

Legal Connections



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PLAN SPONSORS NOW HAVE A DEADLINE FOR PROVIDING LIFETIME INCOME ILLUSTRATIONS

Employers who sponsor 401(k) plans and other defined contribution plans in which participants may direct the investments of their accounts now have a deadline to provide lifetime income illustrations in those plans' benefit statements. The Department of Labor recently published guidance addressing these requirements. While helpful, the guidance is still subject to change in a potential final regulation. As such, employers should work closely with their plan administrators and legal counsel to navigate the contours of the evolving lifetime income rules.

Interim final rule on lifetime income illustrations

As background, the Setting Every Community Up for Retirement Enhancement Act amended the Employee Retirement Income Security Act to add two lifetime income illustrations, furnished at least annually, to benefit statements for individual account plans. The DOL published an interim final rule (IFR) on Sept. 18,

2020, which described how plan administrators must calculate the estimated lifetime income stream that a participant account balance could generate. The DOL solicited public comments on the interim final rule seeking input on how the IFR could be clarified.

A number of commenters requested clarification with respect to the applicability date of the IFR and the method for furnishing benefit statements. In some cases, commenters requested transition relief to ensure affected parties have sufficient time to effectively implement the requirements of the IFR.

FAQs for furnishing illustrations

In response, the DOL recently published a set of FAQs to answer these questions. As an initial matter, participant-directed individual account plans that furnish quarterly benefit statements (e.g., 401(k) plans) must include the lifetime income illustrations on only one pension benefit statement



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in any 12-month period. Accordingly, because plans must furnish the lifetime income illustrations at least annually, plans issuing quarterly statements must first comply with the IFR on a benefit statement for a quarter ending within 12 months after the effective date.

Here's how it works

The IFR was published in the Federal Register on Sept. 18, 2020, and became effective Sept. 18, 2021. Plans that must issue quarterly statements can incorporate their first lifetime income illustration on any quarterly statement

up to the second calendar quarter of 2022 (ending June 30, 2022). A delay beyond the second calendar quarter of 2022 would not be permitted, however, because the ending date of the third calendar quarter, Sept. 30, 2022, would be after the expiration of the applicable 12-month period.

For plans under which a participant or beneficiary has their own account but does not have the right to direct the investment of assets in that account, the lifetime income illustrations must be on the statement for the first plan year ending on or after Sept. 19. For most such plans, this will be the statement for calendar year 2021, which would be furnished no later than the last date for timely filing of the annual return for that year for a calendar year plan (Oct. 15, 2022).

The DOL has not said whether it would provide transition relief if it does not publish a final regulation soon. Because of the uncertainty of the substance and timing of a final regulation, employers should work carefully with their service providers and legal counsel to ensure compliance with the benefit statement requirements.

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ELECTIONS ON THE WAY: NON-PARTISAN JUDICIAL CANDIDATE INFORMATION

Each election year, voters in Franklin County are responsible for electing our judges. Many feel uninformed about the candidates' credentials and about the impact judges have on their daily lives. Without question, the work of our judiciary has a significant impact on individuals, corporations, and our overall community. Their importance to our society is as significant as any elected official.

This year, there are nine races for the Franklin County Municipal Court,

seven of which are contested. In order to help voters make more informed decisions about the candidates they elect for judge, the Columbus Bar Association offers information on Franklin County judicial candidates through our Judge the Candidates site. It's non-partisan and unbiased, designed to offer information about the process of electing judges, the length of term limits and the organization of the county court system. Visitors can also access the current and previous results of the Judicial Performance Poll

that summarizes how local attorneys assess the performance of judges, and the Preference Poll, in which attorneys select their preferred candidate in each contested election.

We also provide candidate ratings from our Judicial Screening Committee, a politically-balanced committee made up of Democrats, Republicans and Independents. They interview each candidate and assess them on a number of different criteria before coming together and voting on what rank to give them out of a five-star

system, with five stars being the highest rank and one star being the lowest. Aside from the one-star rank, which requires 70 percent of votes to be cast in that category, whichever rank gets the majority of votes is what's granted to the candidate. All results from the Judicial Screening Committee are available online for public consumption.

It's our hope and our aim that voters use this information to help them make an informed decision at the polls. Visit the website today: www.judgethecandidates.org. ■



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