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Office of Regulation and Interpretations
Employee Benefits Security Administration
Room -- 5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: RIN 1210-AB33
29 CFR Parts 2509, 2520 and 2550

Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans

Ladies and Gentlemen:

American Equity Investment Life Insurance Company ("American Equity") commends the Department of Labor and the Department of the Treasury (the "Agencies") for their decision to publish a Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans.[1] The Request solicits comments on whether, and if so how, the Agencies could or should enhance, by regulation or otherwise, 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.

[1] 75 Fed. Reg. 5253 (Feb. 2, 2010) (the "Request").

American Equity is pleased to have the opportunity to submit these comments. American Equity and its affiliated companies are leaders in the development and sale of fixed indexed annuities and fixed rate annuities. As of December 31, 2009, American Equity had approximately 300,000 policyholders and $20.2 billion in policy benefit reserves. During the year ended December 31, 2009, American Equity and its affiliates received approximately $3.7 billion in new annuity premium, ranked 3rd in the sales of fixed index annuities in the United States, 11th in sales of all fixed annuities and 19th in sales of fixed and variable annuities.

American Equity's target market is individuals ages 45-75 who are seeking to accumulate savings for retirement and other purposes. As a result, American Equity has developed a special understanding of the individuals in its target market, including the investment and other goals they are seeking to achieve, the questions and concerns they have about annuities and the most effective ways to address those questions and concerns.

An initial and fundamental question the Agencies raise is whether it would be appropriate for them to take future steps to facilitate access to, and use of, lifetime income or other arrangements designed to provide a stream of income after retirement. For myriad reasons, most of which the Agencies are very familiar with, American Equity unequivocally believes that the Agencies should take actions to facilitate access to and use of annuities and other products designed to provide lifetime or other streams of income during retirement. By no means is American Equity suggesting all plan participants should take all, or even part, of their plan distribution in the form of an annuity. Rather, we believe that annuities provide a unique set of benefits and should be available to all retirement plan participants as a distribution option. In addition, because annuities provide a unique set of benefits, which may not be well understood, we believe it is essential that a well-designed participant education program be in place so that participants can make a thoughtful decision whether they should take any of their plan distribution in the form of an annuity and, if an annuity is appropriate, what portion of their distribution should be taken in that form.

Even before the stock market decline which began in late 2007, it was widely recognized that the American public was not well-positioned to maintain their then-current standard of living in retirement. As a result of various factors, including advances in medical care, Americans can expect more retirement years. However, between generally inadequate levels of savings and a significant shift by employers away from defined benefit plans (which provide a lifetime income stream to participants), the American public could not realistically expect their savings, anticipated Social Security benefits and existing retirement programs to support their then current standard of living. While the stock market as measured by the S&P 500, on April 1, 2010, has increased by 74% since reaching its low for the past five years of 676.53 on March 9, 2009, it would have to increase an additional 33% to get back to its high for the past five years of 1565.15 attained on October 7, 2007. This weak stock market performance, especially when combined with the sharp decline in the value of personal residences which homeowners may have been looking to as a means of support during retirement, increases the importance of the decisions the Agencies will make after they have reviewed the responses to the Request.

In addition to expressing our strong support for action by the Agencies to increase access to annuity arrangements by plan participants, we have the following comments on some of the specific questions the Request raises.[2]

General

1. From the standpoint of plan participants, what are the advantages and disadvantages for participants of receiving some or all of their benefits in the form of lifetime payments?

Annuities provide a wide variety of payout options which allow a participant to select an annuity option which best matches her or his individual circumstances. For example, a participant who had no need to guarantee any amounts would be available as part of an estate might find attractive a life annuity only. On the other hand, if the participant had beneficiaries to be provided for, a life annuity with a minimum number of payments guaranteed or a life annuity with payments guaranteed to continue for the life of the participant and a named beneficiary might be appropriate.

As to the disadvantages of receiving benefits in the form of lifetime payments, assuming the participant makes an informed, thoughtful election to receive lifetime payments, we are not aware of any disadvantages of having the option to make, and making, that decision. We are not saying that, with the benefit of hindsight, there could not be circumstances in which selecting lifetime payments does not produce the most advantageous result for a participant. For example,

[2] We have numbered our responses to correspond to the numbering of the questions in the Request and have summarized each question before our response.

a participant could choose to receive a portion of her benefits in lifetime payments and then, due to unforeseeable financial circumstances, regret that she no longer had access to the amount which had been used to purchase the lifetime stream of payments. Similarly, a decision to select lifetime payments in the form of fixed annuity payments might be disadvantageous if variable annuity payments would have been larger. Conversely, if all the variable annuity options selected perform worse than fixed annuity payments, the result would be less than optimal. However, the fact that a reasonable choice may not, in the end, achieve the best possible result in no way detracts from the value to the participant of having had the option to receive lifetime payments. In any case, to ensure that participants make reasonable decisions, it is essential that participants have access to written and on-line educational materials, retirement planning seminars and other learning tools so that they are in a position to make a well-reasoned decision whether to receive their benefits as lifetime payments and what portion to receive in this manner.

2. Currently the vast majority of individuals who have the option of receiving a lump sum distribution or ad hoc periodic payments from their retirement plan or IRA choose to do so and do not select a lifetime income option. What explains the low usage rate of lifetime income arrangements?

It is very difficult to identify with certainty which of many reasons is paramount in an individual's decision not to take a particular step. We believe that a combination of inertia and a reluctance to act proactively results in individuals taking lump sum distributions or ad hoc payments as opposed to selecting a lifetime income option. Taking a lump sum or taking payments as needed are comparatively easy decisions. They do not require an individual to prepare a personal balance sheet, showing current and future assets and liabilities, as well as a personal income cash flow statement. Having this and/or similar information would be essential in deciding whether and how much to allocate to a lifetime income option. Moreover, as discussed above, even after an individual has decided to allocate some or all of their benefits to an income option, selecting an income option requires further decisions to be made, *e.g.*, payments for life or life with a guaranteed number of payments, fixed annuity or variable annity payments, etc. There will always be a number of competing considerations to weigh. Finally, to some extent, this analysis will always involve considering how long the individual will live and what their medical, housing and other costs will be for the remainder of their lives. Of course, as a matter of human nature, these are issues most individuals prefer not to think about. The number and complexity of these subsequent decisions is undoubtedly a reason participants make the less complicated decision of a lump sum or ad hoc payments even if that decision may not be the one best tailored to their individual circumstances.

It would be very helpful if the Agencies could facilitate employers and others providing additional information about the available distribution options and the analytical framework necessary to select an appropriate one for an individual's particular circumstances. Any educational materials should also explain why making the much easier choice to take a lump sum distribution or ad hoc payments from a retirement plan or IRA is itself a decision and one not without its own set of consequences.

7. What product features have a significant impact on the cost of providing lifetime income or other arrangements designed to provide a stream of income after retirement, such as features that provide participants with the option of lifetime payments, while retaining the flexibility to accelerate distributions if needed?

It is axiomatic that any entity offering a retirement income stream and which is concerned about its own long-term solvency will adjust its charges and/or the amount of the benefit provided to reflect the extent of the guarantees the entity provides the recipient and the benefit's features which may, in effect, give the recipient the option to modify the arrangement at a time of the recipient's choosing. For example, an individual who selects a life annuity with guaranteed payments for 10 years will receive a higher monthly payment than if (s)he had selected a life annuity with guaranteed payments for 20 years, for the simple reason that the entity providing the benefit knows that, in a large group of recipients, some of them will die between 10 and 20 years after payments commence. The death will allow the entity to stop making payments which would have continued if the recipient had selected the 20 year guarantee. Similarly, there will be a cost associated with any feature which allows the recipient, at the recipient's discretion, to either take payments more quickly or convert what was scheduled to be a series of periodic payments into a lump sum payment. There are two fundamental concepts involved. One is the present value of money concept. A recipient who is entitled to payments of $1,000 per month for the next 12 months will not receive $12,000 if (s)he asks for a lump sum payment at the beginning of the period. In setting the payment level at $1,000 per month, the providing entity anticipated earning interest on the money the recipient paid for the annuity or gaining some other benefit from making the payments over an extended period.

Allowing the recipient to change the chosen payment period from five years to two years also disrupts the provider investment program. The provider may have purchased a five year debt instrument to support the five year payment obligation, but may be forced to liquidate that instrument if the recipient is allowed, and chooses, to reduce the payment period to two years. If interest rates have risen during the period, the value of the debt instrument will generally be less than the provider would have anticipated and the provider will have a cost as a result of the recipient's decision to reduce the payment period. To summarize, there will be a cost associated with any feature which allows the recipient to alter what could be called the basic agreement with the provider. The cost will be reflected either through an explicit charge or a lower benefit level than if the feature were not included. The amount of the cost will vary based on how much the feature allows the recipient to deviate from the basic agreement.

12. How should participants determine what portion (if any) of their account balance to annuitize? Should that portion be based on basic or necessary expenses in retirement?

Education and/or educational tools are the keys to participants determining what portion, if any, of their account balances to annuitize. Certainly, basic retirement expenses are a factor, but there are many additional factors which must be considered, many of which have sub-factors. Looking at one expense everyone has in retirement, living arrangements, shows the complexity of the annuitization decision. A participant would have to consider their current and future housing plans. House, apartment and retirement residence are some of the options. Is the residence owned or rented and will that continue. If the residence is owned, to what extent, if any, does the value of the residence exceed any mortgage debt. The amount and liquidity of the participant's other assets and other income sources are also key factors. A participant's risk tolerances would also be relevant. In summary, the annuitization decision involves many considerations, many objective, but also some subjective. The number of human and internet sources of guidance on this subject, including detailed worksheets, will only expand as the "baby-boom" generation begins to face this decision as they contemplate impending retirement. We believe that it is very important that the Agencies take steps to facilitate plan sponsors providing their participants access to individuals and internet resources to help participants make the decision whether and, if so, how much of their benefit, to annuitize.

13. Should some form of lifetime income distribution option be required for defined contribution plans (in addition to money purchase pension plans)? If so, should that option be the default distribution option, . . .?

Because many participants will find a lifetime income distribution option a useful component of their retirement financing plan, we believe all defined contribution plans should be required to offer one. We do not believe, however, that it should be the default option. There are simply too many factors which go into making the basic decision, *i.e.*, whether one should annuitize a retirement benefit, for a lifetime income option to be the default distribution option.

15. What are the advantages and disadvantages of approaches that combine annuities with other products (reverse mortgages, long term care insurance), and how prevalent are these combined products in the marketplace?

There are undoubtedly circumstances in which combination products can allow the purchaser to buy two products together less expensively than if the purchaser had purchased each separately. For example, a purchaser who was seeking to avoid leaving dependents without adequate assets in the event of death at a young age and at the same time seeking to reduce the risk that an extended life would deplete the assets available to support the purchaser in retirement might purchase a combination of a life insurance policy with a life annuity. An insurance company could provide this combination product on a more attractive economic basis. The insurance company would not have to price separately for the mortality risk associated with the life insurance and the longevity risk associated with the annuity because the two risks would offset each other.

Similar cost savings or reduced distribution costs might be available if annuities were combined with other products. The decision to use either element of a combination product is a very complicated one which must be based on a complete understanding of the participant's needs as well as features of the two products. Given the complexity of that decisionmaking process along with the limited number of combination products available in the marketplace, we believe that it is premature to expect that combination products will be used with any frequency.

Participant Education

17. What information (e.g., fees, risks, etc.) do plan participants need to make informed decisions regarding whether to select lifetime income or other arrangements designed to provide a stream of income after retirement? When and how (i.e., in what form) should it be provided? What information currently is provided to participants, who typically provides it, and when and how is it provided to them?

As noted above, there are a number of factors to be considered in determining whether and what portion of a participant's benefit should be taken as a stream of income. Assuming a decision has been made to annuitize, other information is necessary to implement that decision. It is essential that a participant have a complete understanding of how the product operates. A participant will need to know how frequently and in what amounts payments would be made; will payments be a fixed amount or can they vary; what, if any, liquidity and/or provision for payments to beneficiaries does the arrangement provide. As a general matter, income options do not have explicit fees. Rather, those fees are incorporated into the annuitization tables, i.e., the tables which state how much of a monthly payment a person of a particular age and sex would receive in return for the lump sum provided for a particular annuity option.[3] Of course, any explicit charges should be disclosed.

A participant should also have access to information about the entity providing the stream of income. With respect to an insurance company, a participant should have access to financial information, rating agency reports and publicly available information from state insurance regulatory agencies. Given the almost universal access to the internet, we believe that access to this information should only be required to be provided on an on-line basis. On-line access would allow a participant to review the specific information (s)he thought relevant and avoid the cost of printing and distributing materials which, in many cases, would immediately be discarded. Because participants will be relying on receiving payments for extended periods of

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3 These are typically presented as an amount per month for each $1,000 provided at the beginning of the income period.

time, in addition to information about the provider's financial condition, they should also receive information about the nature of any protection they have if the provider encounters financial difficulties and is no longer able to make the anticipated payments. For example, there are state guaranty funds which, subject to various conditions and limits, provide benefits to customers of financially-troubled insurance companies.

20. To what extent should plans be encouraged to provide or promote education about the advantages and disadvantages of lifetime annuities or similar lifetime income products, and what guidance would be helpful to accomplish this?

Responding to this question and a related question in item 17, we believe plans should be strongly encouraged to provide or promote general retirement planning education. Given the enormous opportunity to accumulate a large retirement account available to defined contribution plan participants who enroll in their plans as soon as possible and contribute as much as permitted, we believe education about the benefits of participating should be given the same emphasis, at the same time, as a new employee receives information about the employer's health insurance options. Updated information about the retirement plan should also be provided regularly. In addition, we believe that further education should be made available as participants are closer to anticipated retirement dates. Given the number of means of taking plan distributions, we believe this education process should begin no later than ten years before a participant's target retirement date. Approximately five years before retirement, more detailed information should be presented focusing on the available distribution options including lifetime annuities and other lifetime income products. In this phase, participants would receive more information about how lifetime annuities operate, and how to select the lifetime annuity best suited for a participant's retirement needs and goals. Using a multi-step approach would be designed to save participants from the information overload that might occur if all the relevant materials were provided close to the time they were making the decision in what form to receive their retirement benefits. Such information overload increases the likelihood that a participant will make the easy choice of a lump sum or ad hoc payments, which may not be the best choice.

Disclosing the Income Stream That Can Be Provided From an Account Balance

21. Should an individual benefit statement present the participant's accrued benefits as a lifetime income stream of payments in addition to presenting the benefits as an account balance?

In principle, we believe that the more information a participant has, the more thoughtful the retirement planning process will be and the better the decisions will be, all ultimately more likely resulting in the retirement security the Agencies and American Equity are seeking for American workers. As evidenced by the questions in items 22 and 23, we believe that including on an individual benefit statement one or more numbers reflecting the participant's accrued benefits as a lifetime stream of payments would be so conjectural and would have to contain so much explanatory information and so many caveats as to be practically worthless. We do believe, however, that this information could be made available on-line in a user-friendly manner which could be referenced on individual benefit statements and would not have the inherent flaws we envision in putting one or more numbers on the benefit statement itself.

As discussed above, the amount of a payment will depend on, among other factors, the age of the annuitant when payments begin, gender, the type of annuity selected i.e., life annuity, joint and survivor annuity, the number of payments guaranteed and the frequency of annuity payments. Theoretically, the statement could provide numbers based on a representative retiree, for example, a 65 year old female requesting monthly payments for the remainder of her life, with at least ten years of payments guaranteed. The statement would then, however, probably contain disclosures which say, in effect, that the number is only an example and that a particular annuitant's number will vary from the depicted number to a greater or lesser extent, depending on how similar the annuitant's demographic information and annuity choice is to that of the representative annuitant depicted. We believe a better approach would be to provide on the benefit statement a website address where the participant will be able to enter her personal demographic information, proposed annuity commencement date and amount used to purchase the annuity and then choose among the available annuity options and payment frequencies and see what the annuity payment would be. This type of tool would allow a participant to see the impact of taking an annuity option with a larger or small number of guaranteed payments and/or accelerating or postponing the commencement of annuity payments.

Summary and Conclusion

American Equity applauds the willingness of the Agencies to consider the difficult issues involved in facilitating the use of lifetime income options to promote the retirement security of American workers and appreciate the opportunity to comment on these issues.

If you would like to discuss any of our comments, please call me at (202) 739-5450.

Sincerely,

Michael Berenson

Michael Berenson

cc: Marla Lacey, Esq.