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DOL Proposes Updates to E-Delivery Rules to Align With SECURE 2.0

The Department of Labor (DOL) has issued a [proposed rule](#) amending the electronic delivery regulations for certain retirement plan documents to align with new requirements established under the SECURE 2.0 Act (SECURE 2.0). The proposal updates—rather than replaces—the 2002 and 2020 safe harbors, preserving electronic delivery as the default for most plan disclosures while adding new conditions for when certain paper benefit statements are required.

Background

Federal retirement law under the Employee Retirement Income Security Act of 1974 (ERISA) has long required that participants and beneficiaries receive important plan information in a manner reasonably calculated to ensure actual receipt. Historically, that meant delivering paper statements by mail. Over time, the DOL adopted electronic delivery safe harbors—in 2002 and again in 2020—to reflect changing technology and participant preferences.

In 2022, SECURE 2.0 established a new requirement that certain pension benefit statements be provided on paper (referred to as “mandatory paper benefit statements”), subject to limited exceptions. Specifically, Section 338 of SECURE 2.0 amended ERISA Section 105 to state that unless an electronic delivery exception applies

- Defined contribution plans must provide at least one paper benefit statement annually, and
- Defined benefit plans must provide at least one paper benefit statement every three years.

For purposes of these requirements, references to defined contribution plans and defined benefit plans do not include one-participant retirement plans.

These requirements apply only to pension benefit statements required by ERISA Section 105, and do not extend to other ERISA disclosures (e.g., summary plan descriptions, annual notices). At the same time, SECURE 2.0 also directed the DOL to update (not replace) the existing 2002 safe harbor ([DOL Reg. Sec. 2520-104b-1\(c\)](#)) and 2020 safe harbor ([DOL Reg. 2520-104b-31](#)) to align with the new paper statement requirement. Section 338 of SECURE 2.0 applies for plan years beginning after December 31, 2025.

Proposed Changes for 2002 E-Delivery Safe Harbor

Under the 2002 safe harbor, electronic delivery is allowed for individuals considered “wired-at-work”, meaning employees who have the ability to effectively access electronic documents wherever they are reasonably expected to perform their job duties, and for whom access to their employer’s or plan sponsor’s electronic information system is an essential part of those duties. Electronic delivery is also permitted for participants and beneficiaries who have affirmatively consented to receive disclosures electronically. Only individuals who affirmatively consent to receive disclosures electronically retain a full right to opt out of e-delivery and revert to paper delivery.

What Changed Under SECURE 2.0

To implement Section 338 of SECURE 2.0, the proposed DOL rule would add a new condition to the 2002 safe harbor. If a plan relies on the 2002 safe harbor to deliver a mandatory paper benefit statement electronically, the plan would be required to provide a one-time paper notice to participants and beneficiaries who first become eligible after December

31, 2025, before delivering any pension benefit statement electronically. The notice must explain the individual’s right to request that all ERISA Title I disclosures be furnished on paper.

This new notice requirement applies only when the plan elects to deliver the mandatory paper benefit statement electronically under the 2002 safe harbor. If the mandatory paper benefit statement is delivered on paper, this new notice requirement does not apply—even if other ERISA disclosures are delivered electronically under the 2002 safe harbor.

Initial Paper Notice Explaining Global Electronic Delivery Opt-Out Option

Before delivering any benefit statement electronically, the plan would need to send a one-time paper notice to participants and beneficiaries who first become eligible after December 31, 2025. This notice is intended to ensure that new participants and beneficiaries clearly understand their delivery rights under ERISA. The one-time paper notice applies only if all of the following are true.

- The plan is a pension benefit plan;
- The disclosure is a mandatory paper benefit statement;
- The plan chooses to deliver that statement electronically instead of on paper; and
- The plan relies on the 2002 safe harbor (not the 2020 safe harbor).

The requirement is limited to a certain population that includes the following individuals as shown in the chart below.

2002 Safe Harbor Methods	Participant / Beneficiary Eligibility Timing	Paper Benefit Statements Required Per Calendar Year
Wired-at-Work	Eligible before 2026	None*
and	Eligible after 2025 and initial paper notice provided	None*
Affirmative Consent	Eligible after 2025 and initial paper notice not provided	All benefit statements must be delivered on paper

* “None” refers to the Section 338 mandatory paper benefit statement requirement; plans must still satisfy all other ERISA disclosure obligations. This chart applies to defined contribution plans.

Proposed Changes for 2020 E-Delivery Safe Harbor

Unlike the 2002 safe harbor, the 2020 safe harbor allows default electronic delivery based on the existence of a valid electronic address, without relying on wired-at-work status or affirmative consent. Under the 2020 safe harbor, plans may deliver covered documents through a notice-and-access model or direct email, provided participants first receive an initial paper notice explaining the move to electronic delivery and their right to opt out.

Definition of “Covered Documents” in the 2020 E-Delivery Safe Harbor

Under the 2020 safe harbor, plans may send a defined group of ERISA Title I disclosures electronically, referred to as covered documents. Prior to SECURE 2.0, this group included all pension benefit statements that must be provided to participants and beneficiaries. If a disclosure is a covered document, it may generally be delivered electronically, as long as the plan meets the other requirements of the 2020 safe harbor.

What Changed Under SECURE 2.0

Section 338 of SECURE 2.0 introduced a new requirement that certain benefit statements be delivered on paper—for example, at least one statement on paper per year for participant directed individual account plans—unless the participant or beneficiary chooses electronic delivery. To implement that change, the DOL’s proposal would make the following adjustments to the 2020 safe harbor.

- **Mandatory Paper Benefit Statement Requirements.** The DOL’s proposed changes to the 2020 safe harbor would clarify when and how mandatory paper benefit statements may be provided electronically or in paper form.
 - The mandatory paper benefit statement is removed from the list of covered documents.
 - All other pension benefit statements remain covered documents and continue to be eligible for electronic delivery under the 2020 safe harbor.

As a result, the mandatory paper benefit statement would no longer be considered a covered document and must generally be provided in paper form unless a participant or beneficiary instead elects electronic delivery.

To support that election, the proposal would also require each mandatory paper benefit statement to include clear, practical information explaining

- how a participant or beneficiary can choose electronic delivery of future benefit statements, and
- contact information (including a telephone number) for the plan sponsor, plan administrator, or another designated service provider.

In practice, this means that participants who want to fully transition to electronic delivery of retirement plan documents typically need to take just one step—request electronic delivery of the mandatory paper benefit statement.

- **No Fees for Paper Benefit Statements.** While the 2020 safe harbor allows participants to request one free paper copy of a covered document, in order to comply with Section 338’s prohibition on fees for any paper benefit statements, the proposed rule would prohibit plans relying on the 2020 safe harbor from charging any fees to participants or beneficiaries for paper copies of any pension benefit statements, even when a participant asks for multiple copies.

The following chart summarizes the key requirements for providing paper and electronic benefit statements under the 2020 safe harbor, as clarified by recent regulatory proposals.

2020 Safe Harbor Method	Participant / Beneficiary Eligibility Timing	Paper Statements Required Per Calendar Year
Notice & Access or email delivery	Applies to all covered individuals starting with the 2026 plan year	At least one paper statement per year, unless the participant or beneficiary affirmatively requests electronic delivery

Next Steps

If finalized as proposed, most participants and beneficiaries will continue to receive their retirement plan disclosures electronically, but plans will need to

- Ensure at least one paper statement is sent on the required schedule unless the participant or beneficiary meets an electronic delivery exception,
- Build or update processes for the new one-time paper notice for newly eligible individuals when using the 2002 safe harbor, and
- Confirm that no participant level fees are being charged for paper pension benefit statements under the 2020 safe harbor.

The DOL is accepting public comments on the proposed rule within 60 days of its February 25, 2026, publication in the *Federal Register*. Although SECURE 2.0 directed regulatory updates to the 2002 and 2020 safe harbors by the end of 2024, the paper benefit statement requirement applies only for years beginning after December 31, 2025. The DOL has also stated it will not pursue enforcement against action against plan administrators that comply, in good faith, with a reasonable interpretation of the proposal while final regulations are pending.

Futureplan will review updated guidance as it becomes available. For updates, visit futureplan.com.

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