

Lifetime Income Disclosures for Defined Contribution Plans – Interim Final Rule

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The clock has starting ticking for defined contribution plans to begin to provide a “lifetime income disclosure” on at least one benefit statement a year. Beginning in 2021, plan administrators must show each participant an estimate of the single life annuity and joint and 100% survivor annuity that the participant’s current account balance could purchase. Importantly, account based plans are still not required to offer an annuity form of distribution option or investment.

On August 18, 2020, the Department of Labor released a [pre-publication version of an interim final rule](#) (IFR) setting forth the standards for these disclosures. The IFR is effective 12 months after the IFR is published in the federal register. Note that the DOL has announced that it intends to issue a final, final regulation (FFR) before that period expires. There is a 60 day post publication comment date and we hope that some minor revisions will be made to the model form of disclosure when the FFR is released. If a FFR is not released before the IFR becomes effective, plans will be required to begin to provide the annual disclosures based on the IFR.

On December 20, 2019, the ERISA requirement that plans provide quarterly benefit statements was amended by section 203 of the Setting Every Community Up for Retirement Enhancement Act (the SECURE Act), to require these annual disclosures after the DOL published guidance regarding the assumptions to use in converting the current account balance into lifetime income stream equivalents.

Disclosure Content and Calculation Assumptions

The IFR sets forth three alternative forms of disclosures: (1) a form to be use for the majority of individual account plans that do not have an annuity form of distribution or investment; (2) a form to be used by individual account plans that have an annuity form of distribution; and (3) a form to be used by individual account plans that have an annuity form of investment.

This alert describes the form of disclosure for plans that do not have an annuity option as a form of distribution or investment. An annotated copy of the model form of disclosure can be [found here](#). Contact your Vorys attorney if you need assistance with disclosures for the other two categories of plans.

Plans will provide an annual disclosure that shows the participant's account balance as both a single-life and a joint and 100% survivor amount. These two forms of annuity are both calculated based on the account balance as of the last day of the period covered by the statement (the calculation date). No adjustment is made to reflect the vested status of the participant (the full account balance is used), and the annuity is calculated assuming any outstanding plan loan (that hasn't already been defaulted as of the calculation date) will be repaid.

A single life annuity will be calculated based on the 10-year constant maturity interest rate in effect on the first day of the last month covered by the statement, and the IRC Section 417(e) mortality assumption (which is the mortality assumption required to be used to calculate lump sums for defined benefit plans). The single life annuity is calculated as if the participant was age 67 as of the calculation date (or was the participant's actual age on that date, if the participant is past age 67).

A joint and 100% survivor benefit will be calculated assuming that the participant's spouse is the same age assumed for the single life annuity calculation.

By ignoring the period between the calculation date and the date the participant actually turns age 67, the IFR bypasses difficult assumptions about account growth during that period. On the other hand, we expect that many participants will be confused by an estimate that says it assumes that the benefit payment begins on the last day of the statement period but that calculates the payment amount assuming that the participant is age 67 on that date. A 45 year old participant could not purchase an annuity that would begin on the calculation date and that would be remotely close to the estimate values.

Plans that already provide a lifetime income illustration may continue to provide that illustration, but the plan is strongly encouraged to also provide the disclosure required by the IFR. Fiduciaries of plans that use the IFR assumptions and provide the model benefit statement insert will get liability relief from claims arising out of the disclosures. We expect most plan will follow the model to ensure that they have this important protection.

Finally, we note that the benefit statement including the lifetime income estimates can be delivered using the new electronic disclosure rules. You can see more information about the electronic disclosure rules [here](#).