
TIAA-CREF Comments on Retirement Income

By Editor Test *Wed, May 5, 2010*

“One of the disadvantages of in-plan options is that Qualified Joint Survivor and Annuity (QJSA) rules can often be cumbersome, confusing, and difficult to administer,” said the TIAA-CREF brief.

TIAA-CREF, which administers some 15,000 retirement plans for some 3.6 million participants, most of them university employees and staff, has filed a [29-page response to the Department of Labor’s request for information on retirement income](#).

Like many of the individuals who responded to the RFI since early February, TIAA-CREF took a position against mandatory annuitization of defined contribution assets.

“Automatically placing participants in a lifetime income option has the potential to confuse, anger, and ultimately drive participants away from annuities, while having little positive impact on the overall take-up rate for annuities as an income option,” wrote Larry Chadwick, the organization’s vice president for government relations public policy.

The organization also recommended that the DoL prepare educational materials on lifetime income that plan sponsors could use without worrying about liability.

“General educational materials prepared by the DOL would help mitigate this concern, especially if the DOL would take the position that plan sponsors would not be liable for distributing materials prepared by the DOL on this subject,” the brief said. “In addition, the DOL can offer guidelines and templates for insurance companies to provide educational materials relating to lifetime income options.”

TIAA-CREF had a lot to say about complexities involved in turning defined contribution savings into a joint and survivor annuity.

“One of the disadvantages of in-plan options is that Qualified Joint Survivor and Annuity (QJSA) rules can often be cumbersome, confusing, and difficult to administer resulting, in some cases, in a delayed start to receiving annuity payments. This is one area where the Internal Revenue Service (IRS) could offer some relief by taking steps to ease this burden through regulatory action,” the brief said.

“The most critical plan qualification rule affecting a DC plan sponsor’s willingness to provide for a lifetime income option involves the qualified joint and survivor annuity (QJSA) rules under IRC §401(a)(11) and IRC §417, as well as ERISA §205 (with respect to §401(a) and §403(b) plans respectively). Certain plans are exempt from the QJSA rules provided they satisfy all three of the exemption criteria. IRC §401(a)(11)(B)(iii)(II) (and parallel ERISA section 205) provides that a plan that provides a life annuity payment option cannot be exempt from the QJSA rules.

“The extensive notice and waiver requirements that are triggered once a plan is subject to the QJSA rules provide an additional layer of administrative complexity, costs, and risk for non-compliance and associated

corrections. As a result, many DC plans are designed to be exempt from the QJSA rules.

“Consequently, many plans will avoid lifetime income options solely to avoid the QJSA rules, even if such options may ultimately be beneficial for the participants. To make such options viable, the QJSA rules should be amended to provide for a means to have annuity payment options available under the plan without triggering all the QJSA rules and specified means of payment, while still protecting spousal rights and the related policy objectives.

“One approach would be to maintain the spousal beneficiary rules with respect to all forms of payment, including multiple life annuity forms, absent a waiver, and to require a spousal consent for a single life annuity form of payment that does not include a 50% spousal benefit.

“Another potential remedy is to not apply QJSA rules until a participant elects an annuity and then only if the annuity is not a QJSA. This can be accomplished with little burden to plan sponsors since insurance companies would be willing to administer these rules as part of the annuity contract.”

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