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PENSION ANALYST

Important information—Plan administration and operation

DOL issues interim final rules on lifetime income illustrations

Who's affected

These rules apply to sponsors of and participants in qualified defined contribution covered by ERISA and ERISA 403(b) plans, regardless of whether the plan offers annuities or lifetime income investment options. While plans that are not covered by ERISA are not required to comply with these rules, sponsors of non-ERISA plans may follow them as a best practice.

Background and summary

Under the SECURE Act, defined contribution participant benefit statements are required to include a lifetime income disclosure at least annually. The disclosure is required to set forth the monthly lifetime income stream equivalent of the participant's total account balance in the form of a qualified joint and survivor annuity and a single life annuity based on assumptions provided by the Department of Labor ("DOL").

On August 18, 2020, the DOL issued an interim final rule regarding lifetime income illustrations ("LIIs"). The LIIs are estimated monthly payments based on a single life annuity and 100% qualified joint and survivor annuity, displayed on the same pension benefit statement annually. Both illustrations are required regardless of whether the participant is single or married. The illustrations are intended to help participants better understand how the amount of money they have saved so far converts into an estimated monthly payment for the rest of their lives, and how this impacts their retirement planning. The regulation provides a set of assumption to be used in preparing the illustrations, as well as model language that may be used for benefit statements by plan administrators who wish to obtain relief from liability for the illustrations. A plan may provide other lifetime income illustrations or calculators in addition to those required by this rule but providers of such other material don't automatically get relief from liability.

These rules are effective on September 18, 2021, and apply to pension benefit statements furnished after that date. The DOL is seeking comments on these rules and intends to issue final rules prior to the effective date, with an adoption date sufficiently in advance of the effective date.

Action and next steps

Prudential Retirement is working with industry groups to provide comments on the interim final rules and will make changes to statements to ensure the illustrations are added by the required time frame.

In this issue

Overview and scope

At least annually, defined contribution plan administrators are required to furnish a benefit statement that includes certain lifetime income illustrations (LII). These illustrations are based on the value of the participant's account balance as of the last day of the statement period and must be expressed as a lifetime income stream payable in equal monthly payments for the life of the participant (single life annuity) and in equal monthly payments for the joint lives of the participant and spouse as a qualified joint and survivor annuity.

The DOL provides the following example of how the required information might appear on a participant's benefit statement:

Account Balance As of *[DATE]*	Monthly Payment at 67 (Single Life Annuity)	Monthly Payment at 67 (Qualified Joint and 100% Survivor Annuity)
$125,000	**$645/**month for the life of participant.	**$533**/month for the life of the participant. **$533**/month for the life of the participant's surviving spouse.

For these purposes, the term "participant" includes a beneficiary who has his or her own individual account under the plan, such as an alternate payee, for example.

Assumptions to calculate lifetime payments

Plan administrators, or their service providers, generally must consider four relevant factors when converting a participant's account balance into lifetime income streams. These factors include: the date payments would start, referred to as the commencement date; the marital status of the participant; the interest rate to be applied for the mortality period; and the expected mortality of the participant and spouse.

The interim final rules provide the following required assumptions for each of these factors:

- **Commencement date and age.** When preparing the required illustrations, plan administrators must use an assumed commencement date of the last day of the statement period. For example, if the benefit statement covers the period ending December 31, 2025, the assumed commencement date would be December 31, 2025. The illustrations must assume the participant is age 67 on the commencement date, unless the participant is older than age 67, in which case the actual age of the participant is used.
- **Marital status and amount of survivor's benefit.** For purposes of converting a participant's account into the QJSA, the participant is assumed to be married and the participant's spouse is the same age as the participant. The rule requires the illustrations to reflect both a single life annuity and QJSA, regardless of whether a particular participant may be married at the time the statement is furnished. Additionally, the survivor annuity percentage is assumed to equal 100% of the monthly payment that is payable during the joint lives of the participant and spouse.
- **Interest rate.** Plan administrators must assume a rate of interest equal to the 10-year constant maturity Treasury (CMT) securities yield rate for the first business day of the last month of the period to which the benefit statement relates.
- **Mortality.** The interim final rules require participant account balances to be converted using the gender-neutral mortality table in Internal Revenue Code section 417(e)(3) for the calendar year which contains the last day of the statement period.

In addition, the account balance taken into account for purposes of the calculation includes the outstanding balance of any participant loan, unless the participant is in default of repayment on such loan.

The assumptions do not include an "insurance load" (i.e., the extra amount an insurance company may charge for a product given extra expenses and costs beyond basic charges), inflation adjustment, or term certain or other features.

Explanations for LII

The rules require various explanations that plan administrators must provide to participants, as well as model language that may be used to satisfy the explanations required in these paragraphs. The explanations are required, but the model language is optional. Plan fiduciaries who wish to benefit from the liability relief provided in the interim final rule, however, must use the model language.

Benefit statements including LII must include explanations of:

- The commencement date and age assumptions;
- A single life annuity;
- A qualified joint and 100% survivor annuity, the availability of other survivor percentage annuities, and the impact of choosing a lower survivor percentage;
- The marital status assumptions;
- The interest rate assumptions;
- The mortality assumptions;
- The fact that the monthly payment amounts are illustrations only;
- The fact that the actual monthly payments that may be purchased with the account balance will depend on numerous factors and may vary substantially from the illustrations;
- The fact that the monthly payment amounts in the illustrations are fixed amounts that would not increase for inflation;
- The assumption that the participant is 100% vested in his/her account balance;
- The fact that the monthly payments amounts in the illustrations are based on an assumption that any outstanding loan has been repaid, unless the participant has defaulted on the loan.

Special rules for in-plan annuities

The interim final rules include special rules for distribution annuities and deferred income annuities offered to defined contribution plan participants. Under the special rules for plans with distribution annuities, plan administrators may base the two mandatory lifetime income illustrations on the terms of the insurance contract, instead on the mandatory assumptions described above. Use of the special rule is optional. A plan administrator may decide between using the special rule for distribution annuities or the standard assumptions described above.

For plans that offer participants the ability to purchase deferred income annuities (DIAs) during the accumulation phase, any portion of a participant's accrued benefit that has been used to purchase a DIA will be excluded for purposes of calculating the LIIs. The plan administrator must separately disclose the portion of the participant's account balance that has been used to purchase a DIA, including:

- The date payments are scheduled to commence and the participant's age on that date;
- The frequency and amount of deferred income stream payments under the contract;
- The frequency and amount of deferred income stream payments under the contract as of the commencement date;
- A description of any survivor benefit, period certain commitment, or similar features of the DIA; and
- A statement as to whether the deferred income stream payments are fixed or will adjust with inflation or in some other way during retirement, and a general explanation of how any such adjustment is determined.

Model disclosure and limitation on liability

The interim final rule provides a limitation of the fiduciary liability for furnishing LIIs using the assumptions and model language provided by the rule. To obtain the limitation of fiduciary liability, a plan administrator must use either the model language provided by section or the complete model disclosure provided under the rule. The administrator must use the model language or language that is "substantially similar in all material respects" to the model language.

While the DOL permits the use of other retirement income illustrations in addition to those required by the interim final rule, the limitation on liability provided under the rule does not extend to such additional income illustrations.

Effective date and next steps

The interim final rule is effective September 18, 2021, and applies to pension benefit statements furnished after that date. The DOL is accepting comments until November 17, 2020. Prudential Retirement is working with industry groups in providing comments on the interim final rule and will comply with the rule for pension benefit statements for the third quarter 2021 statement.

Pension Analyst by Prudential Retirement
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