



## News Release

DATE: July 31, 2013  
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### **SPARK INSTITUTE COMMENTS ON LIFETIME INCOME ILLUSTRATIONS ANPRM - REQUESTS GUIDANCE THAT ILLUSTRATIONS ARE PARTICIPANT EDUCATION, NOT ADVICE**

SIMSBURY, CT, July 31 – Today The SPARK Institute responded to the U.S. Department of Labor’s (“DOL”) Advance Notice of Proposed Rulemaking (“Notice”) regarding lifetime income illustrations. “The SPARK Institute supports guidance from the DOL that will encourage plan sponsors and service providers to voluntarily furnish lifetime income illustrations to participants on benefit statements and through other available means,” said Larry Goldbrum, its General Counsel. “Income illustrations can help participants better understand the amount of income their retirement savings may provide, and whether they need to make changes to how they are saving and investing,” Goldbrum added. The SPARK Institute’s letter urges the DOL to issue guidance expressly stating that furnishing lifetime income illustrations (1) is participant education, (2) will not constitute the provision of investment advice or any other fiduciary act under ERISA, and (3) does not constitute the offering or promise of any benefit under a plan.

However, the Institute is concerned that any mandate to furnish illustrations or conditions to a safe harbor that specify or appear to favor particular methodologies and assumptions will become the primary, or possibly the only, way that plan sponsors will be willing to provide such illustrations and planning tools. “Despite the DOL’s good intentions, favoring certain methodologies or providing a narrow safe harbor may result in participants not being provided more robust information and tools that rely on other reasonable approaches, including some that allow participants to customize their information,” Goldbrum noted. The SPARK Institute is also concerned that the approach in the Notice will require service providers to make system changes that are inconsistent with current best

practices, and will be burdensome and costly to accommodate. “The required changes will increase compliance costs that will ultimately be borne by participants,” Goldbrum added.

According to the letter, if the DOL concludes that a requirement to furnish illustrations is needed, it should be general and conceptual, and should be accompanied by a broad and flexible safe harbor that covers multiple approaches and forms of delivery. The illustration requirement and narrow safe harbor being contemplated by the DOL will not provide adequate protection for the plan, the plan sponsor, responsible plan fiduciaries or service providers from the increased risks of claims and lawsuits. “Although the Notice included a safe harbor, we continue to fear that the illustrations might be misinterpreted by participants as either a promise of what their benefits might be or a guarantee of benefits,” Goldbrum stated. Additionally, most plan sponsors are generally not able to provide illustrations to participants without outside assistance and sophisticated systems. Service providers can help plan sponsors do this but are unwilling to assume the potential risk and liability that a safe harbor is intended to cover. Therefore, The SPARK Institute also requested the DOL to specifically extend any and all safe harbor protection to service providers in order to facilitate the process of plan sponsors being able to work with them.

The SPARK Institute also urged the DOL not to require illustrations to be provided on paper participant benefit statements. The letter requested the DOL to allow plan sponsors to provide illustrations to participants (i) on their benefit statements, (ii) on separate reports, or (iii) by making them available on a continuous basis through a website with appropriate notice.

The comments submitted to the DOL are available on The SPARK Institute’s website at [www.sparkinstitute.org/comments-and-materials.php](http://www.sparkinstitute.org/comments-and-materials.php).

The SPARK Institute represents the interests of a broad based cross section of retirement plan service providers and investment managers, including banks, mutual fund companies, insurance companies, third party administrators, trade clearing firms and benefits consultants. Through the combined expertise of its member companies, the Institute provides research, education, testimony and comments on pending legislative and regulatory issues to members of Congress and relevant Government agency officials. Collectively, its members serve approximately 70 million participants in 401(k) and other defined contribution plans.

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