1095 Avenue of the Americas
New York, NY
10036-6795

MetLife®

William J. Mullaney, CLU, FLMI
President
U.S. Business

(212) 578-2984
(212) 578-6241 FAX
bmullaney@metlife.com

May 3, 2010

FILED ELECTRONICALLY

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

Re: RIN 1210-AB33: Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans

On behalf of MetLife, I am hereby submitting our response to the Request for Information Regarding Lifetime Income Options ("RFI") issued by the Departments of Labor and Treasury and the IRS (the "Agencies") on February 2, 2010.

MetLife thanks the Agencies for the opportunity to respond to the RFI. We also commend the Agencies for issuing the RFI and initiating this very important discussion.

The RFI recognizes the changing landscape of the retirement plan system. MetLife's own research recognizes this dynamic, and also identifies a fundamental issue compounding the changes. Our Retirement Income IQ Study (conducted in 2003 and again in 2008) tested basic retirement income concept knowledge among individuals within five years of retirement. The results indicate significant knowledge gaps exist regarding average life expectancy and other retirement income issues. For example,

- Among the most disturbing findings of the 2008 study was that six in ten Americans (60%) underestimated their average life expectancy
- Almost half (49%) underestimated the amount of pre-retirement income they will need once they retire
- Almost seven in ten (69%) pre-retirees overestimated how much they can draw down from their savings – with an alarming 43% said they believed they could withdraw 10% or more each year while still preserving their principal – even though most retirement experts suggest a withdrawal rate of no more than 4% annually.

This lack of understanding is particularly concerning because it puts consumers at a disadvantage from the start. Poor retirement planning assumptions are then compounded after retirement by much longer life expectancies. These findings point to the underpinnings for a "perfect storm" of unprepared retirees running out of assets.

The 8th Annual *MetLife Study of Employee Benefits Trends* Study also highlights some very important retirement trends:

- On the positive side, active employer engagement in their qualified retirement plans is increasing and is important to help employees realize adequate income in retirement.
- There is also emerging interest from employers in automatic enrollment, automatic escalation and default annuitization in larger companies to help employees act on their intentions to save.
- That said, despite employee interest, employers have not increased their focus on providing financial advice, guidance and retirement education.
- And to compound the issues, there is still a large disconnect between employers' and employees' interest in employers providing a way to turn an employee's 401(k) savings into a guaranteed stream of retirement income. Forty-four percent of employees surveyed said they would like their employer to offer an annuity option as part of their defined contribution plan, whereas only 10% of employers say they are interested in offering an annuity option as part of their defined contribution plan.

These findings all point to the critical role that annuities play in providing retirement plan participants with guaranteed income solutions, solutions that today's workers and tomorrow's retirees need to create a financially secure retirement. At a time when individuals need help in making the most of their retirement assets, immediate annuities, for example, produce substantially more income per dollar of assets than any other approach. Immediate annuities have the unique ability to generate more income now while covering the risk of running out of money later.

MetLife stands ready to assist you in any way possible as you continue this critical national dialogue. Please feel free to contact me at 212-578-2984 if you have any questions or need any additional information.

Sincerely,

William J. Mullaney
President
U.S. Business

Department of Labor and
the Department of the Treasury RFI
May 3, 2010

MetLife®

Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans

Executive Summary

Background

The retirement landscape has changed dramatically since the creation of the 401(k) plan in 1978. Historically, large numbers of Americans relied on traditional defined benefit plans; today, most Americans are relying, in large part, on defined contribution plans as their primary source of retirement savings. In most cases, defined contribution plans were designed – and are maintained today – as supplemental retirement savings vehicles not generally structured to provide guaranteed lifetime income.

Why is lifetime income so important? One of the greatest risks facing retirees is longevity risk – the very real risk of outliving retirement savings. Individuals who spend down their retirement assets based on their life expectancy will run out of savings if they live longer than expected, which half the population will do. On the other hand, many individuals who spend as if they will live well beyond their life expectancy will run the risk of under spending, forcing significant changes in lifestyle for fear of running out of money. The only product capable of avoiding these both of these adverse results is an annuity.

Until now, policymakers have focused their attention on coverage and savings rates. However, with increased longevity, the continued decline of the defined benefit plan system, and the impending retirement of 47 million baby boomers – the first boomer turns 65 in 2011 – the Administration's focus on strengthening lifetime income for Americans is both needed and timely. MetLife commends the Agencies for issuing this RFI and for beginning this very important discussion.

Policy Recommendations

The RFI asks a number of questions regarding the barriers to employers offering and participants choosing income annuities in defined contribution plans. The Agencies have requested recommendations to overcoming those barriers. Among the public policy changes that should be implemented are the following recommendations:

To encourage employers to offer guaranteed lifetime income in defined contribution plan:

1. The DOL should simplify the defined contribution plan provider selection regulations by providing an objective safe harbor for the selection of an annuity provider based on the fact that an annuity provider has passed the review of state regulators.
2. The DOL should consider revising the QDIA regulations to require that QDIAs contain an in-plan accumulation annuity component.
3. The DOL and Treasury Department should issue the following:
    a. Guidance clarifying how joint and survivor spousal rules apply to trial annuitization and guaranteed insurance products.
    b. Educational information for employers highlighting trial annuitization.

To encourage individuals to choose lifetime income products:

1. The DOL should take four steps with respect to participant education and advice. The first two relate to IB 96-1 and the second two relate to guidance with respect to advice provided through computer models.
    a. First, guidance is needed to clarify what education may be provided to participants about the distribution phase without that guidance being treated as fiduciary advice.

b. The current investment elements of IB 96-1 should be expanded to clarify that education regarding investment in in-plan accumulation annuities and guaranteed insurance products is within the reach of the IB.
c. The DOL should issue "SunAmerica-like" guidance with respect to the distribution phase. In other words, a financial institution would be allowed to contract with an independent expert that would develop and apply a computer model for providing distribution advice based on generally accepted decumulation principles.
d. The final step for the DOL to take is to incorporate in-plan accumulation annuities and guaranteed insurance products into the SunAmerica and PPA computer models.

2. The DOL should provide enhanced education to plan sponsors about their ability to offer partial annuitization and the benefits that partial annuitization can provide to participants.
3. Congress should consider requiring plans that offer annuities to offer partial annuitization.
4. 401(k) plan account balances should be communicated as lifetime income on annual benefit statements, in addition to the total account balance.
5. If annuitization rates do not increase significantly in the next three to five years due to the voluntary approaches MetLife suggests that the DOL and Treasury Department should then consider mandatory default annuitization. If the voluntary approach does not work, then the mandatory option should be structured so that 50% of the individual's account balance would be defaulted into the lifetime income option. This may also be accomplished with a trial annuity which would allow retirees to test drive monthly guaranteed income payments with the option to opt out during the trial period. This requirement should not apply to employers with fewer than 100 employees or to employers offering an active defined benefit plan with only lifetime income benefits (and no lump sum options).
6. MetLife encourages Congress to consider permitting defined benefit plan sponsors to eliminate lump sum distribution options.

To further facilitate annuitization, MetLife recommends the following tax law changes:

1. The Required Minimum Distribution (RMD) laws should be changed to exempt longevity insurance from RMDs until the benefit payment begins.
2. A targeted tax incentive should be provided for the purchase of an immediate income annuity.

To facilitate the use of in-plan accumulation annuities:

1. MetLife suggests that the DOL consider revising the QDIA regulations to require that QDIAs contain an in-plan accumulation annuity component.

Conclusion

MetLife thanks you for the opportunity to share our thoughts and experiences with you relative to this very important topic. From a societal perspective, the government should enable its citizens to create lifetime income security. As a society, we – including the government, employers, and the financial services industry – collectively have a role in providing the education and tools to participants so that their efforts to save for their retirement are not squandered, but instead are rewarded with retirement security.

TABLE OF CONTENTS

Glossary of Terms

There is a wide variation in the terms used in the lifetime income area, in part because of the evolving nature of the product offerings. To clarify this discussion, the following glossary of terms are referenced throughout this document.

- **Annuity** or **Income Annuity:** Periodic payments that are guaranteed to last for the life of an individual and/or the individual's beneficiary.
  - **Immediate Annuity:** Periodic payments that begin no later than 12 months after purchase and are guaranteed for:
    - the annuitant's life and/or the beneficiary's life, or
    - a certain period of time (five to thirty years – "period certain"), or
    - any combination thereof.

    The annuitant may choose fixed payments that do not vary, or variable payments that are based on performance of underlying investments.
  - **Deferred Annuity**: Periodic payments that begin at a future date and are guaranteed for:
    - the annuitant's life and/or the beneficiary's life, or
    - a certain period of time (five to thirty years – "period certain"), or
    - or any combination thereof.
  - **Fixed Immediate Annuity:** The purchase payment is invested in the insurance company's General Account. Benefit payments are fixed at a constant value for the duration of the annuity.
  - **Variable Annuity:** The purchase payment is invested in a selection of portfolios (sub-accounts) and often include investments in fixed accounts (General Account). Each sub-account is tied to an investment fund, the performance of which, less expenses, will impact the benefit payments.

- **Guaranteed Lifetime Withdrawal Benefit ("GLWB"):** Under a GLWB, the participant's assets that are invested in a target date or balanced fund, move at a specified age (e.g., age 50) into the guaranteed fund component. From that point forward, each additional contribution and any positive market performance may increase the benefit base from which future withdrawals are calculated. The assets are then "wrapped" with a guaranteed percentage withdrawal amount, for example 4% or 5% of the benefit base, which is then the amount that is paid out annually. The participant retains total control over the assets and may choose to liquidate at any point in time as long as there is a market value. If the assets fall to zero, the insurance company steps in and continues to pay the guaranteed withdrawal amount; this payment comes from the insurance company's General Account. The underlying asset pool is generally a traditional balanced fund. This approach provides the most flexibility in terms of control of assets.

- **Guaranteed Minimum Income Benefit ("GMIB"):** Contributions into the annuity establish what is known as an "income base" and this amount compounds at a stipulated rate (typically 5%). On each contract anniversary, if the actual account value exceeds the compounded income base, the contract owner can lock in the gains by stepping up the income base to the higher amount (subject to age limits). The income base continues to compound even when markets, and thus the account value, decline (the income base is not available as a lump sum). In addition, a contract owner can take withdrawals during the accumulation phase. As long as the annual withdrawals do not exceed the income base compounding rate, the income base value stays the same even if the withdrawals and/or market performance cause the account value to drop to zero. To begin lifetime income payments under the rider, the contract must be annuitized. The amount received is the greater of the current account value at standard annuity payout rates or the income base at conservative GMIB payout rates guaranteed under the rider.

- **Guaranteed Minimum Withdrawal Benefit ("GMWB"):** Under a GMWB, the structure works similarly to the GLWB described above. The primary difference is that the withdrawals guaranteed in retirement are for a specified period of time and are not necessarily tied to the participant's lifetime. For example, the guaranteed withdrawals will be for a predetermined specified period of years. If the participant lives beyond that time, the guaranteed payment ends. The participant retains control of any remaining assets.

- **In-plan accumulation annuity:** An annuity contract that is offered as an allocation option under a defined contribution plan that allows plan participants to allocate a portion of their 401(k) plan contributions to a deferred income annuity and thus accumulate guaranteed pieces of future income over time. Participants acquire deferred annuity amounts at various interest rates (the interest rate analogue to dollar-cost averaging into the market) rather than electing an annuity at the point of retirement when interest rates could be low. These in-plan annuities also offer a specific annuity payment benefit for every dollar that is invested.

- **In-plan distribution annuity option:** An annuity that is offered directly by a defined contribution plan as a means of distributing a participant's account balance under a plan. Under this option, the plan sponsor specifies one or more specific insurance companies to provide the annuity benefits as specified in the plan.

- **IRA rollover annuity option:** An option to roll over assets from a defined contribution plan to an IRA annuity or to an IRA holding an annuity contract.

- **Trial annuitization:** Following accepted default principles, this approach would allocate a portion (e.g., 50%) of a retiring participant's defined contribution plan assets automatically into a lifetime income annuity at the point of retirement. These assets would be automatically directed into an income program for a trial period (such as one or two years) unless the participant affirmatively elects a different form of payout permitted under the retirement plan. The purpose is to give retirees an opportunity to "test drive" the benefits of receiving a retirement income "paycheck." At the end of the trial period, participants would again have the ability to opt for alternative forms of payment. Those who made no affirmative choice within a specified period would continue to receive income annuity payments because the program converts automatically from trial-period income annuity to a permanent income annuity, typically at the same income amount.

Section 1: Why is the lifetime income issue so important to protect the retirement security of Americans?
[This addresses question 1 in the RFI]

Evolution Of The U.S. Retirement System

The retirement landscape has changed dramatically since the creation of the 401(k) plan in 1978. Historically, large numbers of Americans relied on traditional defined benefit plans; today most Americans are relying, in large part, on defined contribution plans as their primary source of retirement savings.

By and large, our parents and grandparents did not need to worry about lifetime income issues. Many in the WWII Generation and the Silent Generation worked for corporations that offered defined benefit pension plans. When workers retired, their "paychecks" continued for as long as they lived. They felt secure knowing that they worked hard throughout their life and, when they retired, they and their families would not run the risk of running out of money.

Unfortunately, over the last two decades, the number of private defined benefit pension plans has declined precipitously. In 1986, there were 172,642 defined benefit plans, and 544,985 defined contribution plans. By 2000, the number of defined benefit plans had dropped to 48,773 and defined contribution plans peaked at 686,878. Since 2000, defined benefit plans have remained roughly level, with 48,982 plans in 2007. Although defined contribution plans have dropped slightly each year since 2000, with 658,805 in place in 2007, they still overshadow the number of defined benefit plans today. (See Exhibit 1).

In most cases, defined contribution plans were designed – and are maintained today – as supplemental retirement savings vehicles. As such, they are generally not structured to provide guaranteed lifetime income. Early defined contribution plans provided employees with a supplement to their defined benefit plans, plans that produced a pension check related to the employee's final or career average pay. However, several factors have changed the paradigm associated with defined contribution plans, creating a new problem for plan sponsors and their participants. For example:

- Employee mobility, especially among younger workers, reduced the perceived need for a defined benefit plan to help manage workers into retirement.

- A significant proportion of defined benefit plans added and encouraged lump sum distributions, which were generally less expensive for employers, and more attractive to employees. These distributions helped facilitate the early retirement incentive programs that became widespread in the 1990's.

- Increasing numbers of defined benefit plan sponsors have frozen ("soft" or "hard") their plans or converted them to hybrid cash balance defined benefit plans. The soft freeze excludes new entrants, while allowing benefit accruals to continue for covered employees. The hard freeze eliminates any future accruals for participants covered under the plan The converted cash balance plan removes the direct connection between the level of pre-retirement pay and the amount that the cash balance plan could produce in income under a systematic withdrawal or annuitization form of payout.

- The complexities associated with establishing and maintaining a defined benefit plan have led increasing numbers of companies to utilize defined contribution plans as their only retirement programs. This is particularly true with smaller firms and those with less tenured workforces. As such, many Americans will be relying on 401(k) plans or personal IRAs as their only retirement plan in the future.

From a societal perspective, the government should enable its citizens to create lifetime income security. As a society, the stakeholders – the government, employers and the financial services industry – collectively have a role in providing the education and tools to participants so that their efforts to save for their retirement are not squandered, but instead are rewarded with retirement security.

Until now, policymakers have focused their attention on increasing retirement plan coverage and savings rates. However, with increased longevity, the continued decline of the defined benefit plan system and the impending retirement of 47 million baby boomers – the first boomer turns 65 in 2011 – the Administration's focus on strengthening lifetime income for Americans is timely. After all, the baby boom generation is the first cohort to be meaningfully affected by the shift from defined benefit to defined contribution plans.

Why Is Lifetime Income So Important?

One of the greatest risks facing retirees is longevity risk – the real risk of outliving retirement savings. According to the Annuity 2000 Male and Female Mortality Tables, a male age 65 today has a 50% chance of living beyond age 85, and a 25% chance of living beyond age 92. Similarly, a female age 65 today has a 50% chance of living beyond age 88, and a 25% chance of living beyond age 94. For a married couple age 65 today, there is a 50% chance of one spouse living beyond age 92, and a 25% chance that one will live beyond age 97. (See Exhibit 2).

Individuals who spend down their retirement assets based on their life expectancy will run out of savings if they live longer than expected. And individuals who spend as if they will live well beyond their life expectancy will run the risk of underspending, forcing significant changes in lifestyle for fear of running out of money. In addition to simply living for more years, the of cost health-related expenses, especially in the final few years of life when custodial care is most likely, are expected by many experts to be very significant, and would occur when funds are most likely to be scarce.

The longevity risk faced by an individual retiree is more significant than the investment risk faced at retirement. Whereas individuals can decrease the investment risk by changing their investment strategy, there is no way that individuals can, on their own, reduce their longevity risk because they cannot accurately predict how long they will live nor do they have a way to recreate the pool associated with a large group, unless they have a form of guaranteed lifetime income.

Longevity risk cannot be reasonably addressed through investments alone. The only product capable of allowing participants to plan for these uncertainties is an annuity. An income annuity, issued by an insurance company, is a guarantee for the lifetime of the annuitant (the person receiving benefits). The use of pooled risk is still an individual's best and most cost-effective defense. When a group is assembled and mortality experience is pooled, the individual is relieved of the need to accumulate significantly more money than otherwise would be needed to guard against living beyond his/her savings. An average retiree, for example, would need to have saved about one-third more to attempt to replicate the power of a mortality pool and, even then, could still risk running out of money. With mortality pooling, an individual only needs savings sufficient to last over the average lifetime of the group. On an unpooled basis, an individual's savings will need to last significantly longer than that average lifetime to provide a comparable chance that he/she will not outlive those savings.

The pooling concept is a powerful one that is at the heart of all insurance products (as well as the mortality element within Social Security and defined benefit plans). Longevity creates a much smaller risk for large defined benefit pension plan sponsors since the "law of large numbers"[1] permits them to fund for the average life expectancy of the entire group of retirees. When a large group of retirees is pooled, the income benefits received by a retiree who lives longer than expected are offset by those retirees who die before their life expectancy.

Another advantage of receiving some or all of one's retirement savings in the form of guaranteed lifetime payments is that it allows one to receive a steady retirement "paycheck." All their working lives, Americans budget and make their spending decisions (e.g., where they live, where they send their children to school, how often they can dine out, etc.) based on the amount of their paycheck. An income guaranteed to continue for life not only protects against longevity risk, it allows an individual to plan their spending, which may help them to not overspend or underspend in retirement.

On a related note, it is important to distinguish between lifetime income payments and life expectancy payments. Lifetime income payments (i.e., income annuities), guaranteed by insurance companies, will insure payment for the individual's lifetime. In the event the participant dies sooner than expected, lifetime income payments can also be structured to provide for a spouse or other beneficiary. Life expectancy payments (e.g., systematic withdrawals) "assure" payments over life expectancy but may decrease over time depending on investment performance or may actually fall to zero prior to the individual's death. While they will pay out the value of the account to the estate or beneficiary upon the death of the participant, this is balanced by the greater risk that the funds will be exhausted short of the individual's life in at least half of all cases.

[1]The Law of Large Numbers: A statistical axiom which states that the larger the number of exposure units independently exposed to loss, the greater the probability that *actual* loss experience will equal expected loss experience.

Section 2: Common misperceptions about income annuities
[This addresses question 2 in the RFI]

Income annuities can generate, by far, the highest level of lifetime income per dollar of retirement assets put to work. Income annuities are uniquely positioned to address a major challenge that will arise in the financial lifetimes of all retirees and those approaching retirement – how to make their income last as long as they live. Although income annuities provide exceptional value in terms of meeting this longevity challenge, persistent negative perceptions and confusion on the part of the media, plan sponsors and their participants regarding annuitization have made acceptance of this solution difficult. The conversation needs to shift to educate all parties that retirees must not only invest for retirement but also insure for retirement. This RFI is the start of a national dialogue on the value of lifetime income solutions and, MetLife expects that, through this process, the misperceptions surrounding income annuities will be dispelled.

The following is a collection of the most common misperceptions – and the associated realities:

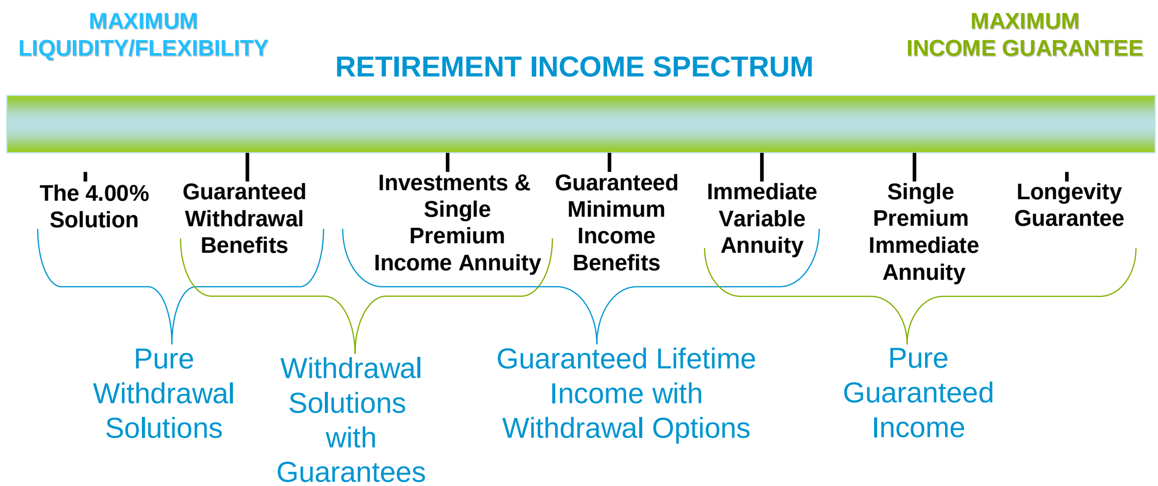
Misperception	Reality
An income annuity is an all-or-nothing solution.	Plans should be designed to provide partial annuitization. Effective retirement planning is a holistic endeavor. There are many financial needs to be addressed in retirement. One product cannot possibly meet all these needs. Instead of answering *whether or not* the account balance should be fully annuitized, the question is *how much* should be annuitized.
Income annuities are irrevocable and lack liquidity for emergencies or unforeseen events.	It is true that traditional income annuities often provided no liquidity. However, an increasing number of income annuities in the market today, provide for liquidity during all or part of the annuitization period and provide a choice of full or partial withdrawals. Since it is recommended that only *a portion* of the account balance be annuitized the remaining portion of the account balance is available to meet liquidity needs.
Income annuities lead to a loss of control of assets.	This is certainly true if annuitization is viewed as an all-or-nothing solution. However, when income annuities are included as *part* of the overall retirement plan the individual retains full control of the portion not allocated to income annuities.
Income annuities are expensive.	This is an "apples to oranges" comparison. With an annuity, an individual is paying for a benefit that investments cannot provide: the guarantee that you will not outlive your money. Much like life insurance provides financial security in the event of an early death, income annuities provide financial security in anticipation of a long life.

Misperception	Reality
Income annuities do not keep up with inflation because the income payments do not change over time.	While most traditional fixed income annuities do not provide explicit protection against inflation, the development of inflation-indexed income annuities does address inflation risk. However, this often generates questions about the cost of this protection. Inflation-protected income annuities have a lower starting income level than income annuities without an inflation adjustment. It is also possible to purchase cost-of-living-adjustments ("COLAs") which provide a flat percentage increase every year (e.g., 1%, 2% or 3%).
Buying in a low interest rate environment is a bad investment.	If you defer purchasing an income annuity until interest rates rise, your income during this waiting period must come from systematic withdrawals out of your retirement savings. However, during this time you are not taking advantage of the mortality credits that are inherent in an income annuity. This causes the systematic withdrawals to be more expensive than simply buying an annuity, even in a low interest rate environment. In addition, while waiting for interest rates to rise, you remain subject to market risk.

Section 3: How have lifetime income products evolved to meet the needs of today's retiree?
[This addresses questions 3, 4, 5, 6, and 7 in the RFI]

Overview

There is a full spectrum of retirement income options available today that range from maximum liquidity/flexibility at one end to maximum guaranteed income at the other, which the chart below illustrates. These solutions include fixed payments that never change (regardless of market conditions); withdrawal features (full or partial); a full range of income payout options; a return of premium guarantee; inflation protection options; and a death benefit. These products may be found in the retail market and, increasingly in the defined contribution market.



The annuity products in the defined contribution market today have been adapted from products in the retail market. In order to work within the distribution channel (primarily web and call centers) some features have become simpler to understand, more flexible, and, in some cases, even portable, all while retaining the product's core focus of ensuring guaranteed lifetime income.

Personal Pension Plans

Insurers have introduced in-plan accumulation annuities that are designed for workers while they are actively saving for retirement. These new products allow employees to create their own "personal pension." Offered as a complement to, or as an option within, a 401(k) plan, this type of product is unique in that each contribution an individual makes is immediately converted to a specific future income benefit that is guaranteed to last a lifetime. By making contributions within a 401(k) plan, workers are able to invest over time and use a dollar-cost averaging approach to purchase a future income stream. Some of these programs, such as the Bank of America/Merrill Lynch Retirement Group's Personal Pension Builder,[2] are offered as a standalone accumulation fund inside a 401(k) plan. In turn, at retirement participants may elect to receive a guaranteed stream of income.

In a recent development, deferred fixed income annuities are being added to target date funds as their fixed income component. In this situation, the annuity allocation automatically increases as the plan participant gets closer to retirement. The annuity allocation within the target date fund, for example, might start at 5% at age 25 and grow to more than 50% at the point when the participant plans to retire.

[2] MetLife is the deferred fixed income annuity provider.

One example of this is BlackRock's SponsorMatch™,[3] which enables a participant's contribution to be allocated to both passively managed equity assets and retirement income. Importantly, BlackRock focused on the benefit of the employer match providing guaranteed lifelong income for participants. At retirement, participants automatically receive a lifetime income stream with an annual 2½% cost of living adjustment unless they choose to opt out of the annuity and receive a lump sum instead.

Longevity Insurance

The single biggest challenge that financial advisors have in creating retirement income plans is assuming an exact date of death. Therefore they select a date of death too far into the future (for example age 100) thereby creating a situation in which most retirees will underspend. One of the newer products that the insurance industry has introduced in the last few years is longevity insurance – a deferred income annuity – that would be purchased at the point of retirement but would not begin payments until the individual reaches average life expectancy (generally age 80 or 85). This product is specifically designed to allow individuals to address their longevity risk. They set aside a portion of their retirement savings now in order to generate a steady stream of guaranteed income in the later years when it may be needed most. It also allows them to manage their other retirement assets to a limited time horizon.

For a typical retiree, allocating 10%-15% of wealth to a longevity annuity creates spending benefits comparable to an immediate annuity allocation of 60% or more. Viewed another way, a sample calculation using annuity purchase rates found that a 65-year-old male retiree could increase his guaranteed spending by more than 21%, during the deferral period of 20 years, by allocating less than 8% of his portfolio to an age 85 longevity annuity.[4]

Using today's interest rates, a longevity insurance product with a one-time purchase of $10,000 by a male at age 65 would provide annual lifetime income beginning at age 85 of $4,328 with a death benefit or $7,658 without a death benefit. With this product, individuals are not only able to insure against the risk of outliving their life expectancy, they can spend more of their remaining assets during the intervening years, since they have a set time horizon (e.g., 20 years) during which to spend these assets. This allows individuals to maximize their spending capacity prior to the commencement of annuity payments.

Enhanced Benefit Features

While annuities have always offered the flexibility to provide a benefit for one's spouse (joint and survivor) and term certain periods (ranging from 5 to 30 years), additional features are also available. For example, an individual may select either an annual cost-of-living-adjustment (1%, 2% or 3%) or inflation-adjusted annuities that track the Consumer Price Index ("CPI"). Additionally, partial withdrawals and premium refund features are now available. While these benefits provide enhanced flexibility there is also a cost associated with each feature. To address the individual's unique needs, these options enable them to customize their income benefit.

Living Benefits

In the retail market, living benefits programs (defined in the glossary of terms as GMIB, GLWB and GMWB) have been extremely popular. Several insurers have now adapted these programs for the

[3] MetLife is the deferred fixed income annuity provider.
[4] *The Longevity Annuity: An Annuity for Everyone?* Jason A. Scott, Financial Engines, Inc., June 2007. For an electronic copy: http://ssrn.com/abstract=992423

defined contribution marketplace. These products have been primarily offered on a stand-alone basis, which means that participants must elect the product and determine the percentage of their ongoing contributions that they wish to allocate to this fund. There is ongoing discussion as to whether these funds are Qualified Default Investment Alternatives ("QDIA") eligible.

Product Innovations Pose Questions, Potential Challenges For Recordkeepers, Plan Sponsors

The downside to innovation is that many sponsors' recordkeepers are not yet fully prepared to include these in-plan options in their fund line-up. At a high level, these enhancements would require indicative data transfer to the insurer with file feeds going back to the recordkeeper. While this is not necessarily an insurmountable obstacle, recordkeepers would like to see product feature uniformity from insurers. Because each insurer's products vary in design, they have different data requirements. Sponsors view this as problematic because it means if they select one product, it may only be offered on one recordkeeper's platform. In turn, this makes their decision to change recordkeepers in the future potentially challenging; this is referred to as employer portability. The recordkeeping and insurance industries, having heard these concerns from sponsors and from each other, are working together under the auspices of an industry association, The SPARK Institute, to come to consensus on standard file and data formats. The ultimate goal is to ensure that a plan sponsor would be able to change recordkeepers and without having to eliminate an in-plan accumulation annuity option.

Participant portability has also been perceived as an issue although, as a general rule of thumb, the products in market allow for participant to rollover their assets into an IRA. If participant changes jobs, they may be able to leave their retirement income assets in their former employer's plan or they may be able to rollover into the companion IRA product; typically this will have higher fees. Participants may not understand these options and may just liquidate their fund thereby losing the benefits that they have already paid for and accrued. And some products may only allow for liquidation because they do not yet provide a companion rollover solution.

In-Plan Accumulation Annuity Products

There are several types of in-plan accumulation annuity products that are available in the market today, which include deferred fixed income accumulation annuities that are available as stand-alone products or integrated into target date funds. There are also living benefits (GMIB, GLWB and GMWB) as an in-plan accumulation annuities that are available in either a balanced or a target date fund at a pre-specified age.

When in-plan accumulation options are available there is generally an option that provides the participant, at the point they terminate employment or retire, the opportunity to roll over the benefit to an IRA that preserves the guarantees they accumulated while employed. However, in most cases, the fees will increase since these funds have been moved out of the workplace and into a retail contract.

IRA Rollovers

All defined contribution plans allow participants to roll their assets into an IRA at the point of termination. Typically, this means that participants can take their money and either purchase an IRA that offers an array of mutual funds, or they can purchase an IRA rollover annuity. These are both retail products and the participant makes the selection on their own without guidance from the plan.

Some employers are also making institutional IRA rollover annuity platforms available to their participants, such as the Hueler Income Solutions® platform.[5] Under this arrangement, a participant is provided with multiple insurers to choose from and these annuities are offered at institutional prices, thereby offering a higher benefit at a lower cost. Access to on-line quotes and other relevant information is also provided that allows the participant to compare and contrast prices and features before purchasing the immediate annuity.

Other Retirement Income Management Programs

There are other retail income management programs, for both qualified and non-qualified assets, that include:

- Payout mutual funds, which distribute assets over a selected time period.
- Managed payout funds, in which the participant receives an income stream until the expiration date, at which point the original investment is returned.
- Systematic Withdrawal Programs ("SWIP"), in which a stream of payments expressed as a fixed percentage (generally 4%) of the declining portfolio is paid.

It is important to note, however, that these products do not guarantee that income streams will be paid throughout the lifetime of the payee. While these programs have their place in an overall retirement plan, they do not provide guaranteed lifetime income, and as demonstrated over the past 18 months, they are not immune to market fluctuations.

The Cost Impact Of Adding Product Features

In its simplest form, a life income annuity will provide a fixed periodic payment over the lifetime of a single individual, with payments ending upon the death of that individual. This form of income benefit is also typically the least expensive and therefore will provide the highest payment level for a specific contribution amount.

The cost of a traditional life income annuity will increase as features are added that either:

- lengthen the average expected term of the annuity by adding a minimum guaranteed payment period, or a second life over which payments are to be made,
- increase the future guaranteed payment amount by including an annual cost-of-living benefit increase, or
- provide the individual with increased liquidity by adding a feature that permits ad-hoc withdrawals over some defined period.

The following table provides an approximate impact on cost of some of the more common features that are typically selected. This example reflects an income annuity purchased at age 65 with monthly income payments starting immediately.

[5] MetLife is one of nine insurance companies on the platform providing immediate income annuities.

Income Annuity Benefit Form	Income Factor*
Single Life Income	1.000
Single Life with 10-Year Guarantee Period	0.970
Single Life with 20-Year Guarantee Period	0.890
Life Income Payable over Two Lives**	0.860
Life Income - 50% Payment Continued to Second Life**	0.925
Single Life with 2% Annual COLA	0.825
Single Life with 3% Annual COLA	0.745
Trial Annuity	0.970

* Income factors calculated based upon the Annuity 2000 Table D (50/50 blend of male and female mortality), a fixed interest rate of 5%, and no adjustment for expenses. April 2010.

** Both lives assumed to be age 65 at time of annuity purchase.

Section 4: Why don't more employers offer annuities under their plans?
[This addresses questions 14 and 39 in the RFI]

With the decline of the defined benefit plan system, there is more reason than ever to include income annuities in defined contribution plan designs in some form. So why do so few plan sponsors offer income annuities? Research with employers as well as anecdotal experience indicate five reasons:

1. There is little employee demand for income annuities, rendering any costs and burdens unjustified.
2. Offering income annuities requires plan fiduciaries to prudently select one or more annuity providers, thereby creating potential liability. Without significant employee demand, companies have little reason to expose themselves to such fiduciary liability.
3. Most defined contribution plan recordkeepers do not have the ability today to administer in-plan accumulation annuity options.
4. Some plan sponsors believe that the defined contribution plan is only a savings vehicle, and that participants should be responsible for managing their retirement income without employer involvement.
5. Offering income annuities increases administrative costs, including application of the spousal consent rules, the optional survivor annuity rules, and the preparation and administration of more complicated participant communications (with the corresponding increase in participant questions).

The impending retirement of the baby boomer generation, with fewer defined benefit pension plans, will bring to light the need for retirement income planning and the importance of having a component of guaranteed income in retirement. This is an opportunity to transform the way plan sponsors and participants view defined contribution plans. All stakeholders working together need to accomplish four things, which are addressed later in this document, to overcome these barriers:

1. Enhance participant education, which will lead to a "reframing" of defined contribution plans from savings plans to retirement income plans, and make it easier for participants to make good choices, creating more demand for annuities.
2. Ease the fiduciary burdens imposed on plan sponsors in selecting an annuity provider.
3. Facilitate plan administration by simplifying and clarifying compliance requirements.
4. Address the recordkeeping challenges with respect to in-plan accumulation annuities.

In-plan accumulation annuities are slowly emerging as an innovative solution to the decline of defined benefit plans and the resulting need for guaranteed lifetime income. However, as in-plan accumulation annuities are still so new to the marketplace, and, to date, there has been little adoption. Currently, 7% of employers report that they offer these programs and 2% say they plan to offer them within the next year. Conversely, 91% of sponsors do not offer or plan to offer (in the next year) retirement income solutions as in-plan options.[6]

It is interesting to note that innovations in the defined contribution marketplace often take time to be adopted. For example, self-directed brokerage accounts were first introduced in 1993 with less than 1% of plans utilizing this option. By 2009, 26% of plans offered a self-directed brokerage account, although only 1% of all plan assets are allocated to this feature.[6] Likewise, when target date funds were introduced in 2001, approximately 5% of plans offered them. By 2009, 71% of plans were offering these funds.[7] One can assume that the safe harbor provided for target date funds in the Pension Protection Act of 2006 significantly helped the adoption rates given that in 2005, 28% offered target date funds and by 2007, 58% did.[6]

[6] *Hewitt Trends and Experience in 401(k) Plans* (2009).
[7] Hewitt Associates.

Section 5: Why is it important that employers offer income annuities at retirement under their plans?
[This addresses question 8, 9 and 14 in the RFI]

From a public policy perspective, it is important for plan sponsors to offer lifetime income solutions to their participants at the point of retirement. In MetLife's experience, the most effective way to engage employees in the value of creating guaranteed lifetime income is to offer an in-plan distribution annuity option as there is an implied "endorsement effect." Also, when sponsors clearly articulate that partial annuitization is available, there is greater utilization. Furthermore, strong education and communication programs dramatically impact participant behavior.

However, it is important to note that only 14% of plans offer in-plan distribution annuity options today[8] and a few plan sponsors offer an institutional IRA rollover annuity instead. Therefore, most participants have to find a retail IRA rollover annuity provider on their own if they want to secure lifetime income.

Reasons Why Plan Sponsors Should Offer In-Plan Distribution Annuity Options

- A plan sponsor may be able to provide their participants with a higher guaranteed income benefit and lower cost due to the plan's ability to negotiate group contract pricing, as they would with any other employee benefit offerings (e.g., dental, disability insurance, etc.).
- Plan sponsors generally have a higher degree of financial acumen than plan participants. They are, therefore, more likely to follow a consistent and reasoned due diligence process and are more likely to select a suitable high quality insurance company to provide annuity benefits.
- Employees often look to employers for guidance, and education provided in connection with the plan lifetime income option may be helpful.
- A plan offer is more convenient for the participant because there is a buying process in place.
- Participants have ERISA protections that include benefit claims and appeal procedures and recourse against fiduciaries that do not fulfill their fiduciary responsibilities.

Other Considerations

- Some sponsors have chosen to offer institutional IRA rollover annuities to their participants instead of in-plan distribution annuity options because they perceive that there is limited fiduciary liability.
- Longevity insurance products are not easily purchased with defined contribution plan assets due to the Required Minimum Distribution rules.
- The pricing will be different depending on which approach is selected; in-plan distribution options are required to be priced on a unisex basis, which is generally advantageous for females and disadvantageous for males. The opposite is true under IRA rollover annuities since sex-distinct pricing is allowed, whether they are offered on an institutional or retail basis.
- Qualified Joint & Survivor Annuity rules must be followed for an in-plan distribution annuity but not for an IRA rollover annuity.

MetLife believes that clarifying the fiduciary selection regulations would increase utilization of lifetime income options by plan sponsors and participants.

[8] *Hewitt Trends and Experience in 401(k) Plans* (2009).

Section 6: How can employers be encouraged to offer in-plan distribution annuity options and IRA rollover annuity options?
[This addresses questions 25, 26, 27, 30, 31 and 32 in the RFI]

The RFI asks a number of questions about either encouraging or requiring employers to offer lifetime income annuities as distribution options. MetLife believes the first step is to encourage employers to offer lifetime income annuities through increased awareness, education and incentives. Mandates should only be considered if and when there is evidence that efforts to encourage voluntary action have not worked.

As discussed in Section 4, the following are five reasons that employers do not offer income annuities.

1. There is little employee demand for income annuities, rendering any costs and burdens unjustified.
2. Offering income annuities requires plan fiduciaries to prudently select one or more annuity providers, thereby creating potential liability. Without significant employee demand, companies have little reason to expose themselves to such fiduciary liability.
3. Most defined contribution plan recordkeepers do not have the ability today to administer in-plan accumulation annuity options.
4. Some plan sponsors believe that the defined contribution plan is only a savings vehicle and that participants should be responsible for managing their retirement income without employer involvement.
5. Offering income annuities increases administrative costs, including application of the spousal consent rules, the optional survivor annuity rules and the preparation and administration of more complicated participant communications (with the corresponding increase in participant questions).

Below are MetLife's suggestions to address these reasons:

The Defined Contribution Plan Annuity Provider Selection Regulation Should Be Simplified

In-plan distribution annuity options

With increasing litigation surrounding the administration of defined contribution plans, plan sponsors are reluctant to engage in activities that may expose them to additional litigation, including the offering of income annuities as distribution options. Congress and the DOL have been sensitive to the changing nature of the retirement plan system and the need to provide clarity regarding a fiduciary's duties. As a result of a provision included in the Pension Protection Act of 2006 (the "PPA"), the DOL issued new regulations in 2008 on the fiduciary standard to be applied by defined contribution plan sponsors when selecting an annuity provider. The new standard, incorporated in DOL's regulation 29 CFR § 2550.404a-4, contains a fiduciary safe harbor for the selection of annuity providers for the purpose of benefit distributions from defined contribution plans.

The new standard has addressed some of the concerns raised by plan sponsors with the "safest available annuity" standard promulgated by the DOL with respect to defined benefit plans, including the statements that the fiduciary does not have to choose the "safest" annuity available, and that the fiduciary duty generally applies at time of selection (with an ongoing duty to monitor the selection as to prudence with regard to future annuities provided). However, in light of our generally litigious society, plan sponsors continue to express concerns regarding any plan decisions that may expose them to future lawsuits. Thus, even with the simplification of the fiduciary standard that the DOL promulgated, plan sponsors are still expressing reservations about their ability to implement the standard without exposure to undue risk.

From MetLife conversations with plan sponsors, the most daunting aspect of the new guidance continues to be the requirement – and their ability – to assess an insurer's financial stability. **With employers expressing concerns regarding their ability to satisfy the financial stability requirement under 29 CFR 2550.404a-4, MetLife urges the DOL to further simplify that requirement by providing an objective safe harbor.** MetLife suggests developing of a safe harbor based on the following analysis. It is inefficient and unrealistic to structure a system whereby each defined contribution plan sponsor must do a thorough review of the financial stability of the same annuity providers. With state regulators annually analyzing every insurer's financial stability, there is little purpose in plan sponsors performing the same analysis. And it is unrealistic to expect any plan sponsor to do a thorough review, or pay an expert for a review, of the financial stability of, for example, a Fortune 500 insurer.

MetLife's proposal is to explore the possibility of a safe harbor based on the fact that an annuity provider has passed the review of state regulators. For example, **under a possible safe harbor, a plan fiduciary could, in the absence of extraordinary circumstances justifying further inquiry, treat an annuity provider as satisfying the financial stability requirement of the fiduciary standard if: (1) the annuity provider or an affiliate is licensed to do annuity business in at least 26 states, and (2) the annuity provider's "risk-based capital" ("RBC") ratio is in excess of the Company Action Level, as defined by the National Association of Insurance Commissioners ("NAIC").**[9]

Such a rule has strong policy underpinnings. The business of insurance is regulated by the states. Insurance regulators are charged with ascertaining that insurance companies are operating on a financially sound basis. They take action if it appears that an insurer will be unable to fulfill the promises made to its policyholders. This includes taking over the management of an insurer ("Authorized Control Level" of RBC) through a conservation or rehabilitation order to get the insurer back into a strong solvency position. Although the primary responsibility for this regulation is the domiciliary state of the insurer, in areas where federal oversight is required, logical rules have developed. In the area of required reserve valuation assumptions, which may vary across states, the Internal Revenue Code Sections 807(d)(4)(B)(i) and (5)(A) demonstrate examples of applying a 26-state threshold to the insurance industry to develop a single federal standard.

State solvency standards require insurers to report liabilities at levels that generally exceed the expected economic costs of their promises. Additionally, states require a board-appointed actuary to take personal responsibility for an Opinion regarding the adequacy of the company's assets to discharge its liabilities. The actuary provides a Memorandum detailing the analyses, primarily the testing of future cash flows under multiple scenarios that support the Opinion. These memoranda are reviewed annually by the states, and quinquennially in detail by the domiciliary state.

MetLife recognizes that the fiduciary inquiry regarding investments is analytically different from the fiduciary inquiry regarding annuity distribution options. But there is nevertheless an analogy that can be drawn to the investment area. The analogy is not a substantive analogy, but rather a process analogy.

Briefly, not every plan sponsor can realistically perform a full fiduciary review of every investment option. In reality, no one expects a 50-person company to do, directly or indirectly, a thorough review of all the following with respect to every mutual fund that is offered: an examination of the fund's

[9] RBC represents an amount of capital based on an assessment of risks that a company should hold to protect customers against adverse developments. Each year the company calculates its capital based on the RBC formula. It also calculates the capital required for risk, the "Company Action Level" RBC. The ratio of a company's capital to it's "Company Action Level" RBC is generally referred to as its RBC ratio. However, the regulator rules use a ratio based on the "Authorized Control Level" RBC, which is 50% of the "Company Action Level" RBC. The NAIC system details specific actions to be taken by the company or the state insurance regulator if this ratio declines.

portfolio, including an assessment of each industry in which the fund is invested; a study of the fund's managers, including their tenure, their research support, the prospects for their retention, their investment style and their risk tolerance; a comparison of the fund's investment profile with all emerging economic and market trends; and an analysis of the investment firm itself and its corporate structure. If this were the standard, there would be only a handful of defined contribution plans offering mutual funds in existence today.

In reality, the 50-person company generally asks questions such as: Is the fund family well respected? Does the fund have a sufficiently long and good performance history, net of fees? Is the fund chosen by other plans? Is there anything in the news that would call into question the fund's future?

A similarly realistic standard has not emerged in the annuity provider area simply because the lack of employee demand has enabled employers to avoid dealing with the annuity provider issue. But if the objective is to facilitate the offering of annuities, it will be necessary to allow employers to effectively rely on the analysis of other experts – state regulators – rather than forcing all plans across the country to do their own comprehensive analysis.

Please note that, even with this suggested safe harbor on the financial stability requirement the plan fiduciary would still need to do an independent review as required under 29 CFR § 2550.404a-4 that would appropriately consider the cost (including fees and commissions) of the annuities and the insurer's experience with respect to the administrative servicing of the annuities.

In-plan accumulation annuities

There is confusion regarding the application of the fiduciary rules to in-plan accumulation annuities. MetLife believes that under current law, the fiduciary rules apply as follows: in-plan accumulation annuities, although insurance products, are treated as investments and are subject to those fiduciary standards. However, to the extent that in-plan accumulation annuities are also being offered to participants as distribution options, the annuity provider selection fiduciary standards also apply. Under the new products, both events occur simultaneously: the in-plan accumulation annuities are offered as investments and the same annuities are available as distribution options. In that case, such annuities must be analyzed from a fiduciary perspective both as investments and as distribution options. If, on the other hand, an in-plan accumulation annuity is only offered as an "investment," the annuity provider rules would have no application. MetLife believes that this is the law today, but a clear articulation of this legal framework would be helpful.

Tax Qualification Rules Should Be Updated To Address The Changing Retirement System

Since the use of annuities in defined contribution plans is evolving, it would be helpful for the government to provide comprehensive guidance clarifying the treatment of annuities.

- The election to invest in an in-plan accumulation annuity does not trigger the requirement that a participant obtain spousal consent to distributions in a form other than a qualified joint and survivor annuity ("QJSA"). Investment elections do not trigger the QJSA rules; only distribution elections do. This is clearly the law, but a statement to this effect would be helpful.

- It should be clarified that the distribution of a deferred income annuity to a participant from an in-plan accumulation annuity does not trigger the QJSA rules to the extent that the contract preserves the participant's distribution options under the plan. In that case, it is a distribution under the contract that can be subject to the QJSA rules. Again, this is clear under the law, but stating it would be helpful.

The issues become more difficult, and even more in need of clarification, with respect to some of the evolving annuity products, such as trial annuities, GLWBs and GMWBs. Under these products, a participant makes an election to receive benefits in a specified form. Under that form, the benefits are distributed initially in a non-annuity form as a withdrawal benefit, and then later may be distributed in an annuity form.

A participant may elect a trial annuity under which periodic payments are made for a period of time and then, unless they opt out of the trial, lifetime annuity payments begin. The QJSA rules may apply in the following manner with respect to a trial annuity. Under the initial distribution election, the participant elects an annuity even though the annuity distributions are deferred. Therefore, the initial distribution election triggers the QJSA spousal consent rules because the participant is electing a deferred life annuity. This analysis is consistent with Private Letter Ruling 200951039.

An example illustrates MetLife's concern with the legal framework. Assume that the value of a participant's account is $100,000 and the participant elects a trial annuity with a two-year trial period. Assume that the present value of the trial payments is $10,000 and the present value of the deferred annuity is $90,000. Generally, by reason of the election of the deferred annuity, the spousal consent rules would apply to 90% of the account as long as there is a separate accounting of such 90%. See Treasury Regulations § 1.401(a)-20 Q/A-4. This means, in turn, that during the two-year period, the plan must consistently monitor any additional withdrawals by the participant. If any such withdrawals would reduce, or further reduce, the value of the deferred annuity, spousal consent would be needed. This could be a significant administrative burden.

Accordingly, MetLife suggests that guidance clarify that it is permissible to apply the spousal consent rules in the following manner. When the deferred annuity is elected, the plan could deem there to be no separate accounting of the 90%, so that spousal consent is needed with respect to the two-year trial period (because the trial period payments do not constitute a QJSA). The spouse's consent to the trial period payments could be structured as a general consent under Treasury Regulations § 1.401(a)-20 Q/A-31(c) whereby the spouse consents to any acceleration or modification of payments during the trial period, including an election to receive a lump sum distribution at the end of the trial period. Similarly, the spouse's general consent could apply to whatever pattern of payments the participant chooses after the trial period. This would be easier to administer, is consistent with the regulatory structure and gives spouses complete control by leaving it to them as to whether to provide a general consent.

Another way to view trial annuities would be to treat both the trial period payments and the deferred annuity as part of a single stream of payments with a single annuity starting date, so that the spousal consent rules apply upfront at the commencement of the trial. Thus, spousal consent may be obtained once upfront and not periodically as distributions are made.

Similarly, with respect to GMWBs and GLWBs in defined contribution plans, MetLife requests that the law be clarified to provide that the initial distribution election triggers the QJSA rules. Whichever analysis described above is applied regarding trial annuities should also be applied to GMWBs and GLWBs. So, the election of a GMWB or a GLWB could be treated as an election of a deferred annuity that triggers the application of the QJSA rules with respect to the entire account. In that case, a spouse's general consent could satisfy the spousal consent requirements with respect to any subsequent acceleration or modification of payments during the withdrawal period. GMWBs and GLWBs could be viewed as providing a single stream of payments with a single annuity starting date, so that the spousal consent rules would only apply once upfront and not periodically as distributions are made.

Section 7: Why do individuals not choose lifetime income products and how can those barriers be removed to encourage greater annuitization?
[This addresses questions 2, 10, 11, 12, 13, 17, 18, 19, 20, 21, 22, 23, 24 and 38 in the RFI]

Participants who have saved in their company-sponsored defined contribution plans have focused almost exclusively on asset accumulation: building the largest nest egg possible. Given that these plans were originally designed as supplemental savings plans, this outcome is not surprising given the significant education that has been provided. In fact, all stakeholders should be commended for encouraging this behavior. However, building a large nest egg is only one part of the retirement equation. The other part is the distribution phase – how to spend down that nest egg to ensure one doesn't outlive their assets. There has been little attention paid by individuals to the risks they will face in retirement. Many have not considered this challenge, let alone which products and strategies will allow them to convert their assets into retirement income.

Lack Of Awareness Points To A Perfect Storm

As discussed in Section 1, the greatest risk facing retirees is longevity risk – the real risk of outliving their retirement savings. Surprisingly, there is little comprehension by individuals about how long they are likely to live and what impact this will have on their retirement assets.

MetLife conducted two Retirement Income IQ Studies (in 2003 and again in 2008) to test the knowledge of basic retirement income concepts for individuals within five years of retirement. The results are very troubling as significant knowledge gaps exist regarding average life expectancy and other retirement income issues:

- Among the most disturbing findings of the 2008 study was that six in ten Americans (60%) underestimated their average life expectancy.
- Almost half (49%) underestimated the amount of pre-retirement income they will need once they retire.
- Almost seven in ten (69%) pre-retirees overestimated how much they can draw down from their savings – with an alarming 43% believing they could withdraw 10% or more each year while still preserving their principal – even though most retirement experts suggest a withdrawal rate of no more than 4% annually.

This lack of understanding is particularly alarming because it results in poor retirement planning assumptions, which are compounded after retirement by much longer life expectancies. These findings point to the underpinnings for the "perfect storm" of retirees running out of assets.

Obstacles To Overcome To Encourage Annuitization

Aside from a lack of understanding about longevity risk, what are the reasons for not selecting lifetime income and what are the steps that can be taken to change this situation?

When it comes to retirement planning, most people, even those close to retirement, have not planned at all. As the recently released EBRI/Mathew Greenwald & Associates 2010 Retirement Confidence Study highlights, despite the recent economic downturn, 54% of individuals still have not made a financial plan for retirement. Among those who have planned, most of them have not been given the proper framework to evaluate how an income annuity can be an important component of a retirement portfolio. In fact, many financial advisors also need to be educated on the inherent benefits of providing some minimum level of guaranteed lifetime income as a necessary component of a financial plan.

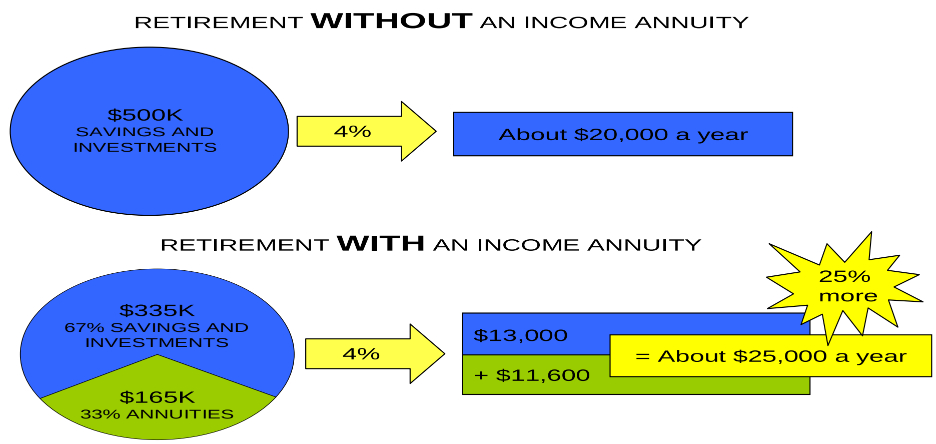
It has been well documented in various market and behavioral research surveys that individuals overvalue a lump sum of money: this is often referred to as the “wealth illusion”. At the point of retirement, individuals see their 401(k) balance and it is often more money than they have ever saved in one place. In conjunction with overvaluing this lump sum, individuals often undervalue a future income stream. This is primarily because they overestimate the risk of dying too young to realize the value of a guaranteed lifetime income.

Individuals are also concerned about liquidity and the desire to stay in control of their assets. With average account balances at retirement of $137,337,[10] some may argue that income annuities do not make sense for everyone. However, to the extent that a small account balance still represents a significant share of the individual’s net worth, it is certainly possible to argue that it is even more important for this person to annuitize at least a portion of their balance in order to maximize the income from this limited savings.[11] At a time when many aspects of retirement are uncertain – everything from inflation and lifespan to the solvency of Social Security and corporate pensions – Americans are under the impression they need to “invest away” the risks they face in retirement.

Furthermore, inertia is a powerful force, making it easier for participants to simply take a lump sum or roll their balance into an IRA, rather than making an active decision to annuitize a portion of their asset pool. After all, studies have shown that inertia is prevalent throughout a participant’s savings years – many individuals rarely make changes to their 401(k) investment allocations – so they are not likely to overcome that inertia without encouragement.

Lifetime income, specifically in the form of income annuities, has low market penetration both in the retail and workplace settings. While the election rate by participants of in-plan distribution annuity options is generally low (decreasing from 3% in 2007 to 1% in 2009 across the 14% of plans that offer annuities),[12] MetLife has seen higher take-up rates for those plans that offer strong education. Employees do listen to their employers and when the sponsor provides educational information, participants act accordingly.

The following is an example of an illustration that demonstrates the powerful benefit of income annuities as a component of a retirement plan.



[10] EBRI Tabulations from EBRI/ICI 401(k) Database.
[11] *Automatic Lifetime Income As A Path to Retirement Security*, Jeffrey R. Brown, PH.D., University of Illinois, June 2009.
[12] *Hewitt Trends and Experience in 401(k) Plans* (2009).

As a result of the shift from defined benefit to defined contribution plans, employer and employee attitudes are also changing with regard to their receptivity to lifetime income options. MetLife's 8th Annual Employee Benefits Trend Study ("EBTS") found that 40% of the 1,300 employees surveyed were interested in learning more about how they could use an annuity as part of their 401(k) plan. While only 10% of employers say they are interested in offering an annuity option as part of their defined contribution plan, 44% of employees would like their employer to offer an annuity as part of their retirement plan.

Potential Solutions To Encourage Annuitization As A Distribution Option

The most important point is that in-plan distribution annuity options should be a component of every retirement plan. As discussed in *Lifetime Financial Advice: Human Capital, Asset Allocation, and Insurance*[13] by the leading authorities on asset allocation (Roger Ibbotson, Moshe Milevsky, Peng Chen, Kevin Zhu), in a paper released in 2007, fixed annuities can be a crucial part of a well-diversified retirement income portfolio. Income annuities should be viewed as a way to cover fixed expenses, in addition to the income received from Social Security and, in some cases, a defined benefit pension plan. Individuals are more likely to favor annuitizing part of their savings to address a specific purpose (e.g., covering vacations, grandchildren's education, mortgages, etc.). This helps frame the decision by creating financial context and also helps to address both the liquidity and control issues. Furthermore, the industry should help individuals understand that using income annuities is a way to maximize and protect income with benefit forms that can be customized to fit their individual needs. Overall, the focus needs to incorporate generating income rather than a continued singular focus on investment return.

Over the past decade, research in the field of behavioral economics has explored the areas of choice and framing. This research provides further insight into how and why individual decisions are made and, among other things, the way in which a particular decision is "framed" (the way in which it is explained or presented), rather than the facts or attributes of a particular choice, is an overriding determinant of the decision. When consumers think in terms of consumption, annuities are viewed as valuable insurance, whereas when consumers think in terms of investment risk and return, the annuity is a risky asset because payoff depends on an uncertain date of death. People react negatively to the possibility that they could lose money and often think of annuities as a "gamble" rather than as insurance. When individuals were presented with a "frame" of consumption versus investment, 72% selected the life income annuity compared to 21% selecting the investment approach. Note that the financial amount was identical in these situations but that it was *framed* differently.[14]

401(k) Plan Account Balances Should Be Communicated As Lifetime Income In Addition To The Total Account Balance On Annual Benefit Statements

Educational tools are a critical component in realigning participants' attitudes, knowledge and approaches to their retirement assets. Participants have little understanding of how much to save or how to invest those savings to achieve an adequate retirement income. They also have little to no understanding of how to ensure that their 401(k) savings will last throughout their retirement years. Educational tools, which seek to shift the paradigm from assets to income, can help individuals begin to understand how to turn that lump sum into an income to last 20, 30 or even 40 years.

ERISA section 105 currently requires defined contribution plans to furnish to each participant an

[13] Research Foundation of CFA Institute, 2007.
[14] *Why Don't People Choose Annuities? A Framing Explanation*. The Retirement Security Project, March 2008. Brown, Kling, Mullainathan and Wrobel.

individual benefit statement, at least annually, that includes the participant's "accrued and vested benefits." **The DOL should require that annual benefit statements for 401(k) plans show an equivalent monthly lifetime stream of income, in addition to the total account balance.**

This income amount should be based on conversion factors published by the DOL unless the plan includes an annuity, in which case the annuity factors in the plan may be used to convert the account balance.

The Pension Benefit Guaranty Corporation annually surveys commercial annuity providers and aggregates those rates to determine an average rate that is then used to calculate the annuity values that they use to pay plan participants under their control. Those rates are an accurate reflection of current annuity rates in the market. MetLife recommends that the DOL use those rates (or a similar market survey) in developing their conversion tables.

The annuity amount should be shown as both a single life and a QJSA; QJSA disclosures would need to be based on one or more assumptions regarding the age of the spouse. The DOL should also issue model notices that plan sponsors could use to communicate this information to plan participants.

Plan sponsors that rely on the DOL's tables and notices should be relieved of fiduciary liability for the income amounts displayed on the benefit statements. Finally, to the extent that recordkeepers currently provide modeling tools that go further than what the DOL may require or provide, plan sponsors should be exempt from the conversion requirement. For example, some recordkeepers/service providers provide participants with on-line tools that enable them to make personalized projections regarding the income they can expect during retirement based on certain variables. Where such tools are available, it would only serve to confuse participants to have a different projection set forth on their benefit statements.

MetLife does not recommend that projections be made regarding future contributions in this calculation. Since these conversions are educational in nature and not intended to imply any guarantees of future employment, a static number at a point in time should be sufficient to meet the educational intent. The calculation should be made based on projecting the current account balance to age sixty-five (or whatever the normal retirement age is under the plan), so that participants are able to see what their current account balance would translate into on a monthly income basis.

Please note in this regard that on December 3, 2009, Senators Jeff Bingaman (D-NM), Johnny Isakson (R-GA) and Herb Kohl (D-WI) introduced the Lifetime Income Disclosure Act of 2009. The bill incorporates substantially all of the enhancements to the benefit statement described above. It strikes an appropriate balance between providing this much needed education for plan participants with plan sponsor fiduciary protections.

Finally, MetLife believes that this conversion will serve a twofold educational purpose, as Senators Bingaman, Isakson and Kohl noted in their press release introducing the bill: not only will it show what income amounts are possible from the current account balance (thereby reorienting participants' views of their 401(k) plans as a retirement plan), it could prompt them to increase their savings level within the plan in order to achieve greater income levels at retirement. MetLife believes that this conversion amount will ultimately educate participants of all ages to increase their savings to more appropriate levels. A T. Rowe Price study in 2007 found that when participants are shown their account balances as a monthly annuity amount, individuals were motivated to increase their savings levels.[15]

[15] Retire With Confidence Series, November 2007.

The DOL And The Treasury Department Should Provide Education On The Distribution Phase Of Retirement Plans

The DOL and the Treasury Department have done an excellent job since the enactment of ERISA in issuing not only regulatory guidance interpreting ERISA and the retirement laws that have been enacted since, but numerous educational materials that explain, in lay terms, some of the retirement savings issues facing individuals. Many of these materials have focused on critical issues of saving and investing and on reaching "at-risk" populations. In the last decade the DOL also issued a brochure to help individuals in assessing the risks they face in retirement. MetLife strongly urges the DOL to reissue that brochure, updated to reflect some of the important risks and decisions that individuals will face when approaching retirement and to address some of the distribution options available to them. Wherever possible, quantitative examples should be used. Since the government is an objective source of information, plan sponsors could use these materials to educate their employees about retirement distribution options without increasing their fiduciary liability.

In addition, since plan sponsors can also benefit from education in this area, MetLife encourages the Agencies to publish educational material specifically directed to plan sponsors regarding lifetime income options. Income annuities are an important tool in helping retirees meet their income needs. It is imperative to educate all parties that retirees must not only invest for retirement but also insure for retirement.

The DOL Should Expand The Participant Education And Advice Guidance To Include The Distribution Phase Of Defined Contribution Plans

The DOL has done excellent work in providing guidance on how plan sponsors can effectively provide participants with education and advice regarding the savings phase of defined contribution plans. Interpretive Bulletin 96-1 ("IB 96-1") sets forth guidelines regarding how employers can provide participant education with respect to the allocation of retirement savings among classes of investments. IB 96-1 has been used extensively by employers that want to help their employees without taking on fiduciary liability for the provision of investment advice.

The DOL has also issued critical guidance with respect to the provision of investment advice. The SunAmerica Advisory Opinion has led to a great expansion of advice based on computer models using generally accepted investment theories. Moreover, much of this advice is provided through managed accounts, where the advice is implemented automatically and thus is more effective than advice that participants must implement on their own. The DOL has an opportunity to build on the important success that it has achieved in the savings phase by applying the same framework to the distribution phase.

MetLife recommends four additional steps that can be taken with respect to participant education and advice. The first two relate to IB 96-1 and the second two relate to guidance with respect to advice provided through computer models.

1. As stated in the 2007 report of the ERISA Advisory Council's Working Group on Financial Literacy of Plan Participants and the Role of the Employer, "96-1 needs to address information, education and advice in the decumulation stage as well as the savings phase." **MetLife recommends expanding IB 96-1 to clarify what education may be provided to participants about the distribution phase without that guidance being treated as fiduciary advice.** Such guidance should be as detailed as IB 96-1. For example, the guidance should clarify that computer models that generate generic distribution approaches should be treated as education, not advice. Under the IB 96-1 expansion that MetLife is recommending, a participant could provide his/her own

information, such as other assets, other sources of income (such as Social Security or a pension or spousal pension), age, risk tolerance and annual living expenses. The computer model could then generate a generic distribution model regarding the portion of the participant's account that should be annuitized, the portion that should be rolled over, the portion that should be taken in the form of installment payments, etc. This type of modeling should be permissible for providing distribution education. Finally, as with the DOL's investment guidance, the DOL's distribution phase guidance should permit such guidance to be paid for with plan assets.

2. **MetLife recommends the current investment elements of IB 96-1 should be expanded to clarify that education regarding investment into in-plan accumulation annuities is within the reach of IB 96-1's** existing framework and would not be treated as fiduciary advice.

3. **MetLife recommends that DOL issue "SunAmerica-like" guidance with respect to the distribution phase. In other words, a financial institution would be allowed to contract with an independent expert that would develop and apply a computer model for providing distribution advice based on generally accepted decumulation principles.** The computer model would receive the same type of participant data described above regarding assets, expenses, etc. It would generate specific recommendations based on the plan's distribution options. For example, the computer model might recommend receiving a specific portion of the account in the form of a particular annuity available under the plan, and receiving another portion in the form of a specific installment option. The computer model would also make recommendations regarding how undistributed assets should be applied.

4. **MetLife recommends that the DOL incorporate in-plan accumulation annuities and guaranteed insurance products into the SunAmerica and PPA computer models.** In-plan accumulation annuities provide the distribution analogue to dollar-cost averaging into the market by permitting participants to buy guaranteed pieces of future income at then prevailing interest rates with each contribution. This avoids the risk that interest rates will potentially be low at the point of retirement when a large annuity purchase is made. In-plan accumulation annuity education material would also help participants by framing retirement needs in terms of future income, rather than asset accumulation. Finally, in-plan accumulation annuities allow participants to buy annuities in small increments, thereby avoiding the intimidating "big purchase" at retirement. Guaranteed insurance products such as GLWBs and GMWBs assist participants in meeting their retirement needs in a similar manner.

   If defined contribution plans are to be successful as the primary retirement income plan for today's workforce, it is essential that in-plan accumulation annuities and guaranteed insurance products become a prominent feature. DOL can help achieve this by providing that neither a SunAmerica computer model nor a PPA computer model will be treated as valid unless it takes into account any in-plan accumulation annuity and/or guaranteed insurance product available under the plan. To allow computer models to disregard these types of products is to relegate them to second-tier status and effectively ensure that these products will not be utilized by participants.

Employers Should Offer Partial Annuitization

Offering partial annuitization is critical to the success of creating guaranteed income in retirement. People will need liquid assets for unexpected expenses as well as guaranteed income and, as a result, the insurance industry does not generally recommend that a participant annuitize all of their savings at retirement. MetLife experience indicates that, if participants do not have the ability to partially annuitize their balances, there will be very little annuitization.

MetLife has been the exclusive annuity provider for the Federal Thrift Savings Plan ("TSP") since the plan's inception more than 20 years ago. When the plan first began, the annuity was an "all or nothing" offer – the participant had to either annuitize their entire TSP balance at retirement or none of it. In 2004, the TSP amended the plan to include partial annuitization. As a result, the TSP saw an immediate and dramatic result – a 60% increase in the number of participants annuitizing some of their balances. In addition, there was a significant increase in the average purchase amount of the annuities. MetLife believes this is due to the fact that participants with larger balances, who also need guaranteed income in retirement, felt more comfortable annuitizing their TSP balance because they were not restricted to the entire amount.

From the individual's perspective, purchasing an annuity with a portion of their assets to cover a specific need is more palatable and helps to minimize the negative aspects of a large one-time purchase. Partial annuitization directly addresses the "all-or-nothing" concern. Although only 14% of defined contribution plans[16] offer annuities at distribution, many of those companies offer income annuities on an "all-or-nothing" basis.

MetLife recommends that the DOL provide enhanced education to plan sponsors about their ability to offer partial annuitization to participants. Many plan sponsors have never thought about partial annuitization. Plans have traditionally offered distribution options that apply to participants' entire account balance and the concept of partial annuitization has likely been considered by only a small percentage of plan sponsors.

MetLife also recommends that Congress consider requiring plans that offer in-plan distribution annuities to specifically offer partial annuitization. For example, a plan could be required to offer participants a choice to annuitize 100%, 75%, 50%, 25%, or none of the account balance. As proposed, this would be a mandate but one with minimal cost or burden.

Default Annuitization

MetLife suggests that policymakers consider additional steps if these proposals do not increase annuitization rates significantly in the coming years, because just as individuals purchase life insurance to provide financial security in the event of an early death, they should purchase income annuities to provide financial security in anticipation of a long life.

The statutory and regulatory support for automatic enrollment and automatic escalation has ensured that many more individuals will have some retirement savings. The issuance of the Qualified Default Investment Alternatives ("QDIA") regulations encouraged plan sponsors to include professionally managed investments, such as target date funds, in their plans. These have been positive developments for employees.

Through this RFI, the government recognizes that, just as with enrolling in these plans, individuals may also need help in making their savings last throughout retirement. As with auto enrollment and QDIAs, there is a need to bring other positive attributes of the defined benefit plan system into the defined contribution plan system. Much like defined benefit plans make an annuity payment the "normal" form of payout from a defined benefit plan, defined contribution plans should also make an annuity payment the "normal" form of payout. This would point participants in the right direction without forcing them into an annuity. In other words, the participant would always have the right to opt out of this default (since that may not be the best distribution option for all participants, such as those in poor health or with outside resources). It will be incumbent upon all providers and sponsors in the industry to provide

[16] *Hewitt Trends and Experience in 401(k) Plans* (2009).

appropriate education – as previously discussed – so that the participant understands the powerful and positive impact of converting a portion of their account balance into a retirement paycheck.

If annuitization rates do not increase significantly in the next three to five years, from today's 1% annuitization election rate to 20%, MetLife recommends that the DOL and Treasury Department consider mandatory default annuitization, which would require that at least a portion of a participant's defined contribution plan balance be defaulted into an income annuity at the point of retirement.

A guaranteed lifetime income option could be required for all defined contribution plans, as it is for defined benefit plans. However, as discussed earlier, MetLife does not generally believe that all of a retiree's plan assets should be annuitized. Therefore, under this approach, the option would be structured so that 50% of the individual's account balance is defaulted into the lifetime income option. The employee would be given the same notice and opt-out rights as defined benefit plan participants receive. This requirement should not apply to employers with fewer than 100 employees or to employers offering an active defined benefit plan with only lifetime income benefits (and no lump sum options).

The default mechanism would require employers to include an in-plan distribution annuity option in their 401(k) plan as the default form of distribution with respect to individuals who have attained a specified age, such as 55 or a later age. Finally, the default would not apply unless the amount defaulted was at least $25,000 to prevent the defaulting of small amounts.

With regard to having annuities provided as a default option in the plan, more than four in ten employers surveyed in the 8th Annual Employee Benefit Trends Study ("EBTS") (43%) expressed an interest in a default option for converting a percentage of 401(k) balances into a guaranteed stream of income. Also, the EBTS found that those employers that sponsored both a defined benefit plan and a defined contribution plan had a greater interest in the default option, perhaps because they already offer a lifetime income option in their defined benefit plan and as a result are more familiar with the concept. Interestingly, MetLife's client experiences have demonstrated that participants who have a defined benefit plan are more likely to annuitize a component of their defined contribution plan because they understand the value of the retirement income paycheck.

Finally, if annuities become the default form of distribution in defined contribution plans, MetLife does not believe this will negatively affect contribution rates. Since participants would be permitted to opt out of the default form of distribution, there is no reason for the default to affect contribution rates.

Trial Annuitization

The general idea of trial annuitization is to allocate a portion of a retiring employee's defined contribution plan assets automatically into a lifetime income annuity at the point of retirement, thereby giving retirees an opportunity to "test drive" the benefits of receiving a retirement income "paycheck." This concept is predicated upon the belief that Americans depend on their paychecks to meet their financial obligation. Furthermore, retirees with income from a pension and an annuity were three times as likely to say that retirement is much better than they expected.[17]

A paper released in 2008 by The Retirement Security Project entitled "Increasing Annuitization in 401(k) Plans with Automatic Trial Income," set forth a proposal that would increase the role of lifetime income products in an effort to help retirees enjoy a secure retirement. The authors explained that

[17] The Silent Generation Speaks, MetLife Mature Market Institute, Mathew Greenwald & Associates, 2005

automatic features in 401(k) plans have shown that the power of inertia can be used to significantly improve outcomes without restricting retirees' choices.

Specifically, the paper proposes the following:

- A substantial portion of assets in 401(k)-type accounts (generally considered to be no more than 50% of the account balance) would be automatically directed into an income program for a two-year trial period (the default trial arrangement), unless workers affirmatively elect a different form of payout permitted under the retirement plan.
- There would be trial income of 24 consecutive monthly payments.
- After the trial period, participants would again have the ability to opt for alternative forms of payment.
- Those who made no affirmative choice within a specified period would continue to receive income payments because the program converts automatically from trial-period income to permanent income.

A similar proposal by Professor Jeffrey Brown of the University of Illinois, entitled "Automatic Lifetime Income as a Path to Retirement Income Security," suggests that employers be encouraged to adopt an automatic annuitization plan under which, when an employee makes an initial request for a non-hardship withdrawal from a defined contribution plan, the employee would be notified that he/she is being automatically enrolled into a partial annuitization program. The program would convert half of the participant's total 401(k) account balance into a joint-and-100%-survivor annuity for married couples, or a single life annuity for unmarried individuals. These automatic annuities could be immediate annuities subject to a trial period, a series of laddered annuities with payouts that commence over a several-year period after the initial distribution decisions, or various integrated, in-plan accumulation annuity options that allow participants to invest in deferred annuity contracts during the accumulation phase.

MetLife believes that the use of trial annuities would be a compelling method that could prove helpful in encouraging annuitization. Accordingly, MetLife **recommends that the DOL and Treasury Department issue (1) guidance clarifying how the law applies to trial annuitization (see, e.g., Section 6 above), and (2) educational information for employers highlighting trial annuitization.**

Revisiting Lump Sums Under Defined Benefit Plans

MetLife supports protecting individuals from longevity risk. This support includes proposals that do not involve commercial annuities (e.g., defined benefit income payments), as long as income is guaranteed for life. In this regard, MetLife is quite concerned about the trend toward lump sum distributions in defined benefit plans. Defined benefit plans were intended to provide guaranteed income throughout retirement, not to provide lump sum distributions that can be fully consumed before the end of one's retirement. Lump sum payout options were widely introduced relatively recently when the economics of prevailing interest rates made lump sum forms of payout significantly less expensive for employers than standard lifetime income forms. This development coincided with the waves of early retirement programs that occurred in the same time frame, with the result that lump sum payouts financed not lifetime security but transition to early retirement.

Accordingly, MetLife **would encourage Congress to consider permitting defined benefit plan sponsors to eliminate lump sum distribution options and that this change would not violate the anti-cutback rules**. Of course, any such legislation would need to have a delayed effective date to avoid affecting employees near retirement. Such a proposal might also need to be slowly phased in to avoid encouraging a rush to retire before the effective date. But in the long term, such a rule would significantly improve the retirement security provided by the defined benefit plans that are still in existence. Participants would receive guaranteed income for life. Also, defined benefit plans themselves would be strengthened since lump sums can undermine a plan's funded status.

Section 8: What tax law changes would facilitate annuitization?
[This addresses questions 25 and 28 in the RFI]

Educational initiatives will improve individuals' appreciation of longevity risk and improve financial literacy generally regarding the distribution phase of retirement. However, as stated earlier in this submission, inertia is a strong force, and individuals will need additional public policy guidance to ensure that they do in fact act in their economic interests. One possible approach to achieving this desired behavior is through the Internal Revenue Code, specifically through helpful tax law changes.

Required Minimum Distribution ("RMD") Rules for Longevity Insurance

The advanced age when longevity insurance payments commence generally exceeds the age 70½ required beginning date for the RMD rules. Therefore, to comply with RMD requirements, longevity insurance offered under a retirement plan or IRA must currently address the possibility of being required to distribute RMD amounts prematurely. In the event that the RMD amounts deplete non-longevity insurance assets, either the RMD rules would be violated or the longevity insurance contract will have to permit distributions (which would have an adverse impact on future income payments). Because neither of these results is workable, longevity insurance generally is not offered to plans and IRAs today. **The offering and use of longevity insurance would increase significantly by changing the RMD rules to exempt longevity insurance acquired within qualified retirement plans or IRAs from the RMD requirement until distributions from the longevity insurance product begin (which could be required by a certain age, such as 85).** This proposal, which could be adopted either legislatively or administratively, has been introduced in several legislative bills, including the Retirement Security Needs Lifetime Pay Act of 2009 (H.R. 2748) originally introduced by Representatives Earl Pomeroy and Ginny Brown-Waite.

403(b) Plans And 457(b) Governmental Plans

Any lifetime income payment guidance issued with respect to 401(k) and other qualified retirement plans should encompass rules regarding 403(b) and 457(b) governmental plans. This is because 403(b) and 457(b) governmental plans are similar to 401(k) plans and the participants in 403(b) and 457(b) governmental plans would benefit from enhanced opportunities to annuitize.

Targeted Tax Incentives For The Purchase Of Annuities Should Be Enacted

In order to further advance the education process for participants, a targeted tax incentive should be provided for the election of annuity distributions. Over the past few years, several bills have been introduced that would provide a limited tax exclusion for individuals who purchase an annuity with pre-tax (qualified) money from a defined contribution plan. The Pomeroy/Brown-Waite bill referenced above would provide such an exclusion. MetLife believes this legislation provides an appropriate incentive for individuals to ensure that they receive lifetime income with respect to at least a portion of their retirement assets.

The point of any such tax incentive is not to change the basic economics of an employee's choice. On the contrary, the objective is to create a small tax incentive that will cause participants to pause and consider annuitization. The concern is that many participants will not read educational material, will not think about the longevity risk and will simply opt out of any annuity that is offered. This is one way to encourage individuals to slow down and focus on the choice that they are making. A small tax incentive is another tool that could result in large numbers of participants considering the substantive merits of annuitization.

Nondiscrimination Testing

It is expensive and ineffective to annuitize small amounts (such as a purchase price of $25,000 or less). Accordingly, if employers decide to offer in-plan distribution annuity options or IRA rollover annuity options, they will likely establish minimum amounts on such distributions (expressed as either a minimum purchase amount or a minimum monthly annuity). Such minimums could raise concerns under the section 401(a)(4) nondiscrimination regulations regarding plan benefits, rights and features. This is because a plan that limits annuity distributions to participants with large accounts may run afoul of the nondiscrimination rules since participants with large accounts are more likely to be classified as highly compensated employees and, therefore, may cause the plan to fail nondiscrimination requirements. Such concerns could discourage employers from offering in-plan distribution annuity options or IRA rollover annuity options. Accordingly, MetLife recommends that the section 401(a)(4) regulations be amended to deem certain minimums required for annuity distributions to be nondiscriminatory. See Treasury Regulation § 1.401(a)(4)-4(b)(2)(ii)(E) for a similar rule regarding plan loans.

Section 9: Why are in-plan accumulation annuities good from a policy perspective and how can their use be facilitated?

[This addresses questions 33 and 34 in the RFI]

In recent years, new products have been developed that permit plan participants to purchase guaranteed future income in the form of deferred income annuities. One key advantage of such products is that they enable participants to allocate a portion of their contributions to a future income stream, allowing them to make smaller contributions over time, rather than one large lump sum purchase at retirement when interest rates could be low. Furthermore, such products help educate the participant over the course of their working career that the defined contribution plan is likely to be their only form of retirement income from their employer. In essence, the focus is on helping to "change the conversation" and thus the mindset of the participant. Finally, these in-plan accumulation annuities are purchased incrementally, thus avoiding the intimidating "big" purchase at retirement.

Since there are so many advantages to these products, MetLife believes that the law should support inclusion of such products in plans; one way to do so relates to the qualified default investment alternative rules. ERISA section 404(c)(5) provides that, for purposes of ERISA section 404(c)(1), a participant in a defined contribution plan will be treated as exercising control over the assets in his/her account with respect to the amount of contributions and earnings if, in the absence of an investment election by the participant, such assets are invested by the plan in accordance with DOL regulations. The DOL's regulation 29 CFR § 2550.404c-5 describes the types of investment products that are Qualified Default Investment Alternatives ("QDIAs") under ERISA section 404(c)(5).

As has been well documented in a variety of studies, the overwhelming response to the initial DOL QDIA regulations has been the selection of target date funds as the default option for individuals who do not affirmatively elect to participate in the plan on their own. The vast majority of these funds do not contain any type of guaranteed income feature.

The DOL could help stimulate this market by addressing the fiduciary issues related to in-plan accumulation annuities in the manner discussed in Section 6 above. The DOL could also revise the QDIA regulations to require that QDIAs contain an in-plan accumulation annuity component. The theory underlying target date funds and managed accounts is that they are aimed at preparing an individual for retirement. The deficiency is that most target date funds focus exclusively on the accumulation phase and do not prepare individuals for the equally challenging distribution phase. The DOL has an opportunity to remedy this deficiency. This change alone would have a dramatic effect on participants' readiness for the distribution phase of retirement.

In-plan accumulation annuities would also benefit from the clarification discussed in Section 6 regarding when and how the QJSA rules apply to such products.

Section 10: Policy recommendations for the IRA market

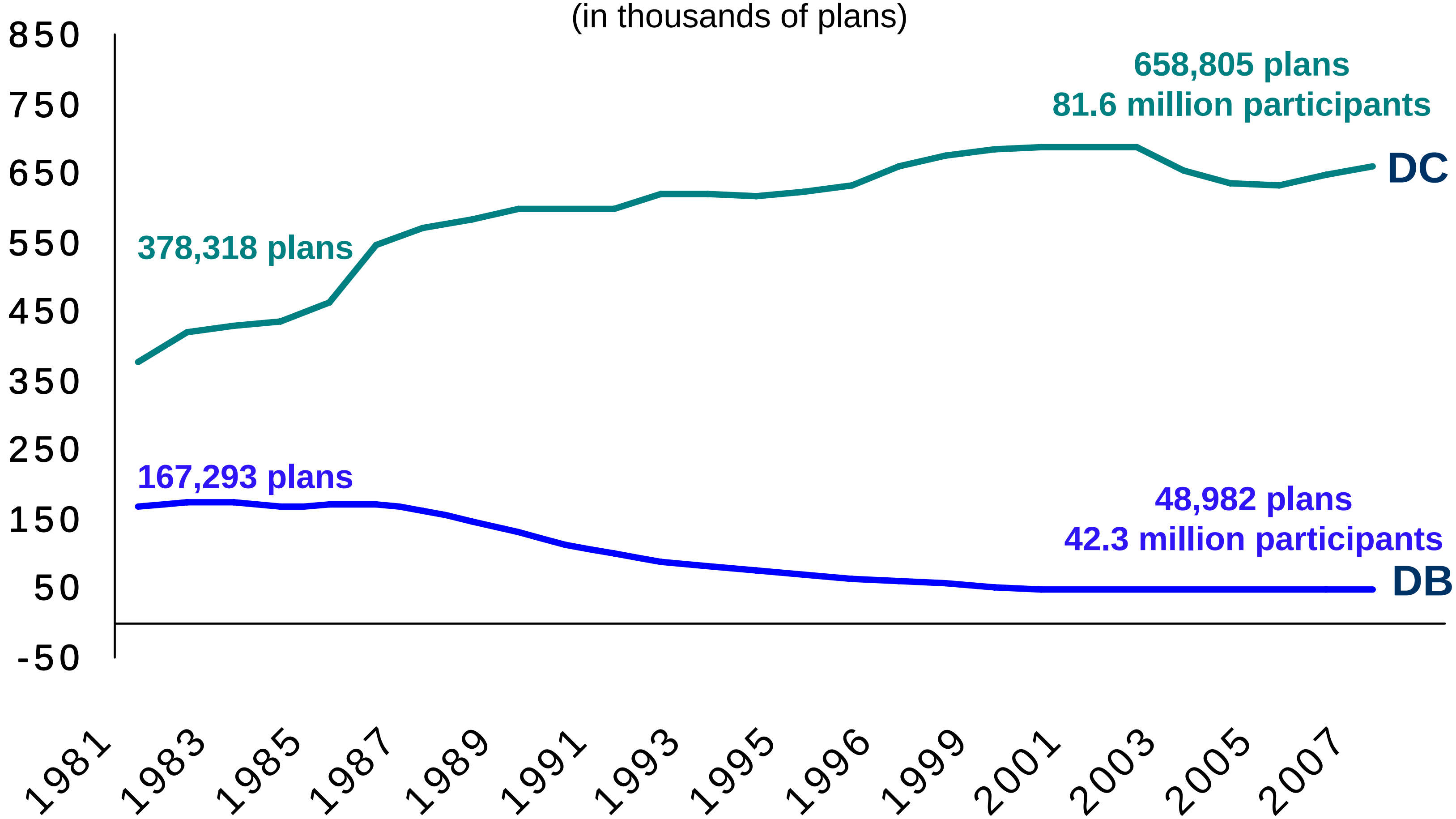
Unfortunately, despite whatever policymakers, employers and financial services providers are able to do within the context of defined contribution plans to help ensure that individuals are prepared to manage those assets effectively, the reality is that most employees do not remain at one job for their entire career. The pattern over the past few decades has been that many workers will have numerous jobs during their career. In fact, according to the Bureau of Labor Statistics between the ages of 18 and 42 an individual will hold, on average, 11 jobs. While no one knows what future workforce patterns will be, it is reasonable to expect that many workers approaching retirement age will have access to more than one defined contribution plan in their working lives. Many of those workers will choose to take the money from their former employer's plan. A 2009 Hewitt Associates report titled *Survey Findings: The Erosion of Retirement Security from Cash-outs: Analysis and Recommendations* states in part: "…Among all workers who terminated from employment in 2008, 46% took a cash distribution, 29% left their assets in the plan, and 25% rolled assets over to another qualified plan or IRA." According to a new report, *2010 Investor Assets in Motion: IRA & Retirement Marketplace Opportunities* by Cogent Research, Americans now hold more assets in IRAs than workplace-based retirement accounts. Total defined contribution assets are $3.9 trillion whereas IRAs are $4.1 trillion, this outpacing is expected to continue into the future.

With IRA assets becoming such a large portion of an individual's retirement asset base, the stakeholders need to develop solutions that address these sources of retirement income in addition to the assets held in defined contribution plans. Among the proposals that policymakers should consider in this area are the following:

1. Require IRA providers to annually disclose the annuity equivalent amount on the IRA statement, similar to the annuity illustration recommendation made for 401(k) plans in Section 7.
2. Facilitate IRA rollover annuity options by clarifying and simplifying the fiduciary duties involved, as discussed in Section 6.
3. Facilitate the purchase of longevity insurance through the RMD reforms discussed in Section 8.
4. Encourage distribution-phase education and advice in the manner addressed in Section 7.
5. Adopt tax incentives for annuitization, as discussed in Section 8.

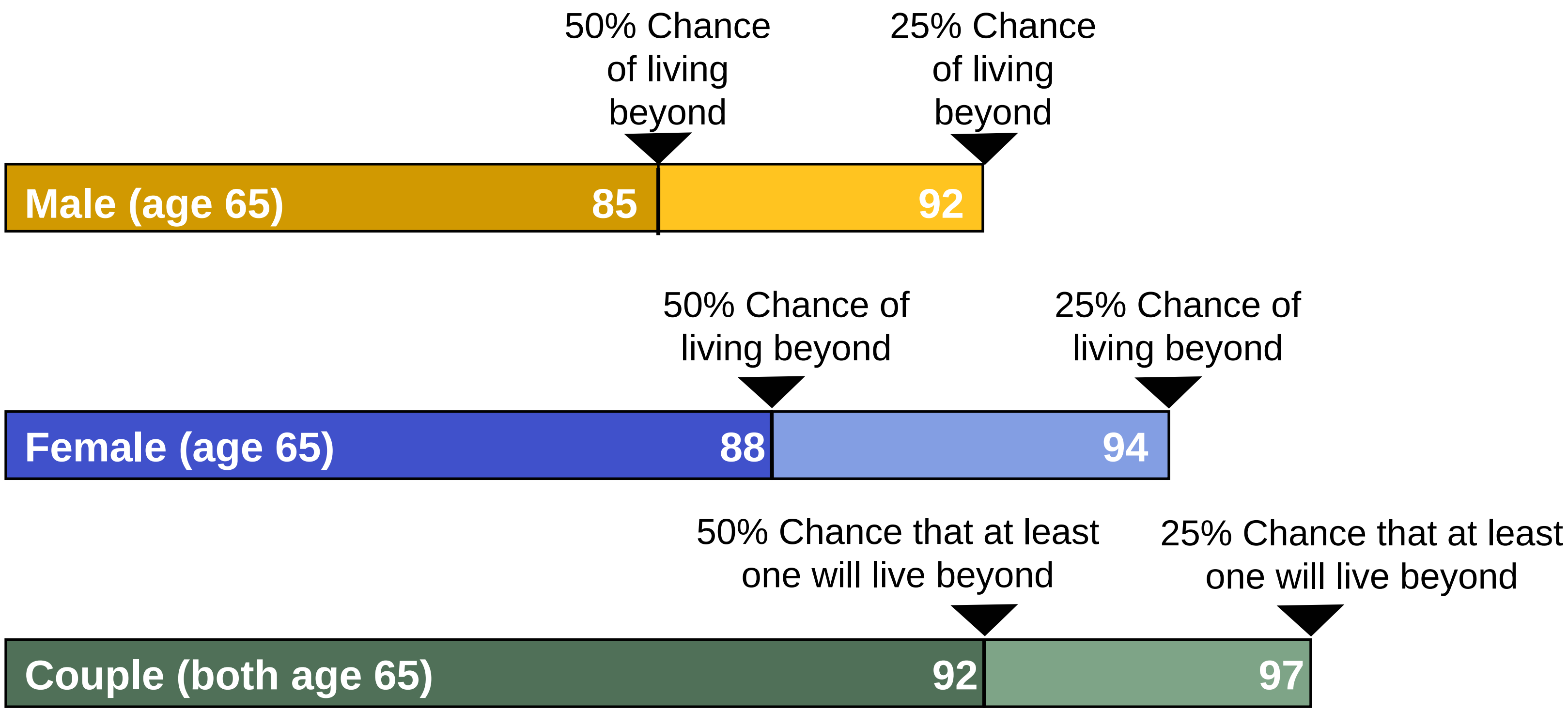
The Rise (of DC) and the Fall (of DB)

Defined Benefit and Defined Contribution Plans 1981 – 2007
(in thousands of plans)



Source: Private Pension Plan Bulletin, Abstract of 2007 Form 5500 Annual Reports, U.S. Department Of Labor Employee Benefits Security Administration, January 2010

People Underestimate The Time Spent In Retirement



Source: Annuity 2000 Male and Female Mortality Tables