T. ROWE PRICE ASSOCIATES, INC.

WWW.TROWEPRICE.COM

P.O. Box 89000
Baltimore, Maryland
21289

100 East Pratt Street
Baltimore, Maryland
21202-1009

Phone 410-345-2000

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Washington DC 20210

RE: **Lifetime Income Solutions Request for Information/RIN 1210 – AB33**

Ladies and Gentlemen:

On behalf of T. Rowe Price Group and its subsidiary companies (**"T. Rowe Price"**),[1] thank you for this opportunity to respond to the "Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans" (**"RFI"**) that was published jointly by the Department of Labor (**"DOL"**) and the Department of the Treasury (**"Treasury"**) (collectively, the **"Agencies"**) on February 2, 2010. The stated purpose of the RFI is to solicit comments to assist the Agencies review of whether and how the Agencies "could or should enhance, by regulation or otherwise, the retirement security of participants in employer-sponsored retirement plans and in individual retirement arrangements (**"IRAs"**) by facilitating access to, and use of, lifetime income or other arrangements designed to provide a lifetime stream of income after retirement." As an industry leader in investing for retirement, T. Rowe Price shares your concern for ensuring that retirement plan participants and retirees have access to products and service that allow for their success and retirement security.

As the baby boom generation transitions into retirement, policymakers, academics, and investment product sponsors alike are increasingly focused on how individuals can convert their accumulated savings into a retirement income stream that will see them through a retirement that could last more than 30 years.[2] Indeed, outliving one's accumulated savings is one of the most significant source of financial insecurity facing today's retirees. The most commonly known lifetime income products are life annuities and we believe that such products can play an important role in the retirement income strategy of retirees. However, the source of uncertainty for retirees is multi-faceted and, in addition to the risks of outliving ones assets, so-called "longevity risk," are inflation risk and the risk that even where a guaranteed income stream is available, that income stream could become inadequate to cover basic living expenses. Understanding how lifetime income products fit as a retirement solution requires careful consideration of several aspects of the retirement income problem, including the following:

- Inflation - The erosion of purchasing power by inflation is a serious long-term threat to retirees. Assuming a relatively conservative 3% inflation rate (well below the actual 4.1 percent average of the last 60 years), the real value of retirement assets will be cut in half

[1] T. Rowe Price Group is a financial services holding company that, through its subsidiaries, provides investment advisory services to individual and institutional investors in the sponsored T. Rowe Price mutual funds and other investment portfolios. Through its subsidiary T. Rowe Price Retirement Plan Services, Inc. ("**RPS**"), it also provides recordkeeping and plan administrative services to over 1,093 retirement plans, with 1,782,614 plan participants (as of March 31, 2010).

[2] Almost a fifth of 65-year-old men and nearly one-third of 65-year-old women will live to age 90 or beyond. (Source: Annuity 2000 Table, Society of Actuaries).

in just 23 years. Thus, an income stream from a lifetime income product of $30,000 a year must grow to $60,000 a year over this period to provide the same purchasing power.

- Investor Behavior – Individual investor behavior during the accumulation phase, *i.e.,* contribution rate, and then during retirement, *i.e.*, withdrawal needs, can also have a powerful impact on the ability of a retiree to convert their accumulated savings to a lifetime income product. An individual with inadequate savings at retirement necessary to meet liquidity constraints or bequest motives simply will not be in a position to lock in their retirement savings for monthly income even if it offers a competitive long-term investment return. Moreover, because the decision to annuitize is generally irrevocable, annuitization will merely cement the unfunded status of those retirees who have saved little relative to their spending needs. Some investors may need the potential for growth provided by exposure to the capital markets, albeit at the cost of increased volatility.

Satisfactory retirement outcomes will come only through sound financial advice or guidance, and through investment vehicles that are based on an understanding of the multifaceted and competing risks faced by retirees and that are specific to the unique circumstances of the individual. For this reason, we urge the Agencies to focus their efforts on increasing the understanding of lifetime income products by the plan participant and retiree community, including the development of consistent disclosures, rather than on mandating that plan sponsors offer such products or that participants and retirees use them.

SUMMARY

While we have provided detailed answers to the specific questions raised in the RFI below, the views of T. Rowe Price regarding the issue of enhancing the provision of a lifetime stream of income after retirement are summarized by the following points.

- We support the continued availability of annuities or other forms of guaranteed lifetime income products in defined contribution plans and IRAs in the manner as permitted today. For many individuals, the ability to convert part of their accumulated retirement savings into a guaranteed stream of income for life or for a specific number of years is an important component to establishing retirement security. Making information about such products readily available to participants will expand ease of access and promote further understanding and appropriate use of such products.

- Lifetime income products are complex and plan sponsors and participants will only be more inclined to consider such products if there is a degree of standardization and transparency associated with them in the same manner as other investment products offered within defined contribution plans or to IRA holders, consistent with the requirements of mutual funds subject to the Investment Company Act of 1940 and other Pension Protection Act - endorsed products utilized in retirement programs today.

- The analogy between the success of default strategies in accumulation and the need for a similar approach in distribution is out of place. Default strategies in accumulation merely codified best practices in financial planning by improving savings rates and ensuring a more balanced asset allocation. By contrast, the near total lack of voluntary annuitization by participants, combined with reluctance among advisors for total annuitization, makes it very unlikely that a substantial number of participants would consider a broad degree of

annuitization consistent with their preferences, or that the investment community would consider such a move a prudent extension of best practices

- Lifetime income products need to be structured to require a degree of flexibility that is responsive to the needs of the typical participant or retiree, including access to cash and portability upon job change. Plan sponsors need the flexibility to change providers without penalty.

- The Agencies should equally support and endorse use of investment products that are specifically designed to address the complexities of multi-faceted nature of the retirement problem while at the same time mitigating many of the disadvantages associated with annuities. These products include income replacement funds and managed payout funds that generate regular, but non-guaranteed payments for retirees, as well as target date funds that include inflation-protected guaranteed instruments in their portfolios and also pair the funds with systematic withdrawal programs to generate periodic lifetime retirement income. The Agencies risk stifling innovation and competition by endorsing any one solution to the retirement income problem.

- We also encourage the Agencies to recognize the significant differences in risk between investment products that are subject to market exposure from those products that are dependent upon the financial viability of a single provider and provide relief for the nature and complexity of fiduciary responsibilities that this places on plan sponsors.

- Recognizing that annuity products are reliant on the health and stability of typically a single insurance company and that individuals and plan sponsors may be reliant on that provider for thirty or more years, we encourage the Agencies to issue ratings standards that allow for greater reliance by plan sponsors. The Agencies should also consider whether a mandated guaranteed income provision establishes a precedent for a governmental fund/agency that serves as the payer of last resort in the event of the insolvency of the issuer, or inadequacy of other support mechanisms.

- Finally, the Agencies should support ongoing financial literacy efforts during both the accumulation and distribution phases of retirement to encourage the understanding by participants and retirees of the multi-faceted nature of the retirement income problem, including the impact of inflation, longevity, and investor budgeting, saving and spending behaviors. In this respect, lifetime income products should be offered only in conjunction with modeling tools and/or income management services to insure that individuals fully understand product nuances and tradeoffs and their impact on the retirement income problem noted above.

PART I: GENERAL QUESTIONS

The first 16 of the 39 questions raised by the RFI ask primarily about product design and participant behavior, such as what is the advantage to a plan participant of having a lifetime payment option, why don't people choose a lifetime payment option when one is available, and what are the advantages and impediments to having such an option in the accumulation versus distribution phases. Because many of the questions are interrelated, we have focused our responses where appropriate on the questions identified below.

1. Advantages and disadvantages to a plan participant of having a lifetime payment option.

We, as well as others, have examined, and continue to examine, the relative merits of various guaranteed lifetime income solutions (including annuities) in light of the complexities of the retirement problem identified above. Our view is that such guaranteed products can be an appropriate and important part of a retirement income strategy, but that, given unique disadvantages associated with such products, their inclusion as part of the overall retirement strategy for any retiree depends on the individual circumstances and preferences facing the retiree. The advantages and disadvantages of such products are identified below.

Advantages - Perhaps the most significant advantage to participants of receiving some or all of their accumulated plan benefits in the form of lifetime payments is that it can provide a set amount of income that is guaranteed for life. As discussed in greater detail below, receiving some or all of their retirement savings in the form of lifetime payments can help mitigate certain financial and other risks, and prevent retirees from exercising bad financial judgment by spending their accumulated savings excessively or on poor investments.

- Longevity risk protection - For someone with little preference or need for immediate (at-retirement) liquidity, partial annuitization can be an all-around improvement due to the power of the mortality premium and the efficacy with which annuities help manage longevity risk, i.e., the risk of living very long. However, as discussed below, it is important to treat the annuity as a potential component of an overall retirement income strategy that also addresses liquidity needs and inflation protection.

- Market risk protection – The 2008 market downturn has reminded investors that severe volatility can occur and quickly wreak havoc on retirement portfolios. For retirees and investors who are close to retirement, short-term market volatility can significantly erode their retirement account balances particularly when withdrawals are necessary during the market downturn.[3] While lifetime payment options associated with some annuity products can mitigate these risks by providing a fixed rate of return, market risk is a dual edged sword and "locking in" accumulated savings at a time of low interest rates will result in the retiree being stuck with a low monthly payout even if rates go up in the future.

- Payment management protection – Retirees often lack the ability to develop and follow a long term disciplined retirement withdrawal strategy. Many retirees over-estimate the amount of money that they can withdraw from their accumulated savings for living expenses and under-estimate the length of time that they need their savings to last. Further, many participants and retirees, especially those who are less affluent, do not have access to appropriate financial advice to help them develop a suitable retirement withdrawal strategy. The resulting misguided financial decisions can have significant and long-lasting negative consequences for retirees. In return for a single premium to the issuer of the lifetime income product, the retiree receives a fixed but constant stream of payments, thus leaving no room for the retiree to make excessive or unwise withdrawals.

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[3] Of course, experience shows that retirement accounts can rapidly recover even from very severe short-term market volatility. The Employee Benefit Research Institute and the Investment Company Institute have released a report showing that many investors' 401(k) account balances have risen above the levels recorded at the beginning of 2008.

Disadvantages - The disadvantages for retirees of receiving some or all of their benefits in the form of lifetime income include:

- Lack of inflation protection - Most guaranteed income solutions (including fixed annuities) do not offer inflation protection and are guaranteed in nominal terms, as they feature constant dollar payouts. If the retiree's income requirement is affected by inflation, the guaranteed income stream may become insufficient over time. [4] As discussed above, the erosion of purchasing power by inflation is a real and serious long-term threat.

- No liquidity – Retirement income needs are individual and uncertain. Retirees need to budget for major expenses whose size and timing are difficult to forecast, such as health care related expenses, long term care, and the like. This creates a need for a "liquid" asset balance that is available when such needs arise. Annuitization is difficult to reverse, and therefore reduces the liquidity available to the retiree. In fact, some of the observed "behavioral bias against annuitization" (when compared against theoretically optimal investment choices) may simply be prudent risk management on the part of real-world retirees, who have a greater awareness of the uncertainty of their own future spending needs than a stylized financial model can reflect.

- Loss of flexibility - Retirement income is not only about having a safe and reliable income stream, but also about having enough of it. Appropriate investment choices in retirement depend greatly on the degree to which the retiree has been able to accumulate an asset base that is sufficient in light of the anticipated spending needs. In this respect, if a retiree is "under-funded" (in the sense of not having saved enough to safely sustain his/her anticipated spending needs), the act of annuitization will simply cement this undesirable status, and potentially remove crucial degrees of flexibility that would otherwise enable him/her to manage this gap. Conversely, well-funded participants may also have a bequest motive, and not require their entire asset base to be available for income generation. Importantly, knowing the 401(k) balance by itself is generally insufficient to assess the retiree's "funded status" as he or she may have additional assets elsewhere

- Mortality risk – Because the decision to receive lifetime payments is generally irrevocable and in the form of an annuity, the participant's estate could be reduced if the participant dies prematurely without a sufficient death benefit. The retiree's estate would not be similarly reduced if the lifetime payment is not in the form of an annuity.

- Issuer failure risk - The majority of lifetime income guarantees are currently backed by a single insurance company. If the insurance company backing these guarantees becomes insolvent or goes bankrupt, retirees could be at risk of not receiving the full amount of their "guaranteed" income throughout retirement.[5] While most states require that

[4] While some annuity products do offer a cost of living adjustment ("COLA") or inflation adjustment feature, such products come with a high cost. Variable annuities offer market participation and potential growth, while still providing minimum withdrawal and or income benefits for life and could theoretically be a useful tool for retirement income generation if used appropriately. They have the benefit of liquidity (as the retiree has continued access to the underlying assets), but are generally a less efficient income generator due to the associated fees and absence of mortality pooling.

[5] Insolvency risk is a valid concern. While the collapse of the Executive Life Insurance Company in 1991 received a great deal of publicity, data from the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) shows that more than 65 insurance companies have been placed in receivership since 1991.

insurance companies participate in state guaranty associations that provide some protection to policy holders if the annuity issuer in the state fails, in most cases such protection is limited to $100,000.

- Point in time risk - The interest rate environment can have a significant impact on the timing of when it is most advantageous for the retiree to purchase an annuity. The currently low rate environment has depressed the payout that retirees will be subject to for their entire retirement.[6] Accordingly, if the timing of the annuity election is not flexible, the participant may find that the annuity is not appropriate from a long-term planning perspective. In this respect, participants interested in lifetime income products would generally be better off if they had the ability to ladder their investment over time during higher interest rate periods relative to historical norms.

It is important to note that retirement product providers, including T. Rowe Price, continue to innovate and create new products that are specifically designed to address the complexities of retirement planning while at the same time mitigating many of the disadvantages described above. For example, some providers have introduced income replacement funds and managed payout funds that generate regular, but non-guaranteed payments for retirees. Further, target date fund sponsors are developing products that include inflation – protected guaranteed instruments in their portfolios and also pair the funds with systematic withdrawal programs to generate periodic lifetime retirement income. Although these products and services do not provide total guarantees, they can provide retirees greater flexibility and control over their retirement savings compared to annuitized products.

2. Why participants disregard available lifetime payment options.

We periodically assemble focus groups of plan participants in an effort to better understand the reasons behind participant behavior. Many of these studies have focused on why participants engage in specific distribution practices including why they choose certain investment types over others. Over several years of research, participants have consistently expressed concerns around the purchase of an annuity for generation of retirement income for a combination of reasons, including the following:

- Desire to maintain flexibility - Many participants tell us that they avoid lifetime income options because they want to maintain flexibility to respond to unexpected financial needs or to leave bequests for their heirs. Such individuals are simply unwilling to make an irrevocable decision with their accumulated retirement savings, even if doing so would offer a competitive long-term investment return. Instead, many plan participants rollover lump sum distributions to an IRA, often to consolidate multiple accounts, as well as gain access to a broader array of options and more flexible distribution arrangements. They like the flexibility that an IRA gives them of taking distributions only as they need the money or simply leaving the money to accumulate during the early years of retirement and ultimately taking required minimum distributions.

- Costs or Complexity - Products that offer guaranteed lifetime income distribution options typically require additional fees relative to non-guaranteed options and many participants do not understand the value of the guarantee that they receive for the added costs. For example, the monthly benefit from a joint life annuity can be close to 20 percent lower

[6] The average fixed annuity rates plunged between December 2008 and December 2009. (Source: *National Underwriter).*

than that from a single life annuity. In some cases, simply determining the relevant fees can be very difficult.

- Fear of issuer failure - Participants are uncertain about turning over their accumulated account balances earned over years of saving to a single financial institution promising to make monthly payments to them. They are generally unaware of what would happen to their assets and guarantees if the issuer was to become insolvent or go bankrupt.

- Insufficient account balances - Unfortunately, many plan participants simply have inadequate balances at retirement and experience “sticker shock” when they see what size of lifetime periodic payments their account will buy them. This “sticker shock” is compounded when they see the impact on their monthly payments when survivor benefits are included.

- Rejection of “all or nothing” sales approach - Financial advice from professionals who understand the multi-faceted nature of the retirement income problem is generally not readily available to plan participants when they retire or leave the plan. Rather, often the sole source of information is from individuals who have a financial incentive to sell one product type or another. Given the aforementioned concerns, retirees who might actually benefit from converting part of their accumulated savings into a lifetime income solution reject the investment product all together when it is presented as an “all or nothing” solution.

- Integration of 401k assets with other financial assets into a comprehensive financial plan – When combining assets in a 401k plan with other financial assets – non-retirement savings, Social Security, or defined benefit payments - a participant may find that an appropriate income generating plan can be built around income produced outside of the 401(k). For example, moderate income workers receive a substantial amount of replacement income through Social Security. It may simply be unnecessary to annuitize the 401(k) balance in these cases.

3. ***Advantages and impediments to having lifetime income options in the accumulation versus distribution phases.***

We believe that the Agencies would be ill-advised to mandate broad-based annuitization (broad - based in the sense of covering many/all participants, and/or much/all of their 401(k) assets) during the accumulation or distribution phase of retirement. We have three primary concerns.

First, we believe that the analogy between the success of default strategies in accumulation and the need for a similar approach in distribution is out of place and potentially perilous to the retirement goals of participants:

- Default provisions in accumulation are generally geared towards improving savings rates and ensuring a more balanced asset allocation. Both of these objectives are unambiguous improvements that don’t require a measure of degree – increasing savings and improving asset diversification are always the right thing to pursue, no matter how much, and (generally speaking) the more the better. By contrast, we believe that when it comes to annuitization, the individual circumstances, as well as the degree of annuitization, become paramount considerations. Simply put, using lifetime income solutions as default mechanisms in accumulation is easy to “get wrong.”

- The majority of default strategies available in accumulation (such as target risk funds with static stock/bond mixes, target date funds with a stock/bond mix that becomes more conservative over time, or stable value products) have historically been chosen voluntarily by sizeable segments of the plan sponsor population, usually backed by broad support and similar thinking from applied investment professionals, such as financial planners. Default strategies in accumulation merely codified and formalized the extension and broad rollout of existing, well-established best practices in investment management. By contrast, the near total lack of any meaningful amount of voluntary annuitization by participants, combined with similar reluctance among the financial professionals advising them, makes it very unlikely that a substantial number of participants would consider a broad degree of annuitization consistent with their preferences, or that the investment community would consider such a move a prudent extension of best practices.

- As discussed above, default into annuitization locks an individual not only into an investment vehicle, but also into an income stream of a given size. It permanently pre-determines the cash flow for the retiree, and is thus a much more absolute form of default than, say, default enrollment into a 401(k) plan, which still permits the participant to continually adapt his/her cash flows (contribution amounts) and investment choices.

Second, the complexity of the retirement income problem as described above, combined with the irreversibility of the annuitization decision, makes annuities uniquely inappropriate as investment vehicles for use as default strategies. While some amount of annuitization generally shows favorably in academic studies, there is much less agreement (among practitioners or academics alike) about the appropriate amount of annuitization. Given the long-term irreversibility of annuitization, having the right answer here is much more important than in accumulation, where the liquidity of the underlying investments and the availability of human capital (in the form of future contributions) make "mistakes" much less permanent. As discussed in greater detail above, without knowing the individual's full financial picture, an appropriate level of annuitization is difficult to determine. In particular:

- Annuitization, once final, reduces the liquid assets available to the retiree. The need for liquidity is highly dependent on financial circumstances and preferences.

- For retirees who have saved little relative to their spending needs, annuitization will merely cement their underfunded status, and thus may not be appropriate.

- Conversely, many retirees may plan to leave substantial parts of their financial assets to their heirs. Annuitization runs directly opposed to that objective.

- Given the very different income replacement available from Social Security at different income levels, the appropriate degree of annuitization is likely also income-dependent. In particular, the mass of middle class investors with low-to-medium incomes and (generally) small 401(k) balances will likely enjoy substantial annuitized income replacement just from Social Security.

- As annuities are priced on the interest rate environment prevailing at the time of purchase, there is significant point-in-time risk to the (generally irreversible) annuitization decision. The dependency on interest rates also implies that the appropriate

degree of annuitization at retirement depends on the prevailing market environment and may be difficult to codify.

- The economic benefit of annuitization to an individual depends crucially on his or her expected mortality relative to the pool of annuitants. In particular, annuities (unless pricing is adjusted accordingly) are "bad deals" for people with pre-existing conditions and/or hereditary grounds for low life expectancy.

Third, mandatory annuitization is at risk of undermining the ability of industry providers and individuals alike to address the broader retirement income needs facing them:

- Mandatory annuitization is likely to stifle the innovation of retirement income solutions (annuitized or not) that aim to address the needs underlying this RFI, and which potentially could do a better job at managing the other aspects of the problem. In this respect, mandatory annuitization will require the Agencies to codify the type of contract that is eligible to meet the mandate, resulting in the industry focusing on providing solutions that fit into the mandated definition, and detract from the development of solutions that, while similar in outcomes, do not have to rely on broad based annuitization

- The language of the mandate may fail to anticipate "modern" or future annuitized solutions that better address the income need and, while still harvesting the mortality premium, fail to fit into the narrow confines of the mandate. For example, insurers and asset managers are currently developing ways of fitting deferred annuities as an asset class into the accumulation phase, which enables them to dovetail much better with the remainder of the retiree's portfolio in accumulation, as well as providing a smooth transition towards annuitization in retirement.

- Similarly, the R&D push regarding annuitization in the 401(k) space has only just begun, and it is likely that the ultimate winning design does not yet exist. It took the 401(k) industry 30 years to "figure out" accumulation. It may simply be too early to call a winner, and codify the nature in which annuitization is to occur.

- Given the frequency with which employees change jobs, today's 30- and 40- year olds are much more likely than even today's baby boomers to begin retirement with several 401(k) accounts held with different sponsors/providers that are small in balance, but meaningful in aggregate. If not managed properly, the independent actions of several plan sponsors individually meeting their requirement to default the retiree into an annuity could create major scale and consistency problems that would undermine the original purpose.

- Mandatory annuitization is likely to stifle market discipline. If associated with safe harbor provisions and/or federal backstops, it can create adverse selection issues in the provider market as plan sponsors will have an incentive to focus on the cheapest provider (highest amount of income per $ invested), not on the best one in terms of credit quality and reliability, thus resulting in a "race to the bottom among providers." Such circumstances have historically not led to desirable long term outcomes.

- As is suggested by the recent concern expressed by many in the participant community at the intent of the RFI, the knowledge (or even perception) of forced annuitization at retirement could have a detrimental impact on 401(k) participation and contribution rates.

Perhaps this should be no surprise given the widespread reluctance towards voluntary annuitization.

4. Alternatives to annuitization.

Assuming that the ultimate goal behind this RFI is the facilitation of reliable and sustainable retirement income for 401(k) participants, we think it is important to consider alternatives to mandatory annuitization in 401(k) plans. In particular:

- We believe that the focus on a product solution (the palpable yearning for a "silver bullet" in retirement income) is a potential distraction that risks masking the underlying issue of the importance of saving early, often, and as much as possible, for retirement. The contribution rate remains the single most important predictor for retirement success, and those who contribute sufficiently will find themselves in the fortunate situation of not having to rely on a "silver bullet" (such as annuitization) to "make or break" their retirement.[7] Consequently, we believe that significant emphasis should be placed on accumulating sufficient savings to generate future retirement income.

- If retirement income is a focus, rules regarding required minimum distributions (RMDs) should be altered, relaxed, and/or eliminated to permit retirees to execute on their retirement income plan, whether guaranteed or not. For example, as they stand today, RMDs can force retirees to liquidate larger portions of their assets than a prudent retirement income plan would require.

- We believe the retirement plan service providers and plan sponsors should be encouraged to evolve their retirement plans and services to facilitate better employee outcomes in retirement. For example, all plans should add installments, partial withdrawals, and rollovers as additional distribution options. These options are available today but not universally leveraged across the industry. Education, guidance, tools, and advice should all be expanded to address the needs of pre-retirees and retirees. Simple retirement expense budgeting tools, annuitization calculators, and income estimators can be extremely informative and motivating.

- Finally, the investment industry continues to make substantial advances in offering regular and tangible income streams from liquid mutual fund portfolios. Numerous providers, including T. Rowe Price, are working on pairing sophisticated asset allocation models with systematic withdrawal programs that, in combination, behave very much like an annuitized solution. One attractive alternative is to construct a laddered bond portfolio that pays out interest and liquidates over time. This structure not only reduces market risk but has the advantage of no annuitization or mortality premium. Given their built-in inflation protection, including Treasury Inflation Protected Securities (**"TIPS"**) as a component in a target date fund portfolio as a substitute for some or all of the bonds is also very promising. One particular effective way of using TIPS is to ladder them into a portfolio that is constructed to deliver a constant cash flow each year (consisting of coupon payments and return of principal for issues maturing that year) for a fixed number of years - say, 10, or 20. When the ladder is long enough, it may provide a reasonable

[7] In this respect, we commend the Agencies on previous and continued efforts to promote plan participation and increased contribution rates by issuing guidance on permissible forms of auto enrollment and auto increase provisions.

(and inflation protected) approximation of a "lifetime" income program, without the many drawbacks of annuitization highlighted elsewhere in this letter. Shorter ladders could be use to "bridge" income gaps, *e.g.*, in order to delay the inception of one's Social Security payments, or in expectation of a deferred annuity (longevity insurance) coming online later in retirement.

The ability of the investment industry to reliably offer such solutions depends on a deep (in terms of issue volume) and dense (in terms of covering all maturities) TIPS market. In particular, it would be ideal to have outstanding TIPS bonds maturing (in sufficient volume) each year going forward, thus ensuring that the TIPS "ladder" is not missing any "steps." Unfortunately, in practice, the Treasury's issue program has led to important gaps in the maturity structure, *i.e.*, years in which no TIPS are scheduled to mature. While there may be directional work-arounds from a portfolio construction perspective, this issue greatly diminishes the ease and efficacy with which such approaches can be delivered to retirees. To foster the use of TIPS in structuring retirement products that better meet the goals behind this RFI, we would encourage Treasury to --

- Publicly re-affirm its commitment to the TIPS market, backed up by a prospective long term issuance schedule that addresses the issue identified above and helps asset managers to design reliable products solutions for the long term,

- Consider a targeted near term new issue program aimed at covering the maturity gaps in existence today,

- Continually replenish the maturity structure in order to avoid the occurrence of new gaps in the future (this would primarily mean to issue new 30 year TIPS every year), and

- Consider increasing the $ volume of TIPS issuance relative to nominal bonds to deepen the market, enhance liquidity, and ensure that the inflation hedging needs of the "baby boomer wave" can be met from a quantitative perspective.

We believe that this proposal represents a solution that aligns the interests of <u>all</u> stakeholders. In this respect --

- TIPS portfolios are an appropriate component of the retirement income strategy for many investors.

- Investors and advisors alike have demonstrated a willingness and interest to actually use this approach.

- Asset managers are willing and able to create these products at a reasonable cost.

- TIPS provide a potential market for Treasury's increasing financing needs.

5. Recommended requirements in the event of mandatory annuitization.

Despite our concerns, we recognize the potential of annuities as an asset class (if used appropriately), and the wide range of opinions on this idea. Therefore, we would like to offer some important boundary conditions that should be put on any such effort if it were to go forward

First, the underlying annuities should be designed to minimize the "adverse side effects" of annuitization --

- They should guarantee payments for a certain number of years even in the event of premature demise of the annuitant *(e.g.*, 20 years).
- They should have reasonable redemption options in case of unexpected liquidity needs.
- There should be a well-defined, realistic avenue for plan sponsors to change the provider if concerns about the viability of the legacy provider arise. In addition, Plan Sponsors should be provided with specific guidelines for selecting and monitoring their insurance provider.
- As is common practice in accumulation defaults for enrollment, savings, and investment, employees should have the opportunity to opt-out and/or alter the defaults (*e.g*., start date annuitization, amount to be annuitized) at any time.
- There should be provisions under which individuals with pre-existing health conditions and/or other, documented circumstances reducing their life expectancy are exempted from the mandate or benefit from adjusted pricing.
- We recommend focusing on deferred annuities ("longevity insurance"), as they maximize the power of the mortality premium, and generally minimize the liquidity impact on the retiree's portfolio. We also point out that longevity insurance is difficult to reconcile with the notion of "trial" annuitization at retirement.
- Consider the need for all states to require insurance companies to belong to state guaranty associations and to provide protection at amounts equal to the full amount of annuity payments, and whether the presence of the mandate implies a federal guarantee. If so, federally sponsored secondary coverage could be provided through a Pension Benefit Guaranty Corporation ("PBGC") - type agency, although the mechanism to fund such an agency and guarantee should be carefully considered to avoid imposing costs unfairly on others who do not participate in guaranteed products.

Second, as discussed in greater detail in Part II below, we believe that in order for plan sponsors and participants to make responsible provider choices, lifetime income providers should be held to consistency, transparency, and disclosure standards that are similar to those of other regulated products. We believe that the complexities associated with these products can only be made understandable by plan sponsors and participants if there is a degree of uniformity required.

Finally, the language used in a potential mandate should be developed together with the investment management and insurance industry, and should be particularly careful to avoid the unintended consequences of specifying one particular method of annuitization that may prohibit the use of alternative designs (which may not yet be known) that could do a better job at

harvesting the mortality premium while at the same time mitigating the "adverse side effects" of annuitization.

PART II: PARTICIPANT EDUCATION

Questions 17 through 20 of the RFI ask about information participants need, and how current regulations help or hinder the provision of information to participants. For the typical retiree, creating a comprehensive retirement income strategy is an individualized and complex process that includes consideration of numerous factors, such as:

- How much can they afford to spend without running out of money too soon?
- How to manage or payoff any outstanding debt?
- What portion of expenses is already covered by lifetime sources of income such as Social Security and pension?
- How best to protect against inflation?
- How to plan for expenses that are difficult to predict (*e.g.,* health, disability, and long-term care, *etc.*)?
- Is there a history of longevity in the family?
- Does spouse plan to continue working or retire early?
- Will income needs and sources of income change substantially during different phases of retirement, *e.g.,* working part-time during the early stages of retirement, downsizing of a residence, completion of children's education, *etc.*?
- How do legacy objectives, if any, fit with the retirement income plan?

A retiree's accumulated plan balance is likely to be just one of several potential sources of retirement income, which will generally also include Social Security benefits, perhaps one or more pensions, accounts in more than one plan, IRAs and other investments, continuing income from full or part-time jobs, etc. Determining how best to utilize these multiple sources of income, including which to draw on first and which products or approaches to use to provide that income, can be complex and very unique for each participant. Ultimately, a well constructed retirement income plan must be developed at a holistic participant level, rather than at any given plan or account level.

Given the individualized nature of retirement planning, we would urge the Agencies to develop guidance and regulation that encourages the availability of education and advice to help participants with retirement income planning and provide information about all distribution options, including lifetime income arrangements. The education provided should address the complexity of the retirement problem and how lifetime income products (and other alternatives) can fit into an overall retirement strategy and what role they can play in helping to achieve specific objectives of the strategy.

Given the complexities of the retirement problem discussed above, we believe that such an approach is the only way that lifetime income products can be relevant to a wide range of plan participants across a wide range of unique situations. The need for the increased availability of guidance and advice, especially for lower income and middle class workers, is perhaps more critical in the distribution phase of retirement than during the accumulation phase. Notwithstanding this reality, the DOL has recently limited the ways in which meaningful advice

can be provided to participants,[8] and other guidance, *see* Advisory Opinion 2005-23A, has called into question the ability of service providers or anyone that could potentially be deemed a fiduciary from advising a participant on potential rollover options. We would encourage the Agencies to consider the impact that their rulings and regulations have in stifling the availability of guidance and advice that is critical to the sound retirement planning of participants.

1. Information about lifetime payment options that should be provided to plan participants.

In facilitating the need for an increased understanding of how lifetime income arrangements might be suitable to the development of a retirement strategy, participants should be provided with the following information about lifetime income options.

- An overview of the lifetime income options and their primary features.
- The identity of the underlying investments and whether the size of the periodic payment can fluctuate based on the performance of the underlying investments.
- Specifics as to any other guarantees offered and who provides the guarantee, and protection, if any, offered in the event the provider of the guarantee fails.
- Detail regarding how contributions (premiums) are invested, such as the impact on the underlying investment portfolio, and whether a participant will participate in the investment results.
- The main risks associated with purchasing an income option, such as:
  - What happens if the issuer fails?
  - What happens to the monthly payment stream if participant dies?
  - How interest rates in effect at time of purchase impacts the periodic payment?
  - What happens to monthly payment in terms of purchasing power the event of inflation?
- Access to the underlying models and assumptions used to price the annuity (*e.g.*, regarding mortality or annuitant behavior).
- The costs/fees associated with the lifetime income product with details, such as:
  - How fees are calculated.
  - Whether fees can be raised.
  - Whether fees are implicit or explicit and
  - How withdrawals will reduce the guaranteed benefit and may be subject to a liquidation adjustment/fee.
- Degree of liquidity (ability to access entire balance on short notice and any penalties associated with such access)

[8] On February 26, 2010, DOL released proposed regulations on the provision of investment advice to participants in individual account plans, such as 401(k) plans, and to owners of IRAs. The regulations, which are intended to interpret the statutory prohibited transaction exemptions in ERISA and the Internal Revenue Code that were enacted as part of the Pension Protection Act of 2006 (the **"PPA"**), 75 Fed. Reg. 5253 (February 2, 2010), substantially limit the ability of investment providers to provide advice from the rules provided by the final regulation issued in 2009. 74 Fed.Reg. 59092 (November 17, 2009).

- Finally participants should also be provided with information intended to help them understand what factors should be considered to determine if a lifetime income product is right for them, such as--
  - Their personal need for guaranteed monthly income to supplement Social Security and other sources of guaranteed income.
  - Need for protection against outliving their retirement savings.
  - Need for predictable income in retirement to cover essential expenses.
  - General health and history of longevity in the family and how that might impact the choice of one option over another.
  - Need for access to retirement savings other than for regular income.
  - Need for spousal benefit and impact on guaranteed benefit.

2. Plan sponsor concerns about educating participants as to the advantages and disadvantages of lifetime income or other arrangements designed to provide a stream of income after retirement.

When attempting to make participants aware of the role that lifetime income options might play in developing a retirement strategy, plan sponsors are generally concerned about crossing the line from providing participant education to providing advice and becoming an investment fiduciary. We recommend that DOL issue guidance similar to that in Interpretive Bulletin 96-1 to clarify when providing information about lifetime income options available both inside and outside of the plan is not investment advice. The guidance should expressly clarify that information about life expectancies, historic investment returns, the impact of various withdrawal rates, longevity risk, market sequence risk, and other similar information identified in Section 1 above, is "education" and not "advice." Without clear and complete guidance, plan sponsors will most likely be unwilling to provide participants with any information that could cause the plan sponsor to assume additional fiduciary responsibility with respect to participant decisions about lifetime income products.

Many plan sponsors are also concerned that giving participants access to information on particular annuity products will subject them to fiduciary responsibility even though the plan sponsor is simply trying to make the participant aware of the existence of the products and to facilitate access to such products. For example, certain service offerings allow participants to rollover all or part of their accumulated account balances into an IRA with an annuity platform provider which allows the participant to obtain multiple bids from different annuity providers. Plan sponsors often want to allow participants access to such annuity platforms through a link on the plan website or through informational materials but are concerned about being considered to be endorsing a particular annuity product or provider that could imply a fiduciary role. Clear guidance from the Agencies providing the steps that could be taken (including the information that must be provided to plan participants) by plan sponsors without being considered to raise fiduciary status would encourage plan sponsors to make participants aware of such platforms and similar offerings.

PART III: DISCLOSING THE INCOME STREAM PROJECTED FROM ACCOUNT BALANCES

Questions 21 through 24 ask whether individual benefit statements should provide the participant's accrued benefits as a lifetime income stream of payments in addition to presenting the benefits as an account balance and, if so, how that could be accomplished.

From our experience with plan participants, we have found that presenting the participant account balances as a lifetime income stream helps participants understand where they stand in terms of retirement readiness and whether they are on track to meet their retirement goals. Most importantly, providing participants with an estimate of how much income they might expect in retirement gives them a more realistic understanding of how much they need to save to cover their retirement income needs. In our focus group testing, retirement income estimates attracted the most attention of all information contained in the benefit statement. Participants viewed this feature as a gauge of what their account would provide in retirement and saw this as a strong motivator to keep contributing and saving more. Most view this calculation as important as the statement of the account balance in understanding their potential retirement readiness.

While we agree that providing information about the account balance as a lifetime income stream can be very helpful to participants, we do not believe that presenting this information on the basis of the participant's current account balance is particularly instructive. Rather, we have found that such income streams should be based on projected account balances in order to be relevant to the goals and planning of participants. From our experience, income stream calculations based on current account size simply has no relevance to a participant with decades to retirement age. In fact, such incomplete information may very well have the unintended consequence of discouraging savings and participation. Also, comparisons of income estimates (with varying contribution rates) were viewed as helpful to participants in our focus group testing. Comments provided by focus group participants suggest that these types of comparisons help participants better understand the impact of their contribution rate and encourage participants to save more.

We believe it is important to strike a balance between showing lifetime income in a manner that is consistent across retirement accounts so participants with more than one retirement account can understand and compare them, and allowing plan sponsors the flexibility to show the benefits in a manner that is most relevant to their population of participants. For example, by showing projections based on specific strategies for generating lifetime income or specific investment products available in the plan.

In order to encourage plan sponsors to express accrued benefits as a lifetime income stream, we recommend that DOL issue safe harbor guidance that offers protection to protect plan fiduciaries that provide participants with such information on a voluntary basis. The safe harbor should be available where participants receive information in the form of an account balance and a lifetime income stream using consistent assumptions and methodologies defined in the safe harbor. The safe harbor should also provide protection for income projections based on approaches beyond lifetime income products, for example, a systematic withdrawal approach,[9] whereby participants would receive income payments based on projected earnings generated from their account.

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[9] Systematic withdrawal approaches were considered by an United Kingdom study to offer greater opportunity for higher income levels than lifetime income options tied to annuities. *See Modeling Income Drawdown Strategies*, Research Paper, Investment Management Association (**"IMA"**). The IMA is the trade body for UK's asset management industry. *See also* Maurer and Somova, *Rethinking Retirement Income Strategies – How Can We Secure Better Outcomes for Future Retirees?*, Center for Financial Studies (February 2009), reaching similar conclusions in a European Union study.

Finally, participants should be provided with information about the assumptions used and should also be given general information to assist with understanding the projections.

PART IV: 401(k) AND OTHER PLAN QUALIFICATION RULES

The five questions in Part IV of the RFI ask whether current plan qualification provisions, including Internal Revenue Code ("**IRC**") section 401(k) and the qualified joint and survivor annuity rules and required minimum distribution rules, impact the offering of lifetime income options

Many commentators have argued that the potential lack of portability of the lifetime income option when a plan sponsor switches investment providers deters plan sponsors from selecting lifetime income options. Commentators have also argued that plan sponsors would be more likely to offer lifetime income options that are not life annuities triggering Qualified Joint and Survivor Annuity ("**QJSA**") and Qualified Pre-retirement Survivor Annuity ("**QPSA**") rules which are seen as overly burdensome to them. Our experience is consistent with such arguments and we agree that the lack of portability and the qualified joint and survivor annuity rules present significant administrative burdens and complexities.

We also agree with those commentators who have argued that RMD age should be raised to 80. Since the current rule was established, life expectancy has increased significantly and people have started retiring much later, in many cases, well beyond age 70 ½. The systematic withdrawal recommendations that T. Rowe Price develops often conflict with current RMD mandates that require distribution rates far in excess of withdrawal rates derived from prudent planning standards.

PART V: SELECTION OF ANNUITY PROVIDERS

The RFI contains three questions about DOL's safe harbor regulation for the selection of annuity providers for the purpose of benefit distributions from defined contribution plans (29 CFR § 2550.404a-4). The Agencies ask whether fiduciaries use the regulation and if not how it could be changed. One question also specifically asks about extending the regulation "beyond distribution annuities to cover other lifetime annuities or similar lifetime income products."

The safe harbor currently requires fiduciary involved in the selection of annuity providers to conclude "at the time of the selection" that the annuity provider is financially able to make all future payments under the contract. The safe harbor permits fiduciaries to make this determination either at the time the provider is selected for distribution of benefits to a specific participant or, alternatively, when the provider is selected to provide annuity contracts at future dates provided that the fiduciary periodically reviews the continuing appropriateness of the conclusion. The preamble to the final rule states that, in selecting an annuity provider, a fiduciary may want to consider the provider's ratings, "particularly if the ratings raise questions regarding the provider's ability to make future payments under the annuity contract." Further, the availability of the state guaranty association protection is also suggested to "be useful information to a plan fiduciary."

Accordingly, unlike one would expect, 29 CFR § 2550.404a-4 offers no clear roadmap or steps the plan fiduciary can take to ensure coverage by the regulation's safe harbor. For example, the regulation is unclear as to the coverage of the safe harbor associated with relying on an expert evaluation or on third-party ratings. In this respect, the safe harbor seems to merely establish that

ERISA's prudence standard applies to defined contribution plan annuity purchases. It offers no clear criteria or checklist for satisfying the prudence requirement that one would expect from a safe harbor. Given this lack of clarity and recent events calling into question the reasonableness of being able to rely on ratings information, it seems unlikely that this safe harbor has or will relieve plan fiduciary concerns and encourage more use of in-plan annuities in defined contribution plans. As discussed above, there is simply too much at stake for the plan sponsor if it gets the annuity purchase wrong. In an environment where a single insurance company is generally behind the guarantee for lifetime income, a retiree can lose everything in the event of carrier insolvency.

We believe that plan fiduciaries will not be inclined to make use of the safe harbor unless 29 CFR § 2550.404a-4 is amended to clarify that fiduciaries should be able to rely on ratings information and the provider's public disclosures available at the time of review unless the fiduciary has non-public information indicating that the ratings are inaccurate or the provider's public information includes material misrepresentations.

PART VI: ERISA SECTION 404(c)

Two questions ask about the current use of variable annuities and similar lifetime income products in section 404(c) participant-directed defined contribution plans.

While not in widespread use, there are a number of lifetime income products offered as investment alternatives in defined contribution plans utilizing ERISA Section 404(c). These products are offered through fixed deferred income group annuity contracts or group variable annuity contracts with minimum withdrawal/income guarantees. Their values typically can be re-allocated to other investments at a participant's election.[10]

We believe that plan sponsors who offer such products believe that in-plan group annuity contracts are covered under ERISA Section 404(c), in the same manner as any other in-plan investment option made available in a plan. In-plan annuities typically can have a lifetime payout feature but are otherwise simply a traditional, accumulation investment option. While some unique restrictions may apply, these in-plan annuities can be cashed out and reinvested in the same manner as other plan investment options. Of course, in-plan annuity products that do not allow for in-plan transfers at all or only with financial penalty, would not seem to be covered under ERISA Section 404(c).

PART VII: QUALIFIED DEFAULT INVESTMENT ALTERNATIVES

This question asks whether plans are using QDIAs that include guarantees or similar lifetime income features, and what changes to the QDIA regulation could encourage use of such products

With respect to defined contribution plans that make guaranteed products available through the plan, we are not aware of any that use such products as the plan's QDIA. For the reasons discussed in Part I above, we do not believe that guaranteed income options are suitable as default investment options in defined contribution plans.

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[10] The advantages, disadvantages and recommended disclosures associated with fixed deferred lifetime annuities are discussed in responses to other questions in the RFI.

PART VIII: ECONOMIC ANALYSIS, REGULATORY FLEXIBILITY ACT, and PAPERWORK REDUCTION ACT

Finally, the RFI asks what are the costs and benefits to a plan sponsor of offering lifetime annuities or similar lifetime income products as an in-plan option.

Many of the cost drivers for including lifetime income products in defined contribution plans have been identified in previous answers. We believe that it is critical for accurate cost data to be included in any analysis of changing the regulatory structure to facilitate the use of lifetime income products, particularly any changes that would involve mandates. Such cost analysis should focus on, among other things, whether there are 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 employer plans? In particular, we believe that the complexities of such products and the lack of expertise on lifetime income products held by the typical plan sponsor will require substantial costs associated with obtaining needed financial expertise and fiduciary insurance to protect such decision makers.

Although the Agencies can help mitigate the costs associated with the annuity review process by establishing consistent rating standards and reliance safe harbors to make the information process more cost effective, generally small plans will incur higher relative costs than will large plans given the reduced availability of internal resources and expertise necessary to deal with the complexities associated with such products. Additionally, smaller employers' plans will generally not have asset levels that will allow them to qualify for the same breakpoint pricing that larger employer plans with larger asset sizes are able to use to help defray costs.

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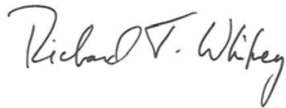
We hope you find the foregoing responses to the RFI helpful to your examination of lifetime income options and their role in assisting the ability of American worker to be successful in retirement. If you need other information or you have questions regarding our responses, feel free to contact either of us at our respective telephone numbers or David Abbey at (410) 345-5724.

Sincerely,

Cynthia Egan
President
T. Rowe Price Retirement Plan Services, Inc.
(410) 345-5763



Richard Whitney
Director of Asset Allocation
T. Rowe Price Associates, Inc.
(410) 345-7638