

Retirement alert

DOL issues new participant disclosure mandate

On Aug. 18, 2020, the U.S. Department of Labor (DOL) announced a new disclosure mandate intended to help participants determine their ability to retire by estimating how their current savings in a 401(k)-type plan might translate into lifetime monthly payments.

The new mandate

In December 2019, President Trump signed the Setting Every Community Up for Retirement Enhancement Act (the SECURE Act) into law. A SECURE Act provision that has flown under the radar requires participant account statements under the Employee Retirement Income Security Act of 1974 (ERISA) to show a participant's accrued benefits as a current account balance and as an estimated lifetime stream of payments. As a result, the DOL has issued a new rule mandating changes in defined contribution plan participant statements. The DOL noted that the rule carries out the requirements of the SECURE Act and provides:

- Uniformity in the calculation.
- A clear and concise explanation of how it was done, including an unambiguous statement that the projections are not guaranteed.
- Model language.
- Broad fiduciary relief.

Plan impact

Under the rule, retirement plans must provide defined contribution plan participants with lifetime income illustrations using prescribed assumptions intended to show how much monthly retirement income participants could expect to purchase with their account balances. Plans must explain their use of five assumptions: Account

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UNCOMMONLY INDEPENDENT

LIFETIME INCOME BY THE NUMBERS

\$201M

Estimated cost of compliance
in year one

\$6.6M

Estimated cost of compliance
in year two

660,000

Number of plans impacted

102M

Number of workers impacted

Source: U.S. Department of Labor, August 2020

balance, payment start date, the age when the annuity starts, the interest rate and an estimated end date for the payments. Plans must also provide explanations about what the lifetime income illustrations mean. To assist with the explanation, the new rule includes model language. By relying on the assumptions and the model language, fiduciaries will qualify for a safe harbor and will not be held liable in the event participants are unable to purchase equivalent monthly payments.

Next steps

The mandate will go into effect 12 months after the date of its publication in the Federal Register (likely August 2021). As with any new rule, there will be a 60-day comment period, during which the public may express questions or concerns. The DOL will then review the comments and make any changes it deems necessary before finalizing the rule.

Lockton's take

This did not come as a surprise, as the DOL attempted to institute a similar mandate as far back as 2013 when it issued a similar proposed rule but later withdrew it after facing fierce pushback from the financial services industry. The complaint then was that a lot of time, money and effort had been spent to build more robust participant resources that achieved that same goal but that a mandate and no fiduciary protection would result in fiduciaries doing the minimum to reduce their own risk. This will still be an issue for many plans as most have been including some form of information in participants' statements that reflects how their balances translate into the ability to be "on track" to retire. Many of these resources are very sophisticated, comprehensive and well received by participants. The question now is, will plans continue to use those resources that may provide participants better information or will they use the DOL's safe harbor, or maybe both? With the next 12 months to prepare, plan sponsors should work with their recordkeepers to formulate a plan for compliance. Should you have any questions, please contact your Lockton Retirement Services team.

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