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DOL takes first stab at SECURE Act's DC plan lifetime income disclosures

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An [interim final rule](#) (IFR) on lifetime income disclosures provides implementation guidance from the Department of Labor (DOL) on this requirement of the Setting Up Every Community for Secure Retirement Enhancement (SECURE) Act ([Pub. L. No. 116-94](#)). The act requires defined contribution (DC) plans to show in each participant's benefit statement the account's annuity equivalent, using DOL-prescribed assumptions. Comments are due Nov. 17.

SECURE Act requirements

The SECURE Act requires DC plans to provide lifetime income disclosures to plan participants at least once every 12 months. The disclosures must include a participant's account balance and two annuity amounts: a single life annuity and a qualified joint and survivor annuity (QJSA) that assumes the participant has a spouse of equal age.

The act gave DOL until December 2020 to prescribe assumptions for the annuity conversion, issue interim final rules and publish a model disclosure. Plan fiduciaries, sponsors or other parties using the prescribed assumptions and model disclosures won't have any fiduciary liability related to those amounts.

Converting the account balance to an annuity

The IFR prescribes a simplified set of assumptions for calculating the annuity benefits:

- Retirement is immediate (i.e., as of the last day of the statement period).
- The participant is age 67 or, if older, his or her actual age.
- The QJSA provides a 100% survivor benefit.
- The annuity conversion uses the 10-year constant maturity Treasury (CMT) rate as of the first business day of the last month of the statement period and the Internal Revenue Code Section 417(e) unisex mortality table — the same mortality basis used to determine minimum lump sums from defined benefit plans.
- Outstanding loans are treated as repaid, unless in default.

Plans offering distribution annuities. For plans that let participants buy annuities under a contract with an insurer, the proposal allows — but doesn't require — administrators to base the calculations on actual contract terms (including special features like a term-certain guarantee), with the following restrictions:

- Both a single life annuity and a QJSA calculation must be provided, but the QJSA can reflect the actual survivor percentage if it's less than 100%.
- The participant is assumed to commence benefits on the last day of the statement period at age 67 (or actual age, if older) with an equal-age spouse.
- The mortality table can be either the contract's unisex table or the Section 417(e) table.

Required content

To satisfy the disclosure requirements, benefit statements must include:

- The beginning and ending dates of the statement period
- The value of the account balance as of the last day of the statement period, excluding the value of any deferred income annuity, which requires a separate disclosure (see [Deferred income annuities](#) below)
- The single life annuity and the QJSA calculated using the prescribed assumptions

Explanation of calculations and variability

The statements must include additional explanatory information to help participants understand what the disclosed annuities represent and the potential sources of variability that could affect the amounts shown. The required additional explanations are extensive, covering the following points:

- The benefits are illustrations, not guarantees.
- What assumptions about the participant's and the spouse's ages are used to calculate the QJSA.
- Benefits will be lower at younger retirement ages and higher at older retirement ages.
- What interest rate basis is used for the conversion, noting that benefits will be lower at lower interest rates and higher at higher interest rates.
- The mortality table is gender neutral, as required for employer-sponsored plans, but annuities outside a plan would use gender-based mortality that provides larger benefits for men than women.
- Actual benefits may differ greatly from the estimates, depending on actual age at retirement, the future account balance and prevailing market conditions.
- Estimated annuity amounts aren't adjusted for inflation.

Participants may still misunderstand disclosed amounts. Even with the required explanation of the annuity calculations, participants still might not appreciate the degree to which the statement's estimates might differ from actual annuities the participant could purchase. In particular, using a participant's current account balance and assuming the participant is age 67, rather than projecting the account balance to an assumed retirement age, can produce results that participants may find confusing or misleading.

For example, assume two participants, ages 40 and 60, each have a \$200,000 account balance. Based on the Aug. 3, 2020, 10-year CMT rate of 0.56% and the 2020 Section 417(e) mortality table, the single life annuity factor for a 67-year-old participant is 18.5. Both participants would see a monthly annuity value of \$901 ($\$200,000 / 18.5 / 12$), even though the 60-year-old is much closer to retirement.

Even for participants retiring immediately, the disclosed amount may bear very little relation to the actual benefit they could purchase. In the example above, the immediate annuity, calculated using the prescribed assumptions, would be \$423 for the 40-year-old and \$703 for the 60-year-old.

The average participant likely will be unable to quantify how much the statement's estimates will differ from actual annuity amounts on retirement. This could limit the disclosure's value to all but the most financially savvy participants.

Model language

The IFR contains sample language for the required explanation of the estimates. To rely on the SECURE Act's fiduciary protections, administrators must use the IFR's exact wording or make only minor, nonsubstantive changes. But DOL will let administrators choose how best to incorporate the model text into their benefit statements: The IFR contains 11 sample paragraphs that may be inserted into existing statements and an alternative consolidated document that may be provided as a supplement to the benefit statement.

The IFR provides separate models — both sample paragraphs and a consolidated document — for plan administrators choosing to use contract terms to calculate the annuity amounts for a plan providing distribution annuities.

Deferred income annuities

Some plans permit participants to use a portion of their account balance to buy deferred income annuities (DIAs) from an insurance company. These annuities will provide a future guaranteed income stream. The plan administrator must provide a separate disclosure for the portion of the account used to purchase a DIA (e.g., the date payments will commence, the participant's age, the frequency and amount of the payments, any special features like a survivor benefit or term certain, and whether and how the benefit is adjusted for inflation). For the remainder of the account, the regular lifetime income disclosure rules apply.

Because the information about the future DIA benefit is based on real factors and enforceable contracts rather than hypothetical assumptions, DOL finds the SECURE Act's requirements "wholly incompatible" with DIAs. Therefore, although the IFR requires several disclosures for DIAs, DOL did not prescribe specific model language.

DIAs may lead to disclosure challenges, as the terms and conditions for each contract may differ and might not be readily available to plan administrators. In addition, some plans permit participants to buy DIAs every quarter under different terms. The IFR doesn't explicitly contemplate these sorts of situations, which could lead to lengthy, repetitive disclosures.

Additional disclosures permitted

Many administrators give participants disclosures that are far more comprehensive than the statute requires. For example, some administrators provide projected benefit amounts at multiple retirement ages, reflecting future contributions to the account and using different interest rate and return assumptions. Other administrators make modeling tools available to participants on websites.

DOL believes these expanded disclosures are very helpful to participants and encourages these practices to continue. The rule itself notes that “nothing in this section precludes a plan sponsor from including lifetime income stream illustrations on the benefit statement” to supplement the required disclosures, as long as the additional illustrations are clearly explained, designed not to mislead participants and based on reasonable assumptions. However, the IFR's preamble explains that DOL cannot provide fiduciary protection for projections that do not use the prescribed assumptions.

More frequent disclosures permitted

Some administrators may choose to make the disclosures more frequently than once per year (e.g., in quarterly benefit statements). In this case, the IFR's fiduciary protections apply to each disclosure, as long as it uses the required assumptions and model text.

Request for comments

Comments are due Nov. 17. DOL is looking for stakeholder feedback on several areas of the proposal, including:

- Is age 67 the most appropriate age? Should the final rule require illustrations using multiple ages rather than just a single age?
- Is the 10-year CMT the best interest rate?
- Is the Section 417(e) mortality table appropriate? Would a gender-distinct approach be preferable?
- Should insurance loads be explicitly factored into the calculation?
- Should the final rule require an illustration of inflation-adjusted annuities?
- To support and encourage more sophisticated illustrations, should DOL issue guidance clarifying when expanded disclosures using retirement ages other than 67 and different assumptions might be investment advice — which could raise fiduciary concerns — or investment education?

DOL has also requested comments on the model disclosure language, as well as input on formatting or presentation techniques.

Effective date

The IFR will take effect Sept. 18, 2021, and plans don't need to comply before then. DOL intends to publish a final rule before the end of the one-year period that will reflect stakeholder comments and supersede the interim final rule. In the meantime, plan administrators may want to start evaluating their benefit statements in preparation for any changes that may be necessary once the final rule takes effect.

Related resources

Non-Mercer resources

- [Interim final rule on pension benefit statements](#) (Federal Register, Sept. 18, 2020)
- [Fact sheet](#) (DOL, Aug. 18, 2020)
- [News release](#) (DOL, Aug. 18, 2020)
- [Pub. L. No. 116-94](#), the SECURE Act (Congress, Dec. 20, 2019)

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- [SECURE Act set to become law](#) (Dec. 19, 2019)

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