

**Testimony of
Amy Matsui, Senior Counsel,
National Women's Law Center
Senate Special Committee on Aging
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This testimony is submitted by the National Women's Law Center on behalf of the American Association of University Women, the National Consumers League, the National Organization for Women (NOW), OWL (the Older Women's League), and the Pension Rights Center: all nonprofit, nonpartisan public policy organizations committed to promoting women's retirement security. The undersigned commend Chairman Kohl for making women's retirement security a priority of the Senate Special Committee on Aging and appreciate the opportunity to submit written testimony for the Committee's hearing on expanded access to lifetime income payments.

Summary

In brief, this testimony will explain why ensuring access to a stream of lifetime income is especially important to women. This Committee has already explored options for strengthening Social Security, the foundation of women's economic security in retirement. In this testimony we focus on the importance of lifetime income for women's retirement security, and recommend a number of policy changes to improve access to lifetime income from employer-sponsored retirement plans and from Individual Retirement Accounts (IRAs).

The Importance of a Stream of Lifetime Income to Women's Retirement Security

Recent losses in the stock market and poor economic conditions underscore that many U.S. workers are at risk of not having an adequate income in retirement, as this Committee's earlier hearings have highlighted. Even before the current economic recession, research indicated that retirement savings are likely to be inadequate for many Americans, particularly women. While there is a substantial gender gap in all sources of retirement income, the disparity between women's and men's pension income is especially pronounced and exists in levels of retirement plan participation, pension benefits, and defined contribution account accumulations. This gender gap in retirement income is largely attributable to women's experience in the labor force: women spend fewer years in the workforce, are more likely to work in part-time employment, and historically earn less than their male counterparts. Unfortunately, women need more, not fewer, retirement savings than men, because they are likely to live longer than men and spend more years living alone. In 2008, almost 12 percent of women 65 and older lived in poverty, compared to 6.7 percent of men 65 and older. The risk of poverty is particularly high for older women living alone. Women 65 and older living alone had a poverty rate of 18.9 percent, compared to 12.4 percent for men 65 and older living alone.¹

¹ NWLC calculations based on U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement (2009) (using CPS Table Creator, *available at* http://www.census.gov/hhes/www/cpstc/cps_table_creator.html).

The continuing shift from defined benefit to defined contribution plans has exacerbated the challenges women face in securing adequate retirement income. Over the last two decades, much of the risk and burden of financing retirement has shifted from employers to employees as coverage has moved away from traditional defined benefit (DB) plans, in which workers typically accrue monthly benefits based on years of service and earnings, in favor of defined contribution (DC) plans, in which participants accumulate balances in self-directed individual accounts, such as 401(k)s. Across the board, DC plan balances are typically inadequate for a secure retirement, and this is especially pronounced for women. One study found that the median female worker near retirement with a DC plan or IRA held \$34,000 in her retirement accounts while her male counterpart held \$70,000 in 2004.²

Moreover, the very structure of these plans, in which workers bear responsibility for the investment decisions, poses risks for all workers. In DC plans, workers are responsible for allocating their funds among a range of options and individually bear the investment risks. If investments do not perform as well as expected, workers will have less money in their DC plans to provide income in retirement.

In addition, the fact that most workers, including women, do not spend their careers in a single job has additional negative implications for women. When a worker leaves a job, he or she can leave any retirement savings accrued in an employer's DC plan with the employer, as long as the account balance is above a certain minimum level. However, workers leaving jobs often take distributions from their DC plans – either withdrawing the savings (often subject to a tax penalty if they have not reached retirement age) or rolling the savings over into another tax-qualified retirement savings vehicle (such as another employer-sponsored DC plan or an individual retirement account). Women, however, are less likely than men to roll over a “lump-sum” payment when leaving a job.³ Twenty-seven percent of men compared with 23 percent of women re-invested their lump sum in one of these other savings vehicles.⁴ This reduces women's already lower retirement savings.

Likewise, because DC plans like 401(k)s typically pay out in lump sums as opposed to annuities, workers bear the risk of managing their account balances so they can provide additional support over their lifetimes and, for many, the lifetime of a surviving spouse. This “longevity risk”—in which a retiree may live longer than expected and thus exhaust his or her retirement savings—is especially manifest for women. Because women on average live longer than men, their 401(k) balances must be able to produce an income stream over a longer stretch of time. A woman

² Leslie E. Papke, Lina Walker, & Michael Dworsky, The Retirement Security Project, Retirement Security for Women: Progress to Date and Policies for Tomorrow 4 tbl.1 (2008), *available at* http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Retirement_security/RSP-PB_Women_FINAL_4.2.2008.pdf.

³ Moreover, women also lag behind men in re-investing the funds in other savings vehicles such as savings accounts, stocks, bonds, or the purchase of a home.

⁴ Lois Shaw & Catherine Hill, Inst. for Women's Policy Research, The Gender Gap in Pension Coverage: What Does the Future Hold?, at 8 (2002), *available at* <http://www.iwpr.org/pdf/d447.pdf>.

whose 401(k) plan does not offer an annuity option but who wishes to ensure lifetime income currently can use her 401(k) balance to purchase an annuity from a private insurance company. Small annuities purchased on the open market, however, are generally burdened by high fees and low effective rates of return, which can reduce their attractiveness notwithstanding the value of a lifetime stream of income. Women, in addition, generally face the disadvantage of having to purchase annuity products from insurance companies that are priced using gender-distinct mortality tables (in contrast, defined benefit and money purchase plan annuities are calculated without regard to gender, as required by Title VII of the Civil Rights Act of 1964). This can amount to an appreciable decrease in retirement income.

Social Security benefits, which are lifelong, inflation-adjusted, and virtually universal, are therefore the foundation for women's retirement security. Accordingly, the undersigned commend this Committee's work to research and evaluate options to strengthen Social Security with regard to solvency and benefit adequacy, particularly for vulnerable populations. But while protecting and strengthening Social Security is critical for ensuring women a secure basic benefit, Social Security benefits were not designed to be the sole source of income in retirement. Thus, women would generally benefit by increasing their ability to receive distributions from their retirement savings accounts as lifetime income payments, whether in the context of the employer-based retirement system or in savings accounts such as individual retirement accounts (IRAs), to supplement Social Security and bring them closer to achieving a secure retirement.

Accordingly, in order to increase access to lifetime income options, especially for women, the undersigned recommend that (1) employer-sponsored defined contribution plans be required to offer lifetime income options; (2) the spousal protections that currently attach when married participants in defined contribution plans select life annuities be maintained; (3) plan administrators be required to accept rollovers from qualified retirement savings accounts; and (4) significant policy changes related to the sale of annuity products by insurance companies be considered.

Proposals to Increase Access to Lifetime Income Options From Employer-Based Retirement Savings Accounts

Most Americans who save for retirement do so through the employer-based retirement system. Yet, participation in the employer-based retirement savings system is far from universal. Only half of workers have access to retirement savings plans through their employers.⁵ And only 40 percent of women participate in an employer-based retirement savings plan.⁶

As mentioned above, defined benefit pension plans, which pay benefits in the form of a life annuity (or, for married participants whose spouses did not waive this option, joint-and-survivor

⁵ In 2008, 50.6% of all workers worked for an employer that sponsored a retirement plan, and 40.4% of all workers participated in a retirement plan. Craig Copeland, Employee Benefit Research Inst., Issue Brief No. 336, Employment-Based Retirement Plan Participation: Geographic Differences and Trends, 2008, at 8 fig.1 (2009), available at http://www.ebri.org/pdf/briefspdf/EBRI_IB_11-2009_No336_Ret-Part.pdf.

⁶ Copeland, *supra* note 5, at 9 fig.2.

annuities), predominated in the employer-based retirement system for many years. Increasingly, however, employers offer defined contribution plans such as 401(k)s or 403(b)s. Few 401(k) plans offer options for participants to receive some or all distributions in the form of lifetime income payments,⁷ and most participants in 403(b) plans elect to receive lump-sum payments.

Require Lifetime Income Option

Increasing the availability of lifetime income options from employer-sponsored DC plans would benefit women. There are distinct advantages to lifetime income payment options offered through employer-sponsored plans, as compared to annuities purchased from a private insurance company (the lifetime income option available to IRA owners or participants in 401(k)s that do not offer annuity options). First, as mentioned above, women generally face higher prices than men when purchasing annuities outside an employer-sponsored plan, on the open market. For example, one online annuity quote generator estimates that a 64-year-old female in Wisconsin purchasing an annuity with \$50,000 would receive a monthly payment of \$284, whereas a 64-year-old male in Wisconsin purchasing an annuity with the same amount would receive a monthly payment of \$310—a difference of 9.2%.⁸ But federal law prohibits employers from requiring women to pay more than men for annuities offered through employer-based retirement savings plans.⁹ In addition, employer-based retirement savings plans may be able to negotiate lower fees overall, premised on a group rate—which is particularly important for workers with lower account balances (who are disproportionately women). Further, it is to be hoped that as increasing numbers of participants in employer-sponsored plans select annuities, costs (and risk) could be spread out and the price of annuities would drop further.

In addition, small employers, as well as low- and moderate-income workers, could benefit from the creation of low-cost, reliable, inflation-adjusted alternative annuity products, as discussed below in connection with increasing lifetime income options from individual retirement accounts. Thus, we would strongly recommend that 401(k) and other employer-based DC plans be required to offer a lifetime income option. Gender-neutral pricing should be mandated, as under current law.

We recognize that account balances below a certain amount present administrative burdens and are unlikely to result in meaningful lifetime income payments. Yet in our experience, even

⁷ In 2008, only 14% of surveyed employers that offered a 401(k) plan offered an annuity option to participants. Hewitt Assocs., Research Highlights: Trends and Experience in 401(k) Plans 7 (2009), available at http://www.retirementmadesimpler.org/Library/Hewitt_Research_Trends_in_401k_Highlights.pdf.

⁸ ImmediateAnnuities.com, Instant Annuity Calculator, www.immediateannuities.com (search run by NWLC June 10, 2010).

⁹ Equal Employment Opportunity Comm'n, Compliance Manual, Chapter 3: Employee Benefits, Title VII/EPA Issues, II(A) (2000) ("Although women as a class generally live longer than men, Title VII requires that each woman -- and each man -- be treated as an individual. As a result, employers may not use sex-based actuarial tables -- which rely on generalizations about women's and men's life expectancies -- to calculate . . . the amounts that it will charge its male and female employees for those benefits.") (citing *Arizona Governing Committee v. Norris*, 463 U.S. 1073 (1983); *Los Angeles Dep't of Water and Power v. Manhart*, 435 U.S. 702 (1978)), available at <http://archive.eeoc.gov/policy/docs/benefits.html>.

relatively small amounts of dependable lifetime income can be significant for low- and moderate-income workers. In addition, DB plans and the federal Thrift Savings Plan contemplate very small monthly payments—DB plans must annuitize benefits with a present value in excess of \$5,000,¹⁰ and the Federal Thrift Savings Plan must do so for account balances above \$3,500.¹¹ A participant should thus be given the option of receiving his or her account balance (or portion of the account balance) amount as an annuity, so long as the amount to be annuitized at least equals some commensurate minimum threshold.

We also recognize that even when employers offer lifetime income options from their DC plans, an unfortunately small percentage of employees selects such options.¹² Commentators and policymakers have raised various reasons for which many individuals, including women, may select lump sums rather than a lifetime income stream.¹³ In addition, although workers understand that traditional DB pensions provide a lifetime income stream, few workers conceptualize their DC plan balances in terms of a lifetime stream of income.¹⁴ Consequently, lifetime income options should be offered in conjunction with significant educational efforts for plan participants. For example, one study indicated that when individuals were asked whether they preferred an annuity or an actuarially equivalent lump sum, 41% of respondents preferred the annuity.¹⁵ Thus, providing participants with benefit statements that estimate the annuity that could be purchased with the existing account balance, as proposed by the Lifetime Income Disclosure Act,¹⁶ introduced by Senators Bingaman, Isakson, and Kohl, could help prepare the workforce to think of their retirement savings in terms of lifetime income. Pilot projects with intensive education efforts also may prove effective.

If the lifetime income option were made the default form of benefit, the percentage of individuals selecting lifetime income options would likely increase. However, while the potential for lifetime income is significant, the fact that the purchase of an annuity cannot be easily unraveled, if at all, means that careful consideration must be given to when, and how, annuities might be made a default option. Recent changes to the law that permit employers to automatically enroll eligible employees in DC plans, giving employees the option to opt out,¹⁷ have been

¹⁰ 26 U.S.C. § 411(a)(11).

¹¹ 5 U.S.C. § 8435(g).

¹² In 2009, only 1% of retirees who were offered an annuity option in their DC plan elected that option. Ken McDonnell, *Retirement Annuity and Employment-Based Pension Income, Among Individuals Age 50 and Over: 2008*, EBRI Notes (Employee Benefit Research Inst., Washington, D.C.), May 2010, at 17, available at http://www.ebri.org/pdf/notespdf/EBRI_Notes_05-May10.IAs.pdf (citing 2009 data from Hewitt Associates).

¹³ See generally, e.g., U.S. Gen. Accounting Office, GAO-10-632R, *Retirement Income: Challenges for Ensuring Income Throughout Retirement 9–10* (2010) (citing the fact that putting all income in an annuity does not leave liquid cash to address “large unplanned expenses” in retirement and that some retirees plan to leave bequests to heirs as reasons that retirees may put only some assets into an annuity, or not select an annuity at all), available at <http://www.gao.gov/new.items/d10632r.pdf>.

¹⁴ See *id.* at 10.

¹⁵ See *id.*

¹⁶ S. 2832, 111th Cong. (2009).

¹⁷ See Pension Protection Act of 2006, Pub. L. No. 109–280, § 902, 120 Stat. 780, 1033 (codified at 26 U.S.C. 401(k)(13) (West, Westlaw through P.L. 111–174)).

demonstrated to significantly increase participation.¹⁸ Established and effective participant education and possibly a trial period¹⁹ would be important to consider.

Spousal Protections

In addition, lifetime income options offered through employer-based retirement plans would benefit women because they would trigger important spousal protections.

Women have fewer retirement assets than men, and more women rely on their spouses' pensions than men.²⁰ And among widowed spouses, 21 percent of widows compared to just 5 percent of widowers receive pension benefits based on the pension of a deceased spouse.²¹ Spousal protections in retirement savings are therefore extremely important for women as demonstrated by studies conducted after Congress passed the Retirement Equity Act of 1984 (REA).²² The REA made a lifetime annuity with a survivor annuity for a spouse the default form of benefit from DB pension plans for married workers.²³ Following the enactment of the REA, the number of married men who provided a survivor annuity for their spouses increased 15 percent, ensuring a more secure retirement for many more widows.²⁴

However, as discussed above, DB plans have been increasingly supplanted by retirement savings plans such as 401(k)s. Most participants in DC plans take distributions of their benefits in the form of a lump sum at retirement, or roll their account balances over into another tax-qualified retirement savings plan when they change jobs prior to retiring. But no spousal protections are available to the spouses of married participants who do so, meaning that the participant can make the decision to take a lump-sum or rollover distribution without any input from the spouse.²⁵ In

¹⁸ Jack VanDerhei, Employee Benefit Research Inst., Issue Brief No. 341, *The Impact of Automatic Enrollment in 401(k) Plans on Future Retirement Accumulations: A Simulation Study Based on Plan Design Modifications of Large Plan Sponsors 5* (2010), available at http://www.ebri.org/pdf/briefspdf/EBRI_IB_04-2010_No341_Auto-Enrl.pdf.

¹⁹ See, e.g., William G. Gale et al., *The Retirement Security Project, Increasing Annuitization in 401(k) Plans with Automatic Trial Income 12* (2008), available at http://www.brookings.edu/~media/Files/rc/papers/2008/06_annuities_gale/06_annuities_gale.pdf.

²⁰ According to NWLC calculations based on the 1998 Health and Retirement Study, 87% of married women as opposed to 31% of married men relied on their partner's pension income.

²¹ Pension & Welfare Benefits Admin., U.S. Dep't of Labor, *Retirement Benefits of American Workers: New Findings from the September 1994 Current Population Survey tbl.D11* (1995), available at http://www.dol.gov/ebsa/programs/opr/redbook/d_11.htm.

²² Retirement Equity Act of 1984, Pub. L. No. 98-397, 98 Stat. 1426.

²³ Pub. L. No. 98-397, § 103 (codified at 29 U.S.C. § 1055(a)-(b)).

²⁴ U.S. Gen. Accounting Office, GAO/HRD-92-49, *Pensions Plans: Survivor Benefit Coverage for Wives Increased After 1984 Pension Law 7* (1992) (examining data from 1984-1989), available at <http://archive.gao.gov/t2pbat6/146159.pdf>.

²⁵ Some spousal protections do apply in 401(k) plans. Specifically, a participant in a 401(k) plan must obtain spousal consent before designating a beneficiary other than the spouse who would receive the account balance if the participant died while participating in the plan. 26 U.S.C. § 417(a)(2). This means, effectively, that a spouse is protected against having the 401(k) assets go to someone else if the participant dies while enrolled in the plan, but *not* against having the assets go to another beneficiary if the participant changes jobs and rolls over the 401(k) balance into an IRA.

contrast, under current law, if a 401(k) or similar DC plan offers annuities and a married participant selects an annuity, spousal protections equivalent to those in DB plans apply: the participant must choose a lifetime annuity with a survivor annuity of at least 50 percent for a spouse, unless the spouse waives the survivor benefit.²⁶ Thus, when DC plans offer annuity options, important spousal protections are triggered.

Because of the importance of robust spousal protections for lifetime payments from retirement savings, lifetime income options offered by DC plans should be limited to those that would fall within the statutory definition of annuity.²⁷ Second, the spousal protections that apply to annuities offered by DC plans under current law should be maintained. There should be no difference between spousal protections for lifetime income received from DC plans and that received from DB plans. This is particularly important because spousal protections have already been weakened by permitting spousal consent to be transmitted through electronic technologies.²⁸ Third, in the event that lifetime income options are made the default form of benefit, it should be clarified that a participant must obtain spousal consent not only to take a single life annuity, but also a lump sum or other form of benefit, as under the federal Thrift Savings Plan.²⁹

Rollovers from Other Qualified Plans

There are several reasons for the limited ability of low- and moderate-income individuals to accumulate savings through an employer-sponsored DC plan. Although participants can contribute up to \$16,500 per year under current law, few workers, especially low- and moderate-income workers, do so.³⁰ Tax incentives for retirement savings are skewed to higher earners,³¹

²⁶ See 26 U.S.C. § 401(a)(11); Internal Revenue Service Publication 6391 Explanation No. 3, Joint and Survivor Determination of Qualification 3 (2009), available at <http://www.irs.gov/pub/irs-pdf/p6391.pdf>.

²⁷ We believe that this can be accomplished by regulation.

²⁸ Commentators, including some of the organizations joining in this testimony, submitted that the use of electronic media to waive a survivor annuity presents authentication concerns, among other things. See Use of Electronic Media for Providing Employee Benefit Notices and Making Employee Benefit Elections and Consents, 71 Fed. Reg. 61,877, 61,882–83 (Oct. 20, 2006) available at <http://edocket.access.gpo.gov/2006/pdf/E6-17528.pdf>; 26 C.F.R. § 1.401(a)–21(d)(6) (2009), available at [http://edocket.access.gpo.gov/cfr_2009/aprqr/pdf/26cfr1.401\(a\)-21.pdf](http://edocket.access.gpo.gov/cfr_2009/aprqr/pdf/26cfr1.401(a)-21.pdf). Notwithstanding, a number of comments submitted by industry groups to the Departments of Labor and Treasury sought to further weaken spousal consent requirements by expanding the use of electronic technologies beyond what is currently permitted under current regulations of the Department of the Treasury. See, e.g., American Council of Life Insurers, Response to Department of Labor RFI 17, May 3, 2010 (“[T]he use of electronic means of QJSA administration is needed to promote efficiencies and reduce costs.”).

²⁹ 5 U.S.C. § 8435(a)(1). Again, the undersigned believe that this could be accomplished by regulation and that legislation would not be necessary.

³⁰ In 2005, only 1.3% of workers with a family income between \$20,000 and \$29,999 and making a contribution to a 401(k) type plan made the maximum contribution while 14.6% of those with incomes of \$75,000 did so. Craig Copeland, *Ownership of Individual Retirement Accounts (IRAs) and 401(k)-Type Plans*, EBRI Notes (Employee Benefit Research Inst., Washington, D.C.), May 2008, at 6 fig.3, available at http://www.ebri.org/pdf/EBRI_Notes_05-2008.pdf. In 2010, individuals 50 and over can contribute a maximum of \$22,000 a year.

³¹ Eric J. Toder, Benjamin H. Harris, & Katherine Lim, Tax Policy Ctr., Distributional Effects of Tax Expenditures 17 (2009), available at http://www.taxpolicycenter.org/UploadedPDF/411922_expenditures.pdf.

disproportionately male. Among women making a contribution to a 401(k)-type plan in 2005, only 6 percent made the maximum contribution.³²

Since the average worker has multiple jobs during his or her career,³³ he or she may have accumulated retirement savings with a number of employers. Under current law, workers with retirement savings in an employer-based plan can either keep the account balance in the employer's plan (if they have more than a minimum amount of savings), or roll the account balance into another tax-qualified retirement savings account—such as another defined contribution or defined benefit plan, if it accepts rollover contributions, or, more likely, an IRA.³⁴ Thus, as a worker nears retirement, he or she may have retirement savings in one or more employer-based retirement savings accounts, and/or in one or more IRAs.

Many women have saved enough throughout their careers to provide for a modest, but not insignificant, supplement to Social Security. In 2004, the median 401(k) and/or IRA account balance for women ages 55 to 64 was \$34,000.³⁵ One annuity calculator estimated that a 64-year-old female in Wisconsin who purchased a fixed immediate single-life annuity with \$34,000 from an insurance company could expect monthly annuity payments of \$193.³⁶ Although it would be difficult to live off these monthly payments alone, they would provide an important boost to Social Security payments, which average about \$1,000 per month.³⁷ Even such a modest annuity could allow many low- and moderate-income participants to feel more secure in their retirement.

Unfortunately, unless an individual could aggregate his or her accumulated retirement savings in the 401(k) account that offered a lifetime income payout, he or she would be unable to maximize his or her lifetime income payments. Under current law, a DC plan may, but is not required to, accept rollovers from other qualified retirement accounts.³⁸ We therefore recommend that plan

³² Copeland, *supra* note 30, at 6 fig.3. In comparison, 11.7% of men made the maximum contribution in 2005. *Id.*

³³ The average person born in the later years of the baby boom (individuals born from 1957 to 1964) held 10.8 jobs from age 18 to age 42. Press Release, Bureau of Labor Statistics, Number of Jobs Held, Labor Market Activity, and Earnings Growth Among the Youngest Baby Boomers: Results from a Longitudinal Survey (June 27, 2008), available at <http://www.bls.gov/news.release/pdf/nlsoy.pdf>.

³⁴ 26 U.S.C. § 408(d)(3)(A). Workers can also withdraw some or all of the account balance, subject to a tax penalty if they are not yet of retirement age. 26 U.S.C. § 72(t)(1).

³⁵ Papke, Walker, & Dworsky, *supra* note 2, at 4 tbl.1. In comparison, the median 401(k) and/or IRA account balance for men ages 55 to 64 was \$70,000 in 2004. *Id.* The average account balances for this age group, which includes a small number of high-earning individuals, are much higher: \$91,700 for women and \$219,500 for men. *Id.*

³⁶ ImmediateAnnuities.com, Instant Annuity Calculator, <http://www.immediateannuities.com> (search run by NWLC June 10, 2010).

³⁷ The average monthly Social Security retired worker benefit for women in March 2010 was \$970.56. *See* Soc. Sec. Admin., Beneficiary Data, Benefits Awarded by Type of Beneficiary, <http://www.ssa.gov/OACT/ProgData/awards.html> (search run by NWLC June 10, 2010).

³⁸ 26 U.S.C. § 401(a)(31)(E); 26 C.F.R. § 1.401(a)(31)-1, Q&A 13 (2009).

administrators be required to accept such rollovers, to give low- and moderate-income workers an opportunity to receive larger lifetime income payments.³⁹

Proposals to Increase Access to Lifetime Income Options From Individual Retirement Accounts (IRAs)

A significant amount of retirement assets are deposited in IRAs as rollovers from 401(k) or other DC accounts when individuals leave a job before retiring.⁴⁰ Individuals may have more assets with which to purchase lifetime income payments in an IRA than in their current 401(k) or other DC plan or plans.

But even if women have enough assets in an IRA to purchase an annuity that would meaningfully boost their retirement security, they face disadvantages when seeking to do so as individuals from insurance companies on the open market.⁴¹ As discussed above, annuity products are expensive, although they provide an important guarantee of lifetime income in return. Further, few annuities that provide inflation-adjusted monthly payments are available from insurance companies, and the effects of inflation can be significant.⁴² Also, as discussed above, insurance companies generally charge similarly situated women more than men for an annuity. Moreover, as discussed above, there are other reasons for which individuals may be reluctant to purchase annuities, such as the desire to leave a bequest or have enough liquid assets to deal with unplanned expenses.⁴³ Although insurance companies offer options that address some of these disadvantages, increasing the number of options reduces lifetime income, increases costs, and also creates complexity. In addition, individuals who purchase annuities on the open market face the risk of the insurance company offering the annuity going out of business or filing for bankruptcy, and thus becoming unable to fulfill its obligation, in full or in part, to provide the annuitant with lifetime income.⁴⁴

³⁹ We believe that this could be accomplished through regulation, but may be easier if effectuated through legislative changes.

⁴⁰ In 2008, \$3.61 trillion dollars in retirement assets were held in private-sector IRAs, mostly as a result of rollovers from 401(k)s or other defined contribution accounts. Craig Copeland, Employee Benefit Research Inst., EBRI Issue Brief No. 333, Individual Retirement Account Plans: An Analysis of the 2007 Survey of Consumer Finances, with Market Adjustments to June 2009, at 4 fig.1, 24 fig.12b (2009), available at http://www.ebri.org/pdf/briefspdf/EBRI_IB_8-2009_No333_SCF.pdf.

⁴¹ A few providers are apparently offering institutionally priced rollover IRA annuities. See MetLife, Response to the Request for Information Regarding Lifetime Income Options 8–9 (May 3, 2010) (“Under this arrangement, a participant is provided with multiple insurers to choose from and these annuities are offered at institutional prices, thereby offering a higher benefit at a lower cost. Access to on-line quotes and other relevant information is also provided that allows the participant to compare and contrast prices and features before purchasing the immediate annuity.”), available at <http://www.dol.gov/ebsa/pdf/1210-AB33-695.pdf>. It is unclear how many such platforms are available to, much less chosen by, employers.

⁴² See U.S. Gen. Accounting Office, *supra* note 13, at 9.

⁴³ See *supra* notes 13–15 and accompanying text.

⁴⁴ State insolvency guaranty funds provide some relief from that risk, up to certain levels of liability. See AnnuityAdvantage.com, State Guarantee Funds, <http://www.annuityadvantage.com/stateguarantee.htm> (last visited Apr. 28, 2010). However, their protections may not extend to annuity purchasers who have moved to another state. Nat’l Academy of Social Insurance, *Uncharted Waters: Paying Benefits from Individual Accounts in Federal*

For all of these reasons, we recommend that a number of policy changes with regard to annuity products offered by insurance companies be considered. These could take the form of recommendations to state insurance industry regulators, or changes in federal law to ensure that protections are available to individuals purchasing annuities in every state.⁴⁵ Changes could include prohibiting discriminatory pricing and creating standard alternatives to the annuity products currently available to individuals on the market. One alternative could be low-cost annuities with limited options, administered through a government clearinghouse (such as the PBGC or an entity based in the federal Thrift Savings Board). Another option could be retirement savings bonds (R-bonds), backed by Treasury securities and payable only at retirement, which would include an option to pay out as lifetime income. We encourage policymakers to explore and support the creation of these, and other, annuity products that would supplement the annuity products currently on the market. Without affordable, reliable annuity products, encouraging individuals, especially low- and moderate-income individuals, to purchase lifetime income products could have little practical positive impact. Other changes to the laws governing IRAs, including adding spousal protections to rollover accounts, should be considered. Given the amount of rollover assets in IRAs, failing to address the barriers to obtaining secure lifetime income from IRAs in the private insurance market, under the current legal framework, would create a significant policy gap.

Recommendations for Increasing Access to Lifetime Retirement Income

We thank Chairman Kohl and the members of this Committee for making expanded access to lifetime income a focus of the Senate Special Committee on Aging, both through their work on strengthening Social Security and this hearing. As the foregoing testimony demonstrates, the ability to convert retirement savings into lifetime income is extremely important for women. In order to increase women's access to lifetime income options, we recommend that (1) employer-sponsored defined contribution plans should be required to offer lifetime income options; (2) the spousal protections that currently attach when married participants in defined contribution plans select life annuities should apply to these new lifetime income options; (3) plan administrators should be required to accept rollovers from qualified retirement savings accounts; and (4) significant policy changes related to the sale of annuity products by insurance companies should be considered to eliminate gender discrimination in the pricing of private annuities and increase access to secure, low-cost options.

Thank you for the opportunity to submit testimony on these important issues.

Retirement Policy 82 (2005), *available at* http://www.nasi.org/sites/default/files/research/Uncharted_Waters_Report.pdf.

⁴⁵ For example, in recent comments to the Departments of Labor and Treasury, AARP recommended creating a federal agency, similar to the FDIC, that would regulate lifetime income products. AARP, Response to Request for Information on Lifetime Income 7–8 (May 3, 2010), *available at* <http://www.dol.gov/ebsa/pdf/1210-AB33-659.pdf>.