Institutional Retirement Income Council (IRIC) Testifies on Regulatory Approaches to Lifetime Retirement Income

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IRIC® Testifies on Regulatory Approaches to Lifetime Retirement Income

It is likely most readers of this article are aware that in February 2010 the Department of Labor and the Treasury Department issued a joint Request for Information (RFI) regarding lifetime income options (retirement income) for participants in defined contribution (DC) retirement plans. IRIC contributed both a written response in May as well as oral testimony at the hearings held in Washington in September. This article summarizes the unique perspective IRIC presented on whether retirement income should be encouraged by regulators, and if so, how.

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Why IRIC's Perspective is Unique

IRIC members have been actively working for several years with plan sponsors wanting to know more about retirement income solutions and, for those who have adopted them, have helped to frame the issue for their participants. We have also been providing insights to recordkeepers anticipating the need to support retirement income solutions and to product manufacturers as they continue to evolve their offerings. Therefore, while many who responded to the RFI represented their narrow interests or approached it from a purely academic perspective, IRIC's view has been broadly informed by addressing challenges faced by plan sponsors, plan participants, product manufacturers, and recordkeepers.

Highlights of IRIC's View

Below we provide highlights of our comments to the DOL and Treasury. If you are interested in reading more details about our written RFI response or our testimony, an executive summary, the full RFI response, and a transcript of our testimony (delivered by Chairman Martin Schmidt), can be found on our website.

Are institutional retirement income products important and should they be mandated?

Retirement income products are very important because they improve security for workers by providing a more reliable income stream during retirement and reducing the risk they will outlive their assets.

Institutional retirement income products are important because they allow workers to invest at lower fees than comparative retail products, and therefore result in higher income during retirement.

Another advantage to an institutional approach is that education about retirement income is likely to be more effective if it is provided alongside other retirement plan communications because:

- research shows individuals prefer to learn about financial and retirement issues through the workplace relationship[1], and
- it can be integrated with other materials to improve the decision making process.

[1] "Profiling the Employer", LIMRA MarketFacts Quarterly, Winter 2005

IRIC is not in favor of a mandate. But employers, especially those without a traditional defined benefit pension plan, should be encouraged to consider whether a retirement income option is in the best interest of its employees and barriers toward adoption should be mitigated.

"IRIC is not in favor of a mandate."

What can the DOL or Treasury do to enable change to help retirement income become more popular?

An in-plan option is likely to have greater adoption by participants. Therefore, the DOL should address plan sponsors' concerns regarding perceived fiduciary risks associated with establishing an in-plan retirement income option. The long term nature of the guarantees understandably raises concerns about the challenges of selecting a retirement income product, specifically with regard to single insurer risk, termination provisions, and portability.[2]

Nearly all regulations, safe harbors, and guidance apply to traditional distribution annuities and need to be amended to address newer products like deferred income annuities, guaranteed minimum income benefits, and guaranteed minimum withdrawal benefits, and – ideally – would also anticipate additional innovations. Examples include:

- The DOL should clarify whether current safe harbors on selection of traditional annuities apply to other types of guaranteed lifetime income options. [3]
- There is still confusion as to whether retirement income products qualify as a QDIA investment, a concern that is heightened because of the higher fees that may apply. For those plan sponsors who wish to use a retirement income product as a default option, a clear safe harbor should be issued.[4]
- The DOL should clarify what fiduciary duties the plan sponsor has with regard to communicating various features of retirement income products.

The Treasury Department should consider allowing a distributable event to an IRA to occur if a participant is enrolled in a retirement income product but a change in recordkeeper prevents the product from being offered on the new platform.[5] This would protect participants' guarantees and address some of the concerns regarding portability.

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The DOL could play a significant role in helping to establish a consistent framework for communicating with participants and educating workers about retirement income. [6] Examples of how the DOL could facilitate this include:

[2] "Survey Findings: Hot Topics in Retirement 2010", page 11, Hewitt Associates

[3] IRIC recommends that the safe harbor under 29 CFR 2550.404a-4 be extended beyond distribution annuities

[4] IRIC recommends that the Department of Labor clarifies concerns that are unique to the selection and monitoring of defaults that include guaranteed lifetime income solutions under safe harbor 29 CFR 2550.404a-4

[5] Internal Revenue Code Section 402(c)(4) addresses eligible rollover distributions

[6] Regulations outlining participant disclosure of distribution options from DC plans can be updated. Similar regulations exist today for DB plans under Treasury Regulation Section 1.417(e)-1(b)

- The DOL should consider establishing minimum disclosure requirements (in a uniform method) to participants who are considering investing in retirement income products.
- Making a generic calculator available and using the methodology as the basis for a safe harbor on projecting how much retirement income a participant's defined contribution account balance is likely to generate would encourage plan sponsors to expand the focus from simply asset accumulation to retirement income.
- The methodology used within the generic calculator could also be used to provide guidelines for how to calculate, present, and compare retirement income options relative to other investment choices and make it easier for workers to understand because retirement income projections would be presented in a consistent format.
- Currently, retirement income products are covered by state insurance guarantees that vary by state. Where coverage exists, insurers are restricted as to how much they can disclose. Issuance of guidance that allows this additional protection to be disclosed, and creates a more uniform approach as to what can be communicated, would provide participants with greater peace of mind.

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Conclusion

In summary, IRIC emphasized the role DOL and Treasury should take to encourage adoption of institutional retirement income products by clarifying regulations, providing a potential solution to portability concerns, and establishing a consistent framework for communicating issues related to retirement income.

While we do not yet know what steps the DOL or Treasury will take as a result of the RFI and hearings, we are encouraged by this first step to begin the dialogue on retirement income so that the industry can work together to help DC plans provide lifetime financial security to America's workers.

Institutional Retirement Income Council (IRIC)

As the burden of funding retirement has shifted from employer to employee, defined contribution plans, such as 401(k)s, have become the primary source of retirement savings for an increasing number of Americans. Yet DC plans were originally designed as supplemental retirement savings vehicles and were generally never intended to provide guaranteed lifetime income.

The mission of the Institutional Retirement Income Council (IRIC®) is to facilitate the culture shift of defined contribution plans from supplemental savings programs to programs that provide retirement security. By providing a forum for insightful, solutions-oriented thought leadership on institutional retirement income, IRIC is promoting the need for retirement income adequacy for defined contribution plan participants.

A membership-based organization, IRIC is supported by sponsors, and a panel of industry advisors, who are dedicated to sharing best practices, informing about legislative and regulatory issues and facilitating solutions for plan sponsors and their participants.

Contributing Writer:

Martha Tejera
Search Consultant, Tejera & Associates

Tejera & Associates focuses on helping employers meet their fiduciary responsibility in selecting their retirement administration service providers and investment consultants. Martha's knowledge of retirement industry standards and best practices, retirement service providers and their distinguishing characteristics, and the nuances of plan design and administration is invaluable in helping plan sponsors select a provider and build a long-term, successful partnership.

Martha serves on the boards of several industry groups, including the Seattle chapter of Western Pension & Benefits Council and the Institutional Retirement Income Council. She is an Enrolled Actuary (R) under ERISA and earned her bachelor's degree in Economics from the University of Washington.