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eDelivery

Background

Investors need a range of information to ensure they are engaged and knowledgeable when making decisions. Financial firms and plan sponsors are currently subject to a patchwork of federal requirements governing how, when, and in what manner legally required disclosures can be delivered to investors. Currently, investors are defaulted into receiving paper documents; Fidelity alone sends 42 million paper shareholder reports annually, inundating our customers with paper.[1] Paper is not the optimal delivery vehicle for many Americans for a variety of reasons.

Issue

Investors and the industry have identified numerous benefits to making electronic delivery ("eDelivery") the first choice for investors; however, the process to adopt eDelivery under current law can deter many potential users.

The benefits are clear. Investors who opt for eDelivery are empowered to take action and have higher levels of engagement with their investments and higher contribution rates. Retirement savers with eDelivery have contribution rates 72% higher than those without eDelivery and are three times as likely to be saving a sufficient amount for retirement.[2] Additionally, eDelivery may allow millions of Americans to access their information in a more effective and accessible manner. Over 10 million blind or visually impaired Americans use screen readers and other assistive technologies to access digital content.[3] This content it is often much easier to access via electronic delivery versus paper. Lastly, as sustainability continues to be a concern for Americans, our customers and clients push us to minimize wasteful paper use.

Despite these benefits and an increasing preference for eDelivery, investors must manually opt-in through required processes that vary by regulator to have their documents delivered electronically. Additionally, laws governing eDelivery have not been updated to reflect 21st century technology; the most recent changes were made a decade ago, and some have not been updated since the 1990s. Today, 93% of households owning mutual funds have access to the Internet – a very different landscape from when the laws were first enacted.[4]

While the private sector is still subject to archaic delivery laws, the federal government has moved in the direction of electronic delivery. The government's Thrift Savings Plan (TSP) has eDelivery as its default; private retirement plans should be allowed to follow the same standard. Additionally, the U.S. Department of the Treasury stopped mailing paper checks to Social Security beneficiaries on March 1, 2013, and also discontinued issuing paper bonds through payroll savings plans to reduce the cost of the savings bond program and lower the expense to the taxpayer. All federal benefit recipients now receive their payments by direct deposit. Finally, the Internal Revenue Service (IRS) no longer mails paper tax forms to individual and business taxpayers. The IRS says "....the fastest and easiest way to get your tax refund is to e-file and use direct deposit."[5] E-file has become so popular that over 90% of individual taxpayers now e-file tax returns. The government should allow the private sector to apply these same standards.

1 The SEC has already addressed this issues 2018, with final Rule 30e-3
2 "Improving Outcomes with Electronic Delivery of Retirement Plan Documents," Spark Institute (2015).
3 https://nfb.org/fact-sheet-blindness-and-low-vision
4 "Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet," Investment Company Institute, 2018.
5 https://www.irs.gov/refunds/get-your-refund-faster-tell-irs-to-direct-deposit-your-refund-to-one-two-or-three-accounts

Policy Landscape and Recommendations

Fidelity believes that eDelivery should be the default means of communication and disclosure. However, in our commitment to serve all customers, we want to be sure that the few who still need or prefer paper will continue to receive it. Every initiative Fidelity supports ensures that paper will always be available upon request. Fidelity believes all participants and beneficiaries should receive notice informing them of a clear and easy way to continue to receive paper copies of communications.

In any policy changes considered, we believe rules governing distribution of financial disclosures should be updated to make eDelivery the default distribution method. Additionally, rules regarding eDelivery should not be overly burdensome or complex for the plan sponsor and/or service provider, and to the maximum extent possible, should provide simple, cost-effective, and convenient access to benefit information for retirement plan participants and beneficiaries.

Securities and Exchange Commission: We applaud the SEC's recently finalized rule to allow for default electronic availability of shareholder reports. The new rule will allow mutual funds to deliver shareholder reports via an optional new "notice and access" method, creating an opt-out regime for eDelivery.

Other regulatory and legislative entities continue to consider other changes that would positively affect customer experience.

Congress:

- Congress should pass the bipartisan, bicameral Receiving Electronic Statements To Improve Retiree Earnings (RETIRE) Act to allow eDelivery to become the default distribution method for workplace retirement plans.
- It should also update the Electronic Signatures in Global and National Commerce Act (E-Sign), which was enacted in 2000 and has not been revised since. Since E-Sign's enactment, federal agencies that maintain jurisdiction over electronic disclosures have implemented inconsistent rules, causing confusion among industry and consumers alike. We recommend amending the consumer consent requirement for document delivery to allow for consent through an advance notice and opt-out method. We also recommend eliminating the "electronic consent" or confirming consent electronically requirements (since, for example, these prevent individuals from consenting by phone) and eliminating the provision that allows state or federal laws and regulations to preempt E-Sign.

Department of Labor: The Department of Labor should expand its current safe harbor to make eDelivery the standard delivery method for all required plan disclosures, and allow notice of available information via text, email, website, or other platform. To provide plan sponsors additional flexibility, DOL should only require that participants "enrolled" in the plan receive many disclosures, rather than all "eligible" (but not enrolled) employees.

White House: The Trump administration recently issued an executive order directing federal agencies including the Department of Labor and Department of Treasury to evaluate alternative means of delivering disclosure, including eDelivery. In addition to more effective delivery, the White House has urged policymakers to consider more effective forms of disclosure.

Fidelity's customers can elect to receive their documents via eDelivery at any time, an option we make available on our website. That allows customers to choose which documents they receive electronically, print or request paper copies as needed, and maintain an electronic resource. More can be done to make it easier for all customers to experience the benefits of eDelivery.

In addition to our commitment to our customers, Fidelity is focused on ensuring that policies create an online experience that empowers investors. We will continue to advocate for thoughtful, accessible policies that encourage investor engagement and understanding.

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