
Making a Case for the 401(k) Annuity

By Kerry Pechter *Tue, Sep 14, 2010*

Executives from major plan providers, including Christine Marcks, president of Prudential Retirement, along with trade group officials and ERISA experts, pitched ideas about in-plan income options at DoL/Treasury Department hearings Tuesday and Wednesday.

There's upwards of \$4 trillion in defined contribution plans, and lots of insurers like MetLife, Prudential, and AVIVA and asset managers like Putnam, Russell, and Fidelity Investments sell products that can help participants turn those assets into lifetime income.

To date, relatively few plans offer those products as in-plan options. Plan sponsors don't want lawsuits from long-departed employees if their chosen annuity issuer fails in 10 or 20 years. And plan participants haven't exactly been clamoring for annuities.

But the biggest, most innovative 401(k) providers are gearing up for in-plan options. And, with Social Security facing lean years, the Obama administration seems willing to clear away existing regulatory hurdles and help people convert their 401(k)s to lifetime income.

Those vectors intersected in Washington earlier this week, during two days of hearings on in-plan options, hosted by the Departments of Labor and Treasury. The hearings themselves were a sequel to the Request for Information about in-plan options that the DoL and Treasury issued last spring, which elicited a huge response from the financial services industry—and from paranoids who think they see a federal plot to follow Argentina's example and confiscate private retirement assets.

The hearings were rewardingly comprehensive, but they had a central theme. Many financial services companies want the DoL to create a "safe harbor" for in-plan income products. They want the DoL to bless a due diligence process that, if followed, will enable plan sponsors to choose annuity vendors without fear of participant lawsuits if the vendor—a life insurance company, in most cases—fails. A safe harbor may already exist, but it's too full of legal loopholes to make most sponsors feel immune to litigation.

It's too soon to say what will happen. It appears—though no one said it explicitly—that the DoL would like to see middle-class plan participants have access to a variety of low-cost, transparent payout options that they can easily compare. Income product providers presumably want to compete for exclusive or semi-exclusive plan sponsor relationships, and to focus (unavoidably) on participants with big balances. The interests of populism and private enterprise overlap here, but they don't dovetail.

Depending on a lot of factors—future interest rates, the path of economic recovery, the outcome of the 2012 presidential election—this week's hearing could mark a turning point in how Americans fund their retirement. One speaker called this a "key juncture" for the DoL. Or its reams of documents could be headed for the shredder.