

**Testimony of  
Tim Walsh, Senior Managing Director, TIAA  
as prepared for delivery  
before the  
Subcommittee on Health, Education, Labor, and Pensions  
House Education and Workforce Committee  
May 16, 2018**

Chairman Walberg, Ranking Member Sablan, and distinguished members of the subcommittee, thank you for inviting me to speak with you today.

My name is Tim Walsh, and I am a Senior Managing Director, Institutional Investment Product Distribution at TIAA. I am grateful for this opportunity to share TIAA's views on how policy makers can improve retirement security for all Americans. Specifically, I look forward to discussing how to best address the challenges Americans face when it comes to making their savings last throughout their retirement years.

TIAA is the leading provider of retirement services for those in the academic, research, medical, and cultural fields. For one hundred years, TIAA's mission has been to aid and strengthen the institutions and participants we serve by providing retirement and financial solutions that meet their evolving needs. Today, TIAA manages more than \$1 trillion in assets for the 5 million clients we serve across more than 15,000 institutions. With our strong not-for-profit heritage, the mission we embarked on in 1918 is more relevant today than ever as we remain dedicated to serving the financial needs of those who serve the greater good.

One of the key characteristics of TIAA's retirement plans is the ability for our individual retirement plan clients to allocate a portion of their retirement savings to a guaranteed annuity product that pays guaranteed interest while employees save for retirement. At retirement employees have the option, but not the obligation, to seamlessly convert some or all of that balance to a guaranteed income stream that they can never outlive. In part, due to the risk-pooling concept at the center of insurance products like annuities, employees who annuitize assets benefit from competitive guaranteed payment amounts. This contributes to highly successful outcomes for our participants, who are able to retire with the comfort of knowing that they will have a stream of income that they, and if so elected, their beneficiaries cannot outlive. As we celebrate our 100<sup>th</sup> anniversary, we are proud of the fact that we have paid out over \$400 billion in retirement benefits. In 2017 alone, TIAA paid out over \$5 billion to our retired clients, including 32,000 recipients over the age of 90, each of whom receives monthly annuity payments.

Ensuring that American retirees can count on not only having sufficient assets, but as importantly, income that is guaranteed to last throughout their retirement is among the most critical issues facing our economy over the next generation as baby boomer retirements accelerate. With 10,000 baby boomers retiring each day, the total number of U.S. retirees will rise to over 66 million by 2025 and over 80 million by 2040.<sup>1</sup>

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<sup>1</sup> Social Security Administration, *Annual Performance Plan for Fiscal Year 2012*, 2011, at 36, available at: <https://www.ssa.gov/agency/performance/materials/2012/APP%202012%20508%20PDF.pdf>

There is a consensus among economists that annuities – the only solution that offers guaranteed lifetime income outside of Social Security and pensions – offer exceptional protection from retirees outliving their savings. Yet despite evidence that having annuities as part of a retirement plan’s design can produce better outcomes, a recent study revealed that only 5 percent of 401(k) plans offer participants access to an in-plan annuity product.<sup>2</sup> By contrast, 84 percent of employer-sponsored 403(b) plans, TIAA’s core market, offered fixed annuities as an investment option.<sup>3</sup> As a result, when many 401(k) plan participants retire, they often do not have direct access to the products that can make their savings last for the rest of their lives. Instead, they often need to shop for annuity products in the retail market, which generally is not as competitive as annuities offered through in-plan, institutionally-priced products that can leverage economies of scale.

The fact that 403(b) participants have more access to lifetime income options in their retirement plans stems from the different histories of 401(k) and 403(b) plans. The 401(k) plan was initially intended to provide supplemental retirement savings for employees of private corporations who typically had defined benefit lifetime pension income, in addition to Social Security income, that they could use to help them meet recurring living expenses in retirement. However, for reasons outside the scope of this testimony, in the last 25 years the 401(k) supplemental savings plan has become the predominant workplace retirement plan for corporate employers.<sup>4</sup> Thus, the risk of generating sufficient income in retirement has largely shifted from the employer to the employee.

The 403(b) plan, in contrast, was designed to provide lifetime retirement income to educators and others employed by not-for-profit entities. It still retains many of its original features and over time has evolved into what can best be described as a hybrid retirement savings plan, providing participants with the opportunity to both save in and then receive income from the same plan. While 401(k)s are an excellent way to accumulate funds for one’s retirement, we believe they could be greatly improved if a few regulatory changes were made that would remove roadblocks and encourage 401(k) sponsors to adopt in-plan annuity vehicles.

The foundation of a successful retirement is ensuring an individual has a base of steady, predictable guaranteed income that will last throughout his or her retirement years. Access to annuity products also minimizes the risk of poverty among older Americans and reduces the strain on the social safety net provided by the Federal government. Having more in-plan annuity options available to workers directly through employer-sponsored retirement plans is core to the very purpose of the retirement savings system—to ensure individuals can attain a financially secure and independent retirement.

We are pleased that the committee has recognized the importance of addressing this and other retirement security issues and in my testimony I will discuss several of the proposed solutions

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<sup>2</sup> *401(k) Plans Cautious About Adding Guaranteed Income Products*, Plan Sponsor, Jan. 2017, available at: <http://plansponsor.com/401k-Plans-Cautious-About-Adding-Guaranteed-Income-Products/>

<sup>3</sup> Brightscope, *The Brightscope/ICI Defined Contribution Plan Profile: A Close Look at ERISA 403(b) Plans* (2015), at 21-24, available at: [https://www.ici.org/pdf/ppr\\_15\\_dcplan\\_profile\\_403b.pdf](https://www.ici.org/pdf/ppr_15_dcplan_profile_403b.pdf)

<sup>4</sup> Investment Company Institute, *2017 Investment Company Factbook: A Review of Trends and Activities in the U.S. Investment Company Industry*, 2017.

under consideration in the today's hearing. I would also note that many of the provisions being discussed here today have been wrapped into a larger proposal, the Retirement Enhancement and Savings Act (RESA) (HR 5282), which was introduced by Congressmen Kelly and Kind earlier this year. Passage of any of the individual proposals being discussed today would greatly enhance the retirement system. Passage of a proposal like RESA, which consolidates a number of proposals into one piece of legislation, would accomplish most of the needed modernization of the retirement system in one fell swoop.

### **Increasing Access to a Secure Retirement Act (HR 4604)**

I would like to begin by offering TIAA's strong support for the Increasing Access to a Secure Retirement Act (HR 4604), as introduced by Chairman Walberg and Congresswoman Lisa Blunt Rochester. This proposal would amend an existing Department of Labor (DOL) regulatory safe harbor that is intended to encourage employers to include annuity products on their plan investment menus. (It should be noted that the language from HR 4604 is included in RESA.)

Today, Americans can anticipate 20 to 30 years or more in retirement. In fact, more than half of 65-year-old men will live beyond age 85 and one in three is expected to live to at least age 90. Life expectancy is even higher for women; nearly two-thirds of 65-year-old women are expected to live to age 85 and almost half will live to age 90.<sup>5</sup> Longer life expectancy is a remarkable societal achievement, but it also increases "longevity risk," that is, the chance that retirees will outlive their savings. It also means that those people that are living longer may also be living with some level of cognitive decline making it more difficult to manage their own decumulation strategy in some cases. Central to addressing this challenge is adopting policies that will increase access to annuities – the only products available that can truly guarantee a stream of income that will last throughout retirement. Unfortunately, as discussed earlier, annuity products are largely missing from the retirement plan investment menus of U.S. private corporations, resulting in a significant segment of retirement savers not having in-plan access to such products.

One of the primary reasons employers have been reluctant to offer annuities on their plan investment menus is uncertainty about how to adequately satisfy their fiduciary duties in selecting an annuity provider.<sup>6</sup> The DOL has taken steps in the past to provide employers and their legal counsel with a safe harbor that would guide this decision and encourage the inclusion of annuity products in retirement plans. Unfortunately, this existing safe harbor has gone largely unused as plan fiduciaries have signaled the need for more certainty in the safe harbor's terms.

A key uncertainty has been the appropriate process that fiduciaries should follow when evaluating the financial strength of an insurance company that would provide an annuity. Evaluating the financial strength of any given annuity provider can be a complex process. While the intention of the existing safe harbor is to simplify this process, it lacks the clear guidelines that many plan fiduciaries desire and for that reason, many plan fiduciaries are reluctant to adopt

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<sup>5</sup> These data are based on calculations for non-smoking individuals with average health using the Actuaries Longevity Illustrator developed by the American Academy of Actuaries and the Society of Actuaries, available at: <http://www.longevityillustrator.org/>

<sup>6</sup> Government Accountability Office, *401(k) Plans: DOL Could Take Steps to Improve Retirement Income Options for Plan Participants*, Aug. 2016, at 17, available at: <http://www.gao.gov/products/GAO-16-433>

in-plan annuities, even if they and their plan consultants understand the value annuity products can deliver to their particular employee population. HR 4604 takes a significant step in addressing this by establishing clear and objective guidelines that can help plan fiduciaries choose an annuity provider for their plan with the confidence that they have met the guidelines. The proposal does this by allowing the plan fiduciary to rely on representations that an insurer is licensed to offer guaranteed retirement income contracts and has met certain regulatory requirements under state insurance regulations. In essence, HR 4604 allows fiduciaries to rely on the true experts in evaluating an insurer's financial strength – the state regulatory bodies.

We strongly believe that, as proposed, HR 4604 would clear a significant hurdle to the availability of annuity products on employer-provided retirement plan menus. While the decision to adopt in-plan annuity products would still remain with the plan fiduciary, HR 4604 will help ensure that more American retirees will have an institutionally-priced in-plan annuity option that will allow them to use some of their retirement savings for its intended purpose – providing a steady stream of retirement income they will not outlive.

### **Receiving Electronic Statements to Improve Retiree Earnings Act (HR 4610)**

Encouraging the use of electronic delivery (“e-delivery”) of retirement plan documents is another area where Congress can make changes that would improve retirement security by reducing the cost of retirement savings plans and increasing savers’ access to critical information. Even as Americans increasingly rely on electronic media for financial matters, today’s regulatory framework relies heavily on paper delivery of financial documents. Moreover, considerable confusion results from the fact that multiple legal and regulatory standards govern the methods by which financial documents can be delivered. Unfortunately, this outdated and confusing framework results in most plan sponsors defaulting their employees into paper delivery of documents, even though studies have shown individuals overwhelmingly would prefer to receive statements electronically.

Moving from default paper delivery of financial documents to default e-delivery would have a number of benefits for TIAA’s institutional and individual clients and retirement plan participants across the country. For example:

- **Increased engagement.** E-delivery can help retirement savers gain a greater understanding of their financial position and investment options. When individuals receive financial documents electronically, they are more likely to engage with interactive web-based tools designed to help them determine whether they are on-track for a secure and successful retirement. In addition, individuals who view financial statements and other documents online can easily make adjustments to their retirement plan investments and contributions, get information about their expected income in retirement and if necessary arrange to speak directly with an adviser. In fact, a recent survey of retirement plan recordkeepers finds that plan participants who interact with their plan’s website tend to have higher contribution rates.<sup>7</sup>

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<sup>7</sup> 2018 Update to Delivering ERISA Disclosure for Defined Contribution Plans: Why the Time has come to Prefer Electronic Delivery by Peter Swire and Debray Kennedy-Mayo p.12

- **Cost savings.** Plan sponsors expend significant resources every year to prepare and deliver paper copies of financial documents to customers. Delivering more of these documents electronically would reduce costs by as much as 36 percent saving retirement plan participants \$385 million annually.<sup>8</sup> These savings would lower plan expenses and ultimately result in participants having more money to invest for future growth.
- **Environmental benefits.** Switching from paper to e-delivery would also have significant environmental benefits, such as reducing the number of trees used to produce financial documents.

Given these and other benefits, TIAA supports efforts that would make it easier for employers to default employees into e-delivery of relevant financial documents. The Receiving Electronic Statements to Improve Retiree Earnings (RETIRE) Act (HR 4610), sponsored by Congressmen Polis and Roe (along with almost 40 bipartisan cosponsors), would accomplish the goal of modernizing current delivery methods while also implementing consumer protections that have been called for in the past. Under the proposal, any required document may be furnished in electronic form by default, provided that (a) the system for furnishing the document is designed to result in access to the document by the participant through electronic means; (b) the system protects the confidentiality of personal information relating to such participant's accounts and benefits; and (c) participants are given the right to “opt out” and receive paper communications at no charge. It also includes a provision requiring an annual paper notice so that plan participants who “fall off the radar” electronically still receive a document in the mail informing them that they are receiving statements electronically and includes information on how to change that delivery method if they desire.

TIAA has been a leader in advocating for the passage of the RETIRE Act. We strongly believe in this bipartisan, common sense approach to modernizing the retirement system.

### **Retirement Security for American Workers Act (HR 854)**

One tool for increasing workers’ access to employer-based retirement plans is Multiple Employer Plans (MEPs). Unfortunately, the current rules governing MEPs limit employers’ ability to use this tool. HR 854 (as well as RESA and HR 4637) contain provisions that would address this problem. These provisions would (1) allow completely unrelated employers to participate in a multiple employer plan (i.e., “Open MEPs”), and (2) generally eliminate the rule under which the violation of the qualification rules by one employer in a MEP disqualifies the entire MEP (thus eliminating the “one bad apple rule”). The bill also authorizes the DOL to simplify required reporting by small MEPs. Open MEPs would enable small employers to band together in a single plan to achieve many of the economies of scale generally only available to large employers. This could be a critical component of broadening small business retirement plan coverage.

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<sup>8</sup> Investment Company Institute Survey of a Cross-Section of 401(k) Plan Recordkeepers and (number of 401(k) plan participants from) U.S. Department of Labor Form 5500 data also see “Improving Outcomes with Electronic Delivery of Retirement Plan Documents,” *available at* [www.sparkinstitute.org/content-files/improving\\_outcomes\\_with\\_electronic\\_delivery\\_of\\_retirement\\_plan\\_documents.pdf](http://www.sparkinstitute.org/content-files/improving_outcomes_with_electronic_delivery_of_retirement_plan_documents.pdf).

TIAA supports current proposals to amend regulations in a way that small employers could band together to more easily form MEPs. We proudly provide retirement services to higher education institutions looking to embrace MEPs as an innovative solution and, when suitable, we work to help them implement such plans.

**Retirement Plan Modernization Act (HR 4158)**

Under current law, a retirement plan may generally cash out a participant who terminates employment if the value of his or her benefit does not exceed \$5,000. Internal Revenue Code (IRC) section 401(a)(31)(B) requires that, if the cash out amount exceeds \$1,000 and the participant does not elect otherwise, the cashed out amount must be rolled over into an IRA established in the participant's name. This is often called an "automatic IRA rollover."

The Retirement Plan Modernization Act (HR 4158), introduced by Chairman Walberg and Ranking Member Sablan, wisely would adjust the current \$5,000 limit to \$7,600 to account for inflation over the last two decades and provide for automatic increases in the future based on the cost of living rules that apply to other retirement plan limits. Standardizing inflation adjustments with other retirement limits in the Internal Revenue Code is a sensible way to ensure our retirement system works together in a cohesive manner for the mutual benefit of employer plan sponsors and plan participants. TIAA supports the changes proposed in HR 4158.

Thank you for the opportunity to testify and for your commitment to improving and modernizing the current retirement system. I look forward to your questions.