



BENEFIT NEWS BRIEFS

Proposed Regulations for Defined Contribution Plan Benefit Statements

The Department of Labor (DOL) published in the Federal Register an advance notice of proposed rulemaking (ANPRM) focusing on lifetime income illustrations in periodic pension benefit statements of defined contribution pension plans, such as 401(k), 403(b) plans, etc. The ANPRM does not affect defined benefit plans.

The ANPRM is based on the requirement of Section 105(a) of ERISA (as amended by Section 508 of the *Pension Protection Act of 2006*) which requires administrators of defined contribution plans to provide periodic pension benefit statements to participants and certain beneficiaries.

Benefit statements must be provided at least annually. If the plan permits participants and beneficiaries to direct their own investments, however, benefit statements must be provided at least quarterly. One piece of information the benefit statements must contain is to state the "*total benefits accrued*." In this light, the DOL is considering a rule that would require a participant's "*total benefits accrued*" to be expressed as an *estimated lifetime income stream* of payments, in addition to being presented as an *account balance*.

The ANPRM has two main sections. The first section contains the relevant statutory language on which the DOL is basing the ANPRM and a discussion of the DOL's general policy concerns underlying the ANPRM. The second section presents questions, ideas, and potential language on certain rules the Department is considering as part of proposed regulations. The ANPRM is available by "[clicking here](#)" or at: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-08/pdf/2013-10636.pdf>.

Proposals Under the ANPRM

The language and concepts being considered are limited to pension benefit statements of **defined contribution plans**. Under the proposal:

- A participant's pension benefit statement would illustrate his or her *current account balance* **and** an *estimated lifetime income stream* of payments based

on such balance. The lifetime income illustration would assume the participant had reached normal retirement age as of the date of the benefit statement, even if he or she is much younger.

- For a participant who has not yet reached normal retirement age, his or her pension benefit statement also would illustrate a *projected account balance* and the *estimated lifetime income stream* based on such balance. A participant's current account balance would be projected to normal retirement age based on assumed future contributions and investment returns. The projected account balance would be converted to an estimated lifetime income stream of payments, assuming that the person retires at normal retirement age. This account balance and the related lifetime income payment would be expressed in current dollars.
- *Both lifetime income streams* (i.e., the one based on the current account balance and the one based on the projected account balance) *would be presented* as estimated monthly payments based on the expected mortality of the participant. In addition, if the participant has a spouse, the lifetime income streams would be based on the joint lives of the participant and spouse.
- Pension benefit statements would contain an *understandable explanation* of the assumptions behind the lifetime income stream illustrations. Pension benefit statements also would contain a statement that projections and lifetime income stream illustrations *are estimates and not guarantees*.

Assumptions and Safe Harbors

The lifetime income illustrations discussed in the ANPRM depend on the use of certain assumptions. For example, contribution and investment return assumptions are needed to project an account balance to a person's retirement age, and mortality and interest rate assumptions are needed to convert an account balance (whether current or projected) into a lifetime income stream. The ANPRM requires that plan administrators use only "reasonable assumptions" taking into account certain professional standards when developing lifetime income illustrations.

However, the ANPRM provides two safe harbors under which certain assumptions are *deemed* reasonable.

Projection Safe Harbor

When *projecting account balances*, it is reasonable for a plan administrator to assume:

- Contributions continue to normal retirement age at the current annual dollar amount, increased at a rate of 3% per year.
- Investment returns are 7% per year (nominal).
- A discount rate of 3% per year, in order to show the projected account balance in today's dollars.

Conversion Safe Harbor

When *converting current and projected account balances into lifetime income streams*, it is reasonable for a plan administrator to assume:

- A rate of interest equal to the 10-year constant maturity Treasury securities rate.
- Mortality as reflected in the applicable mortality table under section 417(e)(3) of the Internal Revenue Code.
- If married, the participant's spouse is the same age as the participant.
- Payments commence immediately and the participant is normal retirement age, if younger than normal retirement age.

Example & Online Calculator

Appendix A contains an example that demonstrates how to calculate a lifetime income illustration under the regulatory framework. Appendix A is available by "[clicking here](#)."

The DOL has made available on its website an interactive calculator that computes lifetime income streams in accordance with the proposed regulatory framework. The instructions for the lifetime income streams calculator are available at: www.dol.gov/ebsa/regs/lifetimeincomecalculator.html. The calculator is available at: <http://www.askebsa.dol.gov/lia/home>.

Comment on the Proposal

The ANPRM invites public comments from interested persons. Comments are due no later than July 8, 2013. Comments can be submitted electronically by email to e-ORI@dol.gov or by using the Federal eRulemaking portal at: <http://www.regulations.gov>.

* * *

LEGAL DISCLAIMER: Information contained in this publication is not legal advice, and should not be construed as legal advice. If you need legal advice upon which you can rely, you should seek a legal opinion from your attorney.