

**Section 338.**

(last updated 1/19/2023)

**Title:** Requirement to provide paper statements in certain cases

**Effective Date:** Effective for plan years beginning after December 31, 2025.

**Mandatory or Optional:** Optional for Government Plans

**Plans Affected:** All

**Previous Law:** ERISA requires plan administrators to periodically furnish participants and beneficiaries with statements describing the individual’s benefit under the plan. In defined contribution plans, benefit statements must be provided at least once each calendar quarter, if the participant has the right to direct investments, and at least once each calendar year in other cases. In defined benefit plans, benefit statements must generally be delivered at least once every three years. DOL disclosure regulations include various document delivery safe harbors. DOL updated the disclosure regulations in 2020 to add a new safe harbor to the two existing safe harbors: (i) the 2002 safe harbor generally applies to individuals who either have (a) the ability to effectively access electronic documents at work through an electronic system, the use of which is an integral part of the employee’s duties; or (b) consented to receive notices electronically; and (ii) the 2020 safe harbor allows a plan administrator to utilize electronic media to furnish retirement plan notices where the plan administrator complies with certain notice, access, and other requirements and the participant does not opt-out of electronic disclosure.

**SECURE 2.0 Law:** Modifies the pension benefit statements requirement to generally require that:

- for a defined contribution plan, at least one statement must be provided on paper in written form for each calendar year; and
- for a defined benefit plan, at least one statement must be provided on paper every three years.

Exceptions allowed for plans that allow employees to opt in to e-delivery if the plan follows the 2002 safe harbor.

Also directs the Secretary to make changes by December 31, 2024 to the e-delivery rules to include certain participant protections including requiring a one-time initial paper notice, prior to the first pension benefit statement being delivered electronically, informing the participant of her right to receive all required disclosures on paper.

**Guidance and/or Correction Bills:**

- None