Written Testimony of

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On behalf of Sony Corporation of America, thank you to the members of the ERISA Advisory Council for the opportunity to speak with you and share a plan sponsor's perspective on brokerage windows.

My name is Jordan Backman, and I am the Vice President and Senior Counsel of Benefits and Compensation for Sony Corporation of America ("SCA"), where I have spent the past 17 years providing both legal counsel and strategic guidance to the company and our US affiliates on employee benefit matters, including the design and operation of our 401(k) plan.

SCA is the US headquarters of Sony Group Corporation ("Sony"), a global entertainment, electronics and financial services company based in Tokyo, Japan, with over 100,000 employees worldwide. In the US, Sony employs approximately 12,000 employees across its various divisions. In 2011, SCA, together with its US affiliates embarked on a year-long project to consolidate eight 401(k) plans into one, for which SCA would be the plan sponsor. We used this opportunity to create a best-in-class plan designed to attract and retain talent, encourage participation, provide participants with an easy-to-understand investment line-up, promote investment education, and help achieve retirement readiness.

The Sony USA 401(k) Plan (the "Plan"), which was launched in 2012, has grown to over $4 billion in assets and holds over 23,000 participant accounts. SCA is proud to have won the 2021 Plan Sponsor of the Year Award for corporate plans larger than $1 billion from PlanSponsor magazine, in recognition of our commitment to our participants' financial health and retirement success. However, this recognition does not mean that our job is done. Rather, as the workforce evolves, SCA regularly reviews the Plan's design and features to ensure we continue to offer a responsible, flexible, and competitive program that meets as many of the needs of our diverse workforce as we can.

SCA believes that offering a self-directed brokerage option (the "Brokerage Window") is one of the tools available to us to help us achieve our 401(k) plan philosophy. Before going into further detail regarding how the Brokerage Window fits into our philosophy, it may be helpful to share some plan demographics. Note that all plan demographics are as of March 31, 2021 unless stated otherwise below.

The Plan represents the collective savings of 23,789 participants, about half of whom are active employees and half of whom are former employees. Our participation rate is 94%, which we have achieved by automatically enrolling new hires at 6% of eligible pay, providing for automatic increase by 1% each year up to 10% of eligible pay, and defaulting participants into an age-appropriate target date fund. Moreover, we provide a matching contribution of 100% on the first 3% of eligible pay and 50% on the next 3%.

Providing a solid plan design is only one side of the equation. As our Plan is intended to meet the ERISA Section 404(c) requirements of a participant-direct account plan, we also need to provide our Plan participants with access to an investment lineup that will help them achieve a diversified retirement portfolio based on their individual needs and circumstances. For this reason, we have established a three-tiered investment menu that is intended to meet our participants wherever they are, regardless of investment knowledge or life stage.

The first tier of our investment menu is our target-date fund lineup, which is our qualified default investment alternative. This option meets the needs of our participants who prefer not to actively manage the investments in their Plan account. Though we provide significant resources in the way of investment education and materials, we realize that many of our participants do not have the time or interest to manage their investments and would rather leave this responsibility to a qualified investment manager. Approximately 32.4% of our participants are invested in the target-date funds.

The second tier of our investment menu is our core fund lineup, which consists of the basic building blocks for an active investor to create a diversified portfolio. The core fund lineup includes 11 funds from across the risk/reward spectrum, including cash equivalent funds, bond funds, and domestic and international equity funds. Approximately 66.2% of our participants are invested in the core funds.

The third tier of our investment menu is our Brokerage Window, which consists of thousands of mutual fund and certificate of deposit ("CD") options. The Brokerage Window was originally included in the Plan because it was a legacy offering in several of the prior plans that were merged into this Plan in 2011, and we wanted to retain this flexibility for those participants who wanted more choice.

Over the years, we have realized that other participants appreciate having the opportunity to invest through the Brokerage Window for a number of reasons. Some may be experienced investors who want access to more sophisticated asset classes than are offered in our core fund lineup. Others may be socially-conscious investors who want to save for their retirement as well as feel good about investing in socially-responsible investment funds or environmental, social, or governance based funds. Admittedly, these participants make up a very small percentage of our total Plan population (approximately 1.3% of all participants, with assets in the Brokerage Window representing 0.9% of all Plan assets). However, providing them with access to the Brokerage Window encourages greater participation in the Plan and helps support the goal of creating retirement readiness for all of our members. Most importantly, offering the Brokerage Window helps us to maintain a reasonable number of investment choices in our core fund lineup for the vast majority of our participants, for whom a short list of curated choices is very important.

The first and second tiers of our investment menu are monitored regularly by our fiduciary committee with advice from our investment consultant to ensure that the investment options continue to meet with our investment policy. We also provide important protections regarding the use of the Brokerage Window.

Specifically, we have limited participant investment in the Brokerage Window to no more than 50% of the participant's Plan account balance. While the Plan does not mandate forced sales under the Brokerage Window if this ratio increases due to market fluctuation, a participant may not invest any new money through the Brokerage Window during this time. We understand this type of provision to be common among plan sponsors that have adopted self-directed brokerage windows in their 401(k) plans. Additionally, we purposely excluded any investment other than mutual funds or CDs to promote diversification and reduce potential exposure to significant losses from individual securities or non-traditional investments.

Of the 1.3% of our Plan participants that invest through the Brokerage Window, approximately 95% are highly compensated employees ("HCEs"). The percentage of our total Plan population using the Brokerage Window has remained relatively stable over the past five years. Given the history of the Brokerage Window within our Plan, we feel strongly about the ability to maintain it going forward and believe that any significant changes to its administration could be viewed as a takeaway by our participants.

That said, we are mindful of the potential for additional oversight requirements to be imposed on Brokerage Windows. In particular, the Department of Labor's Field Assistance Bulletin 2012-02R ("FAB") originally called into question whether investments within the Brokerage Window itself could be designated investment alternatives that would require some additional level of fiduciary oversight. Fortunately, the Department subsequently clarified the FAB by stating expressly that investments in Brokerage Windows are not designated investment alternatives. Absent this clarification, the additional administrative burden required with such oversight may have made it untenable to continue to offer the Brokerage Window.

We support retaining the current rules in effect for Brokerage Windows to allow plan sponsors to continue to offer them without unduly cumbersome administrative requirements and to maintain our ability to keep the core investment line-up small and easy to use for the vast majority of our participants.