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June 11, 2011

U.S. Department of Labor  
Employee Benefits Security Administration  
Advisory Council on Employee Welfare and Pension Benefit Plans  
U.S. Department of Labor  
200 Constitution Ave., N.W.  
Washington, DC 20210

Re: Current Challenges and Best Practices Concerning Beneficiary Designations in Retirement and Life Insurance Plans

Ladies and Gentlemen:

On behalf of T. Rowe Price Group, Inc. ("T. Rowe Price"),<sup>1</sup> thank you for this opportunity to present information to the Council about "Current Challenges and Best Practices Concerning Beneficiary Designations in Retirement and Life Insurance Plans."

T. Rowe Price Retirement Plan Services, Inc. ("RPS") provides recordkeeping and plan administrative services to over two million retirement plan participants, through its full service recordkeeping business and small/mid-market business.

This statement focuses on our practices, procedures and experience in providing beneficiary services to retirement plans, the vast majority of which are defined contribution plans.

### **1. Use of Beneficiary Designations**

The entire plan accounts of participants in defined contribution retirement plans (such as profit sharing plans, money purchase pension plans and 403(b) plans (as well as 457 governmental plans and nonqualified plans) may be paid pursuant to beneficiary designations. Defined benefit

<sup>1</sup> T. Rowe Price Group, Inc. is a financial services holding company that, through its subsidiaries, provides investment advisory services to individual and institutional investors in the sponsored T. Rowe Price mutual funds and other investment portfolios. Through its subsidiary T. Rowe Price Retirement Plan Services, Inc. ("RPS"), it provides recordkeeping and plan administrative services to over 1,000 retirement plans, covering approximately 1.9 million plan participants. T. Rowe Price also provides plan recordkeeping services to approximately 2,500 small/mid-market 401(k) plans covering an additional 100,000 participants, as well as services to SEP-IRAs, SIMPLE IRAs and individual 401(k) plans via its Retail affiliate. Data as of March 31, 2012.

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plans often pay death benefits only to a surviving spouse in the form of a qualified preretirement survivor annuity (QPSA).

It is rare for a plan to require submission of a beneficiary designation as a condition for enrollment or receipt of benefits. Such a requirement as a condition of enrollment is incompatible with plans using an automatic enrollment feature, where many enrollments are pursuant to a default.<sup>2</sup> Regardless of the type of plan, submission of a beneficiary designation is highly encouraged.

It is not common for plans to share beneficiary designations (for convenience or other reasons) although some of our plan clients do share designation forms. Using separate forms accommodates different plan provisions and provides participants more flexibility in choosing beneficiaries for different plans (subject to spousal consent rules).

## **2. Plan Document and Form Issues**

Due to the spousal consent rules of ERISA, the most common default provision in retirement plans, where a valid beneficiary designation is not on file, is first to the spouse, then to the issue (per stirpes) and then to the estate.

Plan documents typically do not specify a procedure for resolving beneficiary claims, other than providing that the plan's claims review procedure is the exclusive procedure for making a benefit claim under the plan. The documents also do not require a specific form of beneficiary designation (other than as required by law).

Plan sponsors typically use our sample beneficiary designation forms and may tailor the forms to their plans. Although model beneficiary form templates are not necessary for our client base, they may be helpful to plan sponsors who do not use a service provider to assist with their plans. Any model form should allow plans to modify the form based upon their own plan terms.

We make available to our clients, a third party's prototype plan document, which provides that beneficiary designations naming a spouse as beneficiary be automatically revoked in the case of divorce. We do not have data to determine whether that provision increases or decreases the likelihood of beneficiary disputes.

It is not common to see a plan document addresses whether a change in beneficiary designation may be made pursuant to a power of attorney. We occasionally receive power of attorney forms, which are presented to the plan administrator for review. The power may or may not specifically give the attorney (agent) the power to change beneficiaries.

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<sup>2</sup> Approximately 30 percent of plans in the full service business use an automatic enrollment feature.

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### **3. Service Provider Issues**

T. Rowe Price maintains the beneficiary designations for 85 percent of our full service plans. In addition, 70 percent of the full service plans use our on-line beneficiary designation service and 30 percent do not (either because the sponsors maintain the forms or the plan has elected to use only paper forms). Larger employers tend to request that we maintain beneficiary designation records, whereas smaller employers are more likely to retain beneficiary forms themselves.

For the small/mid-market business plans, the plan sponsor maintains the beneficiary designation forms. The sponsor may enter the participants' beneficiary information on the Plan Sponsor Resource Center, a web-based system available to sponsors.

For full service as well as small/mid-market business plans, upon a participant's death, the beneficiary information on file is provided to the plan sponsor to determine the beneficiary. This is primarily because the plan administrator has the authority to determine benefit claims. In addition, the sponsor may have more updated information on a participant's marital status than information provided to us on the beneficiary forms or via the sponsor's own plan maintenance data. (This is because electronic maintenance data provided by sponsors may contain the marital status from their payroll systems, listing the participant's status entered for tax withholding purposes, which may differ from the participant's actual marital status.) In addition, plan sponsors determine the qualification of domestic relations orders, which may affect the determination of the beneficiary.

For both full service plans and small/mid-market business plans, we recommend that the plan sponsor re-solicit beneficiary designations when a plan converts to T. Rowe Price. Changing service providers presents a good opportunity to update beneficiary records and obtain new designations where necessary. For full service clients, participants can enter their beneficiaries on the on-line system, which saves time and expense. Upon receipt of paper forms, T. Rowe Price enters the data onto the on-line system. If a participant does not provide a new beneficiary designation form, it is up to the plan sponsor to decide if it will use a prior designation form.

There is no separate charge for maintaining beneficiary designations. We do not maintain a separate line item cost for systems, personnel or materials in connection with maintaining beneficiary designations.

### **4. Keeping Beneficiary Designations Up to Date**

To assist sponsors in keeping beneficiary information up to date, we offer a beneficiary re-solicitation service. Other than upon conversion, sponsors do not frequently use the re-solicitation service. There is a charge for re-solicitation (after conversion), although the cost is often covered by allowances provided to the sponsor for administrative expenses.

For both full service and small/mid-market business plans, beneficiaries are printed on participants' pension benefit statements to the extent they are available to T. Rowe Price.

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Beneficiary information also is maintained on the participant web site for viewing purposes or otherwise by calling the plan account line. Confirmations are sent to participants upon a change of beneficiary, which also assists in keeping participants informed of their elections.

In the event that a participant does not have a beneficiary on file, a message prints on the individual's benefit statement and on the home page of the participant web site, which notifies the participant of the plan's default rule and requests that the participant designate a beneficiary.

For the 70% of full service plans using the on-line beneficiary designation service, beneficiaries may be updated on the participant web site. Otherwise, participants may obtain a beneficiary designation form on-line or by calling the plan account line. When spousal consent is required (typically where a participant is married and designates a beneficiary other than the spouse), the beneficiary designation form completed on-line must be printed, signed by the participant and the spouse, with the spouse's signature notarized. If the form containing spousal consent is not returned within 30 days, the beneficiary designation transaction will be cancelled and a cancellation notice will be mailed to the participant.

## **5. Identifying and Locating Beneficiaries**

Plan sponsors are responsible for locating beneficiaries. Upon request, we make a third party locator service available and pass through the costs to the plan sponsor. Our on-line beneficiary system and beneficiary designation forms request that each beneficiary be separately named, along with the address, relationship to the participant and social security number. This helps to prevent problems with identifying members of a class.

A beneficiary is required to complete forms before a beneficiary distribution is made. We have very few instances where a plan is not able to locate the beneficiary. If a plan check issued to a beneficiary is unclaimed, the benefit would follow the plan's process for stale dated checks.

## **6. Beneficiary Disputes**

As a service provider, we occasionally become aware of multiple claims for a participant's death benefits. We do not determine beneficiaries; rather, we forward beneficiary information to the plan sponsor for a determination of the proper beneficiary. The most common occurrence of dispute involves a participant who has been divorced, with the dispute being between the former spouse and the current spouse or children. In the event of a dispute, plan sponsors typically request that we freeze benefits pending resolution of the matter.

Our standard recordkeeping services agreement provides for indemnification of the service provider against liability for claims unless the service provider is negligent or engages in willful misconduct or material breach of its duties.

As a directed trustee, plan sponsors occasionally submit bills from their outside counsel regarding beneficiary matters, to be paid from plan assets. When such bills are submitted, they typically are paid from any administrative allowance or deducted from the plan as a whole.

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## 7. Issues Regarding QJSA/QPSA's and Spousal Waivers

For plans subject to the survivor annuity rules (mainly money purchase pension plans and plans that receive assets transferred from these plans), T. Rowe Price offers a service under which a report is run each January to identify participants who will turn age 35 during the plan year. A beneficiary kit is sent to the affected participants, which contains a designation of beneficiary form that incorporates a notice and waiver of the QPSA. Note that even without a waiver of the QPSA, upon the participant's death, the surviving spouse may waive the annuity form of benefit and elect any optional form of benefit available under the plan.

Plan sponsors or their agents determine whether any domestic relations order satisfies the requirements for a qualified domestic relations order, including whether any order issued after the participant's death will be qualified.

Plans comply with witness requirements by obtaining notarization of spousal consent to non-spouse beneficiaries or waivers of joint and survivor annuities and QPSAs. We are not aware of any plan sponsors who use electronic media to satisfy witness requirements, nor does T. Rowe Price offer such service.

## 8. State Law Issues

Because plan sponsors make beneficiary determinations, they are responsible for reviewing any applicable state laws, such as small estate probate rules.

We hope you find the foregoing comments helpful to your review of Current Challenges and Best Practices Concerning Beneficiary Designations in Retirement and Life Insurance Plans. If you need additional information or you have questions regarding this statement, please feel free to contact me at 410 345-4677.

Sincerely,



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