

# QPA Fiduciary News Alert:

## New Electronic Disclosure Rule to Make Plan Disclosures Easier

Late last week the Department of Labor published a [final regulation](#) that expands the ability to electronically distribute retirement plan communications. The June edition of the QPA Advocate Newsletter will take a deeper dive into the new rule. This News Alert is intended to timely answer this key question: "*What do we need to know now?*"

### Q: What does the new rule do?

A: Philosophically, it recognizes the widespread, modern-day reliance on electronic communication. Practically, it provides employers the flexibility to more widely disclose retirement plan information in an electronic format. It does so in the form of a voluntary "safe harbor" for employers that would like to use electronic disclosure as a default approach for ERISA-required (but not Tax Code-required) participant communications.

### Q: What forms of electronic distribution can we use?

A: The final regulation provides for two options: (1) posting the disclosure(s) on a website; or (2) email delivery. There are many details related to both options, but those are the two general categories.

### Q: When does the new safe harbor first become available?

A: From a practical perspective, immediately. The formal effective date is 60 days after the final publication of the regulation, but the DOL explicitly provided its support for employers to implement the safe harbor rule earlier.

### Q: So does this mean we can start to use electronic disclosure immediately?

A: Not quite yet. The regulation requires a specific written notice *before* an employer can begin to rely on electronic disclosure. The DOL considers the rule to follow a "notice-and-access" structure, and the initial written notice is the first step within the structure.

### Q: We're already using electronic disclosure for some or all of our people. How does the new rule impact what we've been doing?

A: It does not immediately replace the DOL guidance currently on the books. Some of the DOL's prior guidance will be phased out over an 18-month period, but that won't happen immediately.

### Q: What should we take into account as we prepare for the ability to rely on the new safe harbor?

A: It all starts with getting a list of email addresses (or phone numbers, which might be a bit more complicated). The email address for an employee may be company-assigned, or the employee may provide a personal email address. This must occur up front because the initial written notice referenced above must include the specific electronic address that will be used for an individual. For now, start by developing the list for current participants. As you do so, give some thought to how you will obtain email addresses for future hires and for terminated employees (if you've been relying on company-provided email addresses).

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