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## What the 'Lifetime Income Disclosure Act' may mean for you

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By Editor Test      *Wed, Feb 9, 2011*

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*The bill would require benefit statements to include the annuity equivalent of an employee's benefit, while providing a "clear path to avoid liability."*

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A Senate bill, S. 267, could require 401(k) plans to tell participants how much monthly retirement income their accounts might generate, *National Underwriter* reported. The bill was widely discussed last year.

S. 267, the Lifetime Income Disclosure Act bill, was introduced by Sens. Jeff Bingaman, D-NM, Johnny Isakson, R-GA, and Herb Kohl, D-WI. It appears to address some of the concerns of plan providers and plan sponsors. Namely, that they needed a compliant way to express the retirement income potential of a participant's accumulated savings that would not seem promissory or discouraging to participants.

Few argue with the rationale for such a disclosure, however.

"The key issue is how to make employees aware of this risk [of running out of money in old age] and how to educate employees about lifetime income issues. The Lifetime Income Disclosure Act would require benefit statements to include the annuity equivalent of an employee's benefit — a small step, but one that can make a significant difference in beginning to tackle the public policy challenge," according to a background paper distributed by the Senators' offices.

### **The terms of compliance**

"Under the proposal, defined contribution plans subject to ERISA (such as 401(k) plans) would be required to include 'annuity equivalents' on benefit statements provided to employees. An annuity equivalent would be the monthly annuity payment that would be made if the employee's total account balance were used to buy a life annuity that commenced payments at the plan's normal retirement age (generally 65).

"The statement would be required to show the monthly annuity payments under both a single life annuity and a qualified joint and survivor annuity (i.e., an annuity with survivor benefits payable for life to the employee's spouse).

"The annuity equivalents would only be required to be provided once a year, even where quarterly statements are otherwise required. Thus, where quarterly statements are otherwise required, annuity equivalent need only be indexed on one such statement each year.

"Under this proposal, the Department of Labor ("DOL") would be directed to issue, within a year, assumptions that employers may use in converting a lump sum amount into an annuity equivalent. Accordingly, employers will be able to base their annuity equivalents entirely on clear mechanical assumptions prescribed by the DOL. Of course, to the extent that a participant's benefit is or may be invested in an annuity contract that guarantees a specified annuity benefit, the DOL shall, to the extent appropriate, permit such specified benefit to be treated as an annuity equivalent.

### **Avoiding liability**

The DOL would further be directed to issue, within a year, a model disclosure that explains (1) the assumptions used to determine the annuity equivalents and (2) the fact that the annuity equivalents provided are only estimates. This model disclosure would include a clear explanation that actual annuity benefits may be materially different from such estimates.

The proposal also provides employers with a clear path to avoid liability: under the proposal, employers and service providers using the model disclosure and following the prescribed assumptions and DOL rules would not have any liability with regard to the provision of annuity equivalents. This exemption from liability would apply to any disclosure of an annuity equivalent that incorporates the explanation from the model disclosure and that is prepared in accordance with the prescribed assumptions and DOL rules. For example, subject to such conditions, the exemption would apply to annuity equivalents available on a website or provided quarterly.

Finally, the proposal does not go into effect until a year after the DOL has issued the guidance needed by employers to implement the new rules.”

### **Support from ACLI**

The American Council of Life Insurers (ACLI), Washington, is supporting the bill.

“Most workers recognize the need to accumulate retirement assets, but many may not think about the need to manage their assets over the course of a retirement that could last 20 or 30 years,” the ACLI says. “Understanding what a lump sum of \$100,000 really means in terms of paying the monthly bills will help countless workers in planning for retirement.”

The ACLI cites survey data indicating that many workers say they would save more for retirement if they knew they were saving too little to generate adequate retirement income. In addition to the ACLI, sponsors have support from groups such as AARP, Washington, and the American Society of Pension Professionals & Actuaries, Arlington, Va.

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