

CERTIFIED FINANCIAL PLANNER
BOARD OF STANDARDS, INC.

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May 3, 2010

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

**Re: Response to Request for Information Regarding Lifetime Income Options for
Participants and Beneficiaries in Retirement Plans**

Ladies and Gentlemen:

Certified Financial Planner Board of Standards, Inc. (CFP Board) appreciates the opportunity to respond to the Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans (RFI) issued by the Department of the Treasury and the Department of Labor (collectively, the Agencies) on February 2, 2010. CFP Board is uniquely positioned to respond to the RFI because of the important role that CFP® professionals perform in counseling individuals about retirement and whether to utilize lifetime income options, in particular annuities issued by commercial insurers.

There is no consensus in the financial planning community over the use of annuities in retirement planning. Many CFP® professionals view annuities as important elements in the retirement planning toolbox, and use a wide range of annuity products in retirement planning. However, other CFP® professionals never or rarely recommend annuities because of a number of structural barriers that make annuities less attractive than other options for managing longevity risk, such as a program of systematic withdrawals from retirement savings. Given this lack of consensus, CFP Board opposes proposals to require mandatory or default annuitization, and is skeptical of proposals to require annuities as plan options. To the extent the Agencies seek to establish rules requiring annuities as plan options, CFP Board urges the Agencies to use their authority to provide more comprehensive rules regarding the use of annuities in defined contribution plans and IRAs. In doing so, the Agencies must be careful to preserve important participant protections, including fiduciary oversight in employer-maintained plans.

There is, however, some common ground. CFP® professionals generally agree that there is a pressing need for greater sensitivity to longevity risk and the importance of careful retirement planning. CFP Board strongly supports efforts to educate all Americans about the need to plan for retirement, and believes that greater transparency and disclosure in annuity pricing and fees would be helpful.

Background on CFP Board

CFP Board is a non-profit organization that acts in the public interest by fostering professional standards in personal financial planning through setting and enforcing education, examination, experience,



CERTIFIED FINANCIAL PLANNER™

CFP®

Certified Financial Planner Board of Standards Inc. owns these certification marks in the U.S., which it awards to individuals who successfully complete CFP Board's initial and ongoing certification requirements.

and ethics requirements for financial planner professionals who hold the CFP® certification. Our mission is to benefit the public by granting the CFP® certification and upholding it as the recognized standard of excellence for personal financial planning. CFP Board currently regulates over 61,000 CFP® professionals who agree on a voluntary basis to comply with our competency and ethical standards and subject themselves to the disciplinary oversight of CFP Board.

Financial planning professionals provide services that integrate knowledge and practices across the financial services industry. Financial planners work with their clients to determine whether and how they can meet their life goals through the proper management of their financial resources. Financial planning typically covers investment, income tax, education, insurance, retirement, and estate planning.

Unique Role of CFP® Professionals in Retirement Planning

CFP® professionals provide financial planning services to Americans at all phases of their working life—from newly minted college graduates trying to figure out how much to contribute to an IRA or their new employers' 401(k) plans, to individuals at or near retirement age who seek professional assistance regarding how best to utilize their retirement savings once they leave the workforce. Additionally, CFP® professionals provide essential retirement planning services to Americans across all racial, social, geographic, and economic lines. As professionals who spend their days helping individuals and families meet both their short-term and long-term financial goals, CFP® professionals have a unique understanding of the specific challenges faced by individuals in trying to achieve adequate retirement security.

CFP® professionals take a holistic approach to retirement planning. Longevity risk—the risk that a retiree will outlive her savings—is one of a number of factors to consider when helping an individual plan for retirement. CFP® professionals talk to individuals considering retirement about whether they have adequate savings to retire or whether they need to keep working and saving. CFP® professionals also discuss the need to maintain a reasonable standard of living and to plan for and anticipate unexpected expenses. While longevity risk is an important piece of the retirement security puzzle, it is only one piece, and we urge the Agencies not to lose sight of the bigger picture. Put simply, it would be an enormous mistake to focus on tools and approaches to managing longevity risk at the expense of issues that are arguably more important—in particular, the need to increase retirement savings.

Annuities Can Be a Useful Tool to Minimize Longevity Risk

Annuities can be a very useful tool in helping some individuals to minimize the risk that they outlive their retirement savings. Annuities accomplish this in large part by providing a guaranteed stream of payments for some specified duration, typically life, and may or may not include similar payments for a surviving beneficiary, such as a surviving spouse or child. In a random survey of CFP® professionals, CFP Board found that approximately 71% of respondents at least occasionally recommend commercial annuities when helping people plan for retirement.

CFP® professionals use annuities in a variety of ways. Some recommend the use of immediate fixed life annuities to cover a portion of expected fixed expenses while leaving other savings available for unexpected expenses and supplemental income. Others use variable annuity contracts with living benefits,

such as guaranteed lifetime withdrawal benefits, to provide a hedge against both longevity risk and investment risk. Still others recommend longevity insurance, which pays a lifetime income stream only if a participant lives beyond a typical life expectancy, for example, by commencing payments only upon attainment of age 85.

Even for CFP[®] professionals who often recommend the use of annuity products, annuities are unlikely to be a realistic option for many individuals given that, on average, Americans have very limited retirement savings. As noted in the 2007 Government Accountability Office (GAO) report referenced in the RFI, the total median account balance in 2004 for workers with a current or former defined contribution plan (including rolled-over retirement funds) was only \$22,800.¹ For workers age 55 to 64, the median account balance was \$50,000,² and for workers age 60 to 64, the median account balance was \$60,600.³

One rule of thumb in the current interest rate environment is that a 65-year-old individual can expect to receive as annualized annuity payments about 4 to 7% of the total amount annuitized. For example, a 65-year-old individual who converts the median defined contribution account balance of \$60,600 to an annuity generally can only expect to receive monthly income of between \$200 and \$350. As this example demonstrates, unless an individual has substantial savings, annuitizing all or even some part of her account balance likely would deprive her of income necessary to meet essential daily living expenses. Thus, our sense is that annuities are more frequently used by participants with better-than-average savings, rather than individuals with low account balances the Agencies would most like to help.

As we discuss below, annuities also have several structural barriers to their use—barriers that, in many instances, do not appear to lend themselves to easy solutions.

Inherent insolvency risk. One barrier to the increased use of annuities is that commercial annuities generally are subject to insolvency risk: the risk that the insurer will become insolvent and be unable to deliver the promised annuity payments. As recent history has demonstrated, insolvency risk should not be underestimated by the retirement plan participant or financial planner, as even the largest and most well-capitalized insurers are not always safe from financial distress. Approximately 43% of CFP[®] professionals surveyed believe that insolvency risk is a significant or major contributing factor as to why individuals may forego annuities.

Unfortunately, there does not appear to be an easy solution to the issue of insurer insolvency risk. One approach CFP[®] professionals use to mitigate this risk is to counsel clients to spread their annuity purchase across several different providers. This has the effect of diversifying the insolvency risk across several providers and allowing the participant to maximize the applicable state insurance guarantees in the event of insolvency. Although this approach may be appropriate for individuals making significant investments in annuities, it is oftentimes unsuitable for individuals seeking relatively smaller investments in annuities. This approach is likely to have limited application given the relatively low level of retirement

¹ U.S. GOV'T ACCOUNTABILITY OFFICE, PRIVATE PENSIONS: LOW DEFINED CONTRIBUTION PLAN SAVINGS MAY POSE CHALLENGES TO RETIREMENT SECURITY, ESPECIALLY FOR MANY LOW-INCOME WORKERS 15 (Nov. 2007) [hereinafter 2007 GAO REPORT].

² *Id.*

³ *Id.* at 16.

savings of the average American worker. In fact, this may present a riskier option where the person does not have the funds to diversify annuities. Short of establishing federal guarantees with respect to promised annuity payments similar to those provided by the Pension Benefit Guaranty Corporation (PBGC) with respect to accrued pension benefits—which likely would be very complicated and involve a significant outlay of public funds—there may be no good solutions to the risk of provider insolvency.

Market volatility and interest rate risk. Another structural barrier to annuitization is that commercial annuities generally are subject to market volatility and interest rate risk. Market volatility refers to the fact that a participant's ability to purchase more or less annuity can vary depending on the extent to which her retirement plan contributions have appreciated or depreciated as of the time she chooses to retire and invest in an annuity. Interest rate risk, which is closely related to market volatility, refers to the fact that a participant's guaranteed annuity payment may be more or less depending on prevailing interest rates at the time of a participant's retirement. These risks can significantly affect the amount of guaranteed annuity payments a given individual receives post-retirement, regardless of how diligent and responsible one may be in saving for retirement. Evidence of this is demonstrated most easily by reference to the market downturn that accompanied the recent financial crisis.

Products are being developed that are meant to address market volatility and interest rate risk. One such product is a deferred fixed annuity contract that allows participants to purchase a lifetime income stream commencing at normal retirement age. Such an arrangement allows participants to lock-in current interest rates and mortality tables and purchase annuity income on a payroll deduction basis, thereby mitigating interest rate and mortality risk in much the same way that the practice of dollar cost averaging tends to average the unit cost of an investment over time. Another product, the variable annuity with living benefits, may also prove helpful in addressing market volatility and interest rate risk, as well as longevity risk. A variable annuity with living benefits essentially promises an annuitant a minimum monthly payment in the event of adverse changes to the annuitant's investment or the interest rate market by promising the greater of (i) a monthly benefit determined based on the actual investment performance of the annuitant's account, or (ii) a specified percentage (e.g., 5%) of a notional account balance.

Although these types of products are fairly new, it is CFP Board's understanding that some plan sponsors may be hesitant to include them in their defined contribution plans because of uncertainty regarding how ERISA's existing fiduciary duties apply to the consideration and selection of these products. Moreover, it is CFP Board's understanding that some plan sponsors may be hesitant to include annuities in their plans as investment options because of concerns regarding how the spousal consent rules apply to a participant's decision to invest in a deferred life annuity for purposes of asset accumulation only. Accordingly, CFP Board encourages the Agencies to consider whether existing rules regarding fiduciary oversight might be made clearer and more comprehensive to address the uncertainty surrounding the use of annuities in defined contribution plans. Additionally, CFP Board encourages the Agencies to reexamine the extent to which existing spousal consent rules should apply to amounts invested in a deferred life annuity when used for investment purposes only.

CFP[®] professionals have developed several techniques to help minimize the risks associated with market volatility and interest rate fluctuations. One approach, known as "laddering," has an individual purchase annuities over an extended period of time, such as by payroll deduction over her working life.

This has the effect of mitigating the risk of purchasing one annuity at a time when interest rates or mortality tables are particularly unfavorable, or at a time when market performance has reduced a participant's account balance, and thus reduced the amount of annuity that the participant can purchase. Although approaches such as laddering can help reduce the inherent risks associated with market volatility and interest rate fluctuations, they may have little utility where the individual has limited resources or funds. Additionally, they may have little appeal for employers, plan sponsors, and participants because of the cost of implementing them.

Generally irrevocable in nature. Annuities, by design, are generally irrevocable in nature. Put differently, once an individual elects to annuitize her defined contribution plan account balance or IRA, she cannot change her mind. On the one hand, this can be quite positive in that it provides for an unchanging and guaranteed stream of payments that can be relied upon by the annuitant for the duration of her life. On the other hand, this can be a significant drawback if an annuitant incurs unexpected or catastrophic expenses, such as unexpected medical, housing, or automotive expenses. Notwithstanding annuities' potential benefits in managing longevity risk, many individuals choose not to elect an annuity in the first instance because they are unable or otherwise unwilling to be locked into a distribution form that does not take into account life's unintended events—events that while unexpected for any given individual are almost certain to happen to all persons at some time over the course of retirement. Of CFP® professionals surveyed, approximately 92% identified the irrevocable nature of an individual's decision to annuitize as a significant or major contributing factor as to why many individuals forego annuitization. Moreover, of all of the factors that CFP Board polled on, irrevocability was identified by the most respondents (approximately 52%) as a major contributing factor as to why many folks avoid annuities.

No, or costly, death benefits. Another structural barrier to the use of annuities is that many annuities do not provide for contingent benefits in the event of an annuitant's death (i.e., death benefits). The absence of death benefits can be a significant stumbling block for many individuals in choosing to annuitize their defined contribution plan benefits. This is especially so where 401(k) plan benefits are at issue because such individuals often are uncomfortable with the notion that if they annuitize some or all of their plan benefits and die before reaching average life expectancy, the annuity provider generally is not required to provide any death benefits.

To address this issue, many annuity providers now allow annuitants to purchase death benefits at an additional cost to the annuitant. This additional cost often takes the form of a reduced monthly annuity payment. Unfortunately, given the relatively low retirement savings of the average American worker and the relatively low monthly annuity payment that necessarily follows, most individuals cannot afford to receive the lesser monthly payments that would accompany the purchase of death benefits.

Consumer confusion. Finally, for many Americans, annuities can be very confusing and hard to understand. Approximately 84% of CFP® professionals surveyed agree that a lack of knowledge of annuities and how they work by plan participants and IRA owners is a significant or major contributing factor to the current low rates of annuitization. In fact, over half of the respondents identified such lack of knowledge of annuities as a major contributor to low usage rates.

One reason annuities are so confusing to so many Americans is that there are a myriad of commercial annuities available in the marketplace, along with other products that provide a guaranteed stream of income for some specified period of time. For many individuals, these products can seem overly complicated and hard to differentiate. As a result, many individuals confronted with the decision to annuitize their benefit may decide to forego an annuity in favor of more easily understood and familiar distribution options, such as rolling over defined contribution plan assets to an IRA from which they can then take periodic distributions to meet living and other unanticipated expenses.

One way of addressing consumer confusion, which CFP Board strongly supports, is to establish rules that provide increased consumer education regarding annuities and how they work. Additionally, education at the participant level could go a long way in helping individuals better appreciate both the advantages and disadvantages associated with using annuities to manage longevity risk.

CFP Board Does Not Support Mandatory or Default Annuitization

As the above discussion demonstrates, annuities are unlikely to be a suitable option for all individuals in terms of managing longevity risk. Additionally, through careful planning, individuals can often manage longevity risk without the use of commercial annuities. For example, individuals can manage their longevity risk through holistic retirement planning, including systematic withdrawals and an appropriate life style. In many instances, approaches to managing longevity risk that do not involve commercial annuities may be preferable because they may involve relatively lower fees and/or provide increased flexibility for individuals over the course of retirement. Over 60% of CFP[®] professionals surveyed agree that retirees have better alternatives to commercial annuities for purposes of managing their longevity risk.

For these reasons, and the reasons discussed throughout this letter, CFP Board does not support the establishment of rules that would require mandatory or default annuitization of defined contribution plan or IRA account balances, whether with respect to a participant's full account balance or some portion thereof. In fact, the vast majority of CFP[®] professionals surveyed oppose defaulting participants or IRA owners into annuities—over 90% do not believe retirement plan participants or IRA owners should be defaulted into annuities if they do not opt out of annuitization.

Another approach suggested by some would be to couple mandatory or default annuitization with a time-limited window (e.g., two years), during which an individual could opt out of an annuity. Although CFP Board does not support the use of mandatory or default annuitization, if the Agencies pursue default annuitization, they must, at a minimum, provide individuals with the flexibility to opt out of an annuity. CFP Board is concerned that even a narrow, time-limited trial period is unlikely to provide much benefit to participants on the whole because unexpected life events can happen at any time following one's retirement. It may be many years before participants fully comprehend the downsides that can accompany the use of annuities—most notably, the inability to fully access retirement savings as needed to meet unexpected living expenses, such as unplanned medical, housing, or automotive expenses.

Others have suggested that plans should be required to include at least one annuity as a distribution option or as both an investment and distribution option. Although CFP Board generally supports initiatives

that provide for enhanced participant choice, CFP Board believes that it is premature to mandate annuities as plan options, unless and until more comprehensive rules are issued by the Agencies, notably the Department of Labor, regarding how a plan sponsor can satisfy its fiduciary obligations in selecting an annuity option, particularly the fiduciary duty to ensure that the insurer will be able to make all payments due under the contract. Moreover, in fashioning such rules, CFP Board urges the Agencies to establish rules that preserve essential ERISA protections, while ensuring that smaller-size employers, who may have more limited resources, can comply with those rules. Otherwise, requiring plans to include at least one annuity as an investment or distribution option could have a chilling effect on the uptake and maintenance of defined contribution plan arrangements.

CFP Board Supports Increased Participant-Level Education and Fee Disclosure Regarding Annuities and Lifetime Income Options

CFP Board strongly supports increased participant-level education regarding longevity risk and retirement planning generally. A 2010 study by the Employee Benefit Research Institute (EBRI) makes clear that many individuals have little comprehension of longevity risk and how much money they need to save for retirement. Specifically, as part of its 2010 Retirement Confidence Survey (RCS), EBRI found that “[m]any workers continue to be unaware of how much they need to save for retirement.”⁴ In fact, “[l]ess than half of workers (46 percent) report they and/or their spouse have tried to calculate how much money they will need to have saved by the time they retire so that they can live comfortably in retirement.”⁵ Of those workers who performed a retirement needs calculation, 44% “determined the amount they needed to save *by guessing*.”⁶ Perhaps most significantly, data from the 2010 RCS indicate that “the retirement savings calculation appears to be a particularly effective tool for changing retirement planning behavior.”⁷ More specifically, EBRI found that 44% of workers who calculated a retirement goal amount in connection with the 2008 RCS report having made changes to their retirement planning as a result, with 59% reporting that they have started saving more for retirement.⁸

These findings clearly demonstrate that many American workers currently lack sufficient knowledge regarding longevity risk and the costs associated with retirement generally. They also indicate that individual savings rates can be positively affected merely through increasing an individual’s awareness of his own retirement needs. Accordingly, CFP Board strongly encourages the Agencies to take the necessary steps to establish rules that provide for increased participant-level education regarding longevity risk and de-accumulation generally.

CFP Board recognizes that individuals will continue to invest in commercial annuities as a way to manage longevity risk. Thus, CFP Board is hopeful that as part of any initiative to increase participant-level education the Agencies include increased participant understanding of annuities, not only as an option

⁴ Ruth Helman et al., *The 2010 Retirement Confidence Survey: Confidence Stabilizing, but Preparations Continue to Erode*, EBRI ISSUE BRIEF, No. 340, March 2010, at 22, available at http://www.ebri.org/pdf/briefspdf/EBRI_IB_03-2010_No340_RCS.pdf.

⁵ *Id.*

⁶ *Id.* (emphasis added).

⁷ *Id.* at 25.

⁸ *Id.*

for managing longevity risk but also with respect to how annuities operate generally. Over 84% of CFP® professionals surveyed agree that additional rules are needed to ensure that participants in retirement plans or IRAs have access to and knowledge of fees and other essential features of annuities.

CFP Board also encourages the Agencies to use their rulemaking authority to establish rules that mandate increased transparency regarding the fees associated with commercial annuities and other lifetime income options. As discussed above, many individuals are confounded by the annuity options available in the marketplace, including the amount and nature of fees associated with the purchase of annuities. For example, just because an annuity may cost less from one annuity provider than from another provider does not necessarily mean that a participant is better off with the lower-cost annuity. The reduced cost could be the result of numerous factors, such as the absence of contingent benefits or the fact that the provider is subject to increased insolvency risk. Only through increased disclosure of fees and related participant-level education can participants be confident that they are in fact making the correct choice in choosing a commercial annuity or other lifetime income option when planning for the spend-down phase of retirement.

CFP Board Supports Efforts by the Agencies to Help Americans Live Within Their Means and Save More for Retirement

CFP Board applauds the Agencies’ decision to issue the RFI, and greatly appreciates the attention paid by the Agencies to the ideas discussed therein, including the issue of longevity risk. The risk that one may outlive her retirement savings is indeed an important issue and is not to be overlooked or taken lightly. Nonetheless, there are other challenges that are as significant, if not more significant, in limiting Americans’ ability to achieve adequate retirement security.

CFP Board asked CFP® professionals about five factors that can challenge an individual’s ability to achieve adequate retirement security. Notably, respondents identified two factors as more significant challenges than longevity risk: inadequate retirement savings and living beyond one’s means.

<u>Factor</u>	<u>% of Survey Respondents Indicating that the Factor is a “Significant Challenge”</u>
Inadequate retirement savings	88%
Living beyond one’s means	64%
Longevity risk	63%
Individuals retiring too early	38%
Unforeseeable expenses	36%

The fact that inadequate retirement savings and living beyond one’s means were classified as significant challenges by the greatest percentage of survey respondents should not be surprising. As noted above, the 2007 GAO report referenced in the RFI reported that the total median account balance in 2004 for workers age 60 to 64 was only \$60,600.⁹ More recent data from EBRI indicate that the average

⁹ 2007 GAO REPORT, *supra* note 1, at 16.

American worker continues to have far too little retirement savings. In fact, 54% of workers surveyed as part of EBRI's 2010 RCS reported "that the total value of their household's savings and investments, excluding the value of their primary home and any defined benefit plans, is *less than \$25,000*."¹⁰ Further, 27% of workers (up from 20% in 2009) reported having virtually no savings and investments, with "less than \$1,000 in savings."¹¹

Thankfully, history has demonstrated that rules can be established at the federal level to help change individual savings behavior in positive ways. Perhaps the best and most recent example of this is with respect to the use of automatic enrollment and automatic increase (collectively, auto-enroll) in connection with employer-sponsored 401(k) plans.

Although auto-enroll was used by some employers prior to 2006, it was not until the enactment of the Pension Protection Act of 2006, which provided for an express safe harbor for qualifying auto-enroll arrangements, that we saw employers adopt such arrangements in meaningful numbers. In fact, data from GAO indicate that as of 2004, just 1% of American employers used auto-enroll in connection with their 401(k) plans.¹² By 2009, the percentage of American employers using auto-enroll increased to 19%, with even higher rates of adoption among large plan sponsors.¹³ Moreover, all available data indicate that auto-enroll has been very successful in helping Americans save more for retirement. Recent analysis by EBRI found that automatic enrollment is very likely to result in significantly increased 401(k) plan accumulations, especially for low-income workers.¹⁴

Partly in response to the success of auto-enroll, several related ideas have recently been put forth by stakeholders to assist the average American in saving more for retirement. These ideas include, among others, the establishment of auto-IRAs and mandatory auto-enroll in connection with 401(k) plans. Some have also suggested increasing the scope and amount of the Saver's Credit. Although a discussion of the merits of each of these ideas is beyond the scope of the RFI and this comment, CFP Board is generally supportive of establishing new rules that help Americans save more for their retirement. CFP Board encourages Congress and the Agencies to continue to use their legislative and administrative authorities to establish rules that help increase Americans' savings rates because such rules are likely to have the greatest positive effect on Americans' ability to achieve adequate retirement security.

CFP Board Encourages the Agencies to Use Their Rulemaking Authority to Change Existing Messaging Regarding Appropriate Retirement Age

Another significant challenge to Americans achieving retirement security is the fact that a great many Americans retire from the workforce too soon. It is perhaps not surprising that Americans are living

¹⁰ Helman et al., *supra* note 4, at 15 (emphasis added).

¹¹ *Id.*

¹² U.S. GOV'T ACCOUNTABILITY OFFICE, RETIREMENT SAVINGS: AUTOMATIC ENROLLMENT SHOWS PROMISE FOR SOME WORKERS, BUT PROPOSALS TO BROADEN RETIREMENT SAVINGS FOR OTHER WORKERS COULD FACE CHALLENGES 14 (OCT. 2009).

¹³ *Id.*

¹⁴ Jack VanDerhei, *The Impact of Automatic Enrollment in 401(k) Plans on Future Retirement Accumulations: A Simulation Study Based on Plan Design Modifications of Large Plan Sponsors*, EBRI ISSUE BRIEF, No. 341, Apr. 2010, at 5, available at http://www.ebri.org/pdf/briefspdf/EBRI_IB_04-2010_No341_Auto-Enrl.pdf.

longer than ever before. In fact, “[f]or a healthy 65-year-old couple, there is a 67% chance that at least one of them will live to age 90 and a 38% chance that one will live to age 95.”¹⁵ Notwithstanding increased longevity, a significant percentage of Americans continue to retire in their 50s and 60s. In fact, recent data from EBRI indicate that nearly 52% of workers expect to retire permanently from the labor force prior to age 65.¹⁶

Why exactly do Americans retire too soon? The answer to this important question is undoubtedly very complicated. Nonetheless, one likely contributing factor is that existing federal laws send a strong message to Americans that they should or can retire at an age that may be far too young, especially based on an individual’s productive abilities and amount of savings. Approximately 65% of CFP® professionals surveyed agree that current federal laws setting social security eligibility at age 65 and the default normal retirement age for tax-qualified plans at 55 or 62 encourage people to retire too early. Moreover, nearly 50% agree that current federal laws allowing penalty-free withdrawals from tax-qualified plans at age 55 and mandating required minimum distributions after an individual attains age 70 ½ encourage people to retire too early.

Notwithstanding the slight divergence in results regarding the extent to which existing federal laws encourage people to retire too soon, there can be little doubt that all parties involved would be well served by a review of existing federal rules to determine if, and to what extent, those rules may in fact send a message to America’s workers to retire too early. To the extent those rules do, in fact, encourage individuals to leave the workforce too soon, CFP Board encourages the Agencies, in cooperation with Congress, as necessary, to modify those rules to ensure that individuals are not incorrectly sent the message that they should or can retire when in fact personal circumstances (such as accumulated retirement savings to date, retirement goals, expected longevity, and productivity) indicate the contrary.

The ramifications of sending a message that encourages folks to retire too soon cannot be understated. Such messaging may encourage individuals to choose to retire without a full understanding of their own expected longevity and/or the potential inadequacy of their existing retirement savings. Individuals who then retire may not realize until some later date that they should have in fact worked longer or that they have insufficient retirement savings. Moreover, for individuals in their 50s and 60s, getting back into the workforce is often very difficult, if not impossible. Even if such individuals are fortunate enough to make their way back into the workforce, it is often at a much-reduced pay and/or with new employers that may subject them to waiting periods and/or vesting schedules with respect to employer-sponsored plans in which they may seek to participate.

CFP Board acknowledges that changing current federal rules regarding retirement may be very difficult and, in certain instances, very costly. Nonetheless, CFP Board believes that the first step on the path to ensuring retirement security for all Americans is to make sure that we as a society are sending the right messages about retirement savings and security. One cannot, and should not, underestimate the role played by federal laws in this regard.

¹⁵ Geoffrey Stiff, *When Your Client’s Retirement Plan Is Washed Away, You Can Rebuild It*, ON WALL STREET (Dec. 1, 2009), available at http://www.onwallstreet.com/ows_issues/2009_12/when-your-clients-retirement-plan-is-washed-away-you-can-rebuild-it-2664635-1.html.

¹⁶ See Helman et al., *supra* note 4, at 28.

Conclusion

CFP Board appreciates the opportunity to comment on the Agencies' request for information regarding lifetime income options. If you should have any questions regarding CFP Board, the financial planners it certifies, or the CFP® marks, please contact Marilyn Mohrman-Gillis, Managing Director of Public Policy and Communications, at 202-379-2235, or visit CFP Board's Web site at www.CFP.net.

Sincerely,

A handwritten signature in black ink that reads "Kevin R. Keller". The signature is written in a cursive, flowing style.

Kevin R. Keller, CAE
Chief Executive Officer