

- (A) the summary plan description pursuant to section 1024(b) of this title, and
- (B) any other notices related to eligibility under the plan required to be furnished under this subchapter, or the Internal Revenue Code of 1986, in connection with such participant's initial eligibility to participate in such plan;
- (3) is not participating in such plan; and
- (4) satisfies such other criteria as the Secretary of Labor may determine appropriate, as prescribed in guidance issued in consultation with the Secretary of Treasury.

For purposes of this section, any eligibility to participate in the plan following any period for which such employee was not eligible to participate shall be treated as initial eligibility.

(c) Annual reminder notice

For purposes of this section, the term "annual reminder notice" means a notice provided in accordance with section 2520.104b-1 of title 29, Code of Federal Regulations (or any successor regulation), which—

- (1) is furnished in connection with the annual open season election period with respect to the plan or, if there is no such period, is furnished within a reasonable period prior to the beginning of each plan year;
- (2) notifies the unenrolled participant of—
 - (A) the unenrolled participant's eligibility to participate in the plan; and
 - (B) the key benefits and rights under the plan, with a focus on employer contributions and vesting provisions; and
- (3) provides such information in a prominent manner calculated to be understood by the average participant.

(Pub. L. 93–406, title I, § 111, as added Pub. L. 117–328, div. T, title III, § 320(a)(1), Dec. 29, 2022, 136 Stat. 5354.)

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (b)(2)(B), is classified generally to Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 111 of Pub. L. 93–406 was renumbered section 112 and is classified to section 1031 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to plan years beginning after Dec. 31, 2022, see section 320(c) of Pub. L. 117–328, set out as an Effective Date of 2022 Amendment note under section 414 of Title 26, Internal Revenue Code.

§ 1031. Repeal and effective date

(a)(1) The Welfare and Pension Plans Disclosure Act [29 U.S.C. 301 et seq.] is repealed except that such Act shall continue to apply to any conduct and events which occurred before the effective date of this part.

(2)(A) Section 664 of title 18 is amended by striking out "any such plan subject to the provisions of the Welfare and Pension Plans Disclosure

Act" and inserting in lieu thereof "any employee benefit plan subject to any provisions of title I of the Employee Retirement Income Security Act of 1974".

(B)(i) Section 1027 of such title 18 is amended by striking out "Welfare and Pension Plans Disclosure Act" and inserting in lieu thereof "title I of the Employee Retirement Income Security Act of 1974", and by striking out "Act" each place it appears and inserting in lieu thereof "title".

(ii) The heading for such section is amended by striking out "WELFARE AND PENSION PLANS DISCLOSURE ACT" and inserting in lieu thereof "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974".

(iii) The table of sections of chapter 47 of such title 18 is amended by striking out "Welfare and Pension Plans Disclosure Act" in the item relating to section 1027 and inserting in lieu thereof "Employee Retirement Income Security Act of 1974".

(C) Section 1954 of such title 18 is amended by striking out "any plan subject to the provisions of the Welfare and Pension Plans Disclosure Act as amended" and inserting in lieu thereof "any employee welfare benefit plan or employee pension benefit plan, respectively, subject to any provision of title I of the Employee Retirement Income Security Act of 1974"; and by striking out "sections 3(3) and 5(b)(1) and (2) of the Welfare and Pension Plans Disclosure Act, as amended" and inserting in lieu thereof "sections 3(4) and (3)(16)¹ of the Employee Retirement Income Security Act of 1974".

(D) Section 211 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 441) is amended by striking out "Welfare and Pension Plans Disclosure Act" and inserting in lieu thereof "Employee Retirement Income Security Act of 1974".

(b)(1) Except as provided in paragraph (2), this part (including the amendments and repeals made by subsection (a)) shall take effect on January 1, 1975.

(2) In the case of a plan which has a plan year which begins before January 1, 1975, and ends after December 31, 1974, the Secretary may postpone by regulation the effective date of the repeal of any provision of the Welfare and Pension Plans Disclosure Act (and of any amendment made by subsection (a)(2)) and the effective date of any provision of this part, until the beginning of the first plan year of such plan which begins after January 1, 1975.

(c) The provisions of this subchapter authorizing the Secretary to promulgate regulations shall take effect on September 2, 1974.

(d) Subsections (b) and (c) shall not apply with respect to amendments made to this part in provisions enacted after September 2, 1974.

(Pub. L. 93–406, title I, § 112, formerly § 111, Sept. 2, 1974, 88 Stat. 851; Pub. L. 101–239, title VII, § 7894(h)(1), Dec. 19, 1989, 103 Stat. 2451; renumbered § 112, Pub. L. 117–328, div. T, title III, § 320(a)(1), Dec. 29, 2022, 136 Stat. 5354.)

¹ So in original. Probably should be "3(16)".

Editorial Notes

REFERENCES IN TEXT

The Welfare and Pension Plans Disclosure Act, referred to in subsecs. (a) and (b)(2), is Pub. L. 85-836, Aug. 28, 1958, 72 Stat. 997, which was classified generally to chapter 10 (§301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Title I of the Employee Retirement Income Security Act of 1974, referred to in subsec. (a)(2)(A) to (C), means title I of Pub. L. 93-406, which enacted this subchapter, amended section 441 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 664, 1027, and 1954 of Title 18, Crimes and Criminal Procedure, and repealed sections 301 to 309 of this title.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (a)(2)(B)(ii), (iii), (D), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829. Titles I, III, and IV of such act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1989—Subsec. (d). Pub. L. 101-239 added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-328 applicable to plan years beginning after Dec. 31, 2022, see section 320(c) of Pub. L. 117-328, set out as a note under section 414 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if originally included in the provision of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, to which such amendment relates, see section 7894(i) of Pub. L. 101-239, set out as a note under section 1002 of this title.

§ 1032. Notice and disclosure requirements with respect to lump sums**(a) In general**

A plan administrator of a pension plan that amends the plan to provide a period of time during which a participant or beneficiary may elect to receive a lump sum, instead of future monthly payments, shall furnish notice—

(1) to each participant or beneficiary offered such lump sum amount, in the manner in which the participant and beneficiary receives the lump sum offer from the plan sponsor, not later than 90 days prior to the first day on which the participant or beneficiary may make an election with respect to such lump sum; and

(2) to the Secretary and the Pension Benefit Guaranty Corporation, not later than 30 days prior to the first day on which participants and beneficiaries may make an election with respect to such lump sum.

(b) Notice to participants and beneficiaries**(1) Content**

The notice required under subsection (a)(1) shall include the following:

(A) Available benefit options, including the estimated monthly benefit that the participant or beneficiary would receive at normal retirement age, whether there is a subsidized early retirement option or qualified

joint and survivor annuity that is fully subsidized (in accordance with section 417(a)(5) of title 26,¹ the monthly benefit amount if payments begin immediately, and the lump sum amount available if the participant or beneficiary takes the option.

(B) An explanation of how the lump sum was calculated, including the interest rate, mortality assumptions, and whether any additional plan benefits were included in the lump sum, such as early retirement subsidies.

(C) In a manner consistent with the manner in which a written explanation is required to be given under 417(a)(3) of title 26, the relative value of the lump sum option for a terminated vested participant compared to the value of—

(i) the single life annuity, (or other standard form of benefit); and

(ii) the qualified joint and survivor annuity (as defined in section 1055(d)(1) of this title);

(D) A statement that—

(i) a commercial annuity comparable to the annuity available from the plan may cost more than the amount of the lump sum amount, and

(ii) it may be advisable to consult an advisor regarding this point if the participant or beneficiary is considering purchasing a commercial annuity.

(E) The potential ramifications of accepting the lump sum, including longevity risks, loss of protections guaranteed by the Pension Benefit Guaranty Corporation (with an explanation of the monthly benefit amount that would be protected by the Pension Benefit Guaranty Corporation if the plan is terminated with insufficient assets to pay benefits), loss of protection from creditors, loss of spousal protections, and other protections under this Act that would be lost.

(F) General tax rules related to accepting a lump sum, including rollover options and early distribution penalties with a disclaimer that the plan does not provide tax, legal, or accounting advice, and a suggestion that participants and beneficiaries consult with their own tax, legal, and accounting advisors before determining whether to accept the offer.

(G) How to accept or reject the offer, the deadline for response, and whether a spouse is required to consent to the election.

(H) Contact information for the point of contact at the plan administrator for participants and beneficiaries to get more information or ask questions about the options.

(2) Plain language

The notice under this subsection shall be written in a manner calculated to be understood by the average plan participant.

(3) Model notice

The Secretary shall issue a model notice for purposes of the notice under subsection (a)(1),

¹ So in original. A closing parenthesis probably should precede the comma.