

DOL Issues Implementation FAQs Regarding the Lifetime Income Illustrations for Defined Contribution Plans

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The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) amended the Employee Retirement Security Act of 1974 (ERISA) to add two lifetime income illustrations, furnished at least annually, to plan benefit statements for individual account defined contribution plans (e.g., 401(k) plans, profit sharing plans, etc.). The U.S. Department of Labor (DOL) issued an **Interim Final Rule (IFR)** on September 18, 2020, which provided details and model language related to the lifetime income illustrations. In addition, the DOL has not yet addressed whether it intends to move the effective date of the DOL interim final rule to a date later than September 18, 2021.

On July 26, 2021, the DOL issued **Temporary Implementing FAQs** on the IFR which address when the lifetime income illustrations must first appear in a participant's benefit statement. The DOL also noted that a Final Rule is expected "as soon as practicable" that will finalize, and potentially modify, the guidance of the IFR.

Participant-directed plans (e.g., 401(k) plans, etc.)

ERISA provides that participant-directed individual account plans that furnish quarterly benefit statements must include the lifetime income illustrations on only one benefit statement in any 12-month period.

Accordingly, because plans must furnish the lifetime income illustrations at

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least annually, plans that issue quarterly statements must first comply with the IFR on a benefit statement for a quarter ending within 12 months after the effective date. So since the IFR becomes effective September 18, 2021, plans that must issue quarterly statements under ERISA can incorporate their first lifetime illustration on any quarterly statement up to the second calendar quarter of 2022 (ending June 30, 2022).

Non-Participant-directed plans (e.g., certain profit-sharing plans, etc.)

For individual account plans under which a participant 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 September 19, 2021. 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 (October 15, 2022).

By clarifying the deadlines to comply with the IFR, administrators of defined contribution plans may now plan accordingly and prepare to update participant benefit statements.