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Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Room N-5655  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

**Attention: Lifetime Income RFI (RIN 1210-AB33)**

Ladies and Gentlemen:

Prudential Financial, Inc. ("Prudential") is pleased to respectfully submit this response in connection with the Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans (the "RFI") initiated by the Employee Benefits Security Administration, Department of Labor and the Internal Revenue Service, Department of the Treasury (the "Agencies").

Our experience in designing and delivering guaranteed lifetime-income products—both within and outside of qualified retirement programs—is unique in the industry. We believe that experience provides a perspective that is relevant to the issues you are seeking to address. Our Annuities business is the nation's top variable annuity provider, with more than one million contract holders and \$80 billion in advisor-sold variable annuity assets. Our Retirement segment, which offers retirement-plan solutions for public, private, and non-profit organizations, manages \$178.3 billion in retirement account values as of December 31, 2009, for more than 3.6 million plan participants and annuitants.

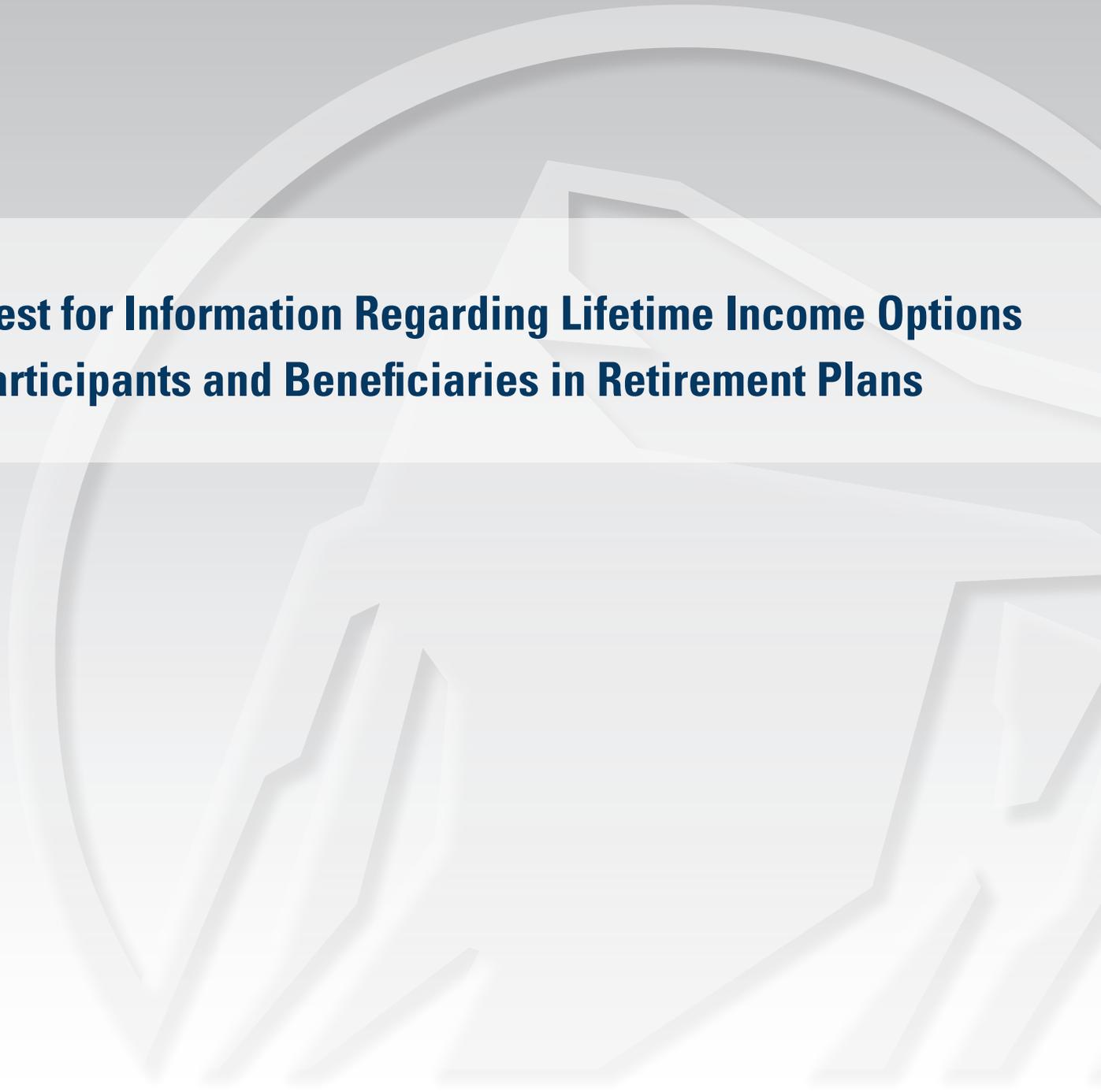
With that as background, Prudential applauds and congratulates the Agencies for their interest in—and commitment to—addressing the vital issue of guaranteed lifetime income. We believe that effectively developing, promoting and encouraging the use of guaranteed lifetime-income solutions is fundamental to the retirement security of American workers.

We hope our submission will prove helpful in the critical evaluation and discussion regarding retirement-income products that lies ahead, and we would be delighted to discuss further any of our ideas and responses with you or provide any additional assistance that you might find useful.

Sincerely,

A handwritten signature in black ink that reads "Christine J. Marcks".

Christine Marcks  
Senior Vice President, Prudential Financial, Inc.  
President, Prudential Retirement



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

## **EXECUTIVE SUMMARY**

## EXECUTIVE SUMMARY

Prudential Financial supports and applauds the efforts of the U.S. Department of Labor and the Department of the Treasury to examine the Employee Retirement Income Security Act of 1974 (ERISA) and plan qualification rules under the Internal Revenue Code (IRC) to determine whether and, if so, how the Agencies could or should enhance the retirement security of participants in employer-sponsored retirement programs and individual retirement accounts (IRAs) by facilitating access to, and use of, *lifetime-income solutions or other arrangements to provide a stream of guaranteed lifetime income after retirement.*

We believe such an effort—in the context of the ongoing demise of the traditional defined benefit pension plan—builds upon the positive momentum generated by passage of the Pension Protection Act of 2006 (PPA) and represents a compelling opportunity to transform the existing retirement landscape by creating a more robust replacement for traditional pensions and by helping deliver better retirement outcomes for American workers.

With that in mind, we are pleased to respond to the Agencies' Request for Information (RFI), and we hope our submission—summarized here—provides valuable insight, stimulates discussion, and encourages thoughtful, considered steps to stimulate the acceptance and adoption of guaranteed lifetime-income solutions.

## CURRENT SITUATION

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Defined contribution programs, originally intended only as supplemental savings options for traditional pension plans, have now emerged as the nation's primary retirement-savings vehicle. This 30-year trend has left the majority of American workers woefully unprepared to generate the levels of guaranteed lifetime income once afforded by pension programs, in part because of inadequate participation rates, contribution levels and plan balances. These considerations, however—each addressed by provisions of the PPA—are really only part of the story.

We believe this gap is the result of the historical emphasis on the "accumulation" phase of retirement planning, as illustrated by the fact that a key metric for individuals in a defined contribution plan is their "account balance." There has been very little attention paid to the fact that the account balance is also a future income base that most will need to help replace their paycheck once they retire ... often for a period of 25 to 30 years.

Although the PPA has already had a positive impact on a number of retirement-planning “accumulation risks”—most notably the risks that individuals aren’t participating in plans or diversifying assets appropriately—the strong linkage between savings levels and a retirement income base has not been made. In addition, the corresponding “distribution risks”—such as protecting savings from market volatility, converting savings into income, and ensuring that individuals do not outlive their nest egg—remain largely unaddressed.

On a positive note, the marketplace currently boasts a growing number of effective and innovative in-plan and out-of-plan guaranteed lifetime-income solutions specifically designed to minimize “distribution risks” and help promote the retirement security of American workers. Unfortunately—though increasingly popular in the retail marketplace—these options have faced significant challenges in gaining real traction as in-plan features and are looked upon with a degree of skepticism by many plan sponsors, plan advisors and plan participants.

In a number of cases, sponsors and advisors remain reluctant to adopt or recommend guaranteed lifetime-income solutions due to fiduciary concerns, administrative burdens and costs, and a lack of clarity around regulatory and legislative guidelines.

Plan participants, though generally aware of the need for guaranteed lifetime income beyond Social Security, fear that selecting a guaranteed lifetime-income solution will force them to give up control of their assets—including the ability to pass on account values to their beneficiaries—even though a wide range of new products are available that provide unprecedented flexibility, control and investment protection. Currently, 90 percent of participants who are offered a lump-sum distribution take it, foregoing any protection from market downturns or longevity risks.

Finally, sponsors, advisors and participants alike are all concerned about the structure and portability of guaranteed lifetime-income solutions, with sponsors worried about the implications of switching providers and participants fearful of what might happen to their guaranteed lifetime income if they change jobs.

## **RESOLUTION**

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As noted earlier, Prudential applauds the Agencies for recognizing and considering the critical issue of lifetime retirement income, and we believe this effort represents a unique opportunity to build upon and complement the PPA with common-sense measures that encourage increased awareness, understanding and adoption of guaranteed lifetime-income solutions.

We suggest establishing a new approach—a new environment—for the “distribution phase” of retirement planning, one that mirrors the reach and impact of the PPA on the “accumulation side” and one that recognizes the need for a comprehensive and coordinated effort focused on creating retirement security for American workers.

Specifically, we recommend the following actions, each of which is explained in much greater detail in our submission:

- We urge the Agencies to support legislation that would repeal current rules allowing some plans, including 401(k)s, to not offer a guaranteed lifetime-income solution as a distribution option.
- Once these rules are repealed, the Agencies should authorize the use of Guaranteed Minimum Withdrawal Benefit (GMWB) offerings as income-distribution options because they not only provide guaranteed lifetime income, they also ensure that participants retain control of their assets.
- The Agencies should ensure that employers/plan sponsors have the ability to choose from a wide range of guaranteed lifetime-income solutions so they can determine which products would be most appropriate for their participants.
- The Agencies should issue regulatory clarifications, guidance and simplifications to remove obstacles and provide protection and guidance to plan sponsors who might otherwise be discouraged from offering guaranteed lifetime-income solutions within their plans. Specifically:
  - Simplify and extend the standards for the selection of guaranteed lifetime-income solution providers.
  - Confirm the applicability of QDIA protection to investment products that include guaranteed lifetime-income solutions.
  - Amend Interpretive Bulletin 96-1 to expand its scope to the decumulation phase of retirement planning, including addressing education about guaranteed lifetime-income solutions available through rollover IRAs.
  - Authorize employers to “re-enroll” participants at any point into QDIAs, including those that incorporate guaranteed lifetime-income solutions.
  - Explore other mechanisms that could serve as a supplemental backstop to the current state guaranty association funds for guaranteed lifetime-income solutions in DC plans in order to address single-issuer risk concerns.
- The Agencies should educate plan sponsors and participants about retirement security and the need for guaranteed lifetime income through official Agency publications, websites, webcasts, media campaigns and seminars.

- The Agencies should support industry efforts to standardize the administration of guaranteed lifetime-income solutions to facilitate the portability of these solutions from one recordkeeper to another or, at the participant level, from an in-plan option to an out-of-plan option.

By taking these steps, by building on the solid foundation of the PPA, we believe the private sector can improve the retirement security of American workers, relieving the federal government of any undue or unnecessary burdens and responsibilities. We also believe plan sponsors will benefit from these actions through their ability to offer retirement programs that support effective workforce management, help attract and retain top talent, and deliver on the promise of a secure retirement.

Perhaps most importantly, we believe our recommendations can help transform the perception and role of defined contribution programs by encouraging participants to focus on the income their plans will generate rather than on the balance being accumulated. Our experience has shown that this simple shift in focus creates a “virtuous dynamic,” leading workers to pay greater attention to what their savings-and-investment patterns will produce in guaranteed lifetime income. The opportunity, then, truly exists for transformational change in the retirement security of American workers ... and for defined contribution plans to deliver retirement outcomes similar to those achieved through traditional defined benefit plans.

## ADDENDUM TO EXECUTIVE SUMMARY

### IMPROVING RETIREMENT OUTCOMES FOR AMERICANS: A CASE STUDY

Defined contribution (DC) plans need to be “redefined” to help ensure a secure retirement for American workers. Employees need workplace-provided plans that leverage all of the best practices enabled by the Pension Protection Act of 2006—including automatic enrollment, contribution escalation, catch-up contributions, and automatic asset allocation—and they need plans that mirror traditional pensions by delivering a guaranteed lifetime-income stream with protections against market and longevity risks.

To help demonstrate the need for change in defined contribution plans, we enlisted the aid of Ernst & Young, who used their proprietary Retirement Analytics™ model to analyze and compare retirement outcomes in a traditional DC plan with those of a “redefined” DC plan.

For the purposes of this analysis, the redefined plan is assumed to incorporate a guaranteed lifetime-income solution to protect against market and longevity risks. The guarantee is integrated into the plan’s existing investment options, such as target-date funds, and is usually activated five to 10 years before retirement. The guaranteed lifetime-income solution provides three key benefits:

- It locks in a level of retirement income based on the participant’s accumulated assets at the time the guarantee is activated. The annual level of guaranteed lifetime income is calculated as a certain percentage, such as five percent, of the retirement assets the participant has accumulated. Once locked in, the level of guaranteed lifetime income cannot decline, regardless of market conditions, unless the participant withdraws assets from his or her DC account prior to retirement or unless withdrawals exceed the annual amount of guaranteed lifetime income after retirement.
- The level of guaranteed lifetime income can increase before retirement if the participant’s retirement assets appreciate and/or if the participant makes further contributions to the DC plan.
- Upon retirement, the guaranteed lifetime-income solution provides the participant with an annual level of guaranteed lifetime income, regardless of how the markets perform or how long the participant lives.

Traditional annuities are also an option for providing built-in risk protection within DC plans. An immediate annuity, bought at the time a participant retires, would provide the participant with a stream of guaranteed lifetime income for as long as the participant lives. However, for the purposes of this analysis, we focused on the newer generation of guaranteed lifetime-income solutions because they provide two distinctive benefits not offered through more traditional annuities.

First, these newer guaranteed lifetime-income solutions leave participants with control of their assets at all times, while traditional annuities require individuals to cede their assets to an insurer in return for the guaranteed lifetime-income stream. Retaining control of assets can be especially beneficial for retirees, who may, for example, need to access the funds in their retirement account during times of medical or other emergencies. Taking withdrawals that exceed the annual level of guaranteed lifetime income will generally reduce the future level of guaranteed lifetime income, however a guaranteed lifetime-income solution enables participants to determine if this trade-off is appropriate or worthwhile.

Second, a guaranteed lifetime-income solution enables participants to remain invested in the equity markets—and to benefit from any market appreciation—because the guarantee includes protection from investment risk.

The tradeoff against these two benefits is that traditional annuities may provide a higher initial level of guaranteed lifetime income, depending in part on interest rates and the annuity buyer's age at the time of purchase.

Also for purposes of this analysis—in addition to including a guaranteed lifetime-income solution—it is assumed that the redefined plan includes an automatic initial annual contribution rate of four percent and that the contribution rate automatically increases by one percentage point each year up to 10 percent annually. There are several reasons for this default strategy:

- The initial contribution rate was set at a slightly higher level than the most common default contribution rate adopted by plan sponsors today, which is three percent.<sup>1</sup> It was set slightly higher because many participants, especially older ones, need to save more, especially in light of the need to rebuild retirement savings after the recent market downturn.
- The initial contribution rate was not set higher than four percent because doing so increases the risk that some participants may opt-out completely.
- The default contribution rate increases each year to gradually increase participants' contributions to a high enough level to help generate sufficient retirement savings and, ultimately, sufficient retirement income. Gradually increasing the contribution rate reduces the likelihood that a participant will opt-out, because higher contributions can often be funded entirely out of annual salary increases. Therefore, participants' "take-home" paychecks, after removing taxes and retirement contributions, will generally not decrease even though the contribution rate continually increases.

<sup>1</sup> Fidelity Investments, "Fidelity's 401(k) Data Show Auto Enrollment Has Biggest Impact on Younger, Lower-Paid Workers," July 14, 2009.

The redefined plan also assumes that plan sponsors advise participants to make an additional \$5,000 catch-up contribution each year after age 50, and

that the participants do, in fact, make this contribution. The goal of this policy is to encourage older participants to review their financial position as they near retirement and to begin making higher contributions if they have not saved sufficiently either within or outside of their DC plan. The catch-up contributions provide a valuable mechanism for older participants to enhance their retirement savings through an accelerated savings rate, based on individual circumstances.

### Exhibit 1: Comparison of Traditional and Redefined DC Plans

	Plan Characteristic	Traditional DC Plan	Redefined DC Plan
<b>Built-in risk protection</b>	<ul style="list-style-type: none"> <li>Protection against:               <ul style="list-style-type: none"> <li>Adverse market conditions immediately before retirement</li> <li>Outliving assets during retirement</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Guaranteed lifetime-income solutions provide:               <ul style="list-style-type: none"> <li>Market risk protection after being activated</li> <li>Longevity risk protection after retirement</li> </ul> </li> </ul>
<b>Autopilot retirement planning</b>	<ul style="list-style-type: none"> <li>Automatic enrollment</li> <li>Contribution rate</li> <li>Contribution escalation</li> <li>Catch-up contributions</li> <li>Asset allocation</li> <li>Risk protection</li> </ul>	<ul style="list-style-type: none"> <li>None</li> <li>Participant chosen—3% average</li> <li>None</li> <li>None</li> <li>Participant chosen—typically 70% equities, 30% fixed income/cash. Rebalanced at ages 35, 45, 55, and 65.</li> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>4% initially</li> <li>1% increase per year up to 10%</li> <li>Participant elects to contribute \$5,000 a year after age 50</li> <li>Target-date fund gradually shifts towards fixed income to reach a 60% equities and 40% fixed income/cash allocation 10 years before the target date and thereafter</li> <li>Automatic activation of income guarantee at age 55</li> </ul>
<b>Streamlined plan design (examples)</b>	<ul style="list-style-type: none"> <li>Enrollment</li> <li>Statements</li> <li>Transactions</li> <li>Participant education</li> </ul>	<ul style="list-style-type: none"> <li>On-site and phone</li> <li>Paper</li> <li>Phone</li> <li>On-site and phone</li> </ul>	<ul style="list-style-type: none"> <li>Automatic</li> <li>Electronic, with balance and income value</li> <li>Web</li> <li>Web</li> </ul>

### ILLUSTRATIVE IMPACT ON A PLAN PARTICIPANT

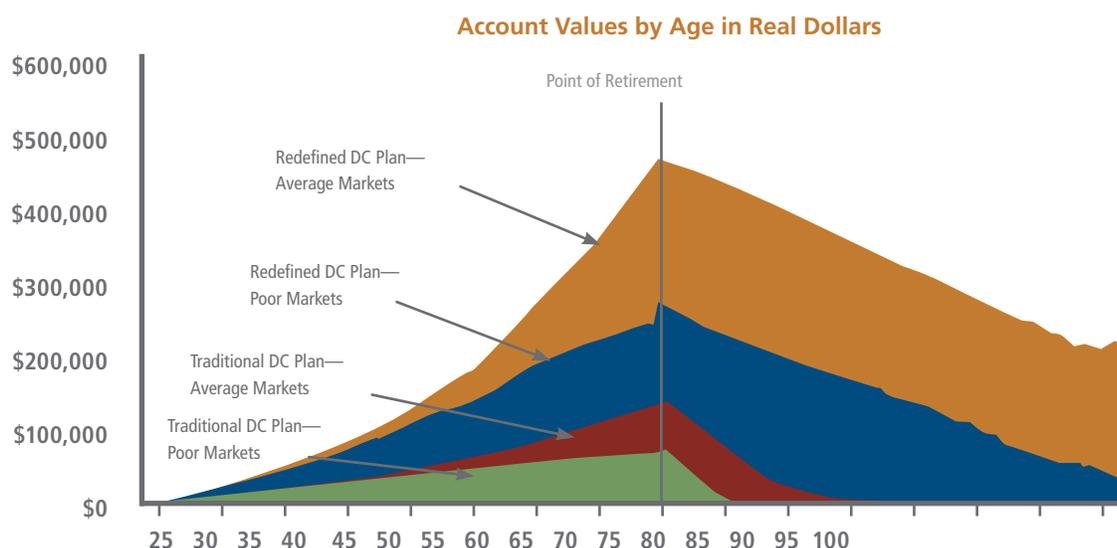
Meet Sarah Smith. Sarah is a hypothetical DC plan participant meant to represent an “average” American worker. She is single and began participating in her company’s DC plan when she was 25. She is planning to work until age 65, when she will retire. Sarah’s starting salary is \$30,000, which grows at the rate of inflation plus one percent annually. Sarah’s employer matches 50 percent of her contributions to the DC plan each year up to a maximum of six percent of her salary. Sarah’s income at retirement, including Social Security benefits, is set at a level to replace 63 percent of her pre-retirement income.<sup>2</sup> This is an estimate of the level of income that Sarah will likely need in retirement.

<sup>2</sup> “Retirement Vulnerability of New Retirees: the Likelihood of Outliving Their Financial Assets,” Ernst & Young for Americans for Secure Retirement, July 2008.

Sarah’s employer has embraced all of the plan design best practices enabled by PPA, including automatic enrollment, contribution escalation, catch-up contributions, and automatic asset allocation. In addition, Sarah’s employer offers guaranteed lifetime income in the form of a Guaranteed Minimum Withdrawal Benefit (GMWB) product, which protects participants from market downturns and longevity risk.

A Monte Carlo simulation was run to compare Sarah’s retirement outcome in her employer’s “redefined” retirement plan—which takes advantage of all of PPA and provides guaranteed lifetime income—with her expected outcome from a more traditional DC plan that lacks any of these features.<sup>3</sup>

### Exhibit 2: Account Values by Plan Type



Source: Ernst & Young analysis

**Exhibit 2** projects Sarah’s account balance starting at age 25. The “redefined” DC plan outperforms the traditional DC plan at all points in time and in all market conditions. This is driven by the higher initial contribution rate and subsequent contribution escalations that are facilitated by the autopilot features in the “redefined” DC plan. At age 65, Sarah’s account balance in the “redefined” DC plan under average market conditions is approximately \$470,000 in real dollars, more than three times higher than in the traditional DC plan. Under poor market conditions, Sarah’s account balance in the “redefined” DC plan is approximately \$265,000 in real dollars, which is also more than three times higher than in the traditional DC plan under poor market conditions.

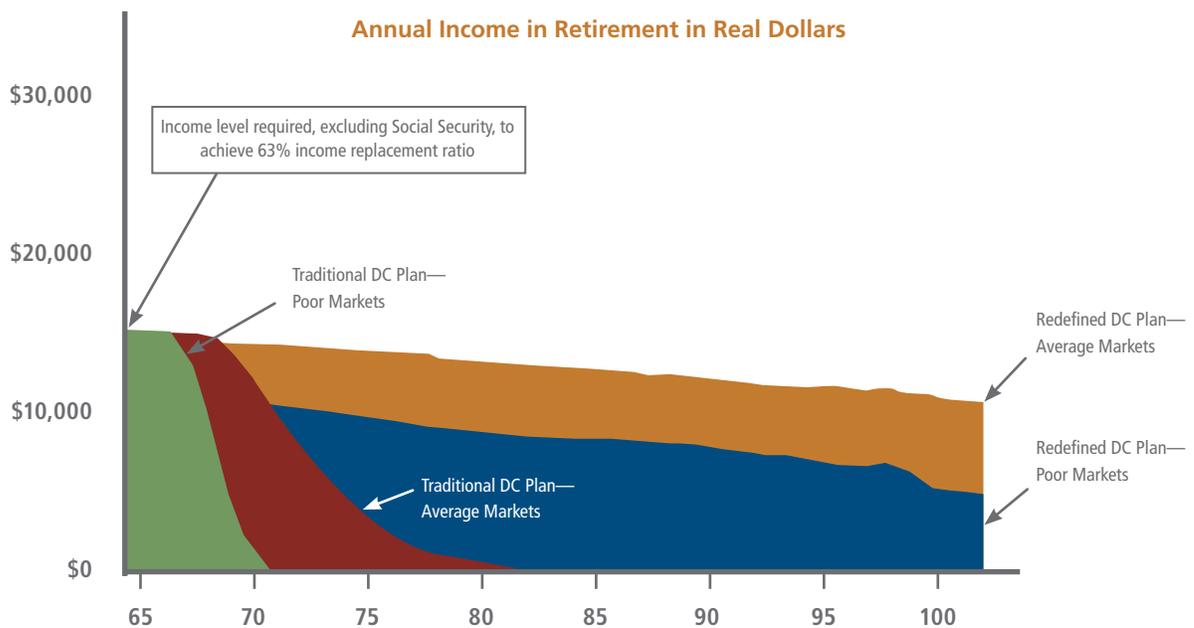
<sup>3</sup> Our Monte Carlo simulation used market performance and Sarah’s longevity as variables. A total of 2,000 scenarios were generated, and the results are presented in real, or today’s, dollars. The middle 1,600 scenarios in terms of outcomes are averaged and called the “average markets” results; the bottom 200 scenarios are averaged and called the “poor markets” results. The analysis assumed fees of 74 basis points for the “traditional” DC plan, and 174 basis points for the “redefined” DC plan, which includes the cost of the income guarantee. The fee for the income guarantee is only charged after the guarantee is activated at age 55. This analysis does not assume any reduction in operational costs or fees in a “redefined” DC plan.

The benefit of the guaranteed lifetime-income solution in Sarah’s retirement plan is illustrated in **Exhibit 3**, which contains a projection of her retirement income in real dollars for both plans under average and poor market conditions. These projections assume that at retirement, Sarah begins to withdraw income from her DC assets and receives Social Security benefits to achieve her target income replacement of 63 percent.

Sarah’s income is generated in different ways by the traditional and “redefined” retirement plans:

- In the traditional plan, Sarah withdraws a sufficient amount of her DC assets each year after retirement to achieve her income replacement target. However, after Sarah depletes her assets, she can no longer draw an income from her DC account.
- In the “redefined” plan, the guaranteed lifetime-income solution enables Sarah to withdraw a certain percentage, such as five percent, of the value of her DC assets at the time she activates the guaranteed lifetime-income solution, plus any additional DC contributions made after the activation of the guarantee. Sarah’s retirement income may be higher than this value if her assets appreciate after the activation of the guarantee. Sarah is able to withdraw this level of income at the time of retirement and every year thereafter, no matter how long she lives or how the markets perform.

**Exhibit 3: Retirement Income by Plan Type**



Source: Ernst & Young analysis

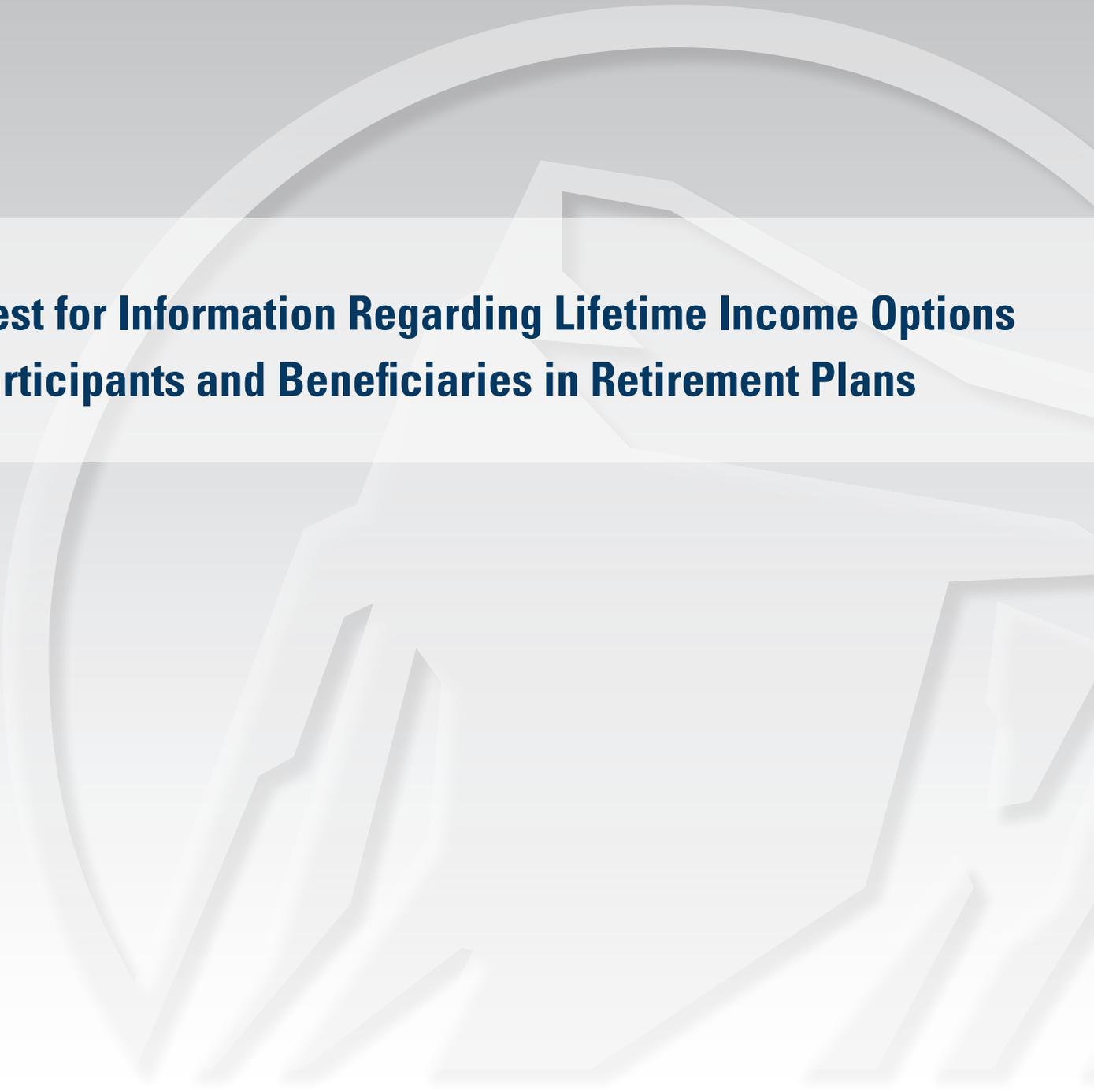
**Exhibit 3** demonstrates that the guaranteed lifetime-income feature of the “redefined” DC plan has a dramatic positive effect on Sarah’s income in retirement.<sup>4</sup>

- In the traditional DC plan, Sarah rapidly depletes her account because low contributions during her working years resulted in a low account balance at the time of retirement. Eventually, even during average market conditions, Sarah completely runs out of money and can no longer withdraw any income from her DC account. During poor market conditions, Sarah runs out of money in her early 70’s—just a few years after retiring.
- In the redefined DC plan, Sarah has the same or higher level of retirement income in average market conditions than the traditional DC plan because Sarah retired with a higher account balance at retirement and the guaranteed lifetime-income solution provides Sarah with a guaranteed stream of income no matter how long she lives or how the markets perform. During average markets, the redefined DC plan provides Sarah with sufficient guaranteed lifetime income to achieve her 63 percent target-income replacement ratio.
- During poor market conditions, Sarah’s level of guaranteed lifetime income is insufficient to achieve the 63 percent income-replacement ratio. However, this lower level of guaranteed lifetime income is significantly higher than the income Sarah can expect in her later years in retirement from a traditional plan under average or poor market conditions.

The redefined DC plan provides Sarah with a stream of guaranteed lifetime income and preserves Sarah’s flexibility to access all of her retirement assets at any time. This flexibility is particularly important if Sarah faces major medical expenses that require significant out-of-pocket payments. However, in any year, if Sarah withdraws a level of assets greater than her annual level of guaranteed lifetime income, her future level of guaranteed lifetime income will be reduced proportionally.

Overall, it’s clear that the redefined retirement plan provides Sarah with a significantly better retirement outcome across all market conditions than a traditional DC plan. This example underscores the importance of workplace-provided plans that leverage all of the best practices enabled by the Pension Protection Act of 2006 and that mirror traditional pensions by delivering a guaranteed lifetime-income stream with protections against market and longevity risks.

<sup>4</sup> Income declines gradually for the traditional DC plan because the exhibit shows the average across all scenarios, and in some scenarios, market appreciation enables Sarah to draw on her assets for a longer period of time than other scenarios.



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

**Question 1:  
From the standpoint  
of plan participants,  
what are the advantages  
and disadvantages for  
participants of receiving  
some or all of their  
benefits in the form of  
lifetime payments?**

For defined contribution plan participants, especially those who do not have the security of a traditional, annuitized defined benefit (DB) program, the advantages of guaranteed lifetime-income solutions clearly outweigh the disadvantages. Some of the advantages and disadvantage of products that provide lifetime income include:

**ADVANTAGES:**

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- Participants (and their spouses if they choose) will not outlive their savings if the benefits are paid in the form of guaranteed lifetime income.
- As with a traditional DB pension program, investment and longevity risks for the participant are transferred to an institution better positioned to diversify and manage such risks.
- In a very real sense, guaranteed lifetime-income solutions are a vehicle for determining how much retirement income participants can safely withdraw annually from defined contribution portfolios without fear of running out of money. This also means that fewer individuals will resort to hoarding their defined contribution wealth for fear of running out of income many years down the road. In other words, individuals will feel more comfortable spending down their retirement wealth, resulting in a higher living standard during retirement.
- With guaranteed lifetime-income solutions, longevity risks are pooled among a large group of individuals. Since longevity risk is efficiently pooled this way by a third party, participants can often generate higher amounts of income than would likely be achievable through alternative strategies. Participants are relieved of the burden of estimating, calculating and generating a lifetime retirement-income stream.
- If lifetime payments are delivered through a qualified plan, participants will be able to obtain institutional pricing.
- Participants who receive guaranteed lifetime income are less vulnerable to volatility in the financial markets.
- With guaranteed lifetime-income solutions, participants limit their “downside” risk should capital markets perform poorly. The security provided by this type of guarantee may allow participants to take greater risk with the underlying investment assets of the guaranteed lifetime-income solutions and/or other parts of their investment portfolio. With guarantees in place, diversification automatically improves and volatility and longevity risks are systematically reduced.

- With withdrawal-based guaranteed lifetime-income solutions, participants retain control (have access to principal at market value without penalty during accumulation and distribution) of their assets, a key advantage over traditional annuitization. American workers clearly have misgivings about giving up control of the retirement savings they accumulated during their working years.
- Similarly, the latest generation of withdrawal-based guaranteed lifetime-income solutions successfully addresses participant concerns that they may die before recouping all the funds they paid for the annuity and thus forfeit their funds to the annuity company. Indeed, only about 1% of participants in defined contribution plans who are offered an immediate annuity at retirement actually annuitize any portion of their retirement-plan wealth. (Source: “The Survey Findings: Trends and Experience in 401(k) Plans,” Hewitt Associates 2009). What is interesting to note is that the Hewitt survey (which is completed bi-annually) indicates a decline in the number of 401(k) participants who are choosing an annuity when it’s offered. The number of retiring participants selecting an annuity option has declined from 6% (2005) to 3% (2007) to 1% (2009).
- Newer guaranteed lifetime-income solutions, such as “Guaranteed Minimum Withdrawal Benefit” (GMWB) offerings, also allow for an effective way to transfer unneeded retirement wealth to beneficiaries at the time of the participant’s death.

#### **DISADVANTAGES:**

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- To obtain the security of guaranteed lifetime income, participants pay an additional fee, which may reduce the amount of wealth passed on to beneficiaries.
- Depending on the type of guaranteed lifetime-income solution, participants may give up some level of flexibility or control with respect to their assets, and/or the ability to pass on assets to beneficiaries.
- Participants will pay fees for the guarantees associated with the guaranteed lifetime-income solution, but may never use the product for lifetime income.
- The investment stability of fixed guaranteed lifetime-income solutions may limit the opportunity for participants to take advantage of market upswings and keep up with cost-of-living increases.
- The plan may not provide participants with access to a financial advisor, though participants could engage a financial advisor on their own if they so choose.

**Question 2:**

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

**RECOMMENDATION: The Agencies should...**

- *Ensure that plan sponsors have the ability to choose from a range of guaranteed lifetime-income solutions;*
- *Promote programs to educate defined contribution plan participants on the relationship between their account balance and the income it may provide throughout retirement;*
- *Support legislation that transfers QJSA administrative responsibilities to providers; and*
- *Clarify fiduciary standards, safe harbors and protections, particularly with regard to the use of guaranteed lifetime-income solutions as default investments.*

The reasons participants are reluctant to embrace guaranteed lifetime-income solutions generally fall into three broad categories:

- **Market Dynamics**—Advisor behavior, market awareness, and product availability are clearly impacting the access and availability of guaranteed lifetime-income solutions.
- **Financial Needs**—Immediate and pressing financial needs are also causing some individuals to shy away from guaranteed lifetime-income solutions.
- **Behavioral Biases**—Some individuals have powerful behavioral biases that influence their decision to adopt, or not to adopt, guaranteed lifetime-income solutions.

**MARKET DYNAMICS**

The current state of the retirement marketplace impacts the selection of guaranteed lifetime-income solutions in several critical ways.

First, financial advisors are playing an important role in educating individuals about guaranteed lifetime-income solutions, and, understandably, different advisors offer varying opinions on the subject, based in large part on their area of expertise. Some prefer to focus on investment management, others concentrate on tax planning, and still others create holistic income plans for clients approaching or already in retirement. The net result is that some advisors are more likely than others to incorporate guaranteed lifetime-income solutions into their recommendations.

Moreover, some advisors may be reluctant to recommend income solutions due to concerns about the fees associated with these products, or about losing control of investment decisions for their clients.

Also, in general, the public's perception of guaranteed lifetime-income solutions is often colored by incomplete or inaccurate information. For example, some individuals believe that all guaranteed lifetime-income solutions require them to give up control of their assets, when in reality solutions such as Guaranteed Minimum Withdrawal Benefit (GMWB) products leave control of assets and investment decisions during both accumulation and distribution in the hands of individuals and their advisors. For additional background refer to supplemental attachment "The Modern Annuity." Once understood, the appeal of GMWBs is much clearer. In fact, 84% of new variable annuity sales include GMWB features, spurred in part by financial advisors who take the time to educate prospective clients about these products<sup>1</sup>.

Finally, few employers offer guaranteed lifetime-income solutions in their plans because the products are generally more highly regulated and subject to stricter and more burdensome administrative rules and fiduciary standards than mutual funds or bank-savings options. Because the cost structure of qualified plans does not support the widespread use of financial advisors and to address the aforementioned concerns of employers, Prudential recommends that the Department of Labor clarify the acceptance of guaranteed lifetime-income solutions as default investments.

Based on the experience of Prudential representatives who deal directly with clients, many plan sponsors are hesitant to be among early adopters of a new in-plan product offering such as a GMWB. It is estimated that less than 20% of the nation's DC plans offer in-plan access to guaranteed lifetime-income solutions<sup>2</sup>. And even fewer provide GMWB products. Currently, Prudential provides services to 169 clients benefiting over 267,000 participants who, during their participation in the plan, will have access to a guaranteed minimum withdrawal benefit option.

Still, it's encouraging to note that current trends point to the increased availability of guaranteed lifetime-income solutions, including GMWBs, in DC plans. For example, 71% of all variable annuity GMWB purchases are funded by rollovers from qualified retirement programs<sup>3</sup>, which may indicate that the adoption of in-plan GMWBs—and guaranteed lifetime-income solutions in general—will soon pick up steam.

<sup>1</sup> LIMRA, "Variable Annuity Guaranteed Living Benefit Election Tracking Survey (2009, 4th quarter)," March 2010, page 2.

<sup>2</sup> Vanguard Center for Retirement Research, "*Immediate Income Annuities and Defined Contribution Plans*," May 2008

<sup>3</sup> Data from Morningstar Variable Annuity Research and Data Service

<sup>4</sup> As of December 31, 2008. Includes participants who have been in 401(k) plans for at least five years. Employee Benefit Research Institute, "*401(k) Plan Asset Allocation, Account Balances, and Loan Activity in 2008*," Issue Brief No. 335, October 2009.

## FINANCIAL NEEDS

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It's no secret that too many individuals reach retirement age with limited sums in their retirement-savings accounts. In fact, 401(k) participants in their 60s have average plan balances of \$125,000<sup>4</sup> and many individuals have far less.

For these people, losing control of their retirement savings through annuitization is not a viable option because it means losing access to a ready source of funds for emergencies or unexpected expenses. Even individuals with higher levels of retirement savings are reluctant to “lock up” their account balances, due to the challenge of funding significant healthcare or long-term care expenses in retirement.

Research shows that the expected present value of lifetime uninsured healthcare costs for a typical married couple age 65 is about \$197,000, excluding nursing home care, and \$260,000, if nursing home care is included<sup>5</sup>. For those whose longevity is threatened by a major illness, liquidation of their DC plan account balance may be the only way that they are able to finance these daunting expenses.

As a result, maintaining access to a ready source of funds is likely to remain a key priority, even for individuals with substantial resources. Seen another way, “financial need”—or even the perception of financial need—may potentially discourage the adoption of guaranteed lifetime-income solutions, especially if those solutions do not provide individuals with ongoing control of and access to their retirement savings.

## BEHAVIORAL BIASES

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There’s compelling evidence from a number of academic studies supporting the contention that powerful and inherent “behavioral biases” also reduce election rates for guaranteed lifetime-income solutions.

For example, when individuals are asked to choose between a lump-sum payment or a future stream of guaranteed lifetime income, they tend to undervalue the guaranteed lifetime-income solution because they instinctively apply an implicit discount rate that is often much higher than prevailing interest rates in the financial markets<sup>6</sup>. In addition, as a result of the “endowment effect” (with defined contribution account balances representing the largest accumulation of capital for many participants), many individuals are reluctant to give up control of their retirement-plan funds, since they believe that they can invest them on their own and achieve better returns than from a guaranteed lifetime-income solution. As a result, individuals invariably favor lump-sum payouts.

Similarly, the manner in which payment options are explained also impacts behavior and, ultimately, the choices people make. Individuals are far more likely to elect lifetime-income arrangements that are framed in terms of “patterns of consumption” or understandable benefits, such as “guaranteed payments to fund retirement spending,” rather than when income arrangements are presented in terms of their investment attributes, such as “return on investment.”<sup>7</sup>

<sup>5</sup> The Center for Retirement Research at Boston College, *“What Is the Distribution of Lifetime Health Care Costs From Age 65?”* by Anthony Webb and Natalia Zhivan, 2010.

<sup>6</sup> John T. Warner and Saul Pleeter, “The Personal Discount Rate: Evidence from Military Downsizing Programs,” 2001.

<sup>7</sup> Jeffrey R. Brown, et. al., *“Why Don’t the People Insure Late Life Consumption? A Framing Explanation of the Under-Annuitization Puzzle.”* January 2008.

## IN SUM

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Clearly, a broad range of factors are currently converging to discourage individuals from electing guaranteed lifetime-income solutions. The Agencies should account for these factors by:

- **Ensuring that plan sponsors have the ability to choose from a range of guaranteed lifetime-income solutions to determine which approach would be most appropriate for their participants.** Some solutions provide individuals with greater control over their assets, while others offer a higher starting income payout. Delivering access to a diverse mix of guaranteed lifetime-income solutions will ensure that plan sponsors can identify the best solutions for their plans.
- **Promoting programs that educate individuals about the longevity and volatility risks** they face, perhaps through DOL publications or website “webinars.”
- **Supporting legislative changes that would ease the burdens of administering guaranteed lifetime-income solutions** by enabling the transfer to providers of some of the responsibility for administering these products.
- **Easing the concerns of some fiduciaries about the standards to be used in the selection of a guaranteed lifetime-income solution provider** ... clarifying the extent to which fiduciaries are protected under Qualified Default Investment Alternative, Section 404(c) and annuity provider standard safe harbor rules ... and simplifying the safe harbor selection processing. See responses to Questions 31, 32, 34 and 35 for more detail.

**Question 3:**  
**What types of lifetime income are currently available to participants directly from plans (in-plan options), such as payments from trust assets held under a defined benefit plan and annuity payments from insurance contracts held under a defined contribution or defined benefit plan?**

Guaranteed lifetime-income solutions are made available through the participant/plan sponsor relationship through either a defined contribution or a defined benefit plan.

First, let's consider the defined contribution plan. In this context, we will be referring to defined contribution plans subject to the profit-sharing exemption. In other words, we are referring to plan sponsors that are not required to offer an annuity distribution option.

Defined contribution plan sponsors can offer either in-plan or out-of-plan institutionally-priced guaranteed lifetime-income solutions, and, in some instances, offer both. Institutional pricing results from "economies of scale" and from discounts in fees negotiated by plan sponsors on behalf of their participants.

Additionally, a guaranteed lifetime-income solution can be fixed or variable. Fixed products provide a guaranteed amount of income that remains unchanged and set for life. These products are usually invested in the general accounts of the issuing insurance company. Variable products provide a benefit that will change over time, based on the investment performance of an underlying fund. These products frequently take the form of separate accounts.

In today's market, institutionally-priced income products for defined contribution (DC) plans include:

- **In-plan immediate annuities**—These products provide a guaranteed lifetime income by annuitizing a participant's plan balance at the time of retirement.
- **In-plan deferred fixed-income annuities**—These products allow participants to purchase pieces of income annuities over time and at different interest rates and ages. At retirement, the balance is fully annuitized with no access to principal.
- **In-plan guaranteed minimum income benefits**—These products also allow individuals to purchase a guaranteed lifetime-income solution over time, which will be annuitized at retirement, and include a "floor" for the guaranteed-income amount. Essentially they are a way to ladder the purchase of an in-plan fixed income annuity. Positive investment performance of the underlying fund can increase the payout at retirement or during retirement.
- **In-plan guaranteed minimum withdrawal benefits**—These products protect principal and allow participants to lock in a value for their account at retirement, which will then be used as the benefit base for the guaranteed minimum amount of income (say 5% annually) that can be withdrawn each year for life. The guarantee remains in place even if the market value of the underlying portfolio reaches zero.

- **Out-of-plan immediate annuity**—Many plans allow individuals to roll their savings into an Individual Retirement Annuity at the point they retire. The out-of-plan immediate annuity delivers an annuitized income for life.
- **Out-of-plan immediate annuity rollover platform (shopping service)**—Through distribution agents who set up IRA Rollover platforms, participants use software to access quotes from several insurance companies for the comparison and purchase of immediate annuities at retirement.
- **Out-of-plan guaranteed minimum withdrawal benefits**—Similar to the in-plan version mentioned above, this product is an IRA rollover, with benefits starting only after a participant terminates employment and rolls over his or her account balance.

Traditional pension plans—such as defined benefit or money purchase programs—are required to offer and, in the absence of an election to the contrary, distribute benefits in the form of an annuity to plan participants as the default distribution option at retirement. Although statistics are not readily available, utilization of the annuity option appears to decline with traditional defined benefit plans if a lump-sum distribution alternative is also available. Cash balance defined benefit plans also appear to see most distributions taken in the form of a lump sum.

- In a defined benefit plan, the annuity is typically funded by trust assets, unless the plan is terminated, and the liability is sold to an insurance provider.
- In a money purchase pension plan, the annuity is typically provided through an out-of-plan solution by purchasing an annuity from an insurer at the time the distribution option is selected.

Profit-sharing plans do not have to offer an annuity option. Only about 14% of 401(k) plans offer a traditional immediate income annuity at retirement, and only about 1% of participants in these plans choose an annuity form of distribution (Source: “The Survey Findings: Trends and Experience in 401(k) Plans,” Hewitt Associates 2009). Interestingly, the Hewitt survey, which is completed bi-annually, indicates a decline in the number of 401(k) participants who are choosing an annuity when offered, even though defined benefit plans are becoming less common. The number of retiring participants choosing an annuity when offered has dropped from 6% (2005) to 3% (2007) to 1% (2009).

In addition, a number of new products that provide guaranteed lifetime income have recently been introduced in the DC marketplace as in-plan options. These “guaranteed living benefit” solutions include Guaranteed Minimum Withdrawal Benefit (GMWB) options and Guaranteed Minimum Income Benefit (GMIB) products. All are also available for IRA rollovers offered through the institutional-plan relationship.

Also, as individuals with a trusted financial advisor enter their retirement years, it's important to keep in mind that the retail variable annuity market has seen an expansion in innovative product features that offer the benefits of guaranteed lifetime income. The popularity of out-of-plan guaranteed lifetime-income solutions stands in stark contrast to the "annuitization-avoidance" trend within employer-sponsored plans and leads to the conclusion that the influence of financial advisors and the flexibility of income timing can play key roles in helping individuals understand all available options, ultimately leading to an increase in the acceptance of guaranteed lifetime-income solutions.

**Question 4:**  
**To what extent are the lifetime-income options referenced in question 3 provided at retirement or other termination of employment as opposed to being offered incrementally during the accumulation phase, as contributions are made? How are such incremental or accumulating annuity arrangements structured?**

- About 14% of 401(k) plans offer an immediate income annuity as a distribution option at retirement, but only about 1% of the participants in these plans choose an annuity as their “distribution of choice.”<sup>8</sup>
- Only a small number of plans offer Guaranteed Minimum Withdrawal Benefit (GMWB) products or Guaranteed Minimum Income Benefit (GMIB) products at the point of retirement, generally in the form of an IRA rollover.
- When offered within a qualified plan, however, deferred income annuities, GMWBs and GMIBs are designed to overcome behavioral obstacles and encourage utilization. Incremental investments are made over time during the plan participant’s working years, usually with each contribution cycle, and the products are not suddenly introduced as a lump-sum distribution option at the point of retirement. By taking this approach, participants benefit from interest-rate averaging (investing in annuities during different interest rate environments) and from dollar-cost averaging of their plan contributions. Also, plan participants begin to think about their DC account in terms of a stream of retirement income, rather than as a lump sum of accumulated wealth.
- The in-plan products allow participants to benefit from institutional pricing, which results in lower fees. These fees are usually not charged until the income guarantees are activated. Though in some cases these fees are “always on,” in most others, fees begin generally 10 to 15 years before retirement when income guarantees are activated.
- While all these products deliver a guarantee of lifetime income, they also typically provide a current market value similar to other investments in the DC plan. Generally, participants have the right to transfer out of these products into other plan investment options prior to retirement.
- The products differ in the degree of guaranteed lifetime income they provide, and in the amount of flexibility and control they offer.
  - Deferred income annuities and GMIBs typically generate higher guaranteed lifetime income amounts, but require annuitization upon retirement resulting in participants giving up access to principal and participation in market gains. To generate the higher income, and to benefit from the risk-pooling provided by the insurer, participants usually must give up access to their account value when the product begins delivering a guaranteed lifetime-income stream.
  - Individuals typically receive lower initial amounts of guaranteed lifetime income from GMWBs than from income annuities, but they retain the right to change their payment amount or leave the fund at any time with their then current market value. Also, GMWBs provide protection from market downturns and offer the opportunity to benefit from market upswings. Guaranteed lifetime-income amounts generally can increase during retirement if market performance of the underlying investments is positive. However, the amount of guaranteed lifetime income generally cannot go down due to poor investment performance.

<sup>8</sup> “The Survey Findings: Trends and Experience in 401(k) Plans,” Hewitt Associates 2009

- Deferred income annuities, GMIBs, and GMWBs protect individuals from severe market downturns in the pre-retirement years by allowing participants to lock in future income payments.
  - The deferred income annuities do this by providing for the purchase of a future guaranteed lifetime income, payable at retirement. The GMIBs do the same, but also provide a guaranteed floor for the future income stream, with the assets invested in a portfolio such as a Balanced Fund that has the potential to create an even higher amount of income at retirement due to positive investment performance.
  - With a GMWB, the participant accumulates a “benefit base,” a notional value that is tracked for each participant. The benefit base is typically the highest annual account value and is enhanced through regular, ongoing plan contributions. Upon retirement, participants can generate a guaranteed minimum withdrawal benefit, such as 5% of the benefit base, for life. Options include taking a slightly reduced amount to provide income for a surviving spouse.
- The types of fees associated with these products differ, depending on the product type. Income annuities have fees embedded in the future monthly benefit. The cost to the participant can be reflected in the embedded administrative fee, the mortality table used, or the interest rate being used in the calculation. With guaranteed minimum income benefits, these same types of fees apply once the account balance is annuitized at retirement. Prior to that point, during the accumulation stage, a guarantee fee is usually charged in addition to the investment-management fees charged on the underlying investment funds. For guaranteed minimum withdrawal benefits, a guarantee fee is typically charged when the income guarantee is activated and the Benefit Base starts being tracked. The fee is assessed both during the accumulation stage and during retirement. In addition, the underlying investment funds will also carry an investment management fee.

**Question 5:  
To what extent are  
401(k) and other defined  
contribution plan  
sponsors using employer  
matching contributions  
or employer non-elective  
contributions to fund  
lifetime income? To what  
extent are participants  
offered a choice regarding  
such use of employer  
contributions, including by  
default or otherwise?**

- Although plan sponsors could use the employer match to fund guaranteed lifetime-income solutions, we have yet to see widespread use of this practice in the marketplace. Product models are currently being developed that would direct employer matching contributions into retirement-income products, regardless of the investment elections of the plan participant. The goal is to encourage participants to consider these options. It should be noted that not all types of guaranteed lifetime-income solutions may be appropriate for the employer match.
- Plan sponsors that have adopted guaranteed lifetime-income solutions tend to allow both employee contributions and employer matches to the guaranteed lifetime-income solutions available in their plans. We are also aware of a very limited number of plan sponsors directing non-elective contributions to guaranteed lifetime-income solutions.

**Question 6:**  
**What types of lifetime-income or other arrangements designed to provide a stream of income after retirement are available to individuals who have already received distributions from their plans (out-of-plan options), such as IRA products, and how are such arrangements being structured (fixed, inflation adjusted, or other variable, immediate or deferred, etc.)? Are there annuity products under which plan accumulations can be rolled over to an individual retirement annuity of the same issuer to retain the annuity purchase rights that were available under the plan?**

- Numerous types of IRA rollover products provide guaranteed lifetime income, including Guaranteed Minimum Withdrawal Benefits (GMWBs), Guaranteed Minimum Income Benefits (GMIBs) and immediate annuities. Each allows control and portability for the consumer. Guaranteed living benefits have proven to be very popular with annuity purchasers since they deliver a guaranteed lifetime-income stream without forcing individuals to abandon control of their assets or limiting the ability to bequeath any remaining retirement wealth. Indeed, according to LIMRA statistics, 84% of all variable annuities purchased in the fourth quarter of 2009 had a guaranteed living benefit included.
- Immediate annuities and deferred annuities offer standard annuitization options that provide guaranteed lifetime-income after retirement, either for life or for a fixed period. Benefits can be initiated based on the individual's needs.
- Recently, the marketplace has seen the rollout of mutual funds intended to be used to generate retirement income. These products—called managed payout funds—provide distributions for a fixed period or at a prescribed percentage. However, they do not guarantee that payments will be made “for life” if an individual outlives his or her life expectancy or if market declines occur. Currently, only insurance companies can offer products that provide guaranteed lifetime income.
- Also, some currently available IRA products allow participants to transfer their DC in-plan benefit should they terminate employment and leave the DC plan. These IRA offerings typically allow individuals to transfer any income guarantees and rights, along with market value accrued to-date, to the IRA. Fee structures may vary because the costs associated with offering registered products for individuals are higher than offering income options through a qualified plan.

**ADDITIONALLY, IT'S IMPORTANT TO NOTE:**

- In 2009, \$64 billion of advisor-sold variable annuities in the U.S. resulted from qualified rollover dollars. The qualified rollovers represented 64% of advisor-sold variable annuity sales for the year.
- 89% of buyers of Prudential's advisor-sold variable annuities funded with qualified rollover dollars elected the optional guaranteed lifetime-withdrawal feature. We believe Prudential's experience is similar to that of other annuity manufacturers in the U.S. advisor-sold market.
- Individuals who elect optional withdrawal-based guaranteed lifetime-income solutions when they buy a variable annuity with their qualified roll-over dollars do indeed use them to provide guaranteed lifetime income. In 2008, the latest year for which data is available, 13.5% of those who used tax-qualified rollover dollars to purchase Prudential variable annuities began taking withdrawals during the first year they owned the annuity.

**Question 7:**  
**What product features have a significant impact on the cost of providing lifetime income or other arrangements designed to provide a stream of income after retirement, such as features that provide participants with the option of lifetime payments, while retaining the flexibility to accelerate distributions if needed?**

A number of features can impact the cost of providing guaranteed lifetime income, many of which are designed to either encourage utilization by participants or to enhance the value of the product compared with non-guaranteed withdrawal strategies, such as managed payout funds or systematic withdrawals. Generally speaking, features that add flexibility, provide higher levels of protection, or deliver guarantees for longer periods will increase cost.

The “cost increase” could be expressed as either a higher explicit fee, or as an “implicit” fee in the form of a reduced level of guaranteed payments in exchange for the same premium or principal.

#### **FEATURES THAT RESULT IN ADDITIONAL COSTS INCLUDE:**

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- Opportunity to take non-scheduled or higher payments increases the insurer’s costs associated with investing the underlying assets.
- Ability to increase and lock-in higher amounts of guaranteed lifetime income due to positive market performance.
- Death benefits that allow individuals to pass on any remaining market value to beneficiaries.
- Opportunity to increase equity exposure through higher allocation to stocks, which increases the potential for higher guaranteed lifetime income but further increases the costs to protect against market downturns.
- Flexible liquidation terms upon contract termination at the plan-sponsor level.
- Inflation protection designed as preset increases in the guaranteed income stream, such as 3% annually, or as increases tied to the consumer price index.

#### **FEATURES THAT DELIVER LONGER PERIODS OF GUARANTEED INCOME INCLUDE:**

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- “Joint & Survivor” annuity payments that last for the longer of two lives (also known as “spousal benefits”).
- Guarantees for whichever is longer—a person’s life or a fixed period (or a “period certain”)—rather than just for life.
- Optional riders that will double the guaranteed lifetime income if certain criteria are met, such as confinement to a qualified nursing home.
- Guaranteed lifetime income based on a pre-determined basis of growth, such as the highest daily value ever attained in the account.
- Automatic increases that boost lifetime-income payments by a specified compound rate of interest from the date of the highest annual account value.

**Question 8:  
What are the advantages  
and disadvantages  
for participants of  
selecting lifetime income  
payments through a  
plan (in-plan option)  
as opposed to outside  
a plan (e.g., after a  
distribution or rollover)?**

Prudential's 2010 Workplace Report on Retirement Planning found that access to an in-plan product that could convert assets into a guaranteed lifetime stream of retirement income was viewed as a "positive" plan feature by 71% of younger workers and 64% of older workers.<sup>9</sup>

Participants are inclined to view in-plan guaranteed lifetime-income solutions as desirable, if for no other reason than convenience. But the advantages extend beyond perceptions and "feelings." They include:

- Improved economies of scale, through the purchasing power of the plan, resulting in lower costs and preferred risk-pooling on guaranteed lifetime-income solutions.
- Enhanced protection of principal without losing upside potential during pre-retirement years, when participants have less time to recover from investment losses due to market volatility.
- The ability to "test drive" products, since they rarely, if ever, include surrender penalties in the accumulation stage.
- The convenience of automatic migration at a trigger point from a pure accumulation product to an investment that provides guaranteed income protection. With in-plan products, participants can purchase guaranteed lifetime-income solutions over time, dollar-cost averaging their investments while taking advantage of different interest rates.
- Access to options such as in-plan Guaranteed Minimum Withdrawal Benefits (GMWB) products, which provide participants with guaranteed lifetime income without having to give up control of their retirement assets.
- Less potential for leakage due to plan restrictions on distributions.
- Plan fiduciaries perform due diligence on the products being offered.
- For those plan participants who do not have access to a financial advisor, these products enable participants to have more confidence in guaranteed lifetime-income solutions since it is believed that employers will have scrutinized the products being made available to plan participants. This should result in much higher utilization of guaranteed lifetime-income solutions than would otherwise be the case. For these participants, this is likely the best way to access guaranteed lifetime-income solutions.

**ADVANTAGES OF OUT-OF-PLAN OPTIONS:**

- The broker/dealer performs product due diligence prior to approving the annuity product to be sold by their registered financial advisors. In addition, before an application to purchase the annuity can be submitted to the insurance provider, the broker/dealer's compliance department performs a suitability assessment on behalf of individual investors. Financial advisors perform similar due diligence on behalf of their clients.

<sup>9</sup> Prudential's "2010 Workplace Report on Retirement Planning - The New Economic Reality and the Workplace Retirement Plan," 2010

- More investment and benefit-level options for individuals to make cost/benefit decisions.
- Today's retail variable annuity withdrawal-based guaranteed lifetime-income solutions lock in protected values for billions of dollars of rollovers from prior employers and allow for guarantees to be cancelled at any time if no longer needed or required by the investor.
- The ability to “test drive” products, since they may not include surrender penalties in the accumulation stage. In fact, the guaranteed lifetime-income feature of Guaranteed Minimum Withdrawal Benefit (GMWB) options is generally fully cancellable, while the variable annuity itself can stay in force even if the owner no longer needs the lifetime-income feature.

#### **ALSO:**

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- “At retirement” annuitization of DC plan assets—either within the plan or through a lump-sum IRA rollover—has existed for at least three decades, yet little annuitization actually occurs. As noted earlier, the number of retiring 401(k) participants choosing an annuity when offered has dropped from 6% (2005) to 3% (2007) to 1% (2009). Behavioral finance theory tells us that we must learn from this and do a better job of educating participants about the benefits of investing in guaranteed lifetime-income solutions. Education alone, however, is not enough. Defaults into flexible guaranteed lifetime-income solutions are, perhaps, the best path to more secure retirements, as long as the defaults are coupled with clear communication to participants about how that product works and what benefit it provides.

#### **The disadvantages for participants in selecting “in-plan” guaranteed lifetime income solutions may include:**

- Lack of access to a financial advisor, who can help select the optimal product either within a DC plan or in the retail marketplace.
- Individuals may want to diversify their investments and/or guarantees in ways not available through in-plan options.
- Currently these products have limited portability and cannot easily be consolidated. Some individuals may end up with a number of small lifetime-income products due to job mobility, and multiple products from numerous employers may become confusing and difficult to track. Unlike mutual funds and similar investments, these products are difficult to consolidate due to their unique structures.
- The prospect that some people may die prior to retirement and will pay fees for a benefit they will not receive. Also, individuals with withdrawal-based guarantees may die prior to depleting their account, due to income-withdrawal schedules and investment performance results.
- Lack of appreciation of the product and its benefits since plan participants are not actively engaged in purchasing decisions.

**Question 9:**  
**What are the advantages and disadvantages from the standpoint of the plan sponsor of providing an in-plan option for lifetime income as opposed to leaving to participants the task of securing a lifetime income vehicle after receiving a plan distribution?**

**RECOMMENDATION: To address disadvantages and plan sponsor concerns we recommend that the Agencies should...**

- *Simplify and extend the standards for the selection of guaranteed lifetime-income solution providers;*
- *Confirm the applicability of QDIA protection to investment products that include guaranteed lifetime-income solutions;*
- *Authorize employers to “re-enroll” participants at any point into QDIAs (including those that provide guaranteed lifetime-income solutions);*
- *Amend Interpretive Bulletin 96-1 to expand its scope to the decumulation phase of retirement planning;*
- *Support industry efforts to standardize data needs to facilitate product portability;*
- *Provide education for plan sponsors and participants about the need for guaranteed lifetime income in order to achieve retirement security; and*
- *Include innovative and market-tested products such as Guaranteed Minimum Withdrawal Benefits in all regulatory or other initiatives designed to encourage plan sponsors to offer and workers to use guaranteed lifetime-income solutions.*

Employers seeking to attract and retain top talent must offer attractive, compelling, value-added benefits programs. A Prudential study of employee benefits found that 84% of American workers feel that a company’s benefit package is highly important in their decision whether or not to change employers. Among women over the age of 30, greater importance is placed on employee benefits when deciding to accept a job offer or remain with their current employer compared to men. Additionally, the study highlighted that 43% of plan sponsors strongly agree that offering a very competitive benefits program can be a significant advantage and can assist an employer’s recruiting and retention effort.<sup>10</sup>

Moreover, Prudential’s 2010 Workplace Report on Retirement Planning found that access to an in-plan product that could convert assets into a guaranteed stream of retirement income was viewed as a “positive” plan feature by 71% of younger workers and 64% of older workers.

With that as background, the ability for participants to receive guaranteed lifetime-income solutions within a plan offers several advantages for plan sponsors.

- Sponsors can set themselves apart as “employers of choice” by offering a competitive retirement-benefits program that meets the expectations of top talent.
- By offering guaranteed lifetime income in a DC plan, those employers who previously maintained a DB plan can continue to provide participants with DB-like retirement security.

<sup>10</sup> *Prudential Financial Study of Employee Benefits: 2007 and Beyond*

- Guaranteed lifetime-income solutions help ensure sponsor contributions are efficiently converted to retirement income, helping create better “retirement outcomes” and a workforce that is more likely to be able to retire when desired, instead of “retiring on the job.”

— Remember, the workplace is well-suited to participant education about guaranteed lifetime-income solutions, as it allows for education on a larger scale, at a lower cost, in a more convenient venue (whether through live meetings, video conferencing or web-based presentations) than could typically be achieved by participants on their own.

- Also, in-plan purchases of guaranteed lifetime-income solutions allow participants to “dollar cost average” their contribution, which makes their purchases less dependent on the vagaries of the interest-rate environment or the performance of the equity markets at any particular time.
- Similarly, offering guaranteed lifetime-income solutions within a plan should create greater opportunities for more favorable retirement outcomes.
- The volume of guaranteed lifetime-income solution purchases within a plan, along with plan sponsor oversight and institutional pricing, should enhance plans’ bargaining power as “purchasers” of lifetime-income products, thereby reducing overall costs of in-plan lifetime payouts compared with payout options available outside a plan.

**At the same time, there are legitimate plan sponsor concerns about offering in-plan guaranteed lifetime-income solutions, which clearly need to be addressed as they create “disadvantages” when compared with out-of-plan offerings.**

- **Fiduciary Liability**—One significant concern is the fiduciary liability associated with making these options available, monitoring them and explaining them to participants. Allowing participants to choose payout options on their own—instead of making guaranteed lifetime-income solutions available as plan options—may be viewed by plan sponsors as a less risky approach.
- **Selection of Providers**—Relief in the form of streamlining and simplifying the safe harbor standards for selecting and monitoring providers and educating participants about guaranteed lifetime-income solutions would be extremely beneficial, as discussed more fully in the response to Question 31.
- **Re-enrollment of Participants**—Another significant concern among plan sponsors relates to the applicability of the QDIA regulations and other aspects of ERISA section 404(c) to situations where a plan sponsor determines that it is appropriate to “refresh” participant elections, otherwise known as “re-enrollment” of participants. We recommend that the Department of Labor support the ability of plan sponsors to re-enroll participants in a variety of circumstances by clarifying the situations in which the plan sponsor can rely on QDIA protection, as discussed more fully in our response to Question 35.

**Portability and Preservation of Guarantees**—Plan sponsors may also be concerned about the administrative, logistical and fiduciary oversight implications of preserving the guarantees associated with purchasing guaranteed lifetime-income solutions—specifically in cases when the sponsor is required or financially compelled to maintain the purchased guaranteed lifetime-income solution even if the choice is made to replace the recordkeeper and/or investment provider or when a participant terminates employment. We urge the Agencies to support industry efforts to standardize data needs, service models and other components of the administration of guaranteed lifetime-income solutions to facilitate portability of these products from one recordkeeper to another ... or, at the participant level, from an in-plan option to an out-of-plan option.

**Question 10:**

**How commonly do plan sponsors offer participants the explicit choice of using a portion of their account balances to purchase a lifetime annuity, while leaving the rest in the plan or taking it as a lump sum distribution or a series of ad hoc distributions? Why do some plan sponsors make this partial annuity option available while others do not? Would expanded offering of such partial annuity options—or particular ways of presenting or framing such choices to participants—be desirable and would this likely make a difference in whether participants select a lifetime annuity option?**

**RECOMMENDATION: The Agencies should...**

- *Inform plan sponsors that the use of guaranteed lifetime-income solutions is not an “all-or-nothing” decision; and*
  - *Educate participants that they can use less than their entire account balance to purchase guaranteed lifetime-income solutions.*
- Based on our experience, we do not believe that plan sponsors are consistently limiting participant choice, when available, to an “all-or-nothing” selection of annuitizing DC plan balances.
  - Prudential strongly believes that the more flexibility offered to plans and plan participants, the better. We expect that more flexibility, such as encouraging partial annuitization, will result in higher rates of plan adoption and participant usage.
  - For guaranteed lifetime-income solutions to work, each plan must allow for partial investments in these products, and participants should be able to freely move in or out of the products, just as they would with other investment options, during the accumulation stage of investing.
  - Education about all aspects of guaranteed lifetime-income solutions is critical, but taking specific steps to “frame” information about contribution amounts is especially important. Participants need to understand what contribution levels are required to generate a flow of guaranteed lifetime-income that covers projected monthly “essential” expenses.

**Question 11:**  
**Various “behavioral” strategies for encouraging greater use of lifetime income have been implemented or suggested based on evidence or assumptions concerning common participant behavior patterns and motivations. These strategies have included the use of default or automatic arrangements (similar to automatic enrollment in 401(k) plans) and a focus on other ways in which choices are structured or presented to participants, including efforts to mitigate “all or nothing” choices by offering lifetime income on a partial, gradual, or trial basis and exploring different ways to explain its advantages and disadvantages. To what extent are these or other behavioral strategies being used or viewed as promising means of encouraging more lifetime income? Can or should the 401(k) rules, other plan qualification rules, or ERISA rules be modified, or their application clarified, to facilitate the use of behavioral strategies in this context?**

**RECOMMENDATION: In order to facilitate the use of behavioral strategies the Agencies should...**

- *Confirm the applicability of QDIA protection to investment products that include guaranteed lifetime-income solutions;*
- *Include innovative and market-tested products such as Guaranteed Minimum Withdrawal Benefits in all regulatory or other initiatives designed to encourage plan sponsors to offer and workers to use guaranteed lifetime-income solutions; and*
- *Study further the introduction of “automatic trial” strategies.*

The best way to increase utilization of guaranteed lifetime-income solutions by participants is for the employer to select a product that participants like as the plan’s default distribution option.

This is demonstrated by two examples of “behavioral” patterns related to plan participants’ decisions:

- First, the Pension Protection Act of 2006 (PPA) allows DC plan sponsors to automatically enroll employees in plans . . . and to default their investments into Qualified Default Investment Alternatives (QDIAs), such as target-date funds or managed accounts. The PPA has led to a significant increase in enrollment in plans that take advantage of auto-enrollment and utilization by participants of default investment options. According to the Profit Sharing Council of America, 40% of plans are using automatic enrollment.<sup>11</sup> Hewitt Associates, a leading DC plan provider, reports that plans that implement auto-enrollment increase participation of new hires from an average of 78% to approximately 90%.<sup>12</sup> In addition, 67% of new hires in auto-enrollment plans allocate their entire contribution to the default investment, compared with 21% of new hires who are not in auto-enrollment plans.<sup>13</sup>
- Second, under cash-balance plans, which are required by law to provide a lifetime annuity as the default distribution option, the vast majority of individuals choose to opt out of the annuity and take a lump-sum distribution.<sup>14</sup> This puzzling behavior is exemplified in a study of the military, which showed that when individuals are asked to choose between a lump-sum payment or a future stream of guaranteed lifetime income, they tend to undervalue the guaranteed lifetime-income solution because they instinctively apply an implicit discount rate to the annuity that is often much higher than prevailing interest rates in the financial markets.<sup>15</sup>

<sup>11</sup> Profit Sharing Council of America “52nd Annual Survey of Profit Sharing and 401K plans,” September 2009

<sup>12</sup> Hewitt Associates, “Trends & Experience in 401(k) Plans,” 2007, and “Automatic Enrollment Boosts Participation and Retirement Savings,” 2007.

<sup>13</sup> Vanguard Center for Retirement Research, “*Measuring the Effectiveness of Automatic Enrollment.*” December 2007.

<sup>14</sup> J. Mark Iwry and John A. Turner, “*Automatic Annuitization: New Behavioral Strategies for Expanding Lifetime Income in 401(k)s.*” July 2009.

<sup>15</sup> John T. Warner and Saul Pleeter, “The Personal Discount Rate: Evidence from Military Downsizing Programs,” 2001.

Participants' rejection of the default distribution option (an annuity) in cash balance plans clearly results from the fact that participants simply don't like the features or understand the value of these products. It also demonstrates that merely making guaranteed lifetime income a plan's default distribution option alone will not meaningfully increase utilization. On the accumulation side, target-date funds have been the main beneficiary of PPA's default investment authorization, in part because the value proposition of these products, a ready-made diversified portfolio with automatic re-balancing, is easy for most DC plan participants to understand and appreciate. In plans that have elected to use QDIAs, more than 80% are using target-date funds as the QDIA.<sup>16</sup>

This demonstrates that behavioral strategies, such as auto-enrollment, can work. With that in mind, we believe it is critical for the Agencies to facilitate plan sponsors' access to a wide range of lifetime-income solutions so they can select the option or options that best fit the needs of their participants. Specifically, in order to facilitate the use of behavioral strategies in the context of guaranteed lifetime-income solutions, the Agencies should:

- Clarify the types of guaranteed lifetime-income solutions that could qualify for QDIA fiduciary protections. For example, it should be stipulated that target-date funds combined with a guaranteed lifetime-income solution, such as a Guaranteed Minimum Withdrawal Benefits (GMWB), qualify for QDIA fiduciary protections and are not subject to a higher standard than other QDIAs. This is important because GMWBs are an extremely attractive guaranteed lifetime-income solutions for individuals seeking to retain control over and access to their funds.
- Encourage plan sponsors to provide guaranteed lifetime-income solutions that offer participants greater flexibility and control, including the option to "opt out."
- Explore ways to enable further experimentation with behavioral strategies by retirement plan sponsors. One promising proposal involves the potential use of an "automatic trial" strategy. Individuals would be automatically defaulted into a guaranteed lifetime-income solution at retirement, with the option of reversing this decision within a specified period of time.

<sup>16</sup> Vanguard Strategic Retirement Consulting, *"Improving Plan Diversification Through Re-enrollment in a QDIA,"* September 2008.

**Question 12:  
How should  
participants determine  
what portion (if any) of  
their account balance  
to annuitize? Should  
that portion be based  
on basic or necessary  
expenses  
in retirement?**

- A good rule of thumb is to generate a stream of guaranteed lifetime-income, including Social Security, that covers all essential monthly living expenses, such as housing, medical care, food, insurance and other essential items. With this approach, participants are assured of a minimum standard of living that will allow them to remain solvent, ensure they will not outlive their assets, and protect them from poor investment performance.
- It's also important to keep in mind that a complete answer here often depends on the type of guaranteed lifetime-income solution being considered. Traditionally, "annuitization" has forced participants to give up access to the "market value" of their accounts, precluding their ability to tap retirement funds to cover unforeseen costs such as medical expenses.
- Newer products, such as Guaranteed Minimum Withdrawal Benefits (GMWBs), do not require participants to sacrifice access and control, and include the right to pass on any remaining market value at the time of their death to their beneficiaries.

**Question 13:**  
**Should some form of lifetime-income distribution option be required for defined contribution plans (in addition to money purchase pension plans)? If so, should that option be the default distribution option, and should it apply to the entire account balance? To what extent would such a requirement encourage or discourage plan sponsorship?**

**RECOMMENDATION: The Agencies should...**

- *Support a change in the law that would require DC plans to offer guaranteed lifetime-income solutions as a distribution option. Plan sponsors should be encouraged to make guaranteed lifetime-income solutions the default distribution option provided the participant has the ability to opt out.*

We urge the Agencies to support legislation that would repeal the rule authorizing some plans, including 401(K)s, to not offer guaranteed lifetime-income solutions as a distribution option. We believe this would be the most effective way to increase access and the most-promising way to enhance participant acceptance and utilization of guaranteed lifetime-income solutions, especially if an investment fund that includes a guaranteed lifetime-income solution became the plan's default or normal form of distribution for all or part of participant account balances.

The emergence of DC plans as the nation's primary retirement savings vehicle has left many, if not most, American workers woefully unprepared to generate the levels of guaranteed lifetime income once afforded by traditional DB plans. In order to help participants achieve a DB-like outcome from DC plan savings, efforts should be focused on providing participants access to guaranteed lifetime-income solutions.

We believe there are strong arguments for making a guaranteed lifetime-income solution the plan's default distribution option. At this point, the decision to make it the plan's default should be reserved for plan sponsors who are in the best position to make determinations about what may be in the best interest of their participants. The required offering of guaranteed lifetime-income solutions will create more opportunities for plan sponsors to evaluate and make these determinations.

Plan sponsor decision-making about the role of guaranteed lifetime-income solutions requires regulatory clarity on important fiduciary issues and additional protections and safe harbors as discussed more fully below (See Questions 30 – 35).

It is Prudential's experience that adding a requirement to offer guaranteed lifetime-income solutions would not discourage plan sponsorship.

**Question 14:**  
**What are the impediments to plan sponsors including lifetime income options in their plans, e.g., 401(k) or other qualification rules, other federal or state laws, cost, potential liability, concern about counterparty risk, complexity of products, lack of participant demand?**

Hewitt Associates just released a survey of 160 plan sponsors that included the question: How likely are you (the sponsor) to add an in-plan retirement-income solution in 2010?

- 20% answered that they are “very likely” or “somewhat likely” to add this type of option. But among the sponsors that said they were “unlikely” to offer, guaranteed lifetime-income solutions:
  - 48% were simply not interested at this time, and 45% said it was too early in the product-development cycle, and they’d prefer to wait before committing;
  - 28% had fiduciary concerns;
  - 24% believed employee usage would not be adequate to justify the addition;
  - 23% said participant communications would be a hurdle;
  - 17% said that they would have difficulty selecting the appropriate insurance provider;
  - 14% believed that the cost to implement and administer would be too high;
  - 10% had apprehensions about operational difficulties; and
  - 7% viewed the DC plan as an accumulation vehicle, not a retirement-income vehicle.

In addition to the above, Prudential has also found that the following also play a role in impeding sponsor adoption of in-plan guaranteed lifetime-income solutions:

- Concerns about the long-term financial stability of the issuer;
- A lack of clarity about what state guaranty associations cover, which is not helped by restrictions on insurers’ ability to provide information on the subject;
- Potential modifications to plan documents;
- Perceived and actual administrative burdens associated with Qualified Joint & Survivor Annuity (QJSA) rules;
- A lack of understanding about newer versions of traditional income-annuity products; and
- Concern that guarantees will not be portable if sponsors switch recordkeepers or if participants change jobs.

**It’s important to note that employers had similar concerns about automatic features and default investments prior to the Pension Protection Act of 2006.**

As a result of clarifications and confirmations under the Act, many plan sponsors are now comfortable offering these features. Prudential believes the Department of Labor could leverage this experience for the distribution stage by issuing clarifications and guidance to plan sponsors about using a guaranteed lifetime-income solution as a plan's default distribution option.

Prudential also believes that the Department of Labor should work with the industry to explore other mechanisms that could serve as a supplemental backstop to the current state guaranty association funds for guaranteed lifetime-income solutions in DC plans in order to address single-issuer risk concerns.

**Question 15:**  
**What are the advantages and disadvantages of approaches that combine annuities with other products (reverse mortgages, long term care insurance), and how prevalent are these combined products in the marketplace?**

Theoretically, combined product solutions that address the need for guaranteed lifetime income and provide protection against other retirement risks should form an appealing, compelling and comprehensive “packaged” solution for financial and retirement security.

But in the retail variable annuity marketplace, where product innovation on guaranteed lifetime-income solutions has been most robust in the U.S., the theoretical promise of products that bundle guaranteed lifetime income with some other protection has not generally translated into practical appeal.

To date, the retail-annuity experience suggests that Americans believe the added complexity of a combination product outweighs the potential benefits of a “one-stop” product that addresses multiple retirement-related risks.

For example, in today’s market, the purchase of a guaranteed lifetime-income solution generally involves no medical or financial underwriting. Coupling a lifetime-income guarantee with long-term care coverage would likely introduce the added complexity of medical underwriting into the enrollment process.

Prudential does offer a combination product rider that provides acceleration of income when long-term care type events occur. But the election rate of this benefit has been less than 10% to date.

Similarly, coupling guaranteed lifetime-income solutions with, say, a reverse mortgage introduces financial underwriting considerations. Underwriting of any type introduces a new series of intricate burdens and enhances the risk that the applicant might not be accepted for the “other protection.”

In 2009, 89% of buyers of Prudential variable annuity products funded with qualified rollover dollars elected the optional guaranteed lifetime-withdrawal feature. This data suggests that, when consumers are educated about withdrawal-based guaranteed lifetime-income solutions, very high election rates may be expected with a product that effectively addresses one critical issue: the demand for a flexible form of guaranteed lifetime income that does not require traditional annuitization.

Based on our retail product experience, Prudential believes that guaranteed lifetime-income solutions have the greatest appeal to participants.

**Question 16:**  
**Are there differences across demographic groups (for example men vs. women) that should be considered and reflected in any retirement-security program? Can adjustments for any differences be made within existing statutory authority?**

In general, retirement-related risks are more acute for women.

- According to Prudential research, fear of becoming a burden on family members is the greatest retirement-income concern of older Americans. While longevity continues to increase for both sexes, any visitor to an assisted-living facility quickly observes that women continue to live longer, on average, than men. As a result, guaranteed lifetime-income solutions are important for everyone, but they are especially vital for women.
- On average, women work fewer years in the workplace compared with men and thus have reduced opportunities to save for retirement through an employer-sponsored plan. Statistics show women receive only 57% of the average annual retirement income of men.<sup>17</sup> Additionally only 20% of women receive a pension income versus over 50% of men.<sup>18</sup>

A number of socio-economic considerations also need to be factored into a retirement-security program.

- Guaranteed lifetime-income solutions that complement the guaranteed lifetime income provided by Social Security are especially important for retirees with limited or average retirement savings. The reason, of course, is that individuals in this group run a real risk that basic living expenses could deplete savings at a point when a return to the workforce is impossible due to age or illness.
- For those with average or slightly above average retirement savings, several factors are key to successful income management. These factors include asset allocation, withdrawal strategies, inflation protection, and management of mortality and morbidity risk.
- For more affluent Americans, guaranteed lifetime-income solutions can provide an important financial planning tool at retirement. Putting some of their retirement savings into a guaranteed lifetime-income solution is clearly a more efficient strategy than “hoarding” to cover income needs “just in case” they live to be very old. And with “longevity risk” essentially covered by the guaranteed lifetime-income solution, affluent retirees can use their money for other purposes, such as covering potential long-term-care expenses or helping grandchildren with educational expenses.

Here are some additional statistics from LIMRA's *Retirement Income Reference Book* that may be helpful.

- **Guaranteed lifetime income & Age:** The younger the retiree, the more interested he or she is in guaranteed lifetime-income solutions.
- **Net Worth:** Non-retired individuals aged 55-74 have a great deal of wealth, accounting for 26% of our nation's net worth, or \$16.8 trillion. This group is approaching retirement, increasing the market for lifetime-income and asset-rollover products.

<sup>17</sup> *“What Women Need to Know About Retirement,”* Cindy Hounsell, Editor, Heinz Family Philanthropies and The Women's Institute for a Secure Retirement, 2007.

<sup>18</sup> *“Women & Social Security”* American Association of University of Women, June 2004.

- **Retirement Assets:** American workers currently have approximately \$250 billion in retirement savings. Individuals representing nearly 46% of those assets have expressed an interest in guaranteed lifetime-income solutions.
- **Income:** Higher-income retirees have the most diverse income portfolios and are most likely to need retirement-income planning since they will rely on their own resources for a significant share of their retirement income. By contrast, lower-income retirees rely primarily on Social Security for retirement and are least likely to have other significant resources to supplement their retirement income. Retirees in the middle need strategies to best utilize assets to assure a successful retirement-income stream.

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

#### **RECOMMENDATION: The Agencies should...**

- *Encourage plan sponsors to make guaranteed lifetime income solutions the plan's default distribution option. Education and communication alone will not effectively change participant behavior; and*
- *Support the passage of the Lifetime Income Disclosure Act and similar measures.*

Education and communication about all aspects—and types—of guaranteed lifetime-income solutions is critical to the growth and acceptance of guaranteed lifetime income as a fundamental component of a comprehensive, well-considered retirement plan.

Understanding the advantages and disadvantages of guaranteed lifetime-income solutions, in the context of understanding one's individual retirement-income needs, will enable individuals to effectively assess the guaranteed lifetime-income solutions, in-plan or out-of-plan, that will fit them best.

While we recognize the importance of education and communication to assist participants in making informed decisions about the selection of guaranteed lifetime income, we strongly believe the most effective way, as discussed below, to increase utilization is for plan sponsors to make guaranteed lifetime-income solutions the default distribution option.

#### **WHAT INFORMATION SHOULD BE PROVIDED**

The range of information about guaranteed lifetime-income solutions should include—but should not be limited to—the following, and should be tailored to personal circumstances and preferences:

- Expected payout, death benefits, fees and charges, investment options and associated risks, liquidity and tax implications.
- Reasonable levels of information to help participants understand the product and its advantages and disadvantages. However, voluminous levels of material should be avoided since it may ultimately deter or confuse plan participants.
- Participant educational programs that follow a logical and understandable path, first introducing the need to save for retirement, then reviewing the importance of guaranteed lifetime-income as a key component of retirement savings, and then focusing on product offerings available to meet retirement-income needs. The goal is to build understanding of the “retirement challenge” and to demonstrate the need for a solution.

## WHEN SHOULD IT BEGIN

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- Given the importance of this issue, educational programs on both the accumulation and decumulation stages of retirement planning—including the availability of guaranteed lifetime-income solutions—should start as soon as an individual begins his or her path toward saving for retirement.
- Establishing sound and balanced retirement-planning habits early will encourage participants to devote proper attention on the decumulation phase throughout the retirement-planning and saving process.

Early educational efforts will supply participants with the tools necessary to develop a successful and comprehensive retirement plan for the future. The educational effort should include special considerations and tailored efforts for plan participants nearing retirement.

## HOW SHOULD INFORMATION BE PROVIDED

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Information and education should be made available through a variety of communication venues, so that it's accessible in a manner that's comfortable and appealing to a wide range of individuals, each with different preferences.

- Some people prefer paper ... others want information delivered electronically through email, CDs<sup>19</sup>, DVDs or the internet ... still others learn best through verbal communications and would welcome in-person sessions or face-to-face meetings. All approaches should be utilized.
- Moreover, regardless of the media used, the communications must be offered in a clear and concise manner. The flexible and comprehensible nature of such communications will help improve participant knowledge about the products and their advantages and disadvantages.
- A key component is the idea of lifetime learning. To build acceptance and understanding, lifetime income should be discussed throughout an individual's career, not just as retirement nears.

## CURRENT APPROACHES

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Current approaches to retirement education—which are usually offered on an ongoing basis—focus primarily on the accumulation stage of retirement planning and include information about participating in the plan, investment options, the advantages of saving, and the importance of diversification.

- Arguably and understandably, plan sponsors have a greater incentive to devote their attention and resources to encouraging plan participation, as opposed to educating participants about decumulation options, primarily because they need to satisfy plan qualification rules.

<sup>19</sup> "Prudential Retirement Red Zone," <https://secure.prudential.com/rz> (April 30, 2010)

- Unfortunately, this means there's insufficient education about decumulation options and guaranteed lifetime-income solutions. As a result, many participants lack even a basic understanding about guaranteed lifetime income.
- When provided, information about guaranteed lifetime-income solutions is typically furnished by the plan and is usually targeted to older participants. It is not part of the core educational process.

### **A BETTER WAY**

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Prudential Retirement offers a guaranteed lifetime-income solution that has become a core component of our business. This product, called Prudential IncomeFlex® Target<sup>SM</sup>, offers the benefits of guaranteed lifetime-income with the ease of simplified investing. For additional information refer to supplemental attachment "Prudential IncomeFlex Target."

- Participants are introduced to this product not as a draw-down tool or a later-in-life tool, such as a traditional annuity, but rather as an understandable investment product—a target-date fund—that can simplify the investing process during the accumulation phase.
- Education for this product begins, naturally, during the investment allocation process and continues throughout the participant's relationship with Prudential. Information is provided to participants on their quarterly statements and online . . . and supporting tools help participants track their progress toward achieving a secure retirement. This facility is in harmony with the Lifetime Income Disclosure Act (S. 2832) proposed by Senator Bingaman. Similar provisions were included in the Small Businesses Add Value for Employees Act of 2009 (SAVE Act H.R. 4742). Prudential believes that these measures would result in increased retirement savings and change participant's perception of defined contribution plans from capital accumulation arrangements to plans designed to generate guaranteed lifetime-income. We urge the Agencies to support this proposed legislation.

Despite best intentions and efforts, Prudential's experience conclusively demonstrates that education and information about the importance of guaranteed lifetime-income has proven inadequate to increase the utilization of guaranteed lifetime-income solutions. The most effective way to combat behavioral inertia is for the Agencies to encourage plan sponsors to design their plans to make guaranteed lifetime income the default investment and distribution option. The Agencies should be mindful of innovative products and solutions in whatever actions they take to advance this objective.

**Question 18:**  
**Is there a need for guidance, regulatory or otherwise, regarding the extent to which plan assets can be used to pay for providing information to help participants make informed decisions regarding whether to select lifetime income or other arrangements designed to provide a stream of income after retirement, either via an in-plan or out-of plan option?**

**RECOMMENDATION: The Department of Labor should...**

- *Issue guidance regarding the use of plan assets to pay for education and advice about in- and out-of-plan guaranteed lifetime-income solutions.*

We recommend that the Department of Labor issue clear guidance regarding the extent to which plan assets can be used to pay for providing educational support, given the importance of providing clear, meaningful and actionable information about investment products that offer guarantees or other forms of lifetime income.

Furthermore, we recommend that the Department of Labor clarify regulations governing the use of plan assets to provide information about out-of-plan options, if a participant reasonably needs such information in order to make an informed decision about investing in an out-of-plan product that can deliver guaranteed lifetime income in retirement.

Participants need information in order to make informed decisions about investing their plan account balances—in whole or in part—in products that offer guaranteed lifetime income, irrespective of whether that income ultimately may be delivered in the form of plan distributions or distributions from out-of-plan options.

As noted above, education about in-plan options is vital, and a participant employed by one plan sponsor until retirement may choose to receive guaranteed lifetime income directly from the plan. At the same time, individual circumstances—such as changes in employment or even a change in plan service providers—may require other individuals to receive guaranteed lifetime income from a rollover IRA designed by the product provider for the purpose of preserving guarantees.

Making appropriate decisions about investing plan assets in out-of-plan options requires the same level of education and information as in-plan options, especially if there is a change in employment status or if the plan sponsor selects a new plan service provider. It is reasonable to deliver this information both while the individual is participating in the plan and, in order to avoid frustration about original intent, at the point of distribution.

Even though the Department of Labor has issued guidance that we believe plan sponsors can rely on in using plan assets to pay for the expense of providing information about an in-plan option<sup>20</sup>, it would be helpful for the Department of Labor to specifically articulate this position.

<sup>20</sup> *Advisory Opinion 2001-01A* (Fact Pattern Five, confirming that expenses of providing plan-related information beyond legally-required disclosure is a permissible plan expense but stating that expenses of providing certain non-plan is not permissible)

**Question 19:**  
**What specific legal concerns do plan sponsors have about educating participants as to the advantages and disadvantages of lifetime income or other arrangements designed to provide a stream of income after retirement? What actions, regulatory or otherwise, could the Agencies take to address such concerns?**

**RECOMMENDATION: The Department of Labor should...**

- *Clarify and expand Interpretative Bulletin 96-1 to address education regarding distributions options.*

Plan sponsors are concerned that providing any information or education about the advantages or disadvantages of guaranteed lifetime-income solutions will be deemed as “providing investment advice.”

This potentially exposes them to additional fiduciary risk, including “breach of duty,” in the event of a future decline in the financial strength of a product provider or a change in participant circumstances that subsequently makes the sponsor’s initial decision to offer a guaranteed lifetime-income solution appear, in hindsight, as imprudent.

This situation can be addressed by a clarification or expansion of Interpretative Bulletin 96-1 to cover the provision of education regarding distributions. As it stands now, it is widely believed throughout the retirement industry that the Bulletin applies solely to the accumulation stage.

Such a clarification would increase the “comfort level” of plan sponsors about providing helpful information and education to participants about guaranteed lifetime-income solutions. It would also provide direction about what sponsors are permitted to offer ... reduce concerns about potential liability or exposure for breach of fiduciary responsibility ... and it would greatly increase the likelihood that participants will have access to the important planning material and education they need to make informed decisions.

**Question 20:**  
**To what extent should plans be encouraged to provide or promote education about the advantages and disadvantages of lifetime annuities or similar lifetime income products, and what guidance would be helpful to accomplish this?**

**RECOMMENDATION: The Department of Labor should...**

- *Clarify and expand Interpretative Bulletin 96-1 to address education regarding distribution options.*

Workplace retirement plans provide an extremely valuable platform for educating American workers about guaranteed lifetime-income solutions, and plan sponsors should be encouraged to do just that, either directly or through their plan-service providers.

One impediment is the uncertainty about the application of existing regulatory guidance about investment education regarding guaranteed lifetime-income solutions. In Interpretative Bulletin 96-1 (“IB 96-1”), the Department of Labor offers extremely helpful “safe harbor” examples of categories of investment-related information and materials that may be furnished to participants without the provision of such information and materials being considered the rendering of investment advice for purposes of the definition of “fiduciary” under ERISA section 3(21)(A)(ii).

It applies irrespective of who supplies the information—the plan sponsor, another fiduciary or a service provider—or the form the information takes (orally or in writing).

One category is for “plan information,” including “information and materials ... regarding the operation of the plan” and information that’s required under the ERISA 404(c) safe harbor relating to plan investment alternatives. Another category is for general financial and investment information.

The safe harbor examples contained in IB 96-1 generally describe plan investment information and reference the educational tools and resources that focus on concepts a participant should consider in accumulating and allocating assets.

While the safe harbors likely would encompass education about plan investment alternatives that offer guaranteed minimum withdrawal benefits and other guaranteed lifetime-income solutions—and the potential utility of such alternatives in estimating future retirement income needs—***the Department of Labor should update IB 96-1 to add examples that specifically address guaranteed minimum withdrawal benefits and other guaranteed lifetime-income solutions.*** In effect, the Department of Labor should explicitly note that providing information and materials regarding guaranteed lifetime-income can be considered participant investment education for purposes of IB 96-1.

Further, as described elsewhere in our comments, guaranteed lifetime-income solutions are often available outside a qualified plan as rollover IRA investments.

Several guaranteed lifetime-income solutions allow for rollovers to IRAs that retain the investment guarantees and annuity purchase rights that were accumulated through an in-plan feature. Therefore, in order to provide useful and meaningful education to participants about guaranteed lifetime-income solutions, plan sponsors and their service providers need to discuss plan distributions and IRA rollover options. We believe that Department of Labor guidance in this area is particularly uncertain and requires clarification.

**Question 21:  
Should an individual  
benefit statement  
present the  
participant's accrued  
benefits as a lifetime  
income stream of  
payments in addition  
to presenting the  
benefits as an  
account balance?**

**RECOMMENDATION: The Agencies should...**

- *Encourage the disclosure of account balance in the form of guaranteed lifetime income; and*
- *Support the passage of the Lifetime Income Disclosure Act and similar measures.*

Given the importance of retirement income, and the need to change perceptions that a retirement account is simply a “savings account,” we encourage the disclosure of existing account balances in the form of guaranteed lifetime income on participant benefit statements. In fact, we would encourage all plans to clearly illustrate existing account balances in the form of guaranteed lifetime income. We support the passage of the Lifetime Income Disclosure Act S. 2832 and Small Businesses Add Value for Employees Act of 2009 (SAVE Act) H.R. 4742.

According to research conducted by the Gallup Organization, 82.4% of Americans find that the annual Social Security Administration benefit statement, which among other things discloses estimated payout benefits to individuals, is “very to somewhat useful” in increasing their knowledge about benefits that may affect them directly.<sup>21</sup>

Additionally, the report shows that receipt of a statement played a significant role in raising the general level of understanding about Social Security. While the information on Social Security statements and plan participant benefit statements are not completely “apples-to-apples,” disclosing accrued benefits as a guaranteed lifetime-income stream would be an important component in a broader educational campaign aimed at increasing awareness about the distribution phase of retirement planning. In addition, statements should act as a bridge to more detailed information available online or through a live representative.

Prudential currently provides participants with the opportunity to project future guaranteed lifetime income through tools such as our Retirement Income Calculator, and through information contained in the “Retirement Income” section of our quarterly statements. We also offer our Retirement Counselors as an additional resource for participants who wish to discuss how to best manage retirement assets in order to create a sustainable income flow that would satisfy retirement-income needs.

<sup>21</sup> Social Security Administration Public Understanding Measurement System (PUMS), 1999 survey conducted by the Gallup Organization

## SAMPLE DEFINED CONTRIBUTION PARTICIPANT STATEMENT

Prudential Retirement  
 Post Office Box 8000  
 Millville, NJ 08332



**Your 401(k) Program**  
 July 1, 2009 - September 30, 2009

Participant Name  
 Participant Address  
 City, State, & Zip Code

Your email address: partname@xxx.net

### At Your Service

Visit [www.prudential.com/online/retirement](http://www.prudential.com/online/retirement)  
**1-877-PRU-2100**  
 Hearing Impaired: Call (TDD) 1-800-834-2766

**Financial Advisor:**  
**Mr. Smith** - 1-800-555-1234  
**Investment Consultant:**  
**Ms. Doe** - 1-800-555-1235

### Account Overview

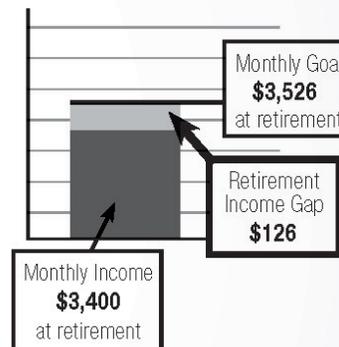
Beginning Value on 07/01/2009	\$44,073.12
Additions	1,721.35
Deductions	-508.18
Change in Value	-3,610.87
<b>Ending Value on 09/30/2009</b>	<b>\$41,675.42</b>

<b>Vesting</b>	<b>100%</b>
<b>Outstanding loan balance</b>	<b>\$440.47</b>
<b>My year-to-date contributions</b>	<b>\$2,231.93</b>
<b>My organization's year-to-date contributions</b>	<b>\$1,374.80</b>

For details, log on to your account at [www.prudential.com/online/retirement](http://www.prudential.com/online/retirement)

### Retirement Income Overview as of 9/30/09

Projected Retirement Income in future dollars



The Retirement Income Overview is only an estimated calculation based on the information you provided online. Numbers may change due to changes in the market through the year. Please visit [www.prudential.com/online/retirement](http://www.prudential.com/online/retirement) to update your retirement income calculation.

### Personal Performance as of 09/30/09

Your personal account performance was calculated using a weighted rate of return based on the level and timing of cash flows in and out of specific investments. For a detailed explanation, please visit us online at [www.prudential.com/prep/personalrate](http://www.prudential.com/prep/personalrate).

▼ - 8.08% 7/1-9/30  
 ▲ + 1.0% Since Jan 1

### Retirement Income Overview Information

The projections presented above are hypothetical and not intended to represent the performance of your plan investments. Projections are based upon plan information provided by your employer, information you may have entered, and on certain simplifying assumptions, including:

- A monthly income at retirement equal to your current pay provided by your employer (with an assumed annual increase of x% each year until retirement). Any incentive compensation you may earn in addition to your salary is not included.
- Your current age of (x). A retirement income goal of (x%) of your monthly pay when you become eligible to retire.
- Retirement age at (65) and (20) years spent in retirement.
- An assumed average annual return of (x%) until retirement. The rate applied is only an estimate and is not intended to predict the performance of any investment or balance.
- Continuation of current plan provisions and your employment until retirement.
- Your eligibility for Social Security benefits upon retiring.
- Current law provides that Social Security benefits can begin at age 62.



Produced with the environment in mind.





Remember, you can use [www.prudential.com/online/retirement](http://www.prudential.com/online/retirement) to access detailed account information such as investment performance (including benchmarks, asset categories and expense ratios), investment allocations, transaction history, contribution detail and much, much more!

### News & Important Information

Great News! An upgrade to the participant website will be performed which will update the security used on the website. This change will require every participant who uses the website to update their registration information. Keep your eyes and ears open for more details.

### Account Activity by Fund from 7/01/09 - 9/30/09

Fund Name	Beginning Value	Additions & Deductions	Change in Value	Ending Value	Net Expense Ratio (%)
Guaranteed Income	\$12,358.12	\$-497.08	\$142.44	\$12,003.48	0.15
Core Plus Bond	9,712.16	210.98	-578.03	9,345.11	0.42
Large Cap Turner	6,170.74	721.02	-1,196.64	5,695.12	0.77
Large Cap LSV	6,166.50	-11.10	-445.72	5,709.68	0.75
Small Cap Kennedy	2,627.32	89.53	-271.53	2,445.32	0.90
Small Cap Essex	2,623.65	107.75	-259.54	2,471.86	0.92
Int'l Pictet Asset	4,414.63	592.07	-1,001.85	\$4,004.85	1.06
<b>Totals</b>	<b>\$44,073.12</b>	<b>\$1,213.17</b>	<b>\$-3,610.87</b>	<b>\$41,675.42</b>	

### Non-Investment Fee/Expense & Adjustments

**Date**      **Description**      **Amount**  
 There were no fees or expenses to report this period.

### GoalMaker Overview

You are enrolled in GoalMaker®.  
**Model Portfolio:** Conservative, 11-15 years with Age Adjustment  
**Rebalancing Frequency:** Quarterly  
**Next Rebalance Date:** 12/29/2009

### Your Beneficiary Information

Beneficiary Name	Relationship	Primary or Secondary	Percentage of Benefit
Beneficiary #1	Sister-Brother	Primary	34%
Beneficiary #2	Sister-Brother	Primary	33%
Beneficiary #3	Niece-Nephew	Primary	33%

Listed above is the beneficiary information currently on file for you with Prudential Retirement. It is important to regularly review your beneficiary designations, especially if you have experienced a life event (i.e. marriage) or if you reached a certain age as specified in your plan document (i.e., 35). You may have more beneficiary designations on file than listed. If you need to make changes to your beneficiary designations, please call Prudential Retirement or visit our website.

## Fund Performance

Please note: Fund categories are organized from least aggressive to most aggressive.

◆ Indicates the funds or other investment options you are invested in.

**Past performance does not guarantee future results and current performance may be lower or higher than the past performance quoted. The investment return and principal value will fluctuate and shares/units when sold may be worth more or less than the original cost. For more information, log on to the Online Retirement Center shown at the bottom of the page and choose "Performance" under your account. For performance information current to the most recent month end, please call 1-877-PRU-2100 or visit our website at [www.prudential.com/online/retirement](http://www.prudential.com/online/retirement).**

Fund Name	This Period (%)	Since Jan 1 (%)	1 Year (%)	3 Years (%)	5 Years (%)	10 Years or Since Inception (%)	Inception Date	Gross Expense Ratio* (%)	Net Expense Ratio* (%)
<b>Stable Value</b>									
Benchmark: 5 Yr Treasury Avg Yield	0.77	2.22	3.15	4.13	3.90	4.27			
◆ 037822-Guaranteed Income Fund (The net interest crediting rate for the fund is 4.60% as of the end of this statement)	1.14	3.42	N/A	N/A	N/A	4.05	11/12/07	0.15	0.15
<b>Fixed Income-Domestic</b>									
Benchmark: Lehman Brothers Aggregate Bond Index	-0.49	0.63	3.65	4.15	3.78	5.20			
◆ 037766-Core Plus Bond/Reams Fund <sup>1</sup>	-5.83	-6.05	-3.74	1.46	2.33	5.12	11/30/99	0.42	0.42
<b>Large-Cap Stock—Value</b>									
Benchmark: Russell 1000 Value Index	-6.11	-18.85	-23.56	0.09	7.12	5.55			
◆ 032093-Lrg Cap Val/LSV Asset Mgmt Fd <sup>1</sup>	-7.18	-20.99	-26.55	-1.63	7.47	7.80	07/31/02	0.77	0.77
020544-NeubergerBerman Partners Tr Cl	-25.25	-28.62	-27.76	-3.44	7.14	4.42		1.00	1.00
<b>Large-Cap Stock—Blend</b>									
Benchmark: Russell 1000 Index	-9.35	-19.50	-22.10	0.13	5.50	3.49			
034420-Davis NY Venture (Class A) A	-9.92	-20.54	-22.17	-0.07	6.61	6.17		0.85	0.85
037839-Dryden S&P 500 Index Fund <sup>1</sup>	-8.38	-19.32	-22.01	0.09	4.99	2.88		0.25	0.25
<b>Large-Cap Stock—Growth</b>									
Benchmark: Russell 1000 Growth Index	-12.33	-20.27	-20.88	0.04	3.74	0.59			
◆ 031448-Lrg Cap Gro / Turner Fund <sup>1</sup>	-18.58	-31.41	-28.51	-1.92	4.52	2.80		0.75	0.75
002673-American Funds Grth Fd Amer R4	-15.05	-20.76	-22.93	0.78	6.92	5.33	05/31/02	0.68	0.65
<b>Mid-Cap Stock—Value</b>									
Benchmark: Russell MidCap Value Index	-7.52	-15.46	-20.50	0.51	9.97	9.19			
035251-Goldman Sachs Mid Val Inst	-13.67	-16.72	-19.25	0.21	10.12	11.03		0.76	0.76
<b>Mid-Cap Stock—Growth</b>									
Benchmark: Russell MidCap Growth Index	-17.75	-23.35	-24.65	-0.75	6.53	5.51			
037629-Thornburg Core Growth R5	-15.01	-32.61	-35.19	N/A	N/A	-1.16	10/03/05	0.97	0.97
<b>Small-Cap Stock—Value</b>									
Benchmark: Russell 2000 Value Index	4.96	-5.37	-12.25	2.00	9.45	10.14			
◆ 024611-Sml Cap Val/Kennedy Capital <sup>2,1</sup>	-10.05	-12.79	-17.99	4.27	7.20	5.09	01/31/01	0.90	0.90
037820-Allianz NFJ SmallCap Val Instl	-4.52	-6.63	-10.07	5.17	13.14	12.69		0.82	0.82
<b>Small-Cap Stock—Blend</b>									
Benchmark: Russell 2000 Index	-1.11	-10.38	-14.48	1.83	8.15	7.81			
037713-Vanguard Small Cap Idx Signal <sup>2</sup>	-5.01	-12.76	-17.12	N/A	N/A	-7.11	12/15/06	0.11	0.11
<b>Small-Cap Stock—Growth</b>									
Benchmark: Russell 2000 Growth Index	-6.99	-15.29	-17.07	1.45	6.64	4.67			
◆ 037840-Sml Cap Grth/Essex Fund <sup>2,1</sup>	-9.57	-26.01	-27.18	N/A	N/A	-8.54	03/31/06	0.92	0.92
<b>International Stock—Value</b>									
Benchmark: MSCI EAFE Value	-19.07	-29.84	-32.11	0.56	10.63	7.36			
035685-AllianceBernstein Intl Val K	-24.46	-34.96	-38.55	-1.21	8.98	8.60	03/31/01	1.10	1.10



Produced with the environment in mind.



## Fund Performance Continued

Fund Name	This Period (%)	Since Jan 1 (%)	1 Year (%)	3 Years (%)	5 Years (%)	10 Years or Since Inception (%)	Inception Date	Gross Expense Ratio* (%)	Net Expense Ratio* (%)
<b>International Stock—Blend</b>									
Benchmark: MSCI EAFE (net)	-20.56	-29.26	-30.50	1.12	9.69	5.02			
◆ 057842-Intl Bld/Pictet Asset Mgmt †	-21.60	-31.97	-34.72	N/A	N/A	-16.22	01/22/07	1.06	1.06
<b>International Stock—Growth</b>									
Benchmark: MSCI EAFE Growth	-21.88	-28.01	-28.19	2.51	9.59	3.28			
057819-AIM International Growth I	-15.90	-26.03	-27.53	5.03	12.92	8.97	03/15/02	1.03	1.03

\* The net and gross expenses shown include the total operating expenses of the funds and the indirect expense of the funds' underlying portfolios. Your investment returns are reduced by various fees and expenses. For each investment option, the "Expense Ratio" columns show these charges as an annual percentage. Depending on the type of investment, these charges are paid to Prudential or to unaffiliated mutual fund complexes or bank collective trusts.

Some mutual funds and bank collective trusts, or their affiliates, compensate Prudential for selling their shares and servicing accounts, as detailed in the Fact Sheet for that investment option. For other investment options, the charges reflected in the expense ratio are typically deducted by Prudential in return for investment and recordkeeping services, and product distribution. In some cases, the charges also enable Prudential to satisfy a request for allowances to defray certain expenses. Programs may not include investment options with lower fee structures or lower cost share classes in order to compensate Prudential, in the aggregate, for servicing the account.

Any fees and expenses that you pay will have an impact on your retirement savings over time. As an example, consider an account holder who began the year with a \$10,000 account balance and enjoyed an investment return of 5% in a fund with an expense ratio of 0.85%. At the end of the year, the individual would have paid \$89.25 for the services associated with the account.

These returns are net of investment-related fees and charges as well as current contract charges, including asset charges (if applicable). Your actual rate of return may differ from these returns depending upon your specific account activity (including the timing of your contributions and purchases and other account transactions as well as any changes in your contract charges). Investments in the market-valued funds involve the risk and reward associated with the securities markets. The Inception Date represents the date assets were first invested in the fund or the date a specific share class was initiated. "N/A" indicates the fund was not in existence or data was not available/applicable at the time this statement was printed.

<sup>1</sup> Prudential Financial is a service mark of The Prudential Insurance Company of America, Newark, NJ and its affiliates. Institutional sub-advised funds are insurance products issued by Prudential Retirement Insurance and Annuity Company, Hartford, CT. Prudential Retirement is a Prudential Financial Business.

<sup>2</sup> Smaller companies may present greater opportunities for capital appreciation, but may also involve greater risks than larger companies. As a result, the value of stocks issued

## Important Information:

**To help achieve long-term retirement security**, you should give careful consideration to the benefits of a well-balanced and diversified investment portfolio. Spreading your assets among different types of investments can help you achieve a favorable rate of return, while minimizing your overall risk of losing money. This is because market or other economic conditions that cause one category of assets, or one particular security, to perform very well often cause another asset category, or another particular security, to perform poorly. If you invest more than 20% of your retirement savings in any one company or industry, your savings may not be properly diversified. Although diversification is not a guarantee against loss, it is an effective strategy to help you manage investment risk.

You should take into account all of your assets, including any retirement savings outside of the plan. No single approach is right for everyone because, among other factors, individuals have different financial goals, different time horizons for meeting their goals, and different tolerances for risk. It is also important to periodically review your investment portfolio, your investment objectives, and the investment options under the plan to help ensure that your retirement savings will meet your retirement goals.

You may also choose to visit the Department of Labor's website at [www.dol.gov/ebsa/investing.html](http://www.dol.gov/ebsa/investing.html) for additional information on investing and diversification.

**Vesting Information** has been provided to Prudential and is subject to confirmation. You are always 100% vested in the contributions you make and the earnings on those contributions. For more information on when you may become partially or fully vested, please refer to your Summary Plan Description (SPD).

**Additions & Deductions** to your account include any contributions, loan grants/repayments, and exchanges in/out, with drawings, transferred assets, expenses, and adjustments.

**Investments:** The value of your investment in each fund is calculated at the end of the statement period (number of units/shares held x the unit/share price). Any transactions pending settlement have not been included.

**The net expense ratio** shown includes the total operating expenses of the funds and the indirect expenses of the funds' underlying portfolios and is shown as an annual percentage. Your investment returns are reduced by various fees and expenses. Depending on the type of investment, these charges may be paid to Prudential or unaffiliated mutual fund complexes or collective bank trusts. Expenses have been reduced pursuant to contractual agreements, subject to change, to waive payment or provide reimbursement of certain otherwise permissible charges. Please review the Fund Fact sheet or prospectus for more information regarding expense ratios.

**Non-Investment Fee/Expense & Adjustments** reflect any fees, expenses, or adjustments that were deducted from your account during the statement period. This does not include any investment-related fees. For more information on investment fees, please review the Fund Fact Sheets which can be accessed online.

**Market Timing:** Your plan offers investment options that may be subject to market timing restrictions; therefore, you may be subject to restrictions if you engage in excessive trading activity in those investment fund options. Retirement plan investing is for the long term. A full copy of the policy is provided on an annual basis. In addition, additional information may also be contained in the investment fund prospectus.

**Stock Investments:** Your plan provides employer stock as an investment option and you may be subject to restrictions that affect your ability to trade employer stock (impacting the amount and timing of your trades).

**Self-Directed Accounts:** Your plan offers Self-Directed Accounts. You may be subject to restrictions on trading amounts and timing. Your account balance reflects the value reported to Prudential by a third party as of the prior day's close of market and may not necessarily match the balance on your self-directed account statement.

**Review & Keep this statement:** Your statement contains information and prices provided by third parties. Please review your statement and immediately report any problems to Prudential Retirement. If you fail to notify us within 60 days after receiving this statement, Prudential Retirement will not be obligated to correct past errors. Changes in prices received after the issuance of this statement will be reflected on the next statement. Participants are advised that any oral communications should be re-confirmed in writing to further protect their rights, including rights under the Securities Investor Protection Act.

Prudential Retirement's group annuity contracts are issued by Prudential Retirement Insurance and Annuity Company (PRIAC), Hartford, CT, a Prudential Financial company. Fund Shares are offered by Prudential Investment Management Services LLC (PIMS), Three Gateway Center, 14th Floor, Newark, NJ 07102-4077. PIMS is a Prudential Financial company.

Information on the holdings of any Prudential Separate Account is available at [www.prudential.com/online/retirement](http://www.prudential.com/online/retirement). You may also contact 1-877-PRU-2100 to request this information.

## SAMPLE ANNUITY STATEMENT



Annuity Services  
P.O. Box 13467  
Philadelphia, PA 19176

### Sample Annuity Statement April 01, 20XX through June 30, 20XX

Valued Client  
1234 Main Street  
Anytown, USA 99999-1234

Valued Financial Professional  
4321 Main Street  
Anytown, USA 99999-1234



**Winner of the DALBAR ANNUITY  
Service Award  
2006, 2007 & 2008**

**Winner of the DALBAR Communication  
Seal for Our Variable Annuity  
Statements 2007 and 2008**



Annuity #: E0999999  
Owner Name: Valued Client  
Annuitant: Valued Client

Type: Non Qualified

Issue Date: 04/01/20XX  
Statement Date: 06/30/20XX

To obtain the most up-to-date information about your account, please visit our interactive website: [www.prudentialannuities.com](http://www.prudentialannuities.com), or call the Annuity Service Center at: 1-888-778-2888 (Investor line) / 1-800-513-0805 (Financial professionals). Our representatives are available to assist you Monday through Thursday (8:00 a.m. - 7:00 p.m. EST), and Friday (8:00 a.m. - 6:00 p.m. EST).

Please review your statement and contact us within 30 days if you find any information you believe to be inaccurate. Note that any living benefit or death benefit values you may have are shown in the "Your Benefit Values" section of this statement. If you do not see a benefit that you selected, please contact us

### Your Portfolio

Your Annuity Activity	Current Quarter	Year-to-Date	Since Issue
Beginning Value	.00	.00	.00
Purchase Payments	\$500,000.00	\$500,000.00	\$500,000.00
Withdrawals	.00	.00	.00
Contract Fees and Charges*	\$1002.00	\$1002.00	\$1002.00
Investment Performance	\$10,872.00	\$10,872.00	\$10,872.00
<b>Ending Value</b>	<b>\$509,870.00</b>	<b>\$509,870.00</b>	<b>A \$509,870.00</b>
Surrender Value	\$467,370.00		

\*Contract Fees and Charges reflect certain fees and charges such as Contingent Deferred Sales Charges, transfer fees, annual maintenance fees, or other benefit fees or charges, if applicable or imposed during the period covered by this statement as of the statement date. Contract fees are based on the underlying annuity product you have selected. Complete information for fees and charges can be found in the product prospectus.

#### Highest Daily Lifetime 7 Plus<sup>SM</sup>

Estimated Protected Withdrawal Value:  
Estimated Annual Income Amount:

\* See Your Benefit Values section of this statement for more details.

**B** The estimated Protected Withdrawal Value (basis for guaranteed lifetime income assuming you began withdrawals today) is determined by capturing your account value's highest day and compounding it at 7% until you begin lifetime income. Note that this value is more than \$24,000 greater than your current account value. **A**

**C** The guaranteed estimated Annual Income Amount represents how much your annual lifetime payment would be if you were to begin taking withdrawals as of the statement date.

**B** \$534,607.00  
**C** \$26,730.35

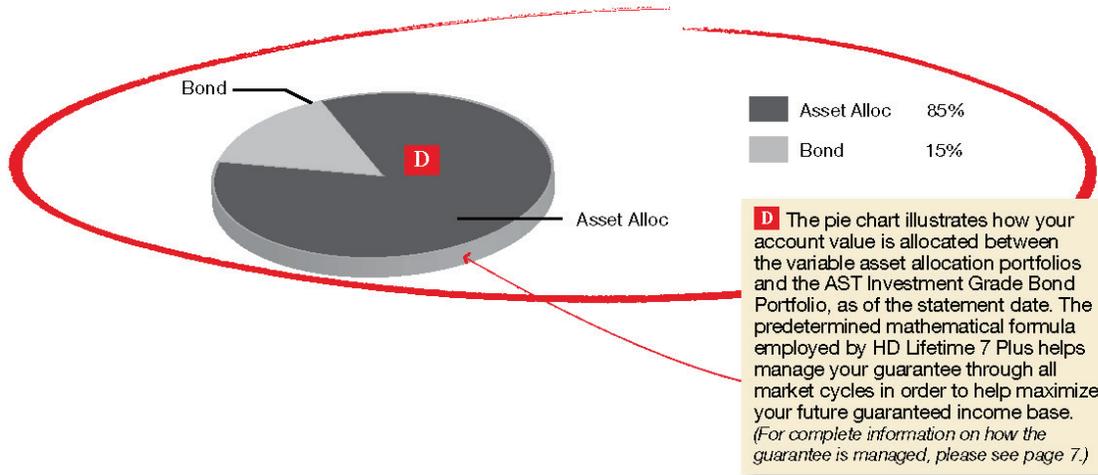
The Protected Withdrawal Value is available through withdrawals only, provided all contract provisions are met; it is not available as a lump sum. All guarantees, including optional benefits, are backed by the claims-paying ability of the issuing company

Please note, numerical values are for illustrative purposes only; they are not representative of a specific product, investment or time period.

**This piece must be accompanied by a Highest Daily Lifetime 7 Plus<sup>SM</sup> brochure and the product's current prospectus.**

IFS-A163623 Ed. 04/2009

**Sample Annuity Statement  
April 01, 20XX through June 30, 20XX**



**Portfolio Detail**

April 01, 20XX through June 30, 20XX

**VARIABLE INVESTMENTS**

	# of Units as of 06/30/20XX	Unit Price as of 06/30/20XX	Portfolio Value as of 06/30/20XX
<b>Asset Alloc:</b>			
AST First Trust Capital Appreciation	16,636.1688	13.02552	\$216,694.75
AST Advanced Strategies Portfolio	12,604.3138	17.19211	\$216,694.75
<b>Bond:</b>			
AST Investment Grade Bond	5,411.645	14.13258	\$76,480.50
<b>TOTAL INVESTMENT VALUE</b>			<b>\$509,870.00</b>

Total Investment Value reflects all charges that have been imposed as of this statement date, but does not include charges that may be imposed in the future.

Withdrawals made prior to the Statement Date are reflected in the values shown above. The Maturity Date is the end of your Guarantee Period. The surrender value may change daily to reflect the investment performance of the Sub-Accounts in which you are invested and fluctuations in our current fixed rates. Our current fixed rates are sensitive to interest rate fluctuations in the market.

**E** Prudential Annuities® offers a wide array of turnkey asset allocation portfolios spanning four diverse investment strategies, including portfolios featuring access to the latest alternative strategies. You can choose to invest in any one or to blend any combination of portfolios, which may help to lower volatility and provide the potential for greater returns. Please work with your financial professional to select the investments that are most appropriate for you.

Please note, numerical values are for illustrative purposes only; they are not representative of a specific product, investment or time period.

## Sample Annuity Statement April 01, 20XX through June 30, 20XX

### Your Benefit Values

**F** The Annuity Death Benefit is the amount your beneficiaries **J** would receive, upon your death, as of the statement date. (Please see the next page for beneficiary information.)

**F** **\$509,870.00**

#### Annuity Death Benefit (Net)

The Annuity Death Benefit is shown as of the date of this statement and may fluctuate. If the Annuity contract is owned by more than one individual, the Annuity Death Benefit shown is based on the oldest designated Owner. If the Annuity is owned by an entity, the Annuity Death Benefit shown is based on the designated Annuitant. For more details on how the actual net death benefit is calculated, please review the terms and conditions detailed in your prospectus.

The Annuity Death Benefit is shown as of the date of this statement and may fluctuate. For more details on how the net death benefit is calculated, please review your prospectus. Certain terms and conditions detailed in your prospectus may affect the actual death benefit.

#### Highest Daily Lifetime 7 Plus<sup>SM</sup>

You have elected Highest Daily Lifetime 7 Plus, a benefit designed to provide you with lifetime income. If you had taken a Lifetime Withdrawal on 6/30/20XX, your estimated Protected Withdrawal Value would have been \$534,607.00 and your estimated Annual Income Amount would have been \$26,730.35 for life. **Assuming you do not take any Lifetime Withdrawals from your contract prior to the benefit anniversaries listed below, we will guarantee your Protected Withdrawal Value (PWV) to be at least:**

<b>G</b> Enhanced Guarantee*	Amount	Guarantee Date
10 Year Guarantee (200% PWV)	<b>H</b> \$1,000,000.00	4/01/2019
20 Year Guarantee (400% PWV)	\$2,000,000.00	4/01/2029
25 Year Guarantee (600% PWV)	\$3,000,000.00	4/01/2034

\*A Non-Lifetime Withdrawal will proportionally reduce the above guarantee(s).

In addition, a Return of Principal Guarantee will be available to you on 4/01/2019 in the amount of \$500,000.00, if you do not take any Lifetime Withdrawals from your contract prior to your tenth benefit anniversary. A Non-Lifetime Withdrawal will proportionally reduce this guarantee.

Please be aware that the actual amounts will be determined when you choose to exercise this benefit by taking your first Lifetime Withdrawal. Please refer to your contract and prospectus for more information on how this benefit works.

**G** The minimum income guarantees offered by HD Lifetime 7 Plus – 200%, 400% or 600% of your account value at benefit election, as long as no Lifetime Withdrawals have been taken within the first 10, 20 and 25 years respectively.

**H** In this example, if you began lifetime income in year 11, your Annual Income Amount would be no less than \$50,000/year for the rest of your life, based on a Protected Withdrawal Value of \$1,000,000.

All guarantees, including optional benefits, are backed by the claims-paying ability of the issuing company and do not apply to the underlying investment options.

Please note, numerical values are for illustrative purposes only; they are not representative of a specific product, investment or time period.

**Sample Annuity Statement  
April 01, 20XX through June 30, 20XX**

**Investment Transaction Activity**

April 01, 20XX through June 30, 20XX

Transaction	Investments	# of Units/ Interim Value	Unit Price/ MVA	Value/Date Account Value
04/01/20XX Transaction Type: Purchase Payment				
	AST First Trust Capital Appreciation	19,140.499	13.06131	\$250,000.00
	AST Advanced Strategies Portfolio	14,548.527	17.18387	\$250,000.00
<b>Total:</b>				<b>\$500,000.00</b>

Transaction	Investments	# of Units/ Interim Value	Unit Price/ MVA	Value/Date Account Value
05/09/20XX Transaction Type: Benefit Transfer				
	AST First Trust Capital Appreciation	(1,230.7597)	13.0001	(\$16,000.00)
	AST Advanced Strategies Portfolio	(942.05202)	16.9842	(\$16,000.00)
	AST Investment Grade Bond	3196.966	10.00949	\$32,000.00
<b>Total:</b>				<b>\$0.00</b>

Transaction	Investments	# of Units/ Interim Value	Unit Price/ MVA	Value/Date Account Value
05/23/20XX Transaction Type: Benefit Transfer				
	AST First Trust Capital Appreciation	(2868.8862)	13.33270	(\$38,250.00)
	AST Advanced Strategies Portfolio	(2358.7247)	16.21639	(\$38,250.00)
	AST Investment Grade Bond	7642.7470	10.00949	\$76,500.00
<b>Total:</b>				<b>\$0.00</b>

Transaction	Investments	# of Units/ Interim Value	Unit Price/ MVA	Value/Date Account Value
06/03/20XX Transaction Type: Benefit Transfer				
	AST Investment Grade Bond	(3163.3033)	(10.12233)	(\$32,020.00)
	AST First Trust Capital Appreciation	1230.6107	13.0098	\$16,010.00
	AST Advanced Strategies Portfolio	936.3230	17.0988	\$16,010.00
<b>Total:</b>				<b>\$0.00</b>

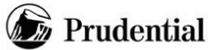
Transactions in your variable annuity contract are priced at the end of the business day (generally 4 p.m. Eastern time) on the day the transaction was processed.

**I** Each business day, HD Lifetime 7 Plus' predetermined mathematical formula determines if any portion of your account value needs to be transferred into or out of the AST Investment Grade Bond Portfolio. Transfers are unique to your individual account and depend on a number of factors, such as the difference between your account value and your Protected Withdrawal Value, as well as how long you have owned the benefit. It's important to understand that the predetermined mathematical formula is free from human emotion and intervention. (Please see page 7 for additional information.)

**Primary Beneficiary Information**

**Mary Beneficiary** **J**

Please note, numerical values are for illustrative purposes only; they are not representative of a specific product, investment or time period.



Annuity Services  
P.O. Box 13467  
Philadelphia, PA 19176

Pages 5 and 6 illustrate a sample transaction confirmation, which is separate from your quarterly statement. You will receive a transaction confirmation any time a financial transaction takes place on your account.

### Sample Annuity Transaction Confirmation May 9, 20XX

Valued Client  
1234 Main Street  
Anytown, USA 99999-1234

**Investment Professional:**  
Valued Financial Professional  
4321 Main Street  
Anytown, USA 99999-1234

Annuity #: E0999999  
Type: Non-Qualified

Owner Name: Valued Client  
Annuitant: Valued Client

To obtain the most up-to-date information about your account, please visit our interactive Web site: [www.prudentialannuities.com](http://www.prudentialannuities.com), or call the Annuity Service Center at: 1-888-778-2888 (Investor line) / 1-800-513-0805 (Financial professionals). Our representatives are available to assist you Monday through Thursday (8:00 a.m. - 7:00 p.m. EST), and Friday (8:00 a.m. - 6:00 p.m. EST).

**B** The estimated Protected Withdrawal Value based on the day the transaction took place is \$14,000 greater than your account value **A** as of the same day.

Please review your statement and contact us within 30 days if you find any information you believe to be inaccurate.

**Total Investment Value \$506,389.00 **A****

**Highest Daily Lifetime 7 Plus<sup>(SM)</sup>**

Estimated Protected Withdrawal Value:

**B** \$520,897.00

Estimated Annual Income Amount:

**C** \$26,044.85

\*See Your Benefit Values section below for more details.

**C** Your guaranteed Annual Income Amount would have been \$26,044.85 per year had you begun taking withdrawals on this day.

### Your Benefit Values as of May 9, 20XX

**Highest Daily Lifetime 7 Plus<sup>(SM)</sup>**

The Benefit Fund Transfer(s) described below are associated with your election of Highest Daily Lifetime 7 Plus<sup>(SM)</sup>, an optional benefit designed to provide you with lifetime income.

**If you had taken a Lifetime Withdrawal on 05/09/20XX, your Protected Withdrawal Value would have been \$520,897.00 and your Annual Income Amount would have been \$26,044.85 for life.** Please be aware that the actual amounts will be determined when you choose to exercise this benefit by taking your first Lifetime Withdrawal.

All guarantees, including optional benefits, are backed by the claims-paying ability of the issuing company and do not apply to the underlying investment options.

Please note, numerical values are for illustrative purposes only; they are not representative of a specific product, investment or time period.

### Sample Annuity Transaction Confirmation May 9, 20XX

**D** This section shows the actual transaction that took place on your contract. In this example, we see a Benefit Fund Transfer that moved a small portion of your account value to the AST Investment Grade Bond Portfolio as dictated by the HD Lifetime 7 Plus formula.

#### Investment Transaction Activity

Transaction	Investments	# of Units/ Interim Value	Unit Price/ MVA	Value/ Account Value
Date	<b>D</b>			
05/09/20XX	Transaction Type: Benefit Fund Transfer			
	AST First Trust Capital Appreciation	(1,230.7597)	13.0001	(\$16,000.00)
	AST Advanced Strategies	(942.05202)	16.9842	(\$16,000.00)
	AST Investment Grade Bond Portfolio	3196.966	10.00949	\$32,000.00
<b>Transaction Total:</b>				<b>\$0.00</b>

Transactions in your variable annuity contract are priced at the end of the business day (generally 4 p.m. Eastern time) on the day the transaction was processed.

#### Account Value as of May 9, 20XX

Variable Investments	# of Units/	Unit Price/	Value
AST First Trust Capital Appreciation	21,003.674	11.2930	\$237,194.50
AST Advanced Strategies	16,175.624	14.6637	\$237,194.50
AST Investment Grade Bond Portfolio	3,789.8975	8.4435	\$32,000.00
<b>Total Investment Value:</b>			<b>\$506,389.00</b>

Total Investment Value reflects all charges that have been imposed, as of this statement date, but does not include charges that may be imposed in the future.

*Please note, numerical values are for illustrative purposes only; they are not representative of a specific product, investment or time period.*

## How Does HD Lifetime 7 Plus Manage Your Guarantee?

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Highest Daily Lifetime 7 Plus uses a predetermined mathematical formula to help manage your guarantee through all market cycles. Each business day, the formula determines if any portion of your account value needs to be transferred into or out of the AST Investment Grade Bond Portfolio (the "Bond Portfolio"). Amounts transferred by the formula depend on a number of factors unique to your individual annuity and include:

- (i) The difference between the account value and the Protected Withdrawal Value;
- (ii) How long you have owned Highest Daily Lifetime 7 Plus,
- (iii) The amount invested in, and the performance of, the Permitted Subaccounts;
- (iv) The amount invested in, and the performance of, the Bond Portfolio; and
- (v) The impact of additional purchase payments made to and withdrawals taken from the annuity.

Therefore, at any given time, some, most, or none of the account value may be allocated to the Bond Portfolio. Transfers to and from the Bond Portfolio do not impact any income guarantees that have already been locked in.

The Protected Withdrawal Value (the basis for guaranteed lifetime income) is separate from the account value, and only available through withdrawals, not as a lump sum. Any amounts invested in the Bond Portfolio will affect your ability to participate in a subsequent recovery within the Permitted Subaccounts. Conversely, the account value may be higher at the beginning of the recovery; e.g., more of the account value may have been protected from decline and volatility than it otherwise would have been had the benefit not been elected. Please see the prospectus for complete details.

### WHAT IS A VARIABLE ANNUITY?

*A variable annuity is an investment designed to help you save for retirement. An annuity can help you manage investment risks in many ways, including the ability to invest in equities, fixed income and other securities through a broad range of professionally managed investment options. An annuity also provides payment options to meet your income needs and, prior to annuitization, a guaranteed death benefit for your beneficiaries.*

*Variable annuities offered by Prudential Financial Companies are available at an annual cost of 0.65% to 1.65% for mortality expense & administration fees, with an additional fee related to the professional investment options. The fees will vary depending on the underlying annuity and investment options selected. Variable annuities also offer optional benefits, such as HD Lifetime 7 Plus which, for an additional fee of 0.75% of the greater of the Account Value and of the Protected Withdrawal Value, can help you avoid the risk of outliving your retirement income.*

**Investors should consider the contract and the underlying portfolios' investment objectives, risks, charges and expenses carefully before investing. This and other important information is contained in the prospectuses, which can be obtained from your financial professional. You should read the prospectuses carefully before investing.**

Your needs and the suitability of an annuity product should be carefully considered before investing. When evaluating your needs, please consider all variable annuities available from Prudential Financial companies.

This material was prepared to support the promotion and marketing of variable annuities available through Prudential. Prudential, its affiliates, its distributors and their respective representatives do not provide tax, accounting or legal advice. Any tax statements contained herein were not intended or written to be used, and cannot be used for the purpose of avoiding U.S. federal, state or local tax penalties. Please consult your own independent advisor as to any tax, accounting or legal statements made herein.

Investment return and principal value of an investment will fluctuate so that an investor's unit values, when redeemed, may be worth more or less than their original cost. Withdrawals or surrenders may be subject to surrender charges.

Annuity contracts contain exclusions, limitations, reductions of benefits and terms for keeping them in force. Your licensed financial professional can provide you with costs and complete details.

Optional benefits have certain investment, holding period, liquidity and withdrawal limitations and restrictions. Optional benefits may not be available in every state and may not be elected in conjunction with certain optional benefits. The fees for optional benefits are in addition to fees and charges associated with the basic annuity. See the prospectus for more detailed information. All guarantees, including optional benefits, are backed by the claims-paying ability of the issuing company and do not apply to the underlying investment options.

Fixed income investing is subject to risk, including credit and income rate risk. Because of these risks, a fund's share value may fluctuate. If interest rates rise, bond prices usually decline. If interest rates decline, bond prices usually increase.

Variable annuities are issued by Pruco Life Insurance Company (in New York, by Pruco Life Insurance Company of New Jersey), Newark, NJ, or by Prudential Annuities Life Assurance Corporation, Shelton, CT. All are distributed by Prudential Annuities Distributors, Inc., Shelton, CT. All are Prudential Financial companies and each is solely responsible for its own financial condition and contractual obligations. Prudential, Prudential Financial, the Rock logo and the Rock Prudential logo are registered service marks of The Prudential Insurance Company of America and its affiliates. Prudential Annuities is a business division of Prudential Financial, Inc.

Issued on riders: RID-HD7(2/09), P-RID-HD7(2/09) et al or state variation thereof.

ANNUITIES:

NOT FDIC OR GOVERNMENT AGENCY INSURED	MAY LOSE VALUE	NOT BANK OR CREDIT UNION GUARANTEED
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**Question 22:**  
**If the answer to question 21 is yes, how should a lifetime stream of income payments be expressed on the benefit statement? For example, should payments be expressed as if they are to begin immediately or at specified retirement ages? Should benefit amounts be projected to a future retirement age based on the assumption of continued contributions? Should lifetime income payments be expressed in the form of monthly or annual payments? Should lifetime income payments of a married participant be expressed as a single-life annuity payable to the participant or a joint and survivor-type annuity, or both?**

Participants would clearly benefit from receiving statements that not only showcase lump-sum values, but also illustrate annuity or other guaranteed lifetime-income values.

The best way to illustrate income is to show what account balances would generate as a “retirement paycheck” if the participant were currently eligible to retire, say age 65, and were to use his or her funds to purchase a guaranteed lifetime-income solution such as an immediate annuity. By illustrating “income” using this method, no future earnings, future contributions or inflation expectations would need to be considered.

**Question 23:**  
**If the answer to question 21 is yes, what actuarial or other assumptions (e.g., mortality, interest, etc.) would be needed in order to state accrued benefits as a lifetime stream of payments? If benefit payments are to commence at some date in the future, what interest rates (e.g., deferred insurance annuity rates) and other assumptions should be applied? Should an expense load be reflected? Are there any authoritative tools or sources (online or otherwise) that plans should or could use for conversion purposes, or would the plan need to hire an actuary? Should caveats be required so that participants understand that lifetime income payments are merely estimates for illustrative purposes? Should the assumptions underlying the presentation of accrued benefits as a lifetime income stream of payments be disclosed to participants? Should the assumptions used to convert accounts into a lifetime stream of income payments be dictated by regulation, or should the Department issue assumptions that plan sponsors could rely upon as safe harbors?**

As noted above, it's important for participants to receive benefit statements that provide a lump-sum value and illustrate an annuity or other guaranteed lifetime-income value.

- Today, most benefit statements received by DC plan participants only show a lump-sum value. This can and often does create a false sense of wealth and security.
- Illustrating the benefit that the lump sum can generate in guaranteed lifetime income places a much more meaningful and helpful value on accumulation and is likely to result in positive changes in savings behavior.
- Illustrating the benefit could encourage participants to save more if the "illustrated income" is less than expected or insufficient to meet the participant's objectives and needs.
- Adding guaranteed lifetime-income illustrations underscores that the plan is a *retirement program intended to generate retirement income*, not a capital accumulation or savings plan.
- The best way to illustrate income is to show what current account balances would generate as a "retirement paycheck" if the participant were currently eligible to retire, say at age 65, and were to use his or her funds to purchase a guaranteed lifetime-income solution such as an immediate annuity. By illustrating "income" using this method, no future earnings, future contributions or inflation expectations would need to be considered. If a hypothetical interest/earnings assumption were included, it would also be necessary to make assumptions about inflation. Accordingly, it seems easier and more understandable to make "income illustrations" as simple as possible.
- Knowing what a given amount today would purchase in annual retirement income helps clarify the "annuity value" of the account.
- The Department of Labor should permit plans that currently offer annuities or other guaranteed lifetime-income solutions to use the underlying assumptions and purchase rates under the products for illustration purposes.
- If no annuity or other guaranteed lifetime-income solution is currently offered through the plan, the Department of Labor should allow plan sponsors to use published rates, such as PBGC rates, as a safe harbor. Also, the Department of Labor safe harbor should protect employers and plan sponsors from liability in the event the amounts that are illustrated exceed the amount of benefit that may be purchased at any point in time.

It would not be helpful for participants to know the assumptions that are used for purposes of making guaranteed lifetime-income illustrations or projections. The complexity associated with these assumptions very likely would confuse the average plan participant. But such information should be available upon request.

- Expense loads would be built into rates or included as part of PBGC published rates. Plans would not be required to hire an actuary in order to create these illustrations.

**Question 24:**  
**Should an individual benefit statement include an income replacement ratio (e.g., the percentage of working income an individual would need to maintain his or her pre-retirement standard of living)? If so, what methodology should be used to establish such a ratio, such as pre-retirement and post-retirement inflation assumptions, and what are the impediments for plans to present the ratio in a meaningful way to participants on an individualized basis?**

The concept of a “replacement ratio” when accompanied by a gap analysis may be useful in retirement planning. It may not be as meaningful when placed on a benefit statement, as it could be taken out of context or may result in confusion.

We believe plan sponsors should provide a future projected guaranteed lifetime-income amount in addition to the current market value on the benefit statement, but “information overload” should be avoided.

Individuals who want additional information can use existing technology to access a planning tool that calculates a targeted replacement ratio of, for example, 70% - 80%. This could be accomplished by plan sponsors providing participants with access to retirement-income ratio calculators.

Additional impediments on the use of “income replacement ratio” on benefit statements include:

- Accurate information about participant financial data, spousal financial data, and lifestyle choices are not easily obtained or rarely available.
- The impact of inflation is difficult to calculate and understand.
- Lack of consistency about the factors to use in determining the ratio across all participant communications can lead to unnecessary confusion.
- Participants in general would need a lot of additional, time-consuming education to understand even a seemingly simple 80% replacement ratio.
- The absolute level of income delivered by a 70-80% replacement ratio may or may not be sufficient depending upon the adequacy of the individual’s current income.
- Participants might shy away from the product if the replacement-ratio figures and the guaranteed lifetime-income figures are not close.

**Question 25: How do the 401(k) or other plan qualification rules affect defined contribution plan sponsors' and participants' interest in the offering and use of lifetime income? Are there changes to those rules that could or should be made to encourage lifetime income without prejudice to other important policy objectives?**

Uncertainty regarding the effect of guaranteed lifetime-income solutions on a plan's satisfaction of qualification rules is a disincentive for some plan fiduciaries.

This is particularly true with respect to the rules relating to qualified joint-and-survivor annuities and, to a lesser extent, with respect to required minimum distribution rules and non-discrimination testing requirements for "benefits, rights and features."

**Question 26: Could or should any changes be made to the rules relating to qualified joint and survivor annuities and spousal consents to encourage the use of lifetime income without compromising spousal protections?**

**RECOMMENDATION: The Internal Revenue Service should...**

- Clarify the Qualified Joint & Survivor Annuity (QJSA) rules to confirm that the participant has the right to start, stop or alter payments under a guaranteed lifetime-income solution that are not received in the form of an annuity.

Changes should be made to the spousal survivor annuity rules to clarify when payments under a guaranteed lifetime-income solution are received in the form of an annuity.

This clarification would encourage the availability of guaranteed lifetime-income solutions by eliminating a disincentive for plan fiduciaries. We recommend that the Internal Revenue Service (IRS) issue regulations that confirm, with respect to products that offer guaranteed lifetime income, the positions taken by the Internal Revenue Service in a recent private-letter ruling (PLR 2000951039) regarding application of the spousal survivor annuity rules.

Specifically, we suggest that the Internal Revenue Service amend regulations under section 401(a)(11) to clarify that amounts are not received in the form of a “life annuity” if the amount and timing of payments under a guaranteed lifetime-income solution remain within the control of the participant ... in other words if the participant has the right to start or stop payments and alter the amount or form of payments.

**Question 27: Should further guidance clarify the application of the qualified joint and survivor annuity rules or other plan qualification rules to arrangements in which deferred in-plan insurance annuities accumulate over time with increasing plan contributions and earnings?**

**RECOMMENDATION: The Internal Revenue Service should...**

- *Issue guidance to clarify the application of Qualified Joint & Survivor Annuity (QJSA) rules that provide for incremental purchases of deferred in-plan annuities.*

We understand that this question refers to in-plan deferred fixed income annuities that allow participants to make incremental annuity purchases over time and at different interest rates and ages. Subject to that understanding, we ask the Internal Revenue Service to issue guidance to clarify the application of the QJSA and other plan-qualification rules to such arrangements. Greater clarity will reduce the uncertainty that currently acts as a disincentive for some fiduciaries when considering the addition of guaranteed lifetime-income solutions.

This uncertainty exists both for products that provide payments in the form of an annuity and those that provide payments in other forms, including guaranteed minimum withdrawal benefits.

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

**RECOMMENDATION: The Internal Revenue Service should...**

- *Clarify how the Required Minimum Distribution rules apply to guaranteed lifetime-income solutions that are paid in non-annuity form.*

The required minimum distribution rules are not a significant disincentive for sponsors interested in offering products that deliver guaranteed lifetime income in a non-annuity form. But the complexity and uncertainty of these rules can be an impediment to product providers in making these products available at a reasonable cost.

We would recommend that the Internal Revenue Service issue guidance that lifts some of the burdens and allows product-and-service providers to offer and service these products in a clear and cost-effective manner.

Specifically, we suggest the Internal Revenue Service should confirm that the account balance used in determining the required minimum distribution for a calendar year does not include any value for guarantees. Since it is by no means assured that the participant will ever draw upon the guarantees—say if the account balance drops to zero and the product provider's general account begins to fund payments—it is reasonable not to consider the guarantees for required minimum distribution purposes before and unless the participant draws upon them.

Alternatively, if the Internal Revenue Service is unable to issue such guidance, we would ask for confirmation that our current application of the rules, including the explanations that we provide to sponsors and participants, is appropriate.

Specifically, the Internal Revenue Service should confirm that the "entire interest" of a participant who has invested through a plan in a guaranteed lifetime-income solution includes the actuarial present value of any guarantees, in accordance with the rule set forth in Treasury Regulation 1.401(a)(9)-6. In addition, the Internal Revenue Service should confirm that, for any distribution year in which the required minimum distribution would otherwise exceed the value of the account balance determined without regard to any guarantees, the plan will satisfy the distribution requirement by distributing the same amount payable to the plan under the product provider's guarantee.

Finally, we suggest that the Internal Revenue Service confirm that if a participant or beneficiary is receiving payments under the life-expectancy method, payments under the plan may continue beyond the final age listed in the life expectancy tables set forth in Treasury Regulation sec. 1.401(a)(9)-9 so long as the account balance, including any amounts allocated to the account balance as a result of payments of a product provider, are distributed within the required life expectancy or distribution period.

**Question 29:**  
**Are employers that sponsor both defined benefit and defined contribution plans allowing participants to use their defined contribution plan lump sum payouts to “purchase” lifetime income from the defined benefit plan? Could or should any actions be taken to facilitate such arrangements? Should plans be encouraged to permit retirees who previously took lump sums to be given the option of rolling it back to their former employer’s plan in order to receive annuity or other lifetime benefits?**

Although sponsors of certain governmental defined benefit plans are allowing participants to use lump-sum payments from 403(b) and 457(b) plans to purchase defined benefit plan “service credit,” we have not seen similar activity by sponsors of corporate defined benefit plans.

Few defined benefit plans accept rollovers and more and more sponsors continue to freeze and terminate their plans. Given the ongoing decline of defined benefit plans in the private sector, we suspect that few of the remaining sponsors will be interested in receiving rollovers to purchase annuity or other lifetime benefits.

**Question 30: To what extent do fiduciaries currently use the safe harbor under 29 CFR**

**2550.404a-4 when selecting annuity providers for the purpose of making benefit distributions?**

Anecdotal evidence suggests that some plan fiduciaries are using the Department of Labor's safe harbor when selecting providers of distribution annuities under defined contribution plans.

Prudential makes available to plan fiduciaries a product that permits a defined contribution plan to purchase annuities at guaranteed purchase rates. Fiduciaries who evaluate this product, with or without a formal request-for-proposal process, occasionally ask Prudential questions that appear to be prompted by the considerations mentioned by the Department of Labor in the safe harbor. These questions involve the financial strength of the insurer, the overall cost of the contract, and the benefits and services provided under the contract.

**Question 31: To what extent could or should the Department of Labor make changes to the safe harbor under 29 CFR 2550.404a-4 to increase its usage without compromising important participant protections? What are those changes and why should they be made?**

**RECOMMENDATION: The Department of Labor should...**

- *Simplify and extend the standards for the selection of guaranteed lifetime-income solution providers and engage in further discussions with the industry.*

The Department of Labor could increase use of the safe harbor if it simplifies and clarifies the criteria for the fiduciary's selection of an annuity provider. Prudential supports the need for further discussions with the Department of Labor about appropriate simplifications to the standards. This guidance should confirm that the fiduciary's actions are based on facts known at the time a fiduciary selects and reviews a product and address any concerns unique to selection and monitoring of default investments that include guarantees or similar guaranteed lifetime-income features.

The safe harbor requires the fiduciary to conclude "at the time of the selection" that the annuity provider is financially able to make all future payments under the contract. The safe harbor also permits fiduciaries to make this determination either at the time the provider is selected for distribution of benefits to a specific participant or, alternatively, when the provider is selected to provide annuity contracts at future dates, if the fiduciary periodically reviews the continuing appropriateness of the conclusion.

The Department of Labor should confirm that when a fiduciary initially selects a provider to offer annuity contracts at future dates—and when a fiduciary later reviews the continuing appropriateness of that decision—the fiduciary's actions will be judged based on prevailing circumstances at the time of the initial selection and the subsequent review. The fiduciary's actions should be considered in light of available public information, unless the fiduciary has non-public information indicating that the provider's public information includes material misrepresentations.

Finally, we suggest that the Department of Labor address concerns unique to selecting and monitoring default investments that include guarantees or similar guaranteed lifetime-income features if the Department of Labor reissues or clarifies the fiduciary safe harbor in 2550.404a-4. We recommend that the Department of Labor reconfirm its applicability to the selection of guaranteed lifetime-income solutions that are used as a default or QDIA.

**Question 32: To what extent could or should the safe harbor under 29 CFR 2550.404a-4 be extended beyond distribution annuities to cover other lifetime annuities or similar lifetime income products? To which products should or could the safe harbor be extended?**

**RECOMMENDATION: The Department of Labor should...**

- *Issue guidance that explicitly extends the safe harbor beyond distribution annuities to cover other guaranteed lifetime income solutions.*

The Department of Labor should issue guidance that explicitly extends the safe harbor to cover other guaranteed lifetime-income solutions, in the same way it covers distribution annuities. The guarantees associated with guaranteed lifetime-income solutions offer protection against “longevity risk,” the risk that retirement savings will be insufficient to provide income for life, and “investment risk,” the risk that the market value of retirement savings will decrease. Similar to a distribution annuity, these protections necessarily transfer risk to the product provider and raise the same basic concern: Will the provider offer long-term guarantees that could extend for 25, 30 or more years?

Because this is the fundamental issue the safe harbor is designed to address, safe-harbor protections are just as appropriate for other guaranteed lifetime-income solutions as they are for distribution annuities.

**Question 33: To what extent are fixed deferred lifetime annuities (i.e., incremental or accumulating annuity arrangements) or similar lifetime income products currently used as investment alternatives under ERISA 404(c) plans? Are they typically used as core investment alternatives (alternatives intended to satisfy the broad range of investments requirement in 29 CFR 2550.404c-1) or non-core investment alternatives? What are the advantages and disadvantages of such products to participants? What information typically is disclosed to the participant, in what form, and when? To what extent could or should the ERISA 404(c) regulation be amended to encourage use of these products?**

To satisfy the requirements of ERISA 404(c), plans offering investment alternatives that deliver guaranteed lifetime income in annuity or non-annuity forms typically present them as non-core investment alternatives.

Plans provide participants with information about these investment alternatives in accordance with section 404(c) and applicable securities law requirements, and information about guaranteed lifetime-income solutions is delivered in prospectuses for registered products and in documents that resemble prospectuses for non-registered products.

These documents include descriptions of the underlying investment funds and substantial information about the operation of the guarantees, including calculations of guaranteed-withdrawal amounts, explanations about the effect of transfers in and out of the underlying investment funds, fee disclosures, and discussions about the actions of participants or sponsors that could result in the loss of guarantees.

**Question 34: To what extent do ERISA 404(c) plans currently provide lifetime income through variable annuity contracts or similar lifetime income products? What are the advantages and disadvantages of such products to participants? What information about the annuity feature typically is disclosed to the participant, in what form, and when? To what extent could or should the ERISA 404(c) regulation be amended to encourage use of these products?**

**RECOMMENDATION: The Department of Labor should...**

- *Clarify the disclosure requirements for guaranteed lifetime-income solutions under ERISA 404(c) plans.*

Because American workers clearly want to retain flexibility and control of their assets, guaranteed lifetime-income solutions that provide participants with flexibility and control of their assets should play a prominent role in qualified retirement programs ... and ERISA 404(c) amendments can help encourage the adoption and use of such products.

We see a growing minority of ERISA 404(c) plans that provide guaranteed lifetime income through variable annuity contracts or similar guaranteed lifetime income solutions. As previously noted, the advantages of such products include protection from longevity, investment and inflation risks for both participants and their beneficiaries.

Products that do not offer distributions in the form of an annuity may offer additional advantages and greater flexibility. For example:

- Unlike a distribution annuity, a product that does not “annuitize” distributions may allow a participant to retain investment control and avoid the need to liquidate investments in order to get the benefit of distribution guarantees.
- Moreover, if a participant does wish to liquidate or reduce investments under the non-annuity product, he or she may be able to do so by transferring money out of the investment funds, though associated guarantees would be relinquished.

Plans provide information about guaranteed lifetime-income solutions, including distribution options, as described in the response to question 33.

A minor amendment of the ERISA 404(c) regulation, and of the proposed fiduciary requirements for disclosure in participant-directed individual account plans, would be helpful in allowing providers to offer guaranteed lifetime-income solutions in a manner that does not hinder the ability of plan fiduciaries to obtain relief under section 404(c) or comply with 404(a).

Accordingly, we suggest that the Department of Labor amend the 404(c) regulation to:

- Require that the description of any investment alternative include a description of any annuity purchase rights, investment guarantees, death benefit guarantees or other features ancillary to an investment fund; and
- Permit, but not require, consideration of guarantees and other features ancillary to an investment fund in determining whether (i) the frequency with which a participant may give investment instructions is appropriate in light of expected market volatility and (ii) an investment alternative has materially different risk-and-return characteristics from other alternatives.

In addition, we recommend that the Department of Labor—in final regulations under sec. 2550.404a-5—permit, but not require, consideration of guarantees and other features ancillary to an investment fund in determining:

- The type of investment;
- Whether or not an investment alternative provides a fixed return;
- The value of units of an investment alternative; and
- The total return and operating expenses of an investment alternative.

**Question 35: To what extent are plans using default investment alternatives that include guarantees or similar lifetime income features ancillary to the investment fund, product or model portfolio, such as a target maturity fund product that contains a guarantee of minimum lifetime income? What are the most common features currently in use? Are there actions, regulatory or otherwise, the Agencies could or should take to encourage use of these lifetime income features in connection with qualified default investment alternatives?**

#### **RECOMMENDATION: The Agencies should...**

- *Confirm the applicability of QDIA protection to investment products that include guaranteed lifetime-income solutions;*
- *Authorize employers to “re-enroll” participants at any point into QDIAs (including those that provide guaranteed lifetime income); and*
- *Confirm that offering a QDIA that includes a guaranteed lifetime-income solution only to participants who have attained a certain age does not violate non-discrimination rules.*

Currently, only a small but growing minority of defined contribution plans serviced by recordkeepers are using funds or products with ancillary guaranteed lifetime-income features as the plan’s qualified default investment alternative, even if those plans offer investment alternatives that include guaranteed lifetime-income solutions. Within this small but growing universe, we believe that the guaranteed minimum withdrawal benefit is the most common feature in use.

#### **ADDITIONAL GUIDANCE NEEDED ON THE SELECTION AND MONITORING OF QDIAs**

The Department of Labor could and should encourage the use of guaranteed lifetime-income solutions as QDIAs by issuing guidance regarding the prudent selection and monitoring of QDIAs generally, not limited to QDIAs that include guaranteed lifetime-income solutions. The Department of Labor did not discuss this key issue in the final QDIA regulations and its explicit silence has caused some plan fiduciaries to think that there may be a standard for selecting investment alternatives as QDIAs that potentially is more rigorous than the standard for selecting an investment alternative that participants can choose affirmatively. This concern is heightened by the Department of Labor’s emphasis on the need for fiduciaries to evaluate service-provider compensation and by the fact that guaranteed lifetime-income features ancillary to investment funds commonly require additional fees, such as guarantee fees.

In addition, we recommend that the Department of Labor focus on any considerations unique to the selection of a default by approving the use of reasonable assumptions ... and by permitting the selection of an investment alternative that is broadly suitable for the entire default population, without the need for separate consideration of the specific circumstances of population subgroups or of individual participants.

## CLARIFICATIONS REGARDING CERTAIN ANCILLARY FEATURES

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Some plan sponsors have questioned whether investment alternatives that include guaranteed minimum withdrawal benefits are eligible for treatment as a QDIA. This has occurred despite the Department of Labor's confirmation, in the final regulation of text, that "features ancillary" to an investment-fund product or model portfolio, including annuity purchase rights and investment or death benefit guarantees, will not cause the product or portfolio to fail to be a QDIA. We request that the Department of Labor clarify this matter by amending section 2550.404c-5(e) (4) (vi) of the final regulation to add "distribution or withdrawal guarantees" to the list of ancillary features.

## RE-ENROLLMENT

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As described elsewhere in our response, behavioral inertia—the tendency for participants to "leave things alone"—is a powerful force. As a result, guaranteed lifetime-income solutions must be available to participants as a default option wherever possible. The Department of Labor could and should encourage the use of guaranteed lifetime-income solutions as QDIAs by explicitly stating that fiduciaries may avail themselves of QDIA relief whenever participants have an opportunity to direct their investments, but do not do so.

The Department of Labor addressed this issue in the preamble to the final regulation. In the context of recordkeepers not being able to distinguish funds in an existing default fund that were contributed as a result of a default from those contributed via an affirmative election, the Department of Labor said the following:

*It is the view of the Department that any participant or beneficiary, following receipt of a notice in accordance with the requirements of this regulation, may be treated as failing to give investment direction for purposes of paragraph (c)(2) of 2550.404c-5, without regard to whether the participant or beneficiary was defaulted into or elected to invest in the original investment vehicle of the plan.*

We interpret this preamble language as authorizing a plan fiduciary to initiate a re-enrollment of the entire plan in a variety of circumstances. These include, but are not necessarily limited to:

- Conversion to a new service provider that offers a different investment lineup;
- The elimination or addition of plan options; and

- Plan amendments, initiated by the sponsor, that require previously enrolled participants—for any reason, including the attainment of a specified age—to submit new investment elections, even if there are no changes to the investment lineup itself.

In these circumstances, a plan sponsor could default participants who fail to make new affirmative elections into a QDIA, as long as the notice and other requirements under the QDIA regulations are met. Regulatory guidance or other clarification of this treatment would be very beneficial. The guidance should specifically state that the plan would be eligible for QDIA relief as long as all of the conditions of the QDIA safe harbor have been satisfied. QDIA relief, in such circumstances, should be available if funds are invested in any QDIA and not limited to QDIAs that include guaranteed lifetime-income solutions.

### **QDIAs AND SELECTION OF ANNUITY PROVIDERS**

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We further request that the Department of Labor address any concerns unique to selection and monitoring of defaults that include guaranteed lifetime-income solutions as part of the Department of Labor's reissuance of the fiduciary safe harbor in 2550.404a-4, confirming its applicability to the selection of guaranteed lifetime-income solutions as a QDIA if the products include features that trigger the guarantees upon the attainment of a particular age or number of years to retirement.

### **TAX QUALIFICATIONS AND THE AVAILABILITY OF ANCILLARY FEATURES FOR PARTICIPANTS WHO HAVE ATTAINED A CERTAIN AGE**

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Some product providers offer investment alternatives with ancillary features that only apply to participants who have attained a certain age. There are various reasons for such product-design decisions, including the fact that younger participants have little short-term need and should not be charged fees for investment and distribution guarantees.

Since this design decision necessarily limits the availability of an investment alternative only to certain plan participants, it creates a separate "benefit, right or feature" that must be subjected to testing under Treasury Regulation section 1.401(a)-4 to ensure that it is not currently or effectively available to "highly compensated employees" on a discriminatory basis.

The potential burden to plan sponsors of additional nondiscrimination testing is an impediment to the availability of investment products with ancillary features.

This burden is unreasonable if the need for testing is prompted by the design decision of a product provider unmotivated by any desire to favor highly compensated employees. We suggest that the Internal Revenue Service or the Department of the Treasury clarify this matter by amending section 1.401(a)-4 to disregard age conditions with respect to any form of investment that includes guarantees or guaranteed lifetime-income features in determining the employees to whom a benefit, right or feature is currently available.

**Question 36: What are the costs and benefits to a plan sponsor of offering lifetime annuities or similar lifetime income products as an in-plan option? Please quantify if possible.**

Offering guaranteed lifetime-income solutions as in-plan options has a number of benefits for plan sponsors, most notably by helping sponsors more effectively prepare their participants for retirement.

- Today, only 16% of workers are very confident about having enough money for a comfortable retirement.<sup>22</sup> Guaranteed lifetime-income solutions can help address this concern by providing assurances that participants will continue to receive guaranteed “retirement paychecks,” regardless of how long they live or how the markets perform. In addition, in-plan guaranteed lifetime-income solutions provide employees with access to institutional pricing for such products.
- Also, guaranteed lifetime-income solutions will help employers manage their workforce more effectively by increasing the likelihood that employees will be able to retire when they want to retire. For example, the recent financial-market downturn has contributed to an increase in the percentage of workers who expect to retire after age 65, from 11% in 1991 to 33% in 2010.<sup>23</sup>
- Helping participants to retire when they are financially prepared to retire rather than “retiring on the job” will let the next generation of workers move up, and help new entrants join the labor force.
- Offering guaranteed lifetime-income solutions also increases the value and attractiveness of an employer’s benefits package, helping attract and retain top talent.

At the same time, offering in-plan guaranteed lifetime-income solutions may result in some incremental expenses for plan sponsors, such as higher administrative costs to satisfy fiduciary and other regulatory requirements associated with offering these products. These costs, however, may be offset through the greater economies of scale achieved in plan administration. Remember, in-plan guaranteed lifetime-income solutions should enable plans to retain more of a participant’s assets at the time a participant retires.

Solutions like Prudential IncomeFlex® have no extra “hard dollar” or “soft dollar” costs for a plan sponsor beyond any other fund option, though employers will need to invest the time and attention that any prudent fiduciary would expend on any aspect of their defined contribution plan.

To summarize, in analyzing the “benefits” and “costs” to plan sponsors of offering a guaranteed lifetime income solution, it’s clear that the benefits to the sponsor, to participants and to American society in general outweigh any cost considerations. At a very high level:

**BENEFITS TO SPONSORS INCLUDE:**

- Helping ensure participants achieve a secure retirement;
- Helping ensure the plan itself delivers on its promise of providing retirement income;

<sup>22</sup> Employee Benefit Research Institute, “*The 2010 Retirement Confidence Survey: Confidence Stabilizing, But Preparations Continue to Erode,*” March 2010.

<sup>23</sup> Employee Benefit Research Institute, “*The 2010 Retirement Confidence Survey: Confidence Stabilizing, But Preparations Continue to Erode,*” March 2010.

- Enhancing benefit packages to more effectively attract and retain top talent;
- Lowering per capita administrative costs, at least potentially, due to retaining larger account balances for longer periods of time;
- Allowing participants to hedge investment and interest-rate risks by permitting them to make purchases over their working lives; and
- Offering guaranteed lifetime-income solutions in a cost-effective manner through institutional pricing.

**COSTS TO SPONSORS INCLUDE:**

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- Expenses associated with satisfying uncertain and possibly costly fiduciary standards for evaluating and monitoring providers of guaranteed lifetime-income solutions—which in essence is no different from choosing another fund provider; and
- Some incrementally higher administrative costs result from retaining small accounts, but these may be offset by maintaining assets in the plan for a longer period of time.

**Question 37:**  
**Are there unique costs to small plans that impede their ability to offer lifetime annuities or similar lifetime-income products as an in-plan option to their participants? What special consideration, if any, is needed for these small entities?**

**RECOMMENDATION: The Department of Labor should...**

- *Simplify the safe harbor for the selection of annuity providers;*
- *Clarify and extend QDIA guidance and protections;*
- *Provide Department of Labor-sponsored education; and*
- *Expand the use of electronic technology rules.*

The costs borne by sponsors of small plans are major impediments to the adoption of lifetime annuities and other guaranteed lifetime-income solutions.

Currently, according to a recent study done by the Employee Benefit Research Institute (EBRI), 49% of workers, or 78 million individuals, have no access at all to a workplace-based retirement plan.

This “coverage gap” is preventing nearly half the American workforce from beginning to systematically save and invest for retirement. According to a survey published in 2008 by Prudential, more than one-half of workers without access to a retirement plan have saved less than \$10,000 for retirement, significantly below the average DC account balance of \$46,000.

Even when small employers adopt retirement plans for their employees, it’s clear that they do not embrace optional features that add additional costs and administrative burdens. The addition of guaranteed lifetime-income solutions—which are optional features in most DC plans—adds administrative burdens, complexity and fiduciary risk, as discussed in Questions 30-36.

Several suggestions for eliminating or addressing these issues are as follows:

- Simplify the safe harbor for the selection of annuity providers to enable small employers to select providers without the need and expense of hiring an independent expert;
- Clarify QDIA guidance so that products that provide guaranteed lifetime income are more easily identifiable as QDIAs;
- Extend QDIA protection into the distribution phase;
- Develop a Department of Labor-sponsored education campaign for small employers about the importance of guaranteed lifetime income to achieving retirement security; and
- Streamline the regulatory requirements associated with offering in-plan guaranteed lifetime-income solutions by enabling greater use of electronic technology for delivering disclosure material and obtaining necessary authorizations and consents.

**Question 38:**  
**Would making a lifetime annuity or other lifetime-income product the default form of benefit payment have an impact on employee contribution rates? If so, in which direction and why?**

Making guaranteed lifetime income the default form of payment at retirement should have a positive effect on contribution rates. According to recent Prudential surveys:

- When presented with ideas for guaranteed investment products, 75% of American workers said a product with guarantees for lifetime income, protection of principal, and opportunities to lock in market gains would be “important” or “nice to have” as part of their portfolio. If protected by such guarantees, 70% said they would be likely to put money back into the stock market after the 2008-2009 financial crisis.<sup>24</sup> These findings demonstrate that income defaults can provide reassurance to individuals and lead to an increase in retirement savings.
- More than two-thirds of those surveyed want help with decisions about distribution of their retirement income. When presented with an automatic retirement-income option in their workplace retirement plan—with the understanding that they could always opt out—two-thirds of Americans found such an option appealing.<sup>25</sup>

A guaranteed lifetime-income solution default—coupled with a comprehensive, in-plan educational program—may also encourage higher contribution rates by offering participants a better gauge of how much they need to save for retirement. For example, a tool that integrates current account balances with lifetime-payout projections would provide participants with an estimate of how much lifetime income could be generated by their current account balances ... and how much they need to increase savings to achieve their retirement goals.

<sup>24</sup> Prudential Financial, *“Impact of the Market Crisis on Retirement Preparedness,”* 2009.

<sup>25</sup> Prudential’s *“2010 Workplace Report on Retirement Planning - The New Economic Reality and the Workplace Retirement Plan,”* 2010

**Question 39: For plans that offer lifetime annuities or similar lifetime-income products, what percentage of eligible workers elect to annuitize at least some of their retirement assets and what percentage elect to annuitize all of their assets?**

Annuitization rates within qualified retirement plans remain modest, as do elections of other guaranteed lifetime-income solutions in the qualified plans that offer them.

- In DB plans that offer a lump sum as an alternative to an annuity, a majority choose the lump sum. A Vanguard study of two large Fortune 500 DB plans with a lump-sum option reported annuitization rates among retirees of 17% and 27%.<sup>26</sup>
- Data also exists on annuity use for select types of plans, with annuitization rates range from 1% for federal workers to 45% for workers in higher education.<sup>27</sup> The latter group typically has access to retirement plans from TIAA-CREF, which requires access to guaranteed lifetime-income solutions as a standard part of its offering. The high election rate for annuitization across higher education plans suggest that it is possible to drive adoption of guaranteed lifetime-income solutions through persistence, sufficient participant education, and by providing access to appropriate solutions.
- An ICI survey of 600 recent retirees in DC plans conducted in late 2007<sup>28</sup> found that, at retirement, 18% of respondents annuitized their entire balance. In addition, 9% chose more than one distribution option; presumably a portion of that group annuitized some of their assets.
- Anecdotal evidence suggests that current usage of guaranteed lifetime-income solutions within DC plans is “modest but promising” for future efforts to increase the adoption of guaranteed lifetime-income solutions.

The low participant adoption rate of income annuities within DC plans is partly driven by the fact that less than one-fifth of DC plans offer an annuity payout option.<sup>29</sup> However, current adoption rates may also reflect the simple fact that individuals are not being offered guaranteed lifetime-income solutions that meet their needs.

For example, the retail market provides individuals with access to guaranteed lifetime-income solutions, such as Guaranteed Minimum Withdrawal Benefits (GMWBs), that offer individuals more control and access to their funds than traditional annuity products. Eighty-four percent of new variable annuity industry sales include GMWB features.<sup>30</sup> In addition, 71% of all variable annuity purchases are funded by rollovers from plan sponsors<sup>31</sup>, demonstrating the attractiveness of GMWBs to qualified plan participants. This indicates that election rates for guaranteed lifetime-income solutions within qualified plans can be enhanced by ensuring that sponsors have access to a wide range of guaranteed lifetime-income solutions to select the one most appropriate for their plans.

<sup>26</sup> Vanguard Center for Retirement Research, *“Immediate Income Annuities and Defined Contribution Plans.”* May 2008.

<sup>27</sup> Vanguard Center for Retirement Research, *“Immediate Income Annuities and Defined Contribution Plans.”* May 2008.

<sup>28</sup> Investment Company Institute, *“Defined Contribution Plan Distribution Choices at Retirement.”* Fall 2008.

<sup>29</sup> Vanguard Center for Retirement Research, *“Immediate Income Annuities and Defined Contribution Plans.”* May 2008.

<sup>30</sup> LIMRA, *“Variable Annuity Guaranteed Living Benefit Election Tracking Survey (2009, 4th quarter),”* March 2010, page 2.

<sup>31</sup> Data from Morningstar Variable Annuity Research and Data Service



## The Modern Annuity

Annuities have been around a long time. But the retirement landscape is changing—traditional defined benefit pension plans are going by the wayside in the private sector, and people are living longer in retirement. More and more retirees will be faced with having to convert retirement savings into a retirement paycheck. In response to the changing needs of retirees, the annuity concept has evolved. It is worth taking a fresh look to see how today's modern annuities can play a role in your retirement income plan. Today's volatile markets only serve to underscore the importance of protecting retirement nest eggs and the income streams that individuals need to get from those nest eggs.

### First, how do the traditional annuities work?

An annuity is a contract between you and an insurance company where you deposit a sum of money with the insurance company, and in exchange, if you so choose, annuity payments are paid to you on a regular basis and are guaranteed for a set period of time or for life. Usually, the money in annuities grows tax-deferred. There are a number of options and features to explore, including fixed or variable investment and payment options.

- Fixed annuities offer guaranteed rates of return and safety of principal. This can give you a hedge against market volatility. The downside is that, over time, inflation may eat into the buying power of this fixed amount.
- Variable annuities can provide you with access to a variety of investment portfolios without a guaranteed rate of return. There is potential for higher earnings when market conditions are good, but lower earnings or losses when the market is down, depending on investment performance.

Additional options allow you to choose a payment start date that is either immediate or deferred, and payments that are payable to just yourself or to a beneficiary after you die. Further, annuities traditionally have both death benefits, which guarantee a value payable to a beneficiary, and living benefits, which guarantee levels of accumulation and/or income payments. The focus of this article is on living income benefits.

With most traditional annuities, the individual has the option to annuitize, at which point control (ownership) of his/her assets is surrendered to the insurance company in exchange for a guaranteed stream of payments. Historically, annuity contract holders have been reluctant to annuitize, because they do not want to cede control and ownership of *their* money.

### Now here's what's different about the new generation of annuities.

Prudential and other retirement companies listened to their customers, and responded with a new generation of annuities. The result—a living benefit option for guaranteed income for life without annuitization. In essence, individuals can maintain access to their account values—while receiving guaranteed lifetime income. (There are typically fees associated with this option, so it is important to speak with a financial professional to understand any applicable fees.)

Today's modern annuities build on many of the features of traditional annuities: they grow tax-deferred and offer guaranteed income for life. Further, they allow individuals to customize their retirement income to meet specific retirement needs. Customization can be achieved through the optional living benefits available. Some of the new and more significant features of optional living benefits include:

- A measure of control and ownership of assets while receiving guaranteed lifetime income.
- Ability to capture market upswings in your "Protected Withdrawal Value"—used to determine income payments—while helping to protect income from market downturns. This may be particularly important during the five years before and after retirement—which Prudential refers to as The Retirement Red Zone®. (The Protected Withdrawal Value is a separate value from the annuity's account value and is only available through guaranteed withdrawals, not as cash or a lump sum.)
- Wide selection of investment portfolios to meet your risk tolerance, whatever it may be. The guaranteed



income under the optional living benefit is protected regardless of how portfolios are invested.

The table below highlights key differences between traditional variable annuities and the new generation of variable annuities with guaranteed lifetime income benefits – also known as a guaranteed minimum withdrawal benefit. A key difference not addressed in the table is tax treatment. Whether payments are received as a guaranteed minimum withdrawal benefit or through traditional annuitization, distributions of investment returns are taxed at ordinary income tax rates. However, payments

received from guaranteed minimum withdrawal benefits are generally considered to be distributions of taxable investment earnings first, until all such gains have been paid out, and then tax-free distributions of the original investment. In contrast, payments received through traditional annuitization are generally considered to contain proportional amounts of investment earnings and the return of the original investment, the result being that taxes are spread more evenly over the annuitization period. Information on a variable annuity's fees, expenses, tax treatment, and surrender charges can be found in the prospectus for that specific product.

### Side-by-Side: Traditional vs. Modern Variable Annuity

	<b>Traditional Variable Annuities (with guaranteed lifetime income through annuitization only)</b>	<b>New Generation of Variable Annuities (with Guaranteed Lifetime Income Benefits)</b>
Provides for tax-deferred accumulation	√	√
Has fees and surrender charges	√	√
Offers a variety of investment options and may include asset allocation models	√	√
Addresses longevity risk	√	√
Provides guaranteed lifetime income without annuitization through optional benefits, such as a guaranteed minimum withdrawal benefit		√
Provides flexibility once lifetime income has begun (e.g., income can be stopped and started, and contract holders can access the underlying assets)		√
Potentially provides downside protection from market risk (for lifetime income)		√
Offers potential to "lock-in" market gains for retirement income purposes		√
Passes any remaining account value to beneficiaries after lifetime income has begun	√ (*)	√

(\*) This feature is available with some traditional variable annuities as well as with most of the new generation of variable annuities with guaranteed lifetime income benefits.



In effect, with a guaranteed lifetime income option, you'll never have to worry about outliving your income stream regardless of how the market performs. Like traditional annuities, you have income for life; unlike traditional annuities, you have a measure of control over and access to the underlying assets. (For example, you can withdraw an amount in excess of the guaranteed income payments, but this will reduce your future guaranteed income payments proportionately.) This control allows you to potentially grow your assets, access your money when needed, and possibly leave money behind for your heirs.

**What's right for you?**

Annuities aren't for everyone. There are many features from which to choose. That's why you should talk to your trusted financial professional and tax professional to be sure a variable annuity makes sense for your retirement plan and to help you select the variable annuity and optional features that are right for you.

**Investors should consider the contract and the underlying portfolios' investment objectives, risks, charges and expenses carefully before investing. This and other important information is contained in the prospectus, which can be obtained from your financial professional. Please read the prospectus carefully before investing.**

This material was prepared to support the promotion and marketing of variable annuities available through Prudential. Prudential, its affiliates, its distributors and their respective representatives do not provide tax, accounting or legal advice. Any tax statements contained herein were not intended or written to be used, and cannot be used for the purpose of avoiding U.S. federal, state or local tax penalties. Please consult your own independent advisor as to any tax, accounting or legal statements made herein.

Your needs and the suitability of an annuity product should be carefully considered before investing. When evaluating your needs, please consider other variable annuities available from Prudential Financial companies.

Annuity contracts contain exclusions, limitations, reductions of benefits and terms for keeping them in force. Your licensed financial professional can provide you with complete details.

All guarantees, including optional benefits, are backed by the claims-paying ability of the issuing company and do not apply to the underlying investment options.

Variable annuities are appropriate for long-term investing and designed for retirement purposes. Investment return and principal value of an investment will fluctuate so that an investor's unit values, when redeemed, may be worth more or less than their original cost. Withdrawals or surrenders may be subject to contingent deferred sales charges (CDSC). Withdrawals and distributions of taxable amounts are subject to ordinary income tax and, if made prior to age 59 1/2, may be subject to an additional 10% federal income tax penalty. Withdrawals, for tax purposes, are deemed to be gains out first. Withdrawals can reduce the living benefit, death benefit and account value.

Variable annuities offered by Prudential Financial Companies are available at an annual cost of 0.65% to 1.65% for mortality, expense and administration fees, with an additional fee related to the professional investment options.

Optional living and death benefits may not be available in every state and may not be elected in conjunction with certain optional benefits. Optional benefits have certain investment, holding period, liquidity and withdrawal limitations and restrictions. The fees are in addition to fees and charges associated with the basic annuity.

Variable annuities are issued by Pruco Life Insurance Company (in New York, by Pruco Life Insurance Company of New Jersey), Newark, NJ, or by Prudential Annuities Life Assurance Corporation, Shelton, CT. Prudential Annuities Distributors, Inc., Shelton, CT, distributes all. All are Prudential Financial companies and each is solely responsible for its own financial condition and contractual obligations. Prudential Annuities is a business unit of Prudential Financial.

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# Investing made simple...guaranteed.



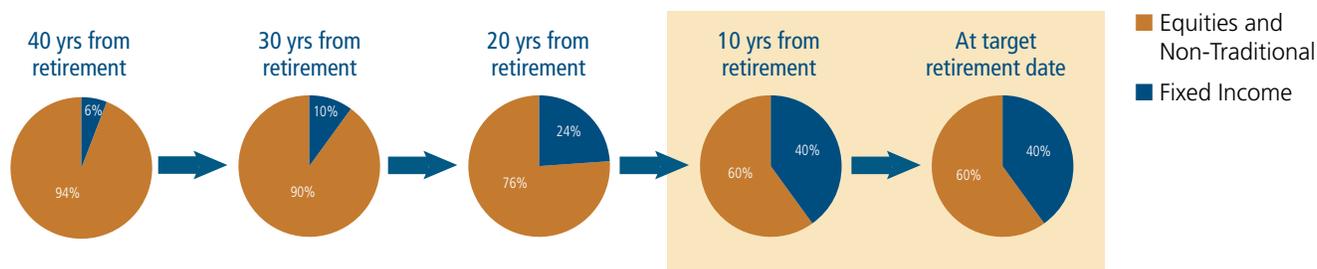
## Prudential IncomeFlex Target now available

### Key benefits of Prudential IncomeFlex® Target<sup>SM</sup> include:

- **Simplified investing**—you just invest in the fund that is right for you, and everything else is **automatic**.
- **Automatic asset allocation**—each fund uses the fundamentals of asset allocation to create an asset mix that is automatically adjusted over time to address the needs of individuals at different stages of their lives.
- **Downside income protection**—guarantees<sup>1</sup> that your income in retirement will be based on no less than what you contribute to the fund, once guarantees are activated. This is your minimum Income Base.
- **Upside potential**—allows you to stay invested in the market so your Market Value can grow over time.
- **Flexibility and control**—like any other investment within your plan—you can start, stop, or dip into your account balance at any time.<sup>2</sup>
- **Spousal benefit**—you can elect to provide guaranteed lifetime income for your spouse.<sup>3</sup>
- **Guaranteed income for life**—with IncomeFlex Target, you can rest assured that you won't outlive your income during your retirement years.
- **IncomeFlex Target is portable**—meaning if you leave the plan, you can take your guarantees with you by moving them into a Rollover IRA, which is subject to different charges.<sup>4</sup>

### IncomeFlex Target's automatic asset allocation

The five pie charts below show you how an IncomeFlex Target fund's asset allocation will change over the years. As you can see, the allocation to fixed income increases as you near retirement, when goals typically shift towards safety of principal and creating income.



In addition, as indicated by the last two highlighted pie charts, a guarantee feature is activated 10 years prior to the fund's target retirement date. This will both protect against market volatility and ensure you have a guaranteed stream of income when you begin taking withdrawals.

your Rock for Retirement®



<sup>1</sup> Guarantees are based on the claims-paying ability of the insurance company and are subject to certain limitations, terms, and conditions.

<sup>2</sup> Withdrawals proportionately reduce guaranteed values prior to locking in. After lock-in, Withdrawals in excess of the Lifetime Annual Withdrawal amount will reduce guarantees proportionately.

<sup>3</sup> If you choose the spousal benefit, there is no additional fee, but your annual withdrawal rate will be reduced by 0.50% and determined based on the younger of your or your spouse's age.

<sup>4</sup> The annuity contract offered under the IRA may have substantially different fees, investments, and provisions affecting the guarantees than what is offered through your retirement plan. Availability varies by state jurisdiction.

## Get started with simplified investing—here's how

### Step 1 – Make the election

Select the IncomeFlex Target fund most closely matched to your expected retirement date. (Your plan sponsor may have already made this election for you.)

### Step 2 – Enjoy the simplicity

Your fund will automatically adjust as you edge closer to your expected retirement date. Ten years prior to the fund's target retirement date, an income guarantee feature is activated and Prudential begins tracking an Income Base, and charging an additional fee for the guarantee.

### Step 3 – Determine your benefit

On the day you decide to lock-in your IncomeFlex Target benefit, **generally at retirement**, Prudential will convert your Income Base into a guaranteed income amount that you can withdraw for the rest of your life. This amount is based on your age at the time you lock-in:<sup>3</sup>

- 4.25% (If you are between the ages of 55 and 64)
- 5.00% (If you are between the ages of 65 and 69)
- 5.75% (If you are 70 or older)

### Step 4 – Live your retirement

Now you can retire knowing that you have a source of income in retirement that will last as long as you live.

## IncomeFlex Target's guarantees continue through retirement

- **Withdrawals for the rest of your life**—you can continue to withdraw guaranteed income even if investment performance and guaranteed withdrawals bring your IncomeFlex Market Value to zero.
- **Potential to increase guaranteed withdrawals**—if the Market Value of your IncomeFlex Target fund exceeds the Income Base on any of your birthdays, your guaranteed withdrawal amount will increase.
- **Ongoing flexibility**—you can cancel the guarantee by transferring out of your IncomeFlex Target fund at any time. You can withdraw more than your guaranteed amount during retirement (this will reduce the guarantee).
- **Providing for beneficiaries**—as with all of your plan investments, any remaining Market Value will pass to your beneficiaries.
- **Affordability of guarantee**—this protection is provided in exchange for a 1% guarantee fee (in addition to the standard management fees associated with your account).



For more information about  
IncomeFlex Target and all the investment  
options available in your plan, go to  
[www.prudential.com/online/retirement](http://www.prudential.com/online/retirement)  
or call **1-877-778-2100**

Prudential IncomeFlex® Target<sup>SM</sup> Funds are separate accounts under group variable annuity contracts issued by **Prudential Retirement Insurance and Annuity Company** (PRIAC), Hartford, CT. PRIAC does not guarantee the investment performance or return on contributions to those separate accounts.

You should consider the objectives, risks, charges, and expenses of the Funds and guarantee features before purchasing this product. Like all variable investments, these funds may lose value. Availability and terms may vary by jurisdiction, subject to regulatory approvals. Annuity contracts contain exclusions, limitations, reductions of benefits and terms for keeping them in force. Contract form # GA-2020-TGWB4-0805 or state variation. **For this and other information, please access the participant website or call 1-877-778-2100 for a copy of the Prudential IncomeFlex Target Important Considerations before investing.** Before electing the Spousal Benefit (if available) on behalf of any beneficiary not recognized as your spouse under Federal law, be aware that provisions of the Plan or Internal Revenue Code might prevent, limit or otherwise affect the ability of the beneficiary to receive the Spousal Benefit.

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