



July 5, 2024

Submitted electronically via email

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

RE: Request for Information on SECURE 2.0 Section 319, Effectiveness of Reporting and Disclosure Requirements (RIN 1210-AC09, 1212-AB58, 1545-BQ98)

Dear Sir or Madam:

In connection with our comments submitted on May 21, 2024,¹ on the request for information (RFI) jointly issued by the Internal Revenue Service, the U.S. Department of Labor's Employee Benefits Security Administration, and the Pension Benefit Guaranty Corporation (PBGC), the American Benefits Council ("the Council") is submitting supplemental comments regarding an issue that was brought to our attention after the comment period for the RFI had closed. Our supplemental comments relate to the notice of plan benefits that an administrator of a terminating plan is required to send to individuals who are plan participants as of the termination date.

The Council is a Washington, D.C.-based employee benefits public policy organization. The Council advocates for employers dedicated to the achievement of best-in-class solutions that protect and encourage the health and financial well-being of their workers, retirees and their families. Council members include over 220 of the world's largest corporations and collectively either directly sponsor or support sponsors of health and retirement benefits for virtually all Americans covered by employer-provided plans.

¹ The Council's comments on the agencies' RFI are available at <https://www.regulations.gov/comment/EBSA-2024-0001-0009>.

NOTICE OF PLAN BENEFITS UPON TERMINATION

Under PBGC regulations, a plan administrator of a terminating plan “must, no later than the time the plan administrator files the standard termination notice with the PBGC, issue a notice of plan benefits to each person ... who is an affected party *as of the proposed termination date*” (emphasis added).² The notice of plan benefits must include, among other things, information about the proposed termination date, contact information for an individual who can answer questions concerning plan benefits, and information about the participant’s plan benefits.

Because such notices may be issued up until 180 days after the plan’s termination date,³ in practice, a plan can have many individuals who are no longer plan participants as of the date the notice of plan benefits is sent. For example, this could include plan participants who received a lump sum payment between the date of the plan termination and the date the notice of plan benefits was mailed out by the plan administrator. While the notice of plan benefits is intended to provide helpful information, it only serves to confuse participants when they are not owed a benefit at the time the notice is sent.

To avoid creating these types of misunderstandings in the plan termination process, the Council requests that the PBGC not require a terminating plan to send a notice of plan benefits to individuals who are no longer a plan participant as of the date the notice of plan benefits is sent. We believe that this change would streamline the plan termination process and create less confusion among former plan participants. Moreover, the Council believes that a terminating plan should not be required to send *any* communications to individuals who are not plan participants as of the date the notice of plan benefits is sent, particularly communications which include references to a specific benefit amount that was either distributed or that the individual is not entitled to receive.

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Thank you for considering the Council’s supplemental comments on the agencies’ RFI on reporting and disclosure requirements. If you have any questions or if we can be of further assistance, please contact me at 202-289-6700 or ldudley@abcstaff.org.

Sincerely,



Lynn D. Dudley
Senior Vice President, Global Retirement and Compensation Policy

² 29 C.F.R. § 4041.24(a).

³ *Id.* §§ 4041.24(f), 4041.25(a).