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August 11, 2010

Submitted Electronically – **Re: Lifetime Income Joint Hearing**

Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210
e-ORI@dol.gov

Ladies and Gentlemen:

Please accept our request to testify at your joint hearing, scheduled to begin September 14, regarding lifetime income options for participants and beneficiaries in retirement plans. Great-West Retirement Services® is the fourth-largest retirement plan recordkeeper based on total participant accounts. We provide 401(k), 401(a), 403(b) and 457 retirement plan services to 24,000 plans representing 4.4 million participant accounts and \$126 billion in assets. In connection with those 24,000 plans and 4.4 million accounts, we offer a lifetime income product that plans may select.

Our customer base represents one of the largest and broadest (401(k), 401(a), 403(b) and 457) groups of defined contribution plan sponsors to offer a lifetime income option. Our broad expertise enables us to provide a unique “voice” that distinguishes Great-West Retirement Services from other industry organizations. If selected, our testimony would draw upon our:

- *Market familiarity and scope of product knowledge* – Lifetime income products are intended to address concerns that exist in all markets (401(k), 401(a), 403(b), 457) and all plan sizes; however, the legal issues, plan sponsor concerns and participant communication challenges vary by market. Great-West Retirement Services is uniquely positioned to discuss issues and solutions for all markets. We offer insurance and NAV products in defined benefit and defined contribution plans. As a leading company in both product manufacturing and defined contribution recordkeeping, we understand the different rules applicable to these product types, as well as the opportunities and challenges posed by hybrid solutions from a plan sponsor, participant and recordkeeping standpoint.
- *Blend of academic and practical expertise* –We are one of the few companies that have hundreds of plan sponsors who’ve added a lifetime income option to their plan. We also have had the privilege of working with plan participants to communicate the features and benefits of these products. As we designed our lifetime income product and developed a communication plan for plan sponsors and participants, we worked with experts in the fields of investment management, legal and fiduciary issues, as well as experts in participant behavior and effective communication. We’ve studied their ideas, put them into action and can provide insight regarding what works and doesn’t work.

Per your request, we’ve specified four issues our testimony would address, provided an outline of their main points and indicated the time allocated to each issue. While our request assumes 30 minutes of testimony, we are happy to work with you to adjust our testimony as necessary to fit within our allotted time.

I Participant concerns affecting the choice of lifetime income relative to other options (10 minutes). Our testimony would include insight regarding how the market or plan design can address issues such as:

- *Portability for participants and plan sponsors* – The industry (retirement income product manufacturers and recordkeepers) have made tremendous progress to improve portability at the plan and participant level. We would propose to discuss how the industry has addressed this challenge and improved portability, which has been a concern of participants and plan sponsors.
- *Inflation risk* – As demonstrated in the lifetime income products we offer, inflation risk can be addressed through product features such as giving participants continued access to the markets during retirement and increasing the amount of monthly payouts when the market goes up (without reducing it when the market goes down), or allowing participants to vary their guaranteed payout rate. We believe that if any kind of default strategies are promoted in connection with lifetime income products, these types of inflation protection features should be available to participants.
- *Fees* – The needs of plan fiduciaries and participants to understand the fees associated with plan options are no different for lifetime income products than for other plan offerings. Plan fiduciaries who select a lifetime income product, and plan participants who decide to invest in it, must understand what they are buying and how much it will cost. The Department of Labor (DOL)'s significant work creating fee disclosure standards provides full fee transparency for many lifetime income products such as products that involve mutual fund fees plus a wrap fee. We believe these new rules ensure fiduciaries have the information needed to fulfill their duty to prudently select lifetime income options, and we look forward to reviewing the upcoming final regulation improving participant disclosure requirements.
- *Perceived complexity of the product* – Participants who select a lifetime income product are choosing how to increase their wealth as well as making decisions about how much money they'll need in retirement and where that money will come from. We urge the DOL to encourage education by clarifying that plan sponsors and consultants can talk freely about the need for lifetime income in retirement, as well as specific product features, without concern they're providing fiduciary advice. Moreover, taking into account behavioral finance's findings, we support the value of automatic enrollment in retirement plans and automatic default for lifetime income products.
- *Addressing death benefits and withdrawal options* – Our biggest concern is the potential application of the spousal annuity rules to lifetime income products. Experience shows that defined contribution plan sponsors will reject products and distribution alternatives that require them to comply with the administrative cost and complexity associated with the Qualified Joint and Survivor Annuity Rules. These rules shouldn't apply to lifetime income products where a participants' access to, and control over, their account balance is not eliminated when guaranteed payments begin.

II Information to help participants make choices regarding management and spend down of retirement benefits (5 minutes)

- Our suite of services includes providing information to help participants manage and spend their retirement benefits. Consequently, if selected to testify, we're prepared to provide methods and materials by which the information could be provided, including sharing our insight regarding the role of behavioral finance. Lastly, we're prepared to address whether the DOL provide guidance on how plan sponsors and service providers can assist participants without potential fiduciary liability – including how the DOL should expand Interpretive Bulletin 96-1.

III Disclosing account balances as monthly income streams (5 minutes)

- *Increasing participant interest in lifetime income products* – We believe increased interest can be achieved if participants receive benefit statements that display their benefit as a monthly lifetime benefit. Toward this end, we're already working to change the mindset of our participants from thinking about their defined contribution plan as a source of lump sum cash to thinking about it as a source of lifetime income.

- *The use of current account balance or projected retirement age account balance* – We believe showing the current account balance should be required and showing the projected retirement age should be optional.
- *Assumptions regarding contribution rates, rates of return, interest rates, etc.* – We would offer our experience-based insight regarding how to address these varying assumptions to ensure consistency and clarity.

IV The fiduciary safe harbor for selection of lifetime income issuers or products (10 minutes).

- *Amendments to the Fiduciary Safe Harbor Regulation*--Our testimony would include recommended changes to regulation 29 CFR 2550.404a-4. For example, we can address:
 - *Solvency of the provider* –Insurance company insolvency seldom occurs; however, it’s a concern for plan fiduciaries. Therefore, we believe taking steps to address concerns of fiduciary liability will increase the inclusion of these products in defined contribution plans. We also believe, based on our experience working in the small plan market, that it would be cost prohibitive to have every individual plan fiduciary evaluate long-term insurance company solvency as part of the process for selecting a lifetime income product. State insurance laws currently address solvency risk through capital requirements, audits, product restrictions, and other strategies. We believe DOL should identify readily accessible standards, such as ratings and state law protections, that plan fiduciaries can rely on, striking an appropriate balance between encouraging use of these products and protecting the interests of participants and beneficiaries who invest in them.
 - *Type of lifetime income product* – The regulation doesn’t take into account the hybrid qualities of many current lifetime income products and should be updated. The protection that participants need varies dramatically depending on whether they have continued access to and control over their account balance in a lifetime income product, or they lose all control and access upon investing in the product. This critical difference needs to be reflected in the rule.
 - *Extension of safe harbor to other lifetime income options* – The regulation was written before guaranteed lifetime withdrawal benefits and other hybrid-type products were created and should be updated to accommodate a broad array of current and future products.
 - *Plan size* – While the cost of hiring experts to evaluate solvency and other risks is more burdensome for small employers than for large ones, we don’t believe participants in small plans (which represent 75 percent of all 401(k) plans) need less protection than participants in large plans. Therefore, we encourage the DOL to define readily accessible standards for determining solvency that fiduciaries of all plan sizes can rely on.

We believe our experiences working with a broad array of plan sponsors and participants who are making real-life decisions about lifetime income options allow us to provide the Agencies with valuable insight into the issues facing plans, participants and service providers seeking secure retirement solutions.

Thank you for your consideration of our request, and we look forward to offering our insight. If you have any questions or need additional details, please contact me at 303-737-3068 (office) 303-570-3042 (cell) or via e-mail at charlie.nelson@gwls.com.

Sincerely,



Charles P. Nelson,
President, Great-West Retirement Services