



E-Disclosure Rules

Plan Sponsors can begin the process of implementing election disclosure for their retirement plan effective July 27, 2020. The Plan Sponsor can send electronic disclosures to any covered individual. Who is a covered individual?

- Participant/Eligible Employee
- Beneficiary
- Alternate Payee

The retirement plan is required to send multiple documents throughout the plan year to participants and employees. Which documents can be sent via electronic disclosure?

- 404(a)(5) – Fee Disclosure
- QDIA Notice – Qualified Default Investment Alternative
- Blackout Notice
- Safe Harbor Notice
- Auto Enrollment Notice
- SAR – Summary Annual Report
- SPD – Summary Plan Description

The electronic disclosure can be provided in various methods based upon the needs of the business, retirement plan and plan participants.

- Company Intranet
- Retirement Plan Recordkeeper's Website
- Email to Covered Individuals (with links or attachments)
 - NOTE: The Plan Sponsor cannot set up employee emails just for the purpose of receiving notices.
- Text Message to Covered Individuals (with links)

The first step is to provide an **initial paper notice** to the covered individuals that the Plan Administrator will send information electronically. This notice must contain the following:

- The email address of the covered individual
- Instructions regarding how to access the information being sent, if applicable
- A statement that the information will be available on the website for a year, or if later, after it is replaced by a new document.
- The recipient can get the specific information via paper and instructions on how to exercise that right.
- The recipient can elect to get ALL information via paper and instruction on how to exercise that right.

The second step is to provide the document via electronic disclosure. However, the employer must always send a Notice of Internet Availability (NOIA) with the electronic disclosure.

- Online documents can be housed on the employer or recordkeepers website (if available)
- If utilizing email, the email contents must be the same as a NOIA with covered documents attached.

The NOIA must contain the following:

- Prominent statement that reads: **Disclosure About Your Retirement Plan**
- A statement: **Important information about your retirement plan is now available. Please review this information.**
- **List each covered document by name** and a brief description of the document
- If utilizing a website, the website address and instructions on how to locate the covered document on the web page or direct hyperlinks to the covered documents
- The recipient can get the specific information via paper at no charge and instructions on how to exercise that right.
- The recipient can elect to get ALL information via paper at no charge and instruction on how to exercise that right to opt out of the electronic delivery.
- A statement of caution: **The covered document is not required to be available on the website for more than one year or, if later, after it is superseded by a subsequent version of the covered document.**
- The telephone number to contact the Plan Administrator or other designated plan representative.
- NOTE: The NOIA or Email NOIA can contain logos or artwork as long as it doesn't distract or mislead the participant.

You can provide a combined annual notice and NOIA for the following items:

- 404(a)(5) – Fee Disclosure
- QDIA Notice – Qualified Default Investment Alternative
- Safe Harbor Notice
- Auto Enrollment Notice
- SAR – Summary Annual Report
- SPD – Summary Plan Description
- Annual Participant Statements (not quarterly)
- All other notices would be sent individually with a NOIA for each one

The system utilized for electronic delivery must identify when an email address does not work. The Plan Administrator must have a procedure to identify an alternate email address or deliver all future notices on paper to the covered individual. If you utilize a new alternate email address, you must provide the initial paper notice and then NOIA with covered documents.

Every employer may want to gather the following information from each covered individual to implement electronic delivery:

- ✓ Collect work and personal email addresses
- ✓ Collect cellphone numbers
- ✓ Termination process should include gathering/confirming of this data
- ✓ Review intranet website to make notices obvious

Benefits Administrators can assist with sample initial notices and the Notice of Internet Availability (NOIA) for your retirement plan. We are here to help implement this new process to streamline disclosure to your plan participants.