April 27, 2010

Department of Labor and Department of the Treasury

Re: RIN 1210 – AB33
Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans.

These comments are submitted by Anna M. Rappaport, FSA, MAAA. These comments represent my personal views and do not reflect the views of any group that I am currently or have been affiliated with. Information about me is included as Exhibit A.

First, I wish to commend the Department of Labor and the Department of the Treasury for issuing this Request for Information. These issues are complex and particularly important to individuals who have only DC plans.

In an article in Employee Benefits quarterly, and in testimony presented to the ERISA Advisory Council in September 2009, I made the recommendations attached as Exhibit B to this letter. I also testified to the ERISA Advisory Council on Spend Down of Defined Contribution Assets in Retirement in 2008 and have written two papers on this topic for the Society of Actuaries Retirement 20/20 project. I am happy to supply any of these documents to the Departments.

I believe that the Departments will receive many comments, and I want to focus this letter on several issues of particular importance that may get less attention:

Defaults and the RMD—I believe that many individuals view the RMD as a recommended default and that it de-facto is the default for payout of many individuals' IRA and 401(k) funds. This is more likely true for people with more money who are interested in keeping funds tax deferred as long as possible.

However, in many cases, the RMD does not work to serve the financial security needs of middle Americans. If we assume that the amounts withdrawn are spent in the year of withdrawal, the RMD will not work well to preserve financial security in scenarios where investment returns are low and people live long. In such cases, it will result in funds being used too early. The RMD also is in conflict with plans to preserve IRA funds to help pay for long-term care, because long-term care costs often occur later and can be very large in years where a lot of help is needed.

We have learned from auto-enrollment and investment defaults that defaults can also have a powerful influence of what people decide to do. We have also learned from the experience with DB defaults where lump sums are available that people do not simply accept defaults at the time of distribution of plan funds. I believe that we need to have safe harbors for distribution defaults including timed purchase of life income, and that the RMD needs to be restructured or eliminated. I hope that the permitted defaults might also include a broader range of risk protection options.

Creating expectations that plan benefits should generate life income—DC plans may be primary or supplemental. For primary plans, I believe that it is very important to build expectations that plan funds are designed to generate income replacement. At the same time, there are big trade-offs underlying the choices and they link to personal circumstances. I am in favor of strongly encouraging messages and using framing linked to the role of primary DC plan funds in producing life income, and in offering safe harbors for the illustration of life income.

Use of 401(k) funds (and other defined contribution plan benefits) for risk protection—there are several types of risk protection that are potentially desirable for retirees:

- Longevity protection—this can be provided through different approaches including traditional annuities and annuities that provide payouts starting at a high age (such as 85) that cover the long life risk, but allow freedom of investment of most funds earlier on. Payout arrangements for funds that spread the money out but do include lifetime guarantees are approaches to planning for life income but without a guarantee, and they can be combined with annuities that start at a very high age.

- Longevity protection can extend to spouses with joint and survivor annuities

- Death benefits to protect surviving spouses, children and others who are dependent on the individual

- Long-term care financial planning and protection—long-term care insurance can provide partial protection as can savings generally. Use of longevity insurance, deferred life annuities starting at ages such 80 or 85, does not provide direct long-term care protection, but it helps individuals with more money at the ages where they are most likely to need such protection. There are various features and forms of long-term care insurance, and in some cases, long-term care benefits are combined with life annuities or early payout of death benefits.

- Supplemental health coverage

I believe that an additional discussion is needed to look at enabling the offering of a broader range of risk protections from 401(k) plans. I would then hope that the marketplace would provide to employers the chance to offer such options through group purchasing, and that would enable participants to get risk protection on a more advantageous basis than on their own. Such offerings could be provided directly by plans or through an IRA with institutional pricing. I would recommend enabling these offerings and not mandating them.

I see this as particularly important, because this would also enable integrated ways to think about risk protection in the longer run.

Timed purchase of annuities and risk protection—it is important that individuals who wish to have annuity and other risk protection options have a long period of time to make the decision. Furthermore, it is very desirable to be able to make purchases in steps over time. If plans are allowed to offer a range of risk protection choices, they should also be able to accommodate timed purchases.

Combination products—question 15 focuses on combination products. I believe that products that combine life income with some long-term care protection have great potential advantages:

- Anti-selection and underwriting problems in the purchase of either product are greatly reduced, since people who expect to live long have incentives to buy annuities and those who expect health problems may be more focused on long-term care coverage.
- They help people with limited resources balance risk protection.
- They should be more economical than separately purchased products, and few people purchase both types of products.

I have talked with individuals who have attempted such products on several occasions and understand that they have not done well. Some of the reasons are legal complexity and a distribution system that requires specialists in long-term care and in life income, but few people are very focused on both. Also, many members of the public are not very focused on longer-term risk protection products.

Both sets of products have many choices of features and they are not easy to understand unless you specialize in the area. Allowing such risk protection in qualified plans, and developing education and a regulatory structure that would make it easier for plan beneficiaries to understand the options, would greatly enhance the chances of success.

Aligning 401(k) and IRA requirements—While 401(k) plans are the major employer sponsored DC vehicle, many people have multiple jobs, and their 401(k) money is rolled over into IRAs before being used to help support their retirements. The actions taken should support better use of retirement funds whether they are used directly from the 401(k) or rolled over before use.

Tax Incentives—Tax incentives should encourage the use of qualified plan funds and IRAs for lifetime income and discourage the use of lump sum payments which can be spent in a single year.

Thank you again for asking for public comments on these topics. I would be happy to answer questions on the comments.

Sincerely,

Anna M. Rappaport

Exhibit A

Anna Rappaport, FSA, MAAA

Anna Rappaport is an actuary, consultant, author, and speaker, and is a nationally and internationally recognized expert on the impact of change on retirement systems and workforce issues. She is passionate about creating a better future for older Americans and improving the retirement system in America, and she is particularly concerned about the many women who do not fare well at older ages. She testified on some of the matters raised by the RFI at the ERISA Advisory Council in 2008 and 2009. She also submitted papers to the Society of Actuaries Retirement 20/20 Project on the Distribution Period.

Anna Rappaport chairs the Society of Actuaries Committee on Post Retirement Needs and Risks and has been a leader in the development of an extensive set of research on the post-retirement period. She was appointed to the ERISA Advisory Council in 2010 and will serve from 2010 to 2012. Anna formed Anna Rappaport Consulting in 2005 after retiring from Mercer Human Resource consulting at the end of 2004 having served 28 years with the firm. She was appointed Senior Fellow on Pensions and Retirement by the Conference Board in 2007. Anna completed 45 years as a Fellow of the Society of Actuaries in 2008 and has a Master's of Business Administration from the University of Chicago. Anna previously served as President of the Society of Actuaries and serves on the Boards of the Women's Institute for a Secure Retirement (WISER), and the Pension Research Council. She currently serves on the GAO Retirement Security advisory panel, the Retirement 20/20 advisory group, and the EESI advisory group. She is a member of the Chicago Network, an organization of the top women in Chicago from all walks of life.

For more information about Anna Rappaport, see www.annarappaport.com.

Exhibit B

Looking at the future: The author's recommendations for the payout period[i]

- Rethink default distribution options in DB and DC plans—While DB plans pay income, today lump sums are the common default in DC plans, and life income options are often not available. While there has been a great deal of innovation in plan design over past decades, there has not been much innovation in payout management. Open up new possibilities for options and defaults. Public discussion is needed to reach consensus on what should be allowed, what should be required, and what should be protected in a safe harbor.

- Enable use of DC funds for risk protection—Change DC regulatory structure so that 401(k) funds could be a retirement risk protection account, and after retirement, balances could be used to purchase a variety of risk protection options, either through the plan or through employer offerings on an advantageous basis. Some of the choices should include lifetime income with survivor protection, with or without inflation protection, supplemental health insurance, and long-term care benefits.

- Restructure or eliminate RMD requirements—as they exist today, RMD requirements often become the DC distribution default, and they can be a barrier to guaranteed life income and other desirable distribution options.

- Explaining trade-offs—It is clear that many individuals do not make well-informed choices about their retirements and the management of money post-retirement. The trade-offs involved in the choice of a strategy are extremely important, and not easy to understand. Better information is needed for all concerned about the range of options available and the trade-offs implied by choices. It should also be remembered that some choices are irrevocable when made, while others can be changed later.

- Encourage communication focused on life or at least long-term income. It is important to focus on pension resources as the path to income in retirement. The plan, the information communicated to the participants, and supporting resources all provide signals that can focus the participant toward or away from regular income.

- Unify and rationalize the regulatory environment—while this paper is not about regulation, it is clear that good ideas will not work without a reasonable regulatory environment. With pensions regulated in the U.S. by the IRS, DOL, PBGC, FASB and sometimes the SEC, and annuities regulated by state insurance departments and sometime the SEC, there is a huge mass of complicated regulations that govern annuities and pensions. In addition to regulating the employer and the financial services company, income tax rules impact when it is attractive to use a risk protection product and when not. They complicate what would otherwise be rational strategies. Unified and balanced regulation would be important to opening the way for simple and logical solutions.

- Facilitate group purchasing of financial products for voluntary purchase to enable employees to get a better deal and be assured that the design and provider of the product has been subject to due diligence. If an employer does not want to offer group purchase of annuities directly, it can work with a third party and use of an Individual Retirement Account to hold funds until the annuity is purchased.

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[i] These recommendations were included in testimony to the ERISA Advisory Council in September, 2009