

News

Pension Reform

DOL Will Review Safe Harbor Regulation As It Considers Lifetime Income Options

The Labor Department will consider changing or expanding a safe harbor regulation that protects plan sponsors offering distribution annuities, Phyllis Borzi, assistant secretary of labor for the Employee Benefits Security Administration, said June 17 in a conference call with reporters.

"We're going to look at that again," Borzi said. "We're happy to take a look at it."

In reviewing responses to the department's request for information on lifetime income options, the department identified fear of fiduciary liability as a significant barrier to employers that might otherwise offer annuities or other varieties of lifetime income options in their defined contribution and cash balance plans, Borzi said. A number of commenters suggested that expanding the existing safe harbor (29 C.F.R. Section 2550.404c-1) (194 PBD, 10/7/08; 35 BPR 2328, 10/14/08) or looking at a different structure in a safe harbor would be a good idea, she said.

Public Hearing Topic. Safe harbor protections or other incentives to interest plan sponsors in lifetime income options may be one of the topics at a public hearing that the department hopes to schedule before fall begins, Borzi said. "We want to figure out what it is that we can do to make employers more comfortable" in offering employees a larger selection of choices for managing their savings in retirement.

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ASSISTANT SECRETARY OF LABOR PHYLLIS BORZI

As more employers replace traditional pensions with tax code Section 401(k) plans or cash balance plans, more employees are taking their benefits in a lump sum, Borzi said during the call. Retirement studies consistently show that too many workers faced with the difficulty of making lump-sum distributions last a lifetime squander the money or hoard it, and in either case, "those are not good results," she said.

Categories of Comments. Among the nearly 800 public comment letters the department received in response to its request for information about lifetime income options, more than 600 came from sources that Borzi described as ordinary citizens. Further categorizing the public comment letters, Borzi said the department re-

ceived letters from a variety of other sources representing approximately:

- 10 from organizations, including labor and consumer groups representing workers, retirees and plan participants;

- 40 from the financial services industry, including insurance companies, investment firms, and banks;

- 30 from plan services providers, including lawyers, actuaries, consultants, third-party administrators, and recordkeepers;

- 10 from employers, plan sponsors, and plan administrators; and

- 10 from government officials and academic personnel.

"There was a lot of food for thought in these comments," Borzi said.

Nearly all of the public comments identified a need for better education and more information about lifetime income options, she said.

BY FLORENCE OLSEN