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Sent: Friday, April 30, 2010 3:04 PM
To: EBSA, E-ORI - EBSA
Cc: Scott Miller; Carol Sears
Subject: RIN 1210-AB33

Good afternoon,

Attached is an article and executive summary that contain our ideas for optimal 'retirement' programs of the future. We are submitting this in response to your "Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans".

This Retirement Income Security Plan will need an annuity product that dovetails the defined payout method. Therefore, we submit our article for your consideration as you determine what kinds of lifetime annuity products should be available to support tomorrow's retirement needs.

Please let us know if we can help to your team as you pursue this important initiative.

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Averting the Retirement Income Crisis

By: Carol R. Sears, FSPA, MAAA, FCA, CPC, EA
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An actuarial train wreck is fast approaching. When the dearth of employer sponsored defined benefit pension plans and inadequate retirement savings collides with the improving life expectancies of the nation's future retiree generation this catastrophe will occur.

Without visionary planning, we foresee a time in which much of the elderly population will be out of income options and devoid of income protection insurance.

There are no current initiatives, legislative or otherwise, which we believe address the real problem. Rather than being proactive, legislators seem to be focusing their efforts reacting to retirement income problems by applying partial fixes to the increasingly unpopular traditional defined benefit pension plan and the severely under funded Social Security system. These fixes do not address the looming problem of future retirees not having sufficient income to support themselves during their expanded longevity. Pension actuaries and other pension professionals need to focus on this pertinent issue. They need to use their combined intellect and experience in order to build the best forward-thinking retirement program possible.

RETIREMENT TODAY AND BEYOND:

Retirement has traditionally been viewed as a cliff transition from working one day to not working the next. However, as life expectancy continues to improve, the ability to work longer, at least part time, will improve at a similar rate. A recent MetLife study of retirement aged workers "reveals that retirement is no longer defined by a specific date, but rather a desired state of being". Already a significant and growing percentage of individuals over the age of 65 continue to work. According to the Society of Actuaries' "Phased Retirement and Planning for the Unexpected 2005 Risks and Process of Retirement Survey Report - April 2006" (SOA Survey), more than 40% of current retirees already perform some work after retirement. This report also concludes, "Based on today's experience, it seems reasonable to expect that in the future a significant percentage of older Americans, such as those aged 70-75 will do some paid work, but for many of them it will be part-time or part-year or both. After age 75, paid work will probably remain relatively rare at least in the near future."

Poor retirement savings rates in our country, coupled with the demise of traditional defined benefit pension plans, is forecasted to result in retirement income that is dimly inadequate to maintain living standards after complete work stoppage at customary retirement ages. According to the Bureau of Economic Analysis, US Department of Commerce, personal savings rates have fallen to levels not seen since the Great Depression.

Traditional retirement plans are being frozen or are being terminated because:

- Most employees don't appreciate the value of defined benefit pension plans, and offer little resistance to plan terminations or the ceasing of future benefit accrual.

- FASB 87, 88, 132, and 158 costs and balance sheet effects are too unpredictable and their effects too draconian. Existing FASB rules often adversely impact the ability to efficiently manage business costs.
- Ever increasing longevity has made providing full benefits for individuals starting at age 65 for their remaining lifetimes too expensive.
- Post-retirement accrual rules make it financially unattractive for companies to retain workers beyond age 65 in traditional defined benefit pension plans because additional accruals at high ages significantly impact FASB and real costs in a negative and immediate way. Post-retirement accrual rules create a strong disincentive for employers to allow older employees to remain part of their workforce, at a time when these individuals are becoming more and more interested in continuing to work on a gradually diminishing basis. This disincentive is illogical because these valuable older workers often are healthy enough to continue working, want to continue working at least part-time, and can't afford to cease working at traditional ages. In addition, due to a shrinking available workforce, employers have a need to retain these trained, committed and productive employees.

As the SOA Survey and other research have shown, retirees and their employers will need, want and would be better served by having a transition period from full work to full retirement. To accommodate this change, our culture needs to develop retirement income delivery systems that don't have to pick up full income needs until full work cessation. This diminishing need for full financial support during the transition period can be recognized in the retirement program design and make it feasible for an employer to help provide for long-term retirement benefits that are essential after the individual is no longer working.

With the creation of these creative benefit programs to provide tiered retirement income, retirement savings plans would not have to last a lifetime. Savings programs goals can be finite and determinable. Retirees could be relieved of significant fears and stress associated with worrying about the adequacy of their retirement savings that exist today, and they could be more comfortable about prudently spending down their savings in retirement.

A PERSPECTIVE:

Just as we do for health, life and disability, it is time to treat longevity as an insurable event. What does this mean? Insurance is, in its most basic form, a pool of money accumulated to pay benefits only to the premium payers who suffer the fundamental risk (e.g.: sickness, death, disability). Generally, people choose to insure life contingent risks that would throw their lifestyle into immediate financial crisis. Those financial outflows that can be predicted and/or sustained by current financial income and savings do not need to be insured. Ideally, savings should cover all predictable expenses. It is the unpredictable/catastrophic expenses that need to be insured.

Purchasing individual insurance policies are generally more expensive and less efficient than buying policies as a group. Employer-sponsored benefit programs have worked well as vehicles to offer this pooled insurance coverage for our working population by offering group health, life, and disability insurance. A worker's true level of compensation is usually considered to be a

combination of wages, contributions to retirement and other savings programs, and other employer-paid benefit expenses (such as insurance). While workers expect that they will receive each dollar of an employer's contributions to benefit programs such as 401(k) plans, through deposits into their accounts, workers accept that dollars spent on insurance programs are returned only to the people who have the applicable benefit claim. For example, even though the employer may pay \$10,000 in health insurance premiums for an employee, if that employee only has \$2,000 of medical expenses, that is all they will receive – the remaining \$8,000 stays in the insurance pool to pay the insured benefits of others. In contrast to wages and savings programs, the average worker understands that insurance program expenses are not person specific and knows not to expect a dollar for dollar personal benefit for premiums, whether fully paid by the employer or shared by employer and employee.

In mathematical terms, benefit programs are supposed to be exclusive subsets of the universe of major life contingent risks. Their elements of intersection should be minimal. Because no one person or family experiences all forms of risk, no one enjoys all forms of benefits. But everyone receives the benefits they need because of the risks they experience. Some receive more than their proportionate share of the health care insurance risk pool because they're sicker than predicted. Others receive more than their proportionate share of the life insurance risk pool because they die earlier than expected. And still others survive and receive more than their proportionate share of the longevity insurance pool.

REDEFINING RETIREMENT:

Today's ERISA requirements, accounting rules, and tax laws do not accommodate the type of defined benefit program that could adjust benefits during gradual 'retirement'. For example, required Normal Retirement Dates and post Normal Retirement Date benefit accrual rules force benefits to be available in full sooner and for longer periods than may be desirable. As a result, employers are choosing to avoid providing any life contingent benefit.

According to the April 2006 American Academy of Actuaries Issue Brief- "Longevity and Retirement Policy: Modernizing America's Retirement Programs to Keep Pace with Longevity", "...For employers with traditional defined benefit pension plans, the higher costs associated with increases in longevity may have resulted in a redefining of retirement age as a gradual process that can occur over a number of years, instead of a one-time, all-or-nothing event. Although gradual retirement has benefited employers and employees alike, current laws and regulations present significant obstacles." We suggest that laws and regulations need to be modified to accommodate a new essential benefits program that will cover the risk that a person could outlive retirement savings. This program would pay a stream of gradually increasing life contingent annuity benefits and intentionally defer full monthly benefits until other income, such as wages, are unlikely. Protecting the risk of outliving income resources in old-age is emerging as equal in importance to covering other traditional catastrophic life-contingent risks such as medical care, death, and disability.

Our concept is similar to the growing trend in health care. Many health care programs combine saving for the predictable with insuring the unpredictable and catastrophic. Health Savings Accounts (HSAs) for day-to-day and predictable medical costs, used in connection with high-

deductible health plans for catastrophic medical costs, can achieve the actuarial efficiencies for which they were created. Retirement programs should follow this lead by using 401(k) or other account balance accumulation type plans as the savings accounts for expected or desired retirement expenses, while a new type of employer-sponsored program could offer financial protection against the unpredictable event of living too long, which might cause current savings programs to be inadequate.

In addition, the program we envision may optionally cover permitted temporary retirement type breaks from the workforce before retirement. According to Hilary Chura in the April 22, 2006 *The New York Times* article entitled “Sabbaticals Aren’t Just for Academics Anymore”, Rose Stanley, benefits manager at WorldatWork, a professional association for compensation, benefits and work-life practitioners, is quoted as saying that “since time has become the new currency, employees value days off as much or more than dollars.” As valued employees anticipate extended working careers, accommodating a valuable time-off benefit may become a crucial retention tool. An innovative retirement program could also act as a pre-funded vehicle for important sabbaticals by providing temporary retirement benefits. This concept is a cultural change that requires the design of an affordable employer based program that provides benefits in a time of crisis, such as allowing for periods when there is a need to take care of sick or elderly family members. These forms of temporary retirement may be an important part of our proposed retirement program of the future.

RETIREMENT PROGRAM OF THE FUTURE:

It is our opinion that no single type of plan can cover the emerging types of retirement income needs and risks. We suggest that, where possible, employers sponsor a multi-plan retirement program to meet their employees’ retirement income needs.

At a minimum, all employers should be strongly encouraged to sponsor a new kind of plan, the Retirement Income Security Plan (RISP), in addition to whatever 401(k) and/or defined benefit pension plans fit their unique business goals. The RISP is intended to provide reasonable, affordable, and essential income needs-only protection to those who may otherwise outlive their income due to their longevity.

Savings plans are an equally important type of plan in the retirement program of tomorrow. Employers need to also sponsor 401(k) plans, in order to provide employees with a vehicle to take responsibility for their own retirement income, by encouraging them to save personally. In addition, the discretionary component of 401(k) plans allows employers to add to employee’s retirement savings. New 401(k) rules enacted through the Pension Protection Act of 2006 (PPA 2006) should also help to accomplish these improved savings objectives.

Employers should also be encouraged to adopt and sponsor traditional or hybrid supplemental defined benefit pension plans. Supplemental defined benefit plans could provide additional life contingent or lump sum benefits, without having to carry the full responsibility of providing adequate income for the entire life of the retiree.

It must be remembered that savings, while hugely important, are not crisis protection. Jonathon Clements' May 21, 2006 article in the *Wall Street Journal* sadly points out that "Retirement is a time to kick back, relax and wonder whether you will outlive your savings. This, I regret, is a real danger. Spending down a portfolio in retirement is a wildly tricky exercise". Adequate savings, accompanied by a RISP, and traditional or hybrid defined benefit pension plans where possible, could remove want and terror out of old age by allowing retirees to maintain their living standards with peace of mind.

WHAT DO RISPs LOOK LIKE?:

RISPs are not intended to replace current qualified retirement plans. Rather they're to be companion, catastrophic-coverage-only plans. Features we suggest include:

- Benefits:
 - A formula of .5%, 1%, 1.5% or 2% of final average compensation times years of service.
 - Years of service including up to 5 years prior to effective date.
 - Average compensation calculated as an average over at least 5 consecutive years, but may be any number of years including career average.
 - The form of benefit provided under the RISP will be an annuity payable for the life of the participant, with 50% of the benefit continuing to the surviving spouse, if married at benefit commencement.
 - No optional benefit payments, even if actuarially equivalent, would be offered. What is 'actuarially equivalent' at benefit commencement is not so at benefit cessation. The RISP should deliver the benefit in later life for which it is intended and only that benefit. Actuarial anti-selection should not be a factor.
 - All benefit payments commence at age 65, regardless of employment status. We recommend age 65 instead of a higher age because as pointed out in the SOA Survey, this is an age at which most people do expect to at least start altering their work lifestyle.
 - Benefits payable in gradually increasing increments; 25 percent of the full benefit formula from ages 65 through 67, 50 percent from ages 68 through 71, 75 percent from ages 72 through 74, and 100 percent starting at age 75.
 - RISP annuity benefits calculated as of the earlier of termination of employment or age 65, with no additional accruals or actuarial equivalence adjustments after 65. At each of the subsequent tiered benefit increase ages (68, 72, 75) the plan could optionally allow the annuity benefit to increase for cost of living only (e.g. consistent with how Social Security benefits have increased over the same period).
 - Pre-retirement death benefit is the minimum Qualified Pre-Retirement Survivor Annuity (utilizing existing Qualified Pre-Retirement Survivor Annuity rules).
 - No early retirement subsidies or options available.
 - No subsidized disability benefits provided.
 - The plan sponsor may reduce, increase, or freeze future benefit accruals, depending upon their business needs.
 - Plan eligibility rules follow existing minimum statutory rules.
 - Controlled groups may sponsor a single RISP.
- Mid-career benefit payouts:

- These payouts would be available for a limited period of time.
- These payouts might occur for such work-cessation occasions as a pressing family care need.
- These mid-career payouts might be permitted once every ‘x’ number of years, or perhaps only a certain number of times prior to retirement benefit commencement. The participant would not be permitted to work for other employers during these periods.
- Funding/FASB:
 - Assumptions:
 - Interest rate assumptions must equal the yield curve rate or other prescribed rate (e.g. as prescribed by PPA 2006)
 - Choice of all other actuarial valuation assumptions (e.g. pre-retirement turnover, disability, mortality, cost of living, mid-career benefit, marital status probabilities) are to be chosen at the discretion of the plan’s Enrolled Actuary, based upon the best estimate of future experience.
 - The minimum and maximum funding requirements of PPA 2006 apply. Recommended funding levels that fall between the minimum and maximum would be developed by the Enrolled Actuary using whatever funding method best fits the participant group and benefit stream expectations in the actuary’s professional opinion. For example, each tier of annuity benefit could be funded for separately, that is:
 - 25 percent of the full annuity benefit due to commence at age 65 will be funded from entry age to age 65.
 - An additional 25 percent of the full annuity benefit (with assumed cost of living increase, if applicable) which commences at age 68 will be funded from entry age to age 68.
 - The same will occur for the 25 percent benefit increases (with assumed cost of living increases, if applicable) at ages 72 and 75.
 - Mid-career benefits would be funded actuarially, in the same way ancillary benefits have historically been funded.
 - FASB disclosures are based upon PPA 2006 Funding Targets and FASB net periodic pension costs equal actual PPA 2006 minimum contribution obligations. That is, the Enrolled Actuary’s funding actuarial valuation for PPA 2006 compliance purposes matches the FASB disclosures and amounts.

WHAT NEEDS TO CHANGE?:

Changes for RISP include:

- Legislative changes other than for funding:
 - IRC Section 415 maximum benefit limits need to be set especially for these plans and not allowed to impact the benefits in any other employer sponsored plan.
 - Top heavy rules should not be applicable to RISPs since every participant, whether or not a Key Employee, is covered by the same benefit as a percentage of compensation.
 - IRC Sections 401(a)(26), 410(b), and 401(a)(4) (minimum participation, minimum coverage, and nondiscrimination rules) will not apply to RISPs because their objectives are reached via plan design requirements for RISPs.

- Post-retirement accrual rules need to be eliminated for RISPs.
- Automatic rollovers rules are not applicable since there are no lump sum distributions.
- Since benefit distributions automatically commence at age 65, there is no need for IRC Section 401(a)(9) minimum benefit distribution requirements.
- Non-legislative changes:
 - FASB rules need to be amended to reflect new actuarial funding standards as required for RISPs
 - Annuity products need to be offered to accommodate these plans

THE FINAL QUESTION:

Why would an employer add the RISP to their retirement program package? Employers need to face the danger that much of their aging work force may choose to retire while their services are still needed. As reported in the July 19, 2006 article on *CNNMoney.com* “How to plug your company’s brain drain”, “By the end of the decade, ...40% of the workforce will be eligible to retire. And even though surveys show that 70% to 80% of executives at big companies are concerned about the coming brain drain, fewer than 20% have begun to do anything about it.” Maybe the lack of action by the executives is driven by the lack of reasonable and affordable options? RISP might be the answer.

The three R’s of wage and benefit programs never change – Recruit, Retain, and Reward. The RISP helps to support this. As employees begin to understand that survival beyond one’s means is a distinct probability, they’ll be attracted to employers who offer this type of benefits program. Retention and appreciation would improve. The RISP plan design, along with vastly more predictable funding requirements and appropriate FASB rules, will make these types of plans much more attractive than today’s quickly disappearing qualified defined benefit pension programs.

It is time to redefine retirement. The social crisis that will occur if our society contains a large percentage of non-working elderly people who have spent down their retirement savings can be averted. Let the pension industry be leaders in this area, and let’s build a better and more secure U.S. private retirement program.

Averting the Retirement Income Crisis

What is the problem?

- Yesterday's three legged stool of adequate retirement income (employer provided lifetime monthly benefits, employees personal savings, and social security) served its purpose well for yesterday's retirees but has broken and is not sufficient to support today's and tomorrow's retirees.
- What worked yesterday no longer works because:
 - People are generally healthier today and are living longer, more vibrant lives without end-of-life financial protection.
 - It is healthier to gradually diminish work than to suddenly stop, yet most retirement plans don't commence payouts while working.
 - People are not saving enough to support themselves throughout their longer post-retirement lifetimes.
 - Employers have frozen and/or terminated most traditional defined benefit plans.
 - Employer sponsored 401(k) retirement savings plans were never adequate replacements for the traditional defined benefit programs and their account values have been devastated in recent years by the economic crisis.
- Unlike yesterday's ample workforce, employers now need access to affordable part-time workers to solve the problem of too few workers to replace retirees in our aging population.

What can work?

- All employers should be strongly encouraged to build a 1, 2, or 3 part retirement program:
 - **Part 1:** A new kind of plan, the Retirement Income Security Plan (**RISP**) fills the most crucial need of the current and future retiree and their family. The RISP is intended to provide reasonable, affordable, and essential income needs-only protection which is missing today and will be tomorrow's social crisis without such plans. This should be the first and fundamental retirement plan sponsored. **The RISP provides for a portable, gradually increasing, cost-of-living adjusted, lifetime monthly annuity only benefit that commences benefit payments whether work continues or not.**
 - **Part 2:** Savings plans are the next most important type of plan in the retirement program of tomorrow. Employers need to adopt or continue their 401(k) plans. These plans provide employees with a vehicle to take responsibility for their retirement, by encouraging them to save personally and providing them with the retirement program to easily accomplish this. In addition, this gives employers another plan that allows them to add to employee's retirement savings through employer contributions, as desired.
 - **Part 3:** Traditional and hybrid defined benefit pension programs can further supplement retirement programs when the business can so support. Employers will continue to benefit from these types of plans because they can grow with their business and suit their unique business objectives, while providing employees with additional retirement income.

What law and other changes are needed to make RISP's work?

- Repeal post-retirement benefit accrual rules for RISP's.
- Expand the definition of retirement to include temporary retirement for philanthropic or human needs sabbaticals for RISP's.
- Funding rules and requirements for RISP's need to be different from those applicable to traditional and hybrid defined benefit plans.
- Stronger tax incentives should be made available for employers providing "basic" retirement benefits through RISP's, than other retirement plans.
- Accounting reporting rules applicable to RISP's should mirror funding requirements.
- Top heavy and nondiscrimination testing is not necessary in RISP's and therefore relief from these rules should be provided for these Plans.
- Portability rules need to be added.

What are other positive impacts of the RISP?

- Improves retirement income safety net for retirees, which relieves social programs.
- Provides employers a cost effective way to make sure basic guaranteed benefits are in place for their employees.
- Working longer = extended period of taxable income = more federal budget income.
- Savings plans payout period can be predictable and properly accumulated as well as distributed without fear of outliving account.