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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

Attention: Lifetime Income RFI (RIN 1210-AB33)

Greetings:

On behalf of the American Council of Life Insurers ("ACLI"), we are writing to provide information in response to the Department of Labor ("DOL") and the Department of the Treasury ("Treasury") (jointly, the "Departments") Request for Information ("RFI") regarding lifetime income options for participants and beneficiaries in retirement plans, published in the Federal Register on February 2, 2010. ACLI is pleased that the Departments have undertaken this effort.

The American Council of Life Insurers represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies represent over 90% of the assets and premiums of the U.S. life insurance and annuity industry. ACLI member companies offer insurance contracts and other investment products and services to qualified retirement plans, including both defined benefit pension and 401(k) arrangements, and to individuals through individual retirement arrangements (IRAs) or on a non-qualified basis. ACLI member companies also are employer sponsors of retirement plans for their own employees.

The RFI seeks information and comments on matters germane to the Departments' consideration of lifetime annuities and similar lifetime income issues as they relate to defined contribution plans. When the ACLI and its members describe lifetime income, we are describing payments guaranteed for the life of an individual or individuals. In our financial system, such guarantees are only available from life insurers who are regulated under a system of insurance laws and regulations that are focused on the protection of policyholders. In the case of annuities and other risk protection products, those laws and regulations address rules governing reserves and capital necessary to meet the long-term commitments made by life insurers.

In this summary, we will describe:

1. the role of life insurers in providing guaranteed lifetime income and other risk protection products to employer plans (in-plan) and directly to individuals (out-of-plan);

2. the important role employers have played in helping employees protect against risks by providing information about and access to life insurance, disability insurance, annuities and other risk protection products;

3. the variety of annuities and other guaranteed lifetime income options that are available today; and

4. the highlights of our suggestions for steps which may be undertaken by the Departments or through legislation to enhance the retirement security of participants in employer plans by facilitating the use of guaranteed lifetime income.

After this summary, we provide responses to the specific questions in the RFI.

Life Insurers

The life insurance industry provides protection for individuals and families against the risk of adverse financial consequences due to premature death, long-term care needs, disability, and outliving one's financial assets or living at a substantially reduced standard of living. Financial protection provided by the life insurance industry to American households reaches across all ages and income levels. For example, in 2009, life, disability, long-term care and annuity products provided over $142 billion in benefits to contract beneficiaries and over 46% of these payments were annuity benefits.[1] This protection is offered both directly to individuals and through employers.

Employers

Employers are a key component in helping individuals obtain financial protection provided by life insurers. They provide employees with access to group life insurance, disability insurance, long-term care insurance and annuities. Half (51 percent) of all employees report obtaining the majority of their financial protection products, such as life, disability income, and long-term care insurance, as well as retirement savings plans, through

[1] ACLI calculations based on preliminary data release of 2009 NAIC annual statement data.

the workplace.[2] This commitment by employers helps to increase employee awareness and understanding of the nature and benefit of these products. Whether employers pay for all or a part of these products, or permit employees to pay for them through payroll deduction, the availability of these products at the workplace encourages employees to take action to protect themselves and their families.

ACLI members provide these financial protection products through employers (in-plan), directly to individuals (out-of-plan), or on a combination in-plan and out-of plan basis. Employer engagement has helped Americans understand the importance of life insurance and disability insurance. The financial protection which can be provided by guaranteed lifetime income may be less understood than the benefits of life and disability insurance and other insurance products. This difference may be partly attributed to the prevalence in the past of defined benefit plans which provided lifetime income without the need for the employee to make a decision to obtain the benefit. As more and more employers choose to offer defined contribution plans over defined benefit plans, we believe that employers can play a key role in helping employees understand the benefits of, and gain access to, the protection provided by guaranteed lifetime income.

Guaranteed Lifetime Income Products

The RFI asks about the types of lifetime income that are available from an employer plan, i.e., "in-plan," as well as types of lifetime income that are available "out-of-plan," such as IRAs. There is an array of guaranteed lifetime income options which are generally available through ERISA and non-ERISA employer sponsored plans, IRAs including SEP and SIMPLE IRAs, or on a non-qualified basis (See Glossary of terms, forms of contracts and features after Q-3).[3] Payout or "income" annuities provide periodic payments, typically for life, commencing "immediately" after purchase or on a "delayed" or "deferred" date such as normal retirement or even later in the case of a "longevity annuity" or "longevity insurance," e.g., at age 85. Payout (income) annuities can be purchased with a single premium or incrementally on a periodic basis, e.g., by monthly payroll deductions. Annuities can include a variety of optional features to address needs such as survivor benefits, liquidity for emergencies, and inflation. Deferred accumulation annuities may include optional guaranteed living benefits that provide protection during the life of the owner against investment risk by guaranteeing a level of annuity payments and/or withdrawal amounts prior to annuitization. Annuities may include features that insure against premature death such as annuities based on joint lives, annuities that refund the remaining premium, or annuities with minimum payment period guarantees. Annuities may include some form of adjustment for inflation. Life insurers offer a variety of lifetime income protection products to address a variety of needs.

Suggestions to Enhance the Use of Guaranteed Lifetime Income in Retirement Plans

Academics write of the "annuity puzzle," i.e., why so few retirees annuitize defined contribution benefits when annuities provide much needed income protections. ACLI believes that efforts to educate employers and employees about the value of guaranteed lifetime income and to reframe defined contribution plan savings as a source of guaranteed

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[2] 7th Annual Study of Employee Benefits Trends, MetLife (2009).

[3] The Employee Retirement Income Security Act of 1974 ("ERISA") covers private employer sponsored qualified retirement plans. Governmental plans and many not-for-profit plans are exempt from ERISA.

lifetime income will help to solve the annuity puzzle. From a recent survey, employees are interested in guaranteed lifetime income options and find it valuable to see how much guaranteed lifetime income they could obtain by using their retirement plan savings.[4]

New rules, regulations and laws can help employers assist their employees with guaranteed lifetime income in the same way they have assisted employees with life insurance, disability insurance and other financial protection products. New rules, regulations and laws also can create an incentive to use guaranteed lifetime income as a part of an employee's overall retirement income plan.

<u>Education, Information and Illustrations</u>

First, the Departments should adopt rules and regulations and support legislation that encourages and makes it easier for employers to provide education and information about guaranteed income for life.

- Education. The DOL should revise and extend Interpretive Bulletin 96-1 beyond guidance on investment education to include guidance on the provision of education regarding lifetime income and other distribution options, both "in-plan" and outside the plan, to assist participants and beneficiaries in making informed decisions regarding their distribution choices.

- Illustration. To reframe retirement savings as a source of lifetime income, ACLI supports legislative proposals to include, on defined contribution plan benefit statements, an illustration of participant accumulations as monthly guaranteed lifetime income in retirement. The Departments should support this legislation.

- Information. Treasury should modify the 402(f) rollover notice requirements and the safe harbor notice to include information on guaranteed lifetime income including the importance of income protections and the availability of lifetime income plan distribution options, if any, as well as lifetime income options available outside the plan.

<u>Employer Duties in Selecting an Annuity Provider</u>

The Departments should adopt rules and regulations to make the duties of employers in selecting providers of guaranteed lifetime income products similar to employers' duties in selecting providers of life insurance or disability insurance or other financial protection products. We appreciate the attention that the DOL has already given to this important issue.

The DOL took an important step by changing the so-called "safest annuity standard" in Interpretive Bulletin 95-1 by adopting a safe harbor for the selection of annuity providers for individual account plans. While this regulation provided some helpful guideposts, it contains a requirement that the fiduciary "conclude that the annuity provider is financially able to make all future payments." This standard is difficult to meet, in part because it is hard to know how to draw this conclusion. While it is part of a "safe harbor," this prong

[4] ACLI Study on Retirement Choice, Mathew Greenwald & Associates 2010 (see Appendix 2).

makes it hard to use the safe harbor and is not a requirement of selection of other financial protection products. ACLI believes that 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 contain the following rules, i.e., 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; and
- if necessary, consult with an appropriate expert or experts for purposes of compliance with the safe harbor provisions.

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 financial strength and other "quality" aspects of the provider. ACLI expects to submit additional commentary and suggestions regarding the issue of financial strength and quality of the provider.

We know that the DOL has already given serious thought to this issue. As you consider our request, it is important to recognize the important 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 primary functions of the state insurance departments are to protect policyholders and oversee company solvency. The insurance departments conduct routine reviews of the financial strength of each insurer and its ability to meet its commitments. This system of regulation is a factor in the consideration of the quality of a provider.

<u>Annuity Administration</u>

Employers take on a number of duties in administering a retirement plan, and the administration of an annuity option would increase those duties. The qualified joint and survivor annuity ("QJSA") rules provide important spousal protections. There are a number of ways that the rules can be modified to make it easier for employers to administer this important requirement while protecting survivors, including:

- model amendments for guaranteed lifetime income options;
- notice requirements describing the benefits of guaranteed lifetime income; and
- provision for the use of electronic signatures, widely accepted in financial transactions today.

ACLI proposes allowing those employers who choose to do so to transfer the duties and liabilities of administering qualified joint and survivor annuity rules to an annuity administrator. Also, employers need guidance that confirms that a participant's purchase of incremental deferred payout annuities should not be subject to the QJSA rules until the participant has elected to take the annuity payout.

Using a Portion of a Retirement Account to Purchase Guaranteed Lifetime Income

ACLI supports efforts to facilitate a retiree's election to use a portion of his or her account to obtain guaranteed income for life. For in-plan arrangements, the Departments should provide guidance making clear that plans may provide for using a portion of the account value to purchase guaranteed lifetime income, including model amendments to simplify adoption. For arrangements outside of a plan, ACLI supports the Administration's proposal, as well as a legislative proposal, to permit the partial annuitization of an individual's annuity savings.

"Longevity Insurance" in Employer Plans and IRAs

The current required minimum distribution rules frustrate the use of longevity insurance, i.e., deferred payout income annuities with an annuity start date later in retirement, such as at age 85. ACLI supports and requests the Departments' support of a legislative proposal that would facilitate the use of longevity insurance in qualified plans and IRAs by excluding the longevity insurance premium amount when calculating an individual's required minimum distribution.

Tax Incentive for Guaranteed Lifetime Income.

Current tax policy provides equal tax treatment to payments in any form made from defined contribution plans. Guaranteed lifetime income is treated the same as a single sum distribution (i.e., taxable at ordinary rates). ACLI supports and requests the Departments' support of a limited tax incentive to encourage individuals to take all or a portion of their retirement savings as an annuity that guarantees lifetime income.

RFI Questions and Responses

Q-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?

Life insurers offer a variety of annuity contracts (See Glossary of Terms and description of Forms and Types of Annuity Contracts) that provide guaranteed lifetime income. Annuities with guaranteed lifetime income can help insure that individuals have adequate income at advanced ages, even if they live to age 100 and beyond. These lifetime guarantees provide a source of income that cannot be outlived. By providing insurance against a drop in standard of living, annuities with guaranteed lifetime income are an important tool for retirement planning. An annuity with guaranteed lifetime income has the potential to provide a higher sustainable level of income than can be achieved with other financial assets.[5] The lifetime guarantee is an insurance guarantee that relies on the pooling of risks to determine the price of the annuity. It can provide a higher level of sustainable consumption than alternative approaches and it offers a guaranteed floor of income.[6]

While the result of converting assets to a guaranteed lifetime income stream via a single life annuity means that the assets will not be available for other uses such as a bequest,

[5] Jeffrey R. Brown, "The New Retirement Challenge," Americans for a Secure Retirement (2004).
[6] Ibid.

annuities can provide a higher payment amount than would be available by systematic or regular withdrawals from a portfolio of investments while also providing a lifetime guarantee. In addition, an individual can choose to use only a portion of his or her retirement assets to purchase an annuity and retain the remaining portion to provide for bequests or liquidity for other needs. Also, the single life annuity is just one of the guaranteed lifetime income tools available from insurers. The immediate payout income annuity can offer features such as death benefits, provisions for "joint and last survivor" or payments for a "period certain". Also, there are deferred accumulation annuities with various guaranteed living benefits (See Q-3 glossary).

Some form of an annuity with guaranteed lifetime income in retirement will make sense for almost everyone. The appropriate amount and form of annuity will depend on the individual's circumstances. Individuals will need information, education and guidance to help them choose the amount of income and the form of annuity.

Q-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.)? 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?

It is well known that many employer plans and IRAs do not have a guaranteed lifetime income feature.[7] For employer plans that do, utilization is low.[8] The question cites a number of possible factors, but does not contain reference to one of the key factors: a lack of understanding by employers and participants alike about guaranteed lifetime income options. Participants have insufficient information about retirement income options. Contrast this to welfare plans where employers have long been engaged in providing information and education for their employees about relatively complicated insurance products such as life insurance, disability insurance and long-term care insurance. These insurance products help individuals respond to risks they face. Through their welfare benefit programs, employers have played a critical role in providing the information and education to help their employees understand how insurance products such as these can be used to ameliorate risks. Information and understanding can help employees who choose to obtain risk protection products through their employer and can also help them as they consider purchasing other insurance products on their own. If employer plans provide illustrations that show the guaranteed lifetime income that may be obtained with a participant's account

[7] Annuity based IRAs held approximately 9.6% of IRA assets, Federal Reserve Flow of Funds Data 3rd quarter 2009. 40% of large and 23% of small 401(k) plans offer an income annuity as a payout option, Transamerica Center for Retirement Studies, 9th Annual Transamerica Retirement Survey (2007).

[8] Approximately 12% of defined contribution plan retirees receive annuity payments. "Who Prefers Annuities? Observations About Retirement Decisions," Watson Wyatt Insider (April 2008) (citing the Watson Wyatt Worldwide 2007 U.S. Surveys of Older Employees' and Retirees' Attitudes Toward Lump Sum and Annuity Distributions From Retirement Plans).

balance as well as education and information about annuities and guaranteed lifetime income, participants will be more inclined to choose an annuity option, if the plan has one. Alternatively, they may be more inclined to seek one outside of the plan. Types of education and information that retirement plans should provide includes the following:

Annuity illustration on benefit statements. We believe that it is important to reframe retirement savings as a source of lifetime income. Academic work has shown that the manner and nature in which information is presented affects the decision making process.[9] Today, defined contribution plan benefits are presented as a lump sum. To reframe plan benefits from a lump sum amount to a source of monthly income, we propose that plan benefit statements include an illustration of participant accumulations as monthly guaranteed lifetime income in retirement.[10]

Focus on future income needs. In addition, there is evidence that annuities are valued more favorably when evaluated in terms of a consumption rather than an investment frame. "When consumers focus on consumption, annuities are viewed as valuable insurance, whereas when they think in terms of investment risk and return, the annuity is a risky asset because the payoff depends on an uncertain date of death."[11] It may be that participants are placing greater weight on the risk of a short term death than that of a long term life.

Show how lifetime income can address financial support for spouses and loved ones. As it is common for retirees to consider providing for a spouse or other loved ones, it is important that retirees learn about the ways in which lifetime income options can address their needs. While plans with an annuity option will include a qualified joint and survivor annuity (QJSA) to provide spousal protections, as we describe later, other guaranteed lifetime income options such as annuities with period certain or cash refund benefits as well as guaranteed living benefits may provide a retirement income solution that best fits their needs. Again, it is important for retirees to have sufficient information regarding their lifetime income options.

Address liquidity issues. Liquidity is a concern many have with single life annuities. As we describe in more detail in response to Q-3, lifetime income is not an all or nothing proposition.

Q-3 What types of lifetime income are currently available to participants directly from plans (in-plan options), such as payments from trust assets held under a defined benefit plan and annuity payments from insurance contracts held under a defined contribution or defined benefit plan?

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[9] Robert S. Gazzale & Lina Walker, "Behavioral Biases in Annuity Choice: An Experiment" (Williams College Department of Economics Working Papers, Series No. 2009-1, March 25, 2009); Jeffrey R. Brown, Jeffrey R. Kling, Sendhil Mullainathan, & Marian V. Wrobel, "Why Don't People Choose Annuities? A Framing Explanation," Retirement Security Project (March 2008).
[10] Two bills introduced in the 111th Congress provide for the disclosure of an annuity equivalent of total benefits accrued to participants: S. 2832 the "Lifetime Income Disclosure Act" sponsored by Senator Bingaman and H.R. 4742 the "SAVE Act of 2009" sponsored by Rep. Kind.
[11] Jeffrey R. Brown, Jeffrey R. Kling, Senhil Mullainathan, & Marian V. Wrobel, "*Why Don't People Choose Annuities? A Framing Explanation,"* Retirement Security Project (March 2008).

There are a variety of guaranteed lifetime income products which are generally available through employer plans, through IRAs, or on a non-qualified basis. The following is a brief description of the types of annuity contracts and guaranteed lifetime income benefits that exist today, as well as a glossary of terms that we will use in our various responses to your questions.

Glossary of Terms

In-Plan Annuity – An annuity that is available to plan participants through an employer plan. The annuity can take any of the forms or features described below including accumulation or plan payout (income) forms.

Out-of-Plan Annuity – An annuity purchased by individuals through an IRA or on a non-qualified individual basis. The annuity can take any of the forms or features described below, including accumulation or payout (income) forms.

Nonqualified Annuity – An annuity purchased, outside of an employer plan or IRA, directly by an individual. The annuity can be in any of the forms described below.

Annuity Commencement Date – The date set forth in the annuity contract on which annuity payments will start. Also known as the “annuity start date.”

Fixed – The term “fixed” can refer to annuity payments which are paid at a “set” or fixed amount or it can refer to amounts which are credited to the cash value of a deferred accumulation annuity at a fixed rate of interest.

Variable – The term “variable” can refer to annuity payments that vary on the basis of underlying funds, or it can refer to value in a deferred accumulation annuity which depends on the market value on underlying funds such as stock, bond or money market.

Annuity Purchase Rates – For a given premium, annuity payments are determined based upon the contract’s price or purchase rate. Factors considered in determining the rate include: the contract’s benefits and features, the annuitant’s life expectancy, market interest rates, capital requirements, administrative and other overhead expenses and anticipated profit.

Purchase Rate Guarantee – A price or rate provided in a deferred accumulation annuity for conversion of part or all of the annuity balance to annuity payments.

Forms or Types of Annuity Contracts

Immediate Payout (“Income”) Annuity - For a sum, the insurer makes periodic payments determined by the price or purchase rate for life or a set number of years, e.g. a “SPIA” or single premium immediate annuity.

Deferred Payout (“Income”) Annuity - A payout annuity with a delayed annuity commencement date, e.g. at normal retirement. A “longevity annuity” or “longevity insurance” is a delayed payout annuity with payments commencing later in retirement, e.g. at age 85.

Incremental Purchase of Deferred Payout ("Income") Annuity - An annuity or annuities purchased in increments by monthly payroll deductions, for example.

Deferred Accumulation Annuity - An annuity purchased with a single premium or multiple periodic premiums, invested on a fixed, variable or combination basis for accumulation until distribution. In addition to single sum or period withdrawals, the annuity contract provides the owner the right to elect to convert some or all of the accumulated balance into annuity payments at the annuity commencement date at no less than the purchase rate guarantee.

Guaranteed Living Benefits - Features under a deferred accumulation annuity contract that provide protection during the life of the owner against investment risk by guarantee of the level of annuity payments and/or withdrawal amounts.
Examples:

> Guaranteed Lifetime Withdrawal Benefit ("GLWB"), a benefit that allows for guaranteed withdrawals from the owner's account without having to annuitize the contract (prior to the annuity commencement date). The amount that can be withdrawn under a GLWB is based on a percentage of the 'benefit base'.
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> Guaranteed Minimum Income Benefit ("GMIB"), a guarantee that under certain conditions the owner may annuitize (at the annuity commencement date) the contract based on the greater of (1) the actual account value at standard annuity payout rates or (2) a 'benefit base' at conservative GMIB payout rates guaranteed under the rider.

Optional Life Contingent Benefits and Features

Single Life - Periodic payments made only for the life of the annuitant. Of all of the various life annuity options and features, a single life annuity provides the highest amount of guaranteed payments at commencement. Unlike other options, a "straight" single life annuity offers no death benefit.

> Joint and Last Survivor - Periodic payments for the joint lives of the annuitants. Payments to the surviving annuitant may be, for example, 50%, 75% or 100% of the original initial payment amount depending upon the terms of the contract.
>
> Period Certain - Periodic payments for the life of the annuitant and continued payments to a beneficiary during the period certain, i.e., during the 5 year, 10 year or other fixed length period set in the contract that commences with the first payment made to the annuitant.
>
> Cash Refund - Periodic payments for the life of the annuitant and a benefit payable to a beneficiary upon death equal to the premium(s) paid less payments made to the annuitant.

Inflation Protection - Annuity payments increase annually according to a set percentage or formula.

Commutation or Cancelation Right - Permits the annuitant to cancel the annuity contract after the annuity commencement date during a set period of time and receive premium(s) paid less payments made to the annuitant.

Q-4 To what extent are the lifetime income options referenced in question 3 provided at retirement or other termination of employment as opposed to being offered incrementally during the accumulation phase, as contributions are made? How are such incremental or accumulating annuity arrangements structured?

The most common form of lifetime income offered at retirement is an immediate payout annuity. Relatively new are deferred payout (income) annuities offered on an incremental basis during the participant's working years with payments commencing at normal retirement age or no later than the participant's required beginning date under IRC §401(a)(9). Due to the minimum distribution rules, deferred payout "longevity insurance" annuities are not included as in-plan options at retirement, an issue we address further in response to Q-28. The guaranteed living benefits are offered at retirement and may be purchased during the participant's accumulation phase.

Q-5 To what extent are 401(k) and other defined contribution plan sponsors using employer matching contributions or employer nonelective contributions to fund lifetime income? To what extent are participants offered a choice regarding such use of employer contributions, including by default or otherwise?

Some plan sponsors have chosen to invest employer contributions directly in lifetime income products. This may be the beginning of a trend in which defined contribution plans offer a predictable way for employers to provide a guaranteed monthly payment like that provided by a traditional defined benefit plan.

Q-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?

Some employers have made IRA rollover annuity arrangements available to their participants. Under these arrangements, participants may choose from a variety of immediate payout "income" annuity providers. These arrangements offer access to on-line quotes and other relevant information that allow participants to compare and contrast prices and features before rolling over to an individual retirement annuity.

Guaranteed lifetime income options available outside of an employer plan or in an IRA are also offered on an in-plan basis. Immediate and deferred payout (income) annuities are available as stand-alone products while guaranteed living benefits are available as options under a variable deferred accumulation annuity. Plans offering deferred payout "income" annuities allow the participant to roll this annuity to an IRA with the same carrier. Some plans with Guaranteed Living Benefits give the participant the opportunity to roll over the annuity benefit to an IRA that preserves the guarantees accumulated by the participant while employed.

Q-7 What product features have a significant impact on the cost of providing lifetime income or other arrangements designed to provide a stream of income after retirement, such as features that provide participants with the option of lifetime payments, while retaining the flexibility to accelerate distributions if needed?

There are a wide variety of guaranteed lifetime income products and features designed to provide individuals with the financial security tool(s) to fit their particular needs. A single life annuity will provide the maximum guaranteed monthly payment available at retirement, in today's market offering between 7-8% of premium annually for life.

Individuals often choose a somewhat smaller yearly (or monthly) payment as a cost of protecting against inflation, providing payments to a spouse or other beneficiary, or to have flexibility to cover unexpected expenses. Optional features offered under annuity contracts include:

- Inflation Protection. Fixed scheduled payment escalators or increases tied to the CPI can help protect against general inflation and increases in the cost of goods and services such as utilities and food. While these features lead to lower initial guaranteed payments than a straight life annuity, over time payments may well exceed those of a straight life annuity.

- Ancillary Benefits. Death benefits, including a joint and last survivor benefit, a cash refund of remaining premium or a period certain providing a set number of guaranteed payments to the annuitant or his or her beneficiary offer a way for individuals to provide for a spouse or loved one.

- Liquidity Features. Annuities can offer contract owners the right to take ad hoc payments, increase payments, or cash out of the contract at any time. These features all raise the cost of the annuity by providing smaller guaranteed yearly (monthly) payments.

- Guaranteed Living Benefits - Features under a deferred accumulation annuity contract that provide protection during the life of the owner against investment risk by guaranteeing the level of annuity payments and/or withdrawal amounts.

Q-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)?

Since many people have the majority of their savings in retirement plans, introducing participants to lifetime income options in-plan may increase the likelihood that participants will consider the use of lifetime income options whether in-plan or outside the plan. An in-plan approach clearly offers participants a convenient way to elect lifetime income.

One advantage to out-of-plan options is the variety in products and providers available to choose from. With the broad variety of lifetime income options available in the marketplace, participants may find an out-of-plan option that better suits their needs. Some lifetime income options and features may not be available in their plan. Features such as inflation protection and cash refund options are not always available. A plan may limit the employee's retirement income options by requiring an all-or-nothing approach, but we are recommending that all plans with annuities allow a portion of the retirement account to be taken as guaranteed lifetime income.

With the qualified joint and survivor rules, an in-plan annuity option will introduce participants to the spousal protections offered by joint and last survivor annuities. These rules may also be viewed as unnecessarily burdensome by participants.

Another in-plan convenience, the incremental purchase of a deferred payout (income) annuity, with each contribution or through investment transfers, provides participants with the benefit of dollar-cost averaging purchase rates over the purchasing period. Plans may also provide employees the option of purchasing guaranteed living benefits before retirement.

While employers may find group annuities provide participants with income at a higher level than comparable individual annuity products purchased out-of-plan, such differences depend on many factors and may change over time. In-plan annuity options are required to be priced on a unisex basis, which generally provides women with a higher payout rate than a sex-distinct retail product. Men may find that out-of-plan products, with sex-distinct pricing, provide a larger benefit, although group annuity pricing may off-set this difference.

Q-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?

Providing participants with in-plan lifetime income options may help attract and retain quality employees by giving them access to a defined benefit type option at a time when such plans are rarely offered. It helps employers prepare their employees for retirement, providing them with the resources they need to make and implement a retirement income strategy.

Despite these advantages, many employers have reservations regarding in-plan lifetime income. Employers are concerned about increased fiduciary responsibilities and potential liabilities attendant to the selection and provision of in-plan annuity options. Employers are concerned about additional administrative burdens and the lack of portability associated with some lifetime income options. Currently, many employers address these concerns by avoiding in-plan annuity options. In our responses to several of the questions below, we will suggest changes to existing rules which may ameliorate these concerns.

Q-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?

Our members find that most plans that offer lifetime income options provide participants the right to elect an in-plan lifetime income option for a portion of their account balance. However, some employers choose not to permit partial purchases to avoid what is assumed to be administrative complexity.

ACLI is concerned that there may be a misperception that the decision to annuitize retirement assets is an all or nothing decision. ACLI believes that participants benefit with an option to choose lifetime income for a portion of their account balance. Guidance from the Departments to the employer and employee community to clarify that plans may offer participants the flexibility to annuitize a portion of their account balance would be helpful.

ACLI also believes that, in addition to this flexibility, participants need education regarding retirement in general and lifetime income in particular, including the use of lifetime income as a component part of their retirement income plan. Even when a partial annuity option is available according to the terms of the plan document, often plan information is presented to participants in a way that suggests an all-or-nothing choice among the options. Education would ensure that participants understand their ability to annuitize a portion of their account. Unfortunately, employers are concerned that providing such education will subject them to more fiduciary liability. Clear guidance and fiduciary protections regarding the provision of retirement income education (such as the expansion of the Department's Interpretive Bulletin 96-1, as discussed in Q-19) would likely result in an increase in educational resources for participants.

Q-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? Can or should the 401(k) rules, other plan qualification rules, or ERISA rules be modified, or their application clarified, to facilitate the use of behavioral strategies in this context?

Behavioral strategies such as automatic enrollment have had positive effects on participation in retirement plans. It is not yet known whether such an approach with lifetime income would be viewed favorably by participants or have the same positive result. Since the Pension Protection Act the number of plans with auto enrollment has increased from 23.6 percent in 2006 to 39.6 percent in 2008.[12]

[12] PSCA 52nd Annual Survey Reflecting 2008 Plan Experience, September 2009.

In considering an approach similar to automatic enrollment, concerns have been raised regarding the appropriateness of defaulting participants into an irrevocable lifetime income option without regard to the participant's expected health or longevity, other savings, assets, and sources of retirement income. A default approach does allow participants to make their own choice by overriding the default, but there are concerns about a change of mind. A default into a lifetime income option that offers liquidity for some period of years might address these concerns, but would result in a lower benefit than a straight life annuity. In spite of these concerns, some believe that a lifetime income default would be beneficial as it would force consideration of lifetime income as a retirement income solution.

Another behavioral strategy that we believe would prove effective is a tax incentive to participants who elect lifetime income options.[13] Coupled with a strong program aimed at educating participants about lifetime income and that they may annuitize a portion of their account, these behavioral strategies may lead more participants to elect lifetime income as a means to secure their retirement.

Q-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?

A number of factors should be considered when a participant is developing a plan for his or her retirement, e.g., current health, expected longevity, needs relating to spouse and family, retirement goals, different forms of income and the size of their retirement account. Guaranteed lifetime income options, when used appropriately, have the ability to benefit a wide variety of participants. Those who have saved an adequate amount can gain security and those who have not can maximize their income. Participants should consider their income needs in retirement. By determining the amount they must have to meet their basic necessities, participants can better appreciate the options available to develop a retirement income plan that includes guaranteed lifetime income.

One approach recognized by the financial services industry is to align fixed or essential expenses with guaranteed lifetime income sources such as Social Security, an employer sponsored pension plan and lifetime income products obtained either in-plan or out-of-plan. Any remaining savings would be used to cover discretionary expenses. There are currently a number of calculators, available at no charge through a variety of sources, which incorporate this approach.

Q-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?

The consideration of any new plan requirement should be pursued with caution. We have described a number of steps which may be taken to make it easier to add annuities or guaranteed lifetime income options to defined contribution plans. These include:

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[13] S. 1297, the "Retirement Security for Life Act of 2009" sponsored by Sen. Conrad and H.R. 2748, the "Retirement Security Needs Lifetime Pay Act of 2009" sponsored by Rep. Pomeroy.

improvements to the rules for the selection of an annuity provider; transfer of the burden of the QJSA; and providing annuity illustrations and other information about guaranteed lifetime income to participants. We think these steps have a strong potential to increase the interest of participants in guaranteed lifetime income options and the willingness of sponsors to include such options. The use of default options may be a worthwhile consideration for some plans, but we think that, at this time, the better course is to pursue increased use of annuities through the steps that we have outlined.

Q-14 What are the impediments to plan sponsors' including lifetime income options in their plans, e.g., 401(k) or other qualification rules, other federal or state laws, cost, potential liability, concern about counterparty risk, complexity of products, lack of participant demand?

When considering potential plan designs, employers commonly weigh the advantages and disadvantages of annuities. In general, the employer's overriding goal is to sponsor a plan that will advance its business objectives of attracting and retaining a skilled and qualified workforce by providing employees with means to save and attain a secure retirement through participation in the plan. Balanced against that objective are cost and burden considerations – pure and simple. Employers tend to weigh the retirement security advantages of a particular design feature against the potential costs and burdens that accompany that feature. Plan features that tend to be selected are those that present obvious advantages relative to cost. In the case of guaranteed lifetime income, many believe they do not have enough knowledge or experience to understand the costs or benefits.

The advantages of guaranteed lifetime income options for retirement security goals should be obvious, but employers need to have access to more information. One problem is that when employers evaluate the potential costs and burdens that accompany those options, they either cannot measure the costs and burdens or conclude that they outweigh the benefits.

Many of the concerns that currently impede employer selection of lifetime income options are a by-product of perceived fiduciary risk and administrative burden. Below, we will discuss a number of smart, sensible and effective policy measures that, if implemented, may reduce the perceived and actual costs and burdens in employer considerations of lifetime income options. By making thoughtful changes to the regulations governing plans, it is possible to change the cost/benefit dynamic to favor the inclusion of lifetime income options.

Employer Fiduciary Liability. It is difficult to overstate the high level of concern about fiduciary liability that currently impedes lifetime income option selection. The DOL's 2008 clarification that the safest available annuity standard does not apply to defined contribution plans was an extremely positive first step to reducing the magnitude of the fiduciary liability impediment, but additional guidance is needed (See Q-31).

Annuity Administration Relief. Second to fiduciary liability, the costs associated with the administration of lifetime income options need to be reduced. The qualified joint and survivor annuity ("QJSA") rules add a layer of administrative complexity and attendant liabilities that employers can simply avoid by excluding annuities from their plans, and most do. In addition, current law requires that QJSA rules be administered with paper documents.

We propose that ERISA be modified to permit plan sponsors to shift the responsibility (and attendant liability) for QJSA administration to qualified lifetime income administrators. The ability to shift annuity administration and potential liabilities to another party would make annuity options more attractive to plan sponsors and could result in a significantly wider availability of such annuity payment options under defined contribution plans. Insurance companies have experience in managing annuity administration and risk. Of course, the selection of an annuity administrator remains a fiduciary act.

At the same time, the use of electronic means of QJSA administration is needed to promote efficiencies and reduce costs. Electronic alternatives to paper that simplify and lower the cost of administration should be considered. Electronic administration is commonplace in all aspects of modern life including the management of individual financial affairs from banking to tax filings. Any party responsible for QJSA administration and its attendant liabilities is sufficiently motivated to utilize effective electronic security processes to safeguard participant and spousal rights.

Q-15 What are the advantages and disadvantages of approaches that combine annuities with other products (reverse mortgages, long term care insurance), and how prevalent are these combined products in the marketplace?

Many insurers are providing annuities and long-term care combination products through nonqualified annuities, annuities purchased outside of an employer plan or IRA. The tax rules regarding such combination products were effective for the first time in 2010. It makes sense to monitor the market response to these products for a period of time before considering the utilization of such products in employer plans.

Q-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?

ACLI has not conducted its own research on this issue, but we are aware of several recent studies that suggest the existence of important differences between demographic groups in the context of retirement security. A recent study by the Employee Benefit Research Institute indicates that participation and contribution rates do vary, in some cases significantly, across demographic groups based on age, gender, race, education level, income level, marital status and geographic location.[14] The Center for Retirement Research at Boston College also found higher participation and contribution rates among white workers than among African American or Hispanic workers.[15] Similarly, research conducted by one of our member companies in 2007 showed that women are far more worried than men about retirement risks, including such risks as inflation and longevity.[16]

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[14] Craig Copeland, "Employment-Based Retirement Plan Participation: Geographic Differences and Trends, 2008" Employee Benefits Research Institute (Issue Brief November 2009 No. 336).
[15] Alicia H. Munnell & Christopher Sullivan, "401(k) Plans and Race," Center for Retirement Research at Boston College (November 2009, Number 9-24).
[16] "Why Women Worry," research report published by The Hartford and the Massachusetts Institute of Technology AgeLab (2008).

We applaud the Departments for recognizing that such distinctions might exist and for seeking ways to address them. We believe that education should be a central element of any effort to reduce or eliminate the impact of these differences. Educating participants about these differences will help them to more effectively consider all relevant factors when making important retirement planning decisions.

Q-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 a guaranteed lifetime income option, participants need a basic understanding of the options available to them and the advantages and disadvantages of each. Currently very few participants have even a basic understanding of guaranteed lifetime income options and how they work. Even plans that offer a guaranteed lifetime income option provide little education about it, if any. The best way to assist those in the process of planning their retirement is to ensure they have information about guaranteed lifetime income solutions such as an illustration of how the account balance translates into guaranteed lifetime income, education necessary to use such solutions and resources available to assist them with questions and planning. Many providers are able to assist employers by making this type of information available to participants using a combination of different mediums including paper, e-mail, CD, DVD, internet and call center (although regulatory changes would enhance the ability to provide certain required disclosures through electronic mediums). However, most employers are reluctant to provide this type of education due to fiduciary concerns. Clear guidance and fiduciary protection regarding the provision of retirement income education (such as the expansion of the Department's Interpretive Bulletin 96-1, as discussed in Q-19) would be likely to encourage employers to provide the resources necessary for participants to make these decisions.

Basic items that should be covered regarding guaranteed lifetime income include:

- Costs and the amount of the guaranteed lifetime income benefit;
- anticipated life expectancy;
- survivor benefits;
- relative value of income options;
- inflation factor;
- tax treatment;
- premium taxes;
- guaranteed payment periods;
- liquidity features; and
- cash refund.

Participants need information on not only guaranteed lifetime income options, but also other distribution options such as lump sums and systematic withdrawals in order to compare the advantages and disadvantages of these various options. They need to understand longevity risk, investment risk, and inflation risk as they consider ways to address their retirement income needs.

To put lifetime income options vis-à-vis other income options in perspective, participants need to be able to weigh the benefits and disadvantages of each option. Many participants also believe that target date funds as well as income replacement funds include some investment and longevity risk guarantee. It is important that, for these non-guaranteed "lifetime like" income options (i.e., non-insurance options that do not address longevity risk), participants understand the absence of a lifetime guarantee. Participants should also understand their continued responsibility for the management of their account balance, even when using a target date fund, including factors such as investment risk and longevity risk inherent under "sustainable withdrawal rates." Even at half the monthly income available through a life annuity, a non-guaranteed approach cannot provide a 100% probability of payments for life.

Q-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?

DOL guidance allows for the use of plan assets to pay for participant investment education related to retirement income. However, additional guidance is necessary to encourage plan sponsors to take full advantage of this opportunity. DOL Field Assistance Bulletin 2007-01 provides that fiduciaries "may use plan assets to pay reasonable expenses in providing investment advice (and/or investment education) to plan participants and beneficiaries." In addition, DOL Interpretive Bulletin 96-1 allows and encourages plans to provide participants and beneficiaries with "general financial and investment information" including materials that inform participants and beneficiaries about their "future retirement income needs." This guidance clearly allows for the use of plan assets to educate participants about lifetime income needs in general. However, this guidance may not provide sufficient assurance to sponsors who wish to use plan assets to cover the cost of providing participants with information regarding lifetime income options. The Department should clarify that plan assets may be used to educate participants about lifetime income options including those typically available outside of the plan. Without this clarification, plan sponsors, who are in the best position to ensure that participants receive this information, may hesitate to do so and plan service providers may be reluctant to include education on lifetime income as part of their service models.

Q-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?

Employers and plan sponsors have concerns that providing participants with information outlining the advantages and disadvantages of annuities and other lifetime income options could be construed as "advice." To encourage plan sponsors to provide retirement income education, the Department should provide guidance on when information provided to educate employees about lifetime income options available in-plan or out-of-plan is educational in nature and not advice.

A number of factors, including the current economic situation and lengthening life spans, have made it more important than ever to encourage employers to provide information about guaranteed lifetime income options and to educate their participants on all of the options available to them, both inside and outside of the retirement program, as well as the merits and limitations of both guaranteed lifetime income options and other approaches.

Many employers are still hesitant to offer this benefit due to fiduciary liability. Plan sponsors are concerned that providing participants with information outlining the advantages of guaranteed lifetime income options could cross the line between "providing investment education and/or retirement planning information" and "offering investment advice." There are concerns that the investment education rules do not cover situations in which the plan sponsor provides information regarding the benefits and features of the plan's lifetime income options. In particular, there is a concern that participants would consider the information as a specific "recommendation" of an insurer's lifetime income product. However, we believe that the dissemination of information regarding the plan's various distribution options should be viewed the same as the dissemination of information on, for example, the benefits of investment diversification, asset allocation models, time horizons, risk tolerance, and asset classes with no specific recommendation as to which fund of funds to choose.

Clear guidance for employers regarding educating participants about lifetime income or other arrangements designed to provide a stream of income after retirement would likely encourage employers to provide the resources necessary for participants to make these decisions. Fiduciaries should be afforded protection for the dissemination of information on plan distribution options as well as information on other retirement options including options outside of the plan, e.g., information regarding the fact that participants may purchase lifetime income options from another provider via a rollover to an IRA or with the proceeds of a lump sum. We agree with the recommendations made in both the 2007 and 2008 ERISA Advisory Council reports to expand Interpretive Bulletin 96-1 to explicitly cover education regarding "decumulation" strategies such as lifetime income options. A model notice may prove to be helpful to plan sponsors.

Q-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?

We believe that the suggestions described above in the response to question 19 would encourage plans to provide or promote this education.

Q-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?

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. ACLI supports changes to the ERISA plan benefit statement rules to include an illustration of the participant's account balance as a guaranteed monthly income payment for life commencing at normal retirement. Illustrations would be based on either a plan's existing guaranteed lifetime income product or a table prescribed by the Departments using interest rates, such as the PBGC rates, and life expectancy assumptions set by regulation. ERISA should explicitly state that plans and plan fiduciaries are not liable for payments in the amount illustrated under these rules. The DOL should provide model language that plans may include on statements to make clear that the payment amount is illustrative.

Illustrations will help educate participants as to their account values' retirement income potential. This information will assist them in evaluating such factors as their income need, savings adequacy, and the amount of income devoted to retirement savings. It reframes the defined contribution plan as a retirement plan that can generate retirement income and not just a capital accumulation or savings plan.

Q-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?

As noted in Q-21, ACLI believes that a lifetime stream of income payments should be expressed as a monthly amount beginning at the plan's normal retirement age. Plans should not be precluded from providing additional information such as the amount of annual lifetime stream of income payments or projections based on future contributions. To ease administration, the illustration should be made in the same manner without regard to whether the individual is married or single. Thus, a plan should not be precluded from illustrating a joint and last survivor annuity based upon a single assumption. Using assumptions base on future voluntary contributions might be misleading. All that should be required is an illustration based on current account values.

Q-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?

Please see our response to Q-21. Regarding disclosure, participants should be made aware that the benefit shown is for illustrative purposes only. While it may also be helpful 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 may not be meaningful and may confuse participants.

Q-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 pre-retirement 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?

Although an income replacement ratio may be helpful as a way to illustrate to participants the true value of their retirement funds and to approximate the amount needed for retirement, an individual benefit statement may not be the best vehicle for this information. The plan sponsor or provider normally will not have the necessary information to provide a meaningful estimate, and incomplete history regarding spousal information, other sources of income and tax requirements may create a false picture. To determine income needs, the participant may need advice and access to information and online tools

Q-25 How do the 401(k) or other plan qualification 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?

The qualification rules primarily affect the plan sponsor. When considering whether to offer an annuity option, the plan sponsor must consider the qualified joint and survivor rules ("QJSA"). There is additional complexity and administrative issues associated with the QJSA and qualified pre-retirement survivor annuity rules and the applicable spousal consent requirements. These rules also bring liabilities, as a failure to follow the QJSA rule may

require the plan sponsor to make additional payments to a surviving spouse. For example, a plan administrator may rely on a participant's certification of marital status to permit a lump sum payment, but the employer may be held accountable for a spousal survivor benefit if some other person at the company had information to the contrary.[17]
As the attendant administrative cost and potential liabilities under the QJSA rules may be avoided by excluding an annuity option from the plan, it is not a surprise that the majority of today's plans do not include such options.

On changes to the existing rules, we offer the following suggestions to help clarify and simplify plan administration and compliance to broaden the utility of lifetime income products in qualified plans:

- Provide lifetime income model amendments which preserve reliance on pre-approved documents to defray employer costs to facilitate adoption. Examples include model amendments with an annuity as the normal form of benefit, lump sum as the normal form of benefit with spousal consent triggered when an annuity is actually elected by the participant, and permitting the annuitization of a portion of a participant's account balance.

- Modify 402(f) notice requirements and safe harbor notice to include information on lifetime income including the importance of income protections and noting the availability of lifetime income plan distribution options, if any, as well as lifetime income options available outside the plan (e.g., a rollover to an individual retirement annuity).

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[17] From REA Committee reports:

> "If the plan administrator acts in accordance with the fiduciary standards of ERISA in securing spousal consent or in accepting the representations of the participant that the spouse's consent cannot be obtained, then the plan will not be liable for payments to the surviving spouse. For example, if the plan administrator receives a notarized spousal consent, valid on its face, which the administrator has no reason to believe is invalid, the plan would certainly be allowed to rely on the consent even if it is, in fact, invalid. In addition, if a third party payor relies on a consent obtained or determination made by a the plan administrator who acts in accordance with the fiduciary standards, or if a third party payor acting in accordance with such standards (whether or not the payor is a plan fiduciary under ERISA) establishes that consent cannot be obtained, then the payor will be relieved of any liability for payments to the surviving spouse."

Some court cases addressing include Lasche v George W Lasche Basic Profit Sharing Plan (11th Circuit, 1997), where the court ruled even though spouse acknowledged signing an alternative beneficiary designation, that the consent is invalid if not properly witnessed. In Hearn v. Western Conference of Teamsters Pension Trust Fund, (9th Circuit, 1995), a plan had to provide a survivor annuity to the spouse, ***where the plan administer had relied on a participant's false statements he was unmarried.*** In a similar case, Lester v. Reagan Equipment Co. Profit Sharing and Employee Savings Plan (1992, CC LA) the District Court determined a Plan Administrator could not rely on a participant's notarized letter claiming his spouse could not be located. The Court reasoned that a Plan Administrator is only relieved of liability where he or she acts according to fiduciary standards of conduct including the prudent man standard of care. The court concluded that the *Plan Administrator had not acted prudently in simply accepting the participant's assertions on their face.*

- Clarify that age limitations imposed with respect to Guaranteed Living Benefits, whether by the insurance company or by the plan sponsor under the terms of the plan, are not subject to current and effective benefits testing under §1.401(a)(4)-4. For example, the plan sponsor may determine that a particular guaranteed living benefit product should only be available to participants age 50 or older.

Q-26 Could or should any changes be made to the rules relating to qualified joint and survivor annuities and spousal consents to encourage the use of lifetime income without compromising spousal protections?

We believe that the Qualified Preretirement Survivor Annuity ("QPSA") notice and consent rules should be revised to eliminate the age 32/35 provision which adds unneeded complexity, confusion and compliance risk as this odd provision may lead to inadvertent notice failures.

Also on the administration of the QJSA and QPSA rules, the Departments should provide a consistent and flexible means to provide notices and secure consents electronically. We believe that changes to permit electronic administration of these rules would encourage the use of lifetime income without compromising spousal rights and protections. Since these rules were first enacted, electronic administration has become widely used for a vast variety of transactions including sensitive financial transactions, e.g. online banking, 401(k) account management, tax filings. It is preferred by the public for its convenience and by the industry because it is cost efficient, effective and accurate. Participants and spouses should have the ability to effect transactions electronically, recognizing that a paper process may be preferred by some individuals and should be available to participants and spouses.

Q-27 Should further guidance clarify the application of the qualified joint and survivor annuity rules or other plan qualification rules to arrangements in which deferred in-plan insurance annuities accumulate over time with increasing plan contributions and earnings?

Yes, further guidance clarifying the application of the QJSA rules to Incremental Purchases of Deferred Payout ("Income") Annuities would be appreciated. In addition, guidance clarifying the application of these rules to guaranteed living benefits would be helpful as well. Please confirm that products in these categories are not subject to the QJSA rules until such time as the participant elects a distribution in the form of an annuity. The selection of these options over a participant's working life (which may begin quite early in the participant's working years) is more akin to the investment options that he or she is making, and not an election of a distribution option. Applying spousal consent rules to these products prior to an election of an annuity distribution would not be appropriate.

Q-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?

One approach to mitigating longevity risk is to encourage individuals to annuitize a portion of their retirement savings through the purchase of "longevity insurance," or a deferred payout (income) lifetime annuity that begins payments at a future date, for example when the individual reaches age 85. These deferred payout annuities are available "out-of-plan" but are generally not used "in-plan" because of concerns about the application of the minimum distribution rules.

ACLI supports a legislative proposal that would facilitate the use of longevity insurance or longevity annuities by excluding the premium amount from the individual's required minimum distribution ("RMD") calculation under Code Section 401(a)(9).[18] Since the Code's RMD rules apply only to tax-qualified retirement savings vehicles, this would encourage plan participants and IRAs owners to use a portion of their account balance to purchase longevity insurance.

For purposes of this proposal, longevity insurance is a deferred payout (income) annuity that: (a) is payable no later than a year after an individual reaches age 85 (or would have attained age 85), (b) is paid out in substantially equal periodic payments (not less frequently than annually) over the life of the employee or the joint lives of the employee and the employee's designated beneficiary, (c) does not allow pre-death commutation benefits or have cash surrender value, and (d) has a limited pre-commencement death benefit (return of premiums paid, plus a reasonable interest rate).

The primary benefit of longevity insurance is the mitigation of "longevity risk." Individuals purchasing a longevity insurance contract at retirement age would know that guaranteed monthly payments would begin at age 85, for example, and that those monthly payments would be made for the rest of his or her life.

In addition, excluding the amount of the longevity insurance from an individual's minimum required distribution calculation permits retirees to benefit from a longer deferral period on the contributions made to workplace savings plans or IRAs. Upon reaching age 70 ½, individuals would subtract the value of their longevity insurance contract when calculating how much in required distributions they must take.

Q-29 Are employers that sponsor both defined benefit and defined contribution plans allowing participants to use their defined contribution plan lump sum payouts to "purchase" lifetime income from the defined benefit plan? Could or should any actions be taken to facilitate such arrangements? Should plans be encouraged to permit retirees who previously took lump sums to be given the option of rolling it back to their former employer's plan in order to receive annuity or other lifetime benefits?

We are not familiar with plans that permit such purchases. ACLI is supportive of the defined benefit plan system and would follow the development of new policy with great interest.

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[18] H.R. 2748, the "Retirement Security Needs Lifetime Pay Act of 2009" sponsored by Rep. Pomeroy.

Q-30 To what extent do fiduciaries currently use the safe harbor under 29 CFR 2550.404a-4 when selecting annuity providers for the purpose of making benefit distributions?

It has been the experience of our member companies that the safe harbor is an improvement over the "safest available annuity" rule, but it has not been broadly used.

Q-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?

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. While it is part of a "safe harbor," the requirement makes it hard to use the safe harbor and is not a requirement of selection of other financial protection products. ACLI believes that 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 contain the following rules, i.e., 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.

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 financial strength and other "quality" aspects of the provider. ACLI expects to submit additional commentary and suggestions regarding the issue of financial strength and quality of the provider.

We know that the Department has already given serious thought on 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, required capital. The insurance departments conduct routine reviews of the financial strength of each insurer and its ability to meet its commitments and the insurance departments have a number of powers to intervene and protect policy holders (see Appendix 1 for a brief summary of the state insurance regulatory system). This system of regulation is a factor in the consideration of the quality of a provider. We will be providing other aspects of financial strength and quality to be considered.

One additional note regarding the regulation, ACLI suggests that the regulation be revised to make it clearer that when a fiduciary meets the safe harbor in selecting an annuity provider, the fiduciary will not be liable for future changes in circumstances with respect to the provider's financial stability. Currently, safe harbor protection is afforded for decisions made at the "time of selection." We understand that plan fiduciaries continue to be concerned that they remain at risk should a provider unexpectedly fail in the future.

Q-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?

Fiduciaries need clear and effective guidance regarding their duties when selecting guaranteed lifetime income products. The safe harbor should address all such products. However, as noted in our responses to Q-30 and Q-31, ACLI also believes that the safe harbor should be revised to become a more effective tool.

Q-33 To what extent are fixed deferred lifetime annuities (i.e., incremental or accumulating annuity arrangements) or similar lifetime income products currently used as investment alternatives under ERISA 404(c) plans? Are they typically used as core investment alternatives (alternatives intended to satisfy the broad range of investments requirement in 29 CFR 2550.404c-1) or non-core investment alternatives? What are the advantages and disadvantages of such products to participants? What information typically is disclosed to the participant, in what form, and when? To what extent could or should the ERISA 404(c) regulation be amended to encourage use of these products?

To encourage the use of guaranteed lifetime income products, the regulations should be amended to provide specific guidance on how guaranteed lifetime income products qualify for ERISA section 404(c) protection as non-core funds, particularly relating to the transfer and timing restrictions that are inherent in these products.

The use of deferred payout (income) annuities, including incremental purchases, and guaranteed living benefits is fairly new. When a guaranteed lifetime income product includes a restriction on transfers out to other plan investments, it would not qualify as a core investment alternative and therefore is not used for that purpose.

The advantages and disadvantages of the guaranteed lifetime income products are discussed elsewhere in this response. When guaranteed lifetime income products are made available as an investment alternative, participants are informed of: any applicable fees; the nature and method of determining benefit guarantees; restrictions relating to transfers between the product and other investment alternatives; and the effect of any such transfer on the benefit guarantees.

Q-34 To what extent do ERISA 404(c) plans currently provide lifetime income through variable annuity contracts or similar lifetime income products? What are the advantages and disadvantages of such products to participants? What information about the annuity

feature typically is disclosed to the participant, in what form, and when? To what extent could or should the ERISA 404(c) regulation be amended to encourage use of these products?

It is imperative that regulatory guidance be developed and promulgated under which plan sponsors would be allowed to enjoy the same fiduciary protections with respect to participant selection of guaranteed lifetime income options that they now enjoy under the Section 404(c) regulations with respect to participant selection of accumulation investment options. Under a 404(c) plan, plan sponsors and fiduciaries are shielded from any potential liability that might otherwise arise from the investment results resulting from a participant's exercise of investment control over his or her account balance. A similar construct could and should be developed under which participants would be provided information about their distribution options including the features and risks of a broad range of lifetime income options. With the proviso that plan fiduciaries remain responsible for the prudent selection and monitoring of the lifetime income option products, it should be made absolutely clear that the plan sponsor and fiduciary will be insulated from liability for the results of a participant's choice.

The potential fiduciary liability that beleaguers so many plan sponsors can be summed up rather easily: What, plan sponsors worry, will happen to me and my business, if the guaranteed lifetime income provider I prudently select today fails to perform by reason of financial impairment some ten or twenty or thirty years down the road? It is simply not a reasonable or a logical construct to ask plan sponsors to assume the risk that they might be called upon to effectively indemnify participants who purchase lifetime income options through their own exercise of account balance control. This does not mean to suggest that participants should be left on their own and without recourse in the event of provider failure to perform. Rather, we would suggest that participants who have made a 404(c)-like selection of lifetime income over other distribution options should seek recourse through consumer protections that are available to participants who purchase lifetime income vehicles outside of the plan.[19]

Q-35 To what extent are plans using default investment alternatives that include guarantees or similar lifetime income features ancillary to the investment fund, product or model portfolio, such as a target maturity fund product that contains a guarantee of minimum lifetime income? What are the most common features currently in use? Are there actions, regulatory or otherwise, the Agencies could or should take to encourage use of these lifetime income features in connection with qualified default investment alternatives?

The DOL could and should encourage the use of guaranteed lifetime income features in connection with QDIAs by addressing the prudent selection and monitoring of a QDIA. Today, plan fiduciaries fear the existence of an unknown standard for selecting investment

[19] In the unlikely event of an insolvency/liquidation, the state guaranty association coverage will protect policyholders, including those holding annuity obligations. While the state guaranty fund protections are limited, there has been a strong tendency to increase these limits. Coverage ranges from \$100,000 to \$500,000 of the contract's present value with most states at or above \$200,000.[19] As a result, in the unlikely event of an insolvency and liquidation, the majority of plan participants would be fully protected.

alternatives for use as QDIAs, one they expect is more rigorous than the standard for selecting non-default investment alternatives.

We request that the Department issue safe harbor guidance on the selection and monitoring of default investments generally. We suggest that the Department focus on any considerations unique to selection of a default, note reasonable assumptions and permit the selection of an investment alternative that is suitable broadly for the entire default population without the need for separate consideration of the specific circumstances of population subgroups or of individual participants.

The Department should reaffirm that investment alternatives that include guaranteed lifetime income features are eligible for treatment as a QDIA. We request that the Department clarify and confirm that an employer may use such QDIAs generally including in the context of a "re-enrollment." For example, if a QDIA with guaranteed lifetime income guarantees is determined to be an appropriate investment only after participants have attained a certain age, employers should be able to transfer all or a portion of participants' funds into the QDIA, subject to the notice and election rules, and receive the same protection available for initial enrollments.

Investment alternatives with ancillary lifetime income features that are made available only to participants who have attained a certain age, e.g. age 50, should not be considered discriminatory regardless of the participants' age and income demographics. It is reasonable to limit these options to older employees approaching normal or early retirement ages. A limitation on the availability of a lifetime income feature to participants who have attained a certain pre-retirement age creates a separate "benefit, right or feature" that must be subjected to nondiscrimination testing under Treasury Regulation Section 1.401(a)-4. This test is to ensure that benefits are currently or effectively available to all employees on a nondiscriminatory basis. The potential burden to plan sponsors of additional nondiscrimination testing is an impediment to the availability of investment products with ancillary features.

This burden is unreasonable. We request that the Internal Revenue Service/Treasury amend Code Section 1.401(a)-4 to disregard age conditions with respect to the availability of lifetime income features available to plan participants prior to a distributable event.

Q-36 What are the costs and benefits to a plan sponsor of offering lifetime annuities or similar lifetime income products as an in-plan option? Please quantify if possible.

If efforts to educate employees on the benefits of guaranteed lifetime income generate an interest in these products, then for plan sponsors, adding these products to the plan will be viewed by its employees as an enhancement to the plan. As for costs, please note our suggestions regarding fiduciary liability and attendant administrative costs.

Q-37 Are there unique costs to small plans that impede their ability to offer lifetime annuities or similar lifetime income products as an in-plan option to their participants? What special consideration, if any, is needed for these small entities?

Small employers may lack staff dedicated to the management and administration of benefit plans. Thus, there may not be resources to cover additional duties and tasks. Efforts to simplify administrative and fiduciary duties such as the ones we have suggested will lower resource demands.

Q-38 Would making a lifetime annuity or other lifetime income product the default form of benefit payment have an impact on employee contribution rates? If so, in which direction and why?

ACLI members have not seen evidence that plans with an annuity as the normal form of benefit have contribution rates that differ from plans with lump sum as the normal form of benefit. However, adding estimated lifetime income payout information to participant statements and other communications could help increase contributions by enhancing participants' awareness of how plan balances convert to income streams in retirement.

Q-39 For plans that offer lifetime annuities or similar lifetime income products, what percentage of eligible workers elect to annuitize at least some of their retirement assets and what percentage elect to annuitize all of their assets?

As we have noted, our members find that most plans that offer lifetime income options provide participants the right to elect an in-plan lifetime income option for a portion of their account balance. However, ACLI was not able to gather sufficient data to provide a meaningful response to these questions.

*****

On behalf of the ACLI member companies, thank you for consideration of these comments. We welcome the opportunity to discuss these comments and engage in a productive dialogue with the Department on these important issues.

Sincerely yours,

Walter C. Welsh
Executive Vice President,
Taxes & Retirement Security

James H. Szostek
Vice President,
Taxes & Retirement Security

Shannon Salinas
Counsel, Taxes & Retirement Security

Appendix 1

State Insurance Regulatory System

Life insurance companies are subject to robust and extensive state regulation far exceeding the standards imposed on other entities offering “lifetime like” income products. All states impose detailed rules related to the establishment of reserves, the valuation of assets and liabilities, risk-based capital requirements, surplus rules, and presale approval of insurance contracts (with actuarial justification).

State insurance departments provide regulatory oversight of the life insurance industry. These insurance regulators routinely gauge the financial strength of insurers and conduct complex analysis to determine an insurer’s ability to meet its future commitments under its lifetime income products. This is much more than can be expected of any employer or any expert a plan fiduciary may retain at significant cost (which itself is a deterrent to offering these types of options). The insurance regulators have access to far more information than employers or their hired experts, including quarterly reviews of the financial statements of insurance companies domiciled and/or authorized to do business in their states, and the ability to gain the attention of senior management to address concerns about the insurer’s financial situation. The following is a brief overview of the various layers of state regulation that exist to protect consumers against insurance company failures.

State insurance regulators impose extensive scrutiny on insurance companies in their licensing and approval processes, far exceeding the standards imposed on other kinds of entities. Insurers are subject to detailed rules related to the establishment of reserves, valuation of assets and liabilities, risk-based capital requirements, surplus rules, requirements that products (contracts) must be approved prior to sale (with actuarial justification), and restrictions on dividends to holding companies apply. Most of these quantitative criteria are based upon the protections established by a well respected national association, minimizing the potential risk that a state may be unduly influenced by the industry. It is important to note that these requirements and restrictions were significantly enhanced in the mid-1990s.

When an insurance company is found to be financially unstable, the insurance department in its home state will generally step in and take control of the company (known as the “receivership process”) and attempt to improve the company’s financial status (known as “rehabilitation”). States have broad powers to intervene and take over insurers early in any developing problem/downward spiral to prevent insolvency or liquidation. This broad rehabilitation authority enables the state to fully protect the insurer’s financial soundness, and thus, policyholder interests, are fully protected.

If a company’s financial difficulties are too great to overcome, the state can declare the company insolvent, and the receivership process moves into the next stage, known as “liquidation”, in which the receiver (usually, the commissioner or someone appointed by the commissioner) attempts to maximize the company’s assets to pay off as many creditors as possible, including policyholders.

In addition, the state may seek to have one or more other insurance companies take over the struggling insurer's "book of business" and agree to pay policyholders in full. In some cases, the state may provide financial support to the assuming insurers.

As policyholders, annuity contract holders (including holders of group annuity contracts issued to qualified plans and their participants) are given a priority status over all general creditors and many otherwise protected parties (i.e., employee claims). Few if any claims are superior to the policyholder claims (generally only the state's administrative costs and any guaranty association costs). Life insurer creditors seldom have extensive security interests, so policyholders have access to virtually all of the insurer's general assets.

As a result of this protective regulatory process, the number and size of annuity carriers that have gone into liquidation is quite small, and account policyholders have generally received the full contractual benefits guaranteed under their contracts.

In the unlikely event of an insolvency/liquidation, the state guaranty association coverage will protect policyholders, including those holding annuity obligations. While the state guaranty fund protections are limited, there has been a strong tendency to increase these limits. Coverage ranges from $100,000 to $500,000 of the contract's present value with most states at or above $200,000.[1] As a result, in the unlikely event of an insolvency and liquidation, the majority of plan participants would be fully protected.

[1] Limits in some states may vary depending on whether the annuity is in payout status or not, depending on the type of annuity, or depending on whether the annuity has been annuitized. In addition, each state may have special rules regarding how the limit is applied. Additional information can be found at the following web address: http://www.nolhga.com/factsandfigures/main.cfm/location/lawdetail/docid/8

Note that most states have laws prohibiting insurance agents and companies from using the existence of the guaranty association system in any advertising or as an inducement to purchase insurance. Some stated require that a notice about guaranty protection accompany a policy at issuance.

ACLI Retirement Choices Study

Online Survey with

Near-Retiree Defined Contribution Plan Participants

Report of Findings

Prepared for:

ACLI
Financial Security. For Life.

by:

Mathew Greenwald & Associates, Inc.

April 2010

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Introduction and Methodology

In an effort to gauge retirement plan participants' interest in (1) having their employers offer additional options for what they can do with their retirement plan accumulations after they retire and (2) being able to see an illustration of how much guaranteed lifetime income they may be able to get using the money in the plan, the American Council of Life Insurers (ACLI) commissioned independent research firm, Mathew Greenwald & Associates, to conduct a study of plan participants nearing retirement.

An online survey was conducted with 750 workers ages 45 to 65, who are participating in a defined contribution plan available through their current employer. Respondents were also screened to ensure that they had a minimum retirement plan account balance of at least $40,000 and were not expecting any retirement income from a defined benefit pension plan.

- Potential respondents for this study were selected from among members of eRewards Consumer Research Panel.
- The survey fielded between March 26 and March 31, 2010.

The survey data were weighted by gender, age, and education to reflect the composition of retirement plan participants ages 45 to 65 with account balances of at least $40,000. Population statistics were based on data from the 2007 Survey of Income and Program Participation (SIPP).

A similarly-sized random sample of 750 respondents would have a margin of error at the 95% confidence level of plus or minus 3.7 percentage points.

Key findings and a detailed discussion follow this section.*

*Percentages in the tables and charts may not total to 100 due to rounding and/or missing categories.

Key Findings

Seeing an illustration of how much guaranteed monthly income they could get for life may prompt many plan participants to save more.

- Just over nine in ten respondents say that 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, including more than half who feel that it would be very valuable.
- Three out of five say that if this illustration showed that the monthly income that could be generated would not be enough to meet their needs, they would start saving more immediately. Another one-third say that, after seeing this illustration, they would monitor how their savings affected the illustration and consider saving more later.
- Eighty-five percent express 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.

An overwhelming majority support the idea of having employers offer an option in their retirement plans that would use some of their retirement plan savings to provide employees with guaranteed monthly income for the rest of their lives once they retire.

- Nearly nine out of ten plan participants surveyed report that they favor a proposal to have employers offer an option that would use their plan savings to generate a guaranteed stream of income for life.
- A similar share – fully 90% – say they favor the idea of their employer offering them this type of option, and would be interested in learning more about it, if it were available.

Given the overall favorable impression of this option, it's not surprising that positive statements about why such an option should be made available resonate more than arguments against it.

- More than nine in ten agree that employers should be encouraged to offer choices to help employees attain financial security, and nearly all agree that an option that offers to guarantee income for life can help accomplish this.
- Although a large majority of respondents say they feel at least somewhat confident about their ability to personally manage their finances after they retire, this confidence may be an overstatement, since more than nine in ten agree that it is difficult for "many workers" to know how to manage their money after they retire, and feel it would be helpful if employers offered an option to help with this.

- Likewise, seven in ten disagree that employees know how to use their savings to generate a retirement income for themselves and don't need an option from their employer to do it for them.

- Half disagree with the statement that "employers have no responsibility for helping employees determine what to do with their retirement plan savings after they retire."

Respondents' confidence in being able to manage savings and investments after retirement is lower than their confidence about managing money prior to retirement.

- Currently, eight in ten plan participants feel at least somewhat knowledgeable when it comes to selecting the savings and investment options within their plan that are best for them.

- Yet, fewer seem as optimistic about their ability to manage their assets after they retire – including being able to pick the appropriate savings and investment products, determine the right withdrawal amounts, and making their money last for the rest of their lives. While about one-quarter strongly agree that they are knowledgeable about selecting their investments right now, half as many describe themselves as being very confident in their ability to manage their money after they retire.

- Moreover, just 7% feel very confident in their ability to make savings and investment decisions once they reach their 80s or 90s.

- Perhaps as a result, three out of four plan participants indicate that they are concerned about not having enough money in retirement to meet their needs.

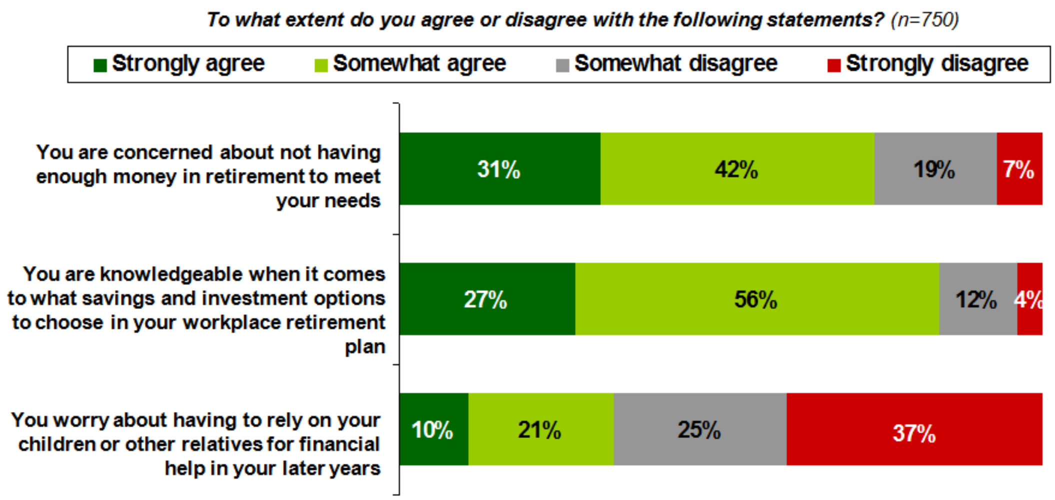
Detailed Findings

Retirement Outlook

Eight in ten plan participants say they are knowledgeable when it comes to selecting investment options inside their workplace retirement plan.

- Most plan participants (83%) describe themselves as knowledgeable when it comes to selecting savings and investment options within their employer-sponsored retirement plan, though just one-quarter strongly agree that they are knowledgeable in this area (27%).
  - Men are more likely to feel knowledgeable about selecting retirement plan investment options (86% v. 78% women).
- At the same time, nearly one-third (31%) strongly agree that not having enough money in retirement is a concern, and another four in ten (42%) suggest they are at least somewhat concerned about running out of money.
- In fact, one out of three (31%) agree that they are worried about having to rely on their children or other relatives for financial help in their later years. Women are especially likely to worry about this (38% v. 27% men).

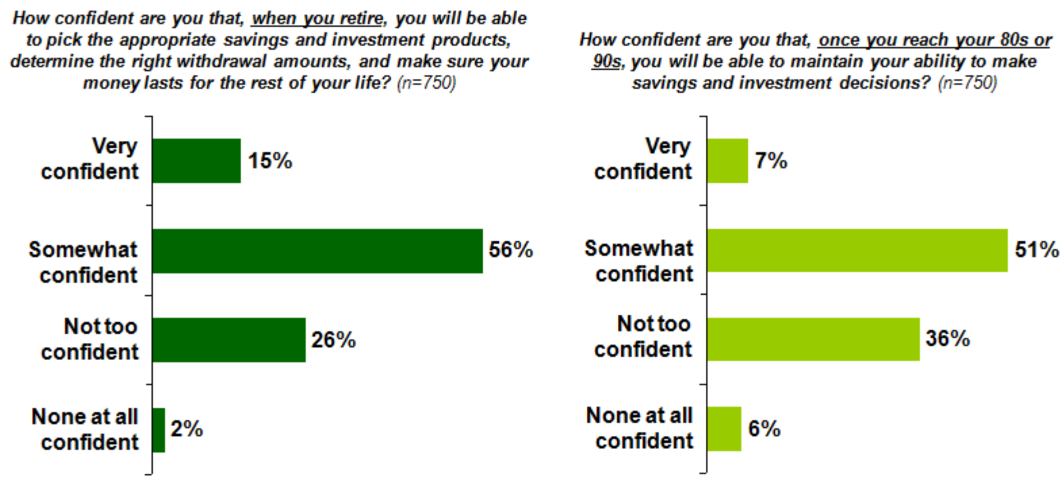
Retirement Outlook



Fewer feel confident that they will be able to pick the appropriate products, determine withdrawal amounts, and make their money last after they retire.

- Although 27% strongly agree that they are knowledgeable about selecting current retirement plan options, only 15% of plan participants feel very confident that – when they retire – they will be able to pick the appropriate savings and investment products, determine the right withdrawal amounts, and be able to make their money last for the rest of their of lives.
- A far larger share (56%) feel somewhat confident, and one-quarter (28%) say they are not too or not at all confident in their ability to manage their money in retirement.
- Even fewer feel very confident (7%) that they will maintain their financial decision-making ability into their 80s or 90s, though most (51%) remain at least somewhat confident that they will be able to make sound savings and investment decisions in their later years.

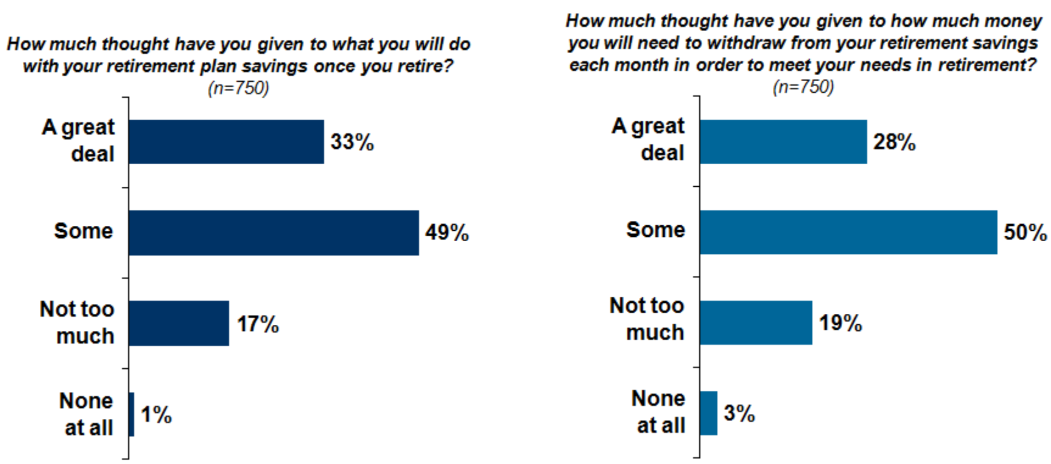
Confidence in Managing Retirement Finances



A majority have given at least some thought to what they will do with their retirement plan assets when they retire and how much they can withdraw each month.

- More than eight in ten retirement plan participants (82%) say they have given at least some thought to what they will do with their retirement plan assets once they retire. Still, only one-third have given this a great deal of thought, and two in ten (18%) indicate that they haven't given it too much thought at all.
  - Not too surprisingly, the likelihood of having thought this issue through increases with age (and proximity to retirement), such that 92% of those ages 60 to 65 say they have given at least some thought to what they will do with their plan assets, compared to 73% of those ages 45 to 49.
- Nearly as many say they have given at least some thought to how much they will need to withdraw each month from their retirement savings in order to meet their financial needs, though half (50%) say they have given this just some thought.
  - Those who are older (and closer to retirement) (88% of those age 60-65) are more likely than younger plan participants (72% of those age 45-49) to say they have thought about this to at least some extent.

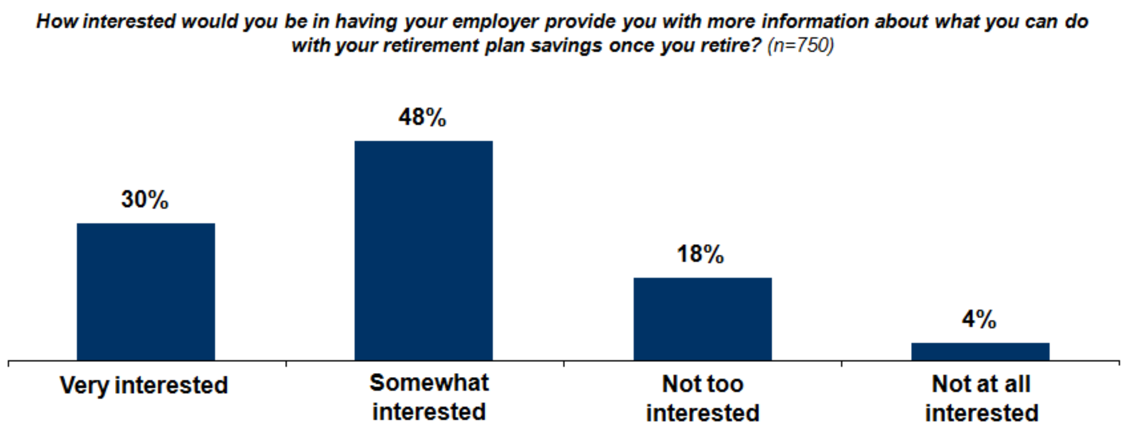
Thought Given to Retirement Plan Assets and Withdrawals



<u>Interest in Information On and Options for Guaranteed Lifetime Income</u>
Almost eight in ten would be interested in having their employer tell them more about what they can do with their retirement plan assets once they retire.

- Nearly eight out of ten (78%) express an interest in having their employer provide them with more information about what they can do with their retirement plan savings once they retire, including three in ten (30%) who would be very interested.

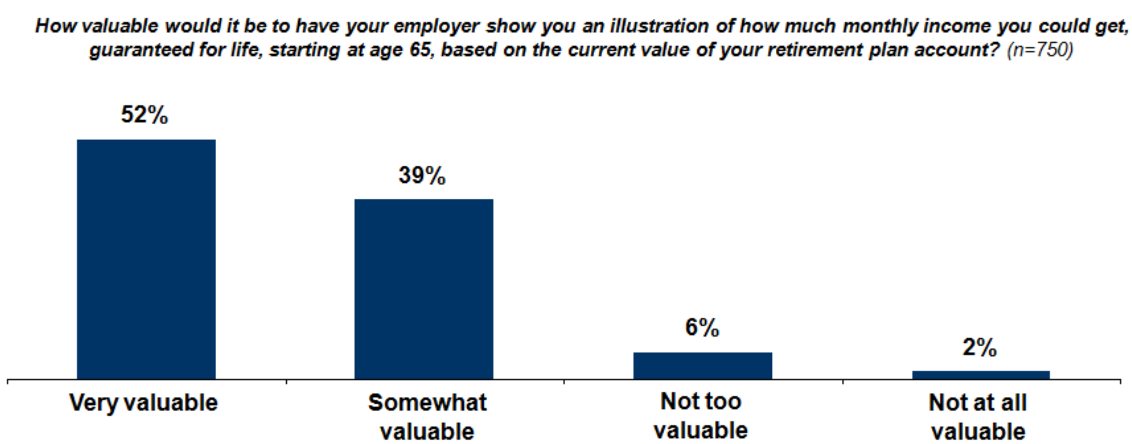
Interest in Information On Options for Retirement Plan Assets



An overwhelming majority feel it would be valuable to see how much guaranteed lifetime income they could get using their retirement plan savings.

- Just over nine out of ten plan participants (91%) suggest that it would be valuable to have their employer show them an illustration of how much guaranteed monthly income they could get for life, starting at age 65, based on the current value of their retirement plan account. This includes more than half (52%) who feel such an illustration would be very valuable.
  - Plan participants who presumably still have more time to plan for retirement (92% of 45-59 year olds) are more likely than those who are older (86% of 60-65 year olds) to feel that this illustration would be at least somewhat valuable.
  - Those with incomes under $100,000 (95%) are also more likely than their counterparts (89% of those with $100k+) to feel an illustration of how much guaranteed monthly income they could get would be valuable.
  - Interestingly, those who have not given a lot of thought to what they will do with their retirement plan savings after retirement (96%) are especially apt to say this type of illustration would be valuable, compared to those who have already thought about what they will do (90%). This suggests that showing plan participants this type of illustration may help some begin thinking about how to use their retirement savings who haven't previously given it much thought.

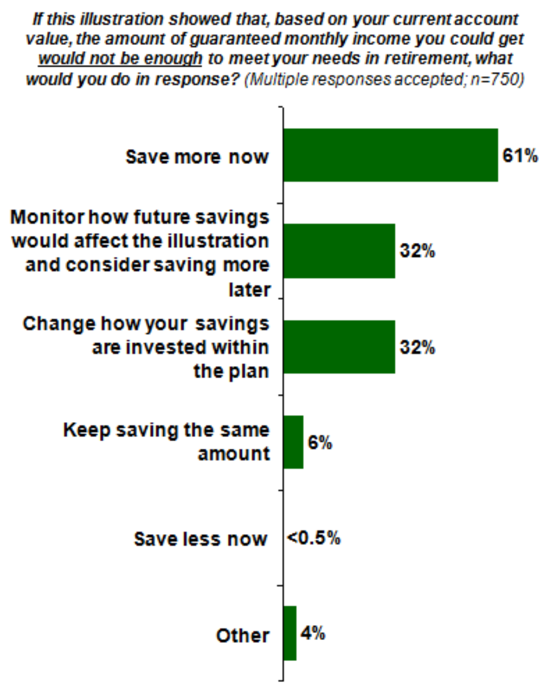
Value of Guaranteed Monthly Income Illustrations



An illustration of how much guaranteed monthly income could be generated would prompt many to save more, if the current amount seemed insufficient.

- Six in ten plan participants (61%) say that if they saw an illustration that suggested the amount of guaranteed monthly income that could be generated by their retirement plan account would not be enough to meet their needs, it would prompt them to start saving more.
  - Plan participants between the ages of 45 and 49 (68%) are particularly likely to suggest they would start saving more (v. 58% of those ages 50-65).
  - Those with incomes of $100,000 or more (69%) are more apt than those with lower household incomes (55%) to react by saving more.
- One-third (32%) say they would continue to monitor how their savings affected the illustration and would consider saving more later.
- Others (32%) indicate that seeing an illustration like this would cause them to re-evaluate and change their asset allocation.
- Only 6% say they would continue saving the same amount and less than 1% would save less as a result of seeing the illustration.

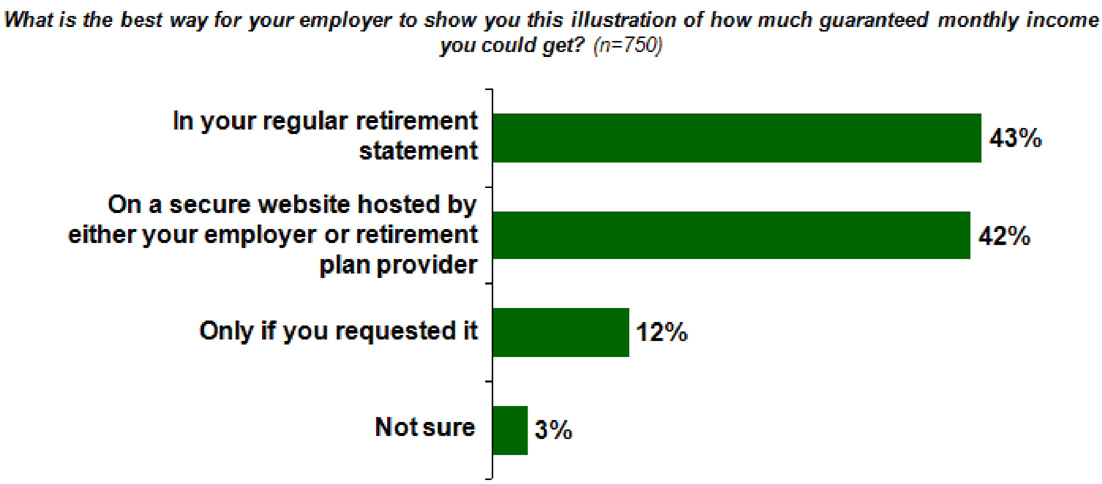
Response to Inadequate Income Illustration



Five in six (85%) want to see an illustration of how much guaranteed monthly income they could get on a regular basis, only 12% want it available only on their request.

- Eighty-five percent of plan participants indicate that the best way for them to see an illustration of how much guaranteed monthly income they could get is either in their regular retirement statements or on a secure website hosted by either their employer or their retirement plan provider.

Showing Illustration of Guaranteed Monthly Income



Nearly nine in ten plan participants favor a proposal to have employers offer an option of receiving guaranteed income for life.

- Eighty-six percent of plan participants surveyed favor a proposal that would have employers offer their employees an option in their retirement plan that would use some of the participants' assets to generate a guaranteed stream of income for life.
  - Women (92%) are significantly more likely than men (83%) to favor this proposal.
  - This proposal is viewed especially positively by plan participants nearing retirement, as 48% of those ages 55 to 59 say they strongly favor the proposal, which is significantly higher than those older (32% of 62-65 year olds) and those younger (36% of those age 45-54).
  - Those with incomes under $100,000 (91%) are more likely than higher earners (82%) to express their support.

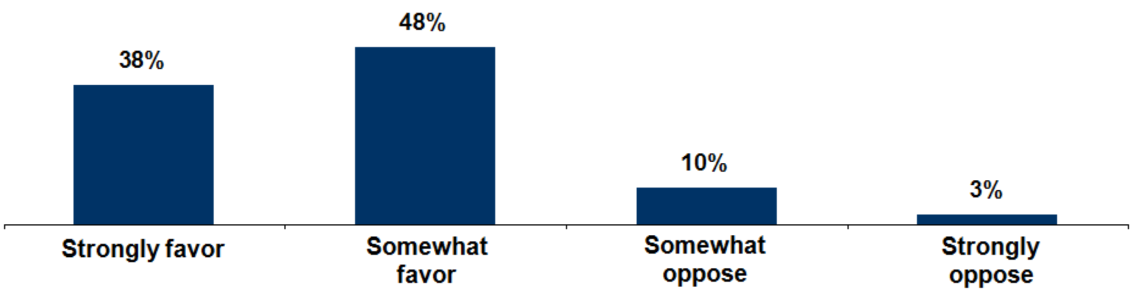
Attitude Toward Employers Offering Guaranteed Income for Life Option

Some financial planning experts believe that employers should offer an option in their retirement plans that would provide employees with guaranteed monthly income for the rest of their lives once they retire.

Employees would be able to choose whether or not to select this option. If they did choose it, they could put in any amount of money from their retirement plan that they wanted to.

The monthly income payments would never go down and it would be paid as long as the employee lives. Married employees could also have the option to have the payments last as long as either they or their spouses are alive.

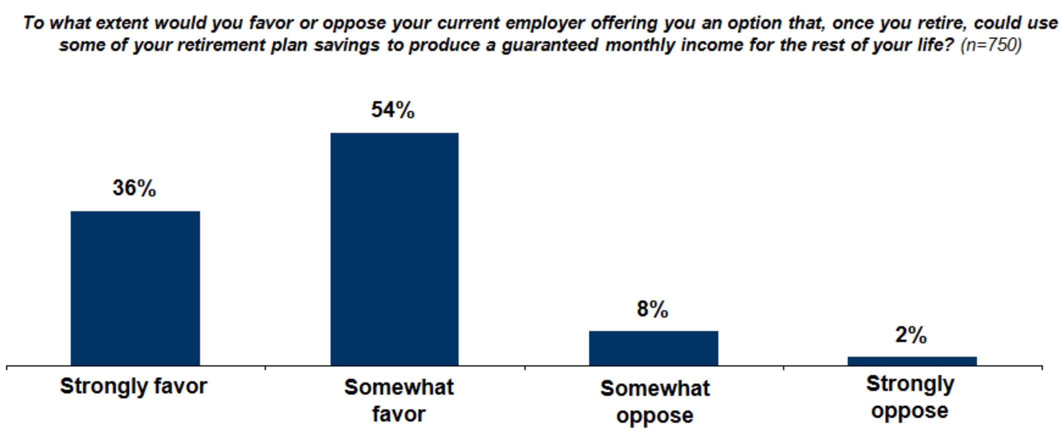
How strongly do you favor or oppose having employers offer their employees the option of getting guaranteed income for life, if they want it? *(n=750)*



Nine in ten favor the idea of their own employer offering them an option for guaranteed lifetime income.

- Fully ninety percent say they strongly (36%) or somewhat (54%) favor the idea of their employer offering an option that, once they retire, they could use some of their retirement plan savings to produce a guaranteed monthly income for the rest of their lives.
  – Again, women (94%) and those with household incomes under $100,000 (93%) are more inclined than their counterparts to say they favor the idea of their employer providing this option (88% of men, 87% of those earning $100,000 or more).
  – Plan participants who say they tend to be investment risk averse (52%) are more likely than those who are willing to take average to above average investment risk (35%) to strongly favor having their employer offer this option.

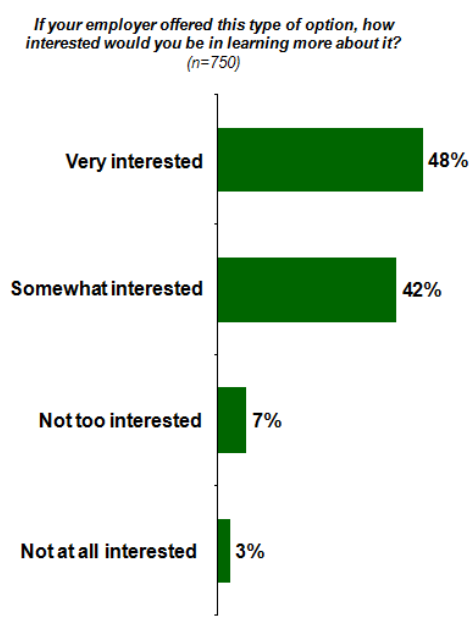
Desire for Own Employer Offering Guaranteed Income for Life Option



Given these positive reactions, it's not surprising that nine in ten also say they'd be interested in learning more about this option, if it were available.

- Nearly half of plan participants (48%) say they would be very interested in learning more about this option, if their employer offered it. And another four in ten (42%) say they would be somewhat interested in learning more.
  - Those who favor the proposal overall (96%) are more likely than those who oppose it (56%) to say they would be interested in learning more.
  - However, plan participants who have not previously given much thought to what they will do with their retirement plan assets (97%) are especially likely to say they would want to learn more about a guaranteed lifetime income option (v. 89% of those who have already given some thought), suggesting that the very offer of this option might prompt some to think through these issues in more detail.
  - Those with retirement plan account balances between $40,000 and $75,000 (96%) are more apt than those with higher balances (87%) to express an interest in more information on this option.

Interest in Learning More About Guaranteed Income for Life Option

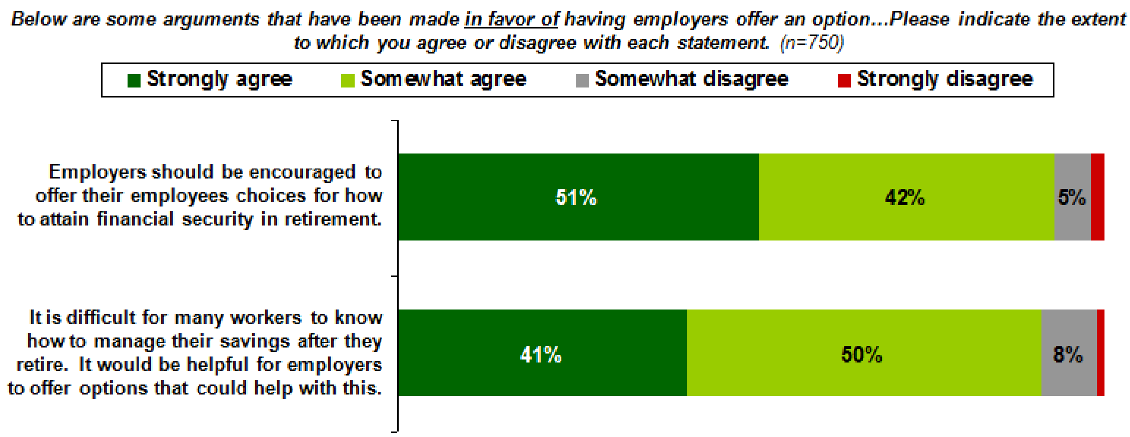


Nine in ten believe that employers should offer choices to help employees attain financial security in retirement; many feel it may be difficult to do this on their own.

- Half of plan participants (51%) strongly agree, and more than four in ten somewhat agree (42%), that employers should be encouraged to offer their employees choices for how to attain financial security in retirement.

- Moreover, 91% of plan participants strongly or somewhat agree that it is difficult for many workers to know how to manage their assets after they retire and it would be helpful if employers offered options to help with this.

Agreement with Statements in Favor of Employers Offering Guaranteed Income Option



Seven in ten disagree that employees know how to use their income to generate income in retirement and do not need the help of employers.

- Half (51%) disagree with the statement that employers have no responsibility for helping employees manage their retirement plan savings after they retire.
- Still, the vast majority – seven in ten (70%) – disagree that employees know how to use their retirement savings to generate retirement income for themselves and therefore do not need an option from their employer to do this.

Agreement with Statements Against Employers Offering Guaranteed Income Option