

DOL Report to Congress Regarding Defined Benefit Plan Lift-Out Guidance

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PRACTICES Employee Benefits and Executive Compensation

As we previously reported [here](#), a plan fiduciary that is considering a defined benefit plan “lift-out” generally must take steps calculated to obtain the safest annuity available in accordance with DOL Interpretative Bulletin 95-1 (“**IB 95-1**”). Plan “lift-outs” transfer risk and certain liabilities out of the defined benefit plan (usually for retirees or beneficiaries in pay status) to an annuity provider.

The DOL recently reported, following its review of IB 95-1 at the direction of Congress, that the existing guidance under IB 95-1 continues to identify broad factors that are relevant to a fiduciary’s prudent and loyal evaluation of an annuity provider’s claims-paying ability and creditworthiness. In connection with the preparation of this report, the DOL conducted multiple stakeholder meetings and explored views on how well the guidance under IB 95-1 has previously worked, whether the guidance should be improved, and if there are any annuity market trends or developments that the DOL should consider as part of its review.

Areas that may require further consideration by the DOL concerning defined benefit plan lift-out guidance include:

- Private equity involvement in the life insurance industry;
- Insurers’ ownership structures;
- Exposure to risky assets and non-traditional liabilities;
- Use of affiliated and offshore reinsurance;
- Increase in asset-backed securities, such as collateralized loan obligations and private credit; and
- Appropriateness and adequacy of disclosures.

The DOL’s report to Congress on IB 95-1 is available [here](#).