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DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2560

RIN 1210 – AB90

**Default Electronic Disclosure by Employee Pension Benefit Plans under ERISA;
Correction**

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects an inadvertent error in paragraph numbering in the final rule entitled “Default Electronic Disclosure by Employee Pension Benefit Plans under ERISA,” published in the Federal Register on May 27, 2020 (85 FR 31884). That rule adopted a new safe harbor for plan administrators to use to furnish information to participants and beneficiaries of retirement plans subject to the Employee Retirement Income Security Act of 1974.

DATES: Effective July 27, 2020.

FOR FURTHER INFORMATION CONTACT: Rebecca Davis, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693-8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The final rule the Department of Labor adopted on May 27, 2020, “Default Electronic Disclosure by Employee Pension Benefit Plans under ERISA” (E-Disclosure Rule), made a number of conforming amendments to affected sections of the Code of Federal Regulations (CFR). With respect to a cross

reference added to 29 CFR 2560.503-1, the numbering of paragraph (j) was incorrectly identified as paragraph (j)(1).¹ This document takes the administrative steps required to correct that error in the text of the CFR. This technical correction is a non-substantive, ministerial action that affects no legal rights or obligations and imposes no costs.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), does not require notice and an opportunity for public comment when the agency for good cause finds that notice and public comment are unnecessary, impracticable, or contrary to the public interest.

The Department finds good cause for dispensing with public comments because this document merely corrects a cross-reference in the E-Disclosure Rule. This technical correction will become effective on the same date as the E-Disclosure Rule and imposes no new or substantive requirement on the public. As such, the Department has determined that notice and the opportunity for public comment on this final rule are unnecessary.

Other Procedural Matters

This final rule has been determined to be not significant for purposes Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review). Because this final rule is not a significant regulatory action under Executive Order 12866, it therefore is not subject to Executive Order 13771 (Reducing Regulations and Controlling Regulatory Costs). In addition, no analysis is required

¹ 85 Fed. Reg. 31884, 31924 (May 27, 2020).

under the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1995, Publ. L. 104-4, because, as noted in the above discussion regarding applicability of the APA, the Department is not required to engage in notice and comment. This final rule does not have significant Federal implications under Executive Order 13132. This final rule also is not subject to requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, because it does not involve a collection of information as defined in 44 U.S.C. 3502(3).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that the agency promulgating an action must submit a report, including a copy of the action, to each House of Congress and to the Comptroller General of the United States before certain actions may take effect. This final rule is administrative and only makes a technical correction in the E-Disclosure Rule. The Department has determined for good cause, as described above, that notice and public procedure are unnecessary and that this technical correction will take effect on July 27, 2020.

List of Subjects in 29 CFR Part 2560

Employee benefit plans, Pensions.

For the reasons stated in the preamble, the Department amends 29 CFR part 2560 by making the following correcting amendment:

PART 2560 --RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT

1. The authority citation for part 2560 continues to read as follows:

Authority: 29 U.S.C. 1132, 1135, and Secretary of Labor’s Order 1-2011, 77 FR 1088 (Jan. 9, 2012). Section 2560.503-1 also issued under 29 U.S.C. 1133. Section 2560.502c-7 also issued under 29 U.S.C. 1132(c)(7). Section 2560.502c-4 also issued under 29 U.S.C. 1132(c)(4). Section 2560.502c-8 also issued under 29 U.S.C. 1132(c)(8).

2. Amend § 2560.503–1 by revising the second sentence of paragraph (j) introductory text to read as follows:

§ 2560.503–1 Claims procedure.

* * * * *

(j) * * * Any electronic notification shall comply with the standards imposed by 29 CFR 2520.104b–1(c)(1)(i), (iii), and (iv), or with the standards imposed by 29 CFR 2520.104b–31 (for pension benefit plans). * * *

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Signed at Washington, DC, June 12, 2020.

Jeanne Wilson,
Acting Assistant Secretary, Employee Benefits Security Administration,
Department of Labor.

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