



Submitted Electronically

September 9, 2013

Office of Information and Regulatory Affairs
Attn: OMB Desk Officer for DOL-EBSA
Office of Management and Budget
Room 10235
725 17th Street, NW.
Washington, DC 20503

Re: **Proposed Information Collection Request - Focus Groups and Survey
Regarding Pension Benefit Statements**

Dear Sir or Madam:

The SPARK Institute, Inc. appreciates this opportunity to provide comments to the Office of Management and Budget regarding the proposed focus groups and survey on pension benefits statements (the “Study”) and information collection request materials (the “ICR Materials”) that were submitted by the Employee Benefits Security Administration (“EBSA”) on or about August 9, 2013.¹ Additionally, we appreciate the changes made by EBSA to the Study materials in response to the comments we submitted on March 25, 2013 (the “March Letter”).² Although such changes addressed some of our concerns and the write-up in the ICR Materials explained EBSA’s position about certain others, we remain concerned about many of the additional issues raised in the March Letter.

We reiterate our support of EBSA’s efforts to understand participants’ needs with respect to benefit statements and information about retirement income. Our member companies include nearly all of the largest retirement plan record keepers.³ They have devoted

¹ See 78 Fed. Reg. 48,722 (Aug. 9, 2013).

² Letter from The SPARK Institute Re: Proposed Information Collection Request – Survey Regarding Pension Benefit Statements available at <http://www.sparkinstitute.org/content-files/File/SPARK-Comments-Re-DOL-Statements-Survey-3-25-13-FINAL.pdf>

³ 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. Collectively, our members

SHAPING AMERICA’S RETIREMENT

substantial resources, including multi-millions of dollars, to understanding participants' views and needs on this topic, and in developing materials and tools to help such participants. They are the companies that plan sponsors turn to and rely on for help in understanding, implementing and complying with regulatory requirements. These companies maintain the systems and other infrastructure that create and provide statements to participants on behalf of plan sponsors and administrators. Consequently, although any new requirements will be the primary responsibility of the plan sponsor (or plan administrator), as a practical matter, the vast majority of the compliance work will be done by our member companies. Perhaps more importantly, though, is that the combined expertise of our member companies allows us to provide important insights about the matters under consideration.

We have reviewed the ICR Materials, including the revised Retirement Plan Statement Focus Group Discussion Guide (the "Guide"), sample statement handouts (the "Sample Statement(s)"), and the Survey Flow Design (the "Survey"). Our general concerns are summarized below, followed by a brief discussion of certain points we raised in our March Letter that continue to be of concern for us.

A. General Concerns

In the Supporting Statement for Paperwork Reduction Act of 1995 Submissions (the "Supporting Statement"), EBSA states that "the research objectives of the survey and focus groups center on statement content and design in order to determine whether information contained in sample pension benefit statements can be presented in a way that improves respondents' understanding of the statements and helps them better plan for retirement." (Emphasis added.) EBSA developed the format and content of the Sample Statements that will be evaluated by the Study participants.

The Study only considers and asks participants to evaluate the Sample Statements. As we noted in our March Letter, these statement formats are not representative of the statements and information that participants typically receive. Additionally, the manner in which such samples present lifetime income information is different from what service providers have already developed and is currently in use. Although we appreciate that EBSA included a notice to participants that the samples are shorter and not like what they actually receive, as we noted in the March Letter, such notice does not address all of our concerns.

In particular, we are concerned that the Study results will be unreliable due to participants being asked to review certain elements out of their typical context, and that such results will be of limited value for rulemaking purposes, as discussed in more detail below. Further we are concerned that new rules mandating the use of a specific format and content will require plan sponsors and service providers to devote

serve approximately 70 million participants in 401(k) plans and a substantial majority of the participants in 403(b) plans.

substantial resources to modifying existing systems and materials to conform to the different approach.

Many of our member companies already offer lifetime income information, on participant statements and online, that their plan sponsor clients may elect to provide to their plan participants. They have developed their own formats based on the decades of experience each company has individually, and centuries of experience they have collectively, in preparing statements and other materials. They have devoted significant resources to understanding participants' preferences and behavior with respect to plan information and materials, including those about lifetime income. We believe that the Study will only determine which of the three formats and content developed by EBSA is preferred by the Study participants, and does not appear to adequately take into consideration the materials and tools already available and in use. There is a presumption embedded in such approach that the samples are better than or would be preferred over what is already available. We are concerned that the Study results will be very limited in scope, but nevertheless used as a basis for mandating that lifetime income illustrations be provided using one of the formats under consideration. Our concerns are generally the same regardless of the manner of dissemination. Whether such information must be provided on paper statements or online, service providers will be required to spend multi-millions of dollars making significant changes to their systems and statement designs. Such costs will be passed on to plan sponsors and ultimately borne by plan participants.

Please note that we are not suggesting that lifetime income information should not be included on participant statements. Rather, we believe that it is vital to evaluate whether the samples developed by EBSA will result in meaningful improvements, and will be preferred by participants over what is already available, before any new rules mandate a different approach and require substantial compliance costs. We are concerned that the Study, as currently designed, will not accomplish that.

Additionally, we continue to believe that current trends and the use of technology in the retirement plan community should be considered in connection with evaluating the methods and objectives of the Study. Although EBSA indicated that the method of dissemination is not within the scope of the Study, matters relating to how individuals interact with their retirement plans are a vital part of analyzing how to educate them. Over the past 30 years, few industries, if any, have devoted as much time, money and resources to studying effective communication as 401(k) plan service providers. In the past, participant communications relied mostly on printed materials and were generally heavy on text. Today, many plan service providers use multiple channels to reach participants, and study their contact behavior and trends in channel utilization and effectiveness. Benefitting from academic research in behavioral science, service providers began to understand that participants actively avoided certain communications about their retirement plans due to the volume of information, jargon, and the complexity of choice-provoked stress. The real advances in retirement readiness over the past decade have come not from more printed education, information or disclosures, but from innovations that radically simplify

participant decision-making: advice, negative elections, and advances in web design and information architecture. The clearest trend is the continued growth of the internet as the dominant contact channel.

Based on the experiences of our member companies that are leaders in the retirement plan industry, mandating the use of any of the Sample Statements, over what is currently available, is not likely to be broadly effective in changing participants' perceptions of retirement savings from a savings account to a vehicle for income replacement. We believe this should be considered in connection with evaluating the Study.

B. Embedded Bias Favoring Paper Statements

We appreciate EBSA's efforts to remove what we considered to be an embedded favoritism for paper statements. However, we have some remaining concerns. For example, page nine of the Guide includes the following question: "Which would you like to receive in the mail if you were John Doe?" (Emphasis added.) We believe that this question regarding the Sample Statements presumes that the participants will be mailed paper copies. We recommend that such question be revised as follows: "Which statement would you like to receive if you were John Doe?"

Page four of the Guide includes the following question: "How many of you have opted out of the paper statements and only receive your account information online?" (Emphasis added.) As we noted in the March Letter, current EBSA rules allow plan sponsors to provide quarterly benefit statements to participants electronically as the default method of delivery. Consequently, tens-of-millions of participants automatically receive statements electronically. In order to determine how many participants have affirmatively elected to receive paper statements, we recommend that the question be reworded as follows: "How many of you have affirmatively elected to receive your quarterly statements on paper instead of getting them electronically or on-line?" The Survey includes a similar question that should be modified as well.

C. Focus on Evaluating Whether New Information Will Be "Helpful" Without Regard to Perceived "Value"

In the March Letter, we expressed concerns about the fact that throughout the Study materials, participants are asked whether they believe that certain information would be "helpful" to have on their benefit statements. We believe it is vital to evaluate and give greater consideration to the participants' perceived value in receiving the information in the formats under consideration. Helpfulness does not automatically equate to value for participants, particularly if costs may be passed on to individuals who already have access to such information and interactive tools. In the Supporting Statement, EBSA states that such considerations are outside the scope of the Study. However, we continue to believe that such considerations are vital because of the potential costs associated with possibly having to provide lifetime income

information according to a prescribed format. We are concerned that the opportunity to gather and evaluate that information will be lost if it is not part of the Study.

D. Other Concerns

1. On page seven of our March Letter, we also raised concerns about questions that ask what the Study participant would do based on certain information on the Sample Statements. We noted that neither the Guide nor the Survey provided critical information about the hypothetical individual's income, marital status, possible debt, or other assets. We expressed concerns that the Study participants will not be able to answer these questions in a useful way without such information. We appreciate the modification EBSA made in the Guide regarding household income, however, we remain concerned that the results of this line of questioning will not be a reliable basis for determining what, if any, action the participants would take themselves. Therefore, we do not believe that the results should be relied upon by EBSA for rulemaking.

2. On pages seven to nine of the March Letter, we identified a series of questions in the Study materials that we believe will be potentially confusing, misleading or leading to the Study participants. Again, we appreciate the edit that EBSA made with respect to one of the concerns we raised, but generally, our concerns remain. Consequently, we believe that the results for these questions should not be relied upon for rulemaking.

3. In the March Letter, we expressed concerns about both the Guide and Survey asking participants to evaluate whether certain financial and other assumptions are realistic for their situation. We recommend that the Study focus on whether the participants understand the assumptions, why they are needed and whether they are explained sufficiently. We remain concerned about this line of questioning in the Study and do not believe that the results should be relied upon for purposes of any rulemaking.

4. We also expressed concerns about how the demographics and personal situations of the Study participants will have a significant impact on the results. For example, we suggested that Study participants be asked if they affirmatively enrolled in the plan and selected their own investments or if they were automatically enrolled or defaulted into the plan and investments. The views of the passive and potentially disengaged participants, particularly regarding whether certain information and presentation formats are helpful and useful, may not be reliable because they most likely do not have the same context and frame of reference as more actively engaged plan participants. We remain concerned that the Study does not address such matters. We urge EBSA to consider collecting the participants' demographic information for analysis.

Although we have concerns about the approach and methodology of the Study, and the possibility of a prescribed format for furnishing lifetime income information, we continue

to be supportive of EBSA's efforts to understand participants' needs and preferences with respect to such information. The SPARK Institute and representatives from our member companies are also willing to meet with EBSA to collaborate on improving the Study materials.

* * * * *

Thank you for considering our views and recommendations. Please do not hesitate to contact us at (704) 987-0533.

Respectfully,



Larry H. Goldbrum
General Counsel

cc: Mr. G. Christopher Cosby, Department of Labor
Information Management Program, Office of the Chief Information Officer, Office
of the Assistant Secretary for Administration and Management, Department of Labor