U.S. Chamber of Commerce

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Via Electronic Delivery

October 9, 2023

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Request for Information – SECURE 2.0 Reporting and Disclosure: RIN 1210-AC23

To Whom it May Concern:

Below is the U.S. Chamber of Commerce's (Chamber) response to the Department of Labor's (DOL) Request for Information (RFI) published on August 11, 2023 in which DOL requested information relating to many of the reporting and disclosure requirements in SECURE 2.0. The Chamber appreciates DOL's reaching out to the regulated community, and we look forward to working with DOL on these and other SECURE 2.0 implementation issues.

Pooled Employer Plans: Section 344

Under section 344 not later than 5 years after enactment and every five years after, the Secretary of Labor (Secretary) must conduct a study on the pooled employer plan (PEP) industry and report it to Congress, including:

- The legal name and number of PEPs;
- The number of participants in such plans;
- The range of investment options provided in such plans;
- The fees assessed in such plans;
- How employers select and monitor such plans;
- The disclosures provided to participants in such plans;
- The number and nature of any enforcement actions by the Secretary;
- The extent to which such plans have increased retirement savings coverage; and
- Any additional information the Secretary determines necessary.

In the RFI, the DOL acknowledged that much of this information is not publicly available, and DOL requested how it may be able to obtain this information. Much of this information is not publicly available because it is confidential and/or proprietary information. As such DOL must make every effort to keep information confidential and the reports to Congress should be on generalized, aggregated and deidentified basis.

Question 3

Question 3 asked what an efficient and comprehensive method would be for determining the range of investment alternatives (excluding investments in brokerage windows) provided in PEPs. There is concern that disclosure of investment options by PEP will expose each PEP up to adverse scrutiny from the plaintiffs' bar. DOL should not list individual investments by each PEP, but instead report on the classes and types of investments available as required by the statute.

Question 4

Question 4 focused on how employers select a PEP. DOL asked for information on how PEPs are marketed to employers and whether the techniques vary by size. The RFI also asked whether employers rely on the advice of others, and, if so, whom? The RFI asks what the most efficient way is to solicit information on the steps employers take to select and monitor PEPs and to stay in PEPs. DOL suggested a public hearing, focus groups, questionnaires, online polling or other techniques and from whom this information should be gathered.

To begin with, the process for selecting a PEP as a service provider generally is no different than selecting any other service provider, and the employer will look at a variety of factors in determining first whether to provide retirement benefits through a PEP, a single employer plan or a multiple employer plan. The employer, often with the assistance of a trained retirement specialist, such as consultants, lawyers, or CPAs, will review the services, costs, quality, and available investment lineups, among other factors, and then compare these with the needs of its population.

DOL should not have a public hearing on this topic because much of this information is proprietary and individualistic to each employer and a public hearing would provide an opportunity for the plaintiffs' bar to solicit information for future lawsuits. To obtain this information, we suggest DOL go directly to the PEPs, HR and benefits consultants and service providers such as accountants and lawyers, who work with employers. However, DOL should not attribute any responses to a particular PEP or consultant. If they do speak with individual employers, the names of the employers should be kept confidential.

Question 5

Question 5 asked whether there are additional disclosures that are provided to PEP participants and whether there is additional or different information that should be provided to PEP participants versus participants in other defined contribution plans. We do not believe that PEP participants should be treated any differently than any other participants with respect to required disclosures.

Question 6

SECURE 2.0 requires the study to focus on the extent to which PEPs have ''increased retirement savings coverage in the United States.'' In Question 6, DOL asked how they should measure ''increased retirement savings coverage'' and what information DOL would need to

make this assessment. As DOL noted, some employers may have changed from a single employer plan to a PEP model, and this would not have increased coverage. However, many PEP providers track whether a new member is transferring an existing plan or whether it is a new plan. DOL could work with PEP providers on reporting this information every five years on an anonymous basis.

Emergency Savings Accounts Linked to Individual Account Plans: Section 127

Section 127 created pension linked emergency savings accounts (PLESA), which allow individuals to build up emergency savings in an account linked to an employer-sponsored retirement account.

Question 7

Question 7 asked what guidance plan administrators need to implement PLESAs, and, if so, what are the specifics and which agency (Treasury or DOL) should issue it. The following is a list of open questions and proposed answers relating to PLESAs.

- The statute provides that employees must meet "any age, service and other eligibility requirements of the plan" to enroll in a PLESA. DOL should clarify that a plan may have different eligibility conditions for making retirement and PLESA contributions (including more generous conditions to participate in PLESAs).
- The statute provides that contributions must be made within a reasonable time to the PLESA. Guidance on what is a reasonable time for making the contribution to the accounts and when distributions must be made after termination would be welcome. This guidance should provide a safe harbor that contributions made under rules applicable to elective deferrals will meet the safe harbor. With respect to distributions after termination, any guidance should provide that the distribution must be made within a reasonable time; however, no specific dates should be imposed because different administrators may need different timing.
- An individual who becomes an HCE may no longer make contributions. The statute uses the definition of HCE from Internal Revenue Code (Code) Section 414(q). Treasury should verify that an HCE for PLESA purposes is determined the same as under the Code and as elected by the retirement plan, namely for the compensation test the preceding year and may include the top 20 percent.
- The statute provides that there may not be a minimum contribution amount for a PLESA. However, most plans will provide that contributions must be a whole percentage of compensation or a round number (e.g., $50 per payroll). DOL should clarify that the minimum contribution requirement does not preclude requiring contributions to be either a percentage of pay or a whole dollar amount.
- The statute provides that accounts may be "subject to, as permitted by the Secretary of Labor [and Treasury], reasonable restrictions." Plan sponsors will be reluctant to set up accounts until Treasury and DOL determine what, if any, restrictions will apply. However, we believe the statutory restrictions are sufficient, and no others are necessary from the Agencies.

- The Secretaries must issue regulations within 12 months related to the anti-abuse provisions which provide that plans may use "reasonable procedures" to limit the frequency or amount of the match on PLESA contributions to prevent these matching contributions from exceeding the plan's intended amounts or frequency. Plans are not required to suspend matching contributions after participant withdrawals. DOL and Treasury should allow plans the maximum flexibility to implement procedures to deal with this. As such, DOL and Treasury should leave it to plans to devise their own procedures rather than applying a one size fits all approach.

Questions 8

Question 8 asked whether a model notice would be welcome. A model notice would be welcome, but it will need to be adjusted depending on a number of factors. Appendix A contains a model notice.

Performance Benchmarks for Asset Allocation Funds: Section 318

Section 318 requires DOL to update its regulation under ERISA section 404 no later than two years after the date of enactment with respect to designated investment alternative that contain a mix of asset classes to allow the plan administrator to use a benchmark that is a blend of different broad-based securities if:

- The blend is reasonably representative of the asset class holding;
- In determining the 1, 5, and 10 – year returns, the blend is modified at least once per year to reflect changes in the asset class holding;
- The blend is furnished reasonably calculated to be understood; and
- Each securities market index that is used for an associated asset class would separately satisfy the requirements of the regulation for the asset class.

Question 9

In the RFI, DOL asked whether there are other factors that plan administrators should use to ensure they can effectively select and monitor blended performance benchmarks. The DOL does not need to include other factors because this is dependent on the facts and circumstances of the particular investment. Furthermore, Imposing additional conditions likely would discourage the use of blended benchmarks, contrary to Congressional intent.

Defined Contribution Plan Fee Disclosure Improvements: Section 340

This section requires DOL to review 29 CFR § 2550.404a-5, relating to fiduciary requirements for disclosures in participant-directed individual account plans, including how the content and design of the disclosures may be improved to enhance participants' understanding of plan fees and expenses. The report to Congress must include its findings and recommendations for legislative changes.

Question 11

Question 11 asked whether the current information is adequate or inadequate in helping plan participants make informed investment decisions. And, if it is inadequate, is there evidence that it is tied directly to the regulation as opposed to other factors impacting financial literacy. The current disclosure requirements provide individuals the information needed to make investment decisions. However, whether individuals are using the information is unclear. To address this open question, DOL should conduct focus groups of participants and beneficiaries to determine how they are using the current information and how they prefer to have it presented. The focus groups should be diverse and consist of individuals of various ages, education, profession, income, race, gender, religion, geographies, etc. These focus groups also should include questions related to overall financial literacy because that likely is a key factor in participants not understanding fees and disclosures.

Question 12

Question 12 asked whether there is evidence that the current regulation could or should be improved to help participant understanding, such as additional or different content or different design, formatting delivery or other similar characteristics not currently required and how should such information be incorporated. See above comment.

Question 13

Question 13 asked whether the model comparative chart in the current regulations is helpful in making meaningful comparisons, and, if not, how could it be improved or are there other disclosures that satisfy the regulation that are more effective. See above comment.

Elimination of Unnecessary Plan Requirements Related to Unenrolled Participants: Section 320.

For plan years on and after December 31, 2022, a plan is only required to provide the following documents to unenrolled participants:

- An annual reminder notice of eligibility to participate in the plan and any applicable election deadlines; and
- Any document the participant requests and is otherwise entitled.

The annual reminder must:

- Be furnished in connection with the plan's annual open season election period or, if none, within a reasonable period before the beginning of each plan year;
- Notify the unenrolled participant of the participant's eligibility to participate and the key benefits and rights on under the plan, focusing on employer contributions and vesting provisions; and

- Provide the information in a prominent manner calculated to be understood by the average plan participant.

An unenrolled participant is an employee who:

- Is eligible to participate in the plan;
- Has been furnished the SPD and any other notices related to eligibility required under ERISA or the Code;
- Is not enrolled in the plan; and
- Satisfies any other criteria the Secretary determines is appropriate.

Question 14

Question 14 asked whether there is any guidance that plan administrators need or would find helpful in implementing section 320. No additional guidance is needed other than an optional safe harbor of at least 30 days before the beginning of the plan year to provide the notice.

Question 15

Question 15 asked if there are additional criteria DOL should consider for determining who is an unenrolled participant? Given that the purpose of this section is to make plan administration easier and more streamlined, it would be counterproductive to add more criteria other than what is in the statute.

Question 16

Question 16 asked if there is additional information DOL should consider for inclusion on the required annual notice. Again, if the purpose is to make administration easier, it would be counterproductive to require additional information other than what is in the statute.

Question 17

Question 17 asked if plan administrators would benefit from a sample notice, specifically with respect to "key benefits and rights under the plan, with a focus on employer contributions and vesting provisions." Although this language is similar to the language in 26 C.F.R. § 1.401(a)(4)-4, which provides rules for nondiscrimination testing for availability of benefits, rights and features under plans, DOL should not include the broad definition included in the Treasury regulation in the notice provisions of Section 320. Instead, the annual notice should reiterate the employee's right to participate in the plan, include a description or link on how to enroll and make elective deferrals, and include general information about employer contributions and vesting with a link to access specific plan information. Given that providing link will make the annual notice more accessible, a plan administrator should be able to default to provide the notice electronically, unless an individual asks for a paper copy.

DOL asks if a model is even feasible given the different plan designs. A model notice is included as Appendix B.

Requirement to Provide Paper Statements in Certain Cases: Section 338

Effective for plan years after December 31, 2025, at least one pension benefit statement in a calendar year for an individual account plan and at least one pension benefit statement furnished every three years for a defined benefit plan must be furnished on paper, except for:

- Plans that furnish the statements under the safe harbor in 29 CFR § 2520.104b-1(c) (2002 safe harbor); or
- Plans that permit a participant or beneficiary to request the statement to be delivered electronically and the participant or beneficiary has made the request.

Section 338 also requires the Secretary of Labor to update the 2002 safe harbor to provide that for pension benefit statements to be delivered electronically for individuals who first become eligible to participate (or become a beneficiary) after December 31, 2025, in addition to the other requirements, the plan furnishes each participant or beneficiary a one-time initial notice on paper in written form of their right to request all documents required to be disclosed under ERISA be furnished on paper in written form.

The Secretary also must update all electronic notice guidance other than the 2002 safe harbor to the extent necessary to ensure that:

- A participant or beneficiary is permitted the opportunity to request that any disclosure required to be delivered on paper is furnished electronically;
- Each paper statement furnished under the plan must include:
  - An explanation of how to request the statement and all required disclosures be delivered electronically; and
  - Contact information for the plan sponsor, including the telephone number;
- A plan may not charge a fee to a participant or beneficiary for the delivery of any paper statement;
- Each document required to be disclosed that is furnished electronically includes an explanation of how to request all such documents be furnished on paper.

Question 19

Question 19 asked what modifications or updates to the 2002 safe harbor are needed to implement Section 338. For example, should additional information be included or other standards apply to the one-time notice. The DOL gave the example that the 2002 safe harbor be modified to include an initial paper notice that resembles the initial paper notice required by paragraph (g) of the 2020 regulations.

SECURE 2.0 only requires that DOL update the 2002 safe harbor to provide that for pension benefit statements to be delivered electronically for individuals who first become

eligible to participate (or become a beneficiary) after December 31, 2025, the plan furnishes each participant or beneficiary a one-time initial notice on paper in written form of their right to request all documents required to be disclosed under ERISA be furnished on paper in written form. As such, any requirement for a one-time paper notice should only apply to such individuals and only with respect to pension benefits statements. The 2002 safe harbor has never required a one-time paper notice for the individuals who meet the "wired at work" requirements, and it should not be changed to require a paper statement for such individuals other than individuals hired after December 31, 2025 and only with respect to delivering benefits benefit statements. Furthermore, the 2002 safe harbor applies to all ERISA plans, and nothing in SECURE 2.0 directed DOL to change the delivery method for those plans.

To the extent that the 2002 safe harbor is updated to require a paper statement with respect to individuals hired after December 31, 2025 for pension benefits statements, any paper statement required under Section 338 should be allowed to be aligned with paragraph (g) of the 2020 safe harbor. A model integrated notice is included in Appendix C.

Question 20

Question 20 asked what modifications are needed to the 2020 safe harbor to implement Section 338. Other than requiring a one-time initial paper notice for certain participants as required by statute, there does not appear a need to update the 2020 safe harbor.

Question 21

Question 21 asked whether both safe harbors should be modified to condition use on an "access in fact", meaning that plan administrators would need to reliably and accurately determine whether an individual actually accessed or downloaded the disclosure or the length of time the individual accessed the document. The answer to this is no because it is beyond ERISA's disclosure requirements. Under ERISA, plan administrators' disclosure obligations are to either "furnish" documents by operation of law or upon request or to make them available for inspection at reasonable times and places.[1] The requirement to furnish a document does not include an obligation to determine whether someone actually opens or reads a document.

The long-time regulatory standard for delivery methods has been that the "the plan administrator shall use measures calculated to ensure actual receipt of the material."[2] There

[1] See ERISA § 104(b)(1) (requiring the SPD be "furnished"); ERISA §104(b)(2) (requiring the administrator to make "copies of the latest updated summary plan description and the latest annual report and the bargaining agreement, trust agreement, contract, or other instruments under which the plan was established or is operated available for examination by any plan participant or beneficiary in the principal office of the administrator and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Secretary may prescribe by regulations")). ERISA §104(b)(4) (requiring the administrator to "furnish" certain documents upon written request from participants and beneficiaries); and ERISA §105 (requiring administrators to "furnish" pension benefit statements).

[2] 29 CFR § 2520.104b-1 (b)(1).

has never been a requirement that the plan administrator must show actual access or that a participant opened the disclosures or the amount of time a participant spent reading the disclosure, and it should not now apply to electronic delivery.

The same question asked whether the current safe harbors should be conditioned on the plan administrator monitoring whether individuals actually visited the specific website or logged onto the website as a condition of treating website access as effective disclosure. And, if such monitoring reveals that individuals have not visited or logged onto the specified website, should the safe harbors require plan administrators to revert to paper or take some other action in the case of individuals for whom plan administrators know forsake such access. The answer to both of these is no. This is virtually an impossible requirement that would significantly add to the cost of plan administrator. Plan sponsors do not have the staff or the capabilities of doing this, and it would need to be outsourced, which would cost additional money that ultimately will be passed onto participants. As noted above, there is nothing in any of the ERISA disclosures regimes that requires a plan administrator to monitor whether someone actually opens or reads a disclosure. Finally, according to one service provider, to build an email and website tracking and reporting of this magnitude, would be a multi-million dollar IT spend that would increase cost dramatically but do nothing to actual increase participant understanding.

Consolidation of Defined Contribution Plan Notices: Section 341

No later than 2 years after the date of enactment, the Secretaries of Labor and the Treasury must adopt regulations providing that an ERISA plan may, but is not required to, consolidate 2 or more notices required under ERISA sections 404(c)(5)(B) (default investment notice) and Section 514(e)(3) (automatic contribution arrangement notice) and Code Sections 401(k)(12)(D) (safe harbor notice), 401(k)(13)(E) (qualified automatic contribution arrangement notice) and 414(w)(4) (eligible automatic contribution arrangement notice) into a single notice.

Question 22

Question 22 asked to what extent are regulations needed to implement this section. Other than providing a model notice, it does not appear that additional guidance is needed. The same question also asked what the administrative and legal impediments of consolidation are, which likely are that because each is a distinct requirement, it was assumed they would need to be separately accounted for. Finally, the question asked if there are other interested parties other than plans and participants. It is unclear what the point of this inquiry is, but there are no other interested parties with respect to this notice.

Information Needed for Financial Options Risk Mitigation: Section 342

Section 342 added a new ERISA Section 113 that requires advanced notice for plan amendments that offer a lump sum in place of annuity payments. It also requires disclosure to PBGC and DOL. The participant disclosure must include:

- Available benefit options, including the estimated monthly benefit at normal retirement age, whether there is a subsidized early retirement or QJSA, the monthly benefit amount if payment begins immediately and the lump sum amount;
- An explanation of how the lump sum was calculated including the interest rate, mortality assumptions, and whether any additional plan benefits were included, such as early retirement subsidies;
- The relative value of the lump sum option for a terminated vested participant compared to the value of an SLA and a QJSA;
- A statement that a commercial annuity comparable to the plan annuity may cost more than the amount of the lump sum and it may be advisable to consult an adviser;
- The potential ramifications of accepting the lump sum, including longevity risks, loss of PBGC protection, loss of protection from creditors, loss of spousal protection and loss of other ERISA protections;
- General tax rules related to accepting a lump sum, including rollover options and early distribution penalties and a disclaimer that this is not tax, legal or accounting advice with a suggestion that an adviser should be consulted;
- How to accept or reject the offer and the deadline; and
- Contact Information for the point of contact at the plan administrator.

The DOL and PBGC disclosure must include:

- The total number of participants and beneficiaries eligible for the lump sum option;
- The length of the lump sum window offered;
- An explanation of how the lump sum was calculated, including the interest rate, mortality assumptions, and whether any additional plan benefits were included, such as early retirement subsidies; and
- A sample of the participant notice.

Question 24

In question 24 DOL asked if there are any other "potential ramifications" of accepting the lump sum other than those listed in Section 113 (b)(1)(E) that should be included in the notice. Section 113(b)(3) provides that the "Secretary shall issue a model notice for purpose of subsection (a)(1)." However, it does not provide that the Secretary can add additional information not required by the statute. As such, no additional information should be included; however, the Secretary should provide that if plan sponsors wish to include additional information, doing so would not mean that they did not meet the notice requirements in Section 113.

Question 25

Question 25 asked whether transactional complexity, aging and cognitive decline and financial literacy are relevant factors DOL should consider when deciding to add to the list of potential ramifications. Although these factors could impact some individuals, they are just that, individual factors that cannot be addressed in a notice, other than by making the notices

shorter and more to the point. Including more information likely will not help with these factors. DOL noted in the RFI the complexity of choosing between an annuity and a lump sum payment and asked whether there are ways to structure and present the notice that would increase the likelihood of better decisions and retirement outcomes. Whether an annuity or a lump sum is a more appropriate option is highly individualized, and any notice should state that. There is no way that one notice can take into account every individualized situation, and the decision to accept either form ultimately is with the participant.

Question 26

Question 26 acknowledged that DOL must issue a model notice, and asks for samples of lump sum window notices. A model notice that includes only that information required by the statute is included in Appendix D. As noted above, in providing a model notice, DOL also should provide that it is not a breach of fiduciary duty to add additional information in the notice.

Question 27

In question 27, DOL asked whether DOL should use the 2015 ERISA Advisory Council Model Notice as a starting point for the Section 113 Model Notice. DOL should not use the 2015 Advisory Council Model Notice as a starting point. Although the Council meant this to be an unbiased model notice, it leans very strongly toward keeping an annuity payment rather than taking the lump sum. Instead, the starting point should be the statute itself, and only include those items listed in Section 113. However, DOL should make clear that a plan sponsor could include additional information, and such inclusion would not cause the plan administrator to incur a penalty under ERISA 502(c)(1) or be a cause of action under ERISA Section 502(a)(4).

Question 28

Question 28 asked what other data or information other than the number of participants who were eligible for the window should be reported to DOL and why. For example, DOL asked whether DOL should collect demographic information on who elected lump sums and why. DOL states this could enable DOL to provide Congress with more detailed information on the cohorts who did/did not accept lump sums. DOL should realize that which companies offer lump sum windows and which employees accept them contains very personalized financial information about such individuals, and, as such, it should seek to obtain and make public only the information specifically listed in the statute. Furthermore, if Congress had wanted DOL to obtain other information, it would have specifically stated what that information should be.

Conclusion

The Chamber appreciates the opportunities to comment on the RFI, and we look forward to working with DOL on this and other SECURE 2.0 provisions.

Sincerely,

Chantel Sheaks
Vice President, Retirement Policy
U.S. Chamber of Commerce

Appendix A
Pension Linked Emergency Savings Account Model Notice

NOTE: xx indicates areas where you must provide your own, unique information.

The ABC Company Retirement Plan (Plan) includes pension linked emergency savings accounts (PLESA) to help you build up short-term emergency savings. These accounts allow you easily to direct part of your paycheck to an emergency savings account. (xx For automatic enrollment). If you do not elect to opt out or change your contribution amount, you automatically will be enrolled in a PLESA. XX (enter percent amount) percent of your compensation will be contributed at each payroll period, up to $2500 each plan year (xx or enter the plan amount). (For opt in plans.) You may elect to contribute up to $2500 each plan year (xx or enter the plan amount) by enrolling in a PLESA. You can enroll in a PLESA by (xx Enter how to sign up).

You may not contribute to a PLESA if you are a highly compensated employee under the Plan. If you are a highly compensated employee, you will not be permitted to enroll in the PLESA. If you become a highly compensated employee after you have made contributions to your PLESA, you may keep your account and take distributions from your account even though you will not be able to contribute.

PLESA contributions are made on an after-tax basis and any earnings grow on a tax-free basis. Your account will be held or invested (xx enter how the account is invested). If you wish to change the way your PLESA is invested, you will need to (xx if participants may change investments, describe how or insert a link on how to change investments).

Once you reach the maximum contribution amount, your PLESA contributions will end, unless you take a withdrawal. In that case, you again will be allowed to make contributions until you once again reach the maximum contribution amount.

(xx OR)

Once you reach the maximum contribution amount, your PLESA contributions automatically will be directed to a Roth account under the Plan, unless you take a withdrawal from your PLESA. In that case, your PLESA contributions will once again be contributed to your PLESA until you reach the maximum contribution amount.

You may take a withdrawal from your PLESA (xx insert frequency). To do so (xx enter how to request a withdrawal). Your distribution will be made as soon as practicable after your request. (xx Add the following if fees are charged after the first four withdrawals). The first four withdrawals in the plan year (xx enter the plan year) are not subject to any fees, however, any withdrawals after that during the plan year will be subject to a $xx fee. Any paper checks will be subject to a $xx fee per check.

You may opt out or change how much you contribute by (xx describe how to opt out and/or change the election).

To see how much you have contributed, please log into your account at (xx enter instructions).

If your employment terminates, you may either rollover your PLESA to your Roth account under the Plan or you may take a distribution. Instructions on how to do either can be found at (xx insert link or a description on how to rollover amounts or take a distribution).

For more information on the PLESA option, please go to (xx insert link to PLESA homepage)

Appendix B
Annual Notice to Unenrolled Participants

NOTE: xx indicates areas where you must provide your own, unique information.

This notice is to remind you that you are eligible to participate in the ABC Company Defined Contribution Retirement Plan (Plan), which is sponsored by the ABC Company (Company). You can enroll in the Plan by (xx insert link or how to enroll).

Contributions

The following contributions are allowed under the Plan

Xx Non-safe harbor

(xx select all the contributions that apply to the plan)

Elective deferrals. Under the Plan, you may elect to contribute part of your compensation to the plan on a pre-tax [xx or Roth] basis. If you wish to make elective deferrals, you can get started here. (xx insert link on how to make elective deferral or describe how)

Matching contributions. If you make elective deferrals to the Plan, the company will match that amount up to (xx) percent.

Nonelective contributions. Once you are eligible under the Plan, you will qualify to receive a nonelective contribution from the company in the amount of (xx insert amount or formula), regardless of whether you make a contribution. (xx add the following if it is discretionary). Each year, the company will decide whether it will make a nonelective contribution to the Plan on behalf of eligible employees, regardless of whether you contribute.

Xx Safe Harbor

(xx select the type that applies to the plan)

The Plan is a safe harbor plan. This means that the Company is required to make an employer contribution to eligible employees as follows:

Basic Match

The Company matches 100% on the first 3% of deferred compensation, plus a 50% match on the next 2% of deferred compensation.

Enhanced Match

The Company will match (xx) percent, up to (xx) percent of deferred compensation.

Nonelective Contribution

The Company contributes (xx) percent of each eligible employee's compensation, even if you don't make any elective deferrals.

Vesting

Vesting means how much of your account you own. Please see below for an overview of the vesting rules for the Plan. For more information on when contributions in your plan account will vest, refer to the Summary Plan Description. (xx Insert link)

Elective deferrals.

All elective deferrals are always 100% vested because it is your money

Xx Safe harbor plans (select the appropriate employer contribution below)

Your matching contributions are 100% vested.

Your non-elective contributions are 100% vested.

Xx Non-safe harbor plans

Matching Contributions

(xx insert the appropriate vesting schedule).

Your matching contributions are fully vested after 3 (xx or other) years of service.

Your matching contributions do not all vest at once. Instead, you become vested in a percentage of your matching contributions each year. The table below shows that percentage.

Xx insert table.

Nonelective Contributions

Your nonelective contributions are vested after 3 (xx or other) years of service.

Your nonelective contributions do not all vest at once. Instead, you become vested in a percentage of your nonelective contributions each year. The table below shows that percentage.

Xx insert table.

Further Information

There are many other features to the Plan, such as when you can access your savings and how you can invest your plan contributions. For more information about the Plan, please refer to the Summary Plan Description (xx Insert link) or call your plan administrator at 555-555-5555 (xx insert number) to obtain a copy.

Appendix C

Integrated Initial Notice

NOTE: xx indicates areas where you must provide your own, unique information.

Important: Notification about document delivery method

Dear Plan Participant:

As allowed under federal law, the ABC Company Plan (Plan) automatically enrolled you in the electronic notification and delivery service for documents and notices under the Plan. You will be notified by email (xx or other media) when a Plan document or notice is available. The notice will include information about where and how to access it on the Plan website and/or mobile app.

Please verify your contact information. To make sure you receive Plan communications, we want to make sure we have a valid and current contact information for you. The email address(es) (or phone number) we have on record and to which we will send notifications is/are: xx@gmail.com and xx@yahoo.com and xxx-xxx-xxxx.

You can manage your account by logging in at xx or through the mobile app, where you can:

- Update your email address and contact information. If you are unable to make changes or access this, please email us at xx@plan.com or call at 555-555-5555.
- Access Plan documents, by xx.
- Opt-out our cancel your enrollment in the electronic notification delivery service and instead receive paper copies of all Plan documents that are required to be disclosed under the Employee Retirement Income Security Act of 1974, free of charge. You can make this change any time.

Documents are available on the website and/or the app for one year or until superseded.

If you have questions, you can live chat with a representative by logging into xx or you can call us at 555-555-5555.

Appendix D

Lump Sum Window Sample Notice

NOTE: xx indicates areas where you must provide your own, unique information.

Dear xx:

This letter is to notify you that you are eligible to elect a lump sum option from the ABC Company Defined Benefit Pension Plan (Plan) instead of an annuity option. This letter contains important information regarding your available payment options under the Plan, and you may wish to contact a professional adviser before deciding which option to take.

In addition to the lump sum benefits option, you are also eligible for a single life annuity or a qualified joint and survivor annuity. XX You are also eligible for a subsided early retirement annuity.

Your estimated monthly benefits at normal retirement age for a single life annuity is xx. The amount of a qualified joint and survivor annuity will depend on the age of your spouse on your retirement date.

If payment begin immediately after you decide on the form of benefits, your single life annuity amount is xx and the lump sum option is xx.

The lump sum option reflects the actuarial equivalent of your current vested benefit that would have been paid as a monthly amount. To make this determination, the Plan used the following factors to covert the monthly stream of payments to a lump sum option:

Interest Rate:

Mortality Assumptions:

Xx Other plan benefits included in the calculation:

If you decide to purchase a commercial annuity with your lump sum benefit, a commercial annuity comparable to the plan annuity may cost more than the amount of the lump sum and it may be advisable to consult an adviser. You also may wish to consult a tax professional regarding the tax implications of receiving a lump sum, rolling over a lump sum or selecting the monthly payment options. Different options have different tax benefits and consequences. For example, if you rollover a lump sum to an IRA or other qualified plan, you generally will not need to pay taxes when you roll it over. Also, there may be additional penalties, such as a 10 percent penalty, if you elect a lump sum benefits before age 59 & ½ rather than an annuity.

Your pension is typically insured by the Pension Benefit Guaranty Corporation (PBGC). This means that if the Company declares bankruptcy or cannot make its payments, the PBGC guarantees your payments up to a certain amount. Your pension payments are also protected against certain creditor claims. When you take a lump-sum payout, you lose these protections.

Finally, if you are married and elect to receive your annuity with a survivor benefits, your spouse will receive a benefit after you die, which is not available for a lump sum.

There are many tax, legal or accounting consideration you must review in deciding whether to take your benefits as a lump sum or an annuity. This letter is not tax, legal or accounting advice, and you should contact an adviser before making your decision.

To accept to receive your benefits as a lump sum, please complete the enclosed form by xx and send it according to the instructions on the form by **5 pm Eastern Standard Time on xx, xx, 20xx.** If you have any questions, please contact the plan administrator at johndoe@company.com or by calling 555-555-5555.