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Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5669
U. S. Department of Labor
200 Constitution Avenue NW
Washington DC 20210

Re: **Lifetime Income Solutions - Request for Information [RIN 1210-AB33].**

Ladies and Gentlemen:

The Agencies' interest in facilitating the availability of fixed and variable lifetime income annuities ("Annuities") within the context of 401(k) and other employer sponsored defined contribution plans ("DC Plans") should be strongly applauded. There are a number of reasonable simple steps that the Agencies can take that will greatly facilitate the availability of Annuities through DC Plans. My strong recommendation is for the Agencies to focus on taking clear, simple actions, such as those outlined below.

To put my comments in context, let me first provide some of my professional and personal background.

PROFESSIONAL BACKGROUND: I have approximately 35 years of experience developing and working with a wide variety of insurance and investment products. Most of my experience is with financial products designed for the retirement plan marketplace. Most, but not all, of my experience was working for various insurance companies. My areas of specialization included, in particular, stable value products and group fixed payout Annuities.

PERSONAL BACKGROUND: As a very recent retiree, I have just completed my own personal plans for providing for the long term financial security of myself and my wife. In doing so, I found myself surprised at how complex and difficult this process was, even for someone like myself, who is fortunate to have both ample financial resources and the professional background and tools needed to develop a solid personal retirement plan.

This combination of backgrounds gives me a rather unique perspective on your inquiry.

RISKS AND THEIR MANAGEMENT

A Participant's Perspective

As one approaches actual retirement, two previously minor risks quickly become a critical focus in sound retirement planning.[1]

> *Longevity risk* - The risk that you and your spouse will outlive your retirement assets. This is partially addressed by Social Security and, for some, by employment based defined benefit plans ("DB Plans"). To the extent a retiree seeks to further reduce his or her longevity risk, this is best done through insurance company products that include a meaningful longevity guarantee.[2] As outlined below, there are a number of relatively simple steps the Agencies can take to encourage both plan sponsors and participants to use all or part of their DC Plan account balances to reduce this risk.
>
> *Inflation Risk* – Except for Social Security benefits, most retirees have little direct protection from inflation risk. Purchasing even limited inflation protection, as an ancillary Annuity benefit, can be costly. While I will discuss I some ways I am addressing this risk, there probably is not much that the Agencies can or should do in this area.

How to deal with these issues is both highly complex and deeply personal. What I settled on for myself would not be appropriate for others. As I wrestled with how to deal with these risks I eagerly devoured a significant volume of the literature aimed at helping retirees or near-retirees deal with these issues. The good news is there is a lot of work currently going on within the plan sponsor and financial community to assist individuals in addressing these issues. For the most part, the Agencies focus should be on encouraging and facilitating this activity, rather than on shaping its direction. The markets are the best means of ultimately identifying which products work and which ones don't.

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[1] Two other risks also could be considered critical – Future medical expense, which is beyond the scope of this letter, and a particular form of "market-timing" risk, which is discussed below with regard to distribution annuities.

[2] Over the last several months I have been an avid reader of various "withdrawal strategies" that purport to deal with the management of longevity risk. I have yet to find any that even approach the efficacy of an insurer's longevity guarantee.

Useful Products. Without detracting from the importance of letting markets work, I would like to share my considered personal opinion as to which products have real usefulness in helping individuals prepare for and prosper in retirement.

1. *Fixed Lifetime Income Annuities.* To the extent not satisfied by other sources, simple fixed Annuities need to be the core tool for any DC Plan participant trying to manage their longevity risk. In this regard, the word “simple” needs to be emphasized. Annuities come with many ancillary features and benefits available, all at some additional cost. While these benefits and features often have value to a particular purchaser, the Agencies focus should be on encouraging the use of simple fixed Annuities.

   In my case, for example, providing longevity protection for my wife, while expensive, was a critical requirement. I did not, however, need any liquidity guarantee or an additional death benefit.

2. *Variable Lifetime Income Annuities.* A very under-appreciated product, a plain-vanilla variable Annuity, is a very useful tool in managing longevity risk. While the amount of the monthly income may not be guaranteed, the continuation of payments is guaranteed for life. Such a simple variable Annuity has at least three key benefits for many DC Plan participants:

   a. The income generated can be freely spent by the DC Plan participant without concern over whether such action will deplete his or her remaining retirement portfolio.

   b. It allows a DC Plan participant who is comfortable with equity market risk to maintain that exposure very late into their retirement years.

   c. Especially if a low assumed investment rate (say 3%) is used, the variable payments can provide a significant degree of inflation protection.

   My retirement plan includes a very significant investment in just such an Annuity. The variable Annuity I purchased does not include any ancillary withdrawal or liquidity guarantees.

3. *Longevity Insurance.* This new product is essentially a fixed Annuity that starts periodic payments late in a person’s life (say age 85). The absence of any death benefit in this type of product means that a substantial monthly benefit can be purchased very inexpensively.

   I have not purchased any longevity insurance, in part because I want this market to be more mature before investing. However, I well may buy some longevity insurance in the future.

I would like to conclude this discussion of my personal retirement planning efforts by enphasizing several quick points, with respect to the selection from the many ancillary benefits and features, emphasizing the very personal nature of that selection process -

- First, for me protection of my wife was a critical consideration. I elected a joint and 100% survivor Annuity, notwithstanding the fact that this significantly reduced my monthly guaranteed income benefit. However, this concern will often not be critical for others. For example where both spouses had equivalent careers with similar pension benefits, spousal protection may be a minor concern.

- Second, there is one very popular ancillary benefit for which I had little use – liquidity. As with other such features and benefits, liquidity in a payout Annuity or similar product always comes at a significant cost. But it, nevertheless, remains popular. It obviously meets a need that many DC Plan participants feel is important. If this remains true, the markets will require that this always be an available option. The Agencies need not and should not expend any effort to mandate this (or any other) specific feature or benefit.
- Third, many of the highly sophisticated new guarantee features and benefits were, to me, too complex, too cumbersome and too costly. I have serious doubts as to whether these complex guarantees are even appropriate additions to the DC Plan marketplace. They will be difficult for all but the most sophisticated DC Plan sponsors to understand and evaluate. DC Plan participants will undoubtedly, find their conditions and limitations cumbersome and difficult to comply with. It probably does not make much sense for the Agencies to encourage their use. But, despite my personal doubts, I am sure it would also be a mistake for the Agencies to seek to inhibit or restrict their use. If my evaluation is correct, these features and benefits will not find great success in the DC Plan marketplace.

The Product Providers' Perspective

A participant will maximize the regular income he or she will receive per premium dollar if they select a straight life annuity, with no death or other ancillary benefits or guarantees. Having said this, most annuity providers offer a variety of additional benefits and guarantees. Virtually all of these product features directly impact the cost of any income Annuity, often substantially. Typically these features are designed to encourage utilization (i. e., to make the product more attractive) and/or to provide enhanced value compared to more traditional income Annuities.

Among the features that can significantly increase cost are:

- **Inflation Protection**. Features such as fixed, scheduled payment escalators or increases actually tied to a consumer price index can have a significant adverse impact on the initial amount of income guaranteed.

- **Ancillary Benefits**. Optional benefit forms, including death benefits (e.g., cash refund or period certain features), multiple annuitants, etc. materially reduces the periodic income that can be generated.

- **Liquidity Features**. Flexibility such as the ability to take non-scheduled payments, higher payments, or transfer monies out of the investment at any time all comes with a distinct cost. Flexible liquidation terms on contract termination at the plan sponsor level also can have a cost impact.

- **Ancillary Guarantees**. Variable Annuities with guaranteed lifetime minimum payments permit participation in market gains, but will generally have guaranteed income benefit well below that of a comparable fixed Annuity.

- **Investment Flexibility**. Providing access to higher equity allocation amounts increases hedging and insurance costs, which are passed through in either higher fees or lower income guarantees. An ability to increase and lock-in higher amounts of guaranteed lifetime income due to positive market performance or similar "high water mark" guarantees also will add costs.

All of these features can add “value” for an individual purchaser, including a DC Plan sponsor or participant. But they all have a cost. In my experience, it is very difficult to generalize about the magnitude of such costs. Often I have been very surprised at the high cost of some of these features. Less frequently, I have been surprised at how little they can cost. Even knowledgeable outside actuaries are often surprised at the actual product related costs. Given this uncertainty, it is important that the selection of the appropriate product features be as close as possible to the ultimate user.[3]

The Agencies must resist the temptation to require specific features that they may personally view as desirable. Such an approach could significantly reduce the amount of periodic guaranteed retirement income that DC Plan participants will be able to realize. The primary benefit of Annuities, in general, is the guaranteed lifetime income they provide. Virtually any ancillary feature adds cost and, in many cases, complexity. If the Agencies choose to mandate or encourage the inclusion of any ancillary benefit or feature, it is important to realize that, in doing so:

- You are reducing the level of lifetime income that each DC Plan participant will be able to realize;
- You will be doing so without knowing what the magnitude of that impact will be; and
- In many cases, that cost (in the form of a reduced lifetime income) will be incurred regardless of whether the DC Plan participant makes actual use of the particular benefit or feature.

Finally, you cannot count on having reliable information on the true impact of any mandate. The various trade association will alert you if a particular benefit or feature may be especially tricky or difficult to price for. If an ancillary benefit or feature is merely “expensive”, they may have little or no reason to object to its mandated inclusion.

[3] Ideally this would always be the DC Plan participant’s choice. However, for some very practical reasons, DC Plan sponsors also will need to make some key product choices, based on their view of their employees best interests.

WHAT THE AGENCIES SHOULD (AND SHOULDN'T) DO

In General

The focus of the Agencies needs to be on reducing or eliminating current roadblocks to the use of Annuities within DC Plans. You should be careful to avoid creating new mandates or new requirements. In approaching this difficult task, there are some key principles and guidelines that the you should follow:

1. *Respect the integrity and intelligence of both DC Plan sponsors and DC Plan participants.* Most DC Plan sponsors want to facilitate the secure retirement of their employees, provided that it can be done without undue risk or expense. Similarly, most DC Plan participants, provided with appropriate information and tools, can make the right retirement decisions that best suit their particular circumstances. In particular, the Agencies should avoid adopting or mandating any new or novel "behavioral strategies", regardless of how beneficial or benign such approaches may at first seem.

2. *Take appropriate steps to facilitate use by DC Plans of both in-plan and distribution Annuities.* End-of-plan distribution Annuities can be added to a DC Plan relatively simply. Conversely, adding an in-plan Annuity that allows a participant to accumulate incremental pieces of retirement income over the course of their working career currently pose significant challenges for most DC Plans, both from an administrative and recordkeeping perspective and from a regulatory compliance perspective.

   However, the in-plan Annuity has one major advantage over a distribution Annuity. When a distribution Annuity is purchased with a single premium the purchase involves a very significant market timing risk component. If the purchase is made in a low interest environment, the amount of fixed periodic income that can be purchased with that premium can be substantially less than the fixed income that would result from a purchase of the same Annuity in a high interest environment.

   With an in-plan Annuity, these purchases are typically spread over a number of years. This largely eliminates any market timing risk. To the converse, such an incremental purchasing strategy should yield some very substantial dollar-cost-averaging benefits.

   The key thought is that both in-plan and distribution Annuities have significant benefits and important uses. Use of both deserve to be encouraged by the Agencies.

3. *Clarify that "education" is not "investment advice."* Many DC Plan sponsors and some service and Annuity providers are reluctant to provide meaningful education tools to DC Plan participants for fear that they would be viewed as a fiduciary providing "investment advice".

The Agencies need to, with strength and clarity, state that providing educational tools and information to DC Plan participants is not “providing investment advice.” Conversely, the Agencies should define “investment advice” so as to limit it to providing an individual DC Plan participant with specific recommendations as to how much he or she should invest in specific products or funds.

4. *Recognize the vast array of lifetime distribution annuities that are currently available.* There is no shortage of distribution Annuity products available to DC Plan participants. Virtually all currently available Annuities are available as IRC Code §403(b)(8) individual retirement annuities (“IRAs”). Virtually any DC Plan participant approaching retirement can access any on of these Annuities through a direct rollover of some or all of his or her DC Plan account balance. Unfortunately, the task of identifying, evaluating and selecting an appropriate Annuity can be a very daunting, time consuming and difficult task. (It was difficult even for me.) The primary advantage of making distribution Annuities available through a DC Plan is that it greatly simplifies the annuitization process for the average DC Plan participants.

   Note that the same availability is not present for in-plan Annuities. These very useful products typically can only be made available when a DC Plan sponsor affirmatively selects a in-plan Annuity as a DC Plan investment option. Given the clear benefits of in-plan Annuities, the Agencies should regard encouraging their use as the more critical concern.

Addressing Fiduciary Concerns

Fiduciary concerns are easily the single most important roadblock for DC Plan sponsors considering the addition of either distribution or in-plan Annuities to their DC Plan. There are at least three distinct, simple steps the Agencies can take to help alleviate DC Plan sponsor concerns. These are:

1. Simplify the Safe Harbor for Distribution Annuities

The focus of the DC Plan safe harbor needs to be fundamentally altered from its current focus on the selection of a “provider” to a new focus on the selection of an appropriate “product.” The current safe harbor has its origin in the 1996 “safest available annuity” standard focused on DB Plan close-out Annuities. This standard never made sense in the typical DC Plan context. The Department's original modifications recognized that fact, but failed to go far enough.

However a more fundamental flaw is the safe harbor's requirement that a DC Plan’s fiduciary focus its efforts on analyzing the financial strength of the Annuity provider, including a conclusion that the Annuity provider is financially able to make all future payments. Most DC Plan sponsors are neither ready nor able to make such an evaluation. But, more importantly, such an evaluation is not needed or appropriate in the context of a DC Plan distribution Annuity. This is true for two distinct reasons.

- First, the decision to purchase a distribution Annuity is strictly that of each DC Plan participant. No participant is required to purchase a distribution Annuity and, just as important, any participant who desires a distribution Annuity from another Annuity provider is free to roll their DC Plan account balance to the IRA of that provider.

- Second, the existing state insurance regulatory protections are more than adequate to provide reasonable assurance that each annuitant will get all of the benefits that they purchase, regardless of whether it is purchased through their employers DC Plan or independently. The existing state insurance regulatory system includes extensive solvency protections.[4] Furthermore, state insurance regulators are in a much better position to complete the highly specialized analysis needed to gauge the financial strength of an Annuity provider. Even if a DC Plan hired an outside expert, it is doubtful whether such an outside expert would have the expertise or the access to information that a state insurance regulator routinely possesses.

  This solvency protection is supplemented by the coverage afforded by the various state life and health guaranty associations. Despite their flaws (see below) these associations have a admirable history of assuring that policy holders receive all of their promised benefits.

DC Plan sponsors are much more likely to add guaranteed lifetime income Annuities to their plans if the safe harbor is modified to relieve DC Plan sponsors of the burden of acquiring independent expert knowledge of the current financial condition or long-term viability of various Annuity providers. Such knowledge is beyond the reasonable capabilities of most DC Plan sponsors. Instead, the safe harbor should apply a objective, straight-forward standard to the selection of an guaranteed income Annuity provider. The Agencies should modify the current DC Plan safe harbor as follows:

> *"**ERISA §2550.404a-4(b) Safe harbor.** The selection of an annuity product for benefit distributions from an individual account plan satisfies the requirements of section 404(a)(1)(B) of ERISA if the fiduciary:*
>
> *(1) Engages in an objective, thorough and analytical review of the contract terms, conditions and limitations proposed by prospective annuity providers;*
>
> *(2) Obtains a certification from the product provider stating that the provider is:*
>
> *(a) licensed and in good standing in the states in which it conducts business;*
>
> *(b) not currently in rehabilitation, liquidation, insolvency or any similar status; and*
>
> *(c) a member of the insurance guaranty associations in each of the states in which it conducts business.*

[4] Note that in the recent financial crisis no major regulated insurer has become insolvent. In particular, AIG's problems were limited to its unregulated AIG Financial Products unit. All AIG insurance companies remain financially sound.

(3) Appropriately considers the cost (including fees and commissions), benefits and product features of the annuity contract, and the administrative services to be provided;

(4) Appropriately concludes that, at the time of the selection, the cost of the annuity contract is reasonable in relation to the benefits and product features of the annuity contract, and the administrative services to be provided ; and

(5) If necessary, consults with an appropriate product expert or experts."[5]

In light of the comprehensive nature of the state insurance regulatory system, these suggested changes would not in any way materially impair the protection of DC Plan participants from the risks associated with an insurer insolvency. These changes would, however, address DC Plan sponsors' fears about their potential fiduciary liability.

2. Promote an Improved Understanding of the State Guarantee Funds.

The various life and health guaranty association laws are highly complex and vary significantly from state to state. Generally, if a "group annuity" is deemed to be an "unallocated" contract it may be excluded from coverage or only be provided with a limited aggregate amount of coverage, generally $5 million or less. If the "group annuity" is an "allocated" contract, then each DC Plan participant will be covered to a maximum present value limit of between $100,000 and $500,000, depending on the participant's state of residence at the time of the insolvency.

The availability of such coverage should be an important factor in an individual DC Plan participant's decision whether to purchase a fixed Annuity. However, the complexity and variability of these state protections means that most DC Plan sponsors are reluctant to provide their participants with any meaningful information regarding this key protection.

There are two things the Agencies should do to alleviate this situation, one short term and the other longer term.

- The Agencies should develop a short summary of the protections provided by these laws. The summary would be designed to be used by any DC Plan sponsors who wish to inform their participants on the availability of such protections. Of necessity, any such summary would need to be very general, but it could easily include information as to where a participant could go to get more detailed information.[6] This could include identifying sources for state-by-state

[5] The need to consult with experts should, in general, be limited to situations where the DC Plan is considering the purchase of a reasonably complex Annuity, including, but not limited to one with a complex guarantee structure.

[6] The Agencies' sponsorship of the development of such a summary is critical. State law prohibits insurers from referring to the associations in any advertising and marketing effort. These prohibitions greatly inhibit the industry's ability to

coverage information.

- The Agencies should work with the appropriate trade and regulatory associations[7] to simplify and standardize the coverage available to Annuity benefits through DC Plans. The guiding principal of such an effort would be to clarify and confirm that individual coverage applies whenever a member Annuity insurer is obligated to make guaranteed lifetime income payments to a identifiable participant.[8]

These two efforts would significantly enhance both DC Plan sponsors and participants confidence in the currently available guaranteed income Annuities.

3. Clarify Application of §404(c) to In-Plan Annuities.

There appears to be much confusion, both among DC Plan sponsors and within the industry, concerning the application of ERISA § 404(c) and the regulations thereunder to in-plan Annuities. This confusion is unnecessary. Simply stated, most in-plan Annuities are nothing more than an additional DC Plan investment option to which DC Plan participants can direct there contributions and account balances. This is especially true when, as is typical, the in-plan Annuity provides a reasonable redemption feature.

The selection of other investment options in a participant-directed DC Plan are covered by §404(c). Given the clear similarity between in-plan Annuities and other DC Plan investment options, it would make sense to apply the same fiduciary rules to all such investment options.

Most employers are very comfortable with the process for selecting investment options under §404(c). Clarifying that the selection of in-plan Annuities are subject to this familiar standard would greatly increase DC Plan sponsors' willingness to offer such Annuities. The Agencies need to clearly and forcefully state that, especially when a meaningful redemption feature is present, an in-plan Annuity is merely one more plan investment option and that a DC Plan fiduciary can satisfy its fiduciary obligations by complying with §404(c) in the selection of such an Annuity.

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develop and use such a summary.

7 At a minimum this should include the National Association of Insurance Commissioners (NAIC), the American Council of Life Insurers (ACLI) and the National Organization of Life and Health Guaranty Associations (NOLGHA).

8 This would largely reflect my understanding of what is typically the case today. Unfortunately the current complexities, variability and ambiguities in these laws makes such a generalization difficult.

Addressing Tax and ERISA Qualification Concerns

As with fiduciary concerns, there are some fundamentally simple steps that the Agencies can take that will facilitate DC Plan sponsors adoption of income Annuities, including distribution Annuities. This will also facilitate use of these Annuities by DC Plan participants.

1. Clarify Application of Spousal Consent Rules.

Ambiguity concerning the applications of ERISA's joint and survivor rules, and the spousal consent rules in particular, are a significant cause of DC Plan sponsor concerns. IRC §401(a)(11)(B)(iii) provides that spousal consent is generally needed only when a DC Plan participant elects "to receive payment of plan benefits in the form of a life annuity". What constitutes such an "election" is not made clear. DC Plan sponsors are concerned with the substantial administrative burden imposed by these rules, as well as by the need to amend their plan document. Both burdens could be especially onerous if these rules apply with respect to an in-plan Annuity, with its frequent, incremental purchases of guaranteed income.

The Agencies can take two actions that would greatly reduce these concerns.

- *Clarify what constitutes an "election".* The Agencies should clarify that these rules are triggered only when a DC Plan participant makes an irrevocable election to receive periodic Annuity benefits. This would eliminate concerns with in-plan Annuities where there is investment liquidity, recognizing that such an Annuity is merely one more plan investment option. It could also limit DC Plan sponsor concerns with deferred distribution Annuities, where the DC Plan participant retains a right to surrender the contract after it is distributed out of the DC Plan.[9]

- *Limit need for a formal plan amendment.* Where a DC Plan is merely facilitating a participant's purchase of an Annuity from a selected insurance company or companies, the DC Plan sponsor should be permitted to delegate to the insurance company, by contract, an required spousal consents. Once such delegation is in place, the DC Plan should not be required to be amend to formally adopt the DB Plan joint and survivor rules.

  Plan amendments are costly and time consuming to implement. When a DC Plan sponsor is uncertain about how frequently its participants would take advantage of a guaranteed income annuity option, this burden could be sufficient to discourage adoption of such an option.

Note that these changes could actually improve the efficacy of existing spousal protections. Currently most DC Plan participants who desire to annuitize would simply roll their DC Plan lump sum

[9] Where such a distribution is made as a qualified plan distribution annuity (rather than as an IRA) it would be reasonable to require that the Annuity provider secure spousal consent when appropriate.

distribution into an IRA, which is not required to include any spousal protections. Facilitating DC Plans' ability to provide distribution Annuities could significantly increase the effecacy of existing spousal protections.

2. Clarify the Qualified Plan Distribution Annuity Rules.

Both DB and DC Plans have long been able to make tax-free distributions of annuity contracts and certificates (a “Qualified Plan Distribution Annuity” or “QPDA”). The rules concerning the distribution of QPDAs by DC Plans should be clarified. In particular, the Agencies should clarify that a DC Plan can issue a QPDA to any vested participant, regardless of whether the participant is currently eligible for a cash distribution from the DC Plan.[10] The Agencies should also explicitly acknowledge that a QPDA can be later rolled over into an IRA and, if permitted by the QPDA provider, can accept roll over amounts from IRAs.

3. Clarify Application of the Minimum Distribution Rules.

Currently the minimum distribution rules have two distinct approaches – one for DC Plans and IRAs with account balances and a second for DB Plans and payout Annuities. Some in the industry believe that these approaches are mutually exclusive. This would mean that a guaranteed payout Annuity would need to start annuity payments strictly in accordance with Reg §1.401(a)(9)-6. This would, in effect, preclude the use of longevity insurance in connection with a DC Plan distribution Annuity or an IRA that provides a fixed guaranteed benefit. The Agencies need to clarify that, if the value of a distribution Annuity or an IRA that provides a fixed guaranteed benefit is included in the relevant calculation, compliance with Reg §1.401(a)(9)-5 is sufficient.[11]

While it would require legislation, consideration should be given to increasing the age at which minimum distributions are required. It would make great sense to set this age at, for example, 5½ years after an individual would be eligible for an unreduced Social Security benefit.

Other Ideas and Suggestions

There are also a number of ideas or suggestions implicitly or explicitly raised in the Agencies request for information. In general, these suggestions be significantly less effective at encouraging use of guaranteed income options than the much simpler suggestions discussed above. Specific comments follow:

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[10] Note that deferred and immediate QPDAs are commonly used by terminating DB Plans, with QPDA Annuity certificates being issued to all the DB Plans participants.

[11] The value used should be the actuarial value provided by the insurance company.

1. D*etermining what portion (if any) of a DC Plan participants account balance to annuitize.*

There is no rote formula for making this determination. It is a very personal decision.

Clearly one primary goal in securing financial security in retirement is the assurance of being able to meet ones basic living expenses. Having a sufficient source of reliable lifetime income, be it through Social Security, one or more defined benefit pension plans or a purchased annuity (from a DC plan, IRA or other source) is essential to this goal.

However, the need for any annuitization is also affected by an individual's overall resources and needs, both financial and otherwise. Be it by the Agencies or even a DC Plan sponsor, it is a mistake to assume that this can be dictated from on high. I am aware that mandatory partial annuitization is a requirement in other countries (e.g., the United Kingdom). That does not prevent it from being a bad idea that would certainly discourage both DC Plan sponsorship and voluntary DC Plan participation by employees.

In my case, for a variety of reasons I chose to use outside IRA assets to provide the additional lifetime income I felt I needed to address my longevity concerns. The existence of mandatory annuitization would have significantly complicated my retirement planning, without providing any additional benefit.

2. Advantages and disadvantages of combining annuities with other products (e.g., reverse mortgages, long term care insurance).

Products like reverse mortgages, long term care insurance and longevity insurance are all good products that have useful roles in providing financial security. Combinations of these products may have limited benefits in highly constrained situations. (None are obvious to me, especially in the context of a DC Plan.) It would be highly inappropriate for the Agencies to currently take any specific actions with respect to such “combo” products. If providers of such products need specific relief, it can be adequately provided through existing regulatory mechanisms.

3. Disclosing the income stream that can be provided from a DC Plan account balance.

Disclosing a lifetime income stream on a DC Plan participant' individual benefit statement, along with their account balance, is sure to garner some industry support. This does not mean it is a good idea. Benefit statements are already highly detailed and complex. Often they include extensive disclosures; some mandated by regulation, others by concerns over potential legal liabilities.

While there could be some distinct benefits from a DC Plan sponsor voluntarily providing a clear, simple illustration of what Annuity income stream a DC Plan account balance can provide, this is significantly more difficult than it may first seem. The Agencies certainly should not take any steps beyond encouraging a willing DC Plan sponsor to voluntarily provide such illustrations.

Note that any illustration that is automatically provided to all of a DC Plan's participants must be very,

very simple. At best, it would be no more than the monthly single-life Annuity benefit that a DC Plan participant's current account balance could provide, with benefits starting at a traditional retirement age, such as 65. To be meaningful, a current market purchase rate would need to be used. Frequent updates to these rates would be required (at least quarterly) for the information to have any real value to the average DC Plan participant. All unnecessary projections and assumptions must be avoided.

There are a number of tools available from a wide number of service and Annuity providers that allow a DC Plan participant to plug in assumptions and projections that the participant deems appropriate. When using these tools, I have found that seemingly minor changes in the assumptions and projections used can have huge impacts on the resulting monthly income the tool generates. When tailored to a particular individual's specific assumptions, these tools can provide useful estimates. Poorly designed or poorly used they can significantly mislead.

4. Including an income replacement ratio on a DC Plan participant's benefit statement.

This is simply a bad idea. Income replacement ratios, at best, are very rough tools. They are more likely to mislead than inform. Some highly detailed tools that can assist an individual willing to invest the time with a rough estimate what their actual post-retirement income needs might be. The reality is that a "true" income replacement ratio varies greatly from individual to individual. It is almost always an unknown until well into retirement.

One of the unavoidable challenges of planning your own retirement is figuring out how to manage this uncertainty. Contact me in ten years and I would be happy to discuss how well I actually did.

5. Using guaranteed income options a qualified default investment alternatives.

Given that guaranteed lifetime income options are still a relatively new development, the Agencies would be wise to postpone any action, regulatory or otherwise to encourage the inclusion of such features within a qualified default investment alternative ("QDIA"). QDIAs, themselves relatively new, are focused on a very different issue, low plan participation. This is a concern that generally involves DC Plan participants that are a long ways from retirement. There is no clear reason to assume that the inclusion of a guaranteed income feature in a QDIA would either improve DC Plan participation rates or increase the retirement income security of those DC Plan participants approaching retirement.

SUMMARY

The Agencies' interest in promoting the use of DC Plan participant account balance to provide guaranteed retirement income is highly laudable. Currently, the most effective means for achieving this goal is to make a relatively small number of simple regulatory changes and clarifications.

Given the rapidly developing interest in Annuity-based solutions, and the industry's efforts to satisfy that interest, any more elaborate regulatory approaches should be avoided for the time being. Our retirement system and tax code are already highly complex. Establishing significant new requirements or programs now is more likely to have major adverse unintended consequences.

Should you have any questions or wish to discuss any of the points I have raised, please do not hesitate to contact me. Now that I am retired, I will have more time to provide you with a considered response.

Very Truly Yours;

/S/ Jonathan Mercier

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