

**U.S. Department of Labor
Employee Benefits Security Administration
Advisory Council on Employee Welfare and Pension Benefit Plans**

2015 ERISA Advisory Council

“Model Notices and Disclosures for Pension Risk Transfers”

**Testimony by
Cindy Hounsell, President, Women’s Institute for a Secure Retirement
(WISER)**

Members of the Council, my name is Cindy Hounsell, President of the Women’s Institute for a Secure Retirement. Thank you for the opportunity to testify on the important topic of appropriate communications to participants who are offered a lump sum payout of their defined benefit plan benefits.

The Women’s Institute for a Secure Retirement (WISER) is a non-profit organization whose mission is to improve the long-term financial security of all women and their families through education and advocacy. Through its National Resource Center on Women & Retirement Planning, WISER has operated retirement education programs for 17 years, providing women with the crucial skills and information they need to improve their economic circumstances. We accomplish this by delivering clear, up-to-date information that moderate- and lower-income women can use to mitigate the risks they face with respect to retirement income security. WISER creates a variety of consumer publications including fact sheets, booklets and a quarterly newsletter that explain in easy-to-understand language complex retirement issues.

The Center is dedicated to providing women with core financial knowledge that encourages them to make retirement planning a priority in their lives, leading to a more financially secure retirement. We have been able to reach millions of women with the Center’s website and publications, and we get gratifying feedback about the usefulness of the information we make available to women. *Forbes Magazine* named our website to its “Top 100 Websites for Women” in 2012.

The content of the materials WISER creates for specific audiences comes from the interviews, focus groups and other activities we undertake. We focus on explaining employment-based retirement savings plans and pensions, Social Security, and personal savings. The three-legged stool may be a tired analogy, but it is still effective.

The backdrop to this information is the unique challenges that most women face – challenges so many simply do not realize. For example:

- Women live longer, which means their retirement assets have to last longer.
- Women age 65 and over have 25% less retirement income and twice the poverty rate of men.¹ Factors that play into this include pay inequity, uneven work histories due to caregiving responsibilities, and a greater likelihood of working part-time where retirement benefits are not offered.
- Older women are more likely to be single, which puts them at higher risk for poverty. A GAO report found that divorce or separation reduced women's income by 41%; almost twice the decline of men's income.²

We applaud the ERISA Advisory Council's efforts to assist plan participants in making informed decisions about their plan benefits. As you have recognized, it is critical to provide participants with adequate information to help them make decisions when their employer offers a lump sum option in their defined benefit plan. The decision participants make at this time are life-defining and will profoundly affect their ultimate financial security in retirement.

Our submission today focuses on three areas. First, **the Council's question of what useful information do participants need to make an informed decision in a risk transfer transaction and how would you suggest getting this information to participants.** Next, we will focus on two aspects of lump sum options from defined benefit plans that could particularly affect women adversely: survivor pension benefits and gender pricing in retail annuities.

Also, we believe that the draft model, "Lump Sum Notice," should include more information about topics for women plan participants and we provide some suggestions for doing so below.

Audience Segmentation – a gender lens

We know that many large plan sponsors are able to provide specific audience segmentation within their diverse workforce as part of communication and education efforts. We believe that segmentation is an integral component of understanding the audience and helping to lead them to take action. Targeted financial education in this specific risk transfer situation could result in better outcomes for participants making a complex decision.

As briefly mentioned, the GAO report's Key factor #4: Positive & Negative Ramifications of Accepting a Lump Sum, we agree with the importance of adequate levels of financial literacy combined with adequate disclosure of information.³

¹ GAO. Retirement Security: Women Still Face Challenges. GAO-12-699. July 19, 2012.

² GAO. Retirement Security: Women Still Face Challenges. GAO-12-699. July 19, 2012.

³ Government Accountability Office, "Private Pensions: Participants Need Better Information When Offered Lump Sums That Replace Their Lifetime Benefits," GAO-15-74, January 2015.

Participants want and need simple, ongoing and consistent communication. They want it to be accessible from a variety of resources and help lead them to take the next step. Stories or a series of clear understandable illustrations or scenarios can help by showing various outcomes. Understanding the risk of outliving one's assets could help participants make a more informed decision. The best option is the opportunity to receive detailed information of one's individual information.

We recommend that the DOL provide a dedicated website page with a series of targeted fact sheets that would help a married couple, a single woman or a single man make an informed decision after careful consideration of the options. WISER's work with the Society of Actuaries shows that couples do not plan with a long-term horizon but make their decisions on their current ability to pay bills. They give little or no consideration to the long-term impact of inflation or the impact of unexpected costs.⁴ It is critical for women and their spouses to understand the risks of longevity and outliving their assets.

Survivor Pension Benefits

Over 30 years ago, Congress realized there was a problem with lump sum options in defined benefit plans. Too many plan participants were choosing to take their benefits as a lump sum leaving their survivors, largely elderly widows, with only Social Security in retirement. So Congress passed the Retirement Equity Act of 1984 (REA). Congress adopted the now popular "opt-out" technique by requiring that annuities with spousal survivor protection would be the default option in defined benefit plans, unless the participant and spouse choose a different option.

A new report from the Center for Retirement Research on Boston College emphasizes how important pensions with joint-and-survivor protection can be to preventing poverty in old age.⁵ Analyzing data from the Health and Retirement Study, the researchers conclude that households who took a lump-sum payout before retirement are more likely to have income that falls below poverty thresholds. In addition, households with annuities are better able to avoid income poverty. Finally, if the household has only a single life annuity, surviving spouses are at greater risk of falling into the lowest poverty thresholds.

The joint-and-survivor protection created by REA has substantially improved women's retirement security. As the National Women's Law Center notes in its 2014 Fact Sheet, "Increasing Spousal Protections in Retirement Accounts Would Increase Retirement Security:"⁶

⁴ Society of Actuaries and Women's Institute for a Secure Retirement. "Impact of Retirement Risk on Women: 2013 Risks and Process of Retirement Survey Report." 2014, available at www.soa.org and www.wiserwomen.org

⁵ Orlova, Natalia A., Matthew S. Rutledge and April Yanyuan, "The Transition from Defined Benefit to Defined Contribution Pensions," CRR WP 2015-17, Center for Retirement Research at Boston College, June 2015.

⁶ National Women's Law Center, Retirement Fact Sheet, "Increasing Spousal Protections Would Increase Women's Retirement Security," March 2014, available at: http://www.nwlc.org/sites/default/files/pdfs/social_security_spousal_protections_march_2014.pdf.

- Over the last decade, two-thirds of married households receiving income from pensions were expected to utilize survivor pension benefits.
- In 2010, among women aged 60 and over who received a defined benefit survivor benefit, the median benefit was \$7,680 per year – an amount that represents over half of the annual income of a typical older woman.
- Over half of women receiving a defined benefit survivor pension fell within the two lowest income quintiles in 2010, suggesting that such benefits provide critical support for these populations.

Given the significance of survivor benefits for many women (and increasingly men as well), we believe that the model notice should address this issue more specifically in Question 1. For example, the answer could read:

1) Will my lump sum provide lifetime retirement income?

*The pension provided by your Plan offers protection from the risk that you could run out of money before you die. Also, if you are married, your Plan benefit provides an **automatic** pension for your spouse after you die, **unless** you and your spouse choose a different pay-out option. By choosing a lump sum, you are giving up that lifetime income protection for you and, if married, your spouse as well. To replace your Plan pension for the remainder of your life and any spouse’s life, you must be able to invest the lump sum amount to provide you both with equivalent lifetime income.*

In addition, there is a confusing answer on this issue in the accompanying chart, “Differences Between Lifetime Payments and a Lump Sum.” The question, “can I leave anything for my spouse and children” is not correctly answered with respect to Plan pension payments. The current answer is “yes, if I choose a survivor benefit.” **REA requires that the survivor benefit be automatic UNLESS the Plan offers, and the participant AND spouse choose, a lump sum or similar payment.** So the answer should be, “yes, unless I (along with my spouse) choose a pay-out without a survivor benefit.”

Gender Pricing in Retail Annuities

Some 30 years ago, women received important retirement income protection in defined benefit plans from the Supreme Court’s *Norris* decision.⁷ The Court held that women were entitled to receive the same annuity benefits in an employer-sponsored plan as similarly-situated men. This rule does not apply to annuities available in the retail market

⁷ *Arizona Governing Committee for Tax-Deferred Annuity and Deferred Compensation Plans, etc., et al. v. Norris, etc.*, 103 S. Ct. 3492 (1983).

where men and women can be charged different prices due to women's longer life expectancy on average.

It is critical for women who decide to choose a lump sum to understand that it will be difficult, if not impossible, for them to use those funds to purchase an amount of lifetime income equivalent to their pension benefit in the retail annuity market. In addition to the same reductions faced by men, women will be subject to an additional reduction due to their gender. In a recent report, the Government Accountability Office has analyzed the effect of gender annuity pricing, among other factors, in the retail market on women's retirement income.⁸ It projected potential reductions in monthly retirement income if a lump sum benefit were used to purchase a retail annuity. It found that for 55-year-old men and women, men faced a reduction in income of 36% while the reduction for women was 41%. For 65-year-old individuals, the reductions were 17% and 24%, respectively.

We recommend that the gender pricing issue in the retail annuity market be highlighted in any model notice so that women clearly understand they will be losing the benefits of the *Norris* decision if they choose a lump sum. For example, the answer to Question 3 could read as follows:

3) Can I buy an annuity in the retail market with my lump sum?

Generally speaking, the annuity that you can purchase on your own with the lump sum will be less than the annuity provided by the Plan. If you wish to make your own comparisons, be careful to make an “apples to apples” comparison between the Plan’s annuity and the retail annuity quote.

In addition, if you are a woman, you should be aware that your Plan annuity is the same as that paid to a man with the same work history as you. But if you buy a retail annuity, an insurance company can offer you a lower monthly benefit payment than a man for the same premium because of women's longer life expectancy on average.

Thank you for the opportunity to share our concerns and suggestions.

*Cindy Hounsell, President
WISER
wiserwomen@aol.com*

⁸ Government Accountability Office, “Private Pensions: Participants Need Better Information When Offered Lump Sums That Replace Their Lifetime Benefits,” GAO-15-74, January 2015.