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US Labor, Treasury Departments act to enhance retirement security for an America built to last

Executive actions increase transparency, broaden options for 401(k) savers

WASHINGTON – Following President Obama's State of the Union address, in which he proposed a blueprint for an American economy built to last, the U.S. Departments of Labor and the Treasury today announced two executive actions designed to help enhance security for millions of Americans saving for retirement. The measures will expand transparency in the 401(k) plan marketplace and broaden the availability of retirement plan options so that Americans can maximize their ability to save responsibly and securely.

The U.S. Department of Labor's Employee Benefits Security Administration issued a final rule that will provide employers sponsoring pension and 401(k) plans with information about the administrative and investment costs associated with providing such plans to their workers. The department also announced a 3-month extension in the effective date of this rule, meaning service providers must be in compliance by July 1, 2012, for new and existing contracts or arrangements between Employee Retirement Income Security Act-covered plans and service providers.

"As President Obama has said, we're at a make or break moment for the middle class and those trying to reach it. What's at stake is the American value that hard work pays off. The common-sense rule that we are finalizing today will shed light on the true costs of 401(k) accounts and ultimately reward those working hard and saving for retirement," said Secretary of Labor Hilda L. Solis. "This rule, and its companion participant-level fee disclosure rule, will greatly increase the level of transparency in retirement plans. When businesses that sponsor retirement plans, and the workers who participate in those plans, get better information on associated fees and expenses, they'll be able to shop around and make informed decisions that will lead to cost savings and a larger nest egg at retirement."

The Treasury Department's proposal will reduce regulatory burdens and make it easier for retirees to choose to receive their benefits as a stream of income in regular payments for as long as they live. These flexible "lifetime income" options can provide greater certainty in retirement and minimize the risk of retirees outliving or underutilizing their retirement savings.

"When American workers take the responsible step of saving for retirement, we should do all we can to provide them with sensible, accessible choices for managing their hard-earned savings. Having the ability to choose from expanded options will help retirees and their families achieve both greater value and security," said Treasury Secretary Tim Geithner.

Together, the actions by both the Treasury and Labor Departments will expand available options and provide greater transparency to help working families successfully plan for retirement and manage their retirement savings. The Council of Economic Advisers has prepared a detailed report describing the significance of today's actions, which can be accessed at http://www.whitehouse.gov/sites/default/files/cea_retirement_report_01312012_final.pdf.

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More about the Labor Department's final rule on 401(k) fee disclosure:

The Labor Department's rule requires service providers to furnish information that will enable pension plan fiduciaries to determine both the reasonableness of compensation paid to the service providers and any conflicts of interest that may impact a service provider's performance under a service contract or arrangement. It requires disclosures of direct and indirect compensation certain service providers receive in connection with the services they provide. The rule applies to those service providers that expect to receive $1,000 or more in compensation and provide certain fiduciary or registered investment advisory services, make available plan investment options in connection with brokerage or record-keeping services or otherwise receive indirect compensation for providing certain services to a plan.

The department today also announced that in the near future it intends to publish for public comment a separate proposal that would require service providers, in addition to providing the required fee and investment expense information, to furnish a guide or similar tool to assist plan fiduciaries in identifying and locating the potentially complex information that must be disclosed and which may be located in multiple documents.

The 3-month extension of the effective date of today's final rule has been provided to allow service providers sufficient time to prepare for compliance. Service providers not in compliance as of July 1 will be in violation of ERISA's prohibited transaction rules and subject to penalties under the Internal Revenue Code.

The effective date of the final rule announced today works in conjunction with the compliance date of the department's participant-level disclosure regulation (29 Code of Federal Regulations 2550.404a-5) which requires plan administrators to give workers who direct their retirement accounts in 401(k)-type plans easy-to-understand information in order to comparison shop among the plan investment options available to them. Due to the extension of the effective date of the final rule, plan administrators for calendar year plans now must make the initial annual disclosure of "plan-level" and "investment-level" information (including associated fees and expenses) to participants no later than Aug. 30, 2012, and the first quarterly statement (for fees incurred July through September) must be furnished no later than Nov. 14, 2012.

Plan sponsors and service providers with questions about the final rule can contact EBSA's Office of Regulations and Interpretations at 202-693-8500. A fact sheet on this regulation is available on EBSA's website at http://www.dol.gov/ebsa/newsroom/fs408b2finalreg.html. Additional information about how the final rule announced today differs from the previously published interim final rule can be seen by visiting http://www.dol.gov/ebsa/408b2changes.html.

More about the Treasury Department's proposed Guidance Package on Lifetime Income:

As Americans live longer and pensions increasingly trend away from the traditional defined-benefit structure that provides a stream of guaranteed income for the duration of a retiree's life, improving access to lifetime income options is an important way to help retirees manage their savings. Lifetime income is particularly important for women, as the average lifespan for an American woman exceeds that of a man.

Many retirees find it hard to devise and adhere to a methodical plan for managing and drawing down retirement assets over an uncertain, and potentially lengthy, time horizon. Some retirees may forecast that they will live only to or just past the average life expectancy, only to far outlive their savings. Other retirees, fearful of exhausting their savings, may unnecessarily restrict their spending and not reap the benefits of the funds they have saved. Since Americans' financial prospects for retirement increasingly are determined not solely by how much they save but also by how they manage their savings, retirement policy should focus both on how best to encourage the accumulation of savings and on how to give retirees attractive options for using that accumulation to provide retirement income.

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Today's guidance package, which builds on comments received in response to the departments' joint request for information on the desirability and availability of lifetime income alternatives in retirement plans, will help Americans meet their need for income during retirement by:

1. **Encouraging partial annuity options.** Retirement plan participants often are confronted with a "cash or annuity" decision upon retirement. Given an all-or-nothing choice, many opt for a lump sum and decline the lifetime income stream because they are unaware they have the option to combine approaches. The proposed regulation changes a regulatory requirement to make it simpler for defined benefit pension plans to offer combinations of lifetime income and a single-sum cash payment. This is designed to encourage more retirees to consider partial annuities, which allow for retirees to receive a steady stream of income for the duration of their lifetimes while also keeping a portion of their savings invested in assets with the flexibility to respond to liquidity needs.

2. **Removing a key obstacle to "longevity" annuities.** Another proposed regulation expands on the combination approach by removing a regulatory impediment to purchasing a deferred "longevity" annuity. This change would make it easier for retirees to use a limited portion of their savings to purchase guaranteed income for life starting at an advanced age, such as average life expectancy. Annuities of this type would provide an efficient way for 65- or 70-year-olds (or even younger savers) to address the risk of outliving their assets by purchasing a predictable income stream starting at age 80 or 85. Once that risk is addressed, a retiree's task of generating income from the remaining assets is more manageable because it is limited to a fixed period of time.

3. **Clarifying rules for plan rollovers to purchase annuities and spousal protection rules for 401(k) deferred annuities.** Two revenue rulings issued today clarify how rules protecting employees and spouses apply when plan sponsors offer lifetime income options under their plans. The first ruling clarifies how the rules apply when employees are given the option to use a single-sum 401(k) payout to obtain a low-cost annuity from their employer's defined benefit pension plan. The second ruling clarifies that employers can offer their employees the option to use 401(k) savings to purchase deferred annuities and still satisfy spousal protection rules with minimal administrative burdens. Both of these rulings would facilitate the availability of flexible options for employees so that they can better use their 401(k) savings to achieve financial security in retirement.

Additional information on these proposals is available in a fact sheet posted at http://www.treasury.gov. The proposed regulations announced today are also available at http://www.regulations.gov for public comment.

Reporters with questions about the proposed Guidance Package on Lifetime Income can call the Treasury Department's press office at 202-622-2960.

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