

Reproduced with permission from Pension & Benefits Reporter, 41 BPR 1732, 8/26/14. Copyright © 2014 by The Bureau of National Affairs, Inc. (800-372-1033) <http://www.bna.com>

ERISA Advisory Council

Speakers Tell Council DOL Guidance Needed To Boost Savers' Lifetime Income Options

A combination of guidance and online tools from the DOL on lifetime income would help retirement plan participants make good decisions about their retirement funds and investments, a speaker told the ERISA Advisory Council.

Norman P. Stein, a law professor at Drexel University School of Law, speaking on behalf of the Pension Rights Center, told the council Aug. 21 that the Department of Labor could “issue guidance on steps employers can take to educate employees on how to evaluate plan distribution options without creating potential fiduciary liability on the part of the employer.”

The DOL also could consider creating “model documents for employers to provide employees to guide them in making decisions about plan distribution options,” or working with outside professional groups to create model documents, Stein told the council. The council examined issues and considerations around facilitating lifetime plan participation during the final day of its three-day meeting.

Stein recommended that the department provide information on its website listing factors participants should consider when faced with the decision to take a lump sum from their retirement plan or leave the funds or benefits in the plan. The department also could provide a list of questions people could ask the individuals providing them with advice when they are considering whether to take a lump sum, he said.

Additionally, Stein recommended that the DOL could consider changing its position that advising a participant on whether to leave their money in the plan or transferring it to an individual retirement account constitutes investment advice.

He also recommended some collaboration with the Internal Revenue Service to “reduce obstacles to roll-overs and direct transfers to a plan of a new employer.”

The same day, council members asked a DOL official about steps that could be taken to encourage lifetime plan participation (see related article in this issue) and another speaker said that a new approach was needed by the retirement plan industry (see related article in this issue).

Employer Steps. Expanding choices for participants can facilitate better retirement options, Cynthia Mallett, vice president for industry strategies and public policy in MetLife’s corporate benefit funding division, told the council.

“The idea here is that facilitating lifetime plan participation on the part of qualified plan sponsors is better than providing only a single path that requires individual options such as cashing out and moving to a retail IRA,” said Mallett, who was speaking on behalf of the American Council of Life Insurers.

Focusing on lifetime plan participation can also give participants the opportunity to benefit from “the ERISA due diligence work” that plan sponsors do when selecting investment funds and other aspects of the plan, she said.

She did caution against making a generalization across the board, noting that all plans are different and some plan options aren’t necessarily lower in cost than IRAs.

Allowing “roll-ins” to a plan “help facilitate this lifetime plan participation concept,” she said. “Anything that makes it easier” for plan sponsors to allow current employees to roll-in previously accumulated qualified funds into their current plan would allow people to think about 401(k) plans differently, she said.

Mallett also suggested that expanded sponsor engagement would help lifetime plan participation. One way to do this is for plan sponsors to take a “broader view” of their 401(k) plans as more than just “supplemental savings plans,” she said.

“This entire area around plan sponsors increasing engagement, everything from auto options to this idea around lifetime plan participation, is an area of enormous innovation right now,” she said.

Although there are many possibilities to encourage lifetime plan participation, Mallett told the council members they should remember that “the overriding goal of all of these considerations is to prevent leakage from the retirement plan system overall.”

By **KRISTEN RICAURTE KNEBEL**

To contact the reporter on this story: Kristen Ricaurte Knebel in Washington at kknebel@bna.com

To contact the editor responsible for this story: Sue Doyle at sdoyle@bna.com

Written testimony to the council from the Aug. 21 sessions is at: Norman P. Stein, <http://op.bna.com/pen.nsf/r?Open=krkl-9n7sf4>; Cynthia Mallett, <http://op.bna.com/pen.nsf/r?Open=krkl-9n7sfa>; AARP <http://op.bna.com/pen.nsf/r?Open=krkl-9n7sgd>; Georgette Gestely, NYC Employee Benefits Program, <http://op.bna.com/pen.nsf/r?Open=krkl-9n7sev>; Jack Towarnicky, Willis North America, <http://op.bna.com/pen.nsf/r?Open=krkl-9n7sep>; and Warren Cormier, Boston Research Technologies, <http://op.bna.com/pen.nsf/r?Open=krkl-9n7sg5>.