2015 ERISA ADVISORY COUNCIL

MODEL NOTICES AND PLAN SPONSOR EDUCATION ON LIFETIME PLAN PARTICIPATION

STATEMENT OF THE INSTITUTIONAL RETIREMENT INCOME COUNCIL

Statement Presented by

Bruce Ashton
Drinker Biddle & Reath LLP
1800 Century Park East, Suite 1500
Los Angeles, California 90067
(310) 203-4000
bruce.ashton@dbr.com
www.drinkerbiddle.com

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INTRODUCTION

The Institutional Retirement Income Council (IRIC) applauds the Advisory Council's examination of the question of lifetime plan participation. The issue of employee lifetime income after retirement is among the most critical retirement planning issues currently facing American workers and their employers. On-going participation in a workforce retirement plan is a significant element of that issue.

In today's defined contribution plan environment, participants are, to a substantial degree, on their own when it comes to saving and planning for retirement. Many employers offer tools to help their employees with deciding whether to participate, how much to save and how to invest their money while in the plan. Some employers offer education regarding what it means to retire and the issues that employees will face once they no longer have a stream of current compensation income and a place to go every day. At retirement, however, a significant majority of plans leave their participants little choice but to take a distribution and roll their retirement savings to an individual retirement account, where they receive little or no fiduciary protection[1] and lose the benefit of the institutional pricing for investments and services that was available to them in their former employer's plan. In essence, after going to significant lengths to help participants get to retirement with adequate savings, many plans then drop them into a high cost, retail environment.

To the extent employees are able to leave their money in their former employer's plan, where they retain the benefit of fiduciary oversight and more favorable pricing, the benefit is apparent. Unfortunately, many employers are reluctant to permit lifetime plan participation for a range of reasons: fear of what seems new, different or unusual; concerns about "extra" fiduciary liability or responsibility; concerns about added cost; or concerns about added complexity.

We believe these fears are unwarranted and that, with adequate education and modest changes in service provider systems, they can be allayed and perhaps even entirely eliminated.

IRIC appreciates having the opportunity to add our comments and suggestions to this important topic.

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[1] The DOL's proposed redefinition of fiduciary investment advice and related prohibited transaction exemptions are designed to help address this problem.

THE INSTITUTIONAL RETIREMENT INCOME COUNCIL

IRIC was formed as a result of the changing retirement plan landscape. Since the mid-1980s, we have seen a shift in the burden of funding retirement from employers to employees, from defined benefit plans to defined contribution plans. In this period, defined contribution plans, especially 401(k)s, have become the primary source of retirement savings for an increasing number of Americans, even though defined contribution plans were originally designed as supplemental retirement savings vehicles and generally were not intended to provide guaranteed lifetime income.

IRIC was formed in 2008 as defined contribution plans started to focus on retirement drawdown for plan participants. The mission of IRIC is to facilitate the culture shift of defined contribution plans from supplemental savings plans to programs that provide retirement security. IRIC was organized to provide a forum for insightful, solutions-oriented thought leadership on institutional retirement income and to promote the need for retirement income adequacy for defined contribution plan participants.

IRIC is a non-partisan, tax-exempt, volunteer organization the Advisor Members of which consist of retirement plan advisors, consultants, and attorneys. The number of Advisor Members typically ranges from 15 to 20 advisors on an ongoing basis. The IRIC also has Sponsoring Organizations which consist of asset managers, insurance companies, recordkeepers, and system providers in the retirement industry. IRIC currently has 11 sponsoring organizations. The IRIC is governed by a Board of Directors which consists of six Advisor Members. Both the make-up and the number of Advisor Members and Sponsoring Organizations are reviewed on a regular basis to ensure IRIC has a good representation across the retirement industry.

The key objectives of the IRIC are to:

- Establish a forum for unbiased, solutions-oriented thought leadership on institutional retirement income;
- Identify and overcome barriers that impact the offering of institutional retirement income solutions by plan sponsors and utilization by participants;
- Develop best practices and tools for how institutional retirement income solutions may be evaluated, selected, implemented, and monitored;
- Identify and address issues and concerns that will arise as institutional retirement income solutions become more prevalent; and

- Promote the need for retirement income security for defined contribution plan participants to provide lifetime plan participation.

Retirement income solutions available in the marketplace consist of insured and non-insured products and various services that may be offered either in a plan, as a distribution option for participants when they retire (referred to as "on-the-way-out-of-plan" solutions) or as an out-of-plan product or service. While these products and services themselves do not necessarily promote lifetime plan participation, we believe that with increased education of plan sponsors and responsible plan fiduciaries, which we discuss below, and the further development of legal guidance and service provider systems, plan sponsors and responsible plan fiduciaries may conclude that in-plan solutions will provide significant benefits to participants – lower cost and fiduciary oversight – that are not available with on-the-way-out-of and out-of- plan solutions.

In the past decade and a half, the conversation surrounding defined contribution, and especially 401(k) plans, has changed. It began as a discussion of features, *e.g.*, websites, participant communications and investment products. Over time, it grew to include awareness of fiduciary issues, costs and service provider compensation. This growth was fostered by both the Department and the private sector. More recently, plan sponsors have started to become aware of the "successful plan" issue, that is, the importance of getting employees to participate, defer and properly invest their accounts. Again, the Department's focus on projection of lifetime income will help foster this awareness by participants and plan sponsors. Our belief is that the issues of lifetime plan participation and lifetime income solutions will become a significant focus for plan sponsors as the Department, organizations like IRIC and others, and financial institutions and plan advisors discuss and promote these issues.

Many plan sponsors and consultants are unfamiliar or uneducated in how to think about institutional retirement income. They are looking for a credible source of information and guidance in how to think about retirement income, how to understand and evaluate alternatives, and understand best practices for implementation different solutions. As lifetime income and lifetime plan participation become more significant factors in the plan conversation, IRIC believes that plan sponsors and responsible plan fiduciaries will look for tools to help them decide what to do and how to implement their decisions. IRIC believes that it fills this gap and will be looked to as the source of information on institutional retirement income and that the tools it currently has available and contemplates developing (as discussed below) will be especially useful.

QUESTIONS ADDRESSED

1. What issues do we see that plan sponsors need to consider in offering lifetime plan participation and lifetime income?

In the Introduction, we noted a number of concerns plan sponsors may have in permitting retirees to leave their retirement savings in a defined contribution plan. We offer some further thoughts on those concerns below. The point in addressing these issues here is not so much to educate the Council but to point out the types of concerns that need to be addressed in providing education to plan sponsors about lifetime plan participation.

Issues that may concern plan sponsors include the following:

- They have never done it before, so it is something new. This makes the concept a little scary, even though very large plans have generally provided this opportunity for years, without encountering significant difficulty or litigation.

- They are concerned about added fiduciary obligations and exposure to liability. Since retirees are "participants" and plan fiduciaries owe an obligation to act in the interest of all participants for the exclusive purpose of providing benefits and defraying no more than reasonable expenses, if the fiduciaries are fulfilling these duties for their current employees, they are necessarily fulfilling them for the retirees.

- They are concerned about added cost. To the extent a plan's costs are paid out of revenue sharing or out of participant accounts directly, retiree accounts that remain in a plan should pay for themselves and not add costs that must be borne by the plan or sponsor.

- They are concerned about added complexity. Here there may be some reason for concern, to make sure that the plan document accommodates distributions to retirees and that the recordkeeper is able to make such distributions at a reasonable cost. We discuss these issues further later on, but in generally, they can be easily addressed and facilitated.

In our view, each of these concerns can be allayed through education, information and tools directed to the plan sponsor and responsible plan fiduciaries.

The plan document issue is one that is not as easily disposed of as the fiduciary and cost concerns. The reason is that a large number of 401(k) plans provide for lump sum only distributions at retirement (plus required minimum distributions for those over 70-1/2). If a retiree's only option is to leave his or her money in the plan but not have access to it as needed, or take a distribution of the entire balance, there really is no choice: the retiree needs to take the lump sum distribution and roll it to an IRA in order to have access to the money to live on. To point out the obvious, when someone retires, the monthly paycheck stops but the monthly expenses do not. Because of this problem, it is not sufficient for a plan sponsor to make the commitment to lifetime participation; it will almost certainly also need to take some action.

The action is not difficult, but will require that plans be amended to provide an option for retirees to take periodic, recurring distributions as well as additional distributions to address extraordinary expenses that may arise.[2] In individually designed plans, the change should be relatively straightforward. In master or prototype documents, the change will likely require working with the document sponsor to make a global change to the pre-approved document.

In addition to the plan document change, a plan sponsor will need to address the capability of its recordkeeper to make these types of distributions. In our experience, this should not be an issue for most of the large recordkeepers, but it is a detail to which plan sponsors will need to pay attention. In addition, a plan sponsor may need to negotiate a change in pricing with the recordkeeper. Some charge a fee for distributions. The fee is modest when a participant is taking a lump sum distribution of his or her entire account. The same fee when applied to a monthly or quarterly distribution of a much smaller sum could prove to be overly burdensome for the retirees.[3]

Retirees face a number of risks related to whether their retirement savings will last for their lifetime. These risks include sequence of returns risk, longevity risk, withdrawal rate risk, and cognitive risk (that is, the risk that, as we get older, our ability to make important financial decisions erodes). Plan sponsors are beginning to consider these risks and how their plans may address them.

Lifetime income and how plan sponsors address it is an issue that IRIC believes is of paramount importance and that it has addressed in considerable detail. Among the questions that plan sponsors must consider are the following:

- Should the plan offer an in-plan solution, such as annuities or guaranteed withdrawal benefit products, or some form of non-insured product such as a payout mutual fund or managed risk investment?

- What products or services are available?

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[2] This is not nor is it intended to be an exhaustive list of the plan document changes that may be required to accommodate lifetime participation and lifetime income products.

[3] Again, this is not nor intended to be an exhaustive list of the issues.

- What are the fiduciary considerations in selecting the product or products or services? Is there a process through which they can be comparatively evaluated? And how do the fiduciaries fulfill their obligation to engage in a prudent process to select those products or services?

- If a lifetime income product is selected, are there portability issues, that is, limitations that could adversely affect participants if the plan changes recordkeepers or if a participant changes jobs?

2. What tools does IRIC offer to plan sponsors to assist them in assessing lifetime income issues?

IRIC currently offers a number of evaluation tools on its website (www.iricouncil.org). These include:

- An overview of the types of institutional retirement income products currently available in the market. IRIC is in the process of updating this list to include products that have been introduced since the list was first prepared. We anticipate revisiting this list as needed, given the dynamic nature of the market. A copy of the current overview is attached as Appendix A.

- Product fact sheets that describe in detail a number of the investment vehicles offering lifetime income that are currently available. IRIC attempts to develop these fact sheets with respect to the products offered by all of the major providers, though it is up to the providers to make the information available on a voluntary basis. These fact sheets are also updated periodically as the products evolve.

- A worksheet designed to facilitate the comparison of product features. This worksheet lists over a dozen major categories of issues that responsible plan fiduciaries should be sure to address in looking at various types of retirement income products. Most of the categories have multiple sub-parts. This comparison is designed to assist plan sponsors and fiduciaries in making an assessment of the most important features of the various products in order to make the fundamental decision of which type of product to offer. A copy of the worksheet is attached as Appendix B.

- A discussion of the fiduciary review process for selecting lifetime income products. This is designed to help fiduciaries know what information to review when they engage in an "objective, analytical and thorough search"[4] for the right product and provider for their plan.

- A glossary of terms that will be helpful in understanding the products being offered in the market. See Appendix C.

IRIC also offers a number of thought leadership pieces that discuss various aspects of the lifetime income issue. These include papers or articles that address retiree risks, key questions to consider and an "evaluation scorecard" for lifetime income products. Finally, the IRIC website also provides a reference library that includes industry research, regulatory guidance, government research, and articles of interest.

As noted, IRIC makes every effort to update the website on a regular basis as new articles, research and other materials become available.

3. What additional tools would be helpful to plan sponsors that IRIC contemplates offering?

While IRIC provides a number of resources that it considers helpful and useful, we recognize that more is needed in the area of education of plan sponsors and fiduciaries. To this end, we suggest the following additional materials. IRIC is in the process of or is committed to developing each of these:

- A worksheet that addresses the plan document changes that may be required for a plan to offer lifetime participation;

- A worksheet that addresses administrative issues that a plan sponsor or fiduciary will need to consider – such as recordkeeper capability and expense – in offering lifetime participation;

- A worksheet addressing participant distribution options, including the pros and cons of each, addressed to the plan sponsor and plan fiduciaries. While we are aware that there are a number of such worksheets current available in the marketplace – spawned in part by FINRA's requirement for financial advisors to provide such information to participants – to our knowledge, none are designed to educate the plan sponsor and fiduciaries on the issues. We believe this is a necessary tool.

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[4] *See*, *e.g.*, ERISA Regulation Section 2550.404a-4(2)(b)(1).

- A participant disclosure worksheet that would help participants understand their distribution options. We believe an independently prepared worksheet discussing this issue may be welcome to allay participant concerns about provider bias.[5]

4. How could the DOL make use of these tools?

IRIC is happy to make all of its tools available on its website and wishes to make clear that the DOL is welcome to post any of the IRIC tools it believes are useful or would be helpful to plan sponsor and fiduciaries on the DOL website, as it has in the past with certain other materials provided by the private sector.[6] In addition to this admittedly somewhat passive step, we also believe that an active education outreach program, provided by the DOL itself or in conjunction with the private sector, would be most useful in promoting the concepts being addressed by the Council in this forum. If undertaken by the DOL, IRIC would be pleased to assist in this endeavor as well.

Respectfully submitted on behalf of the
Institutional Retirement Income Council

By:______________________________________
Bruce Ashton

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5 We do not mean to suggest that worksheets currently available to participants contain any bias. Our only concern is that participants may perceive such a bias where materials are provided by an entity that may benefit from a participant's decision.

6 *See,* for example, the model compensation disclosure form prepared by the American Bankers Association, the ICI and ACLI referred to in the preamble to the original proposal of the 408(b)(2) regulation in 2007.

APPENDIX A
IRIC DESCRIPTION OF TYPES OF RETIREMENT INCOME PRODUCTS

Number	Product Category	High Level Description	Nature of Income Guaranteed	Fee Structure	Product Distributor	Product Insurer
1	In-Plan Deferred Fixed Annuity	• Each contribution purchases guaranteed future income • Contributions are typically invested into insurance company general account • Purest 'DB in DC' •	• Maximizes initial income at time of investment (no upside potential) • Participant must annuitize account to receive income benefit	• Fees are embedded in the purchase rates and impact future income amount • Incorporates investment management, longevity, administration, and risk charges	Mass Mutual (Lifetime Income) → Merrill Lynch (Personal Pension Builder) → Mutual of Omaha (Lifetime Guaranteed Income Account) →	Mass Mutual Insurance MetLife United of Omaha Life Insurance Company
2	In-Plan Guaranteed Minimum Income Benefit (GMIB)	• Each contribution purchases a minimum level of future income • Contributions are typically invested into insurance company separate account •	• Favorable performance of underlying investment portfolio will increase future income • Participant must annuitize account to receive income benefit • Payment is typically paid out over a lifetime or a lifetime with a period certain	• During accumulation phase, explicit investment and insurance fees • During the income phase, all fees are typically built into the annuity guarantee	No product offering currently exists	
3	In-Plan Guaranteed Minimum Withdrawal Benefit (GMWB)	• Each contribution establishes participant's benefit base upon which future withdrawals are calculated • Future income stream is expressed as a percentage withdrawal factor applied to benefit base • Participant retains control of account balance. Contributions are typically invested into insurance company separate account •	• Favorable performance of underlying investment portfolio will increase the participant's benefit base • Income generated is initiated based on the benefit base • Participant does not annuitize account at retirement and has access to their account value during income phase • No guarantee of principal; guarantee of income	• Explicit investment and insurance fees throughout accumulation and income phases • Fee is expressed as percentage of account value or benefit base	Alliance Bernstein (Secure Retirement Strategies) → John Hancock (Guaranteed Income for Life) → Prudential (IncomeFlex) → Voya (Lifetime Income Protection Program) → Great-West (SecureFoundation) → Transamerica (SecurePath for Life) → Lincoln SRI →	Multiple Insurers Hancock Insurance Prudential Insurance Multiple Insurers Great-West Life & Annuity Insurance Company Transamerica Life Insurance Company Lincoln Financial

Note: Managed account providers are evaluating these types of solutions and they may be added at a later date.

Number	Product Category	High Level Description	Nature of Income Guaranteed	Fee Structure	Product Distributor	Product Insurer
4	Managed account offering	• Asset allocation program that qualifies as a QDIA • Provides personalized advice • Designed to have minimal operational impact on the retirement plan • Participant retains control of account balance • Liquidity and flexibility • Available on a broad range of recordkeepers	• Not guaranteed • Advise participants on sustainable income using assumptions. May be combined with a guaranteed product to address longevity risk.	• Asset-based investment management and managed account fees	Financial Engines (Income+) Morningstar Retirement Manager with Income Secure Guided Choice Guided Spending Dimensional Fund Advisors (Dimensional Managed DC) Lincoln SRI	Insurer chosen at participant's discretion, based on available options through recordkeeper Insurer chosen at participant's discretion. Will provide advice on an in-plan annuity, if one exists Insurer chosen at participant's discretion Insurer chosen at participant's discretion Lincoln Financial
5	Out-of-plan Rollover Guaranteed Minimum Withdrawal Benefits (GMWB) Institutional Offering	• Rollover contribution establishes participant's benefit base upon which future withdrawals are calculated • Participant retains control of account balance • Contributions are typically invested into insurance company separate account	• Favorable performance of underlying investment portfolio will increase the participant's benefit base • Income generated is initiated based on the benefit base • Participant does not annuitize account at retirement and has access to their account value during income phase • No guarantee of principal; guarantee of income	• Explicit investment and insurance fees throughout income phase • Fee is expressed as percentage of account value or benefit base	No products currently being offered with institutional pricing	
6	Out-of-plan Rollover Annuity Platforms "Supermarket Approach"	• Provides institutionally priced annuities from multiple carriers to participants through a competitive bid process • Maximize income at point of distribution	• Maximizes initial income at time of investment • Participant must annuitize a portion of the account to receive benefits • Guaranteed lifetime income offered through immediate annuities, QLACs and longevity insurance	• Fees are embedded in the purchase rates and impact future income amount •	Hueler Platform Fidelity Platform	Multiple Insurers Multiple Insurers

Note: Managed account providers are evaluating these types of solutions and they may be added at a later date.
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Number	Product Category	High Level Description	Nature of Income Guaranteed	Fee Structure	Product Distributor	Product Insurer
7	In-plan Immediate Annuities	• Purchased at Retirement • Maximize income at point of distribution • Plan Sponsor selects the insurer	• Maximizes initial income at time of investment (no upside potential) • Participant must annuitize account -account value is liquidated at time of purchase • Payments are made in a specified amount over a lifetime, a selected period, or a lifetime with a period certain	• Fees are embedded in the purchase rates and impact future income amount • Incorporates investment management, longevity, administration, and risk charges	Multiple Insurers	Multiple Insurers
8	In-plan Deferred Annuities (including Qualified Longevity Annuity Contracts (QLAC))	• Each contribution purchases guaranteed future income • Limited to $125,000 or 25% of account balance • Not subject to RMD calculations • Plan Sponsor selects the insurer	• Maximizes income at future date while lowering current premium • Participant can select Return of premium death benefit feature, though future income will be impacted	• Fees are embedded in the purchase rates and impact future income amount •	MetLife	MetLife
9	Out-of-Plan Managed Payout Investments	• Non-guaranteed investments designed to provide a stream of income • Managed payout (or Endowment) style are designed to provide a fixed payout rate in perpetuity while preserving principal • Income replacement style re designed to be exhausted by the stated end date of the fund. As a result, income is a combination of income and return of principal	• Not guaranteed • Managed payout style are managed to maximize income while preserving principal • Income replacement style have changing allocations to become more conservative as the end date nears	• Asset-based investment management fees	Fidelity Income Replacement Funds Vanguard Managed Payout Funds PIMCO Real Income Funds Franklin Retirement Payout Funds	N/A N/A N/A N/A

Note: Managed account providers are evaluating these types of solutions and they may be added at a later date.
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APPENDIX B

IRIC WORKSHEET TO FACILITATE THE COMPARISON OF PRODUCT FEATURES

http://www.iricouncil.org/docs/Comparison%20of%20Product%20Features%20High%20Res.pdf

APPENDIX C

IRIC GLOSSARY OF TERMS

http://www.iricouncil.org/docs/Key%20Terms%20Glossary%20High%20Res.pdf