

DOL Clarifies Deadlines for Lifetime Income Illustration Disclosure Requirements Which Take Effect on September 18, 2021

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Section 105 of the Employee Retirement Income Security Act of 1974, as amended (ERISA), requires administrators of defined contribution plans to provide participants with periodic pension benefit statements. Benefit statements must be furnished at least annually, or at least quarterly if the plan allows participants to direct their own investments in their individual accounts. Benefit statements indicate a participant's "total benefits accrued" (*i.e.*, a lump sum amount) based on the participant's account balance in the plan.

The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) amended ERISA's participant disclosure rules to require that administrators of defined contribution plans provide participants with two new "lifetime income illustrations" at least annually. The new disclosure purports to help participants prepare for retirement by providing two alternative illustrations of their estimated monthly payments if their account balance was converted into a stream of lifetime payments — (1) a single life annuity (with payments over the participant's lifetime), and (2) a qualified joint and survivor annuity (with equal payments over the participant and spouse's lifetime). As we previously reported in our August 2020 alert, the Department of Labor (DOL) published an [interim final rule](#) describing the various components of and ways for satisfying the new lifetime income illustrations disclosure requirement.

The lifetime income illustrations disclosure requirement takes effect on September 18, 2021 (one year after the interim final rule's September 18, 2020 publication date). On July 26, 2021, the DOL released [temporary implementing FAQs](#) (FAQs), clarifying the upcoming deadlines for disclosure of lifetime income illustrations. The FAQs answer four questions summarized below:

Deadline for Participant-Directed Plans

Lifetime income illustrations must be furnished at least once in any 12-month period. Participant-directed individual account plans (such as 401(k) plans) that furnish quarterly benefit statements to participants must comply with the interim final rule and provide lifetime income illustrations on a benefit statement for a quarter ending within 12 months of the interim final rule's September 18, 2021 effective date. Therefore, such plans must include their first lifetime income illustrations in their first or second quarterly statement of 2022. Plans cannot include the lifetime illustrations in the third quarter of the 2022 calendar year because the third quarter ends on September 30, 2022, — which is beyond the expiration date of the one-year, post-effective period by 12 days.

Deadline for Nonparticipant-Directed Plans

For nonparticipant-directed plans (plans for which the participant cannot direct the investment of assets in his or her account), the lifetime income illustrations must be provided on the annual statement for the first plan year ending on or after September 19, 2021. For most plans, the first lifetime income illustration must be provided on the annual pension benefit statement for the 2021 calendar year. For a calendar year plan, the deadline is October 15, 2022 — the last date for timely filing the 2021 annual return.

Use of Third-Party Administrator's Projections

For a number of years, many plans have provided various illustrations in participant benefit statements. Some statements include illustrations calculated by the plan's third-party administrator, projecting the account balance to normal retirement age based on the framework set forth in the DOL's 2013-published [Advanced Notice of Proposed Rulemaking](#) (ANPRM) or other illustrations differing from ANPRM. For example, the projections show a participant the amount he/she will have at retirement if he/she continues to contribute at the same rate. Lifetime income illustrations under the SECURE Act require illustrations based on the participant's current account balance (as opposed to projecting it to normal retirement age). The FAQs clarify that plan administrators can provide additional illustrations to supplement (but not replace) those illustrations required by the SECURE Act.

Transition Relief

The DOL intends to adopt a final rule in response to numerous comments as soon as possible prior to the September 18, 2021 effective date. While not guaranteeing transition relief in the final rule, the DOL noted that it understands the burdens and challenges associated with issuing a final rule that materially differs from the interim final rule without providing for transition relief for plan administrators to accommodate any such changes from the interim final rule.

Conclusion

Overall, plan sponsors need to be aware of the upcoming deadlines and work with their plan administrators to ensure that processes are in place to timely furnish the newly required lifetime income illustrations in their pension benefit statements. Additionally, plan administrators should watch out for the DOL's final rule expected before September 18, 2021. For assistance in evaluating how these rules may affect your qualified plan, please contact a member of Troutman Pepper Employee Benefits and Executive Compensation team.

Reference Materials

- [Temporary Implementing FAQs](#)
- [Notice 2020-62](#)
- [Interim Final Rule](#)
- [Fact Sheet](#)
- [News Release](#)
- [Public Comments](#)

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