VIA EMAIL TO: e-ORI@dol.gov

July 8, 2013

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

Re: Advanced Notice of Proposed Rulemaking Regarding Pension Benefit Statements [RIN 1210-AB20]

Dear Assistant Secretary Borzi:

NAFA, the National Association for Fixed Annuities (NAFA), on behalf of its members, applauds the Department of Labor (Department) for its work to provide participants with information to ease the burden of planning for retirement and managing finances in order to provide income for life.

It is clear that the Department's general policy concern is timely and directly aligns with our Nation's retirement crisis. NAFA commends the Department for recognizing the role that annuities play in planning for and enjoying retirement. This is a critical feature for today's retirees and for future generations of retirees. The Department's request for comments demonstrates the importance of informing plan participants that fixed annuities are the only financial product that guarantees an income paycheck for life.

While the major question posed by the Department is whether it makes sense to require plans to demonstrate account balance payout options and what assumptions should be used to do so, NAFA believes that it is equally important to educate employees on more than just a single element of their financial plan. Plan participants need much more education and assistance in planning holistically for their retirement. They need help in determining and calculating their retirement income needs and what role Medicare and Social Security will play in their retirement. They need to be made aware of other opportunities for saving outside their employer plan that can augment their paycheck contributions.

The current economic climate has had a significant impact on saving for retirement. The National Bureau of Economic Research Working Paper on Retirement Savings[1] tells us that 71% of employed adults have felt at least some impact from reduced take home pay this year due to an increase in payroll taxes. Also, women are more likely than men to feel a major impact due to the reduction in take-home pay (18% vs. 8%). And, it is deeply concerning that the percent of those majorly or moderately impacted generally increases as the level of income decreases [$100K or more (23%), $75K to less than $100K (21%), $50K to less than $75K (41%), $35K to less than $50K (41%), less than $35K (54%)]. Of those impacted by take-home pay reduction, nearly

[1] Will My Account Really Be Worth? An Experiment On Exponential Growth Bias And Retirement Saving; Gopi Shah Goda, Colleen Flaherty Manchester, Aaron Sojourner; Working Paper 17927; National Bureau Of Economic Research, 1050 Massachusetts Ave, Cambridge, MA 02138; March 2012.

all (96%) are making sacrifices of some type, including future needs such as 70% saving less in emergency funds and 45% saving less for retirement**.**

This study strongly suggests that employees need more education about the power of tax deferral and incremental saving across the years of employment. It is also clear that not only is a guaranteed payout important but protecting your nest egg from investment risk is also an important consideration during your saving years and critical as you near retirement. Helping employees understand that another important and basic guarantee of all fixed *deferred* annuities is protection from investment risk. Employees should be encouraged to: explore the growth benefits of postponing income payments into the future; privately purchase fixed deferred annuities that provide guaranteed lifetime withdrawal benefits; and/or, simply utilize fixed annuities in their plan to protect their account value from stock market losses. Fixed deferred annuities are extremely popular with Americans who either do not have ERISA plans or those who do but supplement their ERISA plans with fixed deferred annuities available in the retail marketplace. LIMRA[2] reports that the large majority of annuity owners are happy with their purchase with about 84% claiming satisfaction. So much so that 6 out of 10 households with annuities have two or more annuities and many of these households purchase their annuities from different companies demonstrating their reliance and comfort with the annuity providers.

We encourage the Department to promote and foster greater financial literacy and awareness, especially in retirement income planning. Any regulation can and should create initiatives to promote retirement income planning awareness and education.

In addition to our overarching recommendation that the Department use the vast resources at its disposal to assist employees in creating a complete retirement plan, including the coordination of other government programs and the utilization of private savings opportunities, NAFA offers the following comments on the following specific requests from the Department.

Generally, the first rule of financial and actuarial modeling is to not convey a greater level of precision than is warranted or meaningful. Providing just one number implies a level of certainty that unquestionably does not exist. While we agree with what appears to be the Department's goal for simplicity, we encourage the Department to take from the approach used in the insurance industry's state illustration regulations and examine a range of economic outcomes and a greater, and more realistic, range of resultant income possibilities. This range of possible outcomes is far more helpful to a consumer than a singular, static result that undoubtedly will be irrelevant or worse, incorrect, in later years. We do agree that showing participants a projected lifetime income amount can be a significant motivator to increase savings. But, when doing so, a range of reasonable parameters similar to what any financial calculator today assumes should be utilized. The Department's stated goal is to "get constructive and helpful lifetime income illustrations," yet using static assumptions which are not necessarily supportable in the future will falsely project a sense of financial security that will seriously mislead many consumers.

[2] More than Three-Quarters of Recent Annuity Buyers Were Satisfied with Their Annuities; LIMRA, WINDSOR, Conn., Aug. 8, 2012

B. Methodology for Projecting an Account Balance

1. <u>FACTORS AFFECTING PROJECTED ACCOUNT BALANCES</u>

On pages 16 and 17 of the ANPRM, the Department lists a number of factors that would affect the participant's projected account balance and retirement income. However, there are additional factors that are not included but are significant and we address each in the following paragraphs.

- The **sequence of returns** earned makes a major impact. It is not realistic to assume an average specified rate every year. For example, when participants who are invested heavily in stocks experience a bear market, their account value will be adversely impacted, their time to recover will be impacted and the rate they must earn to recover will be much greater. If they do not recover sufficiently, they will exhaust their retirement income much quicker. There is ample research showing how sequence of returns risk can devastate a consumer's retirement income plans if they happen to get bad market returns at the worst time.

- Buying a lifetime income annuity protects against **longevity risk**. The proposal seems to use lifetime income annuity factors to estimate what lifetime income payments might be. However, it does not appear to explain that the consumer must actually buy such an annuity; otherwise, they are NOT protecting against longevity risk. It obviously can be very misleading to make lifetime income projections unless the income is guaranteed as it is with fixed annuities. A consumer should not be misled into believing that a blended portfolio of stocks and bonds, which do not have the income guarantees provided by fixed annuities, can be expected to produce the return that would be provided by a fixed annuity. In short, it does not seem at all appropriate to use annuity longevity risk pooling unless the consumer is buying a fixed annuity.

- We also note that the other method the Department discussed but dismissed was the so-called **4% systematic withdrawal** rule. We agree that it would not be appropriate to utilize that approach. Recent research has summarily debunked that taking 4% from a diversified portfolio can offer a high confidence level that an individual will not run out of money,[3] and the research report suggests that such withdrawals should not exceed 2.8%.

- It also is important to recognize the reality that when making assumptions, gender is an important consideration. Since most lifetime income choices available today with fixed income annuities do utilize **gender-specific** assumptions, NAFA highly recommends that the Department allow for gender to be indicated on the projection. While we concur with the Department's conclusion that this will have diverse impact on men and women, it is nonetheless the reality that they will face when converting their account value to lifetime income.

- Assumptions for **spousal lifetime income** are needed and are not included.

1. <u>ASSUMPTIONS FOR PLAN CONTRIBUTIONS</u>

[3] David Blanchett, Maciej Kowara and Peng Chen, Morningstar Associates, "Optimal Withdrawal Strategy for Retirement Income Portfolios"(September 21, 2012).

In addition, the Department prescribes assumptions on contributions and investment returns that could be problematic for the employee and may negatively incentivize their savings routine. On page 18 of the ANPRM, the Department assumes that individuals will **increase contributions by 3%** per year, but in practice have most people actually done so or does the Department have a valid basis for assuming that they will do so in the future? Do they do so despite the economic situation that is relevant in any given year? Most studies show that following the 2008 crisis, people stopped or significantly reduced their contribution levels to help them make ends meet. People who lost their jobs obviously stopped their contributions and those who were moved to part time most likely reduced their contributions. In fact, according to a recent study [4] workers saw their paychecks shrink in January as a payroll tax cut expired. With smaller paychecks there is less to pay for food and housing and little to spare for retirement savings. Therefore, NAFA recommends that this number be elastic and not static, allowing employees to input values as they think appropriate and look to historic savings rate increases as a starting proxy.

2. <u>ASSUMPTIONS FOR RATE OF RETURN</u>

On pages 19 and 20 of the ANPRM, a 7% annual rate of investment return is used to assume what consumers would earn on their portfolio. Research shows that average consumer performance lags market returns with buy-hold strategies and fund managers. Advisor fees, taxes, etc. must also be factored into the calculation. A better solution would be to offer the consumer a range of outcomes and a calculator tool that allows various return assumptions they can input as their personal economics changes and/or the national economic outlook changes. As demonstrated by the National Bureau of Economic Research cited earlier:

"…the sensitivity of saving behavior to projection assumptions [is] that individuals may be susceptible to any overly-optimistic assumptions and induced to oversave, or, analogously, to undersave from overly-pessimistic projections. Supplementing simple projections with accessible tools that give people a richer chance to explore how outcomes depend on saving choices under a wide range of assumptions and uncertainty may counteract the effect of framing.[5]"

3. <u>ASSUMPTIONS FOR INFLATION RATES</u>

NAFA also suggests that using static assumed interest rates for discounting and inflation presents similar concerns. Average historical rates are not necessarily at all what the future holds and a better solution is to provide an option to input variable rates. One workable approach would be to illustrate values using high, medium and low interest rates.

4. <u>INCLUSION OF INSURANCE LOADS</u>

On page 31 of the ANPRM, the assumptions say that projected lifetime income streams would not include "insurance loads" for things like carrier profits, mortality risk, holding reserves, ads, operating costs, etc. NAFA does not believe that it is appropriate to exclude such factors. The reason is simple: the consumer will have these costs in any annuity they buy so the costs should definitely be included.

5. <u>DISCLOSURE OF ASSUMPTIONS</u>

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[4] Press Release, American Institute of CPAs, AICPA Survey: Many Tax Refunds Headed to Bank, Grocer, Gas Station This Year (April 3, 2013), available at http://www.aicpa.org/press/pressreleases/2013/pages/aicpa-survey-many-tax-refunds-headed-to-bank-grocer-gas-station-this-year.aspx.

[5] NBER Working Paper 17927, see footnote1, *supra*.

On pages 32 and 33 of the ANPRM, the Department requests comments on how best to disclose to plan participants and beneficiaries the assumptions underlying the plan illustration. NAFA recommends that the Department consider and adopt as practicable the disclosure approach taken in the National Association of Insurance Commissioners (NAIC) Annuity Disclosure Model Regulation #245 model insurance disclosure rules as it crafts its own disclosure provisions.

6. OTHER COMMENTS

Illustrative use of normal retirement date, social security age or minimum required distribution date

Given the widely available information on retirement lifestyle choices and when Americans choose to retire, NAFA once again recommends flexibility in the choice of the date to determine projected income. Plan participants and sponsors should be given the opportunity to see the income projections at different retirement age choices to best plan for and determine their optimal retirement age.

Illustration requirement on Individual Retirement Accounts

NAFA recommends that the Department ***does not*** extend its rule to for Individual Retirement Accounts (IRAs) as there are newly formed and approved illustration requirements for all illustrated annuity products through the NAIC Annuity Illustration Model recently adopted in 2012. The Department's action could cause direct conflict with the requirements of the existing disclosure laws and the new laws as they are adopted. The existing state insurance disclosure laws and the contractual disclosure of lifetime payout options in all individual annuity contracts, including those sold through IRAs, already fosters the Department's goals as stated in its Advanced Notice of Proposed Rulemaking Regarding Pension Benefit Statements.

NAFA again thanks the Department for the opportunity to provide our comments regarding this proposed regulation. NAFA shares the Department's belief that American workers need comprehensive and pertinent information in order to make informed retirement planning decisions. NAFA's members represent over 84% of all fixed annuities sold through independent distribution. Our Association is committed to providing fair and accurate education regarding the role fixed annuities have in supporting retirement income security for all Americans. We hope you will find these comments helpful, and please do not hesitate to contact us if you would like additional information or further clarification of NAFA's mission or our comments here.

Kim O'Brien

President & CEO