Fact Sheet

Pension Benefit Statements - Lifetime Income Illustrations

U.S. Department of Labor
Employee Benefits Security Administration
August 18, 2020

Today, the Department of Labor's Employee Benefits Security Administration (EBSA) announced an interim final rule (IFR) for administrators of defined contribution retirement plans, such as 401(k) plans. EBSA is issuing the rule in response to the Setting Every Community Up for Retirement Enhancement Act of 2019 (the SECURE Act). The interim final rule is for defined contribution plans that are required, under the new SECURE Act provisions, to include two lifetime income illustrations on participants' pension benefit statement at least once every 12 months. The IFR reflects amendments made to section 105 of the Employee Retirement Income Security Act (ERISA) by the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act). The IFR also provides the public an opportunity to comment on the IFR's methodologies, requirements, and model language before publication of a final rule.

> EBSA believes that illustrating a participant's account balance as a stream of estimated lifetime payments, in accordance with the IFR, will help workers in defined contribution plans to better understand how their account balance translates into monthly income in retirement and therefore to better prepare for retirement.

Background

- EBSA is responsible for more than 660,000 defined contribution plans that are covered by the Employee Retirement Income Security Act of 1974 (ERISA), as well as the approximately 102 million workers who participate in these plans.

- Section 105 of ERISA requires administrators of defined contribution plans to provide participants with periodic pension benefit statements. Benefit statements must be furnished at least annually, unless the plan allows participants to direct their own investments in their individual accounts, in which case benefit statements must be furnished at least quarterly.

- Benefit statements must indicate a participant's "total benefits accrued" based on the plan's latest information, which for defined contribution plans is the participant's account balance.

- In recent years, EBSA has been evaluating the role of lifetime income strategies in defined contribution plans. EBSA published an Advanced Notice of Proposed Rulemaking in 2013, which proposed requiring lifetime income illustrations in pension benefit statements, and, along with the

Department of the Treasury, published a Request for Information about lifetime income and related issues in 2010.[1]

- In December of 2019, Congress passed the SECURE Act. Section 203 of the SECURE Act amended section 105 of ERISA to require plan administrators to include two illustrations of a participant's account balance converted to a lifetime income equivalent – one as a single life annuity (SLA) and another as a qualified joint and survivor annuity (QJSA) – at least annually. The SECURE Act also directed the Department to, within one year of the Act's enactment, prescribe the actuarial and other assumptions necessary for plan administrators to convert an account balance into an SLA and QJSA and to issue model disclosures and an interim final rule.

Overview of the IFR

General Regulatory Assumptions

The IFR contains assumptions that plan administrators must use to calculate the monthly payment illustrations of participants' account balances as SLAs and QJSAs:

- ***Assumed commencement date:*** On what date will the annuity payments begin? Plan administrators must calculate monthly payment illustrations as if the payments begin on the last day of the benefit statement period.

- ***Assumed age:*** How old is the participant on the annuity start date? Plan administrators must assume that a participant is age 67 on the assumed commencement, which is the Social Security full retirement age for most workers, or the participant's actual age, if older than 67.

- ***Assumed Spousal and Survivor Benefits:***

    - What is the SLA benefit? Plan administrators must illustrate a Single Life Annuity, which will pay a fixed monthly amount for the life of the participant, with *no* survivor benefit after the participant's death.

    - What are the QJSA spousal assumptions? Plan administrators must assume that all participants have a spouse of equal age, regardless of a participant's actual marital status or the actual age of any spouse.

    - What is the QJSA survivor benefit? Plan administrators must use a Qualified Joint and 100% Survivor Annuity, which will pay a fixed monthly amount for the life of the participant, and the same fixed monthly amount to the surviving spouse after the participant's death.

- ***Assumed interest rate:*** Plan administrators must use the 10-year constant maturity Treasury rate (10-year CMT) as of the first business day of the last month of the statement period to

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[1] *See* 78 Fed. Reg. 26727 (May 8, 2013) and 75 Fed. Reg. 5253 (Feb. 2, 2010). The Department also held a public hearing to consider issues raised by commenters on the 2010 Request for Information. *See* 75 Fed. Reg. 48367 (Aug. 10, 2010).

calculate the monthly payments. The 10-year CMT approximates the rate used by the insurance industry to price immediate annuities.

- ***Assumed mortality:*** How should life expectancy be determined? Plan administrators must use the gender neutral mortality table in section 417(e)(3)(B) of the Internal Revenue Code – the mortality table generally used to determine lump sum cash-outs from defined benefit plans. The use of gender neutral mortality tables is consistent with *Arizona Governing Comm. for Tax Deferred Annuity and Deferred Compensation Plans v. Norris*, 463 U.S. 1073 (1983).

- ***Example Illustration:*** The following example illustrates the application of all of these regulatory assumptions:

Facts: Participant X is age 40 and single. Her account balance on December 31, 2022, is $125,000. The 10-year CMT rate is 1.83% per annum on the first business day of December. The benefit statement of this participant would show:

Current Account Balance	$125,000
Single Life Annuity	$645 per month for life (assuming Participant X is age 67 on December 31, 2022)
Qualified Joint and 100% Annuity	$533 per month for participant's life, and $533 for the life of spouse following participant's death (assuming Participant X and her hypothetical spouse are age 67 on December 31, 2022)

Special Rules for In-Plan Annuities

- ***In-Plan Distribution Annuities:*** Defined contribution plans that ***offer*** in-plan distribution annuities through a contract with a licensed insurer have the option of using the IFR's regulatory assumptions or basing the lifetime income illustrations on the ***actual terms of the plan's insurance contract***, subject to certain limitations. If a plan administrator opts to base the Illustrations on the terms of the insurance contract, the plan administrator still must provide monthly payment illustrations under both SLA and a QJSA scenarios and assume that: (1) payments commence on the last day of the statement period, (2) the participant is age 67 (unless older) on such date, and (3) the participant has a spouse the same age.

- ***Deferred Income Annuities:***

  - The IFR provides separate disclosure requirements for plans that allow participants to purchase ***deferred income annuities*** (DIAs), which will ***pay a specified dollar amount*** to participants at retirement.

  - Any portion of a ***participant's account that is not invested in DIAs*** must be ***converted into a SLA and QJSA*** pursuant to the IFR's assumptions and other requirements.

Model Language

- The IFR requires various explanations about the estimated lifetime income payments that plan administrators must provide to participants. These explanations will help participants understand, among other things, how the plan administrator calculated the estimated monthly payments and, importantly, that these estimates are illustrative only and are not guarantees.

- The IFR provides model language that may be used for each of the required explanations. This approach provides plan administrators with flexibility to separately integrate the model language, as discrete inserts, into their existing pension benefit statements, if they so choose, without disturbing the existing format and presentation of their statements. Alternatively, plan administrators who prefer a more addendum-like approach may instead use one of the two Model Benefit Statement Supplements found in the Appendices to the IFR.

Relief from ERISA Liability

- ***Liability Relief for Illustrations:*** Generally, the IFR provides that no plan fiduciary, plan sponsor, or other person will be liable under ERISA for providing a lifetime income illustration that satisfies the requirements of the IFR. This relief from liability addresses the concern of plan fiduciaries that participants might sue them if actual monthly payments in retirement fall short of illustrations provided prior to retirement.

- ***Specific Conditions for Relief:*** To qualify for this relief, the plan administrator must derive the lifetime income equivalents (i.e., the SLA and QJSA) using the assumptions set forth in the IFR and must use the IFR's model language, or language substantially similar to the model language, in participants' benefit statements.

Costs & Benefits

- ***Benefits:*** EBSA anticipates that the IFR will provide two primary benefits to participants: (1) strengthening retirement security by encouraging those currently contributing too little to increase their plan contributions; and (2) making lifetime income information readily available, which will save some participants time in understanding how prepared (or unprepared) they are for retirement. EBSA also expects that the IFR will benefit plan administrators by providing a roadmap for them to significantly reduce the potential liability exposure associated with providing lifetime income illustrations.

- ***Costs:*** EBSA estimates that in the first year, total costs associated with the IFR will be $201 million. In subsequent years, EBSA expects costs to be substantially lower ($6.6 million in the second year and $4.8 million in the third year), because development costs are one-time costs and comprise a substantial share of the total costs, and recordkeepers and plan administrators will have more experience preparing and providing the illustrations.

Timing & Effective Date

- ***Effective Date:*** The IFR will be effective one year after its publication in the Federal Register.

- ***Final Rule:*** EBSA intends to issue a final rule sufficiently in advance of the IFR effective date, after reviewing the public comments received on the IFR. A final rule would supersede the IFR.

Public Notice & Comment on the IFR

EBSA invites comments on the IFR from interested persons. Comments are due no later than 60 days after publication of IFR in the Federal Register. Public comments can be submitted electronically to the Federal eRulemaking portal at www.regulations.gov. All comments received will be available to the public, without charge, online at www.regulations.gov and www.dol.gov/agencies/ebsa and in the EBSA Public Disclosure Room.