

# PREPARING FOR MANDATORY LIFETIME INCOME DISCLOSURES FOR DC PLANS

As part of the overall movement toward financial wellness, Congress and the Department of Labor (DOL) are focused on giving retirees more visibility into how retirement savings translate into lifetime income. In the Setting Every Community Up for Retirement (SECURE) Act of 2019, Congress required an annual lifetime income disclosure for ERISA defined contribution plans. In August 2020, the DOL issued an interim final rule (IFR) that implements this lifetime income disclosure requirement and provides specifics on what plan sponsors must do to follow it.

The DOL's IFR lays out the specific assumptions that are required for calculating the annuity amounts and provides model language that plan sponsors can use to describe the calculations. Plan sponsors are allowed to go beyond these baseline requirements, but they need to understand that doing so creates potential liability.

## **Income Disclosure Required At Least Annually in Two Ways**

The rule requires plan sponsors to provide participants' account balances and illustrate those amounts at least annually in the following two ways:

- Monthly payments in the form of a single life annuity (SLA)
- Monthly payments in the form of a qualified joint and survivor annuity (QJSA)

The rule doesn't require plan sponsors to offer annuities; annuities are simply the method used to give plan participants a sense of their monthly income at retirement. This information is expected to help participants assess their preparedness for retirement and potentially encourage participants who are behind in their retirement savings to increase their contribution amounts.

The interim final rule will take effect on September 18, 2021 and will apply to benefits statements made after that date. Because this is an interim rule, the DOL is taking public comments into consideration before issuing a final version (the comment period closed as of November 17, 2020). The DOL has stated that it intends to issue a final rule in advance of the effective date.

## **Required Assumptions for Lifetime Income Calculations**

The rule outlines four key pieces of information to be used in the SLA and QJSA calculations:

- Participant's vested account balance on the last day of the statement period
- Start date for annuity payments and participant's age at that time (the calculation assumes that the participant's annuity will begin at age 67, unless the participant at the time happens to be older than 67, in which case the calculation uses the participant's current age)
- Participant's marital status (note that even if a participant isn't married, plan sponsors are still required to show a joint survivor annuity, which assumes that the participant's spouse is the same age as the participant)
- 10-year Constant Maturity Treasury (CMT) securities yield rate that will be used in conjunction with the appropriate mortality table

## **Required Explanations and Model Language**

Alongside the lifetime income illustrations, plan sponsors must include brief, understandable explanations of 11 items. These items include: benefit start date and age assumptions; marital, interest rate, and mortality assumptions; definitions of SLAs and QJSAs and how they work; the fact that these illustrations are estimates only and don't constitute guarantees; and other factors to consider which may significantly influence monthly payments.

Plan sponsors can choose to use the DOL's Model Benefit Statement, which provides model language for each of the required explanations. Plan sponsors can choose to modify the model language to a limited extent, but the DOL has stated that the language used must be substantially similar to the DOL's model language.

## **Going Beyond the Standard Disclosures May Create Liability**

Many plan sponsors have expressed concern that the DOL's required baseline assumptions lead to an inaccurate illustration of lifetime income for several reasons, including the fact that they don't consider any future contributions from participants. If plan sponsors feel that the required disclosures don't accurately portray the full picture, the DOL allows plan sponsors to include expanded illustrations as long as they are clearly explained and reasonable assumptions are used.

But plan sponsors that are worried about liability issues may want to stick closer to the language in the ruling. The DOL has stated that plan sponsors who use the regulation's assumptions and model language won't be held liable under the law if a participant is unable to purchase an annuity equivalent to the provided illustrations.

The DOL's rule may not be perfect. But plan sponsors should understand that sticking to the model language is the safest route to avoid potential liability. Plan sponsors should review their participant statements and work with their service providers to ensure they are in compliance with the rule once it becomes effective. Your representative can help you review the DOL's interim final rule.