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The Honorable Thomas E. Perez
Secretary of Labor
United States Department of Labor
201 Constitution Avenue
Washington, DC 20210

Dear Secretary Perez,

Thank you for meeting with me to discuss TIAA-CREF's views on the proposed Conflict of Interest Rule, as well as ways to ensure that lifetime-income solutions are more readily available to American workers. I appreciate the work you and your staff have done, and continue to do, to address key concerns many Americans face in attaining a comfortable and secure retirement.

As I mentioned in our meeting, TIAA-CREF has always been committed to acting in our clients' best interest. We support the Department's efforts to make this an industry standard, including in the rollover context. We do have some technical concerns with the proposal, which we have highlighted in our comment letter. However, we were encouraged by what we heard at the recent hearings on the rule proposal, in particular that the Department does not intend to constrain education or restrict the sale of proprietary annuities. In particular, we have been heartened to hear you and your staff suggest that to rise to a "recommendation," the adviser must issue a "call to action." We believe it is very important that the final regulation reflect this language. Additionally, we believe it is essential for the Department to confirm that under the rule, annuity providers could still offer plan participants proprietary annuities. In this regard, we also were encouraged by Department officials' indication that the Department does not intend to prohibit sales of proprietary products. We would like to work with the Department to ensure the final rule achieves this shared goal.

As you explained, the "North Star" for this proposal is an enforceable best-interest standard, and the Department recognizes that certain aspects of the proposed "Best Interest Contract" exemption are infeasible. You indicated that the Department is moving in a direction that our comment letter suggested, including that the contract be between the investor and the firm (but not the adviser) and that no contract be required before a relationship is established. Additionally, we would urge that the final rule eliminate the proposal's requirement to include specific warranties in the contract, and that the final rule also simplify disclosure obligations so that they are useful to investors and feasible for providers. We would very much like to take you up on your request that we provide our "best thinking" on how the Department can feasibly achieve this North Star. Members of my staff will reach out to your team to set up a meeting to exchange ideas.

I am also grateful for the opportunity to discuss with you the related issue of in-plan lifetime income solutions. We believe annuities are a key piece of the retirement puzzle for the average worker, yet many do not have efficient and cost-effective access to these products. Unfortunately, the existing Qualified Default Investment Alternative (QDIA) regulations have impeded adoption.

QDIA regulations have been integral to ensuring participants are investing appropriately when defaulted into a retirement plan, primarily through target-date funds (TDFs). But in the existing framework, lifetime income products – including target-date funds with annuity sleeves – have largely been absent from QDIA offerings. To highlight the importance and necessity for such changes, consider that an SEC study found that 64% of investors believe TDFs provide guaranteed income in retirement – even though very few TDFs include true lifetime income features. Despite the widespread desire for lifetime income from retirement plans, only 10% of plan sponsors offer an in-plan annuity product and only 2% of those without an annuity product are likely to add one in the coming year.

We have developed a common-sense solution that addresses this issue by embedding annuities within a TDF structure, effectively providing an "in-plan" annuity solution that provides higher potential returns than cash or short-term fixed income investments during the accumulation phase – while also providing a seamless transition into retirement through built-in access to lifetime income solutions at distribution. We recognize that resources constrain the Department's ability to undertake a full regulatory project to make it feasible to offer our product as a QDIA. Nonetheless, a Field Assistance Bulletin or an Interim Final Rule would provide significant comfort to plan sponsors wishing to incorporate lifetime income into a QDIA target-date solution. My staff will also follow up with your team to discuss this issue in further detail.

Thank you again for sitting down with me to consider our views and discuss ways to improve the current retirement landscape. As you can see, this is a vital issue for TIAA-CREF and the 4.2 million individuals and 15,000 institutions we serve. I welcome any additional questions you may have and invite you and your staff to reach out to us at any time.

Best regards,

Roger

cc: Judy Mares, Deputy Assistant Secretary of the Employee Benefits Security Administration
Ali Khawar, Counselor to the Secretary