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Via E-Mail and Regular Mail

August 14, 2007

Mr. Bradford P. Campbell
Assistant Secretary
Employee Benefits Security Administration
Suite S-2524
U.S. Department of Labor
200 Constitution Ave., N.W.
Washington, D.C. 20210

Re: Default Investment Alternatives for Participant-Directed Individual Account Plans

Dear Brad:

As you know, ACLI, along with numerous other stakeholders, including plan sponsors, labor unions, and members of Congress¹, has asked the Department to revise the proposed regulation on default investment alternatives for participant-directed individual account plans to explicitly include guaranteed products² among the qualified default investment alternatives ("QDIAs").

¹ See e.g., comment letters of: Profit Sharing/401K Council of America, United States Chamber of Commerce and National Association of Manufacturers, American Benefits Council, ERISA Industry Committee, and AFL-CIO, dated November 13, 2006; American Federation of State, County and Municipal Employees, AFL-CIO, dated November 3, 2006; Letter to Bradford Campbell from Earl Pomeroy, Patrick Tiberi, et. al., dated December 19, 2006; and Letter to Secretary Chao from Senators Kennedy and Isakson dated May 4, 2007.

² By "guaranteed product," we mean an investment product or fund (including but not limited to an annuity contract or stable value product, but not a money market fund) that includes either a principal protection guarantee or guaranteed minimum lifetime income and provides liquidity for participant withdrawals, including transfers to another investment alternative. Such funds or products do not impose fees or surrender charges in connection with participant-initiated withdrawals. Guarantees provided through these funds or products are furnished by a financial institution that is subject to regulation by a state or federal regulatory authority.

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We have previously generally discussed with you the possibility of a five-year period of QDIA status for guaranteed products. The purpose of this letter is to ask the Department to grant QDIA status to guaranteed products for a at least a five-year period of time, and to reiterate our requests that assets currently invested in guaranteed products receive grandfathered fiduciary protection, and to clarify the QDIA status of certain investment products, as described below.

We continue to believe that the unique protections offered by guaranteed products make them particularly well-suited to serve as a default investment option for some individual account plans and participants, and we believe that plan sponsors should have the benefit of ERISA section 404(c)(5) if they choose a guaranteed product as the default option. We also firmly believe that guaranteed products make excellent investment options under an individual account plan, regardless of whether they serve as the plan's default fund. They not only offer participants a competitive rate of return,³ but their principal protection guarantees offer vital protection against downturns in both the bond and equity markets and assure that investment losses would be extraordinarily rare. In fact, the extreme volatility of the markets in the past few weeks illustrates the significant risks that default investment regulation would place on plan participants. Not every participant can or should be exposed to such risk. For these reasons, we believe that the exclusion of guaranteed products from QDIA treatment, and the negative implication of both their exclusion and their description in the preamble of the proposed regulation are unwarranted. We continue to request that you include a fourth QDIA for guaranteed products.

A. Request for 5-Year QDIA Treatment for Guaranteed Products

Notwithstanding our firm belief in the appropriateness of guaranteed products as an unlimited, fourth QDIA, we fear that the final regulation currently under review at OMB may not include these products. We have also heard that the final regulation may permit guaranteed products to be used as a default for a short period of time, such as the first 120 days of a participant's participation in the plan. We do not know whether this provision would be a limited duration QDIA, or a transition rule, or something else. As we have discussed in the past, these products are generally underwritten over a term of at least five years, and short-term investment and withdrawal would destabilize the market.

Thus, in the alternative, we ask the Department to extend QDIA treatment to guaranteed products for the first five years of a participant's participation in the plan, provided all other conditions of final default investment regulation are met. At the end of the five-year period, if a participant has not made an affirmative investment election, the plan fiduciary would have the choice of moving defaulted amounts to another QDIA, or keeping the assets in guaranteed products and foregoing section 404(c)(5) protection.

Such a five-year rule for guaranteed products would not cause the market disruptions that a short-term provision would. It would allow plan sponsors to achieve fiduciary relief in

³ The rate of return for stable value products over the past 10 years has averaged 5.5%. Hueler Stable Value Pooled Index Fund Index, www.hueler.com. (The Heuler Stable Value Pooled Fund Comparative Universe represents over 75% of the national pooled fund market and is recognized as the industry standard for monitoring pooled funds in the stable value marketplace.)

connection with offering a default option that is highly unlikely to result in losses, albeit on a temporary basis. It would demonstrate the Department's continued belief in the appropriateness of guaranteed products as plan investments. And it would allow the Department to respond favorably to the requests of the scores of commenters, including plan sponsors, service providers and members of Congress, who asked the Department to extend QDIA treatment to principal protection vehicles.

B. Amounts Previously Invested in Guaranteed Products Should Be Grandfathered

Additionally, the final regulation should permit all amounts invested in guaranteed products prior to the regulation's effective date to remain so invested. As we have discussed in the past, plan sponsors and record keepers are largely unable to determine which assets currently invested in guaranteed products were defaulted, and which were affirmatively invested. For this reason, we urge the Department to grandfather those amounts currently invested in guaranteed products by clarifying that fiduciary relief under section 404(c)(5) would be available for amounts invested by default in a guaranteed product prior to the effective date of the regulation, provided a notice meeting the requirements of the final regulation is provided to participants.

C. Separate Account and Annuity Contract Issues

Another issue that is of paramount importance to our members involves the lack of explicit language with respect to certain products qualifying as QDIA vehicles because they are provided through a separate account or similar vehicle. In this regard we would like to reiterate our previous request that the Department revise the regulation to add a clear statement that these investment products are not be excluded from QDIA treatment solely because they are provided through certain investment vehicles.

* * *

We appreciate your thoughtful consideration throughout the regulatory process. Because these issues are of grave importance to our members, it is incumbent upon us to continue to seek any grounds for compromise.

Please do not hesitate to contact me if you would like to discuss our request in more detail.

Sincerely,



Ann Cammack

cc: Mr. Lebowitz
Mr. Doyle
Ms. Alexander
Mr. Piacentini