Prudential
Bring Your Challenges®

GUARANTEED RETIREMENT INCOME UPDATE

A Timeline of Regulatory Guidance

Since 2007, the U.S. Department of the Treasury, IRS and Department of Labor have released a succession of guidance and rulings indicating their support for lifetime income solutions within defined contribution plans.

Prudential's Perspective

- We applaud IRS, Treasury and DOL actions to encourage adoption and enhance lifetime retirement security solutions.
- These actions reinforce federal regulators' recognition of the importance of providing plan participants with secure retirement income strategies.
- We believe lifetime income is a critical component of retirement strategy. We will continue to work with the Department of the Treasury, IRS and DOL—both directly and through industry trade groups—to clarify and strengthen the regulatory guidance relating to retirement income solutions.
- We have learned that participants enrolled in a guaranteed lifetime retirement income solution contribute more, diversify more and are more likely to weather market volatility.[1]

[1] "The Defined Contribution Research Report," Prudential Retirement, June, 2015.

Regulatory and Interpretive Guidance

September 2007—DOL issued a proposed regulation detailing best practices when a fiduciary recommends an annuity provider for a defined contribution plan. This includes, but is not limited to, engaging in an objective, thorough analysis of appropriate providers, ensuring the recommended provider has relevant expertise and giving adequate consideration to the financial stability of the annuity provider.

October 2007—DOL issued a final regulation defining Qualified Default Investment Alternatives (QDIAs) to include certain target-date funds, managed accounts and balanced funds. The regulation also recognized income vehicles as a permissible feature of a QDIA. The specific language states an investment that otherwise meets the definition of a QDIA does not lose its QDIA status solely because it is offered through an annuity contract or because it includes annuity purchase rights or investment guarantees.

October 2008—DOL finalized the proposed rule from September 2007, delivering a safe-harbor for selecting annuity providers for distributions from defined contribution plans. It concludes:

1. When plan fiduciaries engage in an objective, thorough and analytical search, which results in a determination that the annuity provider is able to make all future payments
2. The costs are reasonable
3. The fiduciary also consults with an appropriate expert if necessary

Then, they will have satisfied their fiduciary duties under ERISA in connection with the annuity selection.

January 2010—The Departments of Labor and Treasury jointly issued a Request for Information (RFI) on lifetime income options. The RFI was written to help determine whether and how the Agencies could "enhance, by regulation or otherwise, the retirement security of participants in employer-sponsored retirement plans and in individual retirement arrangements (IRAs) by facilitating access to, and use of, lifetime income or other arrangements designed to provide a lifetime stream of income after retirement." The solicitation of input was accompanied by hearings that included testimony from Christine Marcks, President, Prudential Retirement® and Susan Unvarsky, Chief Operating Officer, Total Retirement Solutions at Prudential Retirement.

February 2012—Treasury released new guidance on rules related to guaranteed lifetime income, in the form of two proposed regulations and two revenue rulings:

- Qualified longevity annuity contracts (QLACs) used in connection with DC plans and IRAs
- Applying qualified joint-and-survivor annuity (QJSA) and qualified preretirement survivor annuity (QPSA) rules to deferred fixed annuities in DC plans
- Rollovers of DC plan money to DB plans to purchase annuities
- Partial annuitization from DB plans

October 2014—IRS Notice 2014-66, accompanied by a DOL information letter, provided guidance intended to expand the use of income annuities in 401(k) plans, particularly where the annuity is purchased in conjunction with a target-date fund. The notice and letter indicated how one retirement income solution could be integrated into a retirement plan without creating additional regulatory or fiduciary concerns.

Of particular note was the DOL's discussion of the QDIA regulation, clarifying income annuities' inclusion and concluding that responsibility for selection of an annuity provider could be shifted to an investment manager.

July 2015—The DOL released Field Assistance Bulletin (FAB) 2015-02, reiterating and clarifying the principles set forth in the annuity selection safe harbor regulation as they relate to plan fiduciaries' responsibilities and liabilities following the prudent selection of an annuity provider. The Bulletin, while not adding anything new from a legal perspective, nonetheless may be viewed as helpful to employers who may not have fully understood the limits on their liability in the prudent selection of an annuity provider. In addition, the Bulletin noted that Treasury and Labor are "engaged in a joint initiative to encourage prudent consideration, offering and use of lifetime income alternatives, including annuities, in retirement plans."

December 2016—This DOL information letter clarifies that while an annuity with certain liquidity restrictions does not fulfill the requirements to be used as part of a QDIA, it may still be considered a prudent choice for use as the plan's default investment, subject to all the other requirements of the regulation. Of particular note in this information letter are the Department's comments about the importance of finding ways to "ensure adequate retirement income," a description of "the need for lifetime income as an important public policy issue," and an offering of support for "initiatives that could lead to a broader use of lifetime income options in defined contribution plans."

Regulatory and Legislative Initiatives

The following represent some of the legislative and regulatory changes Prudential is pursuing in 2017:

Annuity Selection Safe Harbor—a revised (regulatory or legislative) safe harbor would permit plan fiduciaries to take into account state insurance regulation and oversight in assessing an insurer's financial capability to stand behind its contractual promises.

Annuity Portability—change, through legislation, the tax code to permit plan participants to roll over their interest in an in-plan annuity or other lifetime income benefit to an IRA when a plan changes the annuity and/or investment options under the plan.

Lifetime Income Disclosure—establish a (legislative or regulatory) fiduciary safe harbor under which plans may furnish participants with a statement reflecting their accumulated retirement savings as a lifetime income stream.

Default Annuitization—establish, through legislation, a fiduciary safe harbor permitting a plan to default a participant's contribution into a guaranteed lifetime income solution. This safe harbor is similar to the safe harbor available for Qualified Default Investment Alternatives (QDIAs).

Conclusion

While much has been done to encourage and foster plan sponsor consideration of guaranteed lifetime income solutions as part of their plan, Prudential is committed to working with legislators and regulators to further enhance plan participant access to, and understanding of, lifetime income solutions for all working Americans.

Further Information

- Provider Selection Regulation
- DOL Final Rule on QDIAs
- DOL Annuity Safe Harbor
- Treasury Fact Sheet: Helping American Families Achieve Retirement Security by Expanding Lifetime Income Choices
- Internal Revenue Bulletin 2014-30
- Treasury Notice 2014-66
- DOL Field Assistance Bulletin 2015-02
- Retirement Enhancement and Savings Act (RESA)
- TIAA Private Letter Ruling

Prudential
Bring Your Challenges®

280 Trumbull Street
Hartford, CT 06103

prudential.com

In providing this information Prudential Retirement is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity. Prudential Retirement may benefit from advisory and other fees paid to it or its affiliates for managing, selling, or settling of the Prudential mutual funds and other investment products or securities offered by Prudential Retirement or its affiliates. Investment vehicles sponsored or managed by a Prudential Retirement affiliate generate more revenue for the Prudential enterprise than non-proprietary investment vehicles. Prudential Retirement's sales personnel generally receive greater compensation if plan assets are invested in proprietary investment vehicles. Prudential Retirement may benefit directly from the difference between investment earnings of Prudential Retirement's stable value funds and the amount credited to deposits in those funds. Prudential Retirement may also benefit from broker-dealer or other entities' co-sponsorship of Prudential conferences.

This brochure has been provided for informational purposes only and does not represent legal or tax advice for which you should consult your qualified professional. Neither Prudential Financial nor any of its associates provide legal or tax advice.

Guarantees are based on the claims paying ability of the insurance company and are subject to certain limitations, terms and conditions.

Prudential IncomeFlex Target Funds are separate accounts under group variable annuity contracts issued by **Prudential Retirement Insurance and Annuity Company (PRIAC)**, Hartford, CT. PRIAC does not guarantee the investment performance or return on contributions to those separate accounts. Participants should consider the objectives, rates, charges and expenses of the Funds and guarantee features before purchasing this product. Like all variable investments, these funds may lose value. Availability and terms may vary by jurisdiction; subject to regulatory approvals. For this and other information, participants should access incomechallenges.com or call 877-778-2100 for a copy of the Prudential IncomeFlex Target Important Considerations before investing.

Annuity contracts contain exclusions, limitations, reductions of benefits and terms for keeping them in force. Contract form # GA-2020-TGWB4-0805 or state variation.

Retirement products and services are provided by Prudential Retirement Insurance and Annuity Company (PRIAC), Hartford, CT or its affiliates. PRIAC is a Prudential Financial company.

0305054-00001-00 **For Plan Sponsor and Financial Advisor Use Only.** IIIBRRE2
05/2017