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To: Employee Benefits Security Administration (EBSA)

From: Kenneth A. Steiner, FSA Retired

Subject: RIN 1210-AB20

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Thank you for the opportunity to respond to your Advance Notice of Proposed Rulemaking regarding proposed changes in pension statements for defined contribution plans. My name is Kenneth Steiner. I'm currently retired after having worked over 35 years as a pension actuary, most recently as one of the Resource Actuaries for Towers Watson . I currently blog and write articles designed to help retired individuals who have decided not to annuitize all of their accumulated savings develop a spend-down strategy for their self-managed assets. My web/blog site can be found at:

http://howmuchcaniaffordtospendinretirement.webs.com/

I receive no income from visits to this site. The opinions expressed on my site and in this email are my own. I do not represent anyone but myself.

Summary of Comments

EBSA claims that, "The rule under consideration by the Department would provide participants with information that the Department believes will ease the burden [of the task of managing finances in order to provide income for life for oneself and one's spouse]. While undoubtedly the Department believes this to be a true statement, I believe the additional cost to plan sponsors to provide this information (or the cost to participants if their accounts are charged for providing such information) is not worth the benefit perceived by EBSA, particularly as the rule is currently proposed.

EBSA asks, "Is there a way, short of a regulatory mandate that will ensure that participants and beneficiaries get constructive and helpful lifetime income illustrations?" While a regulatory mandate may be required to accomplish EBSA's objective, it doesn't have to involve the individual calculations anticipated in these proposed regulations. For example, pension benefit statements can include a reference to a DoL website (or some other website) that would enable participants to calculate equivalent lifetime income information. In fact, this is the approach the DoL currently requires for sources of information on individual investing and diversification under ERISA Section 105(a)(2)(B)(ii)(III). The proposed regulations provide such an online tool. In addition, the DoL currently offers a planning tool that individuals can use called "Taking the Mystery Out of Retirement."

Problems with the Proposed Regulations

1. Disclosure of "accrued benefit." Section 105(a)(2)(A)(i)(I) of ERISA requires a pension benefit statement include the participant's or beneficiary's total benefit accrued. EBSA has taken an extremely strained reading of this section and ERISA Section 3(23)(B) to add the requirements that the statement include several additional items, including a Projected Balance at Normal Retirement Date, a monthly payment associated with the Current Balance and a monthly payment associated with the Projected Balance. EBSA has proposed these additional disclosures despite the clear definition in ERISA Section 3(23)(B) that "the term 'accrued benefit' means--in the case of a plan which is an individual account plan, the balance of the individual's account"(which is already disclosed).

Also, for some strange reason, EBSA has decided that the safe harbor disclosure of the monthly payment associated with the Current Balance should be determined by converting the current balance to a life annuity equivalent assuming the participant has reached his or her normal retirement age (or attained age if later) under the plan on the date of calculation, even if the participant is much younger on such date. EBSA explains the rationale for this calculation as the payment the participant would receive today for life if he/she were old enough today (i.e., reached the normal retirement date). The result of this methodology is to effectively assume no investment return on the current account balance between current age and normal retirement date. In my opinion, this is not the accrued benefit associated with the current balance; it is potentially misleading and not particularly helpful to someone who is trying to plan for retirement.

As an example, let's assume that, like most workers today, I've worked for a number of different employers during my career. Each one of those employers sponsored a defined contribution plan and dutifully provided me with benefit statements each year until I terminated my employment at which time I transferred my benefits into one or more Individual Retirement Accounts. I'm now age 55 and I'm thinking about retiring at age 65. Since my IRA vendor is not subject to the disclosure requirements of ERISA, how am I to determine what my total account balances will provide in terms of lifetime income ten years from now? I can't add the lifetime benefits associated with the current balances shown on statements from my prior employers to the value shown for my current plan, so I would have to add the total of the account balances from my IRAs and go to the DoL website or some other site to determine a total equivalent lifetime benefit. Thus, in this fairly common example, the many years of disclosures of lifetime equivalent values will provide little or no more benefit to me than simply referring me to a website.

Under the proposed EBSA approach, the disclosed projected benefit is the annuity equivalent (under EBSA assumptions) of the sum of the current balance, future assumed contributions and assumed interest on both items (discounted back to the current date for assumed inflation). So the calculation of the real accrued benefit associated with the current balance is performed, it is just not disclosed. This doesn't make any sense to me. If the proposed regulations are adopted (or if participants are referred to a website), I believe the accrued benefit associated with the current balance should be based on the current balance accumulated with assumed investment return (and discounted with assumed inflation)--just like it is for purposes of determining the projected lifetime benefit.

2. Monthly Payment Associated with the Projected Balance is Potentially Misleading. Assuming EBSA comes up with some approach that actually does a reasonable job of approximating the life annuity equivalent of the projected balance, it would, by definition, be inconsistent with the goal of maintaining one's lifestyle throughout retirement. First, since it would be a fixed dollar annuity, it would not increase each year with inflation. Second, even if EBSA required disclosure of an inflation indexed annuity, it would generally only be appropriate for individuals who actually purchased (or elected to receive) such an annuity. It would probably not produce appropriate information for those who chose to partially annuitize or to not annuitize at all.

Surely EBSA realizes that inflation after retirement can erode a person's standard of living. In fact, EBSA goes to great pains to separate health related expense inflation and non-health related inflation for retirement planning purposes in its website, "Taking the Mystery Out of Retirement."

Individuals who chose not to annuitize their entire account balances at retirement generally need to plan for a longer period of survival and thus may need to be more conservative in this regard than those who use their entire accumulated savings to purchase annuities.

I agree with EBSA's goal that, "plan participants [be] informed of their financial readiness for the entirety of their retired lives, not just a portion of it", but I'm not convinced that this goal is better achieved through the use of estimated fixed annuity equivalents as compared with some simple safe harbor approach, such as the 4% rule of thumb for a retirement commencing at age 65. I find the argument set forth by EBSA that the 4% rule might prove to be inadequate if investment returns average 0% per annum post retirement to be spurious. If EBSA feels comfortable mandating illustrations using a 7% investment return assumption prior to normal retirement, it is hard to see how EBSA could suggest that 0% per annum after normal retirement is something that they even consider to be a possibility. EBSA certainly doesn't support this possibility in its website, "Taking the Mystery Out of Retirement", where the default investment return assumption after retirement is 5% per annum.

Using the spending spreadsheet on my website (Version 2.0) and assuming 5% per year investment return, 3% inflation, 30 years of retirement (the same number as assumed in Taking the Mystery Out of Retirement), no amount left to heirs and no other life annuity amounts, the initial spend rate is 4.34%. If all input assumptions are realized, the initial spendable amount using this rate would increase with inflation each year for thirty years and would maintain the individual's same standard of living (in real dollars) each year. By comparison, the 6% rate developed in the EBSA example would be eroded by inflation each year after the first year. Note, however, that the 4.34% spend rate produced by the spreadsheet would be different for different input amounts or assumptions.

Conclusion

I agree with EBSA that, "Workers today face greater responsibility for managing their assets for retirement, both while employed and during their retirement years. This greater responsibility is primarily a result of the trend away from defined benefit plans, where a worker's retirement benefit is typically a specified monthly payment for life, and toward defined contribution plans, where typically contribution, asset allocation, and drawdown decisions are assigned to the participant." I also agree that it is important for retirement planning purposes to know how much income can be provided by a given level of accumulated savings. In fact, that is the primary purpose of my website. However, I don't agree that the responsibility to provide such information resides with the plan sponsor. As EBSA noted above, individuals must now assume greater responsibility for their retirement. Learning how much lifetime income can be generated by a given level of accumulated assets is one of those new responsibilities. Given the availability of tools on the web, I believe this new responsibility is much less onerous than investment of assets in retirement, and at most should be given the same (website referral) treatment by the DoL.