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August 10, 2018

Submitted electronically to good.larry@dol.gov

Larry Good, Executive Secretary, ERISA Advisory Council
U.S. Department of Labor
200 Constitution Avenue NW, Suite N-5623
Washington, DC 202010

Re: ERISA Advisory Council 2018 Issue Statement on Lifetime Income

Dear Mr. Good:

BlackRock, Inc. (together with its affiliates, "BlackRock")[1] appreciates the opportunity to provide comments on the important work that the 2018 Council is undertaking with respect to lifetime income in defined contribution (DC) plans.

Without question, financial security in retirement is one of the greatest economic challenges Americans face. And the need to address it is made even more urgent by the confluence of key demographic and economic factors: Increased longevity means that people will need to support longer retirements and, at the same time, the shift from defined benefit to defined contribution plans means that more and more individuals bear the responsibility for funding their own retirement.[2] The net result: Too many Americans are not saving and investing enough to adequately meet their needs for a secure retirement.[3]

While there has been a significant focus to date on increasing retirement savings, guidance around how individuals can successfully manage withdrawals throughout retirement has been lacking. In fact, in BlackRock's 2018 DC Investor Pulse Survey, 93% of plan participants

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1 BlackRock is one of the world's leading asset management firms. We manage assets on behalf of institutional and individual clients worldwide, across equity, fixed income, liquidity, real estate, alternatives, and multi-asset strategies. Our client base includes pension plans, endowments, foundations, charities, official institutions, insurers, and other financial institutions, as well as individuals around the world. BlackRock is the investment adviser to the iShares family of exchange-traded funds ("ETFs"). BlackRock also advises non-US ETFs.

2 Recognizing the importance of understanding the income that a defined contribution (DC) plan can provide in retirement, in 2013 the Department of Labor issued a proposal, which was ultimately not finalized, to require that periodic benefit statements provided to DC plan participants include projections of account balances at retirement and estimates of monthly lifetime income. As we outlined in our response to this proposal, we believe this proposal was flawed, but we appreciated the DoL's efforts to help participants understand the income that a DC plan could provide. See BlackRock, Comment Letter to the DoL, Advance Notice of Proposed Rulemaking: Pension Benefit Statements (Aug. 7, 2013), available at https://www.blackrock.com/corporate/en-us/literature/publication/anpr-pension-benefit-statements-dol-080713.pdf.

3 US Government Accounting Office (GAO) studies found that increases in life expectancy has contributed to longevity risk in retirement planning, which creates a risk that Social Security and employer-sponsored DB plans will be unable to meet obligations over their beneficiaries' lifetimes. Further, 60% of all households are without any defined contributions savings in 2013. See GAO, Report to the Ranking Member, Subcommittee on Primary Health and Retirement Security, Committee on Health, Education, Labor, and Pensions, US Senate: Shorter Life Expectancy Reduces Projected Lifetime Benefits for Lower Earners (Mar. 2016), available at http://www.gao.gov/assets/680/676086.pdf; GAO, Report to the Ranking Member, Subcommittee on Primary Health and Retirement Security, Committee on Health, Education, Labor, and Pensions, US Senate: Low Defined Contribution Savings may Pose Challenges (May 5, 2016), available at http://www.gao.gov/assets/680/676942.pdf.

expressed the need for more guidance on how to translate their existing savings into annual and monthly retirement income.[4] Further, according to research conducted by the BlackRock Retirement Institute (BRI), in conjunction with the Employee Benefit Research Institute (EBRI), this uncertainty continues well into an individual's retirement years with many current retirees not spending down their retirement savings.[5] The fear of outliving retirement savings – "longevity risk" – is a key reason for this; the need to manage that risk is a growing concern for employers and individuals.[6,7]

As the world's largest asset manager – with two-thirds of the money we manage related to retirement – BlackRock understands that our firm has a special responsibility to help people retire with dignity and financial security along with having deep history and experience in this space.[8] Over the past two decades, BlackRock has dedicated considerable resources to developing optimal retirement investment solutions for participants in DC plans. We pioneered lifecycle investing with the introduction of the first target date fund in 1993 with the goal of bringing the investment and asset allocation expertise of professionally managed defined benefit plans to DC plans.

In the mid/late-2000s, we continued our innovation in the retirement market by developing a solution that embedded lifetime income (in the form of fixed deferred annuities) into an otherwise traditional target date fund, thus bringing the decumulation benefits of defined benefit plans to DC plan participants. While the solution was very well received by plan sponsors, there were a number of factors that prevented adoption – most notably the lack of a fiduciary safe harbor. Despite the lack of traction to date with lifetime income solutions in DC plans, BlackRock views it as critical to help retirees maximize their financial lives and has continued to innovate in this space through the development of products and tools that help investors understand their retirement income potential – including:

- The development of indices that track the cost of annuities
- Tools that help financial advisors work with their clients to manage accumulation and decumulation
- Tools and education that help DC plan participants understand estimated retirement spending potential

As we noted in our July 2018 *ViewPoint* on U.S. retirement savings, there are a number of actions policymakers could take to make it easier for individuals to get in, and stay in, appropriate investment products that will provide a steady income stream through retirement.[9]

4 2018 BlackRock DC Pulse Survey, a major research study of over 200 large DC plan sponsors and over 1,000 plan participants executed by Market Strategies International, an independent research company.

5 BRI, "Spending in Retirement…or not?" (Nov. 2017), available at https://www.blackrock.com/investing/literature/whitepaper/retirement-spending-whitepaper-final-stamped.pdf.

6 Gallup, Economy and Personal Finance Survey (Apr. 2017), available at http://news.gallup.com/poll/191174/americans-financial-worries-edge-2016.aspx.

7 *See* Longevity Risk, The Center for Insurance Policy and Research (Dec. 5, 2017), available at http://www.naic.org/cipr_topics/topic_longevity_risk.htm.

8 BlackRock, 2017 Annual Report, available at http://ir.blackrock.com/Cache/1500109547.PDF?O=PDF&T=&Y=&D=&FID=1500109547&iid=4048287.

9 BlackRock, *ViewPoint*, Roadmap for improving U.S. retirement savings: Make it easier (Jul. 2018), available at https://www.blackrock.com/corporate/literature/whitepaper/viewpoint-roadmap-improving-us-retirement-savings-make-it-easier-july-2018.pdf.

In particular, we recommend increasing access to lifetime income products in DC plans, such as annuities and financial guarantees, which may help mitigate the aforementioned longevity risk and alleviate some of the challenges associated with managing withdrawals throughout retirement by providing a basic level of income security. The primary benefit of using an annuity is to reduce that increased longevity risk, by shifting the risk that you will outlive your savings to an insurance company, who will provide a guaranteed income source. This can be valuable to retirees or pre-retirees who are concerned about losing money from their retirement savings in a downturn, or worried that they may outlive their savings.

However, currently, annuities are not typically offered as an investment option in 401(k) plans, likely due to employer discomfort with applicable regulatory requirements as well as cost and liquidity concerns. We believe that the Department of Labor (DoL) can revise existing regulations to make it easier for employers to offer annuities in their 401(k) plans while maintaining appropriate protections for plan participants. Specifically, the DoL should (1) amend the safe harbor rule regarding a fiduciary's selection and monitoring of an annuity provider for an individual account plan and (2) explicitly permit annuities to be included as part of the target date fund, balanced account or managed account that currently constitute a "qualified default investment alternative" (QDIA) within the meaning of DoL regulation 2440.404c-5(e)."

Selection of an annuity provider for a 401(k) plan is subject to the fiduciary prudence standard of Section 404 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Pursuant to this standard, fiduciaries need to evaluate the claims-paying ability and creditworthiness of an annuity provider. The DoL's regulation at 2550.404a-4 provides a safe harbor for the selection and monitoring of annuity providers and annuity contracts in individual account plans. This regulation requires the plan sponsor to engage in a "facts and circumstances" analysis, which includes consideration of the financial ability of the annuity provider to make payments. In 2015, the DoL issued interpretive guidance on how to apply the facts and circumstances test.[10] Although an improvement, this additional guidance did not alleviate the burden on plan fiduciaries to assess the financial health of an insurer and its ability to make all future payments.

As a result, plan fiduciaries remain reluctant to bring lifetime income options into their 401(k) plans due to fears of fiduciary liability. Plan sponsors would likely find greater comfort including annuities as an investment option in their DC plans if they had a more practical and objective standard for selecting and monitoring an annuity provider. Plans would benefit from guidance surrounding the steps they need to take to evaluate lifetime income solutions to meet safe harbor requirements. For example, the safe harbor could look to the credit rating, licensing, length of operations or size of a particular insurer. Further, to ease the fiduciary burden on plan fiduciaries a revised safe harbor could allow the fiduciary to rely on representations from the insurer that:

- It is licensed to offer guaranteed retirement income contracts;
- At the time of purchase and for a specified lookback period, it has satisfied certain state statutory and regulatory requirements;
- It undergoes a financial examination by a state insurance commissioner at least every five years; and

[10] DoL Field Assistance Bulletin 2015-02 (Jul.13, 2015), https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2015-02.

- It will give notice to the plan fiduciary if circumstances change that affect its representations.

Insurer representations such as these have also been included in a number of bipartisan legislative initiatives.[11] Existing state regulation and oversight of insurers serve as an additional check on the financial stability of the insurer. Therefore, even with these proposed modifications, plan participants remain sufficiently protected.

To maximize the utilization of lifetime income solutions by plan participants, we recommend integrating these solutions into the plan QDIA to deliver the most benefit. Cerulli estimates that 75% of DC plan flows will be directed to target date funds (the most common QDIA) by 2020.[12] Plan default features, such as automatic enrollment and automatic escalation, have proven to be powerful mechanisms to drive positive behavior on the accumulation side of the DC system. We encourage harnessing the power of QDIAs to deliver better outcomes in decumulation, as well, by allowing lifetime income products to be utilized within the target date funds, balanced accounts and managed accounts that are currently defined as QDIAs. To that end, the DOL should revise the current QDIA regulation to clarify that lifetime income products, such as annuities and financial guarantees, could be included as part of a QDIA.

We thank the Council for this opportunity to express our viewpoint on lifetime income. BlackRock believes that now, more than ever, it is critical that lifetime income products in DC plans be available components of retirement planning strategies. Please contact the undersigned if you have any additional questions or comments on our perspective.

Sincerely,

Anne Ackerley
Managing Director, Head of U.S. & Canada Defined Contribution

Joseph Craven
Managing Director, Global Public Policy Group

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11 The Increasing Access to a Secure Retirement Act of 2017, H.R. 4604, 115th Cong. (2017) (not enacted); and the Retirement Enhancement Savings Act of 2018, S. 2526, 115th Cong. (2017-2018) (not enacted).

12 Cerulli, U.S. Retirement Edition, Improving Participant Outcomes: No Silver Bullet (2Q17), available at https://www.cerulli.com/subscriptions/us-retirement-P0000I6?ref=/products-services/cerulli-publications/edge-series/.