Testimony on Behalf of State Street Global Advisors
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(ERISA Advisory Council)

With Respect to
Lifetime Income and Qualified Default Investment Alternatives

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Thank you for the opportunity to participate in this discussion on the challenges facing American workers as they retire, ensuring that they not only have saved sufficiently in their Defined Contribution (DC) plans but also that the savings they have accumulated will last throughout their retirement. I am honored to share my perspective with the ERISA Advisory Council and the Department of Labor (DOL) on this important topic.

My name is David Ireland and I am the global head of State Street Global Advisors' Defined Contribution Team. Our team works closely with our clients — some of the largest employers in the United States — to help make retirement work. Specifically, we work with plan sponsors to understand the needs of their workers, as well as how best to recruit and retain those workers and how to manage their workforces effectively. This latter effort includes the ability to allow workers to retire with dignity and the confidence that they have saved sufficiently for retirement and will be able to manage their assets throughout retirement. In order to do this, we work to understand the needs of employees and their employers, and we utilize behavioral economics, marketing and communications best practices, and regulatory and legislative guidelines to develop investment strategies and employee engagement tools that seek to improve individual retirement outcomes.

Since much of our work is focused on workplace retirement savings plans, my comments will reflect this landscape and the challenges facing employers, policymakers and industry providers.

Executive Summary

As we are all aware, Defined Contribution plans are rapidly becoming the primary, if not sole, private source of retirement savings for many Americans. At State Street Global Advisors, we believe that saving for retirement is only the beginning of the journey. The ultimate test of how well our current retirement system works is whether retirees will be able to live financially comfortable lives through what could be 20, 30 or even 40 years in retirement. To that end, while a tremendous amount of progress has been made off the back of recent guidance around default investing and the utilization of automatic features, we believe that public policy generally, and the Department of Labor specifically, can do more to help further bridge the savings and spending phases and provide employees with additional clarity and security as they transition into their retirement years. It is with that end goal in mind that I will offer a number of policy recommendations that, if implemented, would encourage plan sponsors to include lifetime income options in their Defined Contribution plans generally and, more specifically, to incorporate lifetime income into Qualified Default Investment Alternatives (QDIAs).

A key theme underpinning my comments is the reality that the workplace has been and is undergoing a seismic shift, and with that come behavioral, experiential and emotional considerations that we must use to inform our approach to helping American workers achieve dignity and financial security in retirement.

My testimony will focus on the following topics:

1. The Importance of Incorporating Lifetime Income into Defined Contribution Plans;
2. What We Have Learned from Academic Research, Plan Sponsors and Plan Participants;
3. How Best to Incorporate Lifetime Income into DC Plans through QDIAs and Defaults;
4. The Importance of Communications and Framing; and
5. Public Policy Recommendations to Turn Retirement Savings Plans into Retirement Income Plans

Our public policy recommendations fall under five main categories: fiduciary liability relief, clarifying and expanding the QDIA regulation, enabling greater portability, facilitating financial literacy and communications, and enhancing the QLAC provisions. Specifically, our recommendations include the following:

- **Provide fiduciary liability relief:**
  a. **Revise the Annuity Provider Selection Safe Harbor:** The Administration should support the annuity provider selection safe harbor contained in the Retirement Enhancement and Savings Act of 2018 (RESA). Alternatively, if RESA is not enacted by June of 2019, the DOL should revise the annuity selection safe harbor regulation to mirror the provision in RESA.
  b. **Clarify Settlor vs. Fiduciary Functions**: The DOL should issue guidance reaffirming that a plan sponsor's decision to offer a guaranteed lifetime income option, including a QLAC, as a distribution option or a default within the plan would be considered a settlor function as long as the lifetime income option (e.g., QLAC) is provided for in the plan. Therefore, the default decision itself, as opposed to the selection of an annuity provider or an annuity contract, would not constitute either a fiduciary act or fiduciary advice. Likewise, for the portion of retirement assets that are not annuitized and that remain in the plan, the DOL should clarify that providing participants with workable options to draw down their remaining assets is also a settlor function.
  c. **Guaranteed Lifetime Income as a Fiduciary Consideration:** The DOL should issue guidance stating that guaranteed lifetime income can be a fiduciary consideration when implementing a plan.
  d. **Formalize 2014 Exchange of Letters Guidance:** The DOL should issue guidance formalizing the guidance provided in the 2014 exchange of letters with the Treasury Department, specifically allowing an investment manager appointed under Section 3(38) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), to assume fiduciary responsibility for selecting an annuity provider for the plan.

- **Facilitate Financial Literacy and Communications:**
  a. **Lifetime Income Disclosure Illustrations:** The DOL should finalize its benefit statement regulation and should require plan sponsors to use common assumptions to display a lifetime income equivalent to the account balance on those statements. The regulation should explicitly state that providing such illustrations will not expose plan sponsors to fiduciary liability.
  b. **Expand Interpretive Bulletin (IB) 96-1:** An additional avenue for improving financial literacy around retirement income is to allow plan sponsors to provide education regarding retirement income as well as the risks, such as longevity and market risk, inherent in managing retirement assets. The guidance that the DOL provided in IB 96-1 regarding a plan sponsor's ability to provide investment education was helpful in enabling plan sponsors to provide tools to plan participants in order to help them maximize contribution levels and investments. We believe that the same type of education could be enormously helpful leading up to and during the decumulation period. In order to allow plan sponsors to provide retirement income education the DOL should expand IB 96-1 to explicitly permit plan sponsors to provide this type of education, including providing workable options to draw down their remaining assets and providing information relating to the probable implications of these options. The

guidance should also explicitly relieve plan sponsors from fiduciary liability for providing such education.

c. **Default Annuitization Communications Best Practices:** The DOL should issue guidance regarding the appropriate amount of advance notification to precede the automatic purchase of the annuity even if it is being offered within a default construct. They should also provide guidance on the frequency and number of notices that would be deemed sufficient to notify a participant of the upcoming default annuitization event.

- **Enable Greater Portability:**
  a. **Permit Qualified Distributions in Certain Situations**: The Administration should support the provision contained in RESA allowing plan participants to take a qualified distribution of a lifetime income investment from the plan without incurring tax penalties in cases where the plan sponsor eliminates the lifetime income option from the plan.
  b. **Encourage Plan-to-Plan Rollovers to Preserve Retirement Assets**: In addition to addressing plan sponsor concerns regarding portability, we urge the DOL and Treasury Department to address the issue of asset leakage by doing more to encourage plan-to-plan rollovers. The DOL and Treasury Department should revise the Section 402(f) notice and provide qualification protection to both the old and new employers to encourage them to transfer and accept those transfers of assets. Consolidation of assets in a single plan provides a greater asset base from which to purchase lifetime income.

- **Expand QDIA Regulation:**
  a. **QDIA Regulation Should Allow Limitations on Liquidity:** Since retirement income should be the goal of the current generation of DC plans, QDIAs must not just focus on asset accumulation. Therefore, the DOL should revise its QDIA regulation to allow a TDF that includes an annuity component pre- or post-retirement to qualify as a QDIA even if that annuity component has limited liquidity features.

The Importance of Incorporating Lifetime Income into Defined Contribution Plans

The shift away from Defined Benefit (DB) to Defined Contribution plans continues. This means that for an ever-increasing share of retirees, Social Security will be the only source of guaranteed lifetime income (LTI) in retirement. This leaves DC participants exposed to the risk of outliving their private savings. Unlike DB plan participants, who can expect to receive a regular paycheck in retirement, DC participants are faced with the difficult task of planning their own spending and evaluating how long they think they need the assets to last.

Research shows that faced with this dilemma, most retirees tend to be very conservative in their spending habits and are very reluctant to spend down principal, instead holding too much as a precautionary cushion.[i] While some households do deplete their assets, a majority of households limit their spending to their regular flow of income (pension, Social Security or annuity income). As a result, retirees may be constraining their spending too much, limiting their consumption unnecessarily and potentially acting as a drag on the economy. Converting DC assets into a stable income stream would make it easier for retirees to budget and plan their spending.

At the same time, as some retirees tend to be overly cautious in their spending habits, a large share of the population is approaching retirement with insufficient assets. The median DC plan balance for households approaching retirement age is currently $120,000 – an amount that if translated into a guaranteed income stream starting at age 65 would provide **annual** income of only about $7,400.[ii] Since no one is capable of accurately predicting the length of their retirement, this overspending/underspending pendulum needs to be balanced for participants in an efficient and cost effective manner. Embedding guaranteed lifetime income solutions into a qualified default investment alternative (QDIA) will help balance the pendulum for participants. And public policy can help with achieving that balance.

Lifetime Income Product Innovations in DC Plans

The introduction of defaults – automatic enrollment, auto-escalation and QDIA s– has been successful in harnessing the power of inertia to provide participants with better expected outcomes in the accumulation phase. Target Date Funds have been very successful in providing participants with a professionally managed, age-appropriate investment option with 96% of plans designating a TDF as their QDIA.[iii] However, default options are predominately focused on the accumulation phase. While TDFs also provide an asset allocation that is appropriate for a participant that is drawing down their savings in retirement, there is no default for how to draw down the assets in retirement, despite the fact that the way in which the accumulated savings are drawn down in retirement can have a significant impact on how much income participants are able to extract from their savings. Individuals also tend to systematically under-estimate their life expectancy and how long they are likely to need to make their retirement savings last.[iv] It is time to extend the use of defaults to the retirement phase, and a key feature of these retirement defaults should be the inclusion of lifetime income.

Without a clear-cut preference for a lifetime income solution by DC plans, providers have inundated the marketplace with options seeking to satisfy plan sponsor concerns. These concerns can include cost, complexity, portability, fiduciary and decision risks and longevity protection. State Street Global Advisors classifies the various options into four groups: 1) Do-it-for-me annuity-based options; (2) Do-it-for-me non-annuity-based options; (3) Do-it-myself annuity-based options; and (4) Do-it-myself non-annuity-based options.

Do-it-for-me options, or products that default participants into an annuity or a specific drawdown rate, have the advantage of reducing participant decision risk—a particularly attractive benefit given DC participants' reluctance to make active decisions. Current market offerings include Target Date Funds with embedded annuity components or liability-driven investing (LDI) based Target Date Funds. Offerings that incorporate an annuity protect against longevity risk, but may also potentially burden plan sponsors with additional fiduciary risk for provider selection. While LDI- based TDFs don't introduce this fiduciary risk, they lack the longevity protection or guaranteed income of annuity-based solutions.

Do-it-myself options are standalone products that may provide access to annuities or managed accounts, where participants are required to make an active choice to access these features. On the positive side, participants are able to design a decumulation strategy that takes into account their unique circumstances. However, participants need to be fully engaged in order to fully benefit from the options provided, and few are. For example, when managed accounts are offered in a DC plan, take-up rates are typically well below 10%.[v] Furthermore, at best only half of these participants provide the information that is necessary for the account manager to personalize the portfolio.[vi] Due to participant inertia and the perceived complexity of annuities, engagement rates are likely to remain low if participants have to choose them on a purely voluntary basis.

Lessons Learned from Academic Research, Plan Sponsors and Plan Participants

Seeking to address these challenges, over the past few years we have dedicated a great deal of time and resources to studying how to incorporate one of the most valuable features of DB plans – guaranteed income in retirement – into DC plans. In addition to working closely with academic researchers, we have also engaged with a wide range of stakeholders in order to incorporate the viewpoints of both product providers (plan sponsors, insurers etc.) and the actual end users – DC plan participants.

Academic research shows that most people would benefit from annuitizing at least a portion of their retirement savings.[vii] Despite the theoretical benefits of annuitization, people all over the world are typically reluctant to annuitize on a voluntary basis.[viii] However, key demographic trends mean that annuitizing to protect against the risk of a very long life (albeit a risk that many of us would want!) is increasing in importance. First, life-expectancy continues to rise and the number of people living to an advanced age (over 80) has become the fastest growing segment of the population. Second, financial decision-making capacity typically peaks between ages 50 – 60 and then starts to gradually deteriorate, although it is still quite strong throughout the 60's. Longer lifespans also imply that a higher share of the population will be suffering from some degree of age-related cognitive decline, which can affect as much as half the population over the age of 80.[ix]

We see two key implications for product design from this research. First, the solution needs to be part of a default in order to overcome the behavioral biases against annuitization. Requiring people to actively choose to purchase an annuity would probably lead to only a small share of people obtaining this important insurance. Second, the decision to purchase the retirement solution should not be left to late life (80+); rather, the decision should be made at a point when the participant is most likely to have strong financial decision-making capabilities.

As a potential provider of lifetime income solutions, State Street Global Advisors organized a number of industry working groups to help define the parameters of the retirement solution that we should be developing. In 2015, we hosted a "Design Charrette," bringing together a diverse group of plan sponsors, insurance companies, academics, and asset management professionals. As a result of this discussion, we established a number of key design features. There was a general consensus that a QLAC is the most efficient option to provide the income guarantee. In addition, the participants in the Design Charrette generally agreed that the retirement solution should be part of the plan default, the accumulation of the annuity exposure needed to be gradual and the solution needed to leverage institutional resources to provide participants and plan sponsors with good value. It was also important for the solution to be simple and transparent and to offer liquidity and portability.

From a participant perspective, the most recent Employee Benefit Research Institute (EBRI) Retirement Confidence Survey (RCS) reinforces the concerns that workers have about their ability to have an income in retirement that will meet their income and health care needs. Only half of workers are confident they know how much income they will need each month or how to withdraw that income from savings.[x] When it comes to guaranteed lifetime income products, there is significant interest by workers in those products. Eight in ten workers with a DC plan are very or somewhat interested in an in-plan investment option that would guarantee monthly income for life at retirement. Similarly, eight in ten express interest in taking money out of the plan and moving it into a financial product that would guarantee them monthly income for life. Finally, workers also express interest in longevity insurance (a QLAC). Nearly half (48%) report being very or somewhat interested in these products, compared to fewer than two in ten retirees.[xi]

Our own research supports and extends the findings from the EBRI RCS. State Street Global Advisors has commissioned a number of studies using focus groups and market research to understand the features that plan participants value. Most recently, we commissioned our Global Retirement Readiness Report, surveying 9,500 participants of different ages in 8 different countries (see Appendix A for an overview). The results of all participant research we have conducted are consistent. Participants value flexibility, particularly in early retirement, but are more concerned with stability later in life. When offered the choice between secure lifetime income with no flexibility, flexible income but without guarantees or a solution that provides flexibility in early retirement and the security of a stable income stream in later retirement, close to 50% of US respondents who expressed a preference choose the combination of flexibility and late-life security, with the rest fairly evenly split between flexible income and guaranteed lifetime income. Furthermore, of the retirees who regretted the solution that they had chosen, 60% wished that they had chosen a solution that offered them more security.

State Street Global Advisors' LTI Product

When designing State Street Global Advisors' retirement income solution, we considered a number of different ways of incorporating a lifetime income guarantee into a TDF. These included purchasing deferred income annuity units and guaranteed minimum withdrawal benefits (see Competitive Review in Appendix B). A key criterion for us was that the product had to provide insurance against the risk of outliving one's assets, but we also reviewed existing income solutions that did not include a lifetime income guarantee (e.g., payout funds, LDI-based retirement funds). Following our own research and work with plan sponsors and other stakeholders as described above, we came to the conclusion that the most effective way to provide transparent and cost-effective guaranteed lifetime income was to use a portion of the accumulated TDF balance to purchase a QLAC that started payments at age 80.

We integrated all these findings to create a product that can be offered as a default and that offers a balance of flexibility in early retirement and security in late retirement while also providing liquidity and portability. The key decision to annuitize a portion of the assets is made at age 65, well before the potential onset of cognitive decline. We have embedded our design into a Target Date Fund – the mostly commonly used QDIA, in order to reduce the behavioral and timing risks associated with buying an annuity. This "next generation" Target Date Fund begins to build exposure to an annuity prefunding portfolio approximately 10 years prior to the target retirement date. The prefunding portfolio is a fully liquid fixed income portfolio designed to mitigate the interest rate risk associated with buying an annuity through a gradual accumulation in the years leading up to retirement. At age 65 (the assumed retirement age) and unless directed otherwise by the participant, a portion of the participant's balance is sold to automatically purchase a deferred income annuity (a QLAC that starts payments at age 80) on behalf of the participant.

This approach has several key advantages:

- All the TDF assets remain fully liquid and portable prior to the annuity purchase at age 65 and the assets remaining after the annuity purchase (at least 75% of the total balance) also remain liquid
- Using a deferred income annuity to provide guaranteed lifetime income is cost-effective and transparent compared to more complex products
- By making the annuity purchase a part of the default, we increase the probability that participants will receive this valuable insurance
- A further advantage of our product design is that participants will receive a product that has been institutionally designed and priced even though the annuity certificates, once issued, are held by participants outside the plan, reducing many of the recordkeeping challenges associated with in-plan annuity products
- By using a QLAC, it is possible to allocate only a relatively small part of a participant's accumulated assets to guaranteed income, leaving the participant with the possibility of drawing the remaining assets down in a more flexible pattern if so desired.[xii]
- This approach provides the retiree with a definitive timeframe of 15 years over which to manage the remaining assets in the account before guaranteed income payments start, making the spending decision considerably easier
- The decision to purchase guaranteed income is made at age 65, well in advance of the potential onset of cognitive decline
- The gradual investment over time in fixed income investments that mirror the investments underlying a QLAC protect against the interest rate risk applicable to a purchase of an annuity all at once at retirement
- This approach helps frame a participant's retirement savings in income terms, rather than just accumulation.

Incorporating QLACs into DC plans would allow participants to insure against the tail risk of a very long life and correspondingly spend down their remaining assets at a faster rate. Based on reasonable assumptions, including use of 25% of the Target Date Fund to purchase the QLAC, we estimate that a participant in such an arrangement could expect to extract about 10% more income from their retirement savings compared to a participant who used a conservative drawdown rate to self-insure against longevity risk.[xiii]

Re-Framing DC Plans: Moving from “Savings” Plans to “Income” Plans

As an industry we need to reframe the purpose of DC plans to help participants better understand the value they will provide in retirement. Today, many plans still use “Savings” as part of the plan name. This is limiting in its intent because it creates an association that “what you save is what you get”. Yet even in today’s DC plan, this is not an accurate statement given what is happening behind the scenes. As retirements become longer, participants need to begin embracing the idea of “paying” themselves throughout their entire retirement. If we can create this shift in thinking with participants, lifetime income becomes a necessary next step. This type of shift though would need to be addressed on multiple fronts from plan names to communications and education programs to quarterly benefit statements.

Comprehensive Communication Program from New-Hire through Retirement

As described earlier, DC plans have evolved significantly since their creation more than 35 years ago, becoming more effective with higher adoption and greater contributions due in large part to the automatic features that have been built into them. From auto-enrollment to age-based QDIAs to automatic escalation, each of these features were at one time new and met with hesitancy and skepticism across the industry. However, through enriched education programs and the application of behavioral finance practices, these auto-features have greatly improved the efficacy of DC plans.

For the next evolution of DC plans, if we shift to incorporating lifetime income as a part of the default, participants will once again need to be educated on how this new feature works, as well as the value of lifetime income. A “best practice” approach would layer this information over the lifecycle of the participant, focusing education during the early and mid-career or accumulation phase on participation in the plan and savings practices. This education should speak to the lifetime income benefit at a high level during this phase so as not to overwhelm participants with information that is unrelated to the phase of career they are in. As a participant gets closer to retirement, the value of the added benefit of lifetime income would be communicated in more detail at appropriate inflection points – for example, at age 50 when catch-up contributions are available when the participant is beginning to think in terms of “years until retirement.” This approach keeps the participant’s focus where it needs to be at very specific times – whether it be accumulation, or retirement planning.

Overcoming Barriers to Incorporating Lifetime Income in DC Plans: Public Policy Recommendations to Increase Use of Lifetime Income Options by Plan Sponsors and Participants

State Street Global Advisors' product design has been very well received among plan sponsors. However, many are hesitant to be the first to adopt an innovative product due to fiduciary concerns. In order to help address the implementation challenges to introducing an income solution, we established The BlueZone Group. This is a working group comprising 13 large plan sponsors representing over $600 billion in collective AUM. These leaders in the retirement space are committed to improving retirement outcomes and increasing retirement security and have established a number of sub-working groups to focus on developing solutions to key issues such as public policy and participant education (See Appendix C).

As a result of this work, we see the following key obstacles and potential solutions to the successful implementation of retirement income in DC plans:

- **Fiduciary Liability: Revise the Annuity Provider Selection Safe Harbor Regulation and other Clarifications:** The most common concern we hear from plan sponsors when asked why they do not incorporate lifetime income options in their DC plans is fear of fiduciary liability; specifically, the fear of being held responsible if the insurer is unable to meet its contractual obligations.

  The issue of insurer selection is not new to the Council or to the DOL. It has been cited as the chief impediment to plan sponsor adoption of annuity distribution options in prior Council hearings on the topic as well as during hearings and comment letters in response to the DOL's Request for Information on the topic of lifetime income released in 2010. As recently as 2016, the General Accountability Office (GAO) issued a report on lifetime income impediments; in that report they cited the annuity provider selection safe harbor as the key obstacle in adopting annuity distribution options in DC plans and recommended that the DOL revise the financial capability provision contained in that regulation. There has been a chorus of concern on this issue for a decade—it is clearly time for this issue to be addressed with certainty and immediacy.

  Therefore, we strongly urge the Administration to support the provision included in RESA, as well as other bills introduced in both the House and Senate, that would take the financial capability analysis currently placed on the shoulders of the plan sponsor and, instead, allow the sponsor to rely on a certification from the insurer that it is in compliance with state insurance financial capability obligations. Plan sponsors, or even the advisors they may retain, are not in a better, or even as good, a position to evaluate the financial capability of an insurer as state insurance regulators whose job it is to do so and who have access to information that neither plan sponsors or advisors would be able to secure. Alternatively, if RESA is not enacted by June of 2019, we urge the Department of Labor to make these changes to its regulation directly so that the regulation mirrors the provision in RESA. We recommend that a final regulation be issued no later than the end of 2019.

  We also believe that reiteration and expansion of existing law with regard to the distinction between settlor and fiduciary functions would send a further signal to plan sponsors that including lifetime income options in their plan is encouraged by public policy. In this regard we recommend the following actions be taken:

- **Clarify Settlor vs. Fiduciary Functions:** The DOL should issue guidance reaffirming that a plan sponsor's decision to offer a guaranteed lifetime income option, including a QLAC, as a distribution option or a default within the plan would be considered a settlor function as long as the lifetime income option (e.g., QLAC) is provided for in the plan. Therefore, the default decision itself, as opposed to the selection of an annuity provider or an annuity contract, would not constitute either a fiduciary act or fiduciary advice. Likewise, for the portion of retirement assets that are not annuitized and that remain in the plan, the DOL should clarify that providing participants with workable options to draw down their remaining assets is also a settlor function.

- **Guaranteed Lifetime Income Can Be a Fiduciary Consideration when Selecting an Investment Option:** The DOL should issue guidance that states that it is consistent with a plan sponsor's fiduciary duties to consider offering, within a participant-directed plan, investment options that contain, or transition to, a lifetime income distribution option with guaranteed income for life. Since the objective of a retirement plan is to provide retirement "benefits," (ERISA Section 404(a)(1)(A)(i)), it should be made clear that guaranteed income for life is an appropriate factor for a fiduciary to consider. In other words, as discussed in the prior recommendation, if a type of distribution option (like a QLAC, as opposed to a particular insurer's QLAC) is included in a plan's terms, the design of that option is a settlor function. On the other hand, the choice by a plan fiduciary of investment options is a fiduciary act. The DOL should clarify that, in performing that act, it is permissible to consider the need for lifetime income.

- **DOL Should Reiterate the Guidance Contained in the 2014 Exchange of Letters:** We urge the DOL to publish guidance stating that the choice of the QLAC provider will not result in fiduciary liability for the employer, if the employer (or its ERISA Section 3(38) investment manager) has met the annuity provider selection safe harbor outlined in our earlier recommendation. In this regard, we recommend that the DOL and Treasury Department clarify certain aspects of their existing guidance: The DOL should reiterate the guidance it provided in its October 2014 exchange of letters with the Treasury Department in a regulation or other more formal guidance and should state that an ERISA Section 3(38) investment manager can act as the fiduciary in the selection of the guaranteed lifetime income option (including a QLAC) provider. Despite the clarity of the Department's statements in the exchange of letters, in our interactions with plan sponsors they continue to raise concerns about their fiduciary liability even when the investment manager is making the insurer selection.

With regard to participant education we recommend the following actions be taken:

- **Include Retirement Income on Statements**: We believe that knowledge is power. As stated above, individuals do not understand longevity risk or how long a lump sum of money in their DC plan will last. There is the issue of the "wealth illusion," whereby when many people see $100,000 or more in their 401(k) account they cannot accurately translate that amount into a monthly or weekly paycheck and therefore cannot accurately estimate how long that money will last in retirement. Therefore, we urge the Council to recommend that the DOL finalize its benefit statement regulation so that it would require all employers to use a common set of assumptions to "translate" that account balance into a monthly income. It is critical that plan sponsors be given fiduciary protection for providing this disclosure. But, as the Federal Thrift

Savings Plan (TSP) has seen, not only does such disclosure increase the chances that a participant will elect at least a partial annuity option, it also encourages plan participants to increase their savings. In the 2017 survey of TSP participants, 12% of active participants increased their contributions as a result of seeing their monthly retirement income on their statement.[xiv] If 12% of participants nationally were to increase their contribution levels, that would result in millions of individuals having greater retirement security.

- **Expand Interpretive Bulletin 96-1:** An additional avenue for improving financial literacy around retirement income is to allow plan sponsors to provide education regarding retirement income as well as the risks, such as longevity and market risk, inherent in managing retirement assets. The guidance that the DOL provided in IB 96-1 regarding a plan sponsor's ability to provide investment education was helpful in enabling plan sponsors to provide tools to plan participants in order to help them maximize contribution levels and investments. We believe that the same type of education could be enormously helpful leading up to and during the decumulation period. In order to allow plan sponsors to provide retirement income education the DOL should expand IB 96-1 to explicitly permit plan sponsors to provide this type of education, including providing workable options to draw down their remaining assets and providing information relating to the probable implications of these options. The guidance should also explicitly relieve plan sponsors from fiduciary liability for providing such education.

- **Implement a standard notification protocol for the annuitization event:** As detailed above, when a participant turns 65, it is our recommendation that a portion of his/her DC account assets be used to purchase a QLAC. Since we recommend that this event happen automatically as part of the default and within the plan, we believe allowing participants to "opt out" of the QLAC purchase would provide them the needed flexibility if they feel a QLAC is not right for their situation. As such, it's important there be a standard and accepted notification protocol for contacting participants to communicate:
    - Details on what a QLAC is and how it works and the date it would be purchased
    - Clear directions on how a participant can opt out
    - A notice of the default purchase of the QLAC containing the above information must be provided at least 30 days prior to the purchase, but no earlier than 180 days prior to the purchase (following the timeframes for providing similar notices of default annuitization under Defined Benefit plans

  Efficacy improves with multiple touchpoints; therefore, standardizing the number of communications required when notifying participants of the coming annuitization event would provide an industry-wide adoption of "best practices" and help prevent participants from being "surprised" by the purchase while helping protect plan sponsors from unwarranted litigation. In this regard, we urge the DOL and Treasury Department to work together to develop these "Best Practices" communications protocols and that the DOL state that following these protocols will absolve the plan sponsor from fiduciary liability regarding notification timing issues.

Although we believe that the above public policy changes will make significant differences in the inclusion and utilization of lifetime income solutions in DC plans, the following recommendations will also contribute to changing DC plans from savings plans to retirement income plans:

- **Portability Concerns: Permit Portability of Lifetime Income Products When Provider Changes are Made:** Beyond fiduciary liability and litigation concerns, one of the more practical issues plan sponsors raise is that of portability. Specifically, plan sponsors are concerned that if they change recordkeepers or insurers, and a lifetime income investment must be liquidated because of that change, any participants that have an in-plan annuity may lose the benefit of the lifetime income guarantee that they have been paying for, raising fiduciary and employee relations issues. In order to address this concern, we support provisions in RESA and other legislation that would, in the event of these types of changes, deem those events to qualify as a qualified distributable event, thereby allowing the participant to move the money to an IRA without incurring a tax penalty. We recognize that this change requires legislation, but we raise it since it is a significant concern of plan sponsors.

- **Encourage Plan-to-Plan Rollovers to Preserve Retirement Assets:** In addition to addressing plan sponsor concerns regarding portability, we urge the DOL and Treasury Department to address the issue of asset leakage by doing more to encourage plan-to-plan rollovers. As we testified in 2016 during the lifetime plan participation hearings, the current system works to discourage plan participants from consolidating their plan assets in an employer plan as they change jobs. Today the system is structured in such a way as to encourage rollovers to IRAs, rather than keeping money in an old employer's plan or, preferably, transferring that money to the new employer's plan. The DOL and Treasury Department should simplify the Section 402(f) notice so as to better highlight the advantages of each choice and should provide qualification protection to both the old and new employers to encourage them to transfer and accept those transfers of assets. Consolidation of assets in a single plan provides a greater asset base from which to purchase lifetime income.

- **Lack of Participant Demand: Allow Defaults into Annuity Investments:** As our research and many others' demonstrate, there is a disconnect between participants' perceptions of annuities and their desire for guaranteed lifetime income. In part this is also due to a lack of understanding of longevity risk and the value of annuities. Due to the complexity of the issues involved, people do not necessarily do what is in their economic best interest. That is why so many workers do not voluntarily enroll in their DC plans, even when that means "leaving money on the table" in the form of missed employer matching contributions. As we have seen with the advent of auto enrollment and auto escalation, inertia is a powerful force that can be harnessed to a worker's financial benefit. We believe that the power of defaults can, and should, be used to benefit an employee in the management of his or her retirement plan assets. To counter the lack of demand for annuities, we recommend that the DOL and Treasury Department issue guidance revising the QDIA regulation to allow a Target Date Fund that includes an annuity component pre- or post-retirement to qualify as a QDIA even if that annuity component has limited liquidity features.

- **Lack of engagement from recordkeeping platforms:** Implementing an income solution may require the plan recordkeeper to develop some new functionality or at the very least to allow an external middleware provider to integrate into the recordkeeping platform. However, many of the plan sponsors we have worked with have encountered resistance from their recordkeepers to implementing these solutions (see Appendix D). Many recordkeeping platforms have their own asset management businesses and may be more incentivized to promote rollovers into their own IRA-based solutions rather than help the employer keep the assets in the plan. This concern has intensified following the recent rulings regarding the DOL's conflict of interest regulation.

We believe that this obstacle would be addressed by solving the plan sponsor fiduciary issue. If plan sponsors face fiduciary barriers to including annuitization options, and thus are hesitant to pursue such options, they are also less likely to work to overcome recordkeeper resistance. If the fiduciary barriers are addressed, such that plan sponsors are empowered to make their retirement plan a greater success by including a spend-down solution, large plan sponsors will feel more confident and have more reason to require their recordkeepers to adjust to the annuitization solutions. Many large plan sponsors today establish very clear and strict rules on recordkeeper solicitation of rollovers. There is no reason why large plan sponsors could not establish requirements for recordkeepers to accommodate annuitization. And once recordkeepers have the functionality needed to deal with annuities, this functionality can be made available to smaller employers with less bargaining power.

Conclusion

We applaud the Council for addressing the topic of lifetime income and particularly how it can be incorporated into QDIAs. With the continuing decline of DB plans that provide guaranteed lifetime income, it is important to continue to import the best features of those plans into DC plans. With 10,000 Baby Boomers retiring every day, the issue of ensuring that they can retire with dignity and that they will have a steady stream of income to support that retirement is critical and becoming more so every day. Thank you for allowing us to share our views and recommendations for public policy changes to improve the system. I look forward to your questions and providing additional information as the Council continues its deliberations.

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[i] Banerjee, Sudipto "Asset Decumulation or Asset Preservation? What Guides Retirement Spending?" EBRI Issue Brief No 447

[ii] Calculation based on annuity prices quoted on blueprintincome.com in May 2018

[iii] Vanguard "How America Saves 2017" Figure 61

[iv] Pensions Policy Institute "Supporting DC members with defaults and choice up to, into and through retirement" January 2015

[v] "Do 401(k) Managed Accounts Live Up to All the Hype?" Society for Human Resource Management, Aug 11th 2017

[vi] "Participants in Managed Accounts Miss Out on Personalization" Plansponsor, October 10th 2016

[vii] Horneff, V., Maurer, R. & Mitchell, O.S. "Putting the Pension Back in 401(k) Plans: Optimal versus Default Longevity Income Annuities: PRC Working Paper WP2017-3

[viii] "Local Goals, Global Lessons – Building Retirement Security with Global Best Practices" State Street Global Advisors White Paper

[ix] Agawar, Driscoll, Gabaix and Laibson, 2009 "The Age of Reason: Financial Decisions over the Lifecycle with Implications for Regulation" Brookings Papers on Economic Activity

[x] 2018 EBRI/Greenwald Retirement Confidence Survey, page 7.

[xi] Ibid. Page 10.

[xii] Horneff, V., Maurer, R. & Mitchell, O.S. "Putting the Pension Back in 401(k) Plans: Optimal versus Default Longevity Income Annuities: PRC Working Paper WP2017-3

[xiii] Bachher Singh.J, O'Hanley R.P, Guimaraes A., Merz M., Ireland D., Reilly C, "Addressing Longevity Risk in Defined Contribution Plans with a Lifetime Income Solution"

[xiv] Aon Hewitt TSP study 2013, page 29 and Gallup 2017 TSP study, page 12