AMERICAN ACADEMY *of* ACTUARIES

Objective. Independent. Effective.™

August 19, 2016

Joseph J. Canary
Director
Office of Regulations and Interpretations
Employee Benefits Security Administration
United States Department of Labor
200 Constitution Avenue, NW, Room N5669
Washington, DC 20210

Dear Mr. Canary:

The Lifetime Income Risk Joint Task Force (LITF) of the American Academy of Actuaries[1] would like to discuss with you proposals for increasing retiree income options, specifically additional safe harbors that encourage delivering lifetime income. The LITF comprises both pension actuaries, who work with both plan sponsors and retirees, and individual annuity actuaries and, thus, has a comprehensive perspective on lifetime income issues.

The risks in securing stable retirement income have increased as a result of employers shifting more retirement savings from defined benefit plans to defined contribution (DC) plans. Retirees in DC plans are expected to assume both the investment and the longevity risk. Through recent regulations, the DOL has helped participants access improved fiduciary investment advice under qualified retirement plans. Another DOL initiative, requiring disclosures of the annual income value of a defined contribution plan balance, is still under review. Through these actions the DOL has demonstrated how critical both quality advice and relevant information are to the retiree's goal of securing lifetime income.

Although current rules permit employers to provide DC plan retirees with the option to either purchase income annuities or take a structured withdrawal program, rarely do employers offer these options in practice. A primary reason is the concern of additional fiduciary liability that employers would assume by expanding plan options. While the current safe harbor guidelines set out a process for selecting providers and products, many plan sponsors believe that the guidance the DOL offers for selecting annuities within DC plans is not sufficiently clear. Further, the DOL currently has no guidance that governs structured withdrawal programs. Additionally, we believe plan sponsors could provide much more robust and useful participant education, but their willingness to do so is also limited due to fiduciary liability concerns.

[1] The American Academy of Actuaries is an 18,500+ member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

1850 M Street NW Suite 300 Washington, DC 20036 Telephone 202 223 8196 Facsimile 202 872 1948 www.actuary.org

The DOL currently has safe harbor regulations that provide plan sponsors with guidance on how to administer their qualified plans in a way that would minimize plan sponsor fiduciary liability while funds are being accumulated. We think that new DC plan safe harbors that focus on the ability to deliver lifetime income to retirees from DC plans should also be considered. Safe harbors could include guidance on insurer and product selection, withdrawal program structures, allowable education approaches, and facilitated use of annuities purchased through a rollover IRA when a participant terminates from a DC plan.

DC plans are positioned to provide their participants with the availability of institutional investment and insurance product pricing, as well as unbiased educational services (with no preference towards insured annuities, structured withdrawal programs, or lump sum distributions) required for retirees to make informed decisions. Various studies show that employees look to their employers as a source of financial and retirement information, and we believe the majority of plan participants would welcome assistance from their employers in creating retiree income solutions from their DC plans.

Several of these issues are briefly described in the Academy issue brief, *Risky Business: Living Longer without Income for Life – Legislative and Regulatory Issues,* Appendix A and Appendix D, found at http://www.actuary.org/content/lifetime-income-initiative.

****

We appreciate the DOL giving consideration to these comments and would like to discuss our comments with you at your convenience. We believe that an in-person meeting would provide an opportunity to explore the ideas in this letter. Please contact Matthew Mulling, the Academy's pension policy analyst (202-785-7868 or mulling@actuary.org) if you have any questions or would like to arrange a convenient time to discuss these items further.

Respectfully submitted,

Noel Abkemeier, MAAA, FSA
Tonya Manning, MAAA, FSA, EA
Co-chairpersons, Lifetime Income Risk Joint Task Force
American Academy of Actuaries