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Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Room N-5655  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

VIA EMAIL: [e-ORI@dol.gov](mailto:e-ORI@dol.gov)

Attention: Pension Benefit Statements Project

To EBSA:

This letter is in response to the Employee Benefits Security Administration's (EBSA) request for comments on the May 8<sup>th</sup> publication in the Federal Register (Vol. 78, No. 89, p. 26727) of the Advance Notice of Proposed Rulemaking (ANPRM) regarding Pension Benefit Statements and lifetime income illustrations.

We offer this comment based on our 30+ years of experience helping employers design, implement, and administer programs with the goal of providing retirement income security. While we are associated with a national employee benefits consulting firm, this comment is our own and does not necessarily reflect the opinion of our employer or any other employee of our employer.

We very much appreciate EBSA's effort in crafting the ANPRM on lifetime income illustrations. We are quite concerned about the deficient levels of accumulated savings for retirement by all Americans, and not just those in employer savings plans. As subject matter experts on these ERISA compliant plans, we see employer plan sponsors invest a substantial amount of time and money to assist their employees to increase personal savings. More importantly, the majority of employers have already provided access to modeling tools to enable employees to prudently develop personal retirement accumulation targets.

In its 2013 Retirement Confidence Survey, the Employee Benefit Research Institute (EBRI) reports<sup>1</sup> that 28% of workers are "not confident at all" they can retire comfortably and only 13% are "very confident". As well, 20% of workers estimate a need to save 20% to 29% of income each year, while 23% of workers estimate a need to save at least 30% of income each year to achieve a "financially secure retirement".

Unfortunately, EBRI reports that only 46% have tried to calculate these "need to save" values. That is where a robust model needs to fill a need for planning, as assets in defined contribution savings plans are estimated to be \$5.37 trillion as of March 31, 2013. (The Investment Company Institute: [http://www.ici.org/research/stats/retirement/ret\\_13\\_q1](http://www.ici.org/research/stats/retirement/ret_13_q1))

<sup>1</sup> - [www.ebri.org/pdf/surveys/rcs/2013/EBRI\\_IB\\_03-13.No384.RCS.pdf](http://www.ebri.org/pdf/surveys/rcs/2013/EBRI_IB_03-13.No384.RCS.pdf)

We do not believe it is necessary to recap all of the proposed calculation assumptions and disclosures stated in the ANPRM. Instead, we choose to respectfully state where some helpful changes should be made.

1. **Mortality:** Individuals who purchase an annuity in the commercial market are going to be subject to market place rates and sex distinct mortality. The difference in available annuity benefits between males and females is significant. The use of the IRC §417(e) applicable mortality table will be misleading as mortality is based on unisex assumptions. If EBSA feels compelled to use a mortality assumption that is already part of a published regulation, then we propose that the sex distinct columns in IRS Notice 2008-85 should be used. A viable alternative may be the Society of Actuary's Retirement Plans Experience Committee (RPEC) March 2012 exposure draft which uses Mortality Improvement Scale BB.
2. **Annuities vs. Periodic Draw-Down:** The ANPRM ignores that some participants may choose to withdraw assets from their tax deferred plans on a periodic basis, or using other as-needed strategies. In particular, the examples on page 26739 of the ANPRM equate to a 6% per year reduction in the account balance ( $2,788 * 12 \div 557,534$ ) instead of a more common 4% per year withdrawal. Participants who equate an annuity purchase with a periodic withdrawal strategy would likely exhaust their tax-deferred balance and inflict the consequences of an unintended longevity risk on themselves. We suggest the addition of a statement that individuals wishing to make direct withdrawals from their account instead of annuitizing their account should plan to withdraw roughly one-third less than the amounts illustrated or risk exhausting their account during their lifetime.
  - a. We note that, as ERISA savings plan are not required to offer an annuity option and many do not, participants may incorrectly interpret a plan communication required by a Federal agency that annuities are a required distribution option.
3. **Taxation of withdrawals:** The ANPRM never mentions that the participant should be planning for Federal and state income tax to be paid when they make withdrawals from the account balance. We propose that it is important to mention the payment of taxes.
4. **Inflation adjusted values vs. values at projected retirement dates:** The proposed rules do not include a requirement to disclose the account balance calculated as of the projected retirement date in the table on page 26739. If EBSA chooses to retain much of the proposed safe harbor example, we suggest that the balance at NRA (in the example - \$992,196) is a required disclosure.
5. **Spouse vs. Qualified Beneficiary:** Even if the participant is not married, some ERISA retirement plans permit a qualified beneficiary other than a legal spouse to be named to

receive a survivor's annuity. If EBSA chooses to retain the need to disclose a survivor's annuity, it should permit the survivor to be any qualified beneficiary.

6. **Implied precision:** There should be a convention for rounding the monthly values to avoid an implied level of precision in the calculations. For example, in the last line of the ANPRM table on page 26739, consider rounding the monthly annuity of \$625 to \$600. The precision implied in the Projection box is also misleading. An account balance of \$557,534 at the projection age should be rounded to \$557,000 or better still, \$560,000.
7. **Generally Accepted Actuarial Principles:** This term is generic and could lead to confusion. If EBSA chooses to retain the need to follow *Generally Accepted Actuarial Principles*, we propose the following. Make it clear that, for purposes of the ANPRM, *Generally Accepted Actuarial Principles* are not the same as an Actuarial Statement of Opinion under American Academy of Actuaries guidelines.
8. **Internal Revenue Code annual limits:** There is no reference to the IRC§402(g) limit, to the IRC §415 limit nor to the IRC§414(v)(2) catch up contributions. We propose that these should be referenced.
9. **Normal Retirement Age:** We propose that the use of a defined benefit plan's NRA is too narrow. Instead, for a savings plan, we suggest a better safe harbor projection age is the Social Security Retirement Age under the Social Security Act §216(l).
10. **Safe harbor calculations vs. general rules calculations:** The two proposed methods will produce significantly different estimates. Please clarify that only one method must be used.
11. **CPI adjustment in the calculations** The ANPRM requires that an inflation adjustment was used to the development of the 7% investment return assumption (4% real return, 3% inflation). However, we interpret the ANPRM to prohibit the consideration of retiree's need to adjust payout amounts for CPI after retirement. We propose that the determination of the payout amounts should include an adjustment for CPI after retirement, with the illustrated monthly amount based on the monthly benefit at retirement.

### **Closing:**

Evolving technology, increased sophistication of plan sponsors, and competition among service providers make on-line planning tools more common, useful, and effective in encouraging better savings habits. Requiring sponsors and service providers to divert their developmental activities in the direction of developing safe harbor statement illustrations will slow this expansion.

Establishing safe harbor parameters based on current technology and information will require harmonization of all future development against outdated strictures.

We thank the Employee Benefit Security Administration in advance for considering our comments. Please direct any questions you may wish to ask to Roscoe Haynes, of Milliman's Albany, NY office. Mr. Haynes' phone number is 518-514-7107.

Sincerely,



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