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Boston, MA 02210-2805

Hugh McHaffie
President
U.S. Wealth Management

May 3, 2010

Filed via E-Mail

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210
Attention: Lifetime Income RFI

Re: Request for Information RIN 1210-AB33

Dear Sir or Madam:

On behalf of John Hancock Life Insurance Company (U.S.A.) and its affiliates we are pleased to submit our responses to the Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans, 75 Fed. Reg. 5253, issued by the Department of Labor (the "DOL") and the Department of the Treasury (the "Treasury") (herein referred to as the "RFI") and published in the Federal Register on February 2, 2010.

Please do not hesitate to contact me if you have questions regarding our response to the RFI. I can be reached at hmchaffie@jhancock.com or (617) 663-2400.

We appreciate the opportunity to present John Hancock's views to assist Americans in securing a fulfilling retirement.

Sincerely,

Hugh McHaffie
President
John Hancock Wealth Management

REQUEST FOR INFORMATION REGARDING LIFETIME INCOME OPTIONS FOR PARTICIPANTS AND BENEFICIARIES IN RETIREMENT PLANS

FROM DOL AND TREASURY

John Hancock Life Insurance Company (U.S.A.) and John Hancock Life Insurance Company of New York (collectively, "John Hancock") hereby responds to the Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans, 75 Fed. Reg. 5253, issued by the Department of Labor (the "DOL") and the Department of the Treasury (the "Treasury") (herein referred to as the "RFI").

Introduction:

Paying for retirement is a worry all over the world -- for individuals, employers, public policy makers and taxpayers. Ironically, all this anxiety is due to one of the happiest developments of the 20th century: much longer life expectancies. Fifty years ago, the reasonable expectation was that a worker would spend a few years in retirement. Today, it may well be decades. How will we finance those decades? How can we ensure that as individuals we don't outlive our financial resources?

These are important questions and John Hancock applauds the Departments of Labor and Treasury for initiating this study of the retirement income security of Americans.

Due to well-documented strains in the Social Security system, sharply increased unfunded liabilities in public and private pension plans, and longer lifespans, the conclusion seems inescapable: a large percentage of the present working population in this country is going to have to pay for a substantial portion of their own retirements.

While guaranteed lifetime income is an important part of the puzzle, it is not in itself the solution to solving the retirement income problem in America. We believe the problem requires a more fundamental approach – that is, to encourage American workers to save more. This includes encouraging more employees to participate in their 401(k) plans and to do so at a meaningful deferral rate.

We believe it is critically important to educate Americans about the reality of how much money they will need for retirement, and about how they will make that money last for their lifetimes.

Americans need to develop a better understanding of the relative value of a lump sum of cash at retirement compared with income that may be structured to last their remaining lifetime. Education can be enabling and will facilitate the significant savings that are required. We need to increase the understanding, acceptance and use of a variety of solutions that may provide Americans with a balance between immediate liquidity, and secure streams of lifetime income.

We need to encourage all Americans to save more by providing incentives.

Solving the retirement income dilemma requires the fundamental approach of significantly increasing personal savings, both in retirement plans and generally.

One of the reasons for the current retirement crisis is that not enough is being put into retirement savings during the accumulation phase. Other countries have recognized the need to accumulate higher levels of retirement savings and have instituted employer and employee programs to address the issue. While we don't advocate such mandatory actions, it is interesting to review the impact that such programs have had on the retirement savings rate.

Hong Kong’s Mandatory Provident Fund:

In 2000, the Mandatory Provident Fund (MPF) was established in Hong Kong. The MPF is a compulsory, defined contribution program for employees where the level of contributions is currently five percent of salary by the employee and five percent by the employer, with a cap on the relevant income used for the contribution calculation of around US $30,000 per year (roughly the median earnings level). There are essentially no tax incentives for participating (but no penalties either). Hong Kong is a low tax environment so there are limitations to the extent that the government can use tax incentives as a policy lever.

The clearest example of the success of the MPF is the fact that prior to 2000; roughly 35 percent of the population was covered by a retirement program. Today, this coverage ratio stands around 97.3 percent - i.e., practically full coverage for employees and self-employed people. All in all, the introduction of the MPF has created a framework for forced savings for retirement and a system where additional savings can be readily injected by individuals.

The Australian Superannuation System:

This system is often looked at by other countries as an interesting model to learn from. There is about US$852b of assets under management now in the system covering around 32 million member accounts, pre- and post-retirement. In contrast to the MPF, in Australia, only the employer contributions are mandatory. In 1992, the government enacted the “superannuation guarantee” program. This entailed legislation whereby employers would pay a “superannuation guarantee charge” if they did not make contributions on behalf of employees. This charge is set at a level much higher than the cost of contributing and essentially created a mandatory defined contribution system. The employer contribution rate was increased from the initial three percent rate over time to the current nine percent which it reached in 2002.

Personal income tax rates are relatively high in Australia and over time numerous tax incentives have been put in place to encourage voluntary participation in superannuation by the community. The incentives have generally been used to raise the level of contribution during the accumulation phase as well as to encourage the use of retirement income streams during retirement. The emphasis on income streams is to reduce the use of the government provided Age Pension.

Similar to the Hong Kong experience, coverage of the work-force increased from 40 percent in the early 1980s to currently around 93 percent.

We must pursue initiatives to encourage Americans to save more overall, in order to increase the probability that a greater percentage of workers will accumulate enough resources to fulfill their actual retirement income needs. We must do this, in part, to avoid a burdensome societal liability extending well into the future.

Some specific initiatives for consideration are:

- Consideration should be given to increasing the current maximum deferral percentages and limits, providing further incentives to increase retirement savings, particularly at older ages that face a significant shortfall.

- Increase the Saver's Credit for low and middle income earners who put additional money into lifetime income products. Enhancing the credit is currently included in the President's Middle Class Task Force policy. We suggest increasing credit limit (currently $1,000 for individuals, $2,000 for joint filers) by 50 percent or increasing the credit rate (currently at 50 percent) to perhaps 75 percent, if additional money is directed to a lifetime income option.

- Extend specific benefits (e.g. exclusion of first $10,000 in annual income) to payouts from employer-sponsored or IRA plans taken on a lifetime basis.

- Extend specific benefits (e.g. preferential tax deductions) to plan participants who elect and contribute a minimum qualifying amount to lifetime income option.

- Extend specific benefits (e.g. tax credits) to plan sponsors who provide, encourage and/or achieve greater adoption of lifetime income options.

We need to promote greater awareness and understanding of products that already exist in order to address longevity risk (the risk of outliving one's assets in retirement).

In recent years, retirement plan providers have begun addressing the issue by creating methods to provide participants with lifetime income guaranteed benefits other than through a traditional annuity. Such products are vital to providing retirees with security in their retirement years.

Both employers and participants in 401(k) and other types of retirement savings plans need to understand the advantages of such new products as guaranteed minimum withdrawal benefits (GMWBs), guaranteed minimum income benefits (GMIBs) and deferred lifetime income annuities, and the role those products can play in structuring a secure retirement income. Participants should have the option of including a lifetime distribution option in their retirement plans.

John Hancock has led this innovation by offering a lifetime income option in the 401(k) plans we provide. Our Guaranteed Income for Life ("GIFL") Select optional feature, which is more fully described in our response, provides plan participants the ability to secure a guaranteed income for their lifetime and has been readily accepted by the marketplace. The feature offers the ability to secure, as early as age 65, a guaranteed five percent income stream for life based upon the higher of a) contributions accumulated at three percent annually, or b) the market value of the portfolios available under the GIFL Select options at that time (assuming that no withdrawals are taken prior to retirement at 65). The guarantee, which comes at a fee to the participant, protects the participant from downward investment returns in the calculation of their available guaranteed income, allowing for retirement planning with a degree of certainty. John Hancock has developed both in-plan and out-of-plan offerings, which allow a participant to retain guarantee of income upon a distribution event from their plan through a roll-over program to an IRA. GIFL Select is an optional income program, which provides flexibility for the participant to access the remaining account balance if they choose to forego current or future guaranteed income payments.

There are, of course, many other ways to assist in augmenting lifetime income in retirement. Various types of annuities may be suitable at different points in an individual's lifetime:

- Immediate payout annuities may be most valuable at or after retirement when the individual can shift an appropriate portion of their retirement plan assets into a stream of income, presumably for life.

- Deferred annuities, including fixed and variable annuities, can play an important role for pre-retirees or individuals whose income horizon is in the future. In effect, deferred annuities can be used to project a predictable future value from which income may be generated that can be insulated from future stock market or interest rate changes.

We believe the Government Agencies should take an advocacy role to promote education on longevity risk and lifetime income options through actions that include, but are not limited to:

- Media campaigns.

- Publications distributed by retirement plan sponsors to plan participants, and by government agencies to Social Security participants.

- Encouraging plan sponsors to include lifetime income options in their plans with associated educational materials at enrollment and/or on plan websites.

We need to solve the problem of fiduciary challenges for plan sponsors.

Life insurers and other financial services providers have varying roles to play in offering solutions to employers and individuals. One of the most meaningful ways to encourage the utilization of existing and development of new solutions to the lifetime income problem would be to solve the fiduciary challenges that plan sponsors face.

Plan sponsors are often concerned about their fiduciary responsibilities in offering lifetime income solutions to participants. We need to focus on educating plan sponsors about the various features, if we are to encourage greater utilization. Changes in regulations and tax policies will need to be considered.

Life insurers such as John Hancock are uniquely positioned to assist in solving the problem of longevity risk by helping to develop innovative lifetime income solutions:

- Life insurers have studied longevity for years and have the ability to write mortality-based guarantees to provide solutions to the longevity risk.

- John Hancock is investing heavily in research and development so that we may design effective retirement products to help participants plan and save for their retirement needs.

Who We Are:

- John Hancock is the US division of Manulife Financial Corporation of Toronto, which is the fifth largest publicly held life insurance company in the world and the largest in North America.[1]

- Approximately 96 percent of U.S. consumers are aware of the John Hancock brand for financial services. John Hancock provides solutions for eight of consumers' top 10 financial concerns, including: the need to plan for retirement, the cost of healthcare/medical expenses, outliving savings, and financial security after retirement.

- John Hancock holds top market rankings in many insurance and investment products designed to help Americans build and protect wealth. The company ranks #1 in Variable Life and Survivorship Life insurance, #1 in Group and Individual Long Term Care insurance, #1 in 401(k) plan sales to smaller companies. In addition, the company is ranked #2 in Total Life insurance sales and #2 in Universal life sales.[2]

- John Hancock provides a variety of 401(k) retirement plan services, including recordkeeping, plan administration, providing annuities and lifetime income benefits, investment selection assistance, and mutual fund investments. John Hancock currently serves over 42,000 401(k) plans throughout the United States, covering 1.7 million participants.

- John Hancock's financial strength ratings are among the strongest in the life insurance industry. The company is rated AA+ by Standard & Poor's (2nd highest of

[1] As of 12/31/2009

[2] Variable, Survivorship, Total and Universal Life based on 100% of Recurring Premium plus 10% of Single Premium plus 10% of Excess Premium (LIMRA, 12/31/09 YTD); 401(k) based upon plans among insurance companies, mutual fund companies and banks (2009 CFO Magazine 401(k) Provider Guide Study, May 2009).

21 ratings) – very strong financial security characteristics; Aa3 by Moody's (4th highest of 21 ratings) – excellent financial security; A+ by A.M. Best (2nd highest of 15 ratings) – superior ability to meet ongoing obligations; and AA by Fitch Ratings (3rd highest of 21 ratings) – very strong capacity to meet policyholder and contract obligations.

About our parent company:

- Manulife Financial Corporation is a leading Canadian-based financial services group serving millions of customers in 22 countries and territories worldwide. Operating as Manulife Financial in Canada and Asia, and primarily through John Hancock and its affiliates in the United States, the Company offers customers a diverse range of financial protection products and wealth management services through its extensive network of employees, agents and distribution partners.

- As at December 31, 2009, Manulife Financial had capital of Cdn $33.2 billion, including Cdn $27.4 billion of common shareholders' equity.

- Funds under management by Manulife Financial and its subsidiaries were Cdn $440 billion (US $420 billion) as at December 31, 2009.

- Manulife's key operating subsidiaries enjoy among the highest financial strength ratings in the insurance industry as a result of our consistent focus on financial discipline, strong capital levels, risk management and operational excellence.

- Manulife Financial Corporation trades as 'MFC' on the TSX, NYSE and PSE, and under '945' on the SEHK. Manulife Financial can be found on the Internet at www.manulife.com.

General

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?

Advantages

For most Americans, 401(k) plans provide their only retirement savings apart from Social Security. As people have started living longer and have not saved enough (or have lost savings due to down markets), retirees are concerned that they will outlive their retirement savings. One means of addressing this concern is some form of lifetime income.

- Poor markets, before or after retirement, can seriously impact a retiree's retirement income. A guaranteed stream of lifetime payments can reduce this risk.

- Being able to convert 401(k) savings to a steady stream of income for life can ease retiree concerns.

- The guarantee of a steady stream of income protects retirees from market risk during a period in which they have less time to recover from a loss.

- With increasing life expectancy, the risk of outliving one's retirement assets can be significantly reduced. Currently the most effective way to mitigate this risk is to purchase an annuity from an insurance company that has the ability to pool longevity risk among its clients. This diversification is unmanageable by an individual on his or her own.

- Participants are less likely to squander or prematurely spend their savings if they have elected a fixed payment schedule.

- Deferred annuities that offer revocable lifetime income benefits such as guaranteed minimum withdrawal benefits ("GMWBs"), whether offered to plan participants, or purchased with rollover balances or personal savings, may be beneficial to retirement savers who wish to insulate the purchasing power of future lifetime income streams from market or interest rate disruptions.

Disadvantages

- While traditional fixed annuities provide a guaranteed stream of income, they do not otherwise provide retirees with access to their savings.

- Other than a joint and survivor annuity, the traditional annuity leaves no value to the participant's beneficiaries. In contrast, in revocable lifetime income products, such as GMWBs, participants and their beneficiaries have access to their current account at any time.

- In any form of guaranteed payments, there will be additional fees that do not exist when participants take lump sum or periodic distributions without a guarantee.

Ensuring balance in an individual's financial planning is critical. Individuals have both a need for liquid assets to cover unanticipated financial events plus the ability to have an income stream that is sustainable for their expected lifetime. Life income annuities are specifically designed to provide the lifetime protection and are less effective in provided liquidity. Education to participants/retirees on the attributes of annuities is critical to ensure a properly balanced retirement financial plan.

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

The low utilization rate of lifetime income options likely represents a combination of the lack of availability and lack of understanding by both plan sponsors and plan participants. This low selection of lifetime income options also results, in part, from the fact that many participants do not save enough during their working years. According to EBRI, the average account balance as of year-end 2008 was $45,519 and the median was $12,655. (See 401(k) Plan Asset Allocation, Account Balances, and Loan Activity in 2008, released by EBRI in October 2009). If, at retirement, a participant has a relatively low balance, this translates to a low annual payment under a lifetime income option. Rather than choose a small stream of income, participants often choose to take a lump sum. Additionally, deciding to purchase an annuity is an important and often irrevocable decision. In many instances, participants are simply uncomfortable locking themselves in to the annuity payments and give up the flexibility of a lump sum distribution.

One way to encourage participants to take income options rather than lump sums is to start with the fundamentals of savings. If participants increase their plan participation with increased deferrals, they will increase their retirement savings and correspondingly increase the likelihood that a lifetime income option will provide a more meaningful benefit. Even though automatic enrollment is a step in the right direction to increase participant deferrals, automatic deferrals start out at low rates and not all plans have implemented automatic enrollment. Educating plan sponsors and participants regarding the benefits of enrollment (*i.e.*, increased deferrals during the accumulation phase) may result in larger accounts, which participants may be more likely to turn into a guaranteed stream of income. Providing participants with more education regarding lifetime income options may also help increase usage. The better participants understand their options, the less likely they are to simply take a lump sum out of fear or inertia.

Additional reasons for the low usage rate of lifetime income arrangements include:

- IRA products (other than IRA annuity products) do not contemplate distributions in the form of an annuity.

- Purchasing substantial lifetime amounts can be very costly in terms of the percentage of pension assets that must be committed. This may go against the ingrained concept of the participant who has thought of his or her pension asset nest egg as serving for multiple protection purposes, e.g. heath care, family emergency funds, etc.

- Loss of control over the (probable) largest financial asset that retirees have ever possessed is not attractive.

- Most participants are shortsighted retirement planners and really do not have a working understanding of the longevity risk associated with pension assets during the distribution phase of retirement planning.

- Even when participants consider their longevity, they tend to underestimate their life expectancy.

- Participants do not have a good intuitive sense of "relative value," e.g. typically they would not compare favorably a $3,000 monthly annuity at age 62, with $400,000 in cash.

- The purchase of an annuity has too often been presented as an "all or nothing" proposition; i.e. you buy an annuity or you take the cash. Many, if not most plans, make no provision for the use of only a portion of the pension asset to buy an annuity while retaining the remainder in the plan or rolling over the remainder into an IRA.

To overcome these concerns, the Government Agencies should consider the following actions:

- Provide a simplified safe harbor for a plan sponsor's selection of an annuity provider in a defined contribution plan.

- Encourage partial annuitizations through tax laws changes.

- Promote the education of participants and sponsors regarding longevity risks and the various expenses likely to be incurred in retirement.

- Educate participants and sponsors regarding the value of annuitizing small amounts (and small accounts), as a supplement to other retirement income such as social security income.

- Require more disclosure about lifetime income options, even for plans without such options.
- Encourage Congress to adopt legislation that provides for a tax exemption for some portion of guaranteed lifetime income.
- Encourage plan sponsors to include lifetime income options in 401(k) plans or facilitate access to external lifetime income options via IRA rollover if administration is deemed burdensome.
- Encourage Congress to extend specific benefits (e.g. tax credits) to plan sponsors who provide, encourage and/or achieve greater adoption of lifetime income options
- Encourage Congress to extend specific benefits (e.g. preferential tax deductions) to plan participants who elect and contribute a minimum qualifying amount to a lifetime income option.
- Encourage Congress to extend specific benefits (e.g. exclusion of first $10,000 in annual income) to payouts from employer-sponsored or IRA plans taken on a lifetime basis.
- Encourage Congress to extend favorable tax treatment (tax deduction, tax-favored income as above) to personal deposits (IRAs) made to deferred and immediate annuities that provide lifetime income options.

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?

New Innovative Products

As described in the Introduction section to this Response, service providers in the retirement plan industry have developed new guaranteed lifetime income options such as GMWBs, GMIBs (Guaranteed Minimum Income Benefit) and deferred fixed guaranteed income annuities, as in-plan options for lifetime income benefits. Other examples of lifetime income benefits from insurance contracts held by defined contribution or defined benefit plans include fixed annuity payouts in fixed annuity contracts and fixed and/or variable payouts in variable annuity contracts.

We are seeing the development of innovative products in the defined contribution marketplace that are addressing the issue of securing guaranteed retirement income during the retirement savings stage versus purchasing an annuity at attainment of retirement. John Hancock's GMWB product, called Guaranteed Income for Life Select (GIFL Select) is an innovative product that provides for future guaranteed income streams that are secured during the deferral stage of the participant's retirement planning. In a 401(k) plan offering the GIFL Select feature, participants can invest in four of John Hancock's asset allocation funds (conservative, moderate, balanced and growth) and three focused diversification Funds. Once a participant reaches age 65 or older, the participant can take annual retirement withdrawals for life equal to their lifetime income base which is five percent of the greater of (1) their total plan contributions plus accumulated growth of three percent per year, or (2) their total plan contributions plus market gains as locked in at retirement. Under this approach, participants can realize market upside potential while eliminating market downside risks in the determination of their lifetime income base. Further, the participant is guaranteed to receive retirement income payments for life, even if the account is depleted during their lifetime, so long as he takes withdrawals in accordance with the product schedule. While the participant benefits from the guaranteed protection, the participant also retains the flexibility to give up part or all of the guarantee by taking larger distributions or moving the assets into a different investment option not covered by the guarantee. An additional fee is charged at the participant level currently 0.50 percent annually based upon the lifetime income base to provide this protection.

Purchasing Future Retirement Income Streams

It is also worth noting the recent development of products that involve the purchase of future retirement income streams through fixed income units that begin at retirement. This "deferred guaranteed income stream" concept is a potentially important component of one's retirement planning.

In addition, the more traditional single premium immediate annuity which provides a guaranteed lifetime income payment starting at retirement is available on both a fixed and variable basis. Deferred annuities are also available as savings products which also provide settlement options allowing the participant to convert to a guaranteed lifetime income stream at retirement.

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?

For the most part, lifetime income options are typically provided at retirement.

Today, lifetime income options offered during the accumulation phase within a 401(k) plan is very limited with only a handful of 401(k) providers offering this feature.

At John Hancock, we are one of the few 401(k) providers that can offer a GMWB within a 401(k) plan. The participant can continue to enjoy the benefit of lifetime income when they retire while either staying in their 401(k) plan or rolling over to a JH IRA that preserves the guarantee that was built up within the 401(k) plan.

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?

There is no industry data on this as the products are so new little has yet been reported. It is our understanding that such distinctions between employer and employee contributions are not made in most plans.

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?

Plan balances may be rolled over to an IRA (trustee to trustee transfers, or within 60 days of distribution to participant), which may be deposited into immediate or deferred annuities (among other investment choices), preserving tax deferral. Rollovers to any type of annuity generally also preserve the ability to access lifetime income payments.

There are a number of "out-of-plan" options available for retirees seeking lifetime income:

IRA GMWBs - For participants who have a GMWB in a plan, upon triggering a distribution, they may typically roll that GMWB guarantee over to an IRA with similar provisions. Alternatively, participants without a GMWB guarantee may roll over to an IRA and purchase a GMWB guarantee through the IRA provider. In either case, the exact terms of the GMWB will vary by provider, but the general concepts described in the Introduction section of this Response should apply. This approach retains liquidity in that an individual has flexibility to take more than the guaranteed distribution amount, although this will affect the benefit base and the level of the guaranteed payments if the participant runs out of funds.

Selection of these types of benefits represents a significant portion of variable annuity flows. According to LIMRA, in 2009, qualified plans (primarily IRA rollovers) represented 70 percent of variable annuity flows, up from 65 percent in 2008. In addition, LIMRA data also reveal that the vast majority of new variable annuity contracts are issued with some kind of lifetime income option especially guaranteed minimum withdrawal benefits options.

Qualified Plans represent a significant percentage of variable annuity flows

	Total Variable Annuity Sales	Industry Qualified Sales	Industry Non-Qualified Sales
2009	$124, 984 (MM)	70%	30%
2008	$154, 699 (MM)	64%	27%

Source: LIMRA, 2010

Lifetime Income Option elections dominate annuity flows, WBs most popular

	Total Variable Annuity Sales	Percent Electing a Guaranteed Minimum Withdrawal Benefit	Percent Electing a Guaranteed Minimum Income Benefit	Percent Electing **any** Lifetime Income Option
2009	$124, 984 (MM)	73%	20%	93%
2008	$154, 699 (MM)	64%	27%	91%

Source: LIMRA, 2010

Rollover Annuity Platforms – Under this option, a retiree taking a distribution from a plan can choose a fixed or variable annuity from a variety of insurers. The participant essentially uses the account to purchase an annuity. Under this approach, the participant has a guarantee but has given up liquidity. Many forms of lifetime income options are available including:

- single life, with and without cash refund
- joint life with and without cash refund
- contingent annuitant
- life and period certain
- period certain only
- joint and survivor with a period certain feature
- contingent annuitant with a period certain feature
- fixed increasing % annuity, e.g. COLA

Deferred fixed and variable annuities are also available allowing the participant to continue to save for retirement with the additional features to convert to a guaranteed lifetime stream as described for Rollover Annuity Platforms.

Longevity Insurance – At retirement, the retiree can purchase longevity insurance, which provides a deferred fixed annuity scheduled to begin payout in the future (usually age 85). The individual can then use the remaining part of his or her account to live on during retirement. In order to receive payments, the individual must reach a specified age. There is no liquidity with respect to the funds used to purchase the insurance and no return of the amount used to purchase the deferred annuity if the participant dies before the payments are scheduled to begin.

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 many factors that affect the cost of lifetime income products. Some factors include the following:

- Flexibility in the projected income stream (e.g., a constant income stream is less costly than income that may increase depending on market performance).

- Cashout abilities (e.g., a product that allows a participant to accelerate all of his or her income to withdraw the full account value will be more costly than an annuity with no cash surrender value).

- The expected period for which the income stream will be provided (a product that allows early retirement will cost more than one that begins at a later retirement date).

- Flexibility in deciding when the stream of income will begin.

- Inflation protection and

- Allowing investment in actively managed funds versus indexed funds.

- Significant age differential between joint lives, (e.g. participant age 65, spouse age 55).

The above factors have been incorporated into the availability of John Hancock's GMWB which currently charges 0.50 percent annually on the lifetime income base.

In addition, the key drivers of the cost of providing a lifetime income are the investment returns on the supporting assets for immediate annuities. Typically these guarantees would be supported by fixed income assets, so the investment return available to the provider is determined by the current interest rate environment, the term to maturity of the asset, and the credit quality of assets selected.

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)?

In-Plan Advantages:

- The products tend to be less expensive and less complicated than outside-of-plan rollover products.

- By building a lifetime income stream over time during the accumulation phase, the participant gets the benefit of dollar cost averaging.

- Building a lifetime income stream during the accumulation phase provides downside protection during down markets before and after retirement.

- The plan sponsor conducts due diligence in deciding to offer and selecting a lifetime income option, so the participants may get the benefit of both lower cost (wholesale vs. retail) and fiduciary protections offered by ERISA.

- Participants begin thinking early on regarding their future retirement income as opposed to merely creating a lump sum savings.

In-Plan Disadvantages:

- Because of limitations regarding a plan sponsor's ability to offer investment advice to participants, a participant may not get personal guidance from a financial advisor but may have to rely on 401(k) enrollment materials when considering a plan's lifetime income option.

- The participants are limited to the plan's investment options.

Outside-of-Plan Advantages:

- Depending on the individual's account balance, he or she may have access to a financial advisor to help the individual assess the suitability of lifetime income options. This advantage is really more applicable to an individual with a large account balance who has access to financial advisors. Rank-and-file individuals may not get the same advantage.

Outside-of-Plan Disadvantages:

- Rolling over at termination or retirement exposes the individual to "sequence of returns" risk (i.e., the risk of rolling over during a down market). This risk can be mitigated if the provider of the in-plan guarantee also offers IRA rollover products that provide lifetime income protection to the participant.

- Rollover products offering lifetime income options tend to be more expensive and complicated than lifetime income options in plans.

- The cost of purchasing Single Premium Immediate Annuities is extremely sensitive to the interest rate environment when the purchase is made. A single purchase at retirement results in the participant exposing their retirement nest egg to the prevailing interest rate environment at a single point in time.

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?

In-Plan Advantages:

- As fewer plan sponsors provide defined benefit plans, offering a lifetime income option in a defined contribution plan gives sponsors an alternative way to benefit their employees.

- By offering a lifetime income option in the plan, plan sponsors have the ability to address participants' concerns regarding outliving their retirement savings.

- By offering the benefits inside a plan, participants have protection pre-retirement as well as the benefit of dollar-cost averaging into different investment markets and interest rates.

- Allows their employees to reduce their risks of purchasing out of plan lifetime income in a difficult economic environment.

- Improved employee satisfaction with the plan sponsor as a "secure retirement income" is being established and built.

In-Plan Disadvantages:

- One of the primary concerns plan sponsors have regarding offering a lifetime income option, such as GMWB, relates to the portability issues. There are several approaches that could ameliorate this disadvantage:

  – Some lifetime income providers have tried to address this issue by offering lifetime income in IRAs.

  – This could be further addressed by treating a plan's discontinuance of a lifetime income option as a distributable event, allowing affected participants to roll their accounts (or at least the portion invested in the lifetime income-related investment) over to an IRA that provides the same or similar lifetime income protection. In-service distributions are already allowed on and after age 59½ under Internal Revenue Code section 401(k)(2). By allowing participants to roll over their accounts if a lifetime income option is discontinued, the participants are generally able to preserve their guarantee feature. Otherwise, the participants will have paid the guarantee fee and potentially will receive no protection. Even if the distributable event is limited to participants at a certain age (e.g., age 50), providing this sort of protection will go a long way towards addressing plan sponsors' portability concerns.

- Plan sponsors' recordkeeping costs.

- Plan sponsors are also concerned with whether the qualified joint and survivor annuity rules apply to a GMWB. As described in more detail in our response to Question 26, and for the reasons stated therein, guidance clarifying that revocable lifetime income options, such as GMWBs, are not subject to the provisions of Internal Revenue Code section 401(a)(11) would help address this concern**.**

- Plan sponsors are concerned with satisfying their fiduciary obligations when selecting an in plan lifetime income option. As described in more detail in our response to Question 32, guidance clarifying that revocable lifetime income options, such as GMWBs, are not subject to the Annuity Safe Harbor regulations would address this concern.

- Increased administration and communication burdens placed on plan sponsors.

To the extent lifetime income products are offered outside of a plan, the advantage is that plan sponsors do not have to address the issues described above and do not need to assess the providers. However, offering the benefit outside of the plan exposes the retiree to "sequence of returns" risk (i.e., retiring into a down market) and may also increase the cost to the participant since the participant will be paying a "retail" price for the lifetime income option in his or her individual IRA. (Reference answer 32).

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?

We do not see plan sponsors making this offer to participants.

Expanded offering of partial annuity options would be desirable, as there is a tendency for advisors, sponsors and participants to think in terms of all or nothing. If partial annuitization of accounts is made available and accompanied by education efforts and more advice, they might be utilized more. Education could consist of scenario modeling where differing percentages of accumulated values are converted into lifetime income streams.

In our experience, in plans offering GIFL Select, about 10 percent of participants elect to allocate some portion of their accounts to GIFL Select. The overall average is 83 percent of a participant's balance is invested in GIFL. Below is a more specific breakdown of the data:

Percent of Total Account Balance Invested in GIFL	Percentage of Participants Investing this Way
0%-50%	7%
50%-70%	6%
70%-80%	4%
80%-90%	5%
90 - 99%	9%
100%	69%

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?

We believe that plans should not be required to offer a lifetime income option at distribution. We also believe that participants should not be automatically enrolled in investment options with lifetime income, such as GMWB. The deferral rates for automatic enrollment are relatively low, especially at the onset of automatic enrollment and guarantees of small accounts do not make much sense. However, we believe that a lifetime income feature in an investment option that otherwise meets the qualified default investment alternative ("QDIA") requirements will not cause the investment option to fail the QDIA requirements. There is language in the preamble to the QDIA regulation to this effect and we understand that is the DOL's position. Nonetheless, there is some confusion in the marketplace on this issue and it would be helpful if the DOL could provide guidance making this point explicitly clear.

Rather than making automatic deferrals or lifetime income options mandatory, we believe that participants need to understand the benefits of deferrals and the choices they have in taking distributions of their retirement savings so that they can make an affirmative decision as to what is appropriate for them. Educating participants about the benefits of a meaningful deferral rate, as well as, how lifetime income options can be part of a reliable retirement income plan is most important. Even though plan sponsors recognize the value of more education regarding distribution options, plan fiduciaries are concerned about fiduciary liabilities when providing such information.

DOL Interpretive Bulletin 96-1 clarifies that providing participants with information regarding deferrals and investments is not a fiduciary act if the information constitutes "investment education" rather than "investment advice." It would be helpful to expand Interpretive Bulletin 96-1 or provide separate guidance relative to providing participants with information regarding distribution options, including lifetime income options. The 2009 ERISA Advisory Council (the "Council") came to the same conclusion when considering retirement security issues. Specifically, one of the Council's five recommendations was that the "DOL immediately should amend Interpretive Bulletin 96-1 to expand its scope to the de-cumulation phase of retirement planning." We agree.

Many service providers and consultants are reluctant to serve as fiduciaries and, as a result, the growth and popularity of annuities and other lifetime income guarantees will be slowed if providers and consultants feel they are obligated to serve as fiduciaries when they provide information in this important area.

Providing a safe harbor or guidance addressing what information can be provided to participants regarding lifetime income options and other distribution issues without triggering fiduciary status would be helpful. For example, guidance could provide that plans sponsors may disseminate communication materials created by the lifetime income provider describing how the product works and the benefits of a lifetime income feature. As long as the plan sponsor does not know or have reason to know that such materials are inaccurate or incomplete, the plan sponsor would be protected from fiduciary liabilities for providing participants with the information materials.

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?

We believe that this decision is inherently an individual one based on the particular circumstances of each individual. Such decision will depend on many factors, including without limitation the type of lifetime income product, other sources of retirement income, and the participant's lifestyle. Therefore, as described in our response to Question 11 above, we believe that it is important to provide participants with educational materials regarding lifetime income options. By giving plan sponsors guidance, perhaps with a safe harbor, allows them to freely distribute materials illustrating the types of lifetime income options available. Plan sponsors will then be able to provide participants the type of information they need to make informed decisions. The information could include commonly accepted standards for calculating the amount of money needed for basic living expenses in retirement, with appropriate caveats regarding family size, health factors and the like. It could also include calculators for these purposes, provided that they are based on generally accepted standards.

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?

We do not believe that lifetime income distribution options should be required for defined contribution plans. The availability of lifetime income products within a defined contribution plan is a relatively new industry development. Given this very early stage in product evolution, it would be premature to mandate lifetime income products in defined contribution plans.

We believe it is important that plan participants understand the lifetime income option and make an affirmative decision as to whether it is appropriate for them. Further, with respect to participants who do not have large account balances, defaulting them into a lifetime income option would likely not be to the individual's benefit. Rather than imposing a lifetime income option, we believe participants would be better served by encouraging plan participation at meaningful deferral rates to address the accumulation issue and providing well-crafted educational materials regarding the benefits of selecting a lifetime income option.

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?

There are several impediments under both ERISA and the Internal Revenue Code.

First, the fiduciary responsibilities with respect to selecting and monitoring lifetime income products present issues. Plan sponsors are concerned that they do not have the ability to select insurance companies that will have the financial resources to pay the benefits (or even be in existence) 30, 40 or possibly 50 years from now, when the benefits are paid. In other words, plan sponsors do not understand that the prudent man rule requires that they evaluate the provider of the guarantee in light of today's circumstances. Instead, there appears to be a belief that plan sponsors are responsible for the financial stability of financial service institutions well into the future. Plan sponsors need clear guidance on this issue with respect to both annuity type benefits and non-annuity type benefits. Furthermore, we believe that the selection of such lifetime income features should be subject to the general fiduciary standards under section 404 of ERISA. For further information on this issue, see our response to Question 32.

Second, portability is a significant fiduciary issue, especially for revocable lifetime income benefits. Specifically, plan sponsors are concerned that if they do not have universal portability opportunities upon a change of providers, they may be breaching their fiduciary duties in selecting the revocable lifetime income provider in the first place or in electing to change providers later on. One way to address this issue is to amend the Internal Revenue Code to permit qualified plans to make distributions upon a change of providers if a participant might otherwise lose a lifetime income feature under the plan. For example, if a 55-year-old participant had selected a lifetime income option several years ago and then the plan sponsor switched to another provider that would not maintain the lifetime income option, the participant should be able to take a distribution and roll it over into an IRA that permits him to preserve the lifetime income option. In other words, the loss of a lifetime income option would be a distributable event. By adopting such a change, the fiduciary concern regarding portability would be eliminated.

Finally, for annuity-type benefits, the qualified joint and survivor annuity (QJSA) rules impose a substantial barrier to the near-term expansion of lifetime income guarantees (to the extent they are subject to these rules). As 401(k) plans have grown in popularity, the vast majority of plan documents do not contain annuity provisions. As described below in our response to Question 26, we do not believe revocable lifetime income options are or should be subject to QJSA rules. However, guidance making this point clear would be helpful to plan sponsors who worry that they will have to amend their plans and comply with what they feel are the onerous provisions of the QJSA rules.

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?

As we have highlighted several times, current savings rates are insufficient to provide Americans with a secure retirement income stream over their entire retirement years. On top of this savings burden, it is prudent that individuals have readily accessible savings to cover numerous inevitable events such as medical emergencies, progressive disabling illness that require extended health care and other unanticipated financial hardships. It would be beneficial if retirement savings financial products had the flexibility to provide for, not only longevity risk, but also immediate financial needs. The revocable lifetime income options, such as GMWB, have been developed to address both the risk of longevity through their lifetime income guarantees, as well as, having access to the remaining account balance to provide for immediate financial needs. As with any financial product that provides for multiple coverages, compromises must be made and in the case of GMWB's, offering and then exercising the liquidity feature reduces the potential and/or current guaranteed retirement income stream.

We believe that innovation in the multi-purpose financial products will continue. Recently a combination retirement income product with additional payments if the individual has a need for long-term care has been brought to market. In addition, life insurance companies have offered life insurance with a long-term care feature that allows for an acceleration of death benefit proceeds in the event long-term care financial assistance is required. We encourage regulators to work with financial product manufacturers to allow for this innovation to flourish and assist in providing guidance around regulatory treatment of these new products.

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?

Other respondents are likely better equipped with research results to answer this question. Any differences adversely impacting demographic groups should be addressed through education to ensure that all Americans are fully prepared to make critical retirement planning decisions.

Participant Education

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

In order to make informed decisions, participants should be provided information that includes the following:

- Guidance on how much of the participant's investment portfolio should be allocated to a lifetime income feature – this would include information regarding how much the participant can expect to receive as lifetime income from Social Security and estimates on how much income they should be trying to replace and guarantee, additionally illustration of their anticipated life expectancy.

- An explanation of the nature and features of a lifetime income option, including any conditions and/or restrictions, such as, maximum payments that can be made without reducing future lifetime income payments, survivorship benefits, tax implications, surrender charges (if any), withdrawal and liquidity options; and

- Costs – the costs of both the underlying investment option as well as the cost for the guarantee.

- Information regarding the underlying investments, including the risk, class, management style, and whether the management is active or passive.

- Portability – this includes what happens when the plan or participant terminates the relationship with the lifetime income provider as well as information regarding rollovers to IRAs that will continue the lifetime income guarantee.

The information typically provided to a participant at the point of selection, enrollment or post-enrollment, includes fees, investment options, trading rules and restrictions and is provided both through paper (e.g., an enrollment kit) and electronic media (e.g., a website). Similarly, the information described above should be provided to a participant when the participant selects the lifetime income feature. The information should be provided in plain language and made available in print and electronic media. Further, such information should be available upon request by the participant.

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?

In general the answer is yes. Any additional comfort that a plan sponsor may utilize plan assets to facilitate participant education on attaining their retirement goals would be advantages.

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?

For plan sponsors, the issue of how to help participants make the choice of investing in a lifetime income arrangement poses the same issue as typical investment decisions. Plan sponsors are concerned about crossing the line from merely providing information and education that helps participants make appropriate decisions to providing advice for which the plan sponsor could be held responsible. As described in our response to Question 11, we believe that DOL Interpretive Bulletin 96-1 should be expanded (or separate guidance provided) to specifically address providing information relative to lifetime income options.

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?

As described in our response to Question 11, we believe that plan sponsors and providers should be encouraged to provide participants with information about reasonable estimates of the lifetime income their accounts can purchase as well as what amount of income they will likely need during retirement. This can be achieved with annuity calculators that are made available to participants. The calculators should allow for variables that include other sources of incomes (e.g. defined benefit plan income and social security income). This can be coupled with education materials that discuss longevity risk, inflation risk, credit risk and any other pertinent risk issues.

In addition to expanding on the investment education guidance in Interpretive Bulletin 96-1, providing protections with respect to a participant's decision to purchase a lifetime income option will further allay the concerns of plan fiduciaries. These could be similar to the protection ERISA section 404(c) provides with respect to investment decisions, in general. If plan fiduciaries feel comfortable that taking certain steps will satisfy their fiduciary duties, for lifetime income options, they may be more likely to offer these new benefits to plan participants.

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?

Unfortunately, many plan sponsors and participants continue to see 401(k) plans as "savings" plans, rather than as "retirement" plans. In other words, they focus on the amount saved or accumulated, without realizing that this sum will need to last for many years and should be viewed as a stream of income payments during retirement. Projections in participant statements would help both plan sponsors and participants understand the retirement income issues and the adequacy of the account balances for that purpose. In that regard, it would be helpful to project the amount as monthly income (because most employees estimate their expenses on a monthly basis) and in terms of current dollars (in part because of the difficulty in projecting the rate of inflation and in part because if the information is provided in future inflated dollars, it will likely be misleading, i.e., too optimistic or too pessimistic).

It may also be useful to project the lifetime income stream at retirement age under the assumption that the participant will continue to defer at the same rate and the account will continue to grow at the same rate. This type of projection would need to be accompanied by a careful iteration of the assumptions used in making the projection, but could be helpful in encouraging participants to continue to defer or perhaps even to increase their deferrals.

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?

One issue with respect to providing these statements is whether the projection should be based on a participant's current account balance or whether there should be assumptions about future deferrals and future employer contributions. The projection based on current account balance could be mandated because that information is needed by participants in order to understand where they currently stand and to understand the true meaning of their current account balance.

However, plan sponsors should be given flexibility with respect to projecting retirement income based on the particular lifetime income option offered by the plan. Plan sponsors should be encouraged to provide additional information and projections as well, so long as reasonable assumptions are made and disclosed. It would be helpful for the DOL to provide a regulatory safe harbor for the range of assumptions that plan sponsors may use for developing the statement.

In addition to the statement, an on-line tool that a participant can use to modify variables could be valuable for the participant in projecting a lifetime income amount specific to the participant. Variables include planned age when lifetime income is to begin, expected contribution levels during accumulation (either dollar amounts or as a percentage of salary), and the choice of single life versus joint life guarantee. The statement alone, while useful, would not lend itself well to helping the participant model different lifetime income amounts under various scenarios; thus, we believe that the on-line tool would be an essential additional element.

The statement could show monthly income equal to projected account value times the specified percentage (e.g., five percent for a GMWB) divided by 12. The statement should include language along the lines of the following: "Your annual projected income has been estimated by applying a factor of five percent to the projected account value at a retirement age of 65. This five percent is typically what a variable annuity can provide as a guaranteed lifetime income benefit. Products in the actual market may provide higher or lower amounts of annual income. A fixed annuity can typically provide a higher income stream, but you would lose the flexibility of being able to access your market value at any time."

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?

The key assumptions to determine the projected income are: interest, mortality, surrender rates, expense loads, income patterns (single or joint life). These assumptions will vary dramatically over time, from provider to provider, and from participant to participant so that it is impossible to set up mandated assumptions or a mandated approach to calculating a guaranteed lifetime income stream. Instead a simplified benchmark should be used to give participants a rule of thumb as to what income level they can expect from their accumulated assets. Then they should be encouraged to go to a retirement calculator that would allow them to input interest rates and inflation within a range, starting age, expected lifetime (with an illustration of anticipated life expectancy), and projected account balances to derive various levels of retirement income amounts.

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?

No. We believe an income replacement ratio is specific to each individual and cannot be standardized on a benefit statement in a meaningful manner. Instead, an on-line tool that allows a participant to determine his or her income replacement ratio would be more helpful. The tool could include a pre-populated table listing the most common expenses for retirees (based on national averages for retirees at varying ages and income levels) and then allow the participant to modify the average expenses based on the participant's particular lifestyle. The tool would have the ability to remove expense categories and create new categories that may be specific to a participant.

25. How does 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?

As described in more detail in our response to Question 26, one of the primary qualification rules that affect revocable lifetime income products, such as GMWBs, is the qualified joint and survivor annuity (QJSA) rules. While we do not believe that GMWBs are subject to these rules, plan sponsors are concerned about the issue. It would be helpful if the Treasury could provide guidance clarifying that, revocable lifetime income options with liquidity features described in our response to Question 26, are not subject to the requirements of the QJSA rules of Code section 401(a)(11).

As described in our response to Question 14, plan sponsors are also concerned with the issue of portability with respect to lifetime income options. One way to address this issue is to amend the Internal Revenue Code to permit qualified plans to make distributions upon a change of providers if a participant might otherwise lose a lifetime income option under the plan.

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?

Under current law, 401(k) plans are generally subject to the QJSA requirements only if a participant elects his or her distribution in the form of a life annuity (since most 401(k) plans provide that the participant's death benefit is payable to his or her spouse). Most 401(k) plans now provide only for lump sum distributions, so few are subject to the QJSA requirements related to the timing and content of notification to participants and obtaining spousal consent.

The QJSA requirements add cost and administrative complexity, which, if applied to revocable lifetime income options, such as GMWBs, could be a substantial impediment to the addition of such features to 401(k) plans.

There are a number of characteristics that significantly distinguish revocable lifetime income features from irrevocable annuity income options. In the case of an irrevocable annuity income option, a plan participant takes a distribution of his account and which is used to purchase the right to receive payments for life. The participant no longer owns his account balance. Rather, the participant has the right to receive a stream of payments from the annuity provider. With an irrevocable annuity income option, the individual cannot increase or decrease the payments. Upon the participant's death (or the spouse's death in the case of a joint and survivor annuity), there is no account balance remaining for the participant's beneficiaries. These types of income options are focused upon maximizing the lifetime income payments, however, they do so by generally providing little or no future liquidity.

On the other hand, in the case of a revocable lifetime income options, such as GMWB, the participant does not give up his account. Instead, the participant retains control over his account invested in one of the lifetime income permitted investment options. At retirement or termination of employment, the account may remain in the plan or may be rolled over to an IRA. While taking installment distributions from his account above the maximum will affect the amount of the participant's guaranteed payments (assuming such payments commence in the future), the fact remains that the participant is free to take distributions in any amount. In other words, revocable lifetime income options are revocable and liquid.

In many cases, a participant who has purchased an investment with a lifetime income feature will roll his account to an IRA at the time of distribution. It is important to understand what will actually be rolled over. There are two elements. First, the investment will be liquidated to cash, and the cash will be rolled to the IRA and reinvested by the participant. Second, under the agreement between the 401(k) plan and the insurance company, under which the participant is a third party beneficiary, the insurance company agrees to continue to provide to the participant a lifetime income feature in the IRA while still guaranteeing the benefit base accrued by that participant. Allowing a participant to rollover their future income protection benefit into an IRA, supported by the issuing insurance company, will prove to be an effective financial planning tool and illustrates the flexibility that these new revocable lifetime income options provide.

In conclusion, the liquidity features of a revocable lifetime income product are unlike an annuity but are very similar to any other non-guaranteed 401(k) investment option. These liquidity features provide protections for a participant's spouse, which make the application of the QJSA rules unnecessary. As a result, we propose that the IRS and Treasury issue guidance explicitly clarifying that these types of lifetime income guarantees are not subject to the QJSA rules in Code section 401(a)(11).

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?

As outlined in the response to Question 26, guidance should be issued that clarifies revocable lifetime income options are not subject to QJSA rules.

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

The current RMD rules could be an impediment for defined contribution savings to fund innovative products such as longevity insurance. We encourage guidance that would assist in making these new longevity risk mitigation products available to all individuals executing their retirement income planning.

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 have not seen plans that allow either kind of purchase or buy back, however, we believe there would be significant administrative and economic difficulties involved with such purchases and buy backs. Instead, rules in defined contribution plans should promote access to lifetime income options offered as either in-plan options or out-of-plan rollovers.

Selection of Annuity Providers

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?

In the small- and mid-market, 401(k) plans seldom, if ever, use traditional annuities as an option for benefit distributions. As a result, their fiduciaries and service providers are generally not well versed on the provisions of 29 CFR 2550.404a-4 (the "Annuity Safe Harbor") or its implications. For plan sponsors who are familiar with the safe harbor, there is some concern among fiduciaries about whether they have satisfied all of the subjective requirements. To the extent the DOL can provide guidance and specific examples such that plan fiduciaries can be confident they have satisfied the safe harbor, fiduciaries may be more willing to consider traditional annuities.

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?

As described in our response to Question 30 above, we believe that the DOL should significantly revise the Annuity Safe Harbor to make is simpler and easier for plan sponsors to meet their fiduciary obligations, while at the same time providing adequate protection for participants. In this vein, we believe that the Annuity Safe Harbor should include the following requirements:

- The plan fiduciary should engage in an objective and thorough search for the purpose of identifying and selecting providers from which to purchase annuities.

- The plan fiduciary should consider whether the cost of the annuity contract is reasonable in relation to the benefits and services provided under the contract.

- The plan fiduciary should consider to the quality of the provider, including its history, reputation and third party evaluations.

It is important to note the protections that already exist under state law with respect to the decision to purchase an annuity contract. Existing state insurance department oversight over life insurance companies includes, statutorily required reserves, rules regarding asset and liability valuations, risk-based capital requirements and required capital. The combination of all of these factors should allow the DOL to feel comfortable that participant needs would be safeguarded in this more flexible framework.

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?

As we have described above, the decision of a plan participant to invest in the newly introduced lifetime income options, such as GMWB, does not result in the same commitment as is inherent in the decision to select an irrevocable annuity option during the accumulation phase or at retirement. At any time, even after the beginning of the period during which the retirement income payments commence, the participant can elect to discontinue his participation in the retirement income payment stream and either stay in the same investment options or move to other investment options.

Given this important distinction between the purchase of an irrevocable annuity and the decision to invest in a revocable lifetime income product, we believe that the decision by a plan fiduciary to elect to include such product features in its plan should not be subject to the provisions of the Annuity Safe Harbor, even as it may be revised, as we have suggested in our response to Question 31, or otherwise. We believe that the selection of such lifetime income features should be subject to the general fiduciary standards under section 404 of ERISA. As such, we recommend that any change to the Annuity Safe Harbor should exclude from its requirements any revocable lifetime income product which allows a participant to retain control over his investment accounts.

ERISA Section 404(c)

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 the extent that lifetime income products are currently available under retirement plans that are intended to qualify as ERISA 404(c) plans, such products are not considered one of the core investment alternatives required under the regulations. When available, they are offered as a non-core investment alternative. The advantages and disadvantages of the lifetime income products are discussed elsewhere in this response.

When available as an investment alternative, all participants in the plan are provided with the information required by the regulations for investment alternatives under an ERISA 404(c) plan, including:

- the risk and return characteristics and the investment managers of each of the underlying funds that are available to a participant choosing the lifetime income product
- the fees associated with these underlying funds
- the calculation of the guaranteed benefit and guaranteed withdrawal amounts

- all restrictions relating to transfers in and out of the lifetime income product from and to other investment alternatives under the ERISA 404(c) plan,

- the effect of any such transfers in and out of the lifetime income product on the guaranteed income and guaranteed withdrawal amounts,

- any additional fees associated with the life income products,

- the potential effect of future actions by the plan sponsor in eliminating the lifetime income product as a investment alternative under the ERISA 404(c) plan,

- the potential effect of future actions by the participant to elect out of the lifetime income product, and

- the effect on the guaranteed income and guaranteed withdrawal amounts of future market performance of the underlying funds in the lifetime income product.

The lifetime income products do not currently qualify as core investment alternatives under the regulations because of the restrictions inherent in these products to transfer money in and out of these products to other investment alternatives. Transfers out of lifetime income products (including withdrawals in excess of the guaranteed lifetime amounts after the establishment of such amounts) can result in reductions in the guaranteed income and guaranteed withdrawal amounts available to the participant and his beneficiaries, as well as the loss of much of the additional fees associated with these products. Also, any decision by the plan sponsor to eliminate the lifetime income product as an alternative investment under the ERISA 404(c) plan will result in the complete loss of those guarantees for those participants who have not yet had a distributable event.

To encourage the use of lifetime income products, the regulations could be amended as follows. Since we are not recommending that defined contribution plans be required to include a lifetime income product, we are not recommending any changes to the 404(c) regulations that relate to the required core funds. We do, however, recommend that the regulations be amended to provide specific provisions relating to how such 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, as described above.

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?

With respect to the use of variable annuity contracts under ERISA 404(c) plans (that is, lifetime income products that provide participants with an annuity option upon the occurrence of a distributable event, there is little in the DOL regulations that affect a plan sponsor's decision to offer such contracts.   The one major issue is whether the plan sponsor or other plan fiduciaries continue to receive the protections of the DOL regulations at the time the participant chooses this optional form of benefit and at all times during the annuity period. The regulations could be amended to clarify that the decision by a participant in an ERISA 404(c) plan to elect an annuity option upon the occurrence of a distributable event, assuming the disclosure of all of the information that the regulations require, is an exercise of control by the participant that affords 404(c) protection at the time of such election and at all time during the annuity payout period.

Qualified Default Investment Alternatives

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?

We do not currently provide investments and recordkeeping services to any plans using a guaranteed lifetime income feature in connection with an investment that is offered as the plan's default investment alternative. We do not believe that the use of guarantees in connection with default investment alternatives should be encouraged. Default investment alternatives are often made up of large numbers of accounts with small balances held by unengaged participants. Given the existence of the additional fee for the guarantee and the complexities associated with a lifetime income option, we do not believe participants should unconsciously select or be defaulted into investments with lifetime income features.

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.

The benefits to a plan sponsor by offering lifetime income products as an in-plan option are highlighted in the response to Question 9.

A plan sponsor offering lifetime income products as an in-plan option may incur expenses in order to satisfy the general fiduciary standards under section 404 of ERISA. Additional expenses may be incurred by the plan sponsor to satisfy the safe harbor under 29 CFR 2550.404a-4 and QJSA requirements.

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?

As noted in the response to Question 36, there are costs that the plan sponsor would likely incur by adding an in-plan lifetime income product. These costs are especially burdensome to smaller plan sponsors, who may not have the financial and human resources to satisfy the general fiduciary standards under section 404 of ERISA, the safe harbor under 29 CFR

2550.404a-4 and QJSA requirements. Simplifying these requirements would encourage plan sponsor usage of lifetime income products.

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?

We believe offering to plan sponsors tax incentives to add lifetime income in-plan products would encourage plan level utilization. As these lifetime income options are made more available in retirement plans, education must be provided by the plan sponsors to the participants on the advantages and disadvantages of electing lifetime income options. Tax incentives combined with product education will encourage Americans to contribute a more meaningful portion of their earnings into qualified retirement plans.

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?

Currently, very few Americans are annuitizing their retirement assets. According to the 2008 "Retirement Income Market Overview" report by Retirement Research, Inc, only six percent of participant dollars industry-wide are rolled at retirement into an annuity or an arrangement for monthly payout. This low utilization is likely due to plan sponsor reluctance to add an irrevocable lifetime income in-plan products such as an annuities because of the requirements of the safe harbor under 29 CFR 2550.404a-4 and QJSA. Simplifying these requirements, along with the plan sponsor tax incentives and participant education recommended in the response to Question 38, will improve participant utilization of lifetime income products.