



Submitted Electronically

March 25, 2013

Mr. G. Christopher Cosby
Department of Labor
Employee Benefits Security Administration
200 Constitution Ave., NW, N-5718
Washington, DC 20210

Re: **Proposed Information Collection Request - Survey Regarding Pension Benefit Statements**

Dear Mr. Cosby:

The SPARK Institute appreciates this opportunity to provide input to the Employee Benefits Security Administration (the "EBSA") about the proposed survey on pension benefits statements (the "Study"). We support EBSA's efforts to understand participants' needs with respect to participant statements and information about retirement income. We believe it is crucial that all key stakeholders' views and concerns regarding such matters be considered. Our member companies include nearly all of the largest retirement plan record keepers.¹ They are the companies that plan sponsors and administrators turn to and rely on for help in understanding, implementing and complying with regulatory requirements. Furthermore, these companies maintain the systems and other infrastructure that create and provide statements to participants on behalf of plan sponsors and administrators. Consequently, although any new requirements will be the primary responsibility of the plan sponsor or plan administrator, as a practical matter, the vast majority of the compliance work will be done by our member companies.

Based on the materials related to the Study that have been provided to us, it appears that the primary focus is to evaluate plan participants' views about receiving lifetime income information and possible formats for presenting the information on statements. Our member companies also have substantial expertise concerning communicating

¹ The SPARK Institute represents the interests of a broad-based cross section of retirement plan service providers and investment managers, including banks, mutual fund companies, insurance companies, third party administrators, trade clearing firms and benefits consultants. Collectively, our members serve approximately 70 million participants in 401(k) and other defined contribution plans.

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information about lifetime income to participants. Many of our members already have the capability to prepare lifetime income illustrations and are either already helping or are prepared to help plan sponsors provide illustrations to participants. We support the use of lifetime income illustrations to help participants better understand the amount of income their retirement savings may provide, and whether they need to make changes to how they are saving and investing. In 2011, we met with EBSA and requested guidance, including a safe harbor for plan sponsors.²

Retirement plan service providers have devoted substantial time and resources to developing user-friendly participant statements and other tools, including those that are online. Their collective expertise and vantage point as service providers to retirement plans give them a unique perspective on these matters.

We have reviewed the Statement of Benefits Focus Group Discussion Guide (the "Guide"), three sample statement handouts ("Sample Statement(s)"), the Statement of Benefits Survey (the "Survey") and additional related materials. Our review focused on whether the questions in the materials and the approach taken could reasonably be expected to produce reliable and useful information for EBSA in developing new policies, rules and guidance.

The following is a summary of our views, concerns and recommendations regarding the Study. Our concerns fit within a number of categories or themes that are summarized below. Most apply to both the Guide and the Survey, but some are specific to one or the other. Generally, we identified examples in the materials that support our concerns. In certain instances, we made recommendations, provided alternative language or suggested other questions to help resolve our issues.

I. Commingling Substantive Issues and Delivery Methods; Embedded Bias Favoring Paper Statements

We are very concerned that the Guide and Survey commingle questions and concepts related to individuals' preferences about both content and delivery methods. Additionally, the materials include references to and seem to have an embedded bias toward paper statements delivered through the U.S. Mail. Millions of participants do not receive paper statements and, instead, have access to websites that provide robust tools, including print-on-demand statements and interactive lifetime income calculators.

² See Letter to Ms. Phyllis C. Borzi from Larry H. Goldbrum, dated August 1, 2011, available at www.sparkinstitute.org/content-files/File/SILetterLifetimeIncomeIllus8-1-11Final.pdf.

The Statement of Benefits section on page three of the Guide includes the following questions:

How many of you regularly review the Statement of Benefits that your 401k ... plan sends you in the mail? We're going to first ask a series of questions to those that do regularly review their statements but then we will ask those that don't regularly review their statements the same set of questions...." (Emphasis added.)

The facilitator will attempt to separate individuals who regularly review their paper statements from those who do not, and ask each group a series of substantive questions. We recognize that this line of questioning is followed by a shorter series of questions about online resources on page four of the Guide. However, it is not clear how individuals who access their account information online, instead of or in addition to paper statements, will be handled in the series of questions about paper statements. The information gathered through these questions will vary and may not be reliable without first determining how the participants generally prefer to access and review their plan account information.

Several other factors will complicate this line of questioning and should be addressed at the outset. Participants generally have online access to statements that are exact replicas of their printed statements. They may also have access to customizable on-demand statements, as well as other website data and resources that may not mirror the information on their printed statements. Furthermore, participants are also likely to have access to their account information through a customer service phone center. It is vital to understand the circumstances surrounding the participants' habits and the resources available to them before the substantive questions are asked so that the information gathered is reliable and useful. We also believe that the substantive questions that follow should be comparable regardless of the individuals' preferred access or delivery method. Additionally, referencing "account information" instead of "statements" will help address some of our concerns about commingling content and delivery methods.

Page four of the Guide includes the following questions: "Do you ever check on your retirement plan using the plan's website? How many of you have opted out of the paper statements and only receive your account information online?" (Emphasis added.) We have a number of concerns about the wording of these questions. As noted above, it does not appear that individuals will be categorized appropriately before these questions are asked. In addition, participants are likely to be confused when asked if they "opted out" of paper statements. Under current EBSA rules, plans are permitted to provide statements electronically as the default method of delivery. Millions of participants receive statements electronically by default. Furthermore, millions also have website access as well as receive paper statements. We are also concerned that the wording in the first question is biased because it suggests that the focus group participants are unlikely to access the plan website. We recommend

more neutral wording such as "Is your retirement plan account information available on a website? Do you review it?"

Another example of the Study's bias for paper statements is a closing question on page seven, "[w]hich would you like to receive in the mail if you were John Doe?" This question commingles the participants' preferences about content and delivery method and fails to consider online delivery and tools. Additionally, as discussed more fully below, the question perpetuates the unrealistic manner and context in which the lifetime income information and the Sample Statements are presented.

The Survey does not ask questions about delivery methods until the end, i.e., questions 26 to 33, and also does not take the responses into account for purposes of conducting the Survey. Questions 12 to 15 in the Survey have the same embedded bias and assumption that all participants receive paper statements. Question 12 asks, "[w]hen is the last time you reviewed the Statement of Benefits that you receive in the mail from your employer-sponsored retirement plan?" (Emphasis added.) If the Survey participant answers "never," which may be very likely for individuals who access account information online, they are not asked Questions 13 to 15 which are intended to gather information about their habits in reviewing account information. As noted above with respect to the Guide, the Survey should be modified in order to determine how each respondent accesses his or her account information, and those responses should be used to determine which Survey questions will be presented to the individual.

II. Over-Simplified and Unrealistic Sample Statements

Another matter of concern is the manner and context in which the lifetime income information is presented on the Sample Statements. Specifically, they do not include all of the information and disclosures that would typically be on the statements. The Sample Statements are shorter and less complicated than the paper statements participants currently receive. For example, all of the samples are basically two or three pages long, counting the page of new information being tested by EBSA. The samples include only basic information about a hypothetical participant's account and limited information about only two investment options. As a result, the information that is the subject of the Study will not be presented and evaluated in a realistic context.

Most statements include more detail about the participant's account balance, recent contributions and transaction activity (e.g., by sources of money and by fund), current investments (e.g., shares held, prices, rates of return, and benchmarks), personal rate of return data, asset allocation data (including charts), historical contribution information (e.g., since inception by sources of money), and legal disclosures about the plan, the funds and benchmarks. Statements may also include information about all of the investment options in the plan (i.e., not limited to those held by the participant) along with benchmarks and legal disclosures, information about plan loans, self-directed brokerage accounts, and defined benefit plan information for

employers that have them. As a result, the typical plan statement can be eight pages long. Statements may also be accompanied by other plan notices.

Although the abbreviated statements will simplify the Study process and focus the participants' attention on the specific issues of interest to EBSA, they are likely to generate unreliable results about certain issues. For example, after focus group members are asked a series of questions about whether they review their current paper statements and what information they review, they will be shown and asked to evaluate the Sample Statements. As part of the evaluation, they are asked what they like about each of the samples, are specifically prompted about whether they like the format and whether they feel information is missing or extra information can be removed. Given the brevity and simplicity of the Sample Statements, the evaluations and comparisons may help determine which of the three are favored by the participants. However, they will not provide reliable results about how the information and format of the samples compare to the actual statements participants currently receive. The results will not be a fair indicator of whether participants consider the new information to be too much to add to their current paper statements and whether they would review the information, given everything else already on their statements.

We are also concerned about the formatting and presentation of the Sample Statements in the online Survey. Although we do not have specific information about this process, we are concerned about the possibility that the format and approach may impact the results. Additionally, we are concerned about Question 19 in the Survey that asks participants to rate how easy it is to find specific information on the Sample Statements. This information will not be useful or reliable for the same reasons noted above. Furthermore, depending on how the samples are presented, Survey participants may be able to search the document electronically for the items they are being asked about. While such a search feature is very useful when participants are reviewing their account information online, it could skew the results of the Survey. Steps should be taken to address this.

In order to help resolve some, but not all, of our concerns, we recommend that the Guide and Survey include a notice to the participants that the Sample Statements they will be asked to evaluate are not like the actual statements they currently receive, and that they are much shorter because they are intended to focus on specific issues.

III. Focus on Evaluating Whether New Information Will Be "Helpful" Without Regard to Perceived "Value"

Throughout the Study materials, participants are asked whether they believe that certain information would be "helpful" to have on their benefit statements. As noted above, The SPARK Institute strongly supports transparency and providing participants with the information, tools and assistance they need to make informed decisions about saving for retirement and income planning. However, in order for any information and tools to be helpful to participants, they must take the time to read

and understand what is provided or available and, ultimately, take action as needed. Providing participants with more information on printed statements than they want or are able to process is counterproductive. In many instances, online information and tools that allow participants to tailor the results to their situations and take immediate action may be more helpful and perceived as providing greater value.

We believe it is vital to evaluate and give greater consideration to the participants' perceived value in receiving the content under consideration. This includes examining the relative value of changing the format and presentation of information that may already be provided on paper statements, in other paper documents or available online. Helpfulness does not equate to value, particularly if participants in the Study are not aware that there could be a direct or indirect cost associated with receiving the information on printed statements in a specific format. Based on our recent experience with the participant disclosure requirements under the 404a-5 regulations, all service providers, including those who already provide income illustrations, will have to modify their systems and benefit statements if the DOL mandates certain changes. The costs associated with having to comply with a new mandate to provide specific information in a prescribed format will be significant. We recommend that Survey participants be informed about the possibility of having to pay higher plan fees for the specific information in a format contemplated by EBSA.³

We note that we are not suggesting that lifetime income information should not be included on participant statements. However, as explained above, the Study materials focus substantially on providing information on paper statements and use very specific formats that are presented in an unrealistic format. We are very concerned that the results of the Study will be unreliable and potentially used to justify a mandate that specific information be provided on paper statements in prescribed formats. Based on the way that the Survey materials are currently drafted, we do not believe that the results can or should be relied upon for those purposes.

We recommend that the Survey materials collect information about and consider whether the participants already have information and tools about lifetime income available to them on their statements, in other paper documents or online. Additionally, consideration should be given to whether the participants have looked at such materials and tools. Individuals who have done so should be asked to describe and evaluate them; those who have not should be asked to provide reasons. We note that one complicating factor in all of this is verifying the accuracy of the participants' answers about the information and tools that are available to them. A significant number of service providers already provide or make available lifetime income information and tools. Certain participants may not be aware of this fact, answer incorrectly and unintentionally provide unreliable responses. While these misperceptions are a separate matter that should be addressed, the responses of these individuals will be misleading.

³ We also believe that a cost-benefit analysis should be included in any future rule-making process to determine whether plan sponsors will pay for the additional costs or pass them on to participants.

The Study materials include questions that ask participants what they would do based on certain information on the Sample Statements. For example, on page 6 of the Guide, participants will be asked to review a Sample Statement and to state what they would do if they "were in John Doe's shoes." Additionally, Question 22 of the Survey asks, "[w]ould you say that you feel this person is likely to be adequately prepared for retirement?" Neither the Guide nor the Survey provides critical information about the hypothetical individual's income, marital status, possible debt, or other assets. The Study participants will not be able to answer these questions in a useful way without such information. Regardless, the Study participants' ability to determine the correct course of action in a hypothetical example is not a reliable basis for concluding they would take such actions themselves if the information at issue was provided. If that is the goal of this line of questioning, the materials should include examples reflecting the Study participant's situation and specifically ask if they would take action, and if not why. We note that plan participant action may also be less likely when additional follow-up steps are required based on paper statements (e.g., having to go to the plan's website to initiate any action). The method of delivery should be evaluated in relation to the likelihood for taking action. Based on our experience, participants are more likely to take action on important plan matters when they are presented with the information electronically and are able to take immediate action.

IV. Potentially Confusing, Misleading and Leading Questions

We are concerned that the study materials include certain questions that are potentially confusing, misleading or leading. They include the following:

Guide, pages 2 and 3 - "How many of you have thought about how much money you will need for retirement? How many of you have formally set a goal for yourself?" We believe that these are important questions. However, it is critical to consider the responses along with the ages of the focus group participants. For many reasons, younger individuals are less likely to begin thinking in terms of income replacement. Relying on responses to this question without regard to the age of the respondent could lead to incorrect conclusions.

Additionally, the focus group participants will be asked different sets of questions based on their answers to the above queries. As noted in Section I, we believe that all respondents should be asked if their employers, plans or plan service providers already provide lifetime income information or tools and, if so, in what format (e.g., paper documents or online interactive tools). They should also be asked if they review the information or tools, to evaluate them and to identify their preferred method of access or delivery.

Individuals who say they have done no planning will be asked to explain why. They may be prompted with "don't know how to come up with reasonable goal" or asked to explain further if they provide a similar response. These participants will also be

asked, "How many people have trouble coming up with a reasonable goal?" Since these individuals have done no planning, it is likely that they will not have a good context in which to address this issue and the questions will be leading. Other plausible explanations for not having done planning include, but are not limited to, "I am too young" and "I don't know how much I will be making later in my career." Participants should not be led with these misplaced questions and facilitator prompts. The results from these questions should not be relied on for decision making.

This section also asks individuals who have done no planning, "[a]re any of you worried that you won't be able to retire, that you will have to keep working?" The usefulness and reliability of the responses to this question will be directly affected by the participants' ages. Those who are closer to retirement and have not done any retirement income planning are likely to be, and perhaps should be, concerned. We are very concerned that, under the current approach for the focus groups, the responses will be unreliable. Thus, they should not be used as a basis for making decisions.

Page five of the Guide asks participants to explain whether the "Projected Account Value" information seems like a guarantee. As EBSA knows from our letter and discussions about this topic in 2011, we are very concerned about this issue. Plan sponsors and service providers are concerned about participant claims and potential litigation if a participant incorrectly assumes that an income illustration is an actual benefit. We appreciate EBSA's attempts to gather information that might be helpful in addressing this concern. However, we believe that the Study participants' responses are of limited value because the questions focus their attention on the material and the issue. Additionally, we are very concerned about the way in which the first Sample Statement couples the projected account value information with the actual account balance information. We recognize that these are just samples for evaluation, but we believe that it is important to note our concerns about this being potentially very misleading for plan participants.

Survey Question 4 - "Now please think about the current allocation of the investments in your account. You may not be certain but please give us your best guess. If you are holding a fund that has an asset allocation split between stocks and bonds, please divide that investment according to what you think is the asset breakdown for that fund." We are concerned about asking participants to guess about their current asset allocation. Survey participants' ability to answer this question and the reliability of their responses will vary widely depending on whether they are active and engaged participants or passive savers and investors. We recommend that this question be removed and replaced with other questions that are more likely to produce reliable results.

Survey Questions 16 to 18 - These two questions present a set of facts and figures which include an account balance, a monthly contribution amount, years to retirement, a rate of return and years in retirement. Participants are then asked to calculate how much they expect to have saved at retirement and how much monthly

income they will have. We are very concerned about these very complicated mathematical questions that cannot be answered without the use of a calculator and an understanding of how to calculate present and future values of money. If the study is intended to determine whether and to what extent participants are able to equate monthly income with an account balance, other approaches should be considered including simple multiple choice questions that contain more information. As written, these questions will be intimidating and are likely to be skipped or, worse, cause participants to abandon the Survey. We are also concerned that Question 18 is hard to understand, will confuse Survey participants, and will not produce useful information.

Sample Statements - The Sample Statements include hypothetical information about administrative fees allocated or deducted from the participants' accounts for legal, accounting and record keeping of approximately \$146 per quarter or \$584 per year, which is approximately 47 basis points per year. Assuming a typical plan arrangement where participants pay fees indirectly through investment fund fees, the administrative fees used in the hypothetical statements are unusually high. We recognize that this is not the subject of the survey but are, nevertheless, concerned that this information is potentially misleading and inflammatory to the Study participants. We recommend using five basis points or \$16 per quarter.

V. Potential Reliance on Participants' Perceptions and Opinions on Technical Matters

We are concerned that both the Guide and Survey ask participants to evaluate whether certain financial and other assumptions are realistic for their situation. The assumptions include life expectancy, rate of return estimates, inflation estimates, and annuity pricing information. Most Study participants will not have a frame of reference or basis for knowing if the assumptions are correct or reasonable. We believe that it is appropriate for plan participants to be provided with interactive tools to enable them to customize these factors when doing their own planning. However, we believe that EBSA should rely on financial professionals who are experts on these matters for purposes of policy making and determining what assumptions should be used for providing lifetime income estimates on a broad scale to a large population of American savers. We do not believe that the opinions of the Study participants will result in useful or reliable information. We recommend that the Study focus on whether the participants understand the assumptions, why they are needed and whether they are explained sufficiently.

VI. Additional Concerns About the Study Approach

The SPARK Institute believes that the demographics and personal situations of the Study participants will have a significant impact on the results. Potential Study participants should be asked if they are actively employed and participating in their current employers' plans. Ideally, the Study will focus on individuals who are actively employed and participating in a plan. Individuals who are not employed but have money in a plan from a prior employer should be identified for purposes of segmenting results.

We also believe that Survey participants should be asked if they affirmatively enrolled in the plan and selected their own investments or if they were automatically enrolled or defaulted into the plan and investments. The views of these passive and potentially disengaged participants, particularly regarding whether certain information and presentation formats are helpful and useful, may not be reliable because they most likely do not have the same context and frame of reference as more actively engaged plan participants.

VII. Conclusions

Despite the number of issues and concerns raised herein, we reiterate our appreciation and support for EBSA's efforts to better understand plan participants' needs with respect to statements and information about retirement income. Additionally, we appreciate EBSA making the Study materials available for review in advance of the project. We would be happy to provide additional information about our concerns and recommendations to help ensure the information gathered through the Study is reliable and useful. The SPARK Institute and representatives from our member companies are also willing to meet with EBSA to collaborate on improving the Study materials.

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Thank you for considering our views and recommendations on these very important issues. Please do not hesitate to contact us at (704) 987-0533.

Respectfully,



Larry H. Goldbrum
General Counsel