their common dedication to the success of America's private retirement system.

Section 3607 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 amends Section 518 of ERISA to allow for an extension for "a public health emergency declared by the Secretary of Health and Human Services pursuant to Section 319 of the Public Health Service Act." This change provides the Department of Labor with significant latitude to extend filing deadlines and other required ERISA items in response to the Coronavirus pandemic. ARA is particularly interested in reasonable relief from notices required to be provided to plan participants under Title I of ERISA, as reflected in the enclosed table.

ARA appreciates your consideration of issues related to retirement plan administration as plan sponsors, third party administrators, and other organizations struggle with the national impact of Coronavirus. ARA looks forward to working with EBSA to provide relief to plan sponsors and third-party administrators as well as plan participants. Thank you for considering these comments.

Please contact Martin L. Pippins, MSEA, Executive Director of ASEA and Director of Regulatory Policy (mpippins@usaretirement.org; 703.516.9300, ext. 146), if you have any comments or questions regarding the matters discussed above.

Sincerely,

/s/  
Brian H. Graff, Esq., APM  
Executive Director/CEO  
American Retirement Association

/s/  
Will Hansen  
Chief, Government Affairs  
American Retirement Association

/s/  
Martin L. Pippins, MSPA  
Director of Regulatory Affairs  
American Retirement Assoc

/s/  
Allison Wielobob  
General Counsel  
American Retirement Association

Enclosure



**ERISA Participant Disclosures and Notices  
Reasonable Timing Relief Sought Due to COVID-19 Pandemic**

| Disclosure Item |   | Timing/Due Date   |
|-----------------|---|---|
| 1               | Automatic Enrollment-Qualified Automatic Contribution Arrangement | 30-90 days prior to start of plan year using QACA design  |
| 2               | Automatic Enrollment Notice                                       | Reasonable period before first contribution and annually, thereafter  |
| 3               | Summary Annual Report   | Last day of 9th month beginning after end of plan year (or as extended)   |
| 4               | Summary Plan Description  | Within 90 days of becoming a participant. 120 days after plan is subject to Title 1. Updated every 5 years if plan is amended or every 10 years if no amendments  |
| 5               | Summary of Material Modifications                                 | 210th day after end of plan year when modification was adopted  |
| 6               | 404(c) disclosures  | With the SPD, if it is not a part of the SPD  |
| 7               | Investment Advice Disclosures                                     | Before providing investment advice for the first time to the participant and annually thereafter. Also available upon request. Must resend if there is a material changes   |
| 8               | QDIA Notice   | Within reasonable period before initial default investment will occur and at least 30 days before beginning of plan year  |
| 9               | Mapping Notice  | 30 - 60 days before the effective date of the change  |
| 10              | Participant Fee and Expense Disclosure                            | Within 12 to 14 months of the last disclosure   |
| 11              | Benefit Statements  | At least quarterly for participant directed plans and annually for other individual account plans, within 45 days following the close of the reporting period   |
| 12              | Annual Report   | Within 30 days of request   |
| 13              | Investment election form  | Prior to payroll period for which the investment election is to be effective  |
| 14              | Loans: Promissory note  | Within a reasonable period of loan application  |
| 15              | Loans: Truth-in-lending disclosure                                | Within a reasonable period of time of request   |
| 16              | QDRO Procedures   | Upon the plan's receipt of a DRO, the plan should send an acknowledgement letter and QDRO procedures to the participant and each alternate payee. On final determination the plan should mail a determination if the order is or is not qualified |
| 17              | QDRO Notice   | A reasonable period of time after plan's receipt of DRO   |
| 18              | Notice of Suspension of Benefits                                  | During first calendar month in which plan withholds a payment. Required in SPD  |
| 19              | Statement of Deferred Benefits                                    | No later than filing of Form 5500 (Schedule SSA)  |
| 20              | Annual Funding Notice   | Not later than 120 days after the plan year for large plans. Small plans (100 or fewer participants on each day   |

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|    |  | during the plan year preceding the notice year) must furnish the notice no later than the earlier of the date on which the annual report is filed or the latest date the annual report must be filed (including extensions)        |
| 21 | Notice of Failure to Meet Minimum Funding Standards        | No later than 60 days after contribution due date unless a waiver is requested. This Notice is considered satisfied if an ERISA §4011 Notice is given  |
| 22 | Statement of Accrued and Vested Pension Benefits           | Within 45 days after the end of the period   |
| 23 | Notice of Funding-Based Limitation (ERISA 101(j))          | Generally, within 30 days after a plan becomes subject to a specified funding-based limitation   |
| 24 | 204(h) Notice of Significant Reduction in Benefit Accruals | At least 45 days before effective date of amendment  |
| 25 | Notice of Failure to Meet Minimum Funding Standards        | Must be furnished within a “reasonable” period of time after the failure. Notice is not required if a funding waiver is requested in a timely manner; if waiver is denied, notice must be provided within 60 days after the denial |

