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Office of Regulations and Interpretations  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue NW (Room N-5655)  
Washington, DC 20210  
Attn: Lifetime Income RFI  
EMAILED: [e-ORI@dol.gov](mailto:e-ORI@dol.gov)

RE: RIN 1210-AB33  
(Request for Information Regarding Lifetime Income Options  
for Participants and Beneficiaries in Retirement Plans)

Dear Sir or Madam:

Qualified retirement plans cannot provide adequate lifetime income, by annuity or otherwise, if the value of accruals is “cashed out” and not “rolled over” before retirement.

The great weakness in the current system, which is mainly a defined contribution plan (“DCP”) system, is that the neediest retirees are the ones most likely to have taken cashouts whenever they change employers. Thus, the great irony in the current system is that, upon a change of employers, those who have the least need, because they have ample other resources, will do a plan-to-plan (or plan-to-IRA) rollover, saving the sheltered accumulation for retirement, even though they may not need it. But those with the greatest need for retirement security -- those who do not have ample other resources -- will take the cashout,

pay the tax penalty, and then use the remainder to pay off accumulated credit card debts, student loans, and other obligations.

Thus, the current system actually discriminates against “low-comps” and in favor of “high-comps” if you compare these two groups and if you measure the discrimination correctly.

PROPOSAL: To correct this defect in the current system, the anti-discrimination regulations under Internal Revenue Code § 401(a)(4) should be amended to provide that a plan shall not constitute a qualified trust under this section if the highly compensated employees retain a higher percentage of their accrued benefits, compared with the non-highly compensated employees, after subtracting the value of account values distributed upon termination of employment and not rolled over to another qualified plan or IRA.

Respectfully submitted,

Frank Cummings