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Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Attention: Lifetime Income RFI

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

Dear Sir/Madam:

This letter responds to your request for information regarding lifetime income options for participants and beneficiaries in retirement plans. I have some familiarity with annuity products offered by life insurers, including individual and group annuity contracts that serve as funding vehicles for defined benefit plans and defined contribution plans. I am fortunate to be covered under a defined benefit plan that provides lifetime income at retirement. However, I am concerned that many of my friends and family do not have such lifetime income option or knowledge of the amounts needed to be accumulated during their working years or the risks that they may outlive their accumulated retirement savings.

I have always considered it ironic that the law designed to enhance retirement security (the Employee Retirement Income Security Act of 1974) has caused the decline in defined benefit plans, the increase in defined contribution plans and the resulting transfer of retirement security risk to plan participants in terms of the adequacy of funds accumulated and longevity risk. I applaud your initiative and efforts to enhance the retirement security of participants in employer-sponsored retirement plans and in individual retirement arrangements (IRAs) by facilitating access to, and use of, lifetime income or other arrangements designed to provide a lifetime stream of income after retirement.

I offer the following points for your consideration:

1. Education. I agree that educational initiatives for employee / plan participants during their working years and at retirement are needed to better prepare such persons and their beneficiaries for retirement. Most participants have no idea how much income should be set aside each year and accumulated to provide a comfortable retirement. I understand that TIAA (incorporated in 1918) initially recommended a savings rate of 10% but that estimate was raised to 15% as experience developed. I am not sure what retirement plan experts currently recommend for annual contribution, what assumptions they make concerning the investment rate of return or the optimum asset allocation mix during a participant's working years. This information would be helpful to plan participants.

Plan participants would also benefit from education concerning annuity income options at retirement or commencement of income payments. Participants should know the advantages, disadvantages and cost differences of straight life contingent annuity, life contingent annuity with period certain, life contingent annuity with refund feature, joint and survivor annuity income option, period certain, other income options as well as the required minimum distributions.

Information should also be provided as to any commutation benefits provided under annuity income options.

2. Partial Annuitization. I am not sure that education alone will change behavior. Defined contribution plan participants and defined benefit plan participants with access to lump sum benefits at retirement are not likely to give up control over their account balances at retirement even though annuitization provides longevity protection and transfers investment risk to the annuity income provider. The required minimum distribution rules are designed to ensure that amounts set aside during working years will be used for retirement (and not wealth transfer); but fail to provide longevity protection. The U.K. requires annuitization for at least a portion of a participant account balance. I believe the U.K. approach should be studied and given some consideration here. In the alternative, consideration should be given to providing life contingent income options with tax incentives.

Not all defined contribution plans provide for a lump sum option at retirement. The portable pension plan pioneered by TIAA in its retirement annuity does not provide for such lump sum option or provide for cash surrender benefits. The accumulation funds must be used to provide retirement income. Supplemental retirement annuities offered by TIAA may provide for such cash surrender benefits. Defined contribution plan sponsors may want to consider provisions designed to ensure that amounts set aside for retirement (or portions thereof attributable to employer contributions) are actually used to provide retirement income. Of course, in cases where an accumulation account is maintained, the income derived at retirement should be based upon the better of the guaranteed annuity purchase rate in the contract or the company's SPIA rates.

Many defined contribution plans do not provide life contingent annuity options because of administrative reasons. In some cases, the *Arizona vs. Norris* decision in 1983 requiring unisex annuity purchase rates caused employer sponsored plans to drop income options. For example, the New York State Deferred Compensation Board Rules (9 N.Y.C.R.R. 9000) has never permitted life contingent income options under the plan. The lack of life contingent option at retirement is unfortunate. Participants taking a lump sum payment may not understand the financial risks and tax ramifications resulting from such decision.

3. Enhanced Annuities & Substandard Underwriting. One benefit of the U.K. approach has been the use of underwriting of substandard annuities. Enhanced annuities are provided for persons with a reduced life expectancy. Medical underwriting of annuities in the U.S. is common for structured settlements; but not common in other settings. As a result, the lack of underwriting by insurers has made annuitization an unattractive option for persons who are not in good health or have a reduced life expectancy. Immediate annuity pricing in the U.S. assumes that persons in good health will annuitize. Coordination with state insurance regulators may be advisable on this point.

4. Paradigm Shift - Income Model or Account Model. The individual account plan model in which participants accumulate funds for retirement may need to be reconsidered because of the temptation to use the account balances for purposes other than meeting retirement income needs. An income model in which each contribution purchases a stream of income that begins at a specified date may provide a better model in providing income security.

Ironically, the stipulated premium fixed deferred annuity contracts offered by life insurers 50 or more years ago provided an income based model. Such contracts which served as the model for IRC Section 412(i) plans provided income benefits at retirement and often did not provide death benefits or cash surrender benefits. Today, most individual fixed deferred annuities are accumulation annuity products (i.e., excess interest annuities, modified guaranteed annuities,

equity indexed annuities) that provide for an accumulation phase and permit (but do not require) the contractholder to annuitize his or her account balance using the contract's guaranteed purchase rates and, in some states, at the insurer's single premium immediate annuity rate when more favorable. The forces that caused the transition from stipulated premium deferred annuities to accumulation annuities also led to the transition from defined benefit plans to defined contribution plans.

In this decade, life insurers have begun to develop innovative paid-up deferred annuity contracts that have more in common with the old style deferred annuities than accumulation annuities. Under such contracts, contributions purchase income benefits without maintaining an account balances and income benefits are based upon the more favorable of guaranteed or current purchase rates at the time of deposit. State nonforfeiture laws for annuities may need to be tweaked to better address the development of annuities using this incremental income approach.

Some insurers have marketed the new style guaranteed paid up deferred annuity to seniors with payments commencing at advanced ages (e.g., age 85). This longevity annuity option allows a defined contribution plan participant to control his or her account funds and secure longevity protection. This worthwhile product should be encouraged by removing the value of this product from RMD consideration.

In the pension market, the fixed income options may include options that provide for the aggregation of fixed income streams at retirement in addition to an accumulation amount based upon fixed income assets. Educational material and disclosure will be needed to assist participants in understanding this paradigm shift. For account based defined contribution plans, it would be helpful if plans disclosed the account value at specific dates (annually, quarterly) together with the income benefit such amount would provide at the retirement date using the better of the contract's guaranteed annuity purchase rates or the then current rate.

5. Additional Liquidity. Life insurers have attempted to make annuitization more attractive. Many immediate annuities today include commutation features. However, it should be noted that nonforfeiture laws do not apply to immediate annuities and nonforfeiture law protections do not extend to commutation provisions.

Life insurer have developed guaranteed minimum withdrawal benefits for variable annuity products that allow participants to withdraw a specified percentage of a benefit base for life even if the participant's account balances falls to zero. This benefit provides participants with longevity protection and control over their account balances. The benefit places restrictions of asset allocation and withdrawals. However, as long as the asset allocation requirements are satisfied and withdrawals do not exceed permitted levels, the life contingent benefit remains in tact. Insurers have allowed participants covered under group annuity contracts to rollover their GMWBs to individual annuity contracts (IRA rollover). I assume the life insurance industry will take additional steps to provide longevity protection.

Thank you for the opportunity to comment on this important topic.

Very truly yours,

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