



Statement of
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On Behalf Of
The American Council of Life Insurers
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Lifetime Income Hearing
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DOL/Treasury Lifetime Income Hearing

Introduction

Good morning. My name is Tom Roberts and I am Chief Counsel at ING Insurance U.S., testifying on behalf of the American Council of Life Insurers. We appreciate the concerted effort by the Department of Labor, the Treasury and the IRS to bring a strong focus to the importance of guaranteed lifetime income. These two days of hearings are just one example of your serious dedication to these issues. The Request for Information with its 39 questions, and your willingness to work through the responses is an even more impressive demonstration of your concern. ACLI's detailed responses to the RFI spoke to all of the issues and proposals that are the subject of this hearing. Our testimony today will focus on two of these items.

ACLI and Retirement

ACLI member companies represent more than 90% of the assets and premiums of the US life insurance and annuity industry, and offer insurance contracts and other investment products and services to qualified retirement plans, including defined benefit pension and 401(k) arrangements, and to individuals through individual retirement arrangements (IRAs) or on a nonqualified basis. ACLI member companies also are employer sponsors of

retirement plans for their own employees. As both providers and employers, we agree with you that saving for retirement and managing assets throughout retirement are critical economic issues facing Americans and our Nation.

The life insurance industry protects individuals and families against the risk of adverse financial consequences due to premature death, long-term care needs and disability, as well as the risk of outliving one's financial assets or living at a substantially reduced standard. ACLI members have many years of experience providing the only financial products that feature guaranteed income for life.

Employers have a long history of helping employees understand and obtain the insurance and financial protections provided by life insurers. For many years, employers have been choosing life insurance companies and making life insurance, disability insurance, and retirement plans available through the work place. When employers have provided education and information about these insurance products, employees have been able to understand these products and the workplace has become an important place for individuals to learn about insurance products and obtain them. Employers can and should provide the same kind of information and education about lifetime income. With some additional guidance, employers will find it easier to provide education and information and to choose an annuity provider.

Obstacles and Areas for Improvement Described

We support efforts to make it easier for plan sponsors to provide information and education about annuities including the illustration of an individual account balance as lifetime income. My comments today highlight some of the issues and recommendations that the industry submitted in response to the Request for Information. Accordingly, I would like to spend this time discussing two specific items – 1) the disclosure or illustration of account balances as guaranteed monthly income for life and 2) the fiduciary safe harbor for selection of lifetime income issuers or products.

Disclosure of Account Balances as Monthly Income Streams

Academics write of the “wealth illusion,” an effect of workers seeing their savings as a large single sum without understanding its true potential as a source of lifetime income throughout retirement. Current law and common plan design encourage participants to consider their account balances as single sums available for payment upon retirement. This can and often does create a false sense of wealth. One major step forward would be to reframe retirement savings as a source of lifetime income.

The Department of Labor can issue guidance to make it easier for employers to appropriately illustrate or demonstrate the guaranteed lifetime monthly income that could be provided by a participant's defined contribution plan account. ACLI also supports legislative proposals introduced by Senators Bingaman, Isaakson and Kohl, as well as Rep. Kind to include these illustrations on benefit statements. ACLI suggests that the illustration be based on a participant's current account balance and the assumption that the participant has already reached age 65.

With this key piece of information, workers can understand the value of their savings, decide whether they need to increase their contributions, adjust their 401(k) investments or reconsider their retirement date, if necessary, to help achieve the quality of life they expect in retirement. Our RFI response included a survey that shows most workers felt it would be valuable to see how much guaranteed lifetime income they could obtain using their retirement plan savings, and that seeing an illustration may prompt them to save more. More specifically, the survey showed that:

- Nearly all -- nine in ten -- respondents said it would be valuable to have their employer show them an illustration of how much monthly income they could get guaranteed for life based on the value of their retirement plan account

- A majority -- three out of five -- said that if an illustration showed the monthly income generated would not be enough to meet their needs, they would start saving more immediately.
- Separately, eighty-five percent expressed an interest in having this information available in their regular retirement statement or on a secure website hosted by either their employer or their plan provider.

To make this work, a lifetime income illustration would be based on either a plan's existing guaranteed lifetime income product or an "illustration rate" table prescribed by the Departments. As for the factors to be used to prepare such a table, we would be pleased to work with the Departments on options for interest rates and mortality tables that would lead to rates that reasonably represent typical annuity rates.

Illustrations will help educate participants by translating their account values into retirement income potential. This information will assist them in evaluating such factors as their income needs, savings adequacy, and the amount of income currently devoted to retirement savings. It reframes the defined contribution plan as a vehicle that not only helps accumulate savings – but also can generate retirement income.

For this to work, it is critical that plan fiduciaries have no liability to provide payments in the amount illustrated under these rules. The Department of Labor should provide model language that plans may include on statements to make

clear that the payment amount is illustrative. Participants should be made aware that the benefit shown is for illustrative purposes only. And it should also be kept simple. While it may help to tell the participant on a general level whether the illustration is based on government tables or current quotes from options available under the plan, providing more detailed information regarding assumptions, such as the mortality and interest rates used for the illustration rate, may not be meaningful and may confuse participants.

Fiduciary Safe Harbor for Selection of Lifetime Income Issuer or Product

The Agency should adopt rules and regulations to make it easier for employers to select and administer guaranteed lifetime income products. The 2008 safe harbor for individual account plans was a significant improvement in the rules for the selection of annuity providers. However, it has been the experience of our member companies that it has not been broadly used. ACLI believes that the regulation should be revised to modify or eliminate the requirement that fiduciaries make a determination as to whether “an annuity provider is financially able to make *all future payments* under an annuity contract.” This standard is difficult to meet in part because it is hard to know how to draw this conclusion. A determination regarding future performance is not a requirement applied to the selection of other financial protection products. Changes can be made to these rules which will make it easier for employers to meet their duties while at the same time ensuring a prudent selection.

The safe harbor should continue to include the following important criteria that the fiduciary:

- engage in an objective, thorough and analytical search for the purpose of identifying and selecting providers from which to purchase annuities;
- appropriately consider and conclude, at the time of the selection, that the cost, including fees and commissions, of the annuity contract is reasonable in relation to the benefits and administrative services to be provided under such contract;
- if necessary, consult with an appropriate expert or experts for purposes of compliance with the safe harbor provisions.

However, instead of a determination about the financial ability to make **all future payments**, the safe harbor should require the fiduciary to give consideration to the current financial strength and other “quality” aspects of the provider.

We know that the Department has already given serious thought to this issue. As you consider our request, it is important to recognize the unique role of state insurance departments in oversight of life insurance companies including the

imposition of NAIC uniform rules for the establishment of reserves, the valuation of assets and liabilities, risk-based capital requirements and required capital. The insurance departments conduct routine reviews of the financial strength of each insurer and its ability to meet its commitments, and they have a number of powers to intervene and protect policy holders. This system of regulation is a factor in the consideration of the quality of a provider. In addition, each state has comprehensive laws and regulations governing, but not limited to, licensing requirements, sales practices, and market conduct regulation, as well as product approvals. The primary focus of our state based system of life insurer regulation is to see that insurers keep their promises to consumers under any scenario.

Fiduciaries need clear and effective guidance regarding their plan duties when selecting guaranteed lifetime income products. The safe harbor should address all such products. ACLI believes that it is critical that the safe harbor be revised to become a more effective tool and expects to submit additional commentary and suggestions regarding the issue of financial strength and quality of the provider.

Conclusion

The steps suggested today and in our RFI response will help employers offer annuities and also help more employees see their value as a source of guaranteed lifetime income in retirement. These changes and other suggestions

in our response to the RFI can help increase interest in the use of guaranteed lifetime income in defined contribution plans. The RFI was an important step in the public policy discussion on retiree income. Workers not only need to save, they need the information and tools to manage income in retirement. We look forward to working with the Departments of Labor and the Treasury as they take steps to address this important matter.

I want to thank the Agencies again for holding this hearing, and for inviting ACLI to testify. The goal of helping Americans achieve personal retirement income security is without question our industry's number one public policy priority. I am happy to answer any questions you may have.