

Institutional Retirement Income Council's Response to Lifetime Income RFI



Executive Summary

On May 3, 2010, the Institutional Retirement Income Council (IRIC) responded to the joint Treasury Department/ Department of Labor's Request for Information regarding lifetime income options for retirement plan participants. Below are the highlights of that submission.

IRIC's principal position: IRIC does not believe that the Agencies should mandate defaults to a retirement income product nor even mandate that one must be offered. That said, IRIC does believe that the Agencies should encourage plan sponsors to consider and adopt retirement income products to increase the retirement security of Defined Contribution (DC) plan participants.

Currently, the main obstacles for DC plans in adopting retirement income options include:

- Fiduciary concerns,
- the "newness" of the product offerings,
- difficulty in comparing different product offerings,
- concerns over counter-party risk,
- perceived lack of plan level portability, and
- other impediments under ERISA and the Internal Revenue Code.

The Agencies can positively influence the usage of Retirement Income products by addressing the following:

- The DOL may wish to conduct educational campaigns about life expectancy and the importance of guaranteed lifetime income
- The DOL should clarify that the current safe harbor annuity provisions apply to guaranteed lifetime income options beyond traditional annuities
 - A step-by-step approach for different products would be most effective
 - Provide greater specificity about the selection of the insurer
- The DOL should clarify when and how ERISA fiduciary duties may apply to communications to participants concerning Retirement Income products
 - Expand Interpretive Bulletin 96-1 or provide separate guidance
- The DOL should provide clarification of when and how QJSA rules apply to different types of Retirement Income products
 - There is much confusion on in-plan guaranteed minimum withdrawal benefit (GMWB) products in particular
 - Consideration should be given to simplify the QJSA process via the use of electronic signatures or other new technology
- The Treasury Department should consider allowing a distributable event to occur (to an IRA) if a DC plan no longer offers a particular Retirement Income product due to a change of recordkeeper, merger, or various other reason
- The DOL may wish to consider mandating a certain minimum amount of disclosure to participants who are considering investing in a Retirement Income product
 - Create a uniform method by which providers disclose features, guarantee information, and cost

- The DOL may wish to change statutory requirements and mandate that a minimum level of information be provided to a participant at time of distribution
 - Include advantages and disadvantages of different approaches to generating retirement income and remaining in-plan versus taking a lump-sum distribution
- The DOL should consider making a generic calculator publicly available that can provide illustrations of future retirement income amounts
- The DOL should encourage having recordkeepers provide a benefit statement indicating a future lifetime income projection at least annually
 - A clear safe harbor is needed
- The DOL and Treasury should recognize that greater adoption will only occur if administrative hurdles are reduced and compliance costs are kept to a minimum
- From a Required Minimum Distribution (RMD) perspective, the Agencies should be clear about whether longevity insurance can be utilized with qualified plan money and whether the value of the guarantee should be included in a GWMB annual minimum distribution calculation
- Although the QDIA regulations currently provide a basis for reasonably concluding that an insurance feature may be part of a QDIA, the DOL should provide clarification as there is much confusion among plan sponsors and consultants
- Plan sponsors should be able to decide whether it is in their best interest to default participants into a Retirement Income product and the DOL can pave the way for the wider use of defaults by issuing a clear safe harbor
 - As a word of caution, the DOL must recognize that greater education and disclosure is likely needed to make defaulted participants aware of the product features they are paying for
 - The DOL may also wish to consider how newer fixed products like deferred income annuities may need to be considered for QDIA protection

Final Thoughts: There are a myriad of reasons why the Agencies should encourage the adoption of institutionally-priced Retirement Income products by DC plans and their participants. IRIC believes that the issuance of clear safe harbors will be the most effective way to accomplish this. We are to congratulate the Agencies for addressing this critically important topic.