AMERICAN BENEFITS COUNCIL

ELECTRONIC DELIVERY OF RETIREMENT PLAN INFORMATION:
FOSTERING SUPERIOR OUTCOMES AND REDUCING COSTS TO 401(K) PARTICIPANTS

BACKGROUND

Employers that voluntarily offer defined contribution retirement plans, such as 401(k) plans, are required to distribute numerous statements and disclosures, upon enrollment, and thereafter quarterly and annually. Traditionally, plans have prepared printed (hard) copies of these materials for distribution. As electronic communication has gained traction as the primary means by which individuals receive important information, retirement plans have increasingly sought to deliver information through e-mail or secure websites.

In most contexts, current law imposes significant barriers to making electronic delivery the default method of delivery. Depending on the nature of the information, any one of four different IRS or DOL standards can apply. In certain contexts, plans can default participants into electronic delivery. But for much information, plans must sign up each participant individually for electronic delivery and obtain affirmative consent. This lack of consistency causes considerable confusion for retirement plans and participants. And as behavioral economics makes clear, inertia is an exceedingly powerful force; the need for affirmative consent creates a considerable barrier for plans trying to increase efficiencies and pass those efficiencies to plan participants.

PROPOSAL

Under our proposal, any required document may (by default) be furnished in electronic form, provided that (a) the system for furnishing the document is designed to result in access to the document by the participant through electronic means; (b) the system protects the confidentiality of personal information relating to such participant's accounts and benefits; and (c) participants are given the right to “opt out” and receive paper communications at no charge.

Under this system, delivery can be made by either (a) direct delivery of material to an electronic address; (b) posting of material to a website to which access has been granted, but only if notice has been provided (furnished by other electronic means if the content of the notice conveys the need to take action to access the posted material); or (c) other electronic means reasonably calculated to ensure actual receipt of the material. Electronic delivery cannot be used if the participant has elected to receive a paper version of a document. Thus ***participants will always have the opportunity to receive disclosure in paper*** if that is their choice.

To protect participants, a plan must send each participant a notice, in electronic or non-electronic form, before a document is furnished electronically. The notice must apprise the participant of the right to elect to receive, at no additional cost, a paper version of the document. The electronically furnished document must be prepared and furnished in a manner that is consistent with the style, format, and content requirements applicable to the particular document, and must include a notice that apprises the individual of the significance of the document when it is not otherwise reasonably evident as transmitted.

RATIONALE

Today's highly restrictive framework guiding electronic delivery of plan information is trapped in the Twentieth Century, and fails to reflect recent years' emerging information trends and technologies. Data confirm that virtually all Americans have access to online services, in the workplace and/or at home; access is broad across age group, race, household income, and region. Alongside dramatic growth in computer and Internet use, Americans' reliance on electronic technology for financial communication and transactions has grown significantly. For instance, 98.6% of Social Security recipients receive benefits electronically, and online/mobile phone banking is fast becoming the preferred banking method across age groups. Even the federal government has recognized in its defined contribution plan for federal employees (the Thrift Savings Plan) that electronic delivery of plan information is the appropriate default. Perhaps it is no surprise, therefore, that in a poll of retirement plan participants, **84 percent find it acceptable to make electronic delivery the default option**.

Already in the retirement context, behavioral economics has demonstrated the importance of setting the appropriate default rule to engage individuals. In the Pension Protection Act of 2006, Congress promoted the use of rules that facilitate "automatic" behavior. The evidence is clear that this shift has had a critical impact on increasing enrollment and savings rates.

BENEFITS

Allowing plans to switch the default – so that participants automatically receive retirement plan information electronically, but at any point may opt out and elect paper delivery (at no additional cost) – would yield important benefits:

- *Better quality information.* When information is delivered electronically, it allows participants to respond quickly to plan information; ensures information remains up-to-date and is accessed by participants in "real time;" provides information that is more accessible – and digestible; provides information that can be more readily customized; and provides a better guarantee of actual receipt of information.

- *Superior outcomes.* Directing participants to electronic mediums promotes the use of electronic tools (such as retirement readiness calculators) that ultimately play an important role in promoting superior retirement outcomes. In fact, as provider data demonstrate, mere exposure to online tools has been shown to encourage participants to increase deferrals or modify their investment strategy to achieve a secure retirement.

- *Significant cost savings.* Compared to distributing plan documents by regular mail, electronic delivery has significantly lower costs, with savings from printing, processing, and mailing. As economic research shows, these cost savings would ultimately be passed back to participants, translating to lower expenses – and higher net investment returns – for participants. Switching to an electronic delivery default would produce **$200 to $500 million in aggregate savings annually that would accrue directly to individual retirement plan participants.**