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DOL clarifies scope of QDIA relief for lifetime income products

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A recent Department of Labor (DOL) [advisory opinion](#) clarifies that an investment management service with a guaranteed lifetime income component can be a qualified default investment alternative (QDIA) in a defined contribution (DC) plan. DOL issued the opinion to an asset management firm offering a specific investment management service. While only the recipient of an advisory opinion is entitled to rely on it, DOL appears to suggest that the opinion's clarification about incorporating lifetime income solutions within a QDIA is more broadly applicable. The advisory opinion also addresses the manager's fiduciary obligations when selecting insurers for the lifetime income component.

Description of the investment management service

The investment management service DOL addresses in the advisory opinion is offered by an asset manager that acts as a fiduciary and "investment manager" under [ERISA Section 3\(38\)](#). The manager allocates participants' accounts among the plan's core investment options, with the allocation becoming more conservative as participants get older. When participants reach age 50, the manager begins gradually investing a portion of their accounts in a portfolio offered through a variable annuity contract that provides lifetime income protection. The plan sponsor chooses the default allocation percentage, but participants have the option to pick a different amount. The manager selects insurers for the lifetime income component through a competitive bidding process. The lifetime income component charges participants a fixed fee that is a percentage of invested assets.

The manager calculates the annual amount each participant may withdraw from the lifetime income component in retirement. This amount is guaranteed for life, even if the account is exhausted due to poor investment returns or the participant's longevity. The annual withdrawal amount may increase if the contract's investment returns exceed a certain threshold but won't decrease unless a participant

voluntarily withdraws more than the annual amount or makes transfers to other plan investment options. No termination or liquidity fees apply to such withdrawals or transfers. Participants receive a QDIA notice with a description of the service before their initial default investment, and the service is designed to satisfy the other QDIA requirements described below.

Service qualifies as a QDIA

Plan fiduciaries who offer a QDIA are relieved of liability for investment losses related to the default investment of a participant's contributions in the QDIA. To qualify for QDIA protection, fiduciaries must satisfy certain conditions in DOL's QDIA [regulation](#), including:

- A requirement to furnish a QDIA notice when participants become eligible (or before their initial default investment) and within a reasonable period of time at least 30 days before the start of each plan year
- A prohibition on restrictions, fees or expenses for any transfers or withdrawals in the first 90 days after a participant's first investment

An investment management service — sometimes referred to as a managed account — is one of three main categories of investment products that can qualify as QDIAs. The other two main QDIA categories are target date and balanced funds. While the regulation specifically provides that target date and balanced funds can include products or portfolios offered through variable annuity contracts that provide features like investment guarantees, it doesn't specify whether an investment management service can do so. In the advisory opinion, DOL clarifies that the regulation doesn't preclude an investment management service that incorporates lifetime income strategies from being treated as a QDIA.

The service is designed to satisfy the notice, transferability and other safe harbor conditions of the regulation. For example, the manager won't allocate funds to the lifetime income component for 90 days after the participant's first default investment. Accordingly, DOL concludes that this service is a QDIA — the lifetime income component doesn't make the service ineligible for this treatment.

Fiduciary obligations for insurer selection

The advisory opinion also addresses the manager's fiduciary obligations when selecting insurers for the lifetime income component. Selecting an annuity for a DC plan is a fiduciary action subject to ERISA's duties of prudence and loyalty. DOL confirmed that the manager can demonstrate compliance with these duties by complying with the existing DC plan annuity selection safe-harbor [regulation](#) or the similar — but not identical — [statutory safe harbor](#) added by the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019.

Plan fiduciaries are responsible for prudently selecting and monitoring a plan's QDIA. With respect to a DC plan fiduciary's decision to offer the service, DOL merely notes that whether a fiduciary has satisfied their ERISA duties when selecting an investment product as a QDIA depends on the facts and circumstances. However, DOL opines that because the manager is an ERISA Section 3(38) investment

manager, a plan fiduciary that prudently selects and monitors the service generally won't be liable for the manager's actions, including the selection of insurers for the lifetime income component.

More lifetime income guidance possible

In an accompanying [press release](#), DOL indicates that the advisory opinion furthers the objectives of an Aug. 7 [executive order](#) directing DOL to take action aimed at encouraging DC plan fiduciaries to offer participants greater exposure to six categories of "alternative assets," including lifetime income investment strategies. According to the press release, the agency plans to issue a proposed rule — including potential safe harbors — that clarifies the duties ERISA fiduciaries owe to participants when deciding whether to offer an asset allocation fund with investments in alternative assets.

Related resources

Non-Mercer resources

- [Advisory Opinion 2025-04A](#) (DOL, Sept. 23, 2025)
- [Press release](#) (DOL, Sept. 22, 2025)

Mercer Law & Policy resources

- [DC plans await DOL's Trump-ordered alternative asset guidance](#) (Aug. 25, 2025)
- [DOL reverses course on repeal of DC annuity safe harbor](#) (Aug. 14, 2025)
- [DOL encourages the public to seek ERISA advisory opinions](#) (June 4, 2025)

Other Mercer resources

- [Understanding the importance of QDIAs](#)
- [Retirement Income for US DC Plans: Point of View](#) (May 9, 2025)

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