

117TH CONGRESS
2D SESSION

S. 4087

To require pension plans that offer participants and beneficiaries the option of receiving lifetime annuity payments as lump sum payments, to meet certain notice and disclosure requirements.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2022

Mrs. MURRAY (for herself, Ms. SMITH, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require pension plans that offer participants and beneficiaries the option of receiving lifetime annuity payments as lump sum payments, to meet certain notice and disclosure requirements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Information Needed
5 for Financial Options Risk Mitigation Act” or the “IN-
6 FORM Act”.

1 **SEC. 2. NOTICE AND DISCLOSURE REQUIREMENTS WITH**
 2 **RESPECT TO LUMP SUM WINDOWS.**

3 (a) IN GENERAL.—Part 1 of subtitle B of title I of
 4 the Employee Retirement Income Security Act of 1974
 5 (29 U.S.C. 1021 et seq.) is amended by adding at the end
 6 the following:

7 **“SEC. 112. NOTICE AND DISCLOSURE REQUIREMENTS WITH**
 8 **RESPECT TO LUMP SUM WINDOWS.**

9 “(a) IN GENERAL.—A plan sponsor of a pension plan
 10 that amends the plan to provide a period of time during
 11 which a participant or beneficiary may elect to receive a
 12 lump sum under clause (i) of section 401(a)(9)(A)(i) of
 13 the Internal Revenue Code of 1986, instead of future
 14 monthly payments under clause (ii) of such section, shall
 15 provide notice—

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

23 “(2) to the Secretary and the Pension Benefit
 24 Guaranty Corporation, not later than 30 days prior
 25 to the first day on which participants and bene-

1 ficiaries may make an election with respect to such
2 lump sum.

3 “(b) NOTICE TO PARTICIPANTS AND BENE-
4 FICIARIES.—

5 “(1) CONTENT.—The notice required under
6 subsection (a)(1) shall include the following:

7 “(A) Available benefit options, including
8 the estimated monthly benefit that the partici-
9 pant or beneficiary would receive at normal re-
10 tirement age, whether there is a subsidized
11 early retirement option or qualified joint and
12 survivor annuity that is fully subsidized (in ac-
13 cordance with section 417(a)(5) of the Internal
14 Revenue Code of 1986), the monthly benefit
15 amount if payments begin immediately, and the
16 lump sum amount available if the participant or
17 beneficiary takes the option.

18 “(B) An explanation of how the lump sum
19 was calculated, including the interest rate, mor-
20 tality assumptions, and whether any additional
21 plan benefits were included in the lump sum,
22 such as early retirement subsidies.

23 “(C) In a manner consistent with the man-
24 ner in which a written explanation is required
25 to be given under 417(a)(3) of the Internal

1 Revenue Code of 1986, the relative value of the
2 lump sum option for a terminated vested partic-
3 ipant compared to the value of—

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

6 “(ii) the qualified joint and survivor
7 annuity (as defined in section 205(d)(1));

8 “(D) Whether it would be possible to rep-
9 licate the plan’s stream of payments by pur-
10 chasing a comparable retail annuity using the
11 lump sum.

12 “(E) The potential ramifications of accept-
13 ing the lump sum, including longevity risks, loss
14 of protections guaranteed by the Pension Ben-
15 efit Guaranty Corporation (with an explanation
16 of the monthly benefit amount that would be
17 protected by the Pension Benefit Guaranty Cor-
18 poration if the plan is terminated with insuffi-
19 cient assets to pay benefits), loss of protection
20 from creditors, loss of spousal protections, and
21 other protections under this Act that would be
22 lost.

23 “(F) General tax rules related to accepting
24 a lump sum, including rollover options and
25 early distribution penalties with a disclaimer

1 that the plan does not provide tax, legal, or ac-
2 counting advice, and a suggestion that partici-
3 pants and beneficiaries consult with their own
4 tax, legal, and accounting advisors before deter-
5 mining whether to accept the offer.

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

9 “(H) Contact information for the point of
10 contact at the plan sponsor for participants and
11 beneficiaries to get more information or ask
12 questions about the options.

13 “(2) PLAIN LANGUAGE.—The notice under this
14 subsection shall be written in a manner calculated to
15 be understood by the average plan participant.

16 “(3) MODEL NOTICE.—The Secretary shall
17 issue a model notice for purposes of the notice under
18 subsection (a)(1), including for information required
19 under subparagraphs (C) through (F) of paragraph
20 (2).

21 “(c) NOTICE TO THE SECRETARY AND PENSION
22 BENEFIT GUARANTY CORPORATION.—The notice required
23 under subsection (a)(2) shall include the following:

24 “(1) The total number of participants and
25 beneficiaries eligible for such lump sum option.

1 “(2) The length of the limited period during
2 which the lump sum is offered.

3 “(3) An explanation of how the lump sum was
4 calculated, including the interest rate, mortality as-
5 sumptions, and whether any additional plan benefits
6 were included in the lump sum, such as early retire-
7 ment subsidies.

8 “(4) A sample of the notice provided to partici-
9 pants and beneficiaries under subsection (b).

10 “(d) POST-OFFER REPORT TO THE SECRETARY AND
11 PENSION BENEFIT GUARANTY CORPORATION.—Not later
12 than 90 days after the conclusion of the limited period
13 during which participants and beneficiaries in a plan may
14 accept a plan’s offer to convert their annuity into a lump
15 sum as generally permitted under section 401(a)(9) of the
16 Internal Revenue Code of 1986, a plan sponsor shall sub-
17 mit a report to the Secretary and the Director of the Pen-
18 sion Benefit Guaranty Corporation that includes the num-
19 ber of participants and beneficiaries who accepted the
20 lump sum offer and such other information as the Sec-
21 retary may require.

22 “(e) PUBLIC AVAILABILITY.—The Secretary shall
23 make the information provided in the notice to the Sec-
24 retary required under subsection (a)(2) and in the post-
25 offer reports submitted under subsection (d)(1) publicly

1 available in a form that protects the confidentiality of the
 2 information provided.

3 “(f) GUIDANCE AND REGULATIONS.—The Sec-
 4 retary—

5 “(1) not later than 180 days after the date of
 6 enactment of this section, shall issue guidance and
 7 model notices for plan sponsors to use in providing
 8 the notice described in subsection (b); and

9 “(2) may promulgate such other regulations as
 10 may be necessary to carry out this section.

11 “(g) BIENNIAL REPORT.—Not later than 6 months
 12 after the date of enactment of this section and every 6
 13 months thereafter, so long as the Secretary has received
 14 notices and post-offer reports under subsections (c) and
 15 (d), the Secretary shall submit to Congress a report that
 16 summarizes such notices and post-offer reports during the
 17 applicable reporting period.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
 19 in section 1 of the Employee Retirement Income Security
 20 Act of 1974 is amended by inserting after the item relat-
 21 ing to section 111 the following new item:

Sec. 112. Notice and disclosure requirements with respect to lump sum win-
 dows.

22 (c) ENFORCEMENT.—Section 502 of the Employee
 23 Retirement Income Security Act of 1974 (29 U.S.C. 1132)
 24 is amended—

1 (1) in subsection (c)(1), by striking “or section
 2 105(a)” and inserting “, section 105(a), or section
 3 112(a)”; and

4 (2) in subsection (a)(4), by striking “105(c)”
 5 and inserting “section 105(c) or 112(a)”.

6 (d) EFFECTIVE DATE.—The amendments made by
 7 subsections (a), (b), and (c) shall take effect on the date
 8 of enactment of this Act.

9 (e) REGULATORY AUTHORITY.—Not later than 1
 10 year after the date of enactment of this Act, the Secretary
 11 of the Treasury and the Secretary of Labor shall jointly
 12 issue regulations to implement section 112 of the Em-
 13 ployee Retirement Income Security Act of 1974, as added
 14 by subsection (a). Such regulations shall require plan
 15 sponsors to comply in good faith with the regulations be-
 16 ginning not later than 1 year after issuance of a final rule
 17 with respect to subsections (a)(1) and (b) of such section
 18 112, and beginning not later than 6 months after issuance
 19 of a final rule with respect to subsections (a)(2), (c), (d),
 20 and (e) of such section 112.

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