

Putting DB back in DC just got a little easier

By Kerry Pechter Fri, Oct 24, 2014

"We've made clear that 401k plans can, if the employer sponsoring the plan wishes, include an in-plan accumulation annuity in a target date fund," Deputy Treasury Secretary Mark Iwry told the Retirement Income Industry Association in Charlotte, NC, Friday.

One or more legal obstacles to offering deferred income annuities as an qualifying default investment alternative (QDIA) in target date funds and managed accounts in 401(k)-type retirement plan were apparently removed this week by opinions from the IRS and Departments of Treasury and Labor.

J. Mark Iwry, a Deputy Assistant Secretary of the Treasury specializing in retirement and health care issues, announced the development at the Retirement Income Industry Association's annual conference on Friday morning, in Charlotte, NC.

"This morning we've added a guidance item that makes clear that 401k plans can, if the employer sponsoring the plan wishes, embed deferred annuity units—that is, include an in-plan accumulation annuity—in a target date fund that is a QDIA in the plan," Iwry said in Charlotte.

Over time, according to the so-called glide path of the TDF, some or all of the fund assets that once went to fixed income investments would go to a deferred income annuity. "The annuity units would grow as the fixed income portion of the target fund grows," he added.

"At retirement age, when the TDF dissolves and the assets can be reinvested, the annuity units would turn into a group annuity contract or a longevity annuity or an immediate annuity," Iwry said. "This is a purely optional feature that employer could choose to include in a target date fund. It would be optional at the employer level and the employee level."

The announcement was accompanied by documents from the IRS and from Phyllis Borzi, the Labor official who heads the Employee Benefit Security Administration. Those documents assured plan sponsors and plan providers that:

- Plan sponsors could allow their chosen investment managers to select a deferred income annuity provider without creating unusual fiduciary liability for themselves, the sponsors.
- The 401(k) non-discrimination rules, which force tax-qualified plans not to favor the interests of highly-paid employees, would not be violated if deferred income annuities were effectively available only to older employees, who are more likely to be highly

compensated employees within a plan.

- Participation in a target date fund with a deferred income annuity option would be limited to people who intended to retire no more than a year earlier or later than the year of the target date fund. This would prevent mispricing of the annuities, whose prices depend on life expectancy.

The implications of certain assumptions in the documents were unclear, pending further consultation of ERISA attorneys. For instance, it was assumed that target date funds would “dissolve” at their maturity dates. The issues of portability of the annuities or liquidity options related to the in-plan annuities also appeared to remain open.

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