

## Plan Sponsor Best Practices Webinar Series Retirement Plan Disclosures: New Electronic Delivery Rules

In this edition of NWCM's Plan Sponsor Best Practices webinar series, Advisor Scott Fisher led a discussion with ERISA attorney Alison Smith Fay on best practices for navigating the new DOL issued regulations for electronic disclosures. Click [here](#) to view the full presentation and stay tuned for details about upcoming webinars in this ongoing series!

### Speakers:



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## KEY TAKEAWAYS

The U.S. Department of Labor (DOL) announced a final rule on May 21, 2020 that allows employers to deliver retirement plan disclosures online or by email. This rule will be effective on July 27th, 2020.

- **Optional Safe Harbor:** The new safe harbor is voluntary and does not replace the prior DOL or consumer consent safe harbor for electronic delivery.
- **Covered Individuals:** Under the safe harbor, plan sponsors must establish that covered employees have computer/internet access (e.g., an email address or internet-enabled smartphone number).
- **Covered Documents:** Covered documents include documents that the plan is required to provide under ERISA, except for any document that must be furnished upon request.  
**Note:** *The new safe harbor does not apply to health or welfare benefit plan disclosures.*
- **Delivery Options:** Employers can choose to provide covered documents online, such as by posting on a website or mobile application and providing proper notification of the posting. This notice is referred to as the "Notice of Internet Availability" ("NOIA"). Alternatively, employers can provide the documents directly via email.  
**Note:** *The NOIA must be sent each time a covered document is posted.*
- **Initial Notice:** An initial physical notice must first be sent to covered individuals, informing them of the e-disclosures, confirming their email address, and providing the option to opt-out.  
**Note:** This notice is a requirement of the safe harbor, even if confirmative consent had previously been received.
- **Opt-Out Procedures:** Employers must establish reasonable procedures for handling employees that wish to opt out, as well as for ensuring that terminated employees receive covered documents after severance from employment.
- **Bounce Back Procedures:** Employers must establish a protocol for handling invalid or undeliverable emails. In the event an email bounces back, action must be promptly taken to resolve, such as using a back-up email address, obtaining a new email address, or treating the individual as an opt-out and sending physical copies.  
**Tip:** *Obtain a back-up email at the time of hire or enrollment.*

The information contained should not be considered official legal advice. Please contact your legal counsel for specific advice.