

Today's pension annuity marketplace is afflicted with remnants of the failures of Executive Life, Mutual Benefit Life and Confederation Life. The landscape is quite different from the days of old. Pension surpluses derived from a booming stock market have passed through to the earnings statements of publicly traded companies. This visibility has sparked both comfort and controversies.

The introduction of cash balance plans has inundated the defined benefit pension plan arena, setting the stage for yet another round of legislative tampering. To be sure, the perceived abuses have caught the eye of the legislators and regulators. As a result, the unusual dynamics of defined benefit plans and the choice between a lump sum and an annuity may serve to do nothing but add to the confusion of the participant. All this during a political climate torn with the issues surrounding Social Security privatization efforts.

EXECUTIVE LIFE - THE SAGA CONTINUES:

A recent Fifth Circuit Court ruling set a tone for annuity purchases when it found that RJR Nabisco breached the rules of fiduciary procedural prudence by selecting an annuity from Executive Life. Nearly seven years after the fact, the courts found that the decision-making process used by trustees did not conform with the principles of "Procedural Prudence." Brussian v. RJR Nabisco, incorporated (No. 98-20867, Aug 14, 2000. ("RJR").

In its decision, the court examined Interpretive Bulletin 95-1 but noted that it carried little weight since the IB was never the subject of public comment. Instead, the court focused on Procedural Prudence and the requirement that the fiduciary fulfill its duties in reaching a decision solely in the interests of participants.

This outcome sets the stage for the DOL to reexamine the process of its guidance for fiduciaries. The court also sends a strong message to trustees: "We will hold you accountable if you do not perform within the meaning of ERISA procedural prudence."

Requirement: Fiduciaries must perform their duties within the meaning of ERISA.

Reality: Few trustees have experience with this process.

Dilemma: Trustees are ultimately responsible for the decision despite reliance upon outside experts.

Outcome: Fiduciaries must demonstrate their performance of "Procedural Prudence" in choosing an annuity.

INTERPRETIVE BULLETIN DOL 95-1:

Here are the factors outlined in the Department of Labor "safest available annuity" Interpretive Bulletin 95-1:

- ① Quality and diversification of insurer investment portfolio
- ② Size of the insurer relative to proposed contract
- ③ Level of insurer capital and surplus
- ④ Lines of business of annuity provider and other indications of insurer's exposure to liability factors affecting increases/decreases in capital and surplus
- ⑤ Structure of annuity contract and guarantees supporting annuities, such as use of separate accounts
- ⑥ Availability of protection through state guarantee associations and extent of those guarantees

QUALIFIED ANNUITY SERVICES:

QAS specializes in Single Premium Group and Terminal Funding Annuity placements.

- ✓ The first independent annuity placement specialist servicing the actuarial and pension community
- ✓ The longest track record for placing annuities of this type (since 1981)
- ✓ A leading service provider in the Terminal Funding industry
- ✓ Offers proprietary reporting and analysis to support the fiduciary decision-making process
- ✓ Presents unique structures for unique client situations

Qualified Annuity Services takes a proprietary approach to fulfilling the requirements of DOL 95-1. Besides providing an overview of the issuing insurers, QAS goes a few steps further.

Documentation provided to the Plan Sponsor

QAS' documentation package contains more than annuity costs and credit ratings. It includes a proprietary Terminating Pension Group Annuity Report. The content demonstrates the process that QAS uses to assist the trustee with analyzing the array of factors imposed by DOL 95-1, pertaining to the selection of a single annuity provider.

A. Executive Summary - Contents include: QAS' bid specifications and control totals; summary of issuers declining to quote; comparative breakdown of bidding carriers' costs and control totals; state guaranty coverages and limits of liability; summary of carriers' financial information, balance sheets and third party credit ratings.

B. Bid Binder - Contents include: each carrier's proposal underwritten specifically for the plan; specimen group annuity contracts from each carrier; independent third party credit rating analysis.

C. Terminating Pension Group Annuity Report

Section I - A written analysis of the bid results obtained: comparison of how the bid results adhere to and deviate from QAS' bid specifications and plan requirements; evaluation of control totals for consistency; study of the limitations of current market rates and placement conditions

Section II - Provides complete disclosure of each factor required by DOL 95-1 and includes a comparative analysis of quantitative and qualitative information; compares size of annuity placement to issuers' asset and surplus levels, and other factors; offers complete evaluation of each issuers' contract structure or method of benefit assurance

BENEFITS TO THE CLIENT:

- ✓ QAS provides superior documentation - not a series of bids.
- ✓ QAS submits a comprehensive analysis - not just copies of quotes.
- ✓ QAS examines 95-1 in detail - not just copies of ratings.
- ✓ QAS thoroughly underwrites each plan - not just ad hoc annuity placements for certain participants
and most important,
- ✓ QAS helps trustees meet their obligations and reach conclusions with Procedural Prudence.

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