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DOL Issues Guidance for Including Lifetime Income Disclosures in Defined Contribution Benefit Plan Statements

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As required by the SECURE Act of 2019, the U.S. Department of Labor (DOL) published an interim final rule requiring plan administrators of individual account plans (including 401(k) plans, 403(b) plans and other defined contribution plans) to express a participant's current account balance as both a single life annuity and a qualified joint and survivor annuity income stream.

These new disclosures are intended to help participants better understand how the amount of money they saved so far converts into an estimated monthly payment for the rest of their lives for purposes of retirement planning. However, the DOL's regulations will provide a very rough estimate of the value of a participant's benefit as an annuity because they are based on hypothetical assumptions involving the participant's age, the annuity start date and the survivor annuity percentage, as discussed below. This approach simplifies the disclosures from an administrative perspective by minimizing the participant-specific data that must be taken into account.

The lifetime income illustrations must be furnished to participants at least annually, within one of the quarterly statements for the year. The DOL guidance provides:

- A suggested presentation for the illustrations;
- *Standard* assumptions that must be used to convert a participant's account balance to a lifetime income stream (commencement date and age, marital status, survivor annuity percentage, interest rate, and mortality) and *substitute* assumptions for annuity contracts; and
- A model notice that may be used for benefit statements to explain the assumptions and obtain relief from liability for the illustrations.

Presentation. At least annually, the pension benefit statements must include the value of a participant's balance as of the last day of the statement period. Such balance must be expressed as a lifetime income stream payable in equal monthly installments for (a) the life of the participant (single life annuity) and (b) the joint lives of the participant and spouse (a qualified joint and survivor annuity or "QJSA"). The DOL provided an example of the anticipated format.

Account Balance as of [Date]	Monthly Payment at 67 (Single Life Annuity)	Monthly Payment at 67 (100% QJSA)
$125,000	**$645**/month for life of participant	**$533**/month for life of participant; **$533**/month for life of participant's surviving spouse

Commencement Date. The annuity commencement date in the illustrations is assumed to be the last day of the statement period. Thus, for example, if the benefit statement covers the period ending on December 31, 2025, the assumed annuity commencement date would be that same date – December 31, 2025.

Commencement Age. The illustrations must assume the participant is age 67 on the commencement date, without regard to the participant's actual age. If the participant is older than age 67, then the participant's actual age as of the last day of the statement period must be used instead.

Marital Status. For purposes of converting a participant's account balance to a QJSA, the illustrations assume the participant is married and the participant's spouse is the same age as the participant. Even if a participant is not married at the time the pension benefit statement is furnished, the illustrations must reflect monthly payments under both a single life annuity and a QJSA.

Interest Rate. The DOL guidance contains an interest rate assumption that must be used in preparing the lifetime income illustrations. Plan administrators may assume a rate equal to the 10-year constant maturity Treasury securities yield rate for the first business day of the last month of the period to which the benefit statement relates. This rate is published daily by the U.S. Department of the Treasury.

Mortality. The DOL guidance requires that plan administrators covert a participant's account balance assuming mortality, as reflected in the unisex mortality table published by the IRS.

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Assumptions for plans with annuities through an insurance company. Some defined contribution plans offer distributions in the form of an annuity under an insurance contract held by the plan. In this case, a special rule allows plan administrators to base the two income illustrations on the terms of the insurance contract, instead of using the standard assumptions. The special rule is optional. However, the illustrations must still assume the first payment is made on the last day of the statement period, treat the participant as age 67 (unless older) on such date, and assume the participant has a spouse the same age. Beyond these limitations, however, plan administrators may substitute actual contract terms for other standard assumptions such as the interest rate and the mortality experience. Plan administrators may also reflect the survivor's benefit percentage specified in the contract, if less than 100%.

If the participant purchased a deferred annuity under the plan, the amounts payable under the deferred annuity must be separately disclosed, along with information regarding the date payments will commence and the age of the participant at that time, the frequency of payments, survivor benefits and whether payments are fixed or adjusted for inflation or for any other reason.

Model notice. The SECURE Act requires the DOL issue a model lifetime income disclosure that explains a variety of topics, including the assumptions on which the lifetime stream was determined. The notice also provides that no plan fiduciary, plan sponsor, or other person shall have any liability solely by reason of providing the lifetime income stream equivalents prescribed by the DOL rules. Alternatively, if a plan administrator elects to use certain insurance contract assumptions instead of the standard assumptions, the benefit statements must include language substantially similar to the model language. The DOL provided a second model notice for this purpose. Although use of the model language is required for relief from liability, plan administrators have flexibility as to how they incorporate the model language. The notice may be incorporated within the benefits statement or provided as a supplemental attachment.

Effective Date. The interim final rule will be effective on the date that is 12 months after the date of publication in the Federal Register and will apply to pension benefit statements furnished after such date. For example, if these rules were published in the Federal Register on December 1, 2020, then the rule becomes effective on December 1, 2021 and plans must incorporate the initial lifetime income disclosures at least annually thereafter.

The DOL intends to issue a final rule that takes into account any comments that it receives on the interim final rule before the interim final rule becomes effective. Any changes in the final rule would supersede the requirements of the interim final rule.