Withdrawals – Pre-Retirement

We do not yet know whether the DOL safe harbor guidelines will allow the plan to place any restrictions on pre-retirement withdrawals from the plan. The group discussed what would be preferred from a policy perspective, if DOL rules permit. The group recognized that participants should be able to withdraw when they truly need the funds, but frequent withdrawals will defeat the purpose of promoting long-term retirement savings. One option would be to limit the frequency and number of withdrawals, for example no more than once per quarter. Another option would be to charge a fee for frequent withdrawals, recognizing that there is a program cost. However, some members of the group commented that the fee would not necessarily discourage withdrawals but would deplete savings further. Some participants felt that the process should not be more restrictive than a commercial IRA. The group did not reach any consensus on these issues. One suggestion (which could accompany any of these options) would be to include in the withdrawal process a projection of the impact of the withdrawal on future retirement income. A participant would go online to request the withdrawal, an online tool would calculate and display the impact and then ask the participant if this is really what they want to do.

One participant asked what would happen to the account if the entire balance is withdrawn. Would the account stay open? The consensus was that it would stay open and payroll contributions would continue to flow in unless the participant also opted out of future contributions.

Withdrawals – During Retirement

The group discussed whether the plan should offer an annuitization option at retirement. This could be an immediate annuity, or a deferred annuity/QLAC for a portion of the funds (for example, to pay out beginning age 80). Many group members felt that full annuitization should not be the default at retirement, and that the recordkeeper should offer regular monthly withdrawals from non-annuitized accounts. There was discussion of whether partial annuitization should be the default option, either at retirement or during accumulation through a partial annuitization feature within a target date fund. Some group members were concerned this would limit liquidity. The general consensus was that these issues deserve a lot of additional discussion, and that decisions do not need to be made right away; these are features that can be added later as plan balances grow.

Inactive Micro-Accounts

The group discussed what should happen if a very small account becomes inactive (no further contributions being made). Should it be closed and the fund returned to the participant? The
consensus was that the account should not be closed though it might be moved to an inactive status. Locating the participant and returning the funds would be more costly than maintaining the account. The group did not favor charging an inactivity fee, since this would erode the account. It might be possible to roll the accounts into the MyRA program. However, the most reasonable option might be for the account to remain with the program and ultimately be subject to the escheat laws. [Following the meeting, a participant provided the text of ORS 98.332 relating to escheat of IRAs. Basically, the funds are not deemed abandoned until two years after the date on which distribution would be mandatory – which may be never, for a Roth IRA.]

4) **Opting Out**

At the previous meeting, the group discussed an opt-out period of 30 to 60 days for new hires, prior to contributions beginning. Once contributions have begun, should the participant be able to opt out any time? Or should participation be required for some period prior to opt-out? Group members commented that allowing opt-outs any time (subject to a reasonable payroll cut-off) would be easier to manage and would accommodate participants who missed the initial opt-out.

A group member commented that the UK program enrolls everyone beginning upon hire, and then returns the contributions to employees who opt out. Some 401(k) plans also work this way. It would be another way to structure our plan.

5) **Opting In after Opting Out**

If an employee opts out, what future opportunities will there be to enroll? [Note: the employee will be auto-enrolled again if he or she changes jobs. This discussion relates to an employee who initially opted out and has not changed jobs.]

One option would be to auto-enroll the employee again periodically; the employee could then opt out again if he or she does not want to participate. A group member analogized this to computer updates – if you say “not now,” you will keep getting reminders to update. (Employees who have opted out may find this equally annoying.) Another option would be to provide opted-out employees with periodic (annual?) materials and encouragement to opt in. A third option would be to leave future opt-ins up to the employee’s initiative. Opt-ins could be permitted any time, or could be limited to specified open enrollment periods (prescribed by the plan, or selected by the employer).

6) **Employee Changes**

When and how frequently should an employee be able to change their contribution rate or their auto-escalation participation? Should changes be permitted any time? Or, should changes be limited to no less frequent than quarterly? Should the employer be able to set the standard within some parameters (or would this violate DOL guidelines)? The group discussed these options but did not reach any consensus. Further discussions with employer and employee representatives may be needed.
Employees should be able to change their investment choices consistent with normal industry practice. There may be frequent-trading restrictions for some investment choices such as a stable value fund.

(7) Contributions Other Than Payroll Deduction

Should the plan allow participation by workers who are not subject to auto-enrollment and payroll deduction? This could include (a) self-employed/1099 workers, and potentially (b) employees of an employer offering a qualified plan for which they are ineligible (depending on how the plan treats these employers).

Many group members felt it would be desirable for the plan to accept these workers as voluntary participants. However, a group member felt this might not be consistent with the DOL’s guidelines for the ERISA safe harbor, since 1099 workers are technically “employers” (of themselves) and this might constitute voluntary participation by an employer. This will need to be analyzed further. [Following the meeting, Treasury staff indicated that a different ERISA safe harbor provision might apply.]

The group had a similar discussion regarding voluntary lump sum contributions by plan participants, outside of payroll deductions. A group member thought the plan might have to ensure these funds did not come from self-employment income. Others thought this might be resolved through a self-certification, if the ERISA safe harbor concern is valid. A group member commented that lump sum contributions would need to identify the applicable tax year for which the contribution is being made.

Voluntary participation and lump sum contributions could be later enhancements; these issues do not necessarily have to be resolved for the initial plan roll-out.

(8) Other Issues

Several other issues were brought up during the discussion.

Can the plan accept rollovers in from another IRA or qualified plan? The consensus was that if possible, the plan should be able to accept rollovers that are consistent with IRS rules.

What happens if someone withdraws funds from the plan and later wants to put them back? IRS rules would control – if the funds were rolled over to another plan, they could be rolled back. Otherwise, there are time limits for returning the funds and if too much time has passed, the annual IRA contribution limits would apply.

Who manages compliance with annual IRA contribution limits? The recordkeeper should give notice and cut off deductions when annual contribution limits are reached within the plan, but the participant will have ultimate responsibility.