

Sharing Information Electronically

Distributing information about your retirement plan electronically can be quick and cost-effective. However, to comply with federal regulations, you must take care how you distribute the information. The method you choose must be reasonably calculated to ensure actual receipt of the material and to prevent individuals other than the intended recipient from receiving or gaining access to it.

Types of Information

Basically, you can electronically distribute almost any plan information, including:

- Summary plan description, summary of material modifications, summary annual report
- Benefit statements
- Section 404(c) investment information
- Plan loan information
- Qualified domestic relations order notifications

In addition, participants can give certain consents electronically.

Format

Acceptable electronic media include Internet and intranet websites, e-mail, computer disks, CD-ROMs, and DVDs. To ensure the actual receipt of the information, you can use return-receipt or notice of undelivered e-mail features or conduct periodic reviews or surveys to confirm receipt. Safeguards such as personal identification numbers (PINs) can help protect the confidentiality of personal information. Avoid providing access at a company kiosk or other common access point where someone else could potentially view the information. Bear in mind that kiosks are not an exclusively permissible method for distributing information.

The electronically delivered documents do not have to look exactly like the paper documents. But be sure to prepare and furnish them in a manner consistent with the style, format, and content requirements applicable to the particular document. Include a notice that informs the recipient of the importance of the document (for example, “the attached document describes changes in benefits offered by your plan”) and of the right to request and receive a paper version. The notice can be part of the electronic transmission or it can be a paper notice distributed concurrently.

Access and Consent

The type of electronic access a participant routinely has generally determines whether you need to secure the recipient’s affirmative consent to provide plan documents and information electronically. Generally, if the employee has effective access to electronic media at work as part of his or her regular duties, you don’t need prior consent. However, you will have to provide paper documents if the participant or beneficiary requests them.

For employees who do not have routine electronic access at work, beneficiaries, and other nonemployee recipients, you must obtain their affirmative consent to receive documents electronically. The consent must contain a clear and conspicuous statement informing the person of the types of documents to be disclosed, the right to withhold or withdraw consent and how to do so, the right to request paper documents, and the hardware and software requirements for accessing and retaining the documents.

Generally, for disclosures using the Internet or other electronic communication network, the consent must reasonably demonstrate that the person has the ability to access the information. You also must communicate changes in hardware or software that could affect access and offer recipients the right to withdraw consent after such changes. And they must consent to receiving documents in the new way.