The Company You Keep©

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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: Lifetime Income RFI, RIN 1210-AB33

New York Life Insurance Company is grateful for the opportunity to respond to the Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans issued by the Departments of Labor and Treasury on February 2, 2010. We appreciate the Administration's recognition of the important role that guaranteed lifetime income can play in boosting the standard of living and financial security of America's retirees.

New York Life Insurance Company is the largest mutual life insurance company in the United States. Founded in 1845, New York Life maintains operations in all 50 states and eight overseas markets through a network of more than 17,000 employees and 104,000 licensed agents. New York Life's family of companies offers life insurance, annuities, investments and long-term care insurance. New York Life Investments[1] provides institutional asset management and retirement plan services. Other New York Life affiliates provide an array of securities products and services, as well as institutional and retail mutual funds. New York Life Insurance Company is one of only three life insurance companies that currently have the highest ratings for financial strength from the life insurance industry's four principal rating agencies (Moody's Investor's Service, Standard & Poor's, Fitch Ratings, AM Best).

In 2009, New York Life was the largest U.S. seller of fixed annuities (considering immediate and deferred annuities together), with more than $10 billion in sales. Additionally, New York Life was the largest seller of fixed *immediate* annuities, considered as a separate category. Although New York Life Investments ranks among the largest asset management firms in the United States and offers employers a full array of retirement plans and services, New York Life currently focuses its annuity business on meeting customers' unique needs through the individual market.

[1] New York Life Investments is a service mark used by New York Life Investment Management Holdings LLC and its subsidiary, New York Life Investment Management LLC.

Executive Summary

As discussed in more detail in the attached appendix, New York Life strongly believes that guaranteed lifetime income is a key component of proper retirement planning. Over the past decade, the Company has dedicated significant resources to educating consumers and financial advisers about the benefits of lifetime income annuities.

Even though New York Life is a leader in the annuity market and strongly believes in the importance of guaranteed lifetime income, New York Life also believes that lifetime income annuities are not suitable for all individuals. Each worker's financial circumstances and income needs are unique, and a lifetime income solution that perfectly suits the needs of one worker may be wholly inappropriate for another worker. For this reason, it is important that individuals make the decision about whether, and how much, to annuitize only after carefully analyzing, with the assistance of a financial adviser, their total financial portfolio, expenses, health and future income needs.

Given the individualized nature of retirement income planning, workers benefit from the diversity of annuity offerings provided by both employer sponsored retirement plans and through Rollover IRAs (IRA annuities and IRA accounts holding an annuity). Through a Rollover IRA, a worker can consolidate assets from all of his/her retirement accounts and take advantage of additional investment choices and distribution options. Rollover IRAs can be very cost-effective, as low cost lifetime income annuities can be paired with low cost mutual funds to create a comprehensive, individually tailored retirement portfolio that provides reliable income and the opportunity for growth.

New York Life supports policies to encourage annuitization, such as requiring plan sponsors to show a worker's balance in the form of lifetime income, encouraging plan sponsors to educate participants about lifetime income options, and providing incentives to encourage individuals to annuitize a portion of their retirement savings. However, New York Life strongly opposes policies to mandate annuitization, including default annuitization or "auto-annuitization" proposals. Unlike the accumulation of savings, the distribution of savings through annuitization is not a "one size fits all" solution. In addition, auto-annuitization is not an effective way to increase retirement income because auto-annuitization programs generally would offer a relatively minimal benefit to the majority of workers. A more effective policy approach would be to encourage workers to delay Social Security. For most workers, the extra income they would receive by delaying Social Security payments far exceeds the benefit that would be obtained from annuitizing a substantial portion of their defined contribution (DC) plan balance.

Again, we appreciate the Administration's interest in promoting lifetime income and soliciting input from outside parties on the issue. Please let me know if you have any questions regarding our response or if we can provide additional information that would be useful to you.

Sincerely,

George Nichols III

New York Life has contributed to several other organizations' responses to the Request for Information Regarding Lifetime Annuity Options for Participants and Beneficiaries in Retirement Plans. As such, the Company has focused this response on only those issues where the Company believes it can contribute additional information that may be useful to the Administration, given New York Life's position as a leader in the fixed annuity market, as well as our general market experience, research and expertise.

1. **From the standpoint of plan participants, what are the advantages and disadvantages for participants of receiving some or all of their benefits in the form of lifetime payments?**

New York Life strongly believes that lifetime income is a key component of retirement income planning. The Company has dedicated significant resources to educating consumers and financial advisers about the benefits of lifetime income annuities. A lifetime income annuity is a retirement vehicle that enables retirees to secure regular guaranteed income payments for as long as they live, no matter how long that may be and no matter how the financial markets perform. As with company-provided pensions, the issuing insurance companies use risk-pooling to provide purchasers of lifetime income annuities with more income, on average, than they would receive if they simply made regular withdrawals from a savings or mutual fund account over the course of their lifetime. In fact, because of risk-pooling, an individual can secure lifetime income using an income annuity for 25-40% less money than it would cost an individual to provide a similar level of secure lifetime income through traditional means.[2]

<u>Despite Benefits, Lifetime Income Annuities are Not "One Size Fits All" Products.</u> Even though New York Life is a leader in the annuity market and strongly believes in the importance of lifetime income, New York Life also believes that guaranteed lifetime income annuities are not suitable for all individuals. Our view rests on the fact that individuals' income needs differ markedly during the decumulation phase of retirement planning.

This individualized aspect of retirement planning in the decumulation phase differs markedly from the accumulation phase of retirement planning, where the goal of almost all workers is the same: to increase retirement savings. During the accumulation phase of retirement planning, it is helpful for each worker to accumulate funds in a defined contribution plan even if the worker also is saving money in other plans or accounts. The only question is whether the worker wants to invest in more conservative or more aggressive assets. Therefore, with respect to accumulating assets, a defined contribution program with a limited choice of conservative and aggressive options is sufficient for most workers. Target date funds are often used to further simplify investment choices for workers.

In contrast, the decumulation phase of retirement planning requires a different approach. *Each worker's financial circumstances and income needs are unique and must be evaluated individually. A retirement income plan must take into consideration the worker's total expenses and compare that to the worker's total assets and sources of retirement income.* A retirement income plan for one worker may be wholly inappropriate for another worker. For example, a worker with a defined benefit pension will have different needs than a worker without one. A retiree who depends on Social Security (another form of guaranteed lifetime income) for the vast majority of her income likely should preserve her other savings for emergencies, rather than purchasing an additional annuity. A worker with major health

[2] David F. Babbel and Craig B. Merrill, Wharton Financial Institutions Center, "Investing Your Lump Sum at Retirement, "August 2007, at 5; available at: http://fic.wharton.upenn.edu/fic/Policy%20page/Investing%20your%20Lump%20Sum%20at%20Retirement.pdf .

concerns may have a greater need for liquidity than a lengthy stream of income. A worker who wants to leave a bequest to his or her children will require a different approach than one who isn't concerned with bequest.

Individualized Assessment and Financial Advice Necessary – Given the individualized nature of retirement income planning and the lack of understanding among consumers about both the benefits and risks associated with annuities, it is important that individuals make the decision about whether, and how much, to annuitize only after carefully analyzing their full financial picture with the assistance of a financial adviser.

Rollover IRAs Suited to Meet Each Worker's Unique Needs – Individuals often benefit by converting their individual account balances into a lifetime income annuity through a rollover to an IRA annuity or an IRA account holding an annuity. A worker can use a Rollover IRA to consolidate assets from all of his or her retirement accounts and to take advantage of many more investment choices and distribution options. For example, through a Rollover IRA a worker can invest in both guaranteed sources of income, such as annuities, to cover basic expenses and also invest in traditional mutual funds to provide asset growth and liquidity. Rollover IRAs can be very cost-effective, as low cost lifetime income annuities can be paired with low cost mutual funds to create a comprehensive retirement portfolio that provides reliable income and the opportunity for growth. In addition, Rollover IRAs generally offer more investment options and flexibility than a traditional defined contribution or 401(k) plan.

2. Currently the vast majority of individuals who have the option of receiving a lump sum distribution or ad hoc periodic payments from their retirement plan or IRA choose to do so and do not select a lifetime income option. What explains the low usage rate of lifetime income arrangements? Is it the result of a market failure or other factors (e.g., cost, complexity of products, adverse selection, poor decision-making by consumers, desire for flexibility to respond to unexpected financial needs, counterparty risk of seller insolvency, etc.)?

There are several reasons why workers often do not choose lifetime income as a distribution option from their plans:

- Timing May Not Be Right – A worker is often not ready to receive income at the time the worker is faced with a decision regarding distribution. Many workers take plan distributions when they change jobs. In addition, workers may be planning to work part-time before fully retiring.
- Annuity May Not Be Suitable – Some workers may not choose an annuity because they: (1) are in poor health, (2) have alternative sources of annuitized income either through Social Security, defined benefit pensions or other annuities, or (3) are sufficiently wealthy that there is little risk of outliving their savings.
- Financial Advisors Often Key to Making Individuals Comfortable with Annuities – Lifetime income options are poorly understood by workers approaching retirement. Human Resources departments generally are not capable of evaluating each employee's complete financial portfolio and working with the individual to determine how much to annuitize, if at all. New York Life has found that where financial advisors are involved and discuss guaranteed lifetime income options with workers on an individualized basis, usage rates of such products increase significantly.
- Employer-Provided Income Options May be Ill-Suited to Worker's Needs – The lifetime income options offered through employer-sponsored plans generally are intentionally limited by the plan and may not address each worker's needs. As discussed above, each worker's needs are different.

Often, a Rollover IRA offers worker's the ability to find a product that is more suitable and meets their guaranteed income needs.

- Cost is Not a Significant Factor – Cost is not a major disincentive to workers choosing lifetime income options, as income annuity pricing is very competitive. The loads on individual annuities sold outside of plans are very low and sometimes approach zero.[3] However, human psychology is such that individuals still often are reluctant to hand over a portion of their savings to an insurance company in exchange for a stream of income payments. Education through an advisor generally is required to help workers understand the value of annuities and make them comfortable with the idea of converting a portion of their savings into an annuity.

Are there steps that the Agencies could or should take to overcome at least some of the concerns that keep plan participants from requesting or electing lifetime income?

The following are steps the Agencies could take to encourage more workers to convert a portion of their retirement savings into lifetime income:

- Promote Annuity Illustrations: The Agencies could encourage or require defined contribution plans to show a worker's balance in the form of lifetime income. This will encourage workers to think about their retirement savings in terms of income rather than a lump sum. The formulas and assumptions for these calculations should be standardized and provided by the government annually to ensure consistency across plans.
- Promote Greater Education of Retirement Income Options: The Agencies could encourage employers to educate workers about lifetime income, including the availability of annuity options both through employer-sponsored plans and within Rollover IRAs.

6. What types of lifetime income or other arrangements designed to provide a stream of income after retirement are available to individuals who have already received distributions from their plans (out-of-plan options), such as IRA products, and how are such arrangements being structured (fixed, inflation adjusted, or other variable, immediate or deferred, etc.)? Are there annuity products under which plan accumulations can be rolled over to an individual retirement annuity of the same issuer to retain the annuity purchase rights that were available under the plan?

The following is an overview of the immediate lifetime income annuities and related features that New York Life offers through the IRA market:

- "Single or Joint Life Only" Income Annuity
  - A "Single Life Only" policy provides payments for the remainder of a person's life, regardless of how long he or she lives. This option provides the highest income for any premium, but payments cease upon death.
  - "A "Joint Life Only" policy pays an income for as long as one of two specified individuals (usually spouses) continues to live. If one person dies, payments continue to the survivor for the rest of his or her lifetime. All else being equal, a given premium amount will provide a lower income if it is designed to last throughout the lives of two individuals, rather than the life of one alone.

[3] *Id.,* at 7.

- "Single Life or Joint Life with Period Certain" Income Annuity – This policy pays a lifetime income that lasts for either one or two lifetimes and guarantees a minimum number of years of payments (5 to 30 years). If the individual (or both individuals, in the case of a joint policy) dies before the guaranteed payment period has elapsed, the remaining guaranteed payments are made to the designated beneficiaries.
- "Single or Joint Life with Cash Refund" Income Annuity – This policy pays a lifetime income that lasts for either one or two lifetimes and guarantees that the policyholders and their beneficiaries receive income benefits totaling at least the amount paid for the policy. If the individual (or both individuals, in the case of a joint policy) dies prematurely, the designated beneficiaries will receive the difference between the premium paid for the policy and the sum of the payments you received from the policy.
- "Annual Increase Option" – To complement any of the annuity policies described above, an individual can also choose an annual increase option to protect against the effects of inflation. With this option, initial payments under the policy start lower, but the payments will increase each year by 1% to 5%, depending on the percentage the policyholder chooses.
- "Income Enhancement Option" – This optional feature offers individuals a way to potentially take advantage of rising interest rates to increase his or her lifetime income annuity payments. This option works in conjunction with a benchmark interest rate index to provide a potential one-time increase in income payments going forward if the rate is at least two percentage points higher on the policy's fifth anniversary. The increase amount is fixed when the policy is issued so the individual will know exactly when and by how much the payments may potentially increase.

New York Life also offers fixed and variable deferred annuities in the non-qualified market. These annuities are used to accumulate funds that can then be annuitized when the owner decides her or she wants guaranteed lifetime income (generally at or after retirement).

8. What are the advantages and disadvantages for participants of selecting lifetime income payments through a plan (in-plan option) as opposed to outside a plan (e.g., after a distribution or rollover)?

When selecting lifetime income payments through a plan as opposed to outside a plan, workers can benefit from administrative convenience. However, as described below, there also are advantages for participants of selecting lifetime income payments outside a plan.

- Increased Selection of Providers – Choosing an annuity outside of a plan allows workers to choose among a greater number of annuity providers. The financial strength of an insurer is an essential consideration for workers to consider when purchasing a lifetime income annuity that involves a 20-, 30-, possibly a 40-year commitment of guaranteed income. Ensuring that an insurer will be there to pay for a lifetime of income is perhaps the most important consumer protection related to lifetime income options. As such, workers may want the flexibility to select the annuity provider of their choice.
- Increased Product Features – The product features available through an employer may be more limited than what can be purchased outside a workplace plan.
- Partial Annuitization – Some plan sponsors do not offer workers the option of annuitizing only a portion of their retirement account. Such workers can convert their account into a Rollover IRA to choose to annuitize only the desired portion of their account.
- Individualized Advice - While plan sponsors may offer benefits such as in-plan education, many firms simply do not offer the personalized one-on-one support that customers need when selecting retirement income products. Outside a plan, an individual can work with an advisor who can help

the worker assess all of her retirement assets, her income needs, and her liquidity needs to determine how much, if any, of the worker's assets should be annuitized.

9. What are the advantages and disadvantages from the standpoint of the plan sponsor of providing an in-plan option for lifetime income as opposed to leaving to participants the task of securing a lifetime income vehicle after receiving a plan distribution?

Based on research conducted by Mathew Greenwald & Associates, plan sponsors have several concerns about offering in-plan annuities, including:

- <u>Fiduciary Concerns</u> – Many plan sponsors are reluctant to recommend a product from a specific company due to the fiduciary responsibility that this will carry.
- <u>Portability</u> – Employees that change employers will have trouble deciding what to do with their annuities since currently there is no process for transferring them.
- <u>Product Complexity</u> – Annuities are complex products, and plan sponsors expect employees to have many questions about them. It can be difficult for plan sponsors to answer employee questions, given the expertise required.
- <u>Annuity Offerings Not Seen as Important to Retention</u> – Some employers see defined contribution plans as something they need to offer to retain employees. However, they do not see the inclusion of annuities as particularly helpful to improving retention.

Plan sponsors also may feel that offering annuities as an in plan distribution option is unnecessary, given that employees can rollover their plan accounts to purchase the annuity of their choosing in the highly competitive Rollover IRA market.

10. How commonly do plan sponsors offer participants the explicit choice of using a portion of their account balances to purchase a lifetime annuity, while leaving the rest in the plan or taking it as a lump sum distribution or a series of ad hoc distributions? Why do some plan sponsors make this partial annuity option available while others do not? Would expanded offering of such partial annuity options -- or particular ways of presenting or framing such choices to participants -- be desirable and would this likely make a difference in whether participants select a lifetime annuity option?

Some plan sponsors do not offer participants the choice of annuitizing just a portion of their account balance due to administrative costs and complexities, operational inefficiencies, costs of related participant education, and a general lack of demand from plan participants. Additionally, employers' human resources departments generally are not capable of evaluating each plan participant's complete financial portfolio to decide what portion, if any, of his or her plan balance should be annuitized.

Despite these obstacles, customers should be offered the chance to annuitize just a portion of their balance. As discussed in responses above, there is no "one size fits all" solution when it comes to retirement income.

11. Various "behavioral" strategies for encouraging greater use of lifetime income have been implemented or suggested based on evidence or assumptions concerning common participant behavior patterns and motivations. These strategies have included the use of default or automatic arrangements (similar to automatic enrollment in 401(k) plans) and a focus on other ways in which choices are structured or presented to participants, including efforts to mitigate "all or nothing" choices by offering lifetime income on a partial, gradual,

or trial basis and exploring different ways to explain its advantages and disadvantages. To what extent are these or other behavioral strategies being used or viewed as promising means of encouraging more lifetime income?

To achieve the goal of increasing annuitization, the government should encourage annuitization but <u>not</u> mandate it. Mandating the purchase of annuities, through an auto-annuitization or default annuitization structure (even with a trial period), is not an appropriate or effective way to increase annuitization.

Unlike the accumulation of savings, the distribution of savings through annuitization is not a "one size fits all" solution. Under an auto-annuitization program, some unhealthy or over-annuitized workers will inevitably purchase annuities that are not appropriate investments. Media stories about these individuals dying prematurely or lacking liquidity in an emergency could quickly turn public sentiment against annuitization. All of the gains that have been made in recent years in educating consumers, financial advisers and employers about the benefits of annuitization could be lost. Therefore, the net result of the mandate could be lower annuitization rather than higher.

In addition, auto-annuitization is not an effective way to increase retirement income because such programs would offer a relatively minimal benefit to the majority of workers. A more effective policy approach would be to encourage workers to delay Social Security. For most workers, the extra income that they would receive by delaying Social Security payments far exceeds the benefit that would be obtained from annuitizing a substantial portion of their DC plan balance.

<u>Concerns about Auto-Annuitization Both in DC Plans and at Retirement</u>

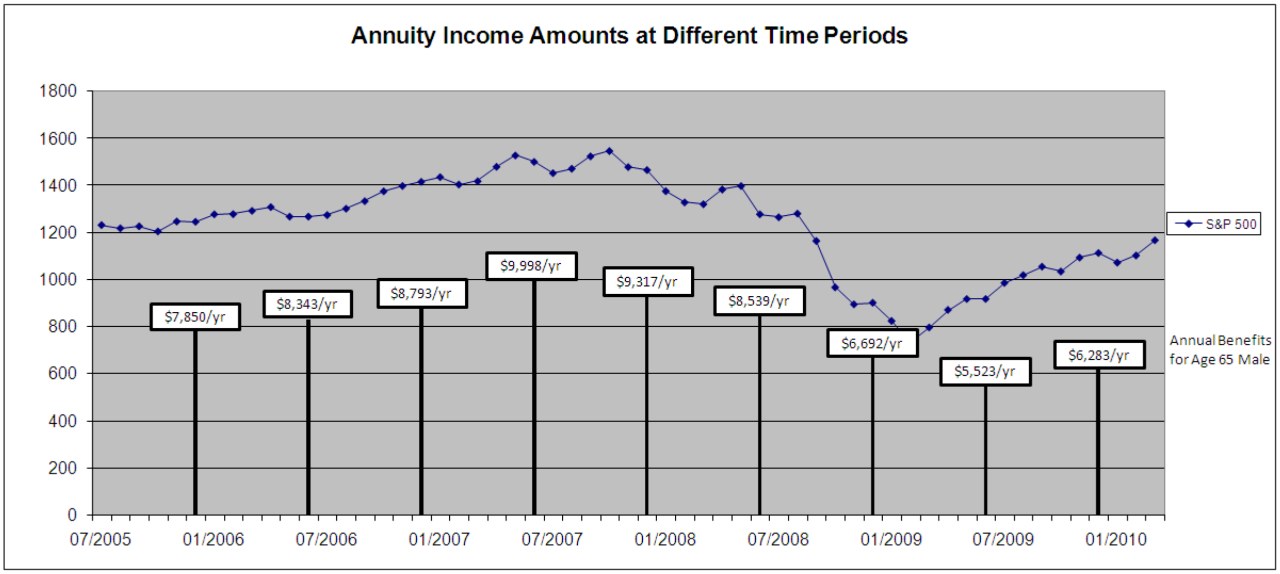
Mandating auto-annuitization both in DC plans and at retirement may not be an appropriate or effective way to encourage annuitization.

1. *<u>Individual needs are different</u>* – Because each individual's financial needs are different, annuities are not "one size fits all" solutions. The amount of one's retirement savings that should be annuitized should be determined only after careful consideration of one's total finances, expenses, health and future income needs. Unlike accumulation planning, retirement planning requires one advisor to understand a worker's entire financial picture. The human resource department of a corporation is not structured to serve as this advisor. The counsel of a knowledgeable advisor should be strongly encouraged for purchases of all annuities.

2. *<u>Any trial period would increase the cost of annuities</u>* – A trial period for annuities would increase the cost of such annuities, as insurers must properly hedge against the risk that participants will opt out of the annuity if interest rates rise and higher paying annuities are therefore available. If interest rate were to rise, the values of fixed income investments (e.g., bonds) would fall. Insurers would be forced to sell assets at a loss to cover the cash flow demands. To properly manage these risks, insurers ultimately would need to lower benefits provided to consumers. Using readily available market instruments, as of 9/2009, the cost of hedging the interest rate risk associated with a two-year trial period would be approximately 5% of annuity premium. Additionally, insurers must properly reflect the risk that individuals whose mortality risk increases during the trial period also will opt out. To properly reflect this "anti-selection" risk, insurers would further lower the benefits available to the consumers.

3. *<u>Mandatory annuitization at a specific point of time is not appropriate</u>* – While an individual may have appropriate reasons for choosing to annuitize at any given time, *requiring* a retiree to annuitize at a specific point in time is inappropriate since when a retiree annuitizes can have

significant financial implications. As shown below, income benefits from annuities vary significantly over time, due to changes in the stock market and interest rates. In the last four and a half years, annuity benefits have varied by as much as 81% (*e.g.*, compare rates on 7/2007 versus 7/2009).



The table above shows annuity income amounts for a sample carrier calculated at different time periods over the past four and a half years. The benefit amount on 1/06 is calculated based on a $100K premium. The subsequent benefit amounts are calculated based on the $100K plus any asset returns earned from 1/06 to the annuitization date. All amounts are calculated using then current interest rates.

4. <u>*Unisex pricing will discourage male participation*</u> – DC plans are required to offer unisex pricing for annuities. Males have shorter life expectancy and therefore receive better retail annuity payout rates. Unisex pricing penalizes males for purchasing annuities inside a DC plan.

<u>Mandating Auto-Annuitization May Hinder Efforts to Increase Annuitization</u>

1. If the wrong people are defaulted into an annuity, this could quickly turn public sentiment against annuitization and reduce the number of workers who choose annuities.
   - If auto-annuitization is mandated, some unhealthy workers will inevitably fail to opt out, and stories about people losing "half their life savings" may turn the public and press against annuities.
   - New York Life and other companies have worked to educate the media on the differences between various types of annuities and why income annuities are good investments for consumers. As a result, the media has turned largely positive on income annuities. If unhealthy workers fail to opt out of auto-annuitization and then die prematurely, the negative media stories will hinder efforts to educate consumers about the benefits of guaranteed lifetime income.

2. The market already is working to promote annuitization.
   - Annuity loads have decreased as companies have become more efficient and competitive.[4]

[4] *Id.*, at 5.

- Many companies are developing new in plan solutions (*e.g.*, Prudential's Income Flex, MetLife's Personal Pension Builder and BlackRock's Sponsor Match).
- If a specific type of annuitization is mandated, it will likely discourage companies from developing new solutions since there will be little opportunity to generate sales outside of the mandated annuitization. This will reduce competition and innovation.

<u>Alternative Approaches Would More Effectively Reach Target Population</u>

The most effective way for the vast majority of older workers to increase their retirement income may be to delay withdrawing money from Social Security. The average retirement age currently is 63 for men and 62 for women.[5] For the average worker, delaying receipt of Social Security until the full retirement age of 66 would increase the worker's Social Security income by 33%. Further delaying retirement until the maximum retirement age of 70 would increase the worker's Social Security income by 76%. Encouraging individuals to work a few more years also is good public policy from a fiscal perspective, since it will increase lifetime tax revenues per worker and increase the amount each individual pays into Medicare.

		Avg. Monthly SS Payment	Incremental Increase from Delaying SS	Percentage Change in Income
Age	62	$1,200		
	66	$1,600	$400	33%
	70	$2,112	$912	76%

On average, the extra income that an individual receives by delaying Social Security payments far exceeds the benefit that can be obtained from annuitizing a substantial portion of the individual's DC plan. Annuitizing $25,000 (half of Fidelity's average 401(k) account balance[6]) would result in monthly payments of only $104 at age 62, $116 at age 66, and $132 at age 70 –- and would reduce financial flexibility for those with few other assets.[7]

Auto-annuitization programs also offer little or no benefit for most workers except the wealthiest. For example, Professor Jeffrey Brown of the University of Illinois has proposed an auto-annuitization program that would default into an annuity only those workers who have DC plan account balances over $40,000 upon retirement. Based on data set forth in the Retirement Security Project's "Increasing Annuitization in 401(k) plans with Automatic Trial Income," only the top 20% of couples aged 65, and fewer than 10% of individuals aged 65 have more than $40,000 in their DC plans on average.

[5]Source: "Work Opportunities For Older Americans", Center for Retirement Research at Boston College, August 2007

[6] Actual number was $50,200. Source: The Impact of the Recent Financial Crisis on 401(k) Account Balances, Employee Benefits Research Institute, http://www.ebri.org/pdf/briefspdf/EBRI_IB_2-2009_Crisis-Impct.pdf.

[7] Illustrations run on August 13, 2009.

Therefore, such an auto-annuitization program would benefit only a small portion of the population that tends to be wealthier than average. (It also is notable that the increase in the percentage of one's assets that would be annuitized under Brown's proposal ranges from 0-4% for couples and 0-1% for individuals.) (See chart entitled "Annuitization Levels for Different Wealth Groups" on page 12, below.)

Alternative Behavioral Strategies

To the extent it is appropriate given competing budgetary pressures, the government could provide tax incentives to encourage individuals to put some of their assets into lifetime income. For example, individuals could receive a limited tax exclusion for income received from an annuity or face less restrictive rules for withdrawals from qualified plans if such withdrawals take the form of annuity payments.

New York Life Insurance Company
Comment Letter Re: Request for Information on Lifetime Income Options

Annualization Levels for Different Wealth Groups

RSP Paper "Increasing Annuitization in 401(k) Plans with Automatic Trail Income", Page 6, Table 2*

COUPLES

Decile Group	1	2	3	4	5	6	7	8	9	10
Social Security	$ 142,111	$ 209,310	$ 227,351	$ 251,752	$ 260,138	$ 272,463	$ 261,455	$ 270,474	$ 296,868	$ 301,920
DB Pensions	$ 10,203	$ 28,973	$ 75,548	$ 77,523	$ 129,641	$ 160,455	$ 187,735	$ 205,334	$ 303,128	$ 394,919
DC Pensions**	$ 1,050	$ 5,971	$ 6,410	$ 14,895	$ 12,419	$ 10,595	$ 21,742	$ 21,685	$ 43,847	$ 122,548
Other Assets***	$ 2,547	$ 17,870	$ 33,327	$ 61,868	$ 77,461	$ 103,869	$ 178,362	$ 275,926	$ 365,292	$ 852,772
Property	$ 27,981	$ 49,910	$ 72,096	$ 92,295	$ 104,334	$ 140,692	$ 154,831	$ 185,561	$ 215,589	$ 568,069
Total Wealth	$ 183,892	$ 312,034^	$ 414,732	$ 498,333^	$ 583,993	$ 688,074	$ 804,125	$ 958,980	$ 1,224,724	$ 2,240,228
Annuitized Wealth (SS+DB)	$ 152,314	$ 238,283	$ 302,899	$ 329,275	$ 389,779	$ 432,918	$ 449,190	$ 475,808	$ 599,996	$ 696,839
% Annuitized	83%	76%	73%	66%	67%	63%	56%	50%	49%	31%
% Annuitized Under Proposal (annuitize 50% of DC, if DC>$40K)	83%	76%	73%	66%	67%	63%	56%	50%	51%	34%
Increase in % Annuitized	*0%*	*0%*	*0%*	*0%*	*0%*	*0%*	*0%*	*0%*	*2%*	*3%*
% Annuitized Under Proposal - Modified (annuitize 50% of DC, no balance requirement)	83%	77%	74%	68%	68%	64%	57%	51%	51%	34%
Increase in % Annuitized	*0%*	*1%*	*1%*	*1%*	*1%*	*1%*	*1%*	*1%*	*2%*	*3%*

****The rows highlighted in pink have been realigned. In the original chart (provided on the next page), the numbers in the top four lines appear to have been inadvertently pushed down one row.**

SINGLES

Decile Group	1	2	3	4	5	6	7	8	9	10
Social Security	$ 48,255	$ 76,283	$ 88,380	$ 112,529	$ 105,517	$ 101,489	$ 120,855	$ 124,787	$ 125,908	$ 136,255
DB Pensions	$ 597	$ 3,724	$ 10,136	$ 8,847	$ 46,983	$ 48,726	$ 62,951	$ 90,020	$ 155,121	$ 216,720
DC Pensions**	$ 6	$ 290	$ 567	$ 1,616	$ 3,925	$ 2,127	$ 7,162	$ 3,971	$ 5,545	$ 23,395
Other Assets***	$ 40	$ 1,149	$ 7,096	$ 7,977	$ 7,150	$ 42,444	$ 41,725	$ 92,725	$ 163,253	$ 352,784
Property	$ 1,124	$ 8,190	$ 14,145	$ 22,445	$ 33,826	$ 56,117	$ 80,399	$ 90,144	$ 119,975	$ 299,845
Total Wealth	$ 50,022	$ 89,636	$ 120,324	$ 153,414	$ 197,401	$ 250,903	$ 313,092	$ 401,647	$ 569,802	$ 1,028,999
Annuitized Wealth (SS+DB)	$ 48,852	$ 80,007	$ 98,516	$ 121,376	$ 152,500	$ 150,215	$ 183,806	$ 214,807	$ 281,029	$ 352,975
% Annuitized	98%	89%	82%	79%	77%	60%	59%	53%	49%	34%
% Annuitized Under Proposal (annuitize 50% of DC, if DC>$40K)	98%	89%	82%	79%	77%	60%	59%	53%	49%	34%
Increase in % Annuitized	*0%*	*0%*	*0%*	*0%*	*0%*	*0%*	*0%*	*0%*	*0%*	*0%*
% Annuitized Under Proposal - Modified (annuitize 50% of DC, no balance requirement)	98%	89%	82%	80%	78%	60%	60%	54%	50%	35%
Increase in % Annuitized	*0%*	*0%*	*0%*	*1%*	*1%*	*0%*	*1%*	*0%*	*0%*	*1%*

Main Observations

- America is heavily annuitized at retirement already.
- Even at the 5th decile, more than 65% of assets is annuitized.
- The proposal of annuitizing 50% of DC balance if the balance is greater than $40K only affects the top two decile for couples (see yellow highlights).
- Even if the minimum balance requirement of the DC account is removed, the impact on the percent of wealth annuitized is insignificant (see orange highlights).

Footnotes

** Original data from Dushi and Webb, 2004 was modified by authors*
*** Wealth in Employer DC Plans*
**** Includes business assets, financial assets and IRAs*
^ Corrected values

TABLE 2.

Social Security and Defined Benefit Plans as Share of Wealth

	Total wealth deciles									
Couples	1 =lowest decile group	2	3	4	5	6	7	8	9	10 =highest decile group
Retirement wealth										
Social Security	153,364	244,224	309,309	337,310	402,198	443,513	470,932	497,493	643,843	819,387
DB pensions	142,111	209,310	227,351	251,752	260,138	272,463	261,455	270,474	296,868	301,920
DC pensions	10,203	28,973	75,548	77,523	129,641	160,455	187,735	205,334	303,128	394,919
Net non-retirement	1,050	5,971	6,410	14,895	12,419	10,595	21,742	21,685	43,847	122,548
financial wealth	2,547	17,870	33,327	61,868	77,461	103,869	178,362	275,926	365,292	852,772
Property	27,981	49,910	72,096	92,295	104,334	140,692	154,831	185,561	215,589	568,069
Total wealth	183,892	312,004	414,732	491,473	583,993	688,074	804,125	958,980	1,224,724	2,240,227
As percent of total wealth										
Social Security	77	67	55	51	45	40	33	28	24	13
DB pensions	6	9	18	16	22	23	23	21	25	18
Social Security + DB pensions	83	76	73	67	67	63	56	49	49	31
Number of obs	180	158	158	144	140	139	128	126	131	114
With DB	44	78	118	96	120	117	103	101	107	74
Singles										
Retirement wealth	48,858	80,297	99,083	122,992	156,425	152,342	190,968	218,778	286,574	376,370
Social Security	48,255	76,283	88,380	112,529	105,517	101,489	120,855	124,787	125,908	136,255
DB pensions	597	3,724	10,136	8,847	46,983	48,726	62,951	90,020	155,121	216,720
DC pensions	6	290	567	1,616	3,925	2,127	7,162	3,971	5,545	23,395
Net non-retirement financial wealth	40	1,149	7,096	7,977	7,150	42,444	41,725	92,725	163,253	352,784
Property	1,124	8,190	14,145	22,445	33,826	56,117	80,399	90,144	119,975	299,845
Total wealth	50,022	89,636	120,324	153,415	197,401	250,903	313,092	401,647	569,802	1,028,999
As percent of total wealth										
Social Security	96	85	73	73	53	40	39	31	22	13
DB pensions	1	4	8	6	24	19	20	22	27	21
Social Security + DB pensions	97	89	81	79	77	59	59	53	49	34
Number of obs	69	60	53	60	52	47	46	49	51	33
With DB	4	11	12	16	33	29	37	37	41	24

Source: Dushi and Webb 2004.
Note: Wealth appears in 2000 dollars. Data are from the Health and Retirement Study.

12. How should participants determine what portion (if any) of their account balance to annuitize? Should that portion be based on basic or necessary expenses in retirement?

The amount to annuitize should be based on both basic and discretionary expenses, in conjunction with other considerations, such as financial assets, health condition, bequest motives, and other retirement factors. For example, an unhealthy 70-year-old who is receiving the vast majority of her retirement income from Social Security may need to keep her remaining assets liquid for medical emergencies. Individual needs are different and working with a financial professional is the most appropriate solution. An advisor can create a customized financial plan that incorporates all these considerations. A Rollover IRA is often the most effective vehicle to give the advisor the flexibility to address the customer's specific needs.

13. Should some form of lifetime income distribution option be required for defined contribution plans (in addition to money purchase pension plans)? If so, should that option be the default distribution option, and should it apply to the entire account balance? To what extent would such a requirement encourage or discourage plan sponsorship?

Until the concerns employers have with respect to offering annuities (see question 9) are addressed, it would be more appropriate for the government to encourage lifetime income through means other than mandating employers offer annuities as a distribution option at this time.

16. Are there differences across demographic groups (for example men vs. women) that should be considered and reflected in any retirement security program? Can adjustments for any differences be made within existing statutory authority?

Life expectancies are different among men and women. DC plans currently are required to offer the same rates for both men and women. Males, on average, have shorter life expectancies and therefore generally can obtain lower cost annuities by purchasing annuities through in the retail IRA market. In contrast, women can generally obtain lower cost annuities through their DC plans, where their rates are subsidized by "higher" rates charged to male DC plan participants.

PARTICIPANT EDUCATION

17. What information (e.g., fees, risks, etc.) do plan participants need to make informed decisions regarding whether to select lifetime income or other arrangements designed to provide a stream of income after retirement? When and how (i.e., in what form) should it be provided? What information currently is provided to participants, who typically provides it, and when and how is it provided to them?

To make an informed decision regarding whether to select lifetime income as their distribution option, plan participants need basic information about: (1) annuitization and the risks it addresses (*i.e.,* the risk of outliving one's savings, sequence of returns risk) and (2) the annuity options offered, including the different types of guarantees provided and the costs of those guarantees. Additionally, plan participants must be given data to help them understand the financial strength of the insurer(s) providing the annuity options under the plan, given the importance of ensuring a provider will be able to meet the long-term promises made under the annuity contract. Finally, plan participants also generally require advice about what portion, if any, of their account balance is appropriate given their individual circumstances.

While a plan sponsor, typically through its human resources department or plan provider, can offer information and advice to employees, it is difficult to personally reach all employees – especially in large organizations, or those with a geographically diverse population. Additionally, HR departments generally cannot offer holistic retirement planning services to employees. The employer's responsibility is typically limited to the confines of their employees' participation in retirement plans offered by that employer. However, given that employees typically change jobs more than 10 times over their careers,[8] one employer's 401(k) plan is likely to hold only a portion of an employee's retirement portfolio. Yet, an assessment of an employee's entire portfolio, in conjunction with other considerations, such as basic and discretionary expenses, assets, liquidity needs, bequest motives, and other factors is necessary to create an appropriate retirement plan.

18. Is there a need for guidance, regulatory or otherwise, regarding the extent to which plan assets can be used to pay for providing information to help participants make informed decisions regarding whether to select lifetime income or other arrangements designed to provide a stream of income after retirement, either via an in-plan or out-of plan option?

Current DOL guidance allows plans to use plan assets to pay for participant investment education related to retirement income. However, additional guidance is needed to clarify that plan sponsors may use such assets to provide advice about lifetime income options that include those available outside of the plan. Further, additional guidance should clarify that when providing advice about retirement income, plan sponsors' advice should take into account not just the participant's account in the plan sponsored by the employer, but also the participant's assets outside the plan. Without a view into a participant's entire retirement and non-retirement portfolio, an advisor would not be able to make a proper recommendation as to the suitability of an annuity or how much of the participant's entire portfolio should be annuitized.

19. What specific legal concerns do plan sponsors have about educating participants as to the advantages and disadvantages of lifetime income or other arrangements designed to provide a stream of income after retirement? What actions, regulatory or otherwise, could the Agencies take to address such concerns?

Plan sponsors have some concern that by educating plan participants about lifetime income annuities, participants will view such education as a recommendation of the annuity offered through the plan. A way to alleviate this concern would be to require that education about annuities include a discussion of the availability of annuity options both in the plan and via a rollover to an IRA.

20. To what extent should plans be encouraged to provide or promote education about the advantages and disadvantages of lifetime annuities or similar lifetime income products, and what guidance would be helpful to accomplish this?

[8] Bureau of Labor Statistics, "Number of Jobs Held, Labor Market Activity, and Earnings Growth among the Youngest Baby Boomers: Results from a Longitudinal Survey," June 2008.

Plan sponsors should be encouraged to provide participants education about the availability of lifetime income options through the plan and outside the plan. Educating participants about such options will encourage greater adoption of guaranteed lifetime income products.

DISCLOSING THE INCOME STREAM THAT CAN BE PROVIDED FROM AN ACCOUNT BALANCE

21. Should an individual benefit statement present the participant's accrued benefits as a lifetime income stream of payments in addition to presenting the benefits as an account balance?

Yes. Requiring plan sponsors to provide an illustration of each participant's balance in terms of a lifetime income stream will help educate consumers about the value of annuitized income.

22. If the answer to question 21 is yes, how should a lifetime stream of income payments be expressed on the benefit statement? For example, should payments be expressed as if they are to begin immediately or at specified retirement ages? Should benefit amounts be projected to a future retirement age based on the assumption of continued contributions? Should lifetime income payments be expressed in the form of monthly or annual payments? Should lifetime income payments of a married participant be expressed as a single-life annuity payable to the participant or a joint and survivor-type annuity, or both?

See response to question 23, below.

23. If the answer to question 21 is yes, what actuarial or other assumptions (e.g., mortality, interest, etc.) would be needed in order to state accrued benefits as a lifetime stream of payments? If benefit payments are to commence at some date in the future, what interest rates (e.g., deferred insurance annuity rates) and other assumptions should be applied? Should an expense load be reflected? Are there any authoritative tools or sources (online or otherwise) that plans should or could use for conversion purposes, or would the plan need to hire an actuary? Should caveats be required so that participants understand that lifetime income payments are merely estimates for illustrative purposes? Should the assumptions underlying the presentation of accrued benefits as a lifetime income stream of payments be disclosed to participants? Should the assumptions used to convert accounts into a lifetime stream of income payments be dictated by regulation, or should the Department issue assumptions that plan sponsors could rely upon as safe harbors?

If the government were to mandate that plan sponsors include annuity illustrations on participant statements, we believe the government should provide standardized formulas and assumptions that ensure consistency across the industry. The following assumptions should be standardized:

- Annuity payout rates for specific ages (e.g., 62, 66 and 70). These rates could be calculated using an average of the top 10 annuity providers (top 10 companies may be defined as the top 10 sellers reported by LIMRA as of December 31st of the previous year).
- Inflation rate.
- Market return.

Fewer assumptions would be necessary if plan sponsors are required to use the participant's current account balance, rather than the participants hypothetical account balance at retirement. If the projected income streams were based on current account balances, the government would need to provide data only on annuity payouts. (Senator Jeff Bingaman (D-NM) has introduced legislation, the "Lifetime Income Disclosure Act" (S. 2832), which takes this approach.) Using the participant's current account balance in the annuity illustration is preferable in that it educates employees about the true value of their current account in terms of lifetime income and does not create potentially inaccurate expectations about the market return on their investments.

We have provided examples of two potential formats on pages 18 and 19, below. The first example uses the projected account balance at retirement, and the second example uses the current account balance.

Potential Format for Income Illustration Based on Projected Account Balance in DC Plan Statements

A C C O U N T   S T A T E M E N T

RETIREMENT INCOME PROJECTION AS OF MM/DD/YYYY

For John Sample, Age 45

POTENTIAL MONTHLY INCOME

To help plan your retirement, the following table shows how much monthly income you can receive at retirement if contributions to your account remain unchanged. The amounts shown are hypothetical and are not guaranteed.

Retirement Age	Account Return		
	3%	6%	9%
62	$1,246	$1,880	$2,834
66	$1,580	$2,620	$4,359
70	$1,990	$3,619	$6,647

Assumptions:

- current contribution increases 3% annually to reflect inflation.
- The monthly income is calculated based on a payout rate of 7.5% for age 62, 8.0% for age 66, and 8.5% for age 70.
- The projected income at retirement is discounted 3% annually to reflect today's dollars.

ACCOUNT SUMMARY

Opening Balance	$	94,428.08
Contribution & Deposits	$	1,740.00
Redemption & Payments	$	-
Change in Market Value	$	255.83
Closing Balance	$	96,423.91

Disclosure

Your actual account performance will differ and may be higher or lower than the figures shown. Sample values shown are estimates, not guarantees, and do not reflect federal/state taxes or investment fees.

The table is for informational and educational purposes only and does not constitute advice.

Potential Format for Income Illustration Based on Current Account Balance in DC Plan Statements

A C C O U N T   S T A T E M E N T

RETIREMENT INCOME PROJECTION AS OF MM/DD/YYYY

For John Sample, Age 45

POTENTIAL MONTHLY INCOME

To help plan your retirement, the following table shows how much monthly income you can receive at retirement with your current account balance. The amounts shown are hypothetical and are not guaranteed.

Retirement Age	Monthly Income
62	$603
66	$643
70	$683

Assumptions:

- The monthly income is calculated based on a payout rate of 7.5% for age 62, 8.0% for age 66, and 8.5% for age 70.
- The monthly income is based on your closing balance, assuming no further contributions or investment returns.

ACCOUNT SUMMARY

Opening Balance	$	94,428.08
Contribution & Deposits	$	1,740.00
Redemption & Payments	$	-
Change in Market Value	$	255.83
Closing Balance	$	96,423.91

Disclosure

Sample values shown are estimates, not guarantees, and do not reflect federal/state taxes or investment fees.

The table is for informational and educational purposes only and does not constitute advice.

24. Should an individual benefit statement include an income replacement ratio (e.g., the percentage of working income an individual would need to maintain his or her preretirement standard of living)? If so, what methodology should be used to establish such a ratio, such as pre-retirement and post-retirement inflation assumptions, and what are the impediments for plans to present the ratio in a meaningful way to participants on an individualized basis?

Individual benefit statements should not include income replacement ratios, as a worker's account balance in an employer sponsored plan provides an incomplete picture of the individual's full financial portfolio. Additionally, income needs during retirement vary significantly from individual to individual. For example, a small local business owner who had mostly work-related expenditures prior to retirement will have a much smaller income replacement ratio compared to a wealthy senior executive who would like to maintain his/her pre-retirement life style. As a result, a standard replacement ratio is not meaningful and should not be used in benefit statements. Rather, the statement should include a lifetime income illustration and encourage plan participants to consult with a financial professional.

401(K) AND OTHER PLAN QUALIFICATION RULES

28. How do the required minimum distribution rules affect defined contribution plan sponsors' and participants' interest in the offering and use of lifetime income? Are there changes to those rules that could or should be made to encourage lifetime income without prejudice to other important policy objectives? In particular, how are deferred annuities that begin at an advanced age (sometimes referred to as longevity insurance) affected by these rules? Are there changes to the rules that could or should be considered to encourage such arrangements?

The required minimum distribution (RMD) rules for annuity contracts under Section 401(a)(9) of the Internal Revenue Code should be modified to allow insurers to offer lifetime income annuity contracts that more effectively satisfy important consumer needs and risks during retirement. Based on New York Life's extensive experience in the marketplace, current RMD rules are not sufficiently sensitive to: (i) longevity risk, (ii) retirees' anticipated inflation risk, and (iii) material unanticipated changes in a retiree's cash-flow needs during retirement. Amending these RMD rules will enable insurers to create products that better address consumers' income needs and concerns about annuities and therefore help promote greater annuitization.

Today, the RMD rules generally require that annuity payments be made at least annually over the taxpayer's life or the lives of the taxpayer and his or her designated beneficiary. In addition, annuity payments must be non-increasing (with certain limited exceptions) and the interval between annuity payments must be uniform throughout the distribution period.

One of the benefits of funding an immediate lifetime income annuity from a tax-qualified source (employer sponsored plan or IRA) is that annuity payments, if properly structured, automatically satisfy the complex RMD rules with respect to the funds used to purchase the annuity. A retiree has no need to calculate annually the RMD amount for the annuity and does not have to remember to annually request distributions to satisfy the RMD rules applicable to the annuity. Thus, an annuity that complies with the RMD rules relieves a retiree of considerable administrative burdens and the risk of significant tax penalties for failure to satisfy the rules.

Nevertheless, the RMD rules significantly limit an insurer's ability to structure annuity payments to accommodate income needs and risks that often change during retirement. For example, an individual may wish to increase his or her annuity payments to compensate for the loss of income following retirement or to address his or her anticipated cost of living increases. Further, an individual may wish to only temporarily increase his or her annuity payments to bridge the gap between retirement and the commencement of Social Security or pension benefits or to help pay for nursing home or other unanticipated medical expenses. Existing RMD rules frequently do not allow changes in lifetime annuity payments that are designed to meet such needs.

In particular, in order to satisfy the annuity RMD rules, all annuity payments must be non-increasing or increase only in accordance with specific exceptions enumerated in the RMD regulations under Code Section 401(a)(9). One of the exceptions to the non-increasing payment rule is for annuity payments that increase by a constant percentage at least annually.[9] However, in order for this exception to apply, the "total future expected payments" under the annuity contract must exceed the "total value being annuitized" (the purchase price of the annuity contract). The "total future expected payments" means the total future payments expected to be made under the annuity contract as of the purchase date, *disregarding* any future increases in annuity payments.

The following are two examples illustrating annuity payment options that are designed to satisfy the various consumer needs described above but that cannot satisfy the current annuity RMD rules.

Example 1. Joe Smith purchases a tax-qualified single life annuity contract with a 20-year period certain through an IRA. Because Joe is aware of historical increases in the cost of living and is concerned about future increases in the cost of living, he elects an option under the annuity contract providing that his annual payments will increase 4 percent each year. The purchase price of the annuity is $110,000. The annuity provides Joe with an initial payment of $5,400 at the time of purchase in 2010. The total future expected payments to Joe under the annuity contract are $108,000, calculated as the initial annual payment of $5,400 multiplied by the period certain of 20 years. Under the current rules, the annual 4 percent increase in payments is not taken into account in determining total future expected payments for this purpose. As a result, because the total future expected payments ($108,000) are less than the total value used to purchase the annuity contract ($110,000), distributions received by Joe do not meet the non-increasing payment requirement and, thus, fail to meet the requirements of the annuity RMD rules.

Example 2. Jane Doe attained age 70 ½ in 2010 and is still employed. Jane has an IRA with an account balance of $200,000. Jane is required to start taking RMDs from her IRA account by April 1, 2011. Jane anticipates working for another five years and her employer does not maintain a defined benefit plan. Jane decides to purchase an individual retirement annuity to satisfy her RMD requirements with respect to her IRA account balance. The contract is a fixed single life annuity contract with a 20-year period certain. Since Jane is planning to work another 5 years, she would like her annuity payments to increase after 5 years to compensate for the loss of her salary. The annuity contract contains a feature under which at the time of purchase the owner can elect his or her annuity payments to increase by a certain pre-selected percentage beginning on a certain pre-selected date.

[9] Other permitted increases in annuity payments include: (1) an annual percentage increase that does not exceed the percentage increase in an eligible cost-of-living index, (2) a percentage increase that occurs at specified times and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index, (3) to the extent of the reduction in the amount of the employee's payments to provide for a survivor benefit in the event of the beneficiary's death or the employee's divorce, (4) to allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a lump sum payment upon the employee's death, (5) to provide a final payment upon the employee's death that does not exceed the excess of the premium paid for the contract over the total of payments made before death (i.e., a typical cash refund feature), (6) to provide for variable annuity payments resulting from dividend payments or other payments that result from actuarial gains, and (7) an acceleration of payments (i.e., a full or partial commutation of the future annuity payments).

Jane elects to have her annuity payments increase by 50% beginning in November 2015, the date of her anticipated retirement. The annuity contract therefore is scheduled to pay $11,959 per year for the first 5 years and, beginning in year 6, $17,939 per year until Jane's death (or the expiration of the 20-year period certain, if later). Because annuity payments under the contract are scheduled to increase in a manner that is not specifically allowed under the RMD rules, distributions received by Jane under the contract do not meet the non-increasing payment requirement and, thus, fail to meet the requirements of the annuity RMD rules.

<u>Longevity Insurance</u>

In addition, the RMD rules should be amended to encourage greater use of "longevity insurance." The current RMD rules inhibit the use of longevity insurance products in qualified plans and IRAs. Longevity insurance generally involves the payment of a premium in consideration for lifetime annuity payments that begin at a particular age (e.g., age 85), provided the annuitant reaches that age. Longevity insurance is less expensive than more traditional guaranteed lifetime income products, but provides similar protection against longevity risk.

The RMD rules should be amended to provide that the value of longevity insurance products is excluded value for purposes of determining a taxpayer's annual RMD payment. Under the current rules, the value of such insurance is taken into account as qualified plan or IRA asset value that must be considered in determining a taxpayer's annual RMD payment, even though longevity insurance typically has no cash value and will only provide lifetime income payments if the annuitant reaches a certain age. Amending the RMD rules to exclude such value from the RMD annual payment calculation will encourage this alternative and less expensive form of insurance to protect against longevity risk.

We believe Code Section 401(a)(9) and/or the current RMD regulations should be amended to make more flexible and less mechanical the rules that apply to lifetime income annuity payments and longevity insurance, as described above. This would enable insurers to offer product features that are responsive to these various retiree concerns and risks, thus encouraging greater investment in these products during retirement.

SELECTION OF ANNUITY PROVIDERS

31. To what extent could or should the Department of Labor make changes to the safe harbor under 29 CFR 2550.404a-4 to increase its usage without compromising important participant protections? What are those changes and why should they be made?

We believe that the safe harbor has not been widely used because of plan sponsors' concerns about the provider selection elements. Specifically, plan sponsors are troubled by the safe harbor's requirement that they "assess the ability of the annuity provider to make all future payments under the annuity contract" and concludes that "the annuity provider is financially able to make all future payments under the annuity contract."

That being said, because annuities are long-term guarantees, assessing whether a particular insurer will be financially able to meet their future obligations is an <u>essential</u> part of the participant protections built into the annuity provider selection process. Arguably, whether an insurer can meet its long-term promises is the most important consumer protection related to annuities. Given the decades long nature of the guarantees associated with annuities, whether an insurer satisfies minimal regulatory requirements is <u>not</u> an appropriate measure of an insurer's ability to satisfy its commitments under a lifetime annuity contract.

As such, we would urge that the Administration issue guidance clarifying the safe harbor to facilitate employers' analysis of insurers' financial strength. Such guidance could:

- Clarify that the prudence of the decision is determined at the time of purchase based upon publicly available information at the time of purchase; and
- Identify more specifically the types of objective information a fiduciary should review, including whether the insurer is appropriately licensed and in good standing, indicators of the insurer's financial strength, and product features.

32. To what extent could or should the safe harbor under 29 CFR 2550.404a-4 be extended beyond distribution annuities to cover other lifetime annuities or similar lifetime income products? To which products should or could the safe harbor be extended?

The safe harbor under 29 CFR 2550.404a-4 should be extended to cover other guaranteed lifetime income products beyond distribution annuities. The offering to employees of any product that offers a guaranty of lifetime income raises the same fundamental issue: will the insurer be able to meet its long-term commitments under the contract? As such, the protections provided by the safe harbor are just as essential for lifetime income products other than distribution annuities as they are for distribution annuities.