2024 Federal Retirement Security Blueprint

In 2019 and 2022, Congress enacted two new laws embodying the most sweeping changes to enhance the private sector retirement system in more than a decade. The measures contained in the new laws will generate billions more in retirement savings and, most importantly, strengthen retirement security for millions of America's workers and retirees. The new laws, the *Setting Every Community Up for Retirement Enhancement Act of 2019* (Public Law 116–94, Div. O) and the *SECURE 2.0 Act of 2022* (Public Law 117-328, Div. T), have enabled our nation's workers and retirees to take significant steps forward on the path to addressing the many challenges and obstacles they face in seeking a secure and dignified retirement. But much more can still be done to bolster their retirement security. IRI's 2024 Federal Retirement Security Blueprint includes common-sense, bipartisan policies to help workers and retirees achieve economic equity, strengthen their financial security, and protect their income to sustain them throughout their retirement years.

IRI's 2024 Federal Retirement Security Blueprint Will:

1. Expand Opportunities to Save for Retirement
2. Facilitate Greater Use of Protected, Guaranteed Lifetime Income Solutions
3. Foster Innovation, Modernization, Education, and Advice
4. Boost Protections to Safeguard Consumers, Diverse Representation, and Participation
5. Maintain and Augment the Current Tax Treatment of Retirement Savings

Who is IRI?

The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, broker-dealers, banks, marketing organizations, law firms, and solution providers. IRI members account for 90 percent of annuity assets in the U.S., include the foremost distributors of protected lifetime income solutions, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community. Learn more at www.IRIonline.org.

Expand Opportunities to Save for Retirement

Require Employers to Offer Retirement Plans to Employees

Nearly half of America's workers are employed by companies that do not offer a traditional pension or a retirement savings plan. Most workers who lack access to an employer-sponsored retirement plan are employed by small businesses, with about three-fourths of those workers at companies with fewer than 10 employees and about two-thirds of those workers at companies with 10 to 24 employees. In addition, there are disparities by race and ethnicity among those workers, with nearly 64% of Latino workers, 53% of Black workers, and 45% of Asian American workers lacking access to an employer-provided retirement plan.

To provide more workers with opportunities to access a workplace retirement plan and increase their retirement savings, **Congress should enact legislation, such as the Automatic IRA Act of 2024 (H.R. 7293-118th Congress), that would generally require all but the smallest of employers to maintain an automatic retirement savings plan, into which employees would be automatically enrolled with the ability to opt-out**. A recent study of the impact of such a new law on workers' retirement security found that over the next 10 years, $7 trillion in additional retirement savings would be generated, and 62 million new retirement savers would be created, 98% of whom earn less than $100,000 per year, including seven million new Black savers and 10.8 million new Latino savers.

Further, to expand opportunities to save to the 73.3 million workers who participate in our nation's gig economy, **the bill would direct the Secretary of the Treasury by regulation or other guidance provide for making available automatic IRAs to individuals who provide services that do not constitute employment**. The legislation would also help address the anxiety felt by many of America's workers about outliving their retirement savings by requiring that participants with account balances of $200,000 or more be given the choice to receive up to 50% of their vested balance in the form of a protected, guaranteed lifetime income product.

Allow Catch-Up Contributions for Qualified Caregivers

Every year, an increasing number of workers leave the workforce, often for multiple years, to provide full-time care to a dependent family member. While this is a noble decision, it is often the only option they have when seeking to provide the care needed for their family member. As a result, not only is the worker's income eliminated for the time they are giving care, but their ability to participate in employment-based retirement savings plans is also lost.

The challenge of leaving the workforce to care for a family member has a disproportionate impact on women, according to the Bureau of Labor Statistics, which reported that women make up 58 percent of the 40.4 million people providing full-time care to a family member. The disproportionate impact on women is further illustrated by recent reports that found women have between one-third and two-thirds of the median retirement account balance of men.

To address the challenges faced by workers who have left their jobs to serve as caregivers, **Congress should enact the *Expanding Access to Retirement Savings for Caregivers Act* (H.R. 6772-118th Congress), which would provide qualified caregivers the opportunity to make catch-up contributions for a period equal to their time spent as a caregiver before reaching age 50.** This change would allow caregivers to make up for the lost time in accumulating savings for their retirement when they are able to return to the workforce and allow them to get back on a path to a financially secure retirement. Further, Congress should consider additional legislation that would enable individuals who certify that they were unable to work due to providing care to a family member to become eligible to make contributions of up to the contribution limit into a Roth IRA while being subject to Roth IRA income limits and without having compensation.

Automatically Re-Enroll Employees Three Years After Opting-Out

The *SECURE 2.0 Act of 2022* (Public Law-117-328,Div. T) mandated that all new 401(k) and 403(b) plans automatically enroll participants in the respective plans while preserving the employees' choice to opt out of coverage. This new law will significantly expand participation in workplace retirement as recent studies have shown participation rates increase to more than 80 percent, and for new hires automatically enrolled, 90 percent remain in their employer's plan after three years. Auto-enrollment has increased retirement plan participation across the board, but most critically for Black, Latino, and lower-wage employees, as demonstrated by a recent study on the use and impacts of auto-enrollment. Unfortunately, even with evidence showing the benefits of auto-enrollment for workers, many workers still choose to initially opt out of their employer's plans — leaving millions in potential savings for retirement unaccumulated.

To address this challenge, **Congress should enact legislation such as the *Auto Re-enroll Act of 2022* (S.2517/H.R.4924-118th Congress). The bill would further enhance automatic enrollment by amending ERISA and the Internal Revenue Code to allow plan sponsors to re-enroll non-participants at least every three years. This option will prompt workers who have opted out to periodically reevaluate whether to participate in the plan as their careers progress and their financial situations change.**

Further, Congress should enact legislation such as S.2512-118th Congress to provide a $500 credit (for up to three years) to any small employer (100 or fewer employees) that adopts an automatic re-enrollment feature in a retirement plan that enrolls employees into elective deferral contributions. This new tax credit will not only encourage employers to offer this feature of their workplace plans, but it will also benefit their workers by giving them the opportunity every three years to reevaluate their choice to opt out of the plan as their career progresses and their financial situation changes.

Offer Workplace Retirement Plans to Legal Cannabis Businesses

The *Controlled Substance Act* (Public Law 91-513) does not provide adequate certainty and clarity to facilitate and encourage the offering of retirement plans and individual retirement accounts to the more than 320,000 individuals currently employed by legally operating cannabis companies. Without this certainty and clarity, plan providers and employers cannot confidently offer retirement plans to employees without risking violations of the anti-money laundering laws despite the business being legal under state law. As more states pursue and enact laws to legalize cannabis, the industry's workforce continues to expand while lacking access to many standard employee benefits.

To provide the legal cannabis industry's existing and growing workforce with opportunities to save for retirement at their workplace, Congress should enact legislation such as the *Secure and Fair Enforcement* (SAFE) *Banking Act* (S.1323/H.R.2891-118th Congress) or the *SAFER Banking Act* (S.2860-118th Congress). The bills would provide protection and insulation from liability for both participants and institutions offering and administering retirement plans or individual retirement accounts for the employees of cannabis companies that are regulated and licensed by a state. Additionally, the *SAFE Banking Act* and the *SAFER Banking Act* should be amended to provide certainty and clarity to broker-dealers and investment advisors in addition to banks and insurers. Such an amendment would further expand the universe of products and services available to retirement savers employed by legal cannabis businesses.

Decrease the Age for Participation in Workplace Retirement Plans to 18 Years of Age

Since 2019, the college enrollment rate of recent high school graduates declined by four percent as younger Americans are weighing the cost of obtaining a higher education versus pursuing technical training and apprenticeships as paths toward a sustainable career. As a result, more young people are beginning their careers earlier. In doing so, they are challenged to start building their retirement nest eggs because current law limits the number of young people who have access to their employer's sponsored retirement savings plan, which a recent study showed that 60 percent of employers were found to not offer benefits to their employees younger than 21 years of age.

Congress should enact legislation, such as the *Helping Young Americans Save for Retirement Act* (S.3305-118th Congress). The bill would enable more young workers to access employer-sponsored retirement savings plans by reducing the age of participation in an ERISA-covered defined contribution plan to 18. The bill would also reduce the costs of the employer who offers participation in their workplace plans to younger workers, making it more advantageous for an employer to do so. Lowering the participation age to 18 will expand opportunities for younger workers to save for retirement by providing them with an additional three years to begin saving and take advantage of the growth offered by compounding interest.

Allow Roth IRAs to be Rolled Over into Roth Workplace Plans

Millions of our nation's households utilize a Roth Individual Retirement Account (IRA) to save for retirement. However, current law prohibits them from rolling their Roth IRA savings into employer-sponsored Roth retirement savings accounts. This prohibition prevents the consolidation of assets and creates additional challenges for retirement savers, including increased costs because of duplicative fees and increased risk of leakage from savings accounts. **Congress should enact legislation, such as H.R.6757-118th Congress, which would amend the *Internal Revenue Code of 1986* (Public Law 99-514) to permit the rollover of contributions from Roth IRAs into employer-sponsored Roth 401(k) plans, Roth 403(b) plans or Roth 457(b) plans. The legislation Congress enacts should also clarify that the rollover into an employer-sponsored plan should not be treated as a qualified distribution.** Enabling retirement savers to consolidate Roth IRAs into an employer-sponsored Roth retirement plan will give them greater control over their retirement savings and lessen the cost of accumulating those retirement savings.

Facilitate Greater Use of Protected, Guaranteed Lifetime Income Solutions

Expand the Use of Lifetime Income Products as Default Investment Options

Qualified default investment alternatives (QDIAs), created by the *Pension Protection Act of 2006* (Public Law 109-280), have proven to be an essential step forward in enhancing retirement security for America's workers. Unfortunately, current Department of Labor regulations inhibit the use of certain investment options that do not meet specific liquidity requirements. The regulations essentially mandate that any funds in a QDIA must be available for the participant to transfer or withdraw "not less frequently than once within any three-month period." However, the liquidity requirement in the current rules effectively prohibits the use of protected, guaranteed lifetime income solutions that have delayed liquidity features despite the fact that these features allow them to offer higher returns. Accordingly, **Congress should enact legislation, such as the *Lifetime Income for Employees Act* (H.R. 3942-118th Congress). The bill would allow plan sponsors to utilize annuities that provide a guaranteed return on investment and have a delayed liquidity feature as a default investment vehicle for a portion of contributions made by a retirement saver who has not made investment selections.**

Encouraging the Offering of Protected, Guaranteed Lifetime Income Products as Default Distribution Options

Several recent studies have shown that millions of workers and retirees are concerned about their ability to accumulate sufficient savings to provide sustainable income during their retirement years. This anxiety has significantly grown over the past several years due to the impact of the COVID-19 pandemic on retirees' and workers' physical and financial health. Additionally, IRI research revealed that workers have a high level of interest in having income generated from their retirement savings protected throughout their retirement years. The research also found significant participant demand for protected, guaranteed lifetime income solutions, such as annuities, to be included in workplace-defined contribution retirement plans, with more than two-thirds of workers reporting that they would be very or somewhat likely to allocate a portion of their plan into annuities if given that option.

To address workers' and retirees' anxiety and insecurity about outliving their retirement savings, **Congress should enact legislation providing that employers who offer protected, guaranteed lifetime income solutions as a default distribution option for participants in their defined contribution plans will have satisfied their fiduciary duties under the *Employee Retirement Income Security Act* (ERISA) (Public Law 93-406) so long as participants are notified of the default annuitization option and have the right to opt-out at the time of distribution.** Encouraging protected, guaranteed lifetime income distribution options to be offered as a default in defined contribution plans will help further protect individuals from longevity risk and enhance and strengthen their retirement security.

Additionally, **Congress should enact legislation that would establish a "qualified payout option" (Q-PON) that requires employers who have at least ten employees and have provided a plan for at least three years to offer a combination of income and payout solutions that participants can select from at retirement**. Some options that could be made available as a Q-PON include protected, guaranteed lifetime income solutions, systemic withdrawal options, managed payout options, and lump sum withdrawals. Q-PONs would apply to participants or beneficiaries of participants of a 401(k), profit-sharing 401(a), 403(b), or "Starter" 401(k) plan.

Authorize the Use of Indexed and Variable Annuities in QLACs

Qualifying longevity annuity contracts (QLACs) are a valuable tool for retirement income planning as they address the risk many retirement savers and retirees face of outliving their accumulated retirement savings. The *SECURE 2.0 Act of 2022* (Public Law-117-328, Div. T) directed the Treasury Department to make changes to the regulations governing QLACs to allow retirement savers to convert more of their savings into protected, guaranteed lifetime income that will help meet their longevity protection needs. Additionally, the SECURE 2.0 Act established a 90-day "free look" period to give investors time to ensure that they have selected a product that fits their needs while also clarifying the applicable joint and survivor benefits in the event of a divorce.

While these changes will allow workers and retirees to keep more of their savings in tax-deferred accounts longer and access protected, guaranteed monthly income throughout their lifetime, **Congress should enact legislation, such as Section 201(5) of the *Retirement Security and Savings Act of 2021* (S.1770-117th Congress), that would make a diverse slate of indexed and variable annuity contracts with guaranteed benefits eligible to be treated as QLACs. Providing retirement savers with access to a broader array of products that can meet their financial needs and circumstances will further address their anxiety about outliving their retirement savings.**

Clarify the Fiduciary Status for Providers of General Account Insurance Products in Workplace Retirement Plans

Many insurance companies offer products to retirement plans backed by the assets in their general accounts. Recently, the issuers of these products have been targeted by lawsuits seeking to hold them liable as fiduciaries under the *Employee Retirement Income Security Act* (ERISA) (Public Law 93–406). This legal uncertainty inhibits insurers from offering these important products to retirement plans and their participants because of the risk of being subjected to ERISA fiduciary liability as well as ERISA's stringent prohibited transaction rules. Moreover, attaching ERISA fiduciary status to the issuers of general account products is unnecessary, as plan sponsors and other plan fiduciaries are already subject to fiduciary duties under ERISA when deciding whether to offer these products to plan participants. **Congress should enact legislation such as the *General Accounts Products Clarification Act* (H.R.9515-117th Congress), which would amend the *Employee Retirement Income Security Act* (ERISA) (Public Law 93–406) to clarify that the offering and sale of general account products do not expose the insurer or its general account to fiduciary or ERISA plan asset status to ensure that retirement savers can continue to use valuable products to achieve their retirement goals.**

Enhance 403(b) Plans to Authorize the Use of CITs and Unregistered Insurance Company Separate Accounts

Participants in employer-provided 403(b) retirement plans, who generally are employees of charities, public schools, colleges, and universities, do not have access to the same cost-efficient investment options offered to retirement plan participants of 401(k) plans, 457(b) plans, the federal Thrift Savings Plan, and other retirement plans. While the *SECURE 2.0 Act of 2022* (Public Law-117-328, Div. T) effectuated the necessary changes to the Internal Revenue Code to eliminate the disparity in treatment for 403(b) plan participants, changes to securities law are required to complete the process.

To provide parity and access to more cost-efficient investment options and protected, guaranteed lifetime income opportunities to workers participating in 403(b) plans, **Congress should enact the *Retirement Fairness for Charities and Educational Institutions Act* (H.R.3063-118th Congress) to amend the *Investment Company Act of 1940*, the *Securities Act of 1933*, and the *Securities Exchange Act of 1934***. By amending securities law, teachers, hospital staff, employees of charities, and others who work for non-profit organizations who are offered employer-sponsored 403(b) plans will have parity with other retirement plan participants and gain the opportunity to choose to invest in more cost-efficient investment options, including those that also offer protected, guaranteed lifetime income solutions.

Establish a Safe Harbor for Small Businesses Selecting Annuity Contracts

The *SECURE Act of 2019* (Public Law No.116-34, Div. O) enacted protections that have enabled plan sponsors to rely on the expertise and diligence of state insurance commissioners in deciding to select an insurance company to provide protected, guaranteed lifetime income solutions as a part of a plan's investment menu. While the safe harbor enacted under the SECURE Act provides liability protection for a plan sponsor's selection of an insurance provider, it does not apply that protection to selecting the insurance providers' protected, guaranteed lifetime income product. **Congress should enact legislation clarifying that the Annuity Selection Safe Harbor (*SECURE Act of 2020*, Section 204) will provide a plan sponsor with the same protections in selecting an annuity contract. This legislation should be tailored to ensure policymakers encourage adopting safe and stable solutions.** The amendment to the existing law will provide plan sponsors with additional legal certainty and it will further facilitate access to and use of protected, guaranteed lifetime income solutions within employer-sponsored retirement plans.

Foster Innovation, Modernization, Education, and Advice

Advocate for Appropriate and Consistent Standards of Conduct for Financial Professionals

IRI believes **all financial professionals should be required to act in their clients' best interest when providing advice and guidance about annuities to retirement savers**. Over the past several years, the Securities and Exchange Commission (SEC), the Department of Labor (DOL), and the National Association of Insurance Commissioners (NAIC) have adopted robust and effective best interest requirements, including the SEC's Regulation Best Interest, the DOL's Prohibited Transaction Exemption 2020-02, and the NAIC's Annuity Best Interest Model Regulation (which has been adopted in 45 states and counting). This existing regulatory framework provides federal and state regulators with the tools they need to protect retirement savers and appropriately address the conduct of bad actors. These rules also recognize that a one-size-fits-all approach will not work, given that many retirement savers do not want or need ongoing advice from a fiduciary and do not want to pay the additional fees associated with this level of service. Further, there is no evidence that the existing regulatory framework contains any flaws or gaps that is causing retirement savers are being harmed.

Oppose the Department of Labor's 2023 Proposed Fiduciary Rule

For the fourth time in 13 years, the DOL has proposed to significantly expand the circumstances under which a financial professional would trigger fiduciary status under ERISA while simultaneously making it far more difficult for fiduciaries to receive fair compensation for their services. The 2023 proposal titled the *"Retirement Security Rule: Definition of an Investment Advice Fiduciary"* and the associated proposals to amend certain prohibited transaction exemptions is functionally equivalent to the rule that was adopted by the DOL in 2016 and vacated by a federal appeals court in 2018.

IRI believes the proposal: is a solution in search of a problem because Reg BI and the NAIC model already establish a best interest standard; will harm millions of low- and middle-income retirement savers — especially those in communities most impacted by the wealth gap — by making it harder — and in many cases, impossible — to access the products after the guidance, and services they need to help them achieve a secure and dignified retirement; is incompatible with ERISA and the Fifth Circuit's 2018 decision to vacate the 2016 rule because it disregards the limitations on DOL's jurisdiction; is preempted, to the extent it would apply to annuities, under the McCarran-Ferguson Act, a 1945 federal law that expressly reserves authority over the business of insurance to the states; is the product of a flawed rulemaking process that failed to satisfy the requirements of the Administrative Procedure Act; is unworkable in numerous ways; and would undermine the bipartisan retirement reforms enacted by Congress in the *SECURE Act of 2019* (Public Law 116–94, Div. O) and the *SECURE 2.0 Act of 2022* (Public Law 117-328, Div. T). For these reasons, IRI has called for DOL to withdraw the proposal in its entirety and discontinue this rulemaking project. **If DOL does not withdraw the proposal, Congress should act to prohibit DOL from finalizing, implementing, or enforcing the proposal or act to disapprove any final rule under the provisions of the *Congressional Review Act*.**

Promote Uniform Adoption & Implementation of Best Interest Standards of Conduct

The NAIC revised its Suitability in Annuity Transactions Model Regulation in 2020 to establish a best interest standard that is well aligned with the SEC's Regulation Best Interest. Under the revised model, America's workers and retirees are protected by a clear, consistent, and workable best interest standard without losing access to the valuable products and services they need to achieve their financial goals.

To date, 45 states have adopted the revised version of the model, either through legislation or rulemaking. At present, proposals to adopt the revised model are pending in two states and are under development in the remaining states. IRI supports and will continue to advocate for uniform adoption and implementation of the NAIC best interest model regulation in the states and jurisdictions where it is not yet in place.

Streamline How Consumers Receive Electronic Documents

Technology has become dramatically more available and reliable in the past twenty years since the most recent set of laws governing electronic communications for commerce were enacted. The drafters of the *Electronic Signatures in Global and National Commerce Act* (Public Law 106-229) were concerned that consumers would not be able to access the programs necessary to receive electronically transmitted documents. However, those concerns have become obsolete, with Internet browsers and electronic forms becoming standardized and readily available for free through the public domain. **Congress should enact legislation, such as the *E-SIGN Modernization Act* (S.3715-117th Congress), which would streamline how consumers receive electronic communications by removing outdated requirements and ensuring retirement savers can continue to choose how they want to receive and access their financial information.**

Additionally, the U.S. Securities and Exchange Commission (SEC) recently rescinded the applicability of Rule 30e-3, which had previously allowed for the electronic delivery of shareholder reports. To correct this change, **Congress should enact legislation, such as the *Improving Disclosure for Investors Act* (H.R.1807-118th Congress), which would direct the SEC to write a rule permitting electronic delivery of such reports for all registered investment companies.**

Authorize the National Use of Remote and Electronic Notarizations

The COVID-19 pandemic dramatically changed how consumers go about their daily lives and conduct business. Social distancing measures and virtual meetings became available to combat the spread of the virus, and many businesses adopted digital solutions. However, various laws and rules applicable to the insured retirement industry require individuals to be physically present to conduct business and access the products and services needed to prepare for retirement. As federal and state regulators responded to the pandemic by authorizing temporary relief measures, it became clear that the use of virtual meetings, signatures, and notarizations were a safe and effective manner of conducting business. It would be beneficial to consumers to make those interim measures permanent. **Congress should enact legislation, such as the *Securing and Enabling Commerce Using Remote and Electronic Notarization Act* (H.R.1059/S.1212-118th Congress), which would establish minimum federal standards for the nationwide use of remote online notarizations and ensure that all 50 states, the District of Columbia, and territories of the United States recognize the use of current technologies for interstate notarizations and essential transactions executed in the conduct of interstate commerce.**

Include Retirement in Federal Student Loan, Job Training, & Apprenticeship Counseling

The federal government has mandated financial counseling for federal student loan borrowers to improve their financial literacy when entering and exiting college. However, these counseling sessions do not provide information about the many workplace retirement savings choices presented when they graduate college and enter the workforce. This lack of education about workplace retirement savings options is also an issue for those individuals who have completed a federally funded job training or apprentice program as they enter the market searching for employment. **Congress should enact legislation, such as the *Financial Fitness Act* (H.R.5779-117th Congress), which would direct the Secretary of Education to create a centralized financial resources portal on the Department's website for recipients of federal financial aid that will provide information about planning and saving for their retirement as part of its financial literacy content. Congress should also extend this resource to the recipients of federally funded job training and apprentice programs. This change would make information about retirement savings, including the value of protected, guaranteed lifetime income products, available to all the recipients of federal financial assistance and training, setting them up for a stronger financial future.**

Authorize Portability for SIMPLE IRA Savers

Over the past several sessions of Congress, steps have been taken to enhance portability among the distinct types of retirement plans and IRAs. This has had extensive beneficial effects in enabling individuals to consolidate their retirement savings and manage those savings more efficiently. There remains one area where portability does not exist. Rollovers are not currently allowed for SIMPLE IRAs to any other type of plan or IRA. Additionally, distributions from SIMPLE IRAs during the two-year period starting the first day of an individual's participation in a SIMPLE IRA are subjected to a 25 percent early distribution tax — a penalty 15 percent higher than the tax on early distributions from other plan types.

Both rules are based on outdated concerns that savers would withdraw their savings too early from SIMPLE IRAs. These rules have also had the negative effect of forcing employers to open a special new SIMPLE IRA in order to make contributions to an employee's existing IRA — incurring additional costs. To provide those who have selected a SIMPLE IRA with portability options, **Congress should enact legislation, such as the *SAVE Act* (H.R.4637-115th Congress), which would repeal these restrictions on rollovers and the increased penalty. The bill would also enable savers to have their employer make SIMPLE plan contributions to their own existing IRAs.**

Expand the Use of Single Filing of Form 5500 to Group of Plans of All Sizes

A major objective of the *SECURE Act of 2019* (Public Law 116–94, Div. 0) was to expand access to workplace retirement savings to employees of small and mid-sized businesses. To achieve this goal, the *SECURE Act* established several new types of plans that would enable these types of businesses to achieve economies of scale and reduce administrative burdens and legal risks — making offering retirement savings easier and more cost-effective. Among the new plan types are Group of Plans, which are groups of individual stand-alone plans bound by mutual plan menus, named fiduciaries, plan years, trustees, and a single filing of Form 5500. The single filing was intended to streamline oversight and plan audits while reducing administrative costs. However, smaller plans — those with less than 100 participants — are now subject to additional auditing requirements, which they would have otherwise been exempt from had they been an individual plan. **Congress should enact legislation to clarify that plans filing under a Group of Plans should be allowed to file a single Form 5500 regardless of size since they are utilizing the same investment options, fiduciary, and trustees of the larger-sized plans.** Authorizing the single filing of Form 5500 would make the utilization of the Group of Plans model more advantageous and economical for smaller businesses looking to offer retirement savings.

Require the Inclusion of Longevity Risk Language in Annual Plan Notices

Under current law, retirement plans are required by the Department of Labor to send annual notices to plan participants outlining information regarding fees and the performance of investments. These notices intend to inform plan participants responsible for their retirement savings that they are made aware of all relevant factors of their plan. Notably absent from annual plan notices is any information regarding the risks and challenges associated with the distribution phase of retirement readiness — including the potential for outliving savings — that can be mitigated with protected, guaranteed lifetime income solutions. **The Department of Labor should be directed to add to the required language at the top of the annual plan notices that highlights the risks of an individual outliving their savings. This language should include a warning that states the material risk of outliving savings, an explanation of the sources of protected, guaranteed lifetime income, and factors to consider when selecting such a source and when determining the amount of guaranteed lifetime income needed.**

Authorize Consistent Registrations for Non-Variable Products

The enactment of the *Registration of Index-Linked Annuities Act* (Public Law 117-328, Div. AA, Title I) directed the SEC to promulgate a new registration form tailored to the product and provide effective disclosures to investors. The utilization of consistent registration forms that are more appropriate fosters the innovation of products. Further, consistent registration and disclosure ensures that investors can easily find the information they need to make informed decisions without wading through irrelevant, excessive, and confusing disclosure documents. **The SEC should authorize using the revised Form N-4 to register Registered Market-Value Adjusted Annuities, Contingent Deferred Annuities, and all other non-variable annuities. The SEC should also amend Form N-6 in a manner consistent with the RILA Act and permit the registration of registered index-linked insurance products and all other non-variable insurance products on the amended Form N-6. If the SEC does not authorize the use of Form N-4 and N-6, Congress should enact legislation directing the Commission to allow the use of amended appropriate registration forms.** A consistent framework of registration disclosure both encourages product innovation and ensures investors receive appropriate and effective disclosures.

Boost Protections to Safeguard Consumers, Diverse Representation, and Participation

Increase Protections and Resources to Combat Financial Fraud and Exploitation

Recent federal and state laws and regulations have empowered financial industry professionals to report suspected elder financial exploitation cases to appropriate government agencies, such as state Adult Protective Services (APS). Unfortunately, APS offices across the country, primarily funded by their states, lack adequate funding to carry out these duties, leaving them without enough staff or resources to investigate reports if suspected financial abuse thoroughly. To help address this lack of resources, **Congress should enact legislation such as the *Empowering States to Protect Seniors from Bad Actors Act* (S.3529/H.R.5914-117th Congress), which would establish a program at the U.S. Securities Exchange Commission's (SEC) Office of Investor Advocate to provide grants on a competitive basis to state insurance and securities departments, agencies, or commissions.** The grant funds would enable the states to hire more staff, invest in technology and educational resources, and develop strategies to combat financial exploitation and fraud, including enhancing state laws. With this source of federal funding, these state agencies will be able to increase their efforts to protect older investors from senior financial fraud and exploitation.

Additionally, **Congress should enact legislation such as the *Elder Justice Reauthorization and Modernization Act of 2023* (S.1198/H.R.2718-118th Congress) to reauthorize federal assistance for under-funded state APS agencies to help them combat financial exploitation of older people.** Increasing the amount of federal funds appropriated to support these and other similar federal programs can help to ensure state APS agencies have the resources they need to investigate and prosecute suspected abuse and exploitation of the growing population of older Americans.

With the population of older people expected to grow to 84 million by 2050, it is imperative that Congress continue to develop solutions aimed at staying ahead of bad actors looking to defraud older and other vulnerable savers. The enactment of the *Senior Safe Act* (Public Law 115-174) established a path for financial institutions' employees to be educated to recognize and report suspected exploitation and fraud. To continue providing tools in the fight against financial exploitation, **Congress should enact legislation such as the *Financial Exploitation Prevention Act* (H.R.500-118th Congress) to enable open-ended investment companies, courts, and state regulators to delay the redemption of a security in cases of suspected exploitation.** By providing additional time for investigations to take place, financial services companies and regulators will have more time to investigate the legitimacy of redemption requests and better protect older and vulnerable investors and savers.

Increase Protections and Safeguards for Personal Financial Information

With the insured retirement industry increasing its use of digital solutions to improve the experience of retirement savers, it remains vital that procedures are put in place to safeguard consumers' personal data and strengthen breach notification processes to protect consumers better. **Congress should enact legislation to establish uniform standards for security, privacy, and notification requirements that preempt the growing patchwork of state regulatory regimes. In considering such legislation, Congress should also consider the unique aspects of different industries by providing a broadly applicable framework that also takes existing federal protections — such as those provided under the *Gramm-Leach-Bliley Act* (Public Law 106-102) — into consideration. Additionally, Congress should enact legislation that relies on regulatory enforcement rather than private rights of action.**

Prohibit the Private Collection of Tax Debt Owed by Older Americans

One of the most prevalent scams targeting senior citizens involves persons impersonating Internal Revenue Service (IRS) officials seeking to collect a past-due tax debt. These bad actors have an air of authenticity because the IRS was mandated to use private collection agencies to collect tax debts. Since 2013, more than 2.4 million Americans have been targeted by scammers impersonating IRS officials, and more than 14,700 taxpayers have lost more than $72.8 million. In these cases, criminals threaten victims with foreclosure, arrest, or deportation if payment is not made.

To help prevent older Americans from becoming victims of such scams, **Congress should amend the law mandating the IRS's use of private debt collection agencies to prohibit the assignation of tax debt of any individual over the age of 65 to any authorized private tax debt collection agency.** The proposed amendment would require the tax debt for these older Americans to be pursued only by the IRS. As the IRS only corresponds with taxpayers via mail, such a prohibition will help prevent older Americans from becoming victims of this scam and potentially losing their hard-earned savings by delegitimizing any email or phone call from third parties appearing to be seeking to collect tax debt from those 65 and older.

Ensure a Balanced Approach to the Regulation of Environmental, Social, and Governance Investments

Investors generally, and retirement plan investors in particular, are increasingly seeking access to investment options that align with environmental, social, and governance (ESG) objectives. In November 2022, the Department of Labor (DOL) issued a final rule on *Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights*, which clarifies that a fiduciary's determination with respect to the selection of investment options for their plan must be based on factors that the fiduciary reasonably determines are relevant to a risk and return analysis, and that such factors may include the economic effects of climate change and other environmental, social, or governance factors on the particular investment. This rule treats ESG factors no differently than non-ESG factors as long as investment options are selected in compliance with the *Employee Retirement Income Security Act's* (ERISA) (Public Law 93-406) fundamental principles of prudence and loyalty.

As Congress continues to examine the role of ESG factors in investing and retirement savings, **IRI supports legislation that codifies the principle of neutrality in considering ESG and non-ESG factors so long as the principles of prudence and loyalty are met by a plan fiduciary**. Establishing this neutrality will help balance and ensure that the fiduciary's selected investment options will serve the financial interests of retirement savers and that an investor's right to choose investment options is preserved and protected.

Increase Awareness of Account Takeover Fraud

Third-party account takeover (ATO) attacks on life insurance, annuity, and retirement savings accounts, while in existence since well before 2020, have been significantly exacerbated in volume due to the COVID-19 pandemic and subsequent practices implemented to conduct business as a result. These attacks are sophisticated breaches of individual accounts. Bad actors utilize stolen account details and personally identifiable information (PII) to impersonate the legitimate account owner to obtain funds fraudulently. According to the Financial Crimes Enforcement Network, these attacks are particularly insidious as bad actors will often use one stolen account to access additional accounts owned by the same consumer — possibly taking control of all a consumer's finances.

As ATO attacks have increased, so have the retirement income industry's protection and response capabilities. Ninety-six percent of companies surveyed for LIMRA's 2022 Financial Crimes and Fraud Prevention Study said they were maintaining or increasing their spending on fraud prevention and customer authentication capabilities. While the insured retirement industry continues to implement solutions to thwart attacks, prosecution of fraudsters by the government and law enforcement has been underwhelming. **IRI will be engaging with Congress, federal law enforcement, and relevant state regulators to educate them on the growing prevalence of these attacks.** Further, **IRI will work with Congress, law enforcement, and state regulators to emphasize the need for increased resources to investigate and prosecute the bad actors committing these crimes against Americans' financial security.**

Establish a Federal Regulatory Framework to Govern the Use of Cryptocurrency in Retirement Plans

Interest in cryptocurrency as an investment option in retirement plans has grown substantially over the past few years. While there have been attempts to bring cryptocurrencies into the mainstream, concerns about their inclusion on retirement plan investment menus have arisen due to the volatile nature of this relatively new and developing market. This volatility is due, in part, to the fact that the market and cryptocurrencies are generally not backed or regulated by the government.

As the retirement industry continues to assess whether, when, and how to begin incorporating cryptocurrencies into retirement plan menus, **Congress should examine this issue and develop an appropriate federal regulatory framework to effectively oversee cryptocurrencies and the cryptocurrency market in general, as well as the potential use of cryptocurrency in retirement plans in particular. This new regulatory framework must be structured properly to ensure its effectiveness for the wide range of available products in today's market while preserving adequate flexibility to adapt to innovative new products that could be introduced in the future. Moreover, the regulatory framework must strike an appropriate balance between investor protection needs and preserving investor access to products and services that could help them achieve their financial objectives.**

Develop a National Strategy to Improve Financial Inclusion

Many workers and retirees in America today still cannot equitably access, properly utilize, and successfully reap the benefits of the financial system to build short-term stability and long-term financial security. These underserved populations — frequently made up of people of color — often lag far behind in participating in employer-based retirement plans and accumulating retirement savings.

To advance greater diversity, equity, and inclusion among people of color and address their retirement insecurity, IRI supported the inclusion of a measure in the *Financial Services and General Government Appropriations Act, 2023* (Public Law 117-328, Div. E) directing the Treasury Department to develop a national strategy to broaden access to financial services among underserved communities and improve the ability of such communities to use and benefit from financial tools and services. The measure called for the strategy to establish national objectives for financial inclusion, set benchmarks for measuring progress, and offer recommendations for how public policy, government programs, financial products and services, technology, and other tools and infrastructure can advance financial inclusion.

In December 2023, the Treasury Department issued a request for information (RFI) for interested individuals and organizations to identify opportunities to advance financial inclusion through policy, government programs, financial products and services, technology, and other tools and infrastructure. **If the Treasury Department, following consideration of the responses to the RFI, does not develop a national strategy to improve financial inclusion that reflects a broad range of perspectives to promote financial inclusion, particularly considering the needs of underserved communities, Congress should enact legislation that puts such a national strategy to improve financial inclusion in place.**

Enhance Corporate Governance by Increasing Diverse Representation

While the insured retirement industry is committed to improving access to retirement savings, protected, guaranteed lifetime income solutions, and financial services for America's workers and retirees in order to help reduce racial and gender wealth gaps, the industry also recognizes that improvement is needed in terms of diversity, equity, and inclusion within the industry's leadership and workforce. Studies show that more diverse, equitable, and inclusive workforces produce greater innovation, improved decision-making, more opportunities for professional growth, and increased access to new markets.

To support and encourage the industry's efforts in this space, **Congress should enact legislation, such as the *Improving Corporate Governance Through Diversity Act* (S.2007/H.R.4177-118th Congress), that would require organizations regulated by the Securities and Exchange Commission (SEC) to file annual reports disclosing the gender identity, ethnicity, sexual orientation, and veteran status of their board of directors, nominees to their boards, and senior executive officers.** Disclosure of such information will provide a transparent look at the company's steps to advance diversity, equity, and inclusion (DEI) practices. Achieving internal DEI goals and the enhancements brought to the table by a diverse workforce will also help the industry better serve under-represented communities and better position America's workers and retirees to achieve a financially secure retirement.

Maintain and Augment the Current Tax Treatment of Retirement Savings

Maintain Tax-Deferred Treatment for Retirement Savings

Tax deferral for retirement savings plays a vital role in spurring America's economic growth and serves as a strong incentive for workers to accumulate retirement savings during their working years. Research conducted by IRI shows workers will save less if tax deferral is reduced or eliminated. **Congress should continue to promote retirement savings by maintaining its tax-deferred treatment as a necessary tool that helps America's workers to plan for and achieve a secure and dignified retirement.**

Protect the Current Structure & Variety of Workplace Retirement Plans

Several types of employment-based defined contribution retirement plans are designed to meet employers' and workers' needs in various employment sectors, including the private, governmental, church, educational, and non-profit sectors. The most prominent types are 401(k), 403(b), and 457(b) plans. Proposals to consolidate these different structures into a single type of plan fail to recognize the essential distinctions between these different employment sectors. **Congress should maintain and protect the diverse array of retirement plan structures rather than attempting to devise a single framework that would eliminate the unique features of the different plan types created to suit the workers who use them.**

Provide Favorable Tax Treatment for Guaranteed Lifetime Income

Distributions and withdrawals from protected, guaranteed lifetime income products — like annuities — are currently taxed as ordinary income. However, these products provide significant social and economic benefits. By helping older Americans avoid outliving their assets, lifetime income from annuities can reduce pressure on Social Security and other social safety nets. **Congress should create tax incentives — such as a lower tax rate, an exclusion of a portion of lifetime annuity income from taxation, or an increased catch-up contribution — to encourage greater use of guaranteed lifetime income products.**

Insured Retirement Institute

Paul Richman
Chief Government & Political Affairs Officer
prichman@irionline.org
202-469-3004

John Jennings
Director, Government & Political Affairs
jjennings@irionline.org
202-469-3017

1100 Vermont Avenue, NW 10th Floor
Washington, DC 20005

IRIonline.org 202-469-3000
@IRIonline @iri_3