

**MEMO# 31411**

September 27, 2018

# ICI Letter to DOL Regarding Default Electronic Delivery of ERISA-Required Notices

[31411]

September 27, 2018 TO: ICI Members  
Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: ICI Letter to DOL Regarding Default Electronic Delivery of ERISA-Required Notices

The Institute, along with the American Retirement Association (ARA), sent the attached letter to the Department of Labor (DOL). The letter relates to a meeting ICI and ARA had with DOL staff in June to discuss the benefits of electronic delivery and to review the 2018 update to the 2011 study, “Delivering ERISA Disclosure for Defined Contribution Plans: Why the Time Has Come to Prefer Electronic Delivery.”[\[1\]](#) President Trump recently issued an Executive Order, directing DOL to explore, in consultation with the Department of Treasury, “the potential for broader use of electronic delivery as a way to improve the effectiveness of disclosures and to reduce their associated costs and burdens.”[\[2\]](#)

In the letter, we encourage DOL to provide retirement plan sponsors the flexibility to establish electronic delivery as the default method for communicating with participants and delivering plan information. In responding to various questions posed by DOL staff in the meeting, the letter makes the following points:

- DOL has the authority to establish electronic delivery as the default delivery method for participant communication.
- Default electronic delivery satisfies ERISA’s requirement to “furnish” documents.
- Annual notice by postcard to enrolled participants not taking advantage of electronic delivery would ensure that participants are aware of ability to request disclosures and other plan communications.
- Evidence shows that participants are more likely to take action in response to materials provided electronically.
- Internet use is high across urban and rural locations. And, while access to high-speed or broadband is also nearly universal, such access is not crucial to achieving the benefits of e-delivery.

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## [Attachment](#)

### **endnotes**

[1] See ICI Memorandum No. 31186, dated May 1, 2018. Available at [https://www.ici.org/my\\_ici/memorandum/memo31186](https://www.ici.org/my_ici/memorandum/memo31186).

[2] See Executive Order on Strengthening Retirement Security in America, issued on August 31, 2018 and available at <https://www.whitehouse.gov/presidential-actions/executive-order-strengthening-retirement-security-america/>. The Executive Order directs the Department to complete a review of actions that could be taken to make retirement plan required disclosures more understandable and useful for participants and beneficiaries, while also reducing the costs and burdens they impose on employers and other plan fiduciaries.

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