

THE FINANCIAL SERVICES ROUNDTABLE

Financing America's Economy



VIA www.regulations.gov

August 5, 2013

Suzanne Adelman
Office of Regulations and Interpretations
Employee Benefit Security Administration
United States Department of Labor
200 Constitution Avenue, N.W.
Room N-5655
Washington, D.C. 20210

**Re: Employee Benefit Security Administration, Pension Benefit Statements
[RIN: 1210-AB20], 78 Federal Register 26727 (May 8, 2013)**

Dear Ms. Adelman:

The Financial Services Roundtable¹ (the “Roundtable”) submits these comments on the advanced notice of proposed rulemaking by the Employee Benefit Security Administration of the United States Department of Labor (the “Department”) entitled, “Pension Benefit Statements” (the “Proposal”). In the Notice, the Department requests information concerning the illustrations of lifetime income savings accumulations on pension benefit statements. The Roundtable welcomes the opportunity to respond to the Proposal, and looks forward to working with the Department to develop regulatory approaches that help plan participants and beneficiaries better plan and save for their retirement longevity.

Executive Summary

The Government Accountability Office (“GAO”) reported in 2012 that as older Americans retire, they face rising health care costs, inflation and the risk of outliving their assets.² In

¹The Financial Services Roundtable represents 100 integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America’s economic engine, accounting directly for \$98.4 trillion in managed assets, \$1.1 trillion in revenue, and 2.4 million jobs.

² U.S. Government Accountability Office. (2012, December). *Retirement Security: Annuities with Guaranteed Lifetime Withdrawals Have Both Benefits and Risks, But Regulation Varies Across States*. (Publication No. GAO-13-75).

its study, the GAO asserted that lifetime income products can help older Americans ensure that they have adequate income throughout their retirement.³ Similar to this view, the Roundtable believes that providing opportunities for all Americans to save and invest for retirement longevity will not only improve domestic investment, economic growth, and employee wages, but will also result in financial freedom and a better standard of living for all Americans entering retirement.

Pursuant to its authority under the Employee Retirement Income Security Act of 1974 (ERISA)⁴, the Department requires plans to provide lifetime income illustrations to plan participants to aid their selection of more informed retirement choices. Further, Section 105 of ERISA aims to improve the longevity of plan participants' retirement assets.

The Proposal seeks to promote retirement longevity by requiring plans to provide "lifetime income illustrations" on retirement account statements of plan participants and some beneficiaries, that the Department believes would improve awareness and literacy of investment options, and enhance savings and asset management.

Notwithstanding the Roundtable's support of this objective, we have the following comments on the Proposal:

- The use of lifetime income illustrations on retirement account statements as a means to demonstrate different potential retirement income streams and balances upon retirement to plan participants (and their respective beneficiaries) should be an optional, not mandatory, election for plan participants and beneficiaries.
- We support the Department's use of clear, concise, and informative retirement language that promotes greater literacy and understanding of retirement plan options and asset management. By further encouraging financial education and literacy to plan participants and beneficiaries, their knowledge and understanding of retirement investments will grow, aiding asset longevity in retirement.
- We recognize that any lifetime income illustrations provided on retirement account statements pursuant to the Department's Proposal are driven by many economic and financial assumptions and projections that could change over time. Therefore, it remains imperative that the Department is abundantly clear in its disclosures to participants that lifetime income illustration projections are merely estimates, and not guarantees, of future retirement benefits.

³ *Id.* at 2.

⁴Section 105(a) of ERISA requires an administrator of defined contribution plans to furnish a pension benefits statements periodically to plan participants and certain beneficiaries, thereby increasing their awareness of their accumulated retirement benefits. Section 505 of ERISA provides the Department's Secretary with authority to prescribe those regulations found to be necessary or appropriate to carry out the provisions of this mandate.

- We strongly encourage the Department’s use of electronic communications to effectively communicate pertinent investment information and disclosure documentation to plan participants (and their respective beneficiaries) in a timely manner.

Background

The Roundtable firmly believes that one vital component of retirement savings that American workers can control is when they commence saving for retirement. By saving early and often, American workers allow themselves the best chance for retirement security. Even nominal monthly amounts of income routed to a 401(k) or an IRA⁵ early in life can contribute to a plan participant or beneficiary’s ability to retire comfortably. When workers embrace saving for retirement as an investment priority, the power of compound interest on their investments, over time, works to their favor.

In the last 25 years, the financial services industry has played a vital role in expanding the retirement savings for millions of Americans. According to the Employee Benefit Research Institute (“EBRI”), the percentage of American workers who have saved for retirement over the past decade remains at about 70 percent (70%).⁶ Moreover, the EBRI also reports that the median level of household retirement savings hovers at about \$25k, and highlights that despite an overall healthy participation in retirement savings, “many workers remain unaware of how much [in retirement income] they need to save for a financially comfortable retirement.”⁷

While these reports have sounded the alarm for increasing the retirement savings levels of American workers, there is some good news. Recent retirement research indicates that the U.S. retirement market appears poised to grow to nearly \$22 trillion by 2016,⁸ which would represent a 30 percent (30%) increase in retirement savings over a four-year period, principally funded through IRAs and 401(k) contributions.⁹ However, only 26 percent (26%) of non-retirees plan to rely on Social Security. Among non-retiree investors, 73 percent (73%) have a 401(k) and 62% have an IRA. Over 90 percent (90%) of 401(k)

⁵An IRA is an Individual Retirement Account. This is a tax-deferred retirement account for an individual that permits individuals to set aside money each year, with earnings tax-deferred until withdrawals begin at age 59 ½ or later (or earlier with a 10% penalty).

⁶ Ruth Helman, Mathew Greenwald and Associates, Craig Copeland and Jack VanDerhei, *The 2012 Retirement Confidence Survey: Job Insecurity, Debt Weigh on Retirement Confidence, Savings*, No. 369, Employee Benefit Research Institute Issue Brief 13 (2012), available at http://www.ebri.org/pdf/surveys/rcs/2012/EBRI_IB_03-2012_No369_RCS.pdf.

⁷ *Id* at 7.

⁸ Margarida Correria, *U.S. Retirement Market Projected to Hit \$22 Trillion by 2016*, BANK INVESTMENT CONSULTANT, Jan. 30, 2012, available at <http://www.bankinvestmentconsultant.com/news/cerulli-predicts-retirement-market-will-exceed-22-trillion-by-2016-2677132-1.html>.

⁹ <http://www.gallup.com/poll/150215/Investors-Feel-Affected-Social-Security-Medicare-Changes.aspx>

account holders have more money in their accounts today than they did at the height of the market in 2007, due to continued contributions and growth in the funds over the last four years.

As these statistics demonstrate, a strong, vibrant retirement system not only benefits plan participants and their beneficiaries, but also strengthens our nation's financial health and overall well-being. The Roundtable recognizes that the Department's Lifetime Income Illustration Advanced Proposal could potentially strengthen the retirement savings of many American workers, and add to the overall health of the U.S. retirement system.

However, the Roundtable does have some concerns regarding the Department's Proposal. Below are our specific comments on the Proposal.

Lifetime Income Illustrations Can Spur Retirement Savings and Longevity. However, They Should Remain an Optional, Not Mandatory Choice for Retirement Statements.

The Roundtable agrees with several industry participants who have requested that the Department encourages, rather than require, lifetime income illustrations of pension benefits for workers.¹⁰ Plan sponsors are already subject to mandatory reporting requirements under Section 105(a) of ERISA. Mandating the proposed illustrations will undoubtedly result in increased costs for plan sponsors. Further, there is a risk that these illustrations may expose plan fiduciaries to litigation with plan participants and beneficiaries, due to unmet or unrealized income expectations.¹¹ Finally, mandating life income illustrations could force some plan participants and beneficiaries into non-preferred retirement distribution options (e.g., annuities). Plan sponsors should have a choice as to whether they want to incur additional costs and assume litigation risk attendant to the proposed income illustrations.

Lifetime Income Illustrations Should Provide Clear, Concise, Relatable and Relevant Information To Facilitate Better Education and Literacy on Retirement Investment Options.

The Roundtable supports access to a wide-range of retirement products and tools to help plan sponsors provide choices in retirement options to their workers. As stated in our previous comment letter to the Department concerning this matter in 2010¹², the Roundtable supports enhanced education regarding retirement savings, investment products

¹⁰ "Employee Benefit Security Administration, Pension Benefit Statements; Advanced Notice of Proposed Rulemaking," 78 *Federal Register* 89, (08 May 2013), pp. 26736.

¹¹ *Id* at 12.

¹² Request For Information Comments from the Financial Services Roundtable, Lifetime Income Options For Participants And Beneficiaries In Retirement Plans, (May 3, 2010) (on file with the Department of Labor), *available at* <http://www.dol.gov/ebsa/pdf/1210-AB33-679.pdf>.

and investment services. We want to encourage workers to make more informed retirement portfolio decisions. By teaching workers the basic principles of financial planning, retirement investment and diversification, we aim to help individuals make sound decisions that will allow them to maximize the longevity of their retirement savings.

As the EBRI study noted, nearly 30 percent (30%) of all U.S. workers have saved less than \$1,000 for retirement.¹³ However, the same report highlights that nearly 56 percent (56%) of workers indicate that they expect to receive benefits from a defined benefit plan upon retirement, and 46 percent (46%) of workers responding indicated they will very likely or somewhat likely buy or choose a guaranteed income product upon retirement.¹⁴ By underscoring the importance of retirement savings and illustrating the mechanics of retirement options, lifetime income illustrations could prove an important tool in growing the retirement savings contributions of American workers.

Lifetime Income Illustrations Should Properly Disclose All Assumptions and Projections Used in Calculating Retirement Income. Participants Should Be Made Aware That These Projections Are Not Guarantees of Future Retirement Income.

The Roundtable supports providing plan participants and beneficiaries with clear and precise plan disclosures, including information about material conflicts of interest and any assumptions or projections made in the calculations of lifetime income streams. Fair disclosures are an important component of ensuring that Main Street investors can fairly evaluate and compare the varied products and services that are available in the investment market. Moreover, clear communications that disclose all illustrations as potential lifetime income projections, and not as guarantees of future income streams, could reduce the potential for future litigation by plan participants.

The Department Should Continue To Employ the Use of Electronic Media in Delivering Retirement Content to Plan Participants

Over the last two decades, electronic media has become the most efficient means of delivering useful and relevant information to financial investors. This media can be used to deliver timely information in a manner most convenient to plan participants and their respective beneficiaries. Moreover, EBRI has reported that 53 percent (53%) of workers use a desktop or laptop with direct Internet access to help view and manage their finances.¹⁵ This statistic indicates that many Americans appear to be comfortable with engaging in financial planning through electronic communications.

¹³ *Id.* at 12.

¹⁴ *Id.* at 12.

¹⁵ *Id.* at 2.

However, the Department's existing guidelines encourage the use of the paper delivery format as the preferred communication method. By strictly relying on the paper delivery channel, the Department overlooks the many advantages of providing pertinent plan information via electronic delivery.

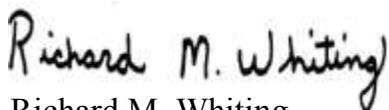
Through the use of electronic media, plan information can be delivered in a more interactive and dynamic format to plan participants, greatly increasing the transparency and usefulness of the information.

Apart from these concerns, the Roundtable finds the Department's efforts to promote increased retirement savings and investment through the use of lifetime income illustrations as a laudable effort to boost the U.S. retirement system, and to further empower plan participants and their respective beneficiaries with clearly understood investment tools and knowledge to promote the longevity of their retirement assets.

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The Roundtable appreciates the opportunity to submit comments on the Department's Proposal. If it would be helpful to discuss the Roundtable's specific comments or general views on this issue, please contact Brian Tate at (Brian@fsround.org) or myself at (Rich@fsround.org).

Sincerely yours,



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