ACLI
Financial Security. For Life.

**The American Council of Life Insurers**

**Written Statement for the Record**

**for**

**"The Retirement Challenge:
Making Savings Last a Lifetime"**

**Before the**

**United States Senate Special Committee on Aging**

**June 16, 2010
2:00 p.m.
Dirksen Senate Office Building, Room 562**

**American Council of Life Insurers (ACLI) Statement for the Record**
**"Managing Retirement Assets: Ensuring Seniors Don't Outlive Their Savings."**
**Senate Special Committee on Aging**
**United States Congress**
**June 16, 2010**

The American Council of Life Insurers (ACLI) commends this Committee for holding a hearing about the challenges workers and retirees face when managing retirement savings for their lifetime. We applaud Chairman Kohl (D-WI) and Ranking Member Corker (R-TN) for drawing attention to this vital matter and hope our recommendations will contribute to meaningful deliberations about solutions to the imminent retirement income security crisis.

The American Council of Life Insurers represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies represent more than 90% of the assets and premiums of the U.S. life insurance and annuity industry. ACLI member companies offer insurance contracts and investment products and services to qualified retirement plans, including defined benefit pension, 401(k), 403(b) and 457 arrangements. ACLI member companies also are employer sponsors of retirement plans for their employees. As service and product providers, as well as employers, we believe that saving for retirement and managing assets throughout retirement are critical economic issues facing individuals and our Nation.

As the first wave of the baby boom generation reaches retirement age next year, policymakers are looking at the current retirement plan system's ability to provide sufficient retirement income for these and future retirees. Many current retirees are fortunate in that they are receiving both a Social Security benefit as well as an employer-provided pension. That situation is rapidly changing. Today, we are seeing an increasing number of workers retiring with only Social Security and their own savings. This change in retirement financing leads to the question of how they might manage these savings to last throughout their lifetime. These workers should consider augmenting Social Security with additional amounts of guaranteed lifetime income, so that anticipated monthly expenses can be covered by a guaranteed lifetime income stream, thereby shifting the risk of outliving one's savings to a life insurer. ACLI believes that, given information about guaranteeing some level of savings, workers will have the knowledge to make informed decisions about their lifetime income options and therefore make decisions that enable them to maximize their guaranteed lifetime income. ACLI does not support a requirement that workers annuitize their savings.

This statement summarizes ACLI's submission to the Departments of Labor and Treasury's ("Departments") Request for Information regarding lifetime annuities and similar lifetime income options available to defined contribution plans. It describes the:

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

- important role employers have played in helping employees protect against risks by providing information about and access to life insurance, disability insurance, annuities and other risk protection products;
- variety of annuities and other guaranteed lifetime income options that are available today; and
- legislative and regulatory recommendations to enhance the retirement income security of participants and individuals by facilitating the use of guaranteed lifetime income options.

This statement also outlines consumer protections for purchasers of guaranteed lifetime income products.

When the ACLI and its members describe lifetime income, we are describing payments guaranteed for the life of an individual or individuals. In our financial system, such guarantees are only available from life insurers who are regulated under a system of insurance laws and regulations that are focused on the protection of policyholders. In the case of annuities and other risk protection products, those laws and regulations address rules governing reserves and capital necessary to meet the long-term commitments made by life insurers.

Life Insurers

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

Employers

Employers are key stakeholders in helping individuals obtain financial protection provided by life insurers. Employers offer financial protection to employees on a group basis which enables the employer to pass cost savings along to their employees. Half (51 percent) of all employees report obtaining the majority of their financial protection products, such as life, disability income, and long-term care insurance, as well as annuities and retirement savings plans, through the workplace.[2] This commitment by employers helps to increase employee awareness and understanding of the nature and benefits of these products. Whether employers pay for all or part of these products or permit employees to pay for them through payroll deduction, by making these products available at the workplace employers encourage employees to take action to protect themselves and their families.

ACLI members provide these financial protection products through employers (in-plan), directly to individuals (out-of-plan), or on a combination in-plan and out-of plan basis. Employer engagement has helped Americans understand the importance of life insurance and disability insurance. The financial protection that can be provided by guaranteed lifetime income may be less understood than the benefits of life and disability insurance and other insurance products.

[1] ACLI calculations based on preliminary data release of 2009 NAIC annual statement data.
[2] 7th Annual Study of Employee Benefits Trends, MetLife (2009).

This difference may be partly attributed to the prevalence in the past of defined benefit plans which provided lifetime income without the need for the employee to make a decision to obtain the benefit. As more and more employers choose to offer defined contribution plans rather than defined benefit plans, we believe that employers should play a key role in helping employees understand the benefits of, and gain access to, the protection provided by guaranteed lifetime income.

Guaranteed Lifetime Income Products

Guaranteed lifetime income products have evolved significantly over the past decade. The industry has responded to both individuals' interests and concerns with traditional annuities. The lifetime income products that exist today are significantly different from those that were being sold even six years ago. As we sometimes say, "This isn't your father's annuity." Today, there is an array of guaranteed lifetime income options that are generally available through ERISA and non-ERISA employer-sponsored plans, as well as on an individual basis.[3] The new products include more traditional payout or "income" annuities that provide periodic payments, typically for life, commencing "immediately" after purchase as well as new products that provide for payment on a "delayed" or "deferred" date past retirement, e.g., at age 85 (a "longevity annuity" or "longevity insurance,"). Newer payout (income) annuities can be purchased with a single premium or incrementally on a periodic basis, e.g., by monthly payroll deductions.

Annuities offer many additional features that enable the purchaser to customize the income stream to meet their particular needs, thereby enabling the purchaser to only pay for the protection that is needed. Annuities can include a variety of optional features to address needs such as survivor benefits, liquidity for emergencies, and inflation. Deferred accumulation annuities may include optional guaranteed living benefits that provide protection during the life of the owner against investment risk by guaranteeing a level of annuity payments and/or withdrawal amounts prior to annuitization. Annuities may include features that insure against premature death such as annuities based on joint lives, annuities that refund the remaining premium, or annuities with minimum payment period guarantees. Annuities may include some form of adjustment for inflation. Life insurers offer a variety of lifetime income protection products to address a variety of needs.

Recommendations to Enhance the Use of Guaranteed Lifetime Income

Academics write of the "annuity puzzle," i.e., why so few retirees annuitize defined contribution benefits when annuities provide much needed income protection. ACLI believes that efforts to educate employers and employees about the value of guaranteed lifetime income and to reframe individuals' thinking of defined contribution plan savings as a source of guaranteed lifetime income will help to solve the annuity puzzle. From a recent survey, employees are interested in guaranteed lifetime income options and find it valuable to see how much guaranteed lifetime income they could obtain by using their retirement plan savings.[4] It is important to note that ACLI believes that most workers should annuitize **some** of their retirement savings to support their monthly expenses and that annuitizing all of one's savings is not appropriate for most people.

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

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

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

*Recommendations to Encourage Employers to Offer Annuities*

1. Provide Employers with Guidance on Lifetime Income and Education. In our RFI submission, we urged the DOL to revise and extend Interpretive Bulletin 96-1 beyond guidance on investment education to include guidance on the provision of education regarding lifetime income and other distribution options, both "in-plan" and outside the plan, to assist participants and beneficiaries in making informed decisions regarding their distribution choices.

2. Help Employers Select an Annuity Provider. The DOL took an important step by changing the so-called "safest annuity standard" in Interpretive Bulletin 95-1 by adopting a safe harbor for the selection of annuity providers for individual account plans. While this regulation provided some helpful guideposts, it contains a requirement that the fiduciary "conclude that the annuity provider is financially able to make all future payments." This standard is difficult to meet, in part because it is hard to know how to draw this conclusion. While it is part of a "safe harbor," this prong makes it difficult to use the safe harbor and thus is an impediment to the offer of annuities in defined contribution plans. ACLLI believes that changes can be made to these rules which will make it easier for employers to meet their duties while at the same time ensuring a prudent selection. We plan to work with the Department of Labor to simplify this requirement so that an employer can more easily and objectively evaluate the financial stability of the annuity provider.

3. Annuity Administration. Employers take on a number of duties in administering a retirement plan, and the administration of an annuity option would increase those duties. The qualified joint and survivor annuity ("QJSA") rules provide important spousal protections. The notice and consent requirements provide spouses with an opportunity to consider the survivor benefits available under a joint and survivor annuity. However, these rules add an additional layer of administrative complexity as well as technical compliance issues that most plan sponsors choose to avoid by excluding annuities from their plans.

   There are a number of ways that the rules can be modified to make it easier for employers to administer this important requirement while protecting survivors, including:

   - model plan amendments for employers to add guaranteed lifetime income options;
   - simplify QJSA notice requirements; and
   - the use of electronic signatures, widely accepted in financial transactions today.

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

4. Partial Annuitization Option. Some employers view annuitization as an "all-or-nothing" distribution offering. In our RFI submission, we asked the Departments to provide guidance making clear that plans may provide retirees with the option to use a portion of the account value to purchase guaranteed lifetime income, including model amendments to simplify the adoption of such provision.

*Recommendations to Encourage Workers to Elect Annuities*

1. Illustration. To reframe retirement savings as a source of lifetime income, ACLI supports legislative proposals to include an illustration of participant accumulations as monthly guaranteed lifetime income on defined contribution plan benefit statements. ACLI thanks Chairman Kohl, and Senators Bingaman and Isakson for their bi-partisan sponsorship of S. 2832, the Lifetime Income Disclosure Act, which will help workers understand how their retirement savings might translate into guaranteed lifetime income.

2. Information. In our RFI submission, we asked the Treasury Department to modify the 402(f) rollover notice requirements and the safe harbor notice to include information on guaranteed lifetime income, including the importance of income protections and the availability of lifetime income plan distribution options, if any, as well as lifetime income options available outside the plan.

3. Using a Portion of a Retirement Account to Purchase Guaranteed Lifetime Income. ACLI supports efforts to facilitate a retiree's election to use a portion of his or her defined contribution account to obtain guaranteed income for life. All of the following provisions can be found in H.R. 2748, the "Retirement Security Needs Lifetime Pay Act," that ACLI fully supports and encourages this Committee to support.

    - "Longevity Insurance" in Employer Plans and IRAs. The current required minimum distribution rules discourage the use of longevity insurance, i.e., deferred payout income annuities with an annuity start date later in retirement, such as age 85. H.R. 2748 includes a provision that would facilitate the use of longevity insurance in qualified plans and IRAs by excluding the longevity insurance premium amount when calculating an individual's required minimum distributions.

    - Partial Annuitization. ACLI supports efforts to facilitate a retiree's election to use a portion of his or her account to obtain guaranteed income for life. The Administration's budget and H.R. 2748 would permit the partial annuitization of an individual's annuity savings.

    - Tax Incentive for Guaranteed Lifetime Income. Current tax policy provides equal tax treatment to payments in any form made from defined contribution plans. Guaranteed lifetime income is treated the same as a single sum distribution (i.e., taxable at ordinary rates). H.R. 2748 includes a limited tax incentive to encourage individuals to take all or a portion of their retirement savings as an annuity that guarantees lifetime income.

Consumer Protections

Each state has comprehensive laws and regulations governing, but not limited to, licensing requirements, sales practices, and market conduct regulation, as well as product approvals. Companies routinely offer a free-look period following an individual annuity purchase. During this period (usually 10 days), the individual purchaser has the right to review the contract and return it for a full refund of the purchase price. The company then will cancel the contract and, depending on the state, will refund the initial contribution (purchase price) or the account value.

State regulators have endorsed a comprehensive package of sales practice regulations aimed at protecting consumers, with a focus on seniors, during the annuity sales process. The NAIC model regulations governing the use of senior-specific designations, annuity disclosure, and annuity suitability provide states with a robust regulatory scheme to assure that consumers receive the information and protection they deserve. Senator Kohl's Senior Investment Protection provision in the financial services reform legislation encourages state adoption of both the NAIC suitability and designations model regulations. Consistent with Senator Kohl's goals, the ACLI has actively supported the NAIC designations, disclosure and suitability models. ACLI will continue to work with the states as they adopt the new NAIC suitability model.

State insurance departments oversee life insurance companies to ensure their solvency by adopting NAIC uniform rules for the establishment of reserves, the valuation of assets and liabilities, risk-based capital requirements, required capital as well as financial condition examinations. Finally, consumers are protected from the unlikely event of an insurer insolvency. Each insurer is required by law to be a member of that state's guaranty association. Guaranty associations are financial safety nets –much like the FDIC -- established for each line of insurance (life/health and property/casualty, respectively). In the rare instance where an insurer fails and an insurance commissioner obtains court approval to liquidate the company, state guaranty associations become involved so that coverage and benefits continue to resident policyholders.

Conclusion

Workers need better tools to plan for retirement. A lifetime income illustration will help workers visualize how their savings will address their basic month-to-month living expenses after retirement. With this information, workers can better decide whether they need to increase their savings, adjust their 401(k) investments or reconsider their retirement date, if necessary, to assure the quality of life they expect when their working days are over.

Similarly, workers need more information on guaranteed lifetime income options and the risks of outliving their savings. Long-term retirement planning can be a daunting task for workers. Guaranteed lifetime income options can help ease that burden by providing workers with a "paycheck for life" they can count on no matter how long they live.

Encouraging workers to consider guaranteed lifetime income options, such as by facilitating the availability of longevity insurance and partial annuitization, represents sound public policy as the baby boom generation reaches retirement age.

While employers are understandably concerned about increased fiduciary responsibilities, we believe any added burdens can be eased through adjustments in existing regulations. These include making it easier for employers to meet their fiduciary duties in selecting annuity providers and allowing insurers to assume the duties of administering the QJSA rules.

Taking these important steps today can help address tomorrow's retirement income security crisis.

Attachments:

"ACLI Retirement Choices Study," by Mathew Greenwald & Associates, Inc, April 2010

"Encourage Annuity Options for Defined Contribution Plans," ACLI proposal, February 2009

General Explanations of the Administration's Fiscal Year 2011 Revenue Proposals, p. 74

# ACLI Retirement Choices Study

*Online Survey with*

*Near-Retiree Defined Contribution Plan Participants*

Report of Findings

Prepared for:

ACLI

Financial Security. For Life.

by:

**Mathew Greenwald & Associaties, Inc.**

April 2010

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## Introduction and Methodology

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

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

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

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

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

Key findings and a detailed discussion follow this section.*

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

## Key Findings

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

- Just over nine in ten respondents say that it would be valuable to have their employer show them an illustration of how much monthly income they could get guaranteed for life based on the value of their retirement plan account, including more than half who feel that it would be very valuable.
- Three out of five say that if this illustration showed that the monthly income that could be generated would not be enough to meet their needs, they would start saving more immediately. Another one-third say that, after seeing this illustration, they would monitor how their savings affected the illustration and consider saving more later.
- Eighty-five percent express an interest in having this information available in their regular retirement statement or on a secure website hosted by either their employer or their plan provider.

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

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

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

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

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

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

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

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

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

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

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

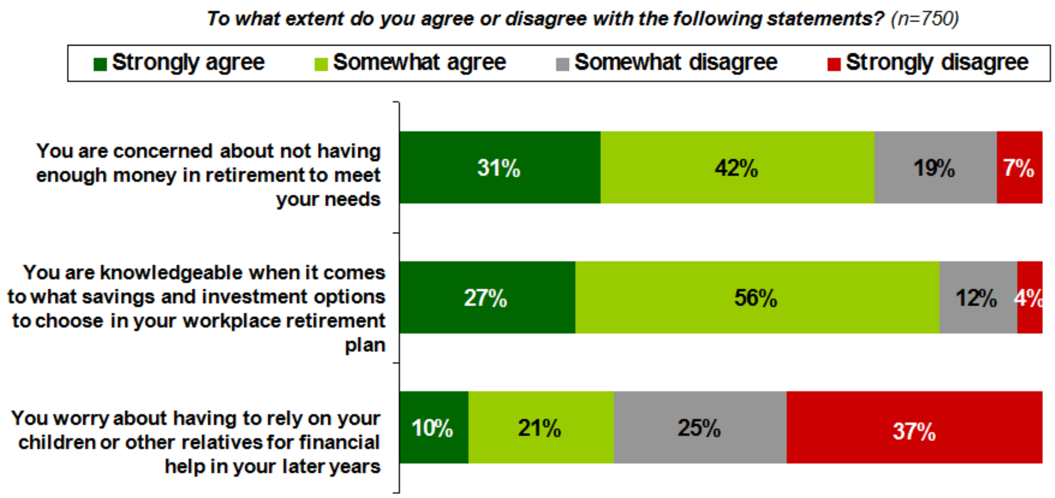
## Detailed Findings

### Retirement Outlook

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

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

**Retirement Outlook**



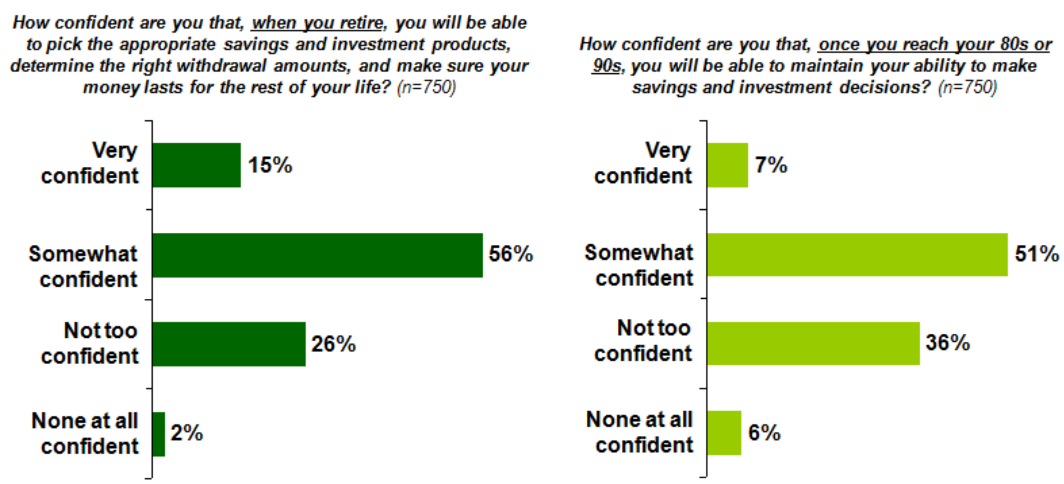
**Fewer feel confident that they will be able to pick the appropriate products, determine withdrawal amounts, and make their money last after they retire.**

- Although 27% strongly agree that they are knowledgeable about selecting current retirement plan options, only 15% of plan participants feel very confident that – when they retire – they will be able to pick the appropriate savings and investment products, determine the right withdrawal amounts, and be able to make their money last for the rest of their of lives.

- A far larger share (56%) feel somewhat confident, and one-quarter (28%) say they are not too or not at all confident in their ability to manage their money in retirement.

- Even fewer feel very confident (7%) that they will maintain their financial decision-making ability into their 80s or 90s, though most (51%) remain at least somewhat confident that they will be able to make sound savings and investment decisions in their later years.

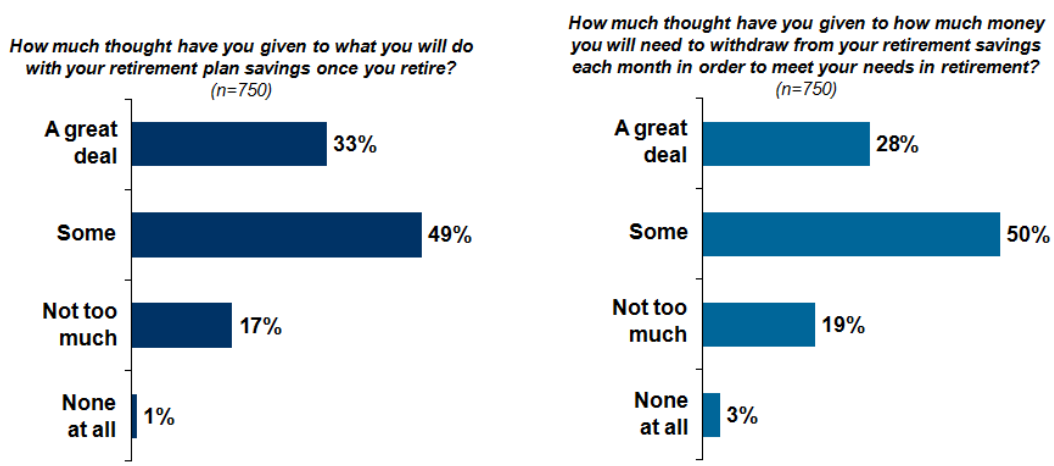
**Confidence in Managing Retirement Finances**



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

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

**Thought Given to Retirement Plan Assets and Withdrawals**

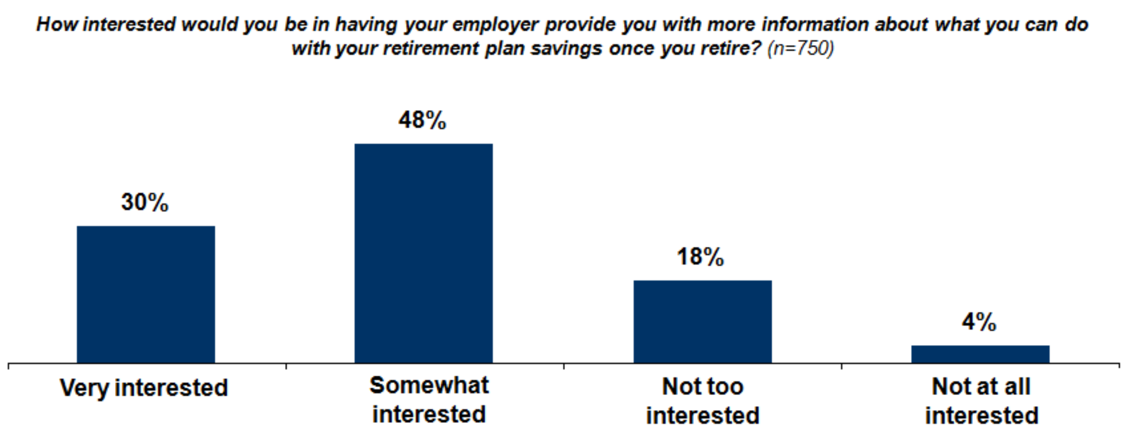


## Interest in Information On and Options for Guaranteed Lifetime Income

**Almost eight in ten would be interested in having their employer tell them more about what they can do with their retirement plan assets once they retire.**

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

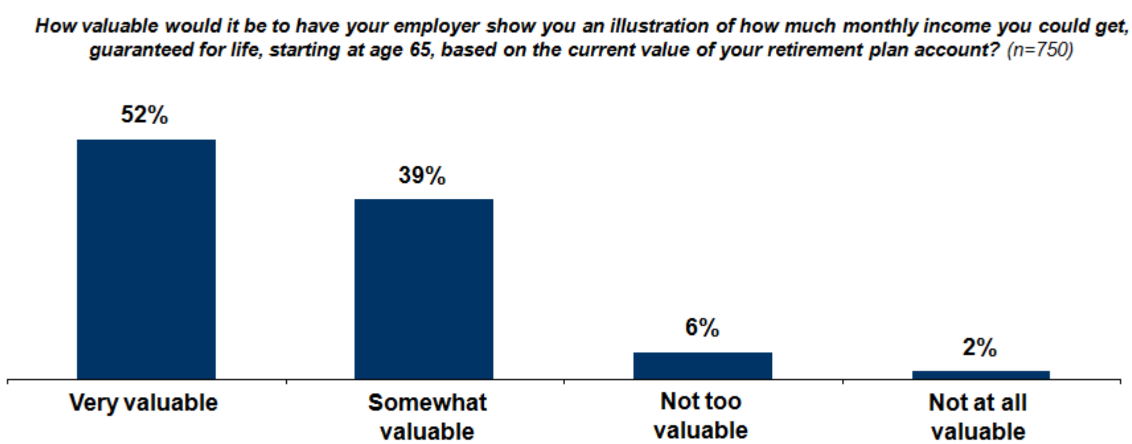
**Interest in Information On Options for Retirement Plan Assets**



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

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

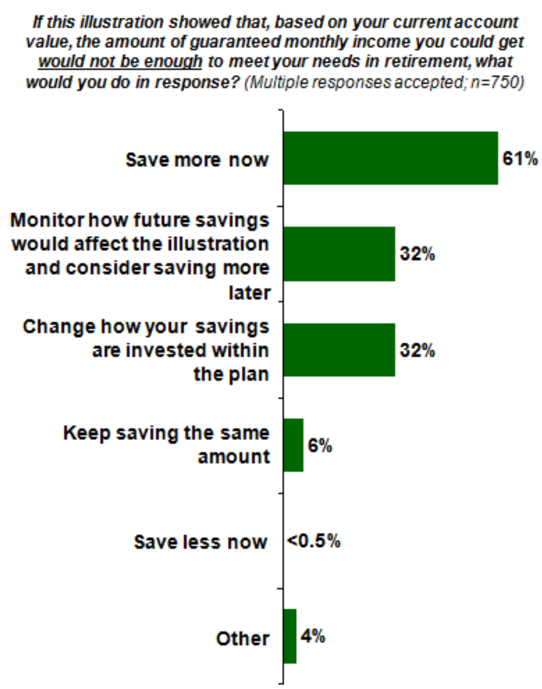
**Value of Guaranteed Monthly Income Illustrations**



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

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

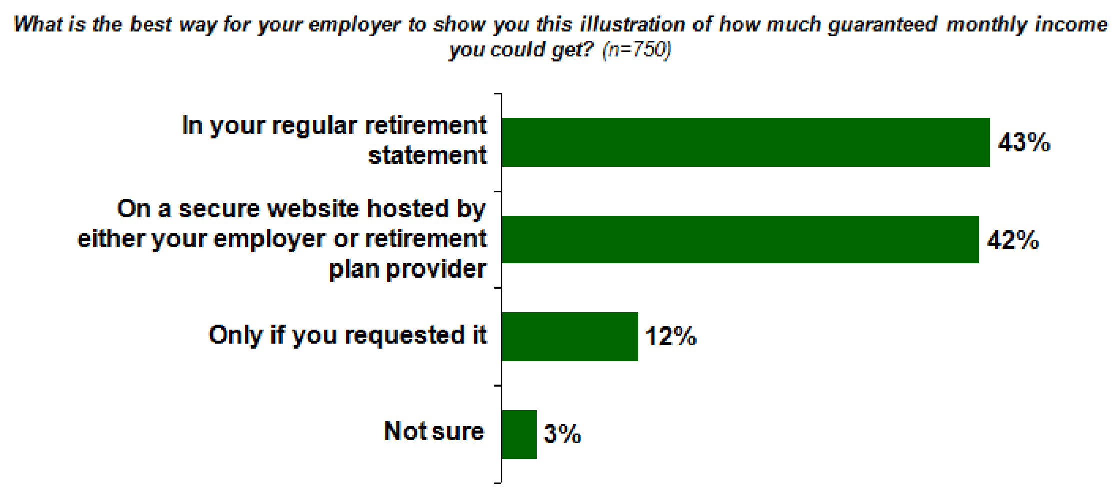
**Response to Inadequate Income Illustration**



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

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

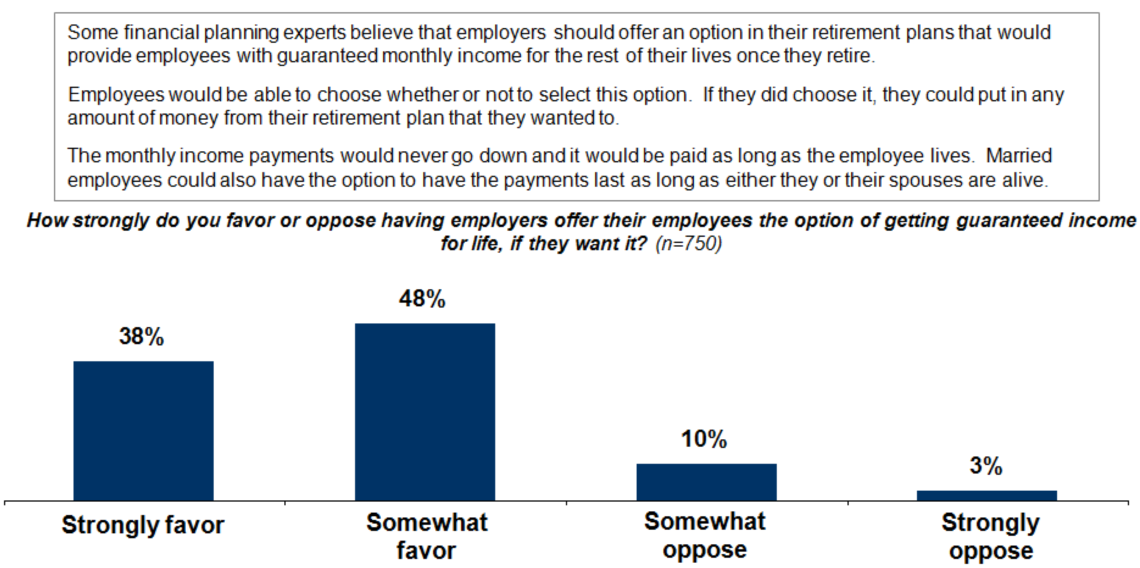
**Showing Illustration of Guaranteed Monthly Income**



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

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

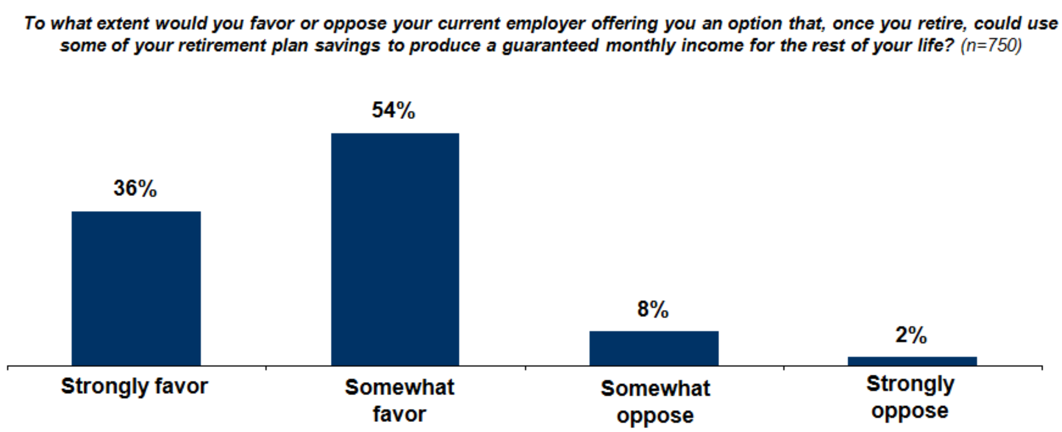
**Attitude Toward Employers Offering Guaranteed Income for Life Option**



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

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

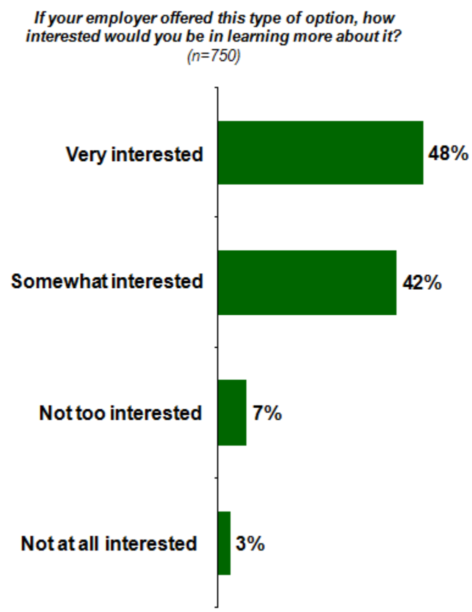
**Desire for Own Employer Offering Guaranteed Income for Life Option**



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

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

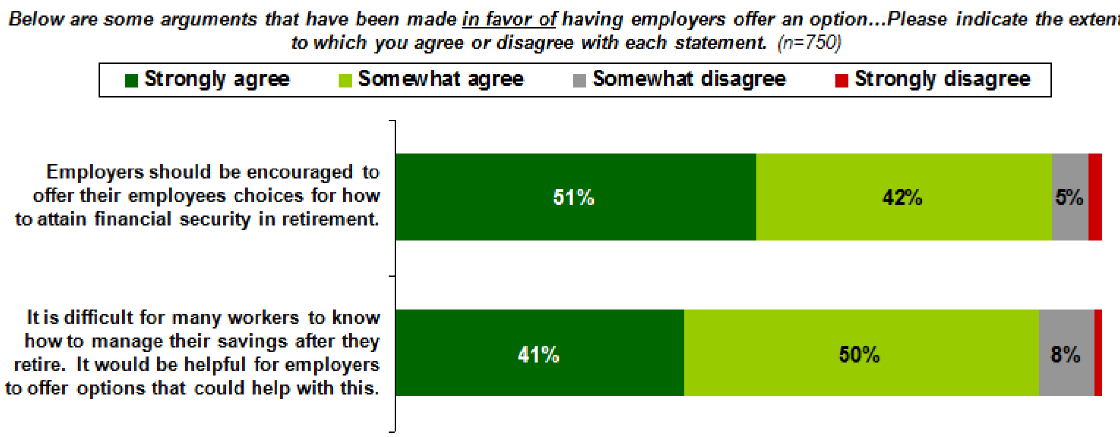
**Interest in Learning More About Guaranteed Income for Life Option**



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

- Half of plan participants (51%) strongly agree, and more than four in ten somewhat agree (42%), that employers should be encouraged to offer their employees choices for how to attain financial security in retirement.
- Moreover, 91% of plan participants strongly or somewhat agree that it is difficult for many workers to know how to manage their assets after they retire and it would be helpful if employers offered options to help with this.

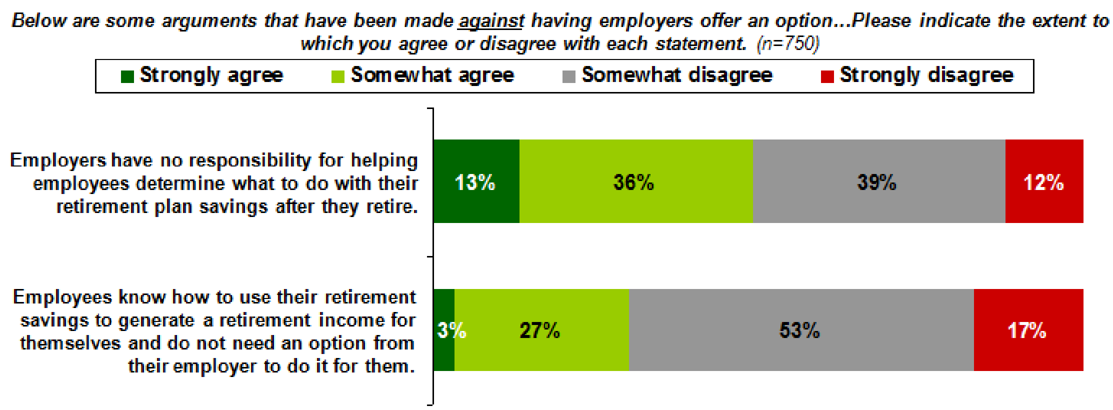
### Agreement with Statements in Favor of Employers Offering Guaranteed Income Option



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

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

**Agreement with Statements Against Employers Offering Guaranteed Income Option**



February 2009

**Encourage Annuity Options for Defined Contribution Plans**

**Problem:** Currently, about one-half of employees' retirement savings is in defined contribution plans. Most defined contribution plans do not contain guaranteed lifetime income (annuity) distribution options notwithstanding that annuitization of account balances on retirement is the best way of assuring that retirement funds will not be exhausted during the participant's life. Early exhaustion of account balances may also adversely affect surviving spouses.

A major reason that defined contribution plans do not provide guaranteed lifetime income options is that, if they do so, the plan must then comply with burdensome statutory requirements relating to joint and survivor annuities. The J & S rules impose costly and burdensome administrative requirements involving notifications to spouses, waivers by spouses, and prescribe the form and amount of spousal benefits. A major reason for the shift to defined contribution plans is a desire by employers to avoid the administrative cost and complexity associated with defined benefit plans, including compliance with joint and survivor annuity requirements.

A potential solution to this problem would be for the plan sponsor to outsource the administration of the joint and survivor annuity rules to the annuity provider. However, in the event of a failure of the annuity provider to properly administer the rules, the plan and plan sponsor would still be liable for a claim for benefits under Section 502 of ERISA.

**Solution:** Where the plan sponsor and the annuity provider have agreed that the annuity provider will be responsible for administration of the joint and survivor annuity rules, provide that enforcement actions for failure to comply with the joint and survivor annuity rules may only be maintained against the annuity provider, provided that the plan sponsor or administrator has prudently selected and retained selection of the annuity provider. Make this provision applicable only to administration of the joint and survivor annuity rules under defined contribution plans. The electronic delivery rules should be modified to allow greater use of electronic means for administration of the J & S rules.

**Rationale**: The ability to shift responsibility for the administration of the joint and survivor annuity rules would make guaranteed lifetime income (annuity) options more attractive to plan sponsors and could result in significantly wider availability of such annuity payment options under defined contribution plans. While this approach would retain the cost and complexity of the annuity rules, it would preserve spousal protections and would permit the plan and plan sponsor to shift responsibility to an experienced third party annuity provider. This provider would be an insurance company with experience in annuity administration and a secure financial ability to pay annuities. These factors makes shifting responsibility to annuity issuers more beneficial to and protective of plan participants, beneficiaries (including surviving spouses) and the plan sponsor than leaving responsibility with the plan and plan sponsor.

Electronic administration is more cost efficient and has become more widely used. DOL has indicated that they are modifying their regulation on electronic delivery, although it is not known whether the modification will cover the QJSA rules.

**Encourage Annuity Options for Defined Contribution Plans**

SECTION __

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.---

(1) IN GENERAL --- Section 402(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(c)) is amended ---

(A) in paragraph (2) by striking "or" at the end;

(B) in paragraph (3) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) that a named fiduciary, or a fiduciary designated by a named fiduciary pursuant to a plan procedure described in section 405(e), may appoint an annuity administrator or administrators with responsibility for administration of an individual account plan in accordance with the requirements of Section 205 and payment of any annuity required thereunder."

(2) Section 405 (29 U.S.C. 1105) is amended by adding at the end the following new subsection:

"(e) Annuity Administrator

If an annuity administrator or administrators have been appointed under section 402(c)(4), then neither the named fiduciary nor any appointing fiduciary shall be liable for any act or omission of the annuity administrator except to the extent that ---

(1) the fiduciary violated section 404(a)(1) ---

(i) with respect to such allocation or designation, or

(ii) in continuing the allocation or designation; or

(2) the fiduciary would otherwise be liable in accordance with subsection (a). "

(3) Section 205(b) (29 U.S.C. 1055 ) is amended by adding at the end the following new sentence:

"Clause (ii) of subparagraph (C) shall not apply if an annuity administrator or administrators have been appointed under section 402(c)(4)."

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986 ---

(1) IN GENERAL ---Section 401(a)(11) of the Internal Revenue Code of 1986 (relating to requirements of joint and survivor annuities and preretirement survivor annuities) is amended by adding at the end the following new sentence:

"Clause (iii) (II) shall not apply if an annuity administrator or administrators have been appointed under section 402(c)(4) of the Employee Retirement Income Security Act of 1974."

(c) ELECTRONIC DELIVERY

(1) IN GENERAL --- The Secretary of the Department of Labor shall modify the regulations under section 104 or section 205 of the Employee Retirement Income Security Act of 1974 to provide a broad ability to administer the requirements of section 205 of the Employee Retirement Income Security Act of 1974 by electronic means.

# General Explanations of the Administration's Fiscal Year 2011 Revenue Proposals

Department of the Treasury
February 2010

## PERMIT PARTIAL ANNUITIZATION OF A NONQUALIFIED ANNUITY CONTRACT

### Current Law

If a taxpayer receives an amount as an annuity under a nonqualified, deferred annuity contract, a proportionate part of the amount received is excluded from gross income because it is considered to represent a return of premiums or other consideration paid for the annuity. The proportionate part that is excluded from gross income is determined by an exclusion ratio, which equals the investment in the contract as of the annuity starting date divided by the expected return under the contract as of that date.

If, on the other hand, an amount is received under an annuity contract but not as an annuity, the amount either is included in gross income (if received on or after the annuity starting date) or is included in gross income to the extent allocable to income on the contract (if received before the annuity starting date).

The annuity starting date is the first day of the first period for which an amount is received as an annuity. This date is generally the later of the date on which the obligations under the contract became fixed, or the first day of the period that ends on the date of the first annuity payment.

### Reasons for Change

Under current law, a taxpayer may exchange a portion of an existing annuity contract for a second annuity contract and, under certain circumstances, annuitize one of the contracts involved in the exchange. An exclusion ratio then applies to determine the extent to which amounts received as an annuity under the annuitized contracts are included in gross income. Current law does not, however, address the treatment of a transaction (sometimes known as a partial annuitization) in which the holder of an annuity contract irrevocably elects to apply only a portion of the contract to purchase a stream of annuity payments under the contract, leaving the remainder of the contract to accumulate income on a tax-deferred basis. It is appropriate that these transactions be treated consistently.

Moreover, the possibility that a partial annuitization could be taxed on an income-first basis rather than on a proportionate basis discourages some taxpayers from annuitizing existing deferred annuity contracts at a time when annuity payments are needed to fund their retirement.

### Proposal

An exclusion ratio would apply to each amount received as an annuity with regard to a portion of a nonqualified deferred annuity contract that is partially annuitized. This treatment would be available only if: (1) the taxpayer irrevocably elects to apply a portion of the contract to purchase a stream of annuity payments; (2) the stream of annuity payments is either for at least ten years or for the life of one or more individuals; and (3) the exclusion ratio is computed based on the expected return and investment in the contract with regard to the portion of the contract that is annuitized.

The proposal would be effective for partial annuitizations that are effected after December 31, 2010.